STATE OF CALIFORNIA

STANDARD AGREEMENT

STD 213 (Rev 06/03)

AGREEMENT NUMBER
7CA02358
REGISTRATION NUMBER

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

STATE AGENCY'S NAME

Department of Forestry and Fire Protection (CAL FIRE)

CONTRACTOR'S NAME

County or Orange / Assignee Orange County Fire Authority

2. The term of this Agreement is: July 1, 2014 through June 30, 2017

3. The maximum amount of this Agreement is: $16,759,989.00

Sixteen Thousand Seven Hundred Fifty-Nine Thousands Nine Hundred Eight-Nine and no 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:

STD 213, Attachment 1 – Additional Signatures	1	page(s)
Exhibit A – Scope of Work	1	page(s)
Attachment 1 – Recitals	1	page(s)
Attachment 2 – Detailed Scope of Work	4	page(s)
Exhibit B – Budget Detail and Payment Provisions	2	page(s)
Exhibit C* – General Terms and Conditions	1	page(s)
Exhibit D – Special Terms and Conditions	2	page(s)
Exhibit E – Additional Provisions	1	page(s)
Exhibit F – Gray Book	1	page(s)
Exhibit G – Operating Plan	1	page(s)

FACSIMILE SIGNATURE AUTHORIZED PER G.C. SEC. 25103, RESO 79-1535 SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIR OF THE BOARD

COUNTY OF ORANGE CALIFORNIA

ATTEST:

SUSAN NOVAK
CLERK OF THE BOARD OF SUPERVISORS
ORANGE COUNTY, CALIFORNIA

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 http://www.dgs.ca.gov/ols/Resources/StandardContractLanguage.aspx

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR

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

County of Orange / Assignee: Orange County Fire Authority

BY *(Authorized Signature)*

DATE SIGNED *(Do not type)* 5/13/14

PRINTED NAME AND TITLE OF PERSON SIGNING

Shawn Nelson, CHAIRMAN, BOARD OF SUPERVISORS

ADDRESS

P.O. Box 57115, Irvine, CA 92619-7115

STATE OF CALIFORNIA

AGENCY NAME

Department of Forestry and Fire Protection (CAL FIRE)

BY *(Authorized Signature)*

DATE SIGNED *(Do not type)* 7.2.14

PRINTED NAME AND TITLE OF PERSON SIGNING

Clare Frank, Deputy Director, Fire Protection

ADDRESS

P.O. Box 944246, Sacraemnto, CA 94244-2460

California Department of General Services Use Only

APPROVED

AUG 12 2014

DEPT OF GENERAL SERVICES

☐ Exempt per: _____

STD 213, Attachment 1
(Additional Signatures)

ADDITIONAL SIGNATURES

SOUTHERN REGION DEPARTMENT OF FORESTRY AND FIRE PROTECTION

By:

Signature

Dale Hutchinson
Region Chief
CAL FIRE

Date 6-23-14

APPROVED AS TO CONTENT:

By:

Signature

Chairman
Orange County Board of Supervisors

Date 5/13/14

Signed and certified that a copy of this document has been delivered to the Chair of the Board per G.C. § 25103, Reso. No. 79-1535

Attest:

Robin Stieler for

Robin Stieler
Printed Name

APPROVED AS TO FORM:
By:

Signature

Mark Servino
Printed Name

Date: May 6, 2014

Orange County Counsel

EXHIBIT A
(Scope of Work)

SCOPE OF WORK

1. Contractor agreement between California Department of Forestry and Fire Protection (CAL FIRE) and County of Orange/Assignee Orange County Fire Authority to provide services as described herein:

   The terms and conditions of this agreement have been previously reviewed and approved by the Department of General Services (DGS) during prior agreement reformats and rewrites. The completed agreement signed by CAL FIRE (STATE) and County of Orange/Assignee Orange County Fire Authority (COUNTY) provides wildland fire protection to State Responsibility Area (SRA) lands within COUNTY pursuant to Public Resources Code (PRC) Section 4129. Agreement also provides for COUNTY to assist STATE outside of COUNTY on a reimbursable basis when requested by STATE. Agreement contains a hold over clause for time required to obtain agency review and approvals.

