

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



ITEM: 3.13
(ID # 14587)

MEETING DATE:
Tuesday, March 23, 2021

FROM : FIRE DEPARTMENT:

SUBJECT: FIRE DEPARTMENT: Ratification and Approval of the Agreement between the California Department of Forestry and Fire Protection (CAL FIRE) and Riverside County for the use of the Ben Clark Training Center (BCTC) upon Approval from January 1, 2021 to December 31, 2021, District 1. [Estimated revenue - \$932,238]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Ratify and Approve the attached Agreement between the California Department of Forestry and Fire Protection (CAL FIRE) and Riverside County for the use of Ben Clark Training Center from January 1, 2021 to December 31, 2021; and
2. Authorize the Chair of the Board to execute this Agreement on behalf of the County.

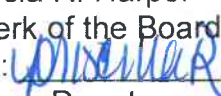
ACTION:


Bill Weiser, Fire Department Chief 3/4/2021

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Hewitt, seconded by Supervisor Perez and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Spiegel, Washington, Perez, and Hewitt
Nays: None
Absent: None
Date: March 23, 2021
xc: FIRE

Kecia R. Harper
Clerk of the Board
By: 
Deputy

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

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$ N/A	\$ N/A	\$ N/A	\$ N/A
NET COUNTY COST	\$ N/A	\$ N/A	\$ N/A	\$ N/A
SOURCE OF FUNDS: N/A			Budget Adjustment: No	
			For Fiscal Year: 20/21–21/22	

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary (continued)

The Fire Department is requesting approval of the agreement between the County of Riverside and the California Department of Forestry and Fire Protection (CAL FIRE). This agreement will allow CAL FIRE to use the Ben Clark Public Safety Training Center (BCTC) for lodging and facility space.

CAL FIRE will utilize the lodging for ongoing sessions of their Firefighter Academy that are held at the Ben Clark Public Safety Training Center (BCTC) during the 2021 Calendar year. Each class requires the housing of up to 48 students and as many as 10 additional instructors. The ongoing need for accommodations is one of the main reasons CAL FIRE has selected BCTC as the site for its academy classes in Southern California.

The agreement utilizes the rates established for BCTC per Board of Supervisors Policy H-30 Ben Clark Public Safety Training Center Facility Use and rates approved on May 5, 2009, agenda item #3.13.

The Agreement has been reviewed and approved as to form by County Counsel.

Impact on Citizens and Businesses

This agreement will allow CAL FIRE the use of BCTC for lodging and facility space. There is no impact to citizens or businesses.

SUPPLEMENTAL:

Additional Fiscal Information

The Department will receive up to \$932,238 in revenue between FY 20/21 and FY 21/22 contingent on actual use of BCTC facility. The revenue is included in the budget and no budget adjustment is requested.

Contract History

The contractual relationship between Riverside County and CAL FIRE dates to 1921 and has provided the public and the County a wonderfully successful fire protection system. Those first contract were only to augment the level of wildland fire protection provided by the State. The

**SUBMITTAL TO THE BOARD OF SUPERVISORS COUNTY OF RIVERSIDE,
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agreement, as we know it today, began in 1946 with the appointment of a County Fire Warden. Today, the County Fire Department is a well-integrated system (County, partner cities & State) that provides municipal fire protection, advanced life support (paramedic) service, technical rescue and hazardous materials response all from 92 regional fire stations.

The previously approved agreement to provide facility use for lodging and facility space was approved by the Board of Supervisors on April 7, 2020, Item #3.27. Aside from providing lodging to the students attending the Firefighter Academy, this agreement will also provide all materials, labor, equipment, tools, permits, taxes and fees for lodging to the students and instructors attending CAL FIRE courses held at Ben Clark Public Safety Training Center.



