

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

504A




FROM: TLMA - Transportation Department

SUBMITTAL DATE:
October 7, 2009

SUBJECT: Approval of a Personal Service Agreement for Fossil Filter Maintenance Services for the Transportation Department

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve and execute the multi-purpose personal service agreement from the lowest responsive/responsible vendor based on competitive bids for fossil filter maintenance services administered by the Transportation Department, and:
2. Authorize the Chairman of the Board of Supervisors to execute the agreement on behalf of the County with the option to renew annually for up to two (2) additional one-year periods, and:
3. Approve the annual amount of \$225,000 for FY 2009-2010.



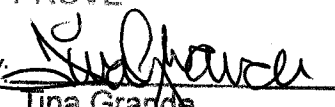
 Juan C. Perez
 Director of Transportation

JAW:mph
(Continued On Attached Page)

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 225,000	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ -0-	Budget Adjustment:	No
	Annual Net County Cost:	\$ -0-	For Fiscal Year:	2009/10

SOURCE OF FUNDS: L&LMD No. 89-1-Consolidated assessments, various zones (100%)	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION:

APPROVE
 BY: 
 Tina Grande

 County Executive Office Signature

County Executive Office Signature

Policy
 Policy

Consent
 Consent

Dep't Recomm.:
 Per Exec. Ofc.:

Prev. Agn. Ref. _____ **District:** 1,2,3,5 **Agenda Number:** _____

ATTACHMENTS FILED
WITH THE CLERK OF THE BOARD

3.68

FORM APPROVED COUNTY COUNSEL
 BY:  9/16/09
 DATE
 MARSHAL L. VICTOR
 Departmental Concurrence

The Honorable Board of Supervisors

RE: Approval of a Personal Service Agreement for Fossil Filter Maintenance Services for the Transportation Department

October 7, 2009

Page 2 of 2

BACKGROUND: The service required and to be performed is for the maintenance of fossil filters attached to the inside of catch basins for the removal of hydrocarbons, trash, and other pollutants from storm water runoff. The fossil fuel filters are serviced three (3) equally spaced periods throughout the year. The filters are located within the County maintained road right-of-way and within designated developments annexed into the Landscaping & Lighting Maintenance District No. 89-1-Consolidated (L&LMD No. 89-1-C).

The Transportation Department issued a formal Request for Quote (RFQ) and solicitations were sent to seven (7) vendors requesting a quote for annual service, per catch basin. Six (6) vendors attended the mandatory bidders meeting. Four (4) responses were received. The cost ranged from \$145.75 to \$271.50 per a catch basin. United Storm Water, Inc based in the City of Industry submitted the bid for \$145.75. However KriStar Enterprises, Inc. dba Drainage Protection Systems based in Murrieta was the lowest responsive/responsible bidder at \$148.50 based upon the 5% local preference rule. KriStar Enterprises, Inc. dba Drainage Protection Systems provided a quote to fulfill the necessary requirements mandatory for fossil filter maintenance services. Local preference rule did affect low bid. This bid includes prevailing wage rates. Representatives from the Transportation Department evaluated all quotes and recommend the lowest responsive/responsible vendor, KriStar Enterprises, Inc. dba Drainage Protection Systems receive the award.

The annual amount of \$225,000.00 includes a contractual contingency amount not to exceed \$75,000.00 annually for costs outside the scope of regular maintenance, including but not limited to replacement of ripped filters, replacement filters, and vandalism.

Contractor shall submit a written request to the County for any costs outside the regular scope of maintenance described in Exhibit A. Contractor understands and agrees that the costs shall not be incurred against the contingency, and the County will not be liable for such costs, without prior written authorization from the County.

County Counsel has approved the Agreement as to form.

Contract No. 09-06-022
Riverside Co. Transportation

PROFESSIONAL SERVICE AGREEMENT

for

Fossil Filter Maintenance Service

Between

COUNTY OF RIVERSIDE

and

DRAINAGE PROTECTION SYSTEMS



For sc...

1 This Agreement, made and entered into this ____ day of _____, 2009, by and between
2 **DRAINAGE PROTECTION SYSTEMS**, (herein referred to as "CONTRACTOR"), and the COUNTY
3 OF RIVERSIDE, a political subdivision of the State of California, (herein referred to as "COUNTY").

4 WHEREAS, Government Code Section 31000 et. seq. authorizes the COUNTY to contract for
5 services with a CONTRACTOR who is trained and experienced, and who is competent to perform the
6 services required; and

7 WHEREAS, CONTRACTOR has the expertise, special skills, knowledge and experience to perform
8 the duties set out herein.

9 NOW THEREFORE, in consideration of the mutual covenants contained herein, the parties hereto agree
10 as follows:

11 **1. Description Of Services**

12 **1.1.** CONTRACTOR shall provide all services as outlined and specified in Exhibit A, Scope of
13 Services, consisting of four (4) pages and Exhibit B, Payment Provision, consisting of one (1) page, attached
14 hereto and by this reference incorporated herein.

15 **1.2.** CONTRACTOR represents and maintains that it is skilled to perform all services, duties and
16 obligations required by this Agreement to fully and adequately complete the project. CONTRACTOR shall
17 perform the services and duties in conformance to and consistent with the standards generally recognized as being
18 employed by professionals in the same discipline in the State of California. CONTRACTOR further represents
19 and warrants that it has all licenses, permits, qualifications and approvals of whatever nature is legally required to
20 practice its profession/service. CONTRACTOR further represents that it shall keep all such licenses and
21 approvals in effect during the term of this Agreement. Contractor Is Not To Perform Services Outside Of The
22 Contract.

23 **2. Period Of Performance**

24 **2.1.** This Agreement shall be effective upon execution of this contract and will continue in effect
25 through June 30, 2010, with the option to renew for two (2) additional years, unless terminated as specified
26 in Section 9 TERMINATION. CONTRACTOR shall commence performance of requested services upon
27 notification and shall diligently perform such services.