2. The services shall be performed at the SRA within the County.

3. The services shall be provided during any 24-hour period, Monday through Sunday, year round.

4. The Project Representatives during the term of this agreement will be:

Direct all operating inquiries to: State Agency: Department of Forestry and Fire Protection	Contractor: County of Orange
Name: Deputy Director, Fire Protection	Name: Fire Chief, Orange County Fire Authority
Phone: (530) 224-2462	Phone: (714) 573-6010
Fax: (530) 224-2496	Fax: (714) 368-8800

State Agency: Department of Forestry and Fire Protection	Contractor: County of Orange
Attention: Deputy Chief, Contract Counties	Attention: Fire Chief, Orange County Fire Authority
Address: 2524 Mulberry Street, Riverside, CA 92501	Address: 1 Fire Authority Road Irvine, CA 92603
Phone: (951) 320-6102	Phone: (714) 573-6010
Fax: (951) 320-6395	Fax: (805) 368-8800

Direct all inquiries to:

State Agency: Department of Forestry and Fire Protection	Contractor: County of Orange
Section/Unit: Business Services – Acquisitions Unit	Section/Unit: Orange County Fire Authority
Attention: Leslie Cary	Name: Financial Services – Accounts Payable
Address: P.O. Box 944246 Sacramento, CA 95815	Address: P.O. Box 51985 Irvine, CA 92619-1985
Phone: (916) 324-5979	Phone: (714) 573-6316
Fax: (916) 323-1888	Fax: (714) 888-8834

5. THIS AGREEMENT, made between the County of Orange through its Board of Supervisors, hereinafter called COUNTY, and the State of California, Department of Forestry and Fire Protection (CAL FIRE), through duly appointed, qualified, and acting officers, hereinafter called STATE. Where the standard clauses, for example in Exhibit C, use the word "Contractor" that word shall mean COUNTY as COUNTY is used in this Agreement.

EXHIBIT A, Attachment 1
(Recitals)

RECITALS

The STATE and the COUNTY agree that the background of this Agreement is as follows:

1. There are within COUNTY areas designated by the State Board of Forestry and Fire Protection as State Responsibility Areas for fire protection through authority vested in STATE by Section 4125, of the Public Resources Code.

2. STATE, under authority of Public Resources Code Section 4141, may assign responsibility to a Federal Forest Agency within COUNTY for the prevention and suppression of all fires on State Responsibility Areas within Federal Forest Agency's Direct Protection Areas.

3. Designated State Responsibility Areas in Federal Forest Agency's Direct Protection Areas are delineated on maps on file with STATE in Sacramento, California.

4. COUNTY, by authority of Public Resources Code Section 4129, has elected to assume responsibility for the prevention and suppression of all fires on State Responsibility Areas (SRA) within COUNTY'S SRA Protection Areas (CPA).

5. Designated State Responsibility Areas in COUNTY'S SRA Protection Areas are delineated on maps on file with STATE in Sacramento, California.

6. STATE recognizes the capability and efficiency of the COUNTY fire protection organization now maintained by the COUNTY and its qualification to provide the fire protection services described within this agreement.

7. COUNTY has the responsibility for providing life and property fire protection in areas designated as State Responsibility Areas within COUNTY SRA Protection Areas.

8. Under the Budget Act, and in accordance with the STATE'S Fire Protection Plan, there is annually appropriated to CAL FIRE, funding for wildland fire protection in said COUNTY.

9. Under the authority of Section 4135, of the Public Resources Code, monies paid by STATE to COUNTY shall be expended by COUNTY for the sole purpose to fund the fire suppression resources outlined in the "Gray Book", incorporated by reference and marked Exhibit F, of this Agreement, for fire prevention, pre-suppression forces preparedness, and suppression of all fires on State Responsibility Areas within COUNTY'S SRA Protection Areas; and STATE, by authority of Section 4475 of the Public Resources Code, may enter into contracts for prescribed burning on wildlands.

EXHIBIT A, ATTACHMENT 2
(Detailed Scope of Work)

DETAILED SCOPE OF WORK

1. **State and County Responsibilities**

The STATE and the COUNTY agree that the following work shall be done under this agreement:

A. STATE shall supply to COUNTY, the "Gray Book", which outlines and describes the organization to be funded by the STATE to provide fire protection services on a total of approximately 104,826 acres of State Responsibility Area within COUNTY'S SRA Protection Areas.

B. COUNTY shall provide to STATE a plan of operations and organization for the COUNTY department contemplated hereunder on forms approved by the STATE, a copy of which is attached marked Exhibit G of this Agreement, which shall show that COUNTY organization is capable of meeting the requirements set forth in the "Gray Book."