Melissa Cushman

3/4/2021



Cheryl Williams

3/15/2021



Gregory V. Priamos, Director County Counsel

3/5/2021

1
2
3 **RESOLUTION**
4 **2021-052**
5

6 BE IT RESOLVED by the Board of Supervisors of the County of Riverside,
7 State of California, in regular session assembled on Tuesday, March 23, 2021,
8 that Karen Spiegel, the Chair is authorized and directed to execute on behalf of
9 said County the Standard Agreement No. 7CA05126 between Riverside County
10 and Department of Forestry and Fire Protection providing for the use of the Ben
11 Clark Training Center (BCTC).
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17
18 The foregoing is certified to be a true copy of a resolution duly adopted by said
19 Board of Supervisors on the date therein set forth.
20

21 KECIA R. HARPER, Clerk of the Board

22
23 By: 

24 Deputy
25
26

FORM APPROVED COUNTY COUNSEL
BY: MELISSA R. CUSHMAN 2/18/2021 DATE
MAR 23 2021 3.13

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES

STANDARD AGREEMENT

STD 213 (Rev. 04/2020)

AGREEMENT NUMBER

7CA05126

PURCHASING AUTHORITY NUMBER (If Applicable)

1. This Agreement is entered into between the Contracting Agency and the Contractor named below:

CONTRACTING AGENCY NAME

Department of Forestry and Fire Protection

CONTRACTOR NAME

County of Riverside, Ben Clark Public Safety Training Center

WHEN DOCUMENT IS FULLY EXECUTED RETURN**CLERK'S COPY**

2. The term of this Agreement is:

START DATE

January 1, 2021

to Riverside County Clerk of the Board, Stop 1010

Post Office Box 1147, Riverside, Ca 92502-1147

Thank you.

THROUGH END DATE

December 31, 2021

3. The maximum amount of this Agreement is:

\$932,237.70

Nine Hundred Thirty-Two Thousand, Two Hundred Thirty-Seven Dollars and 70/100 Cents

4. The parties agree to comply with the terms and conditions of the following exhibits, which are by this reference made a part of the Agreement.

Exhibits	Title	Pages
Exhibit A	Scope of Work	1
Exhibit B	Budget Detail and Payment Provisions	1
Attachment 1	Budget Detail	1
+ - Exhibit C *	General Terms and Conditions	GIA
+ - Exhibit D	Special*- Terms and Conditions	2
+ - Exhibit E	Additional Provisions	2

Items shown with an asterisk (*), are hereby incorporated by reference and made part of this agreement as if attached hereto.

These documents can be viewed at <https://www.dgs.ca.gov/OLS/Resources>

IN WITNESS WHEREOF, THIS AGREEMENT HAS BEEN EXECUTED BY THE PARTIES HERETO.

CONTRACTOR

CONTRACTOR NAME (if other than an individual, state whether a corporation, partnership, etc.)

County of Riverside, Ben Clark Public Safety Training Center

CONTRACTOR BUSINESS ADDRESS

210 West San Jacinto Avenue, Perris, CA 92570

CITY

Perris

STATE

CA

ZIP

95270

PRINTED NAME OF PERSON SIGNING

Karen Spiegel

TITLE

Chair

CONTRACTOR AUTHORIZED SIGNATURE

Karen S. Spiegel

DATE SIGNED

03.23.2021

ATTEST:

KECIA R. HARPER, Clerk

By  DEPUTY

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES

STANDARD AGREEMENT

STD 213 (Rev. 04/2020)

AGREEMENT NUMBER

7CA05126

PURCHASING AUTHORITY NUMBER (If Applicable)

STATE OF CALIFORNIA

CONTRACTING AGENCY NAME

Department of Forestry and Fire Protection

CONTRACTING AGENCY ADDRESS

4501 State Highway 104

CITY

Ione

STATE

CA

ZIP

95640

PRINTED NAME OF PERSON SIGNING

Joe Tyler

TITLE

Deputy Director, Chief of Fire Protection

CONTRACTING AGENCY AUTHORIZED SIGNATURE

Joe Tyler

DATE SIGNED

CALIFORNIA DEPARTMENT OF GENERAL SERVICES APPROVAL

EXEMPTION (If Applicable)

SCM Vol. 1, 4.04. A.5

**EXHIBIT A, Attachment 1
(Detailed Scope of Work)**

SCOPE OF WORK

1. Contractor agrees to provide to the Department of Forestry and Fire Protection (CAL FIRE) facility and lodging services as described herein:

Contractor shall provide all materials, labor, equipment, tools, permits, taxes and fees for lodging for students and instructors attending CAL FIRE courses held at Ben Clark Public Safety Training Center.

County of Riverside, Ben Clark Public Safety Training Center agrees to provide to CAL FIRE lodging and facility space as described herein:

32 rooms for a total of 45 weeks will be required to accommodate all students, assistant instructors for any combination of classes held.

The Agreement may be amended to increase services at the rate(s) specified in Exhibit B, Budget Detail and Payment Provisions.