1 **2.2.** It is mutually agreed and understood that the obligation of the COUNTY is limited by and
2 contingent upon the availability of COUNTY of Riverside funds for the reimbursement of
3 CONTRACTOR'S fees. In the event that such funds are not forthcoming for any reason, COUNTY shall
4 immediately notify CONTRACTOR in writing. This Agreement shall be deemed terminated and have no
5 further force and effect immediately on receipt of COUNTY'S notification by CONTRACTOR. In the
6 event of such termination, CONTRACTOR shall be entitled to reimbursement of its costs in accordance
7 with Section 3 COMPENSATION.

8 **3. Compensation**

9 **3.1.** The COUNTY shall pay the CONTRACTOR for services performed and expenses incurred
10 in accordance with the terms of Exhibit B, Payment Provision, attached hereto. Maximum payments by
11 COUNTY to CONTRACTOR shall not exceed Two Hundred Twenty-Five Thousand dollars and no cents
12 (\$225,00.00) annually including all expenses. The COUNTY is not responsible for any fees or costs
13 incurred above or beyond the contracted amount and shall have no obligation to purchase any specified
14 amount of services or products.

15 **3.1.1.** This Agreement includes a contractual contingency of 50% (\$75,000) for costs
16 outside the scope of regular maintenance, including but not limited to filter repairs, filter replacements, and
17 vandalism, and other like items. CONTRACTOR shall submit a written request to COUNTY for any costs
18 outside the regular maintenance described in Exhibit B. **CONTRACTOR UNDERSTANDS AND**
19 **AGREES THAT COSTS SHALL NOT BE INCURRED AGAINST THE CONTINGENCY, AND**
20 **COUNTY WILL NOT BE LIABLE FOR SUCH COSTS, WITHOUT PRIOR WRITTEN**
21 **AUTHORIZATION FROM COUNTY.**

22 **3.2.** Said compensation shall be paid in accordance with an invoice submitted to COUNTY by
23 CONTRACTOR within fifteen (15) days from the last day of each calendar month, and COUNTY shall pay the
24 invoice within thirty (30) working days from the date of receipt of the invoice. Payment shall be made to
25 CONTRACTOR only after services have been rendered.

26 **3.3.** No price increases will be permitted during the first year of the price agreement. All price
27 decreases will automatically be extended to the COUNTY. The COUNTY requires bona fide proof of cost
28 increases on contracts prior to any price adjustment. After the first year of the award, a minimum of 30-days
29 advance notice in writing is required to secure such adjustment. No retroactive price adjustments will be
30 considered. The COUNTY may enforce, adjust, negotiate, or cancel escalating price contracts or take any

1 other action it deems appropriate, as it sees fit. The net dollar amount of profit will remain firm during the
2 period of the contract. Adjustments increasing the contractor's profit will not be allowed. Annual increases
3 shall not exceed the Consumer Price Index- All Consumers, All Items - Greater Los Angeles, Riverside and
4 Orange County areas and be subjected to satisfactory performance review by the using COUNTY agency
5 and approved for budget funding by the County Board of Supervisors.

6 **3.4.** Prepare invoices in duplicate. For this contract, send the original and duplicate copies of invoices
7 to:

8 RIVERSIDE COUNTY TRANSPORTATION DEPARTMENT
9 ATTN: MARK HUGHES, 8TH FL
10 PO BOX 1090
11 RIVERSIDE, CA 92502-1090

- 12 ❖ Each invoice shall contain a minimum of the following information: invoice number and date;
13 remittance address; "bill-to" and "ship-to" addresses of ordering department/division; contract
14 number (to be provided upon award); quantities; item descriptions, unit prices, extensions,
15 sales/use tax if applicable, and an invoice total.
- 16 ❖ Invoices shall be rendered "monthly" in arrears.
- 17 ❖ In the State of California, government agencies are not allowed to pay excess interest and late
18 charges, per Government Codes, Section 926.10.

19 **4. Assignment**

20 CONTRACTOR shall not delegate or assign any interest in this agreement, and shall not transfer any
21 interest in the same, whether by operation of law or otherwise, without the prior written consent of
22 COUNTY.

23 **5. Hold Harmless/Indemnification**

24 **5.1.** CONTRACTOR shall indemnify and hold harmless the County of Riverside, its Agencies,
25 Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors,
26 elected and appointed officials, employees, agents and representatives from any liability, claim, damage or
27 action whatsoever, based or asserted upon any act or omission of CONTRACTOR, its officers, employees,
28 subcontractors, agents or representatives arising out of or in any way relating to this Agreement, including
29 but not limited to property damage, bodily injury, or death. CONTRACTOR shall defend, at its sole
30 expense, all costs and fees including but not limited to attorney fees, cost of investigation, defense and
31 settlements or awards, the County of Riverside, its Agencies, Districts, Special Districts and Departments,

1 their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents
2 and representatives in any such claim or action.

3 **5.2.** With respect to any action or claim subject to indemnification herein by CONTRACTOR,
4 CONTRACTOR shall, at their sole cost, have the right to use counsel of their own choice and shall have the
5 right to adjust, settle, or compromise any such action or claim without the prior consent of COUNTY;
6 provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or
7 circumscribes CONTRACTOR'S indemnification to COUNTY as set forth herein.

8 **5.3.** CONTRACTOR'S obligation hereunder shall be satisfied when CONTRACTOR has
9 provided to COUNTY the appropriate form of dismissal relieving COUNTY from any liability for the action
10 or claim involved.

11 **5.4.** The specified insurance limits required in this Agreement shall in no way limit or
12 circumscribe CONTRACTOR'S obligations to indemnify and hold harmless the COUNTY herein from
13 third party claims.

14 **5.5.** In the event there is conflict between this clause and California Civil Code Section 2782, this
15 clause shall be interpreted to comply with Civil Code 2782. Such interpretation shall not relieve the
16 CONTRACTOR from indemnifying the COUNTY to the fullest extent allowed by law.

17 **6. Waiver Of Default**

18 Any waiver by COUNTY of any breach of any one or more of the terms of this agreement shall not
19 be construed to be a waiver of any subsequent or other breach of the same or of any other term hereof.
20 Failure on the part of COUNTY to require exact, full and complete compliance with any terms of this
21 agreement shall not be construed as in any manner changing the terms hereof, or estopping COUNTY from
22 enforcement hereof.