C. STATE shall jointly develop and annually review an Operating Plan with the COUNTY that will document those factors specific to that COUNTY. The factors may include specific dispatching procedures, pre-approved initial attack dispatch levels, agency fire protection organization, reimbursement criteria, and other elements agreed to by the STATE and the COUNTY.

D. The STATE'S designated representative shall annually examine, on-the-ground with the COUNTY'S designated representative, the facilities and services the COUNTY has made available in order to ascertain whether the terms of the agreement have been met. Not withstanding the foregoing, COUNTY shall permit inspection, at any time by representatives of STATE, of crews, vehicles, property and other components of the organization established under the terms of this Agreement.

E. Should the operations or organization of COUNTY, in reasonable judgment of the STATE, fail to meet the standard of protection required by this agreement, the STATE shall so inform COUNTY and take any reasonable action to maintain the required level of fire prevention and suppression capability.

F. For the purpose of effecting mutual aid in times of fire emergency, either STATE or COUNTY may contribute without cost to the other, such persons and facilities as the contributing party may be willing and able to contribute, and which the receiving party may be willing to accept and direct; this provision shall not abrogate the terms and conditions specified in any other written agreement entered into by the parties hereto, for the specific purpose of exchanging fire control forces, either on a voluntary or upon a pay basis.

G. Rewards as provided in Public Resources Code Section 4417, may be paid by STATE from funds not included in this contract upon recommendation of the Chief of the COUNTY'S department.

H. COUNTY shall furnish adequate supervision for said fire protection through a qualified and duly appointed Chief Officer of the department providing services contemplated hereunder. When it becomes necessary to contract for the services of other entities to suppress a wildland fire on State Responsibility Area within COUNTY'S SRA Protection Areas, STATE agrees to accept its proportionate level of financial responsibility for those contracts and services required to protect State Responsibility Areas within COUNTY'S SRA Protection Areas, provided that the COUNTY obtains prior approval from STATE and exercises reasonable care and due diligence in the selection and the supervision of the contracting entities.

I. COUNTY shall submit, when required by the STATE, reports relating to fire occurrence and history, law enforcement, personnel status, and fire prevention activity.

J. COUNTY shall annually appropriate and expend a sum not less than the amount established annually in the STATE'S Budget Act for said COUNTY for the purpose of preventing and suppressing forest fires as defined in Section 4103, of the Public Resources Code, on the designated State Responsibility Areas within COUNTY'S SRA Protection Areas during the term of this agreement.

K. COUNTY shall comply with applicable rules and regulations for prescribed burning of wildlands as described in Sections 4461 to 4480, of Public Resources Code.

EXHIBIT A, ATTACHMENT 2
(Detailed Scope of Work)

2. Emergency Operations

When COUNTY resources, equipment, and/or personnel are assigned to a State Responsibility Area wildland fire within COUNTY SRA Protection Area, costs over and above the "Gray Book" allotment may be reimbursed by STATE. Such reimbursements will be in accordance with the following provisions:

A. COUNTY may use and bill STATE for COUNTY funded engine companies, bulldozers, hand crews, aircraft, specialized equipment, and overhead personnel when used to protect STATE interests. Under certain conditions as outlined in the STATE/COUNTY Operating Plan described in Exhibit A, Attachment 2, Paragraph 1.B. and 1.C., of this Agreement, COUNTY may also bill STATE for STATE-funded COUNTY engine companies and bulldozers. These reimbursements to COUNTY will be from the STATE Emergency Fund and shall be in addition to the annual payment amount described in Exhibit B, Paragraph 1.A., of this Agreement.

The following conditions shall apply for reimbursement of COUNTY engine companies, bulldozers, aircraft, hand crews, and specialized equipment:

1) ENGINE COMPANIES

(a) STATE shall reimburse COUNTY for engine companies when used on a State Responsibility Area wildland fire within the COUNTY'S SRA Protection Areas in accordance with criteria for determining reimbursement eligibility as outlined in the STATE/COUNTY Operating Plan described in Exhibit A, Attachment 2, Paragraph 1.B. and 1.C., of this Agreement.

(b) STATE shall reimburse COUNTY for engine companies that provide move-up and cover to STATE-funded COUNTY stations within the COUNTY when such cover assignments are the result of a State Responsibility Area wildland fire within COUNTY'S SRA Protection Areas. Specific conditions for approval of move-up and cover assignments shall be outlined in the STATE/COUNTY Operating Plan described in Exhibit A, Attachment 2, Paragraph 1.B. and 1.C., of this Agreement.