CAL FIRE has the right to extend this agreement for one (1) year by amendment at the same terms, conditions and costs.

2. The services shall be performed at County of Riverside, Ben Clark Training Center Housing 16791 Davis Avenue, Riverside, CA 95218.
3. The services shall be provided at various times throughout the duration of 45 weeks.
4. The Project Representatives during the term of this agreement will be:

State Agency: Dept. Forestry and Fire Protection	Contractor: County of Riverside, Ben Clark Public Safety Training Center
Name: Chris Amestoy	Name: Casey Hartman
Phone: 209-388-5506	Phone: 951-940-6908
Fax: 209-274-204	Fax: 951-657-2662
Email: chris.amestoy@fire.ca.gov	Email: Casey.Hartman@fire.ca.gov

Direct all inquiries to:

State Agency: Dept. Forestry and Fire Protection	Contractor: County of Riverside, Ben Clark Public Safety Training Center
Section/Unit: Business Services – Contracts Unit	Section/Unit:
Attention: Irina Lopatin	Attention: Diane Sinclair & Casey Hartman
Address: P.O. Box 944246 Sacramento, CA 94244-2460	Address: 210 West San Jacinto Avenue Perris, CA 92570
Phone: 916-894-9872	Phone: (951) 940-6900
Fax: N/A	Fax: N/A
Email: Irina.lopatin@fire.ca.gov	Email: Diane.Sinclair@fire.ca.gov & Casey.Hartman@fire.ca.gov

EXHIBIT B
(Budget Detail and Payment Provisions)

BUDGET DETAIL AND PAYMENT PROVISIONS

1. Invoicing and Payment

- A. For services satisfactorily completed in accordance with the terms and conditions stated herein, and upon receipt and approval of the invoice(s), the State agrees to compensate the Contractor for actual expenditures incurred in accordance with the hereto as Exhibit B, Attachment 1 – Budget Detail and made a part of this Agreement.
- B. Contractor shall submit, in arrears, not more frequently than once a month, and no less than quarterly, an invoice to CAL FIRE for cost incurred pursuant to the agreement. In addition, each invoice shall contain the following information:
 - 1) The agreement number (7CA05126).
 - 2) The dates or time-period which the invoiced costs were incurred.
 - 3) Description of service, quantity, rate, and total for the current invoice.
- C. Invoice(s) shall be submitted to:

California Department of Forestry and Fire Protection
Attention: CAL FIRE Training Center
4501 State Highway 104
Ione, CA 95640
(209) 388-5506
chris.amestoy@fire.ca.gov

2. Budget Contingency Clause

- A. It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement and Contractor shall not be obligated to perform any provisions of this Agreement.
- B. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either cancel this Agreement with no liability occurring to the State, or offer an agreement amendment to Contractor to reflect the reduced amount.

3. Prompt Payment Clause

Payment will be made in accordance with, and within the time specified in, Government Code Chapter 4.5, commencing with Section 927. In the event of an emergency, as defined in section 927.11, late payment penalties may not apply. Specific to CAL FIRE, if an invoice from a business under contract with CAL FIRE becomes subject to late payment penalties during the annually declared fire season, then the required payment approval date shall extend 30 calendar days beyond the initial 45-day period, except in the case of a contract with a certified small business, a certified Disabled Veteran Business Enterprise, a non-profit organization, or a non-profit public benefit corporation.

**EXHIBIT B, Attachment 1
(Budget Detail)**

BUDGET DETAIL

Services Type	Rate	Quantity	Quantity	Total
Dorms	\$68.00 / room	32 rooms	315 days	\$685,440.00
Administrative Offices	\$415.35 / office	8 offices	12 months	\$39,873.60
Apparatus Bays/mechanic/storage	\$50.16 / storage bay	2.75 bays	365 days	\$50,348.10
Classroom	\$345.60 / classroom	1 classroom	210 days	\$72,576.00
<i>Estimated Total</i>				<i>\$848,237.70</i>

CAL FIRE Training Center South will reimburse Riverside County for the following items:

1. County purchased motor fuel: \$24,000.00
2. County paid facility repairs/maintenance on drill grounds: \$60,000.00

EXHIBIT D
(Special Terms and Conditions)

SPECIAL TERMS AND CONDITIONS

1. Excise Tax

The State of California is exempt from federal excise taxes, and no payment will be made for any taxes levied on employees' wages. The State will pay for any applicable State of California or local sales or use taxes on the services rendered or equipment or parts supplied pursuant to this Agreement. California may pay any applicable sales and use tax imposed by another state.