23 **7. Availability Of Funding**

24 The COUNTY obligation for payment of any contract beyond the current fiscal year end is
25 contingent upon the availability of funding from which payment can be made. No legal liability on the part
26 of the COUNTY shall arise for payment beyond June 30 of the calendar year unless funds are made
27 available for such performance.

1 **8. Inspection of Service**

2 **8.1.** All performance (which includes services, materials, supplies and equipment furnished or
3 utilized in the performance of this contract, and workmanship in the performance of services) shall be
4 subject to inspection and test by the COUNTY at all times during the term of the contract. The
5 CONTRACTOR shall provide adequate cooperation to any inspector assigned by the COUNTY to permit
6 him/her to determine the CONTRACTOR's conformity with these specifications and the adequacy of the
7 services being contractually provided. All inspections by the COUNTY shall be made in such a manner as
8 to not unduly interfere with CONTRACTOR performance. If any services performed hereunder are not in
9 conformity with the specifications and requirements of this contract, the COUNTY shall have the right to
10 require the CONTRACTOR to perform the services in conformity with said specifications and requirements
11 at no additional increase in total contract amount. When the services to be performed are of such nature that
12 the difference cannot be corrected, the COUNTY shall have the right to: (1) require the CONTRACTOR
13 immediately to take all necessary steps to ensure future performance of the services in conformity with
14 requirements of the contract, and (2) reduce the contract price to reflect the reduced value of the services
15 performed.

16 **8.2.** In the event the CONTRACTOR fails to perform the services promptly or to take necessary
17 steps to ensure future performance of the service is in conformity with specifications and requirements of
18 the contract, the COUNTY shall have the right to either: (1) have the services performed in conformity with
19 the contract specifications and charge to the CONTRACTOR any cost occasioned to the COUNTY that is
20 directly related to the performance of such services; or, (2) terminate this contract for default as provided in
21 the Termination Clause. If COUNTY chooses alternative (1), the COUNTY may withhold such costs from
22 any amounts still owed to CONTRACTOR under this or any other contractual agreements with COUNTY.

23 **9. Termination**

24 **9.1.** COUNTY may terminate this Agreement without cause upon 30 days written notice served
25 upon the CONTRACTOR stating the extent and effective date of termination.

26 **9.2.** COUNTY may, upon five (5) days written notice, terminate this agreement for
27 CONTRACTOR's default, if CONTRACTOR refuses or fails to comply with the provisions of this
28 Agreement or fails to make progress so as to endanger performance and does not cure such failure within a
29 reasonable period of time. In the event of such termination, the COUNTY may proceed with the work in
30 any manner deemed proper to COUNTY.

1 **9.3.** After receipt of the Notice of Termination pursuant to paragraph 9.1 or 9.2 above,
2 CONTRACTOR shall:

- 3 ❖ Stop all work under this Agreement on the date specified in the Notice of Termination.
- 4 ❖ Transfer to COUNTY and deliver in the manner, and to the extent, if any, as directed by
5 COUNTY, any equipment, data or reports which, if the Agreement had been completed,
6 would have been required to be furnished to COUNTY.

7 **9.4.** After termination pursuant to paragraph 9.1 or 9.2 above, COUNTY shall make payment for
8 all services performed in accordance with this Agreement to the date of termination, according to the rates
9 set forth in Exhibit B.

10 **9.5.** Notwithstanding any of the provisions of this Agreement, CONTRACTOR's rights under
11 this Agreement shall terminate (except for fees accrued prior to the date of termination) upon dishonesty, or
12 a willful or material breach of this Agreement by CONTRACTOR; or in the event of CONTRACTOR's
13 unwillingness or inability for any reason whatsoever to perform the duties hereunder; or if the Agreement is
14 terminated pursuant to Section 9. In such event, CONTRACTOR shall not be entitled to any further
15 compensation under this Agreement.

16 **9.6.** The rights and remedies of COUNTY provided in this section shall not be exclusive and are
17 in addition to any other rights and remedies provided by law or under this Agreement.

18 **10. Alteration**

19 The Board of Supervisors and the COUNTY Purchasing Agent are the only authorized COUNTY
20 representatives who may at any time, by written order, make alterations within the general scope of this
21 contract, in the definition of services to be performed, and the time (i.e. hours of the day, days of the week,
22 etc.) and place of performance thereof. If any such alteration causes an increase or decrease in the cost of,
23 or the time required for the performance of any part of the work under this contract, an equitable adjustment
24 shall be made in the contract price or delivery schedule, or both, and the contract shall be modified in
25 writing accordingly. Any claim by the CONTRACTOR for adjustment under this paragraph shall be
26 assessed within 30 days of when the CONTRACTOR received notice of the alteration in the work.
27 Notwithstanding the foregoing, if the COUNTY Purchasing Agent decides that the facts provide sufficient
28 justification, he/she may receive and act upon any claim, which is asserted by the CONTRACTOR at any
29 time prior to final payment under this agreement. Failure to agree to any adjustment shall be a dispute

1 concerning a question of fact within the meaning of the clause of this contract entitled 'Disputes.' However,
2 nothing in this clause shall excuse the CONTRACTOR from proceeding with the contract as changed.

3 **11. Independent Contractor**

4 **11.1.** The CONTRACTOR is, for purposes arising out of this contract, an independent contractor
5 and shall not be deemed an employee of the COUNTY. It is expressly understood and agreed that the
6 CONTRACTOR shall in no event, as a result of this contract, be entitled to any benefits to which COUNTY
7 employees are entitled, including but not limited to overtime, any retirement benefits, worker's
8 compensation benefits, and injury leave or other leave benefits. CONTRACTOR hereby holds COUNTY
9 harmless from any and all claims that may be made against COUNTY based upon any contention by any
10 third party that an employer-employee relationship exists by reason of this agreement.

11 **11.2.** It is further understood and agreed by the parties hereto that CONTRACTOR in the
12 performance of its obligation hereunder is subject to the control or direction of COUNTY merely as to the
13 result to be accomplished by the services hereunder agreed to be rendered and performed and not as to the
14 means and methods for accomplishing the results.