(c) Reimbursement of COUNTY engine companies shall be based on COUNTY rates on file with STATE at time of initial dispatch.

(d) County engines billed to STATE must be identified by an incident order and request number and the associated cost; such costs shall be limited to engine, officer, operator, and crew.

2) BULLDOZERS

(a) STATE shall reimburse COUNTY for COUNTY bulldozers when used on a State Responsibility Area wildland fire within COUNTY'S SRA Protection Areas in accordance with criteria for determining reimbursement eligibility as outlined in the STATE/COUNTY Operating Plan described in Exhibit A, Attachment 2, Paragraph 1.B. and 1.C., of this Agreement.

(b) Payment of County bulldozers, transports, and operators shall be based on COUNTY operating rates on file with STATE at time of initial dispatch.

(c) County bulldozers billed to STATE must be identified by an incident order and request number and the associated cost; such costs shall be limited to dozer transport and operator, and dozer and operator.

(d) COUNTY shall provide STATE a list of bulldozers, size, model, and identification number, which shall be subject to this agreement. These shall be included in the STATE/COUNTY Operating Plan described in Exhibit A, Attachment 2, Paragraph 1.B. and 1.C., of this Agreement.

EXHIBIT A, ATTACHMENT 2
(Detailed Scope of Work)

3) AIRCRAFT

(a) STATE shall reimburse COUNTY for COUNTY aircraft when used on a State Responsibility Area wildland fire within COUNTY SRA Protection Areas in accordance with criteria for determining reimbursement eligibility as outlined in the STATE/COUNTY Operating Plan described in Exhibit A, Attachment 2, Paragraph 1.B. and 1.C., of this Agreement.

(b) Reimbursement of COUNTY aircraft shall be based on COUNTY operating rates on file with STATE at time of initial dispatch.

(c) STATE shall pay aircraft pilots at COUNTY rate.

(d) STATE shall pay for one air tactical officer accompanying a COUNTY fixed-wing aircraft and one crew member assigned to each COUNTY helicopter at the COUNTY rate.

(e) COUNTY aircraft billed to STATE must be identified by an incident order and request number and the associated cost.

(f) COUNTY shall provide STATE a list of aircraft by make, model and aircraft identification number, which shall be subject to this agreement. These shall be included in the STATE/COUNTY Operating Plan described in Exhibit A, Attachment 2, Paragraph 1.B. and 1.C., of this Agreement.

4) SPECIALIZED EQUIPMENT

(a) STATE shall reimburse COUNTY for COUNTY specialized equipment when used on a State Responsibility Area wildland fire within COUNTY SRA Protection Areas in accordance with criteria for determining reimbursement eligibility as outlined in the STATE/COUNTY Operating Plan described in Exhibit A, Attachment 2, Paragraph 1.B. and 1.C., of this Agreement.

(b) For the purpose of this Agreement, Specialized Equipment shall include but is not limited to dozer tenders, helitenders, water tenders, communications units, and mobile kitchens or food service units. Other kinds of specialized equipment may be eligible for reimbursement if authorized by STATE.

(c) Reimbursement of COUNTY specialized equipment shall be based on COUNTY operating rates on file with STATE at time of initial dispatch.

(d) COUNTY specialized equipment billed to STATE must be identified by an incident order and request number and the associated cost; such cost shall be limited to the cost of the equipment usage and equipment operator.

5) HAND CREWS

(a) STATE shall reimburse COUNTY for COUNTY hand crews when used on a State Responsibility Area wildland fire within COUNTY'S SRA Protection Areas in accordance with criteria for determining reimbursement eligibility as outlined in the STATE/COUNTY Operating Plan described in Exhibit A, Attachment 2, Paragraph 1.B. and 1.C., of this Agreement.

(b) When the California Department of Corrections and Rehabilitation or other State Agency pays the base salary of a hand crew, including COUNTY fire department supervisors, correctional officers and inmates, then STATE shall only pay those costs which exceed the basic salary of the crew (e.g. overtime and incidental operating expenses) accrued on the emergency.

(c) The STATE shall pay only for additional COUNTY personnel needed as crew strike team leaders to a limit of one strike team leader per crew strike team as defined in Incident Command System (ICS) standards for a crew strike team and for one technical specialist-crews per incident.

