

**CONTRACT MA-080-11011795  
BETWEEN  
THE COUNTY OF ORANGE  
AND  
WEST COAST STORM, INC.  
FOR  
Automatic Retractable Screen Excluders, Connector Pipe Screen Full Capture Systems, and Catch  
Basin Inserts**

This Agreement **MA-080-11011795** for Automatic Retractable Screen Excluders, Connector Pipe Screen Full Capture Systems, and Catch Basin Inserts for the OCTA Measure M2 Program, Tier 1 (hereinafter referred to as "Contract") is made and entered into as of the date fully executed by and between the County of Orange, a political subdivision of the State of California, (hereinafter referred to as "County") and West Coast Storm, Inc., (hereinafter referred to as "Contractor"), with a place of business at 654 South Lincoln Avenue, San Bernardino, CA 92408. With County and Contractor sometimes individually referred to as "Party", or collectively referred to as "Parties").

**RECITALS**

WHEREAS, County desires to enter into a Contract for Automatic Retractable Screen Excluders, Connector Pipe Screen Full Capture Systems, and Catch Basin Inserts under this usage Contract; and,

WHEREAS, the Contractor responded to the County-issued Request for Proposals ("RFP") solicitation offering the complete scope of products and services as requested in the solicitation, and Contractor has represented that its proposed products and services shall meet or exceed the County's requirements and specifications as set forth herein with highly qualified and experienced personnel dedicated to provide said goods and services to the County; and,

WHEREAS, Contractor agrees to provide for the procurement and installation of Automatic Retractable Screen Excluders, Connector Pipe Screen Full Capture Systems, and Catch Basin Inserts as more specifically described in the Scope of Work, attached hereto as Attachment A, and incorporated herein; and,

WHEREAS, County agrees Contractor recovers compensation through the program as further set forth in Contractor's Pricing, attached hereto as Attachment B, and incorporated herein; and,

WHEREAS, upon commencement and completion of all services as set forth herein and agreed to by the Parties, Contractor shall assume all responsibilities and obligations inherent with providing for the procurement and installation of Automatic Retractable Screen Excluders, Connector Pipe Screen Full Capture Systems, and Catch Basin Inserts;

**ARTICLES**

NOW, THEREFORE, the Parties mutually agree as follows:

1. **Scope of Contract:** This Contract specifies the contractual terms and conditions by which the Contractor will provide for the procurement and installation of Automatic Retractable Screen Excluders, Connector Pipe Screen Full Capture Systems, and Catch Basin Inserts, inclusive of, but not limited to, the requirements set forth in the Scope of Work, Attachment A to this Contract.
2. **Term of Contract:** The initial term of this Contract shall become effective upon execution of all necessary signatures and shall continue for one (1) year from that date, unless otherwise terminated by County. This Contract may be renewed upon expiration of the initial term for three (3) additional

one year periods, upon mutual agreement of both Parties. The County is not obligated to give a reason if it elects not to renew. Renewal amendments may require County Board of Supervisors and participating City Council approval.

3. **Contingency of Funding:** Contractor acknowledges that funding or portions of funding for this Contract may be contingent upon State legislative and budget approval; receipt of funds from, and/or obligation of funds by, the State of California to participating Cities, OCTA and the County; and inclusion of sufficient funding for the services hereunder in the budget approved by participating Cities and the County for each fiscal year covered by this Contract. If such approval, funding or appropriations are not forthcoming, or are otherwise limited, County may immediately terminate or modify this Contract without penalty.
4. **Precedence:** The Contract consists of this Contract and all attachments. In the event of a conflict between or among the Contract documents, the order of precedence shall be the provisions of the main body of this Contract, i.e., those provisions set forth in the recitals and articles of this Contract, and then the attachments.
5. **Contractor's Project Manager and Key Personnel:** Contractor shall appoint a Project Manager, as specified in Article 22, "Notices," to direct the Contractor's efforts in fulfilling Contractor's obligations under this Contract. This Project Manager shall be subject to approval by the County and shall not be changed without the written consent of the County's Project Manager, which consent shall not be unreasonably withheld.