15 **12. Subcontract For Work Or Services**

16 No contract shall be made by the CONTRACTOR with any party for furnishing any of the work or
17 services herein contained without the prior written approval of the COUNTY Contract Administrator but
18 this provision shall not require the approval of contracts of employment between the CONTRACTOR and
19 personnel assigned for services there under, or for parties named in the proposal and agreed to under any
20 resulting contract.

21 **13. Interest Of Contractor**

22 The CONTRACTOR covenants that it presently has no interest, including but not limited to, other
23 projects or independent contracts, and shall not acquire any such interest, direct or indirect, which would
24 conflict in any manner or degree with the performance of services required to be performed under this
25 contract. The CONTRACTOR further covenants that in the performance of this contract, no person having
26 any such interest shall be employed or retained by it under this contract.

27 **14. Conduct Of Contractor**

1 **14.1.** The CONTRACTOR agrees to inform the COUNTY of all the CONTRACTOR's interest, if
2 any, which are or which the CONTRACTOR believes to be incompatible with any interest of the COUNTY.

3 **14.2.** The CONTRACTOR shall not, under circumstances, which might reasonably be interpreted
4 as an attempt to influence the recipient in the conduct of his duties, accept any gratuity or special favor from
5 individuals or organizations with whom the CONTRACTOR is doing business or proposing to do business,
6 in accomplishing the work under the contract.

7 **14.3.** The CONTRACTOR shall not use for personal gain or make other improper use of
8 privileged information, which is acquired in connection with this contract. In this connection, the term
9 'privileged information' includes, but is not limited to, unpublished information relating to technological and
10 scientific development; medical, personnel, or security records of the individuals; anticipated materials
11 requirements or pricing actions; and knowledge of selection of CONTRACTORS or subcontractors in
12 advance of official announcement.

13 **14.4.** The CONTRACTOR or employees thereof shall not offer gifts, gratuity, favors, and
14 entertainment directly or indirectly to COUNTY employees.

15 **15. Disallowance**

16 In the event the CONTRACTOR receives payment for services under this contract which is later
17 disallowed for nonconformance with the terms and conditions herein by the COUNTY, the CONTRACTOR
18 shall promptly refund the disallowed amount to the COUNTY on request, or at its option, the COUNTY
19 may offset the amount disallowed from any payment due to the CONTRACTOR under any contract with
20 the COUNTY.

21 **16. Disputes**

22 **16.1.** In the event of a dispute arising out of or relating to this Contract, the parties shall attempt to
23 settle the matter amicably at the working level. If the parties are unable to resolve the dispute, the matter
24 shall be submitted to the senior management of the parties.

25 **16.2.** The Parties agree to continue with performance of the Agreement during any such dispute
26 period and resolution thereof.

1 **17. Governing Law; Jurisdiction; Severability**

2 This Agreement shall be governed by the laws of the State of California. Any legal action related to
3 the performance or interpretation of this Agreement shall be filed only in the Superior Court of the State of
4 California located in Riverside, California, and the parties waive any provision of law providing for a
5 change of venue to another location. Prior to the filing of any legal action, the parties shall be obligated to
6 attend a mediation session with a third party mediator in an attempt to resolve the dispute. In the event any
7 provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or
8 unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or
9 invalidated in any way.

10 **18. Insurance**

11 Without limiting or diminishing the CONTRACTOR'S obligation to indemnify or hold the
12 COUNTY harmless, CONTRACTOR shall procure and maintain or cause to be maintained, at its sole cost
13 and expense, the following insurance coverage's during the term of this Agreement.

14 **18.1. Workers' Compensation**

15 If the CONTRACTOR has employees as defined by the State of California, the
16 CONTRACTOR shall maintain statutory Workers' Compensation Insurance (Coverage A) as prescribed by
17 the laws of the State of California. Policy shall include Employers' Liability (Coverage B) including
18 Occupational Disease with limits not less than **\$1,000,000** per person per accident. The policy shall be
19 endorsed to waive subrogation in favor of the County of Riverside, and, if applicable, to provide a Borrowed
20 Servant/Alternate Employer Endorsement.

21 **18.2. Commercial General Liability**

22 Commercial General Liability insurance coverage, including but not limited to, premises
23 liability, contractual liability, products and completed operations liability, personal and advertising injury
24 covering claims which may arise from or out of CONTRACTOR'S performance of its obligations
25 hereunder. Policy shall name all Agencies, Districts, Special Districts, and Departments of the COUNTY of
26 Riverside, their respective directors, officers, Board of Supervisors, employees, elected or appointed
27 officials, agents or representatives as Additional Insureds. Policy's limit of liability shall not be less than
28 **\$1,000,000** per occurrence combined single limit. If such insurance contains a general aggregate limit, it
29 shall apply separately to this agreement or be no less than two (2) times the occurrence limit.

18.3. Vehicle Liability

If CONTRACTOR'S vehicles or mobile equipment are used in the performance of the obligations under this Agreement, then CONTRACTOR shall maintain liability insurance for all owned, non-owned or hired vehicles so used in an amount not less than \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit. Policy shall name all Agencies, Districts, Special Districts, and Departments of the COUNTY of Riverside, their respective directors, officers, Board of Supervisors, employees, elected or appointed officials, agents or representatives as Additional Insureds.

18.4. General Insurance Provisions - All lines

18.4.1. Any insurance carrier providing insurance coverage hereunder shall be admitted to the State of California and have an A M BEST rating of not less than A: VIII (A:8) unless such requirements are waived, in writing, by the COUNTY Risk Manager. If the COUNTY's Risk Manager waives a requirement for a particular insurer such waiver is only valid for that specific insurer and only for one policy term.

18.4.2. The CONTRACTOR'S insurance carrier(s) must declare its insurance deductibles or self-insured retentions. If such deductibles or self-insured retentions exceed \$500,000 per occurrence such deductibles and/or retentions shall have the prior written consent of the COUNTY Risk Manager before the commencement of operations under this Agreement. Upon notification of deductibles or self insured retention's unacceptable to the COUNTY, and at the election of the County's Risk Manager, CONTRACTOR'S carriers shall either; 1) reduce or eliminate such deductibles or self-insured retention's as respects this Agreement with the COUNTY, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, and defense costs and expenses.