EXHIBIT A, ATTACHMENT 2
(Detailed Scope of Work)

6) OVERHEAD PERSONNEL

(a) STATE shall reimburse COUNTY for COUNTY overhead personnel when used on a State Responsibility Area wildland fire within the COUNTY'S SRA Protection Areas in accordance with criteria for determining reimbursement eligibility as outlined in the State/County Operating Plan described in Exhibit A, Attachment 2, Paragraph .1.B. and 1.C., of this Agreement.

(b) Reimbursement of COUNTY Overhead Personnel shall be based on COUNTY rates on file with STATE at the time initial dispatch.

B. NOTIFICATION

1) Whenever COUNTY expects payment for services under the provisions of this paragraph, COUNTY must notify STATE of the commitment of any of these resources that have been pre-approved for use as an element of initial attack and so documented in the STATE/COUNTY Operating Plan described in Exhibit A, Attachment 2, Paragraph 1.B. and 1.C., of this Agreement. This notification must occur in a timely manner so that an appropriate audit trail can be established.

2) For those resources employed after initial attack, notification will occur when the request for approval of use is made to STATE.

C. STATE shall reimburse COUNTY for COUNTY resources (equipment and personnel) when ordered by STATE or COUNTY in support of a special staffing pattern in accordance with conditions for approval of a special staffing pattern as outlined in the STATE/COUNTY Operating Plan described in Exhibit A, Attachment 2, Paragraph 1.B. and 1.C., of this Agreement.

3. <u>Assistance for Hire</u>

A. COUNTY resources (equipment and personnel) requested directly by STATE for an out-of-county assignment will be reimbursed as Assistance-for-Hire for actual costs incurred by COUNTY.

B. For any State Responsibility Area wildland fire where costs are incurred pursuant to the terms of this AGREEMENT, STATE and COUNTY will comply with the processes and procedures for incident billing established in the STATE/COUNTY Operating Plan described in Exhibit A, Attachment 2, Paragraph 1.B. and 1.C., of this Agreement.

EXHIBIT B
(Budget Detail and Payment Provisions)

BUDGET DETAIL AND PAYMENT PROVISIONS

1. **Invoicing and Payment Provisions**

A. For services satisfactorily rendered, and upon receipt and approval of the invoices, the STATE shall annually pay to COUNTY that amount which is set forth in the STATE'S budget for each fiscal year involved as the STATE'S contribution to the support of the organization maintained by COUNTY for the prevention and suppression of wildland fires on lands described herein. The total amount payable by STATE to COUNTY for Gray Book-County Budget Detail (Gray Book) shall not exceed the amount specified on STANDARD FORM 213, Item 3, during the term of this agreement. This amount shall not include payments to the COUNTY for COUNTY resources used to suppress state responsibility fires under conditions set forth in Exhibit A, Attachment 2, Paragraphs 2, A, 1) through 6) of this Agreement.

B. COUNTY shall request payment in an amount not to exceed the sum designated in Paragraph A above in the manner described hereinafter.

C. COUNTY shall prepare and submit "Gray Book" invoices to STATE monthly, quarterly, semi-annually, or annually at COUNTY'S option, in arrears after STATE has certified that such services have been satisfactorily provided in accordance with this Agreement, during the period covered by said invoice. The final statement for any fiscal year covered by this Agreement shall be submitted no later than sixty days following the end of that fiscal year. "Gray Book" invoices shall include the Agreement Number and shall be submitted in triplicate in arrears to:

California Department of Forestry and Fire Protection
Southern Region
Attention: Deputy Chief, Contract Counties
2524 Mulberry Street, Riverside, CA 92501

D. In the event that the STATE during the term of this Agreement increases salary, augments staffing, or other expense items, having the effect of increasing such cost, the "Gray Book" may be amended to reflect such increase provided that funds have been appropriated and are available for such purpose. Similarly, in the event that the STATE receives a budget reduction having the effect of decreasing such cost, the "Gray Book" may be amended to reflect such decrease. In the event no appropriation is made for the purpose of this Agreement, the obligations of the parties to each other under this Agreement shall cease and this Agreement shall become null and void.

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**

Upon receipt of a properly submitted, undisputed invoice, STATE shall pay COUNTY within forty-five (45) days, or automatically calculate and pay the appropriate late payment penalties as specified in Government Code, Chapter 4.5, Section 927. In the event of an emergency, as defined in Section 927.11, late payment penalties may not apply. Specific to STATE, if an invoice from a business under contract with STATE 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. The total shall include the current applicable CAL FIRE Administrative Rate.