2. Settlement of Disputes

In the event of a dispute, within 10 days of discovery of the problem, Contractor shall file a "Notice of Dispute" with:

Department of Forestry and Fire Protection
Attention: Acquisitions Manager
P.O. Box 944246
Sacramento, CA 94244-2460

Within 10 days of CAL FIRE receiving Contractor's notice, the Contracts Manager or designee shall advise Contractor of the findings and recommend a method to resolve the dispute. Decision of the Contracts Manager or designee shall be final.

In the event of a dispute, the language contained within this Agreement shall prevail over any other language including that of the bid proposal.

3. Right to Terminate (SCM 7.85)

The State reserves the right to terminate this agreement subject to 30 days written notice to the Contractor. Contractor may submit a written request to terminate this agreement only if the State should substantially fail to perform its responsibilities as provided herein.

However, the agreement can be immediately terminated for cause. (Refer to GTC, Exhibit C, Item 7. Termination for Cause)

4. Potential Subcontractors

Nothing contained in this Agreement or otherwise, shall create any contractual relation between the State and any subcontractors, and no subcontract shall relieve the Contractor of his responsibilities and obligations hereunder. The Contractor agrees to be as fully responsible to the State for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Contractor. The Contractor's obligation to pay its subcontractors is an independent obligation from the State's obligation to make payments to the Contractor. As a result, the State shall have no obligation to pay or to enforce the payment of any moneys to any subcontractor.

5. Evaluation of Contractor

Performance of the Contractor under this Agreement will be evaluated. The evaluation shall be prepared on Contract/Contractor Evaluation Sheet (STD 4) and maintained in the Agreement file. For consultant agreements, a copy of the evaluation will be sent to the Department of General Services, Office of Legal Services, if it is negative and over \$5,000.

EXHIBIT D
(Special Terms and Conditions)

6. Agency Liability

The Contractor warrants by execution of this Agreement, that no person or selling agency has been employed or retained to solicit or secure this Agreement upon agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the State shall, in addition to other remedies provided by law, have the right to annul this Agreement without liability, paying only for the value of the work actually performed, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

7. Force Majeure

Neither party shall be liable to the other for any delay in or failure of performance, nor shall any such delay in or failures of performance constitute default, if such delay or failure is caused by "Force Majeure." As used in this section, "Force Majeure" is defined as follows: Acts of war and acts of God such as earthquakes, floods, and other natural disasters such that performance is impossible.

8. Contractor Name Change

Contractor shall provide a written notice to the State at least 30 days prior to any changes to the Contractor's current legal name.

EXHIBIT E
(Additional Provisions)

ADDITIONAL PROVISIONS

1. Insurance Requirements

A. General Provisions Applying to All Policies

- 1) Primary Clause - Any required insurance contained in this Agreement shall be primary, and not excess or contributory, to any other insurance carried by the State.
- 2) Endorsements - Any required endorsements requested by the State must be physically attached to all requested certificates of insurance and not substituted by referring to such coverage on the certificate of insurance.
- 3) The Department will not provide for nor compensate Contractor for any insurance premiums or costs for any type or amount of insurance.
- 4) When Contractor submits a signed Agreement to the State, Contractor shall furnish to the State a certificate of insurance stating that all required insurance is in effect for the Contractor.

B. General and Commercial Liability Insurance

Contractor shall provide commercial general liability insurance of not less than \$1,000,000 per occurrence for bodily injury and property damage liability combined in effect for the Contractor.

The certificate of insurance will include provisions 1, and 2, in their entirety:

- 1) That the insurer will not cancel the insured's coverage without 30 days prior written notice to the State.
- 2) That the State of California, its officers, agents, employees, and servants are included as additional insured, but only insofar as the operations under this Agreement are concerned.

Contractor agrees that the bodily injury liability insurance herein provided for shall be in effect at all times during the term of this Agreement. In the event said insurance coverage expires at any time or times during the term of this Agreement, Contractor agrees to provide at least 30 days prior to said expiration date, a new certificate of insurance evidencing insurance coverage as provided for herein for not less than the remainder of the term of the Agreement, or for a period of not less than one (1) year. New certificates of insurance are subject to the approval of the Department of General Services, and Contractor agrees that no work or services shall be performed prior to the giving of such approval. In the event the Contractor fails to keep in effect at all times insurance coverage as herein provided, the State may, in addition to any other remedies it may have, terminate this Agreement upon occurrence of such event.