18.4.3. CONTRACTOR shall cause CONTRACTOR'S insurance carrier(s) to furnish the COUNTY of Riverside with either 1) a properly executed original Certificate(s) of Insurance and certified original copies of Endorsements effecting coverage as required herein, or 2) if requested to do so orally or in writing by the COUNTY Risk Manager, provide original Certified copies of policies including all Endorsements and all attachments thereto, showing such insurance is in full force and effect. Further, said Certificate(s) and policies of insurance shall contain the covenant of the insurance carrier(s) that thirty (30) days written notice shall be given to the COUNTY of Riverside prior to any material modification, cancellation, expiration or reduction in coverage of such insurance. In the event of a material modification, cancellation, expiration, or reduction in coverage, this Agreement shall terminate forthwith, unless the

1 COUNTY of Riverside receives, prior to such effective date, another properly executed original Certificate
2 of Insurance and original copies of endorsements or certified original policies, including all endorsements
3 and attachments thereto evidencing coverage's set forth herein and the insurance required herein is in full
4 force and effect. *CONTRACTOR shall not commence operations until the COUNTY has been furnished*
5 *original Certificate (s) of Insurance and certified original copies of endorsements or policies of insurance*
6 *including all endorsements and any and all other attachments as required in this Section. An individual*
7 *authorized by the insurance carrier to do so on its behalf shall sign the original endorsements for each*
8 *policy and the Certificate of Insurance.*

9 **18.4.4.** It is understood and agreed to by the parties hereto and the insurance company(s), that
10 the Certificate(s) of Insurance and policies shall so covenant and shall be construed as primary insurance,
11 and the COUNTY'S insurance and/or deductibles and/or self-insured retention's or self-insured programs
12 shall not be construed as contributory.

13 **18.4.5.** The COUNTY'S Reserved Rights--Insurance. If, during the term of this Agreement
14 or any extension thereof, there is a material change in the scope of services; or, there is a material change in
15 the equipment to be used in the performance of the scope of work (such as the use of aircraft or watercraft)
16 the COUNTY reserves the right to adjust the types of insurance required under this Agreement and the
17 monetary limits of liability for the insurance coverage's currently required herein, if; in the COUNTY Risk
18 Manager's reasonable judgment, the amount or type of insurance carried by the CONTRACTOR has
19 become inadequate.

20 **18.4.6.** CONTRACTOR shall pass down the insurance obligations contained herein to all
21 tiers of subcontractors working under this Agreement.

22 **18.4.7.** The insurance requirements contained in this Agreement may be met with a
23 program(s) of self-insurance acceptable to the COUNTY.

24 **19. Licensing And Permits**

25 **19.1.** Attention is directed to the provisions of Chapter 9 of Division 3 of the Business and
26 Professions Code concerning the licensing of CONTRACTORS. All offerers and CONTRACTORS shall be
27 licensed, if required, in accordance with the laws of this State and any offerer or CONTRACTOR not so
28 licensed is subject to the penalties imposed by such laws.

29 **19.2.** CONTRACTOR further warrants that it has all necessary permits, approvals, certificates,
30 waivers and exemptions necessary for the provision of services hereunder and required by the laws and

1 regulations of the United States, State of California, the COUNTY of Riverside and all other appropriate
2 governmental agencies, and shall maintain these throughout the term of this agreement.

3 **20. Air, Water Pollution Control, Safety And Health**

4 CONTRACTOR shall comply with all air pollution control; water pollution, Safety and Health
5 Ordinances and statues, which apply to the work performed pursuant to this contract, including any
6 requirements, specified in state government codes.

7 **21. OSHA Regulations**

8 CONTRACTOR hereby certifies awareness of the Occupational Safety and Health Administration
9 (OSHA) standards and codes as set forth by the U.S. Department of Labor, and the derivative Cal/OSHA
10 standards, laws and regulations relating thereto, and verifies that all performance under this Agreement shall
11 be in compliance therewith.

12 **22. Right To Acquire Equipment And Services**

13 Nothing in this agreement shall prohibit the COUNTY from acquiring the same type or equivalent
14 equipment and/or service from other sources, when deemed by the COUNTY to be in its best interest.

15 **23. Use By Political Entities**

16 This agreement between the COUNTY and the CONTRACTOR for the COUNTY's requirements of
17 select item(s) of personal services, the CONTRACTOR agrees to extend the same pricing, terms and
18 conditions to each and every political entity, special district, and related non-profit entity in Riverside
19 COUNTY. It is understood that political entities, special districts and related non-profit entities shall make
20 purchases in their own name, make direct payment, and be liable directly to the CONTRACTOR holding
21 the COUNTY harmless. The COUNTY of Riverside may, at its option, charge an administrative fee to
22 those political entities, special districts and related non-profit entities that avail themselves use of this
23 agreement. The CONTRACTOR(s) shall report annually or as otherwise requested by the COUNTY, usage
24 and total sales dollar amount information for each individual political entity, special district, and related
25 non-profit entity utilizing COUNTY awards.

1 **24. Contractor's Responsibility**

2 24.1. It is understood that the CONTRACTOR has the skills, experience and knowledge necessary
3 to perform the services agreed to be performed under this Agreement, and that the COUNTY relies on upon
4 the CONTRACTOR'S representations about its skills, experience and knowledge to perform the
5 CONTRACTOR'S services in a competent manner. Acceptance by the COUNTY of the services to be
6 performed under this Agreement does not operate as a release of said CONTRACTOR from responsibility
7 for the work performed.

8 24.2. It is further understood and agreed that the CONTRACTOR is apprised of the scope of the
9 work to be performed under this Agreement and the CONTRACTOR agrees that said work can and shall be
10 performed in a fully competent manner.

11 **25. Conflict Of Interest**

12 CONTRACTOR shall have no interest, and shall not acquire any interest, direct or indirect, which
13 will conflict in any manner or degree with the performance of services required under this Agreement.

14 **26. Non-Discrimination**

15 CONTRACTOR shall not be discriminate in the provision of services, allocation of benefits,
16 accommodation in facilities, or employment of personnel on the basis of ethnic group identification, race,
17 religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status or sex
18 in the performance of this Agreement, and, to the extent they shall be found to be applicable hereto, shall
19 comply with the provisions of the California Fair Employment Practices Act (commending with Section
20 1410 of the Labor Code), the Federal Civil Rights Act of 1964 (P.L. 88-352), and the Americans with
21 Disabilities Act of 1990 (42 U.S.C. S1210 et seq.).