The Contractor's Project Manager and key personnel shall be assigned to this project for the duration of this Contract and shall diligently pursue all work and services to meet the project time lines. Key personnel are those individuals who report directly to the Contractor's Project Manager.

6. **The County's Project Manager:** The County shall appoint a Project Manager, as specified in Article 22, "Notices," to act as liaison between the County and the Contractor during the term of this Contract. The County's Project Manager shall coordinate the activities of the County staff assigned to work with the Contractor.

The County's Project Manager shall have the right to require the removal and replacement of the Contractor's Project Manager and key personnel. The County's Project Manager shall notify the Contractor in writing of such action. The Contractor shall accomplish the removal within 14 calendar days after written notice by the County's Project Manager. The County's Project Manager shall review and approve the appointment of the replacement for the Contractor's Project Manager and key personnel. Said approval shall not be unreasonably withheld.

7. **Reports/Meetings:** The Contractor shall develop reports and any other relevant documents necessary to complete the services and requirements as set forth in this Contract. The County's Project Manager and the Contractor's Project Manager will meet at a designated location to discuss the Contractor's performance and progress under this Contract, at the request of the County's Project Manager. If requested by County, the Contractor's Project Manager and other project personnel shall attend all meetings. The Contractor shall provide such information that is requested by the County for the purpose of monitoring progress under this Contract.
8. **Conflict of Interest:** The Contractor shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with the best interests of the County. This obligation shall apply to the Contractor; the Contractor's employees, agents, and relatives; sub-tier Contractors; and third parties associated with accomplishing work and services hereunder. The Contractor's efforts shall include, but not be limited to establishing precautions to prevent its employees or agents from making, receiving, providing or offering gifts, entertainment, payments,

loans or other considerations which could be deemed to appear to influence individuals to act contrary to the best interests of the County.

9. **Ownership of Documents:** The County has permanent ownership of all directly connected and derivative materials produced under this Contract by the Contractor. All documents, reports and other incidental or derivative work or materials furnished hereunder shall become, and remain, the sole property of the County and may be used by the County as it may require without additional cost to the County. None of the documents, reports and other incidental or derivative work or furnished materials shall be used by the Contractor without the express written consent of the County.
  - a. **Ownership Rights:** The originals of all artwork and other products and data produced for County FIRST Program under this Contract shall be delivered to, and become the property of the County and/or participating Cities. Copies may be made for Contractor's records, but shall not be furnished to others without written authorization from the County. Such deliverables shall become the sole property of the County and all rights in copyright therein shall be retained by the County.
10. **Title to Data:** All materials, documents, data or information obtained from the County data files or any medium furnished to the Contractor in the performance of this Contract will at all times remain the property of the County. Such data or information may not be used or copied for direct or indirect use by the Contractor after completion or termination of this Contract without the express written consent of the County. All materials, documents, data or information, including copies, must be returned to the County at the end of this Contract.
11. **Breach of Contract:** The failure of the Contractor to comply with any of the provisions, covenants or conditions of this Contract shall be a material breach of this Contract. In such event the County may, and in addition to any other remedies available at law, in equity, or otherwise specified in this Contract:
  1. Afford the Contractor written notice of the breach and ten (10) calendar days or such shorter time that may be specified in this Contract within which to cure the breach;
  2. Discontinue payment to the Contractor for and during the period in which the Contractor is in breach and offset against any monies billed by the Contractor but yet unpaid by the County those monies disallowed pursuant to the above.
  4. Terminate the Contract immediately without penalty.
12. **Contract Disputes:** The Parties shall deal in good faith and attempt to resolve potential disputes informally. If the dispute concerning a question of fact arising under the terms of this Contract is not disposed of in a reasonable period of time by the Contractor's Project Manager and the County's Project Manager, such matter shall be brought to the attention of the County Deputy Purchasing Agent ("DPA"), as specified in Article 22., "Notices," by way of the following process:
  - a. The Contractor shall submit to the County DPA a written demand for a final decision regarding the disposition of any dispute between the Parties arising under, related to, or involving this Contract, unless the County, on its own initiative, has already rendered such a final decision.
  - b. The Contractor's written demand shall be fully supported by factual information, and, if such demand involves a cost adjustment to the Contract, the Contractor shall include with the demand a written statement signed by a senior official indicating that the demand is made in good faith, that the supporting data are accurate and complete, and that the amount requested

accurately reflects the Contract adjustment for which the Contractor believes the County is liable.