C. Worker's Compensation Insurance

Contractor shall provide Worker's Compensation Insurance with Waiver of Subrogation in favor of the State of California. Employer's liability shall be not less than \$1,000,000.00. The following clause should be included: "Waiver of Subrogation in favor of the State of California or in favor of CAL FIRE:" By signing this Agreement, the Contractor hereby warrants that it carries Workers' Compensation Insurance on all of its employees who will be engaged in the performance of this Agreement. If Staff provided by the Contractor is defined as independent contractors, this clause does not apply.

D. Commercial Automobile Insurance on Owned, Hired, and/or Non-Owned vehicles.

Contractor shall provide Commercial Automobile Insurance on Owned, Hired, and/or Non-Owned vehicles of not less than \$1,000,000.00 policy.

EXHIBIT E
(Additional Provisions)

2. Regulations

- A. Contractor shall observe and comply with all federal, state, city, and county laws, rules or regulations affecting the work. Any work done that does not comply with any laws, rules, or regulations will be remedied at the Contractor's expense.
- B. Contractor shall cooperate with CAL FIRE authorities and shall observe and comply with all regulations presently in force on CAL FIRE grounds.

3. License and Permits

- A. The Contractor shall be an individual or firm currently licensed to do business in California and shall obtain at his/her expense all license(s) and permit(s) required by law for accomplishing any work required in connection with this Agreement. In the event the Contractor fails to keep in effect at all times all required license(s) and permit(s), the State may, in addition to any other remedies it may have, terminate this Agreement upon occurrence of such event.
- B. If you are a Contractor located within the State of California, a business license from the city/county in which you are headquartered is necessary however, if you are a corporation, a copy of your incorporation documents/letter from the Secretary of State's Office can be submitted. If you are a Contractor outside the State of California, you will need to submit to the CAL FIRE Contracts Unit a copy of your business license or incorporation papers for your respective State showing that your company is in good standing in that State.

SCO ID: 3540-7CA05126

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES

STANDARD AGREEMENT

STD 213 (Rev. 04/2020)

AGREEMENT NUMBER

7CA05126

PURCHASING AUTHORITY NUMBER (If Applicable)

1. This Agreement is entered into between the Contracting Agency and the Contractor named below:

CONTRACTING AGENCY NAME

Department of Forestry and Fire Protection

CONTRACTOR NAME

County of Riverside, Ben Clark Public Safety Training Center

WHEN DOCUMENT IS FULLY EXECUTED RETURN

2. The term of this Agreement is:

CLERK'S COPY

START DATE

January 1, 2021

to Riverside County Clerk of the Board, Stop 1010

Post Office Box 1147, Riverside, Ca 92502-1147

Thank you

THROUGH END DATE

December 31, 2021

3. The maximum amount of this Agreement is:

\$932,237.70

Nine Hundred Thirty-Two Thousand, Two Hundred Thirty-Seven Dollars and 70/100 Cents

4. The parties agree to comply with the terms and conditions of the following exhibits, which are by this reference made a part of the Agreement.

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IN WITNESS WHEREOF, THIS AGREEMENT HAS BEEN EXECUTED BY THE PARTIES HERETO.

CONTRACTOR

CONTRACTOR NAME (if other than an individual, state whether a corporation, partnership, etc.)

County of Riverside, Ben Clark Public Safety Training Center

CONTRACTOR BUSINESS ADDRESS

210 West San Jacinto Avenue, Perris, CA 92570

CITY

Perris

STATE

CA

ZIP

95270

PRINTED NAME OF PERSON SIGNING

Karen Spiegel

TITLE

Chair

CONTRACTOR AUTHORIZED SIGNATURE

Karen S. Spiegel

DATE SIGNED

03-23-2021

ATTEST:

KECIA R. HARPER, Clerk

By

DEPUTY

MAR 23 2021 3:13

SCO ID: 3540-7CA05126

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES

STANDARD AGREEMENT

STD 213 (Rev. 04/2020)

AGREEMENT NUMBER

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PURCHASING AUTHORITY NUMBER (If Applicable)