EXHIBIT B
(Budget Detail and Payment Provisions)

4. **"GRAY BOOK" FUNDING INFORMATION**

County of Orange / California Department of Forestry and Fire Protection					
Fund	**Year**	**Codes**			**Amount**
General	2014	3012	418.10	00700	$4,557,096.90
SRA	2014	3012	418.10	00740	$506,344.10
General	2015	3012	418.10	00700	$4,784,951.70
SRA	2015	3012	418.10	00740	$531,661.30
General	2016	3012	418.10	00700	$5,741,941.50
SRA	2016	3012	418.10	00740	$637,993.50
Total Agreement					**$16,759,989.00**

EXHIBIT C
(General Terms and Conditions)

GENERAL TERMS AND CONDITIONS

The General Terms and Conditions are included in the contract by reference at:

http://www.documents.dgs.ca.gov/ols/GTC-610.doc

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 ten (10) days of discovery of the problem contractor shall file a "Notice of Dispute" with:

California Department of Forestry and Fire Protection (CAL FIRE)
Attention: Contracts Manager
P.O. Box 944246
Sacramento, CA 94244-2460

Within ten (10) days of STATE 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

Either party may terminate this Agreement at any time by giving a minimum of 12 months written notice to the other party. In the event of termination, STATE shall pay Contractor for all costs and un-cancelable obligations incurred to the date of termination up to but not exceeding the maximum amount payable.

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 DGS, Office of Legal Services, if it is negative and over $5,000.

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,

EXHIBIT D
(Special Terms and Conditions)

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 thirty (30) days prior to any changes to the Contractor's current legal name.

EXHIBIT E
(Additional Provisions)

ADDITIONAL PROVISIONS

1. **Holding Over**

   A. In the event STATE or COUNTY decides not to renew this Agreement, STATE or COUNTY shall provide the other a minimum of 12 months written notice of such intention. If no such notice is received, and a new agreement has not been executed, this Agreement shall be automatically extended on the same terms and conditions as contained herein, together with amendments if any, until the earlier of:

      1) The date on which a new renewal agreement is fully executed, or

      2) Termination of this holdover agreement by the mailing by either COUNTY or STATE of 12 months written notice to the other party.

   B. Renewal agreements shall be retroactive to the end of the term of the present agreement. Any payments made during a holdover period shall, if necessary, be promptly adjusted to comply with payments called for in the new agreement. Such adjustments shall occur within 60 days after approval of the new agreement by the DGS. COUNTY shall invoice STATE for any billing correction made necessary because of changes in the contract rates.

   C. The effectiveness of this Exhibit E, Paragraph 1, is conditional upon the lawful appropriation and availability of STATE funding for COUNTY'S services during the term of this Agreement.

2. **Indemnification**

   Paragraph 5 of Exhibit C, General Terms and Conditions, does not apply because it is superseded by this Paragraph.

   COUNTY agrees to indemnify, defend and hold harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by COUNTY in the performance of this Agreement.

   Pursuant to Government Code Section 925 et seq., STATE agrees to indemnify, defend and hold harmless the COUNTY, its officers, agents and employees from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by STATE in the performance of this Agreement.

3. **Indemnification For Vegetation Management Projects**

   The STATE agrees to indemnify, defend, and hold harmless the COUNTY, its agents, officers and employees, from and against any and all liability expense, including defense costs and legal fees, and claims for damages of any nature whatsoever, arising solely out of performance by the COUNTY of approved vegetation management projects undertaken as part of fire prevention activities under this Agreement.

4. Notwithstanding the terminology of Public Resources Code Sections 4119, 4153, 4423, and 4436, the COUNTY shall not act as an agent of the STATE but shall exercise the powers granted in those sections independently as authorized by Public Resources Code Section 4129.

5. Paragraph 15, of Exhibit C, does not apply to this Agreement because the services provided in this Agreement were not obtained by means of a competitive bid.

EXHIBIT F
(Gray Book)

GRAY BOOK

The "Gray Book" referenced in Exhibit A, Attachment 2, Paragraph 1.B., is hereby incorporated by reference and made a part of this agreement as if attached hereto.

EXHIBIT G
(Operating Plan)

OPERATING PLAN

The Operations Plan provided by the COUNTY, in accordance with Exhibit A, Attachment 2, Paragraph 1.B. and 1.C. of this Agreement, is hereby incorporated by reference and made a part of this agreement as if attached hereto.