22 **27. Assurances**

23 CONTRACTOR will comply with the COUNTY policies and procedures where applicable. In the
24 event that the policies and procedures promulgated by the COUNTY are more restrictive, but not in conflict
25 with Federal or State policies and procedures, those issued by the COUNTY will prevail.

26 **28. Records And Documents**

1 CONTRACTOR shall make available, upon written request by any duly authorized Federal, State or
2 COUNTY agency, a copy of this Agreement and such books, documents and records as are necessary to
3 certify the nature and extent of the costs of the services provided by CONTRACTOR. All such books and
4 records shall be maintained by CONTRACTOR for at least five years from the termination of this
5 Agreement and be available for audit by the COUNTY. CONTRACTOR to provide COUNTY with reports
6 and information relative to this Agreement and in accordance with terms set forth herein, as requested by
7 COUNTY.

8 **29. Monitoring**

9 CONTRACTOR hereby agrees to establish procedures for self-monitoring and shall permit an
10 appropriate official of the COUNTY, State or Federal government to monitor, assess or evaluate
11 CONTRACTOR'S performance under this Agreement upon reasonable notice to CONTRACTOR and at
12 any reasonable time.

13 **30. Confidentiality**

14 The Contractor shall protect from unauthorized disclosure names and other identifying information
15 concerning persons receiving services pursuant to this Agreement, except for statistical information not
16 identifying any client. The Contractor shall not use such information for any purpose other than carrying
17 out the Contractor's obligations under this Agreement. The Contractor shall promptly transmit to the
18 COUNTY all requests for disclosure of such information not emanating from the client. The Contractor
19 shall not disclose, except as otherwise specifically permitted by this Agreement or authorized by the client,
20 any such information to anyone other than the COUNTY. For purposes of this paragraph, identity shall
21 include, but not be limited to, name, identifying number, symbol, or other identifying particular assigned to
22 the individual, such as finger or voice print or a photograph.

23 **31. Administration/Contract Liaison**

24 The COUNTY of Riverside Purchasing Agent, or designee, shall administer this Agreement on
25 behalf of the COUNTY. The Purchasing department is to serve as its liaison with CONTRACTOR in
26 connection with this agreement.

27 **32. Notices**

1 All correspondence and notices required or contemplated by this Agreement shall be delivered to the
2 respective parties at the addresses set forth below and are deemed submitted one day after their deposit in
3 the United States mail, postage prepaid:

COUNTY OF RIVERSIDE

Riverside County Transportation Department
4080 Lemon St., 8th Floor
Riverside, CA 92502-1090
Attn: Mark P. Hughes
(951) 955-6767

CONTRACTOR

Drainage Protection Services
41615 Reagan Way
Murrieta, CA 92562
Attn: Craig R. Beatty
(888) 950-8826 ext 102

4 **33. Force Majeure**

5 **33.1.** In the event CONTRACTOR is unable to comply with any provision of this agreement due
6 to causes beyond their control such as acts of God, acts of war, civil disorders, or other similar acts,
7 CONTRACTOR shall not be held liable to COUNTY for such failure to comply.

8 **33.2.** In the event COUNTY is unable to comply with any provision of this agreement due to
9 causes beyond its control relating to acts of God, acts of war, civil disorders, or other similar acts, COUNTY
10 shall not be held liable to CONTRACTOR for such failure to comply.

11 **34. Mutual Cooperation**

12 The COUNTY agrees to cooperate with the CONTRACTOR in the CONTRACTOR's performance
13 of services for the COUNTY under this Agreement, including providing the CONTRACTOR with
14 reasonable facilities and timely access to COUNTY data, information and personnel. The COUNTY shall
15 be responsible for the performance of its employees and agents and for the accuracy and completeness of all
16 data and information provided to the CONTRACTOR.

17 **35. EDD Reporting Requirements**

18 **35.1.** In order to comply with child support enforcement requirements of the State of California,
19 the COUNTY of Riverside may be required to submit a Report of Independent Contractor(s) form **DE 542**
20 to the Employment Development Department. The selected contractor agrees to furnish the required
21 Contractor data and certifications to the COUNTY of Riverside within 10 days of notification of award of
22 contract when required by the EDD.

23 **35.2.** It is expressly understood that this data will be transmitted to governmental agencies charged
24 with the establishment and enforcement of child support orders and for no other purposes and will be held

1 confidential by those agencies. Failure of the contractor to timely submit the data and/or certificates
2 required may result in contract being awarded to another Contractor. In the event a contract has been
3 issued, failure of the Contractor to comply with all federal and state reporting requirements for child support
4 enforcement or to comply with all lawfully served Wage and Earnings Assignments Orders and Notices of
5 Assignment shall constitute a material breach of contract. Failure to cure such breach within 60 calendar
6 days of notice from the COUNTY shall constitute grounds for termination of the contract.

7 **35.3.** If you have any questions concerning this reporting requirement, please call (916) 657-0529.
8 You may also contact your local Employment Tax Customer Service Office listed in your telephone
9 directory in the State Government section under "Employment Development Department," or you may
10 access their Internet site at www.edd.ca.gov.

11 **36. Entire Agreement**

12 This Agreement, including any Statement(s) of Work entered into pursuant to it, constitutes the
13 entire agreement of the parties hereto with respect to its subject matter and supersedes all prior and
14 contemporaneous representations, proposals, discussions and communications, whether oral or in writing.
15 This Agreement may be changed or modified only by a written amendment signed by authorized
16 representatives of both parties.