STATE OF CALIFORNIA

CONTRACTING AGENCY NAME

Department of Forestry and Fire Protection

CONTRACTING AGENCY ADDRESS

4501 State Highway 104

CITY

Ione

STATE

CA

ZIP

95640

PRINTED NAME OF PERSON SIGNING

Joe Tyler

TITLE

Deputy Director, Chief of Fire Protection

CONTRACTING AGENCY AUTHORIZED SIGNATURE

Joe Tyler

DATE SIGNED

4/22/2021

CALIFORNIA DEPARTMENT OF GENERAL SERVICES APPROVAL

EXEMPTION (If Applicable)

SCM Vol. 1, 4.04. A.5

**EXHIBIT A, Attachment 1
 (Detailed Scope of Work)**

SCOPE OF WORK

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Fax: 209-274-204	Fax: 951-657-2662
Email: chris.amestoy@fire.ca.gov	Email: Casey.Hartman@fire.ca.gov

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Section/Unit: Business Services – Contracts Unit	Section/Unit:
Attention: Irina Lopatin	Attention: Diane Sinclair & Casey Hartman
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Phone: 916-894-9872	Phone: (951) 940-6900
Fax: N/A	Fax: N/A
Email: Irina.lopatin@fire.ca.gov	Email: Diane.Sinclair@fire.ca.gov & Casey.Hartman@fire.ca.gov

EXHIBIT B
(Budget Detail and Payment Provisions)

BUDGET DETAIL AND PAYMENT PROVISIONS

1. Invoicing and Payment

- A. For services satisfactorily completed in accordance with the terms and conditions stated herein, and upon receipt and approval of the invoice(s), the State agrees to compensate the Contractor for actual expenditures incurred in accordance with the hereto as Exhibit B, Attachment 1 – Budget Detail and made a part of this Agreement.
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Ione, CA 95640
(209) 388-5506
chris.amestoy@fire.ca.gov

2. Budget Contingency Clause

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**EXHIBIT B, Attachment 1
(Budget Detail)****BUDGET DETAIL**

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Estimated Total				\$848,237.70

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1. County purchased motor fuel: \$24,000.00
2. County paid facility repairs/maintenance on drill grounds: \$60,000.00

EXHIBIT D
(Special Terms and Conditions)

SPECIAL TERMS AND CONDITIONS

1. Excise Tax

The State of California is exempt from federal excise taxes, and no payment will be made for any taxes levied on employees' wages. The State will pay for any applicable State of California or local sales or use taxes on the services rendered or equipment or parts supplied pursuant to this Agreement. California may pay any applicable sales and use tax imposed by another state.

2. Settlement of Disputes

In the event of a dispute, within 10 days of discovery of the problem, Contractor shall file a "Notice of Dispute" with:

Department of Forestry and Fire Protection
Attention: Acquisitions Manager
P.O. Box 944246
Sacramento, CA 94244-2460

Within 10 days of CAL FIRE receiving Contractor's notice, the Contracts Manager or designee shall advise Contractor of the findings and recommend a method to resolve the dispute. Decision of the Contracts Manager or designee shall be final.

In the event of a dispute, the language contained within this Agreement shall prevail over any other language including that of the bid proposal.

3. Right to Terminate (SCM 7.85)

The State reserves the right to terminate this agreement subject to 30 days written notice to the Contractor. Contractor may submit a written request to terminate this agreement only if the State should substantially fail to perform its responsibilities as provided herein.

However, the agreement can be immediately terminated for cause. (Refer to GTC, Exhibit C, Item 7. Termination for Cause)

4. Potential Subcontractors

Nothing contained in this Agreement or otherwise, shall create any contractual relation between the State and any subcontractors, and no subcontract shall relieve the Contractor of his responsibilities and obligations hereunder. The Contractor agrees to be as fully responsible to the State for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Contractor. The Contractor's obligation to pay its subcontractors is an independent obligation from the State's obligation to make payments to the Contractor. As a result, the State shall have no obligation to pay or to enforce the payment of any moneys to any subcontractor.

5. Evaluation of Contractor

Performance of the Contractor under this Agreement will be evaluated. The evaluation shall be prepared on Contract/Contractor Evaluation Sheet (STD 4) and maintained in the Agreement file. For consultant agreements, a copy of the evaluation will be sent to the Department of General Services, Office of Legal Services, if it is negative and over \$5,000.