- c. Pending the final resolution of any dispute arising under, related to, or involving this Contract, the Contractor agrees to diligently proceed with the performance of this Contract, including the delivery of goods and/or provision of services. The Contractor's failure to diligently proceed shall be considered a material breach of this Contract. Any final decision of the County shall be expressly identified as such, shall be in writing, and shall be signed by the County Purchasing Agent or his designee. If the County fails to render a decision within 90 days after receipt of the Contractor's demand, it shall be deemed a final decision adverse to the Contractor's contentions.
13. **Termination – Convenience of the County:** The County may terminate performance of work under this Contract for its convenience in whole, or, from time to time, in part if the County's Project Manager determines that a termination is in the County's interest. The County's Project Manager shall terminate the Contract by delivering to the Contractor a written notice of termination specifying the extent of the termination and the effective date thereof. The parties agree that, as to the terminated portion of the Contract, the Contract shall be deemed to remain in effect until such time as the termination settlement, if any, is concluded and the Contract shall not be void.

After receipt of a notice of termination and, except as directed by the County's Project Manager, the Contractor shall immediately proceed with the following obligations, as applicable, regardless of any delay in determining or adjusting any amounts due under this clause. The Contractor shall:

1. Stop work as specified in the notice of termination;
2. Place no further subcontracts or orders for materials, services, or facilities, except as necessary to complete the continued portion of the contract;
3. Terminate all orders and subcontracts to the extent they relate to the work terminated;
4. Settle all outstanding liabilities and termination settlement proposals arising from the termination of any subcontracts, the approval or ratification of which will be final for purposes of this clause;
5. As directed by the County's Project Manager transfer title and deliver to the County (a) work in process, completed work, supplies, and other material produced or acquired for the work terminated, and (b) completed or partially completed plans, information, and other property that, if the Contract had been completed, would be required to be furnished to the County;
6. Complete performance of the work not terminated; and

At the completion of the Contractor's termination efforts, the Contractor may submit to the County's Project Manager a list indicating quantity and quality of termination inventory not previously disposed of and request instructions for disposition of the residual termination inventory.

After termination the Contractor shall submit a final termination settlement proposal to the County's Project Manager in a format acceptable to the County. The Contractor shall submit the proposal promptly, but no later than 60 days from the effective date of the termination, unless extended in writing by the County upon written request of the contractor within the 90-day period. However, if the County's Project Manager determines that the facts justify it, a termination settlement proposal may be received and acted on after the expiration of the filing period or any extension.

The Contractor and the County may agree upon the whole or any part of the amount to be paid because of the termination. The amount may include a reasonable allowance for profit on work done, including a reasonable amount for accounting, legal, clerical and other expenses reasonably necessary for the preparation of termination settlement proposals and supporting data, and storage, transportation and other costs incurred, reasonably necessary for the preservation, protection, or disposition of the termination inventory, if any. However, the agreed amount may not exceed the total Contract price as reduced by (a) the amount of payment previously made and (b) the contract price of work not terminated. The Contract shall be amended and the Contractor paid the agreed amount.

If the Contractor and the County fail to agree on the whole amount to be paid because of the termination of work, the County shall pay the Contractor the amounts determined by the County as follows, but without duplication of any amounts agreed on as set forth above:

1. The Contract price for completed services accepted by the County (or sold or acquired) not previously paid for, adjusted for any savings and other charges; and
2. Except to the extent that the County expressly assumes the risk of loss, the County shall exclude from the amounts payable to the Contractor the fair value, as determined by the agency/department, of property that is destroyed, lost, stolen, or damaged so as to become undeliverable to the County.

The Contractor shall use generally accepted accounting principles and sound business practices in determining all costs claimed, agreed to, or determined under this clause. Such costs shall be allocable to the terminated Contract or portion thereof, allowable under applicable laws