1 IN WITNESS WHEREOF, the parties hereto have caused their duly authorized representatives to execute
2 this Agreement.
3
4

COUNTY:

County of Riverside
4080 Lemon Street
Riverside, CA 92501

CONTRACTOR:

Drainage Protection Services
41615 Reagan Way
Murrieta, CA 92562

5
6
7 Signature: _____

Signature: C. R. Beatty

8
9 Print Name: Jeff Stone

Print Name: CRAIG R. BEATTY

10
11 Title: Chairman, of the Board of Supervisors

Title: PRESIDENT

12
13 Dated: _____

Dated: 9/22/2009

14
15
16 ATTEST:

17 Kecia Harper-Ihem, Clerk of the Board

18
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20 BY _____
21 Deputy

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34 BY _____
35 "County" (Seal)

36
37 APPROVED AS TO FORM:

38
39
40 BY MS Victor Dated: 9/16/09
41 MARSHA L. VICTOR
42 County Counsel

EXHIBIT A
SCOPE OF SERVICE
CATCH BASIN FOSSIL FUEL FILTER
MAINTENANCE SERVICES- COUNTYWIDE

1.0 RFQ Scope of Service and Project Location**1.1 Prevailing Wage**

Pursuant to the labor code, the governing board of the owner has obtained from the director of the Department of Industrial Relations, State of California, his/her determination of general prevailing rates of per diem wages applicable to the work, and for holiday and overtime work, including employer payments for health and welfare, pension, vacation, and similar purposes, as set forth on the schedule which is on file at the principal office of the Owner, and which will be made available to any interested person upon request.

Contractor's Requirements: For all repair/new installation/maintenance work at these locations, the successful contractor must adhere to the following:

- A. Contractor and/or Sub-contractors must possess the proper Contractors license issued by the State of California for each craft or type of workman or mechanic needed to execute the contract.
- B. Upon request, provide to the Purchasing Department a certificate of liability insurance form listing "the County of Riverside" as additional insured and proof of Worker's Compensation Insurance for his employees.
- C. Pay his employees the general prevailing rate of wages for each craft or type of workman or mechanic needed to execute the contract.
- D. Submit certified payroll per form DLSE Form A-1-131 available at:
<http://www.dir.ca.gov/dlse/DLSEFormA-1-131.pdf>

- 1.2** Federal, State and Local Clean Water Act regulations require stormwater filtration systems be maintained and serviced on a recurring basis. The intent of the regulations is to ensure the systems, on a continuing basis, efficiently remove pollutants from stormwater runoff thereby preventing pollution of the nation's water resources. These specifications apply to catch basin fossil fuel filter inserts.

1.3 Requirements

- A. Contractor shall meet prevailing wage requirements as set forth in Section 2.1.
- B. Furnish all necessary transportation, permits, insurance and taxes, in the performance of the scope of services.
- C. Provide all labor, materials, tools, equipment, and supervision necessary to maintain the fossil fuel filters in the catch basins as required.
- D. Schedule work during normal working hours, Monday thru Friday, 7:00 A.M. to 5:00 P.M. Prior approval by the appropriate Transportation Department staff is required for any and all work outside normal working hours, with the exception of emergency situations.
- E. JOB SITE – It shall be the bidder's responsibility to visit the job site to check any conditions that may affect their bid. Claims for allowances due to Contractor's error or negligence, in acquainting themselves with the site, shall not be recognized. By the Contractor's act of submitting a bid, the contractor acknowledges that they have informed themselves of all conditions.
- F. RESPONSE TIME – Contractor shall complete a preliminary service schedule within 2 weeks of award of contract and delivery of maintenance maps from the County. The preliminary

service schedule shall be submitted to the County for review and approval prior to the start of any work. A revised and updated service schedule shall be submitted to the County after each service interval. Maintenance work shall proceed in a timely fashion, without major interruptions. The Contractor shall start the performance of unscheduled service within 48 hours of notification from County.

- G. **DRESS CODE AND APPEARANCE** – The Contractor shall be required to provide uniforms, with the company name imprinted on them, for the contracted personnel. Contracted personnel shall wear uniforms, at all times, when on Landscaping and Lighting Maintenance District projects.
- H. **VEHICLE LABELING** – The Contractor shall provide company name, telephone number, and Contractor’s License number on all vehicles.
- I. **LICENSING – MUST PROVIDE COPIES OF EACH OF THE FOLLOWING LICENSES:**
The Contractor shall have a current and valid General Engineering (type A) California Contractor’s License, or other C-type or D-type Contractors license relating to Storm Water construction and maintenance practices; A copy of the employees’ confined-space certificate.
- J. **CONFINED SPACE INSTRUCTION** - The Contractor and their employees shall be well versed in Recognizing, Evaluating, and Controlling Confined Space Hazards. Initial and on-going Education is the sole responsibility of the Contractor.
http://www.dir.ca.gov/dosh/dosh_publications/ConfSpa.pdf
- K. **INSURANCE – MUST PROVIDE A COPY OF EACH OF THE FOLLOWING CERTIFICATES:** Provide a copy of certificate of current liability insurance (minimum \$1,000,000), provide a copy of certificate of current automobile insurance, and a copy of current proof of Workers Compensation for their employees
- L. **TRAFFIC CONTROL** – The Contractor shall be responsible for any and all Traffic Control, including all supplies to perform a temporary lane closure, per County Standards.
- M. **EMERGENCY SERVICES** – The Contractor shall make available emergency service on a 24 hour a day, seven day per week basis.
- N. **QUALITY ASSURANCE** – The Contractor shall use an adequate number of skilled workmen who are thoroughly trained and experienced in the necessary crafts and who are completely familiar with the specified requirements and the methods needed for proper performance of all work contained in these specifications.
- O. **COMMUNICATION** – The Contractor shall notify the County approved personnel 48 hours prior to starting any fossil filter maintenance. The Contractor shall have in place a Project Manager to oversee the County’s contract with the Contractor, and a second point of contact in case primary contact is temporarily unavailable. All County inquires shall be returned within 24 hours of phone call, email, or receipt of mailed letter.

2.4 Catch Basin Fossil Fuel Filter Maintenance

- A. Contractor must enter catch access basin through manhole, at each catch basin. Contractor shall remove and reinstall “Allen” type screws (Locking Lug) to secure manhole lids, if applicable. Screws damaged during maintenance shall be replaced at Contractor’s expense. Screws (Locking Lug) shall be coated with an anti-seize based lubricant.
- B. Contractor will remove sediment (dirt, silt, impediment, etc.) and debris (litter, leaves, papers, cans, etc.) and broom sweep around catch basin inlet. Accumulated materials shall be placed in a DOT approved container for later legal disposal by the Contractor at no additional charge to the County.
- C. Contractor shall visually inspect catch basin for defects and possible illegal dumping. If evidence of illegal dumping is apparent, Contractor shall immediately contact County.

- D. Contractor shall clean catch basin fossil fuel filter inserts three (3) times a year, equally spaced throughout the year, with a minimum of a 115 days and a maximum of 130 days between each service, weather permitting safe access to the catch basin.
- E. Contractor shall change absorbent filter medium as needed (visual inspection) up to three (3) times a year, a minimum of one (1) time per a year, at no additional cost to the County.
- F. Minor damage or defects found shall be corrected on-the-spot and a notation made on the maintenance report. Contractor shall notify the County immediately of any extensive damage or defects that affect the efficiency of the filter for the County.
- G. Prior to leaving the catch basin, the Contractor shall attach a plastic padlock to the outer galvanized steel guard with the following information: Company name and number hot stamped printed on one side, and the date of service in permanent marker on the other side. The previous tag shall be removed. This will allow the County inspector to insure all catch basins were serviced in accordance with the contract. Plastic padlocks are available at www.AmericanCasting.com or at 1-800-342-0333, model number 8001. Yellow is the approved color.
- H. Currently installed and approved for use within the County maintained road rights-of-way catch basins are the following fossil fuel filters: "Kristar's FloGard +Plus", "Revel Environmental Manufacturing, Inc's. (REM) Triton Filter with Storm Web", "Bio Clean Environmental Services' Curb Inlet Basket with Shelf System", and "West Coast Storm, Inc's Curb Inlet Filter Screen and Frame". Currently products by United Storm Water, Inc are installed per plan, but not approved for use Countywide. Products by Ocean Protection Technology (OPT) are not approved for use.

2.5 Disposal of Collected Pollutant Material

- A. Contractor shall dispose of collected Class II pollutant material in accordance with federal, state, and/or local agency requirements (per EPA specifications).
- B. The Contractor shall maintain the necessary licenses, certifications, and/or any other needed credentials to transport said pollutant materials.

2.6 Maintenance Record

- A. Contractor shall provide the County a maintenance record of work performed following each cleaning, with no less than the following information: "Site Information Section" with project name, site address, contact information, and brief description of treatment system, manufacturer, and quantity and length of each Fossil Fuel Filter. The "Service Information Section" with service date, service technician(s), services performed, with a brief description of materials removed. This record shall be submitted within ten (10) days of service completion.
- B. A Certificate of Compliance shall be provided to the County by the Contractor following each cleaning. The Zone number and Location number (if equipped) should be clearly visible on the certificate along with the service date, and signed by the Contractor. This certificate shall be submitted within ten (10) days of service completion.
- C. The Contractor shall include the copy of certified payroll documentation, a copy of the Maintenance Record, a copy of the Certificate of Compliance with any and all invoices for work performed. Invoice payment will be delayed until all supportive documentation is provided to the County.
- D. Invoices shall be prepared by Zone. Maintenance records and Certificate of Compliance shall be Zone and Location based. Each Zone and Location will have independent information for the location, based upon maintenance maps provided by the County.

2.7 Extra Work

- A. All extra work must have written approval prior to the work being performed.
- B. Any products or services not otherwise specified in this specification shall be negotiated between the Contractor and the County at a price agreed upon by both parties.

2.8 Safety

- A. Contractor shall be solely responsible for the condition of the premises on which the work is performed and for safety of the premises on which the work is performed. This requirement shall not be limited to normal working hours, but shall apply continuously.
- B. Contractor shall conform to all governing safety regulations.

2.9 Performance Evaluation

- A. The performance of the maintenance work will be reviewed and monitored by the County on an ongoing basis.
- B. The County may review individual locations at any given time with or without the presence of the Contractor.
- C. During these reviews, the County will utilize an Evaluation Checklist to document the findings.
- D. Implementing a rating scale for designated catch basin fossil fuel filter inserts maintenance tasks and overall performance will be evaluated on a point system. A rating falling below 75% of all possible points will be deemed unsatisfactory.
- E. A 10% reduction of the payment amount will be assessed for each service period the evaluation rating is defined unsatisfactory. Two consecutive ratings may, at the discretion of the County, result in termination of the entire contract.

2.10 Project Locations

All work under this contract will be performed within the Landscaping and Lighting Maintenance District No. 89-1-Consolidated and the unincorporated areas of the County of Riverside, within the County Maintained Road rights-of-way. Consider all locations within the unincorporated areas of the County as a possible project location. Locations within the new City of Wildomar (incorporated July 1, 2008) and the new City of Menifee (incorporated October 1, 2008) will also be included under this scope of work.

**EXHIBIT B
PAYMENT PROVISION**

COST PROPOSAL

The County reserves the right to reject any or all offers, to waive any discrepancy or technicality and to split or make the award in any manner determined by the determined by the County to be most advantageous to the County. The County recognizes that prices are only one of several criteria to be used in judging an offer and the County is not legally bound to accept the lowest offer.

NORMAL WORK		
Description	Unit Price (per a Catch Basin)	Unit Description
Annual Cleaning <u>three (3) times</u> and Inspection of Catch Basin Inserts (Fossil Fuel Filters), any size or length curb inlet, combination inlet, or drop inlet Catch Basin, minimum replacement of absorbent 1 time annually, up to 3 times if necessary	\$ 148.50	Annual Service Charge including 3 Filter Cleanings, Site Visit, and 1 absorbent replacement, Per a Catch Basin

EXTRA WORK		
Description	Unit Price (per a Catch Basin)	Unit Description
One (1) Cleaning (<u>1 time</u>) and Inspection of Catch Basin Inserts (Fossil Fuel Filters), any size or length curb inlet or drop inlet Catch Basin.	\$ 49.50	1 Time Service Charge including Filter Cleanings and Site Visit.
1 Cleaning (<u>1 time</u>) and Inspection of Catch Basin Inserts (Fossil Fuel Filters), any size or length curb inlet or drop inlet Catch Basin, <u>replace absorbent.</u>	\$ 59.50	1 Time Service Charge including Filter Cleanings, Site Visit, and absorbent replacement.