EXHIBIT D
(Special Terms and Conditions)

6. Agency Liability

The Contractor warrants by execution of this Agreement, that no person or selling agency has been employed or retained to solicit or secure this Agreement upon agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the State shall, in addition to other remedies provided by law, have the right to annul this Agreement without liability, paying only for the value of the work actually performed, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

7. Force Majeure

Neither party shall be liable to the other for any delay in or failure of performance, nor shall any such delay in or failures of performance constitute default, if such delay or failure is caused by "Force Majeure." As used in this section, "Force Majeure" is defined as follows: Acts of war and acts of God such as earthquakes, floods, and other natural disasters such that performance is impossible.

8. Contractor Name Change

Contractor shall provide a written notice to the State at least 30 days prior to any changes to the Contractor's current legal name.

EXHIBIT E
(Additional Provisions)

ADDITIONAL PROVISIONS

1. Insurance Requirements

A. General Provisions Applying to All Policies

- 1) Primary Clause - Any required insurance contained in this Agreement shall be primary, and not excess or contributory, to any other insurance carried by the State.
- 2) Endorsements - Any required endorsements requested by the State must be physically attached to all requested certificates of insurance and not substituted by referring to such coverage on the certificate of insurance.
- 3) The Department will not provide for nor compensate Contractor for any insurance premiums or costs for any type or amount of insurance.
- 4) When Contractor submits a signed Agreement to the State, Contractor shall furnish to the State a certificate of insurance stating that all required insurance is in effect for the Contractor.

B. General and Commercial Liability Insurance

Contractor shall provide commercial general liability insurance of not less than \$1,000,000 per occurrence for bodily injury and property damage liability combined in effect for the Contractor.

The certificate of insurance will include provisions 1, and 2, in their entirety:

- 1) That the insurer will not cancel the insured's coverage without 30 days prior written notice to the State.
- 2) That the State of California, its officers, agents, employees, and servants are included as additional insured, but only insofar as the operations under this Agreement are concerned.

Contractor agrees that the bodily injury liability insurance herein provided for shall be in effect at all times during the term of this Agreement. In the event said insurance coverage expires at any time or times during the term of this Agreement, Contractor agrees to provide at least 30 days prior to said expiration date, a new certificate of insurance evidencing insurance coverage as provided for herein for not less than the remainder of the term of the Agreement, or for a period of not less than one (1) year. New certificates of insurance are subject to the approval of the Department of General Services, and Contractor agrees that no work or services shall be performed prior to the giving of such approval. In the event the Contractor fails to keep in effect at all times insurance coverage as herein provided, the State may, in addition to any other remedies it may have, terminate this Agreement upon occurrence of such event.

C. Worker's Compensation Insurance

Contractor shall provide Worker's Compensation Insurance with Waiver of Subrogation in favor of the State of California. Employer's liability shall be not less than \$1,000,000.00. The following clause should be included: "Waiver of Subrogation in favor of the State of California or in favor of CAL FIRE:" By signing this Agreement, the Contractor hereby warrants that it carries Workers' Compensation Insurance on all of its employees who will be engaged in the performance of this Agreement. If Staff provided by the Contractor is defined as independent contractors, this clause does not apply.

D. Commercial Automobile Insurance on Owned, Hired, and/or Non-Owned vehicles.

Contractor shall provide Commercial Automobile Insurance on Owned, Hired, and/or Non-Owned vehicles of not less than \$1,000,000.00 policy.

EXHIBIT E
(Additional Provisions)

2. Regulations

- A. Contractor shall observe and comply with all federal, state, city, and county laws, rules or regulations affecting the work. Any work done that does not comply with any laws, rules, or regulations will be remedied at the Contractor's expense.
- B. Contractor shall cooperate with CAL FIRE authorities and shall observe and comply with all regulations presently in force on CAL FIRE grounds.

3. License and Permits

- A. The Contractor shall be an individual or firm currently licensed to do business in California and shall obtain at his/her expense all license(s) and permit(s) required by law for accomplishing any work required in connection with this Agreement. In the event the Contractor fails to keep in effect at all times all required license(s) and permit(s), the State may, in addition to any other remedies it may have, terminate this Agreement upon occurrence of such event.
- B. If you are a Contractor located within the State of California, a business license from the city/county in which you are headquartered is necessary however, if you are a corporation, a copy of your incorporation documents/letter from the Secretary of State's Office can be submitted. If you are a Contractor outside the State of California, you will need to submit to the CAL FIRE Contracts Unit a copy of your business license or incorporation papers for your respective State showing that your company is in good standing in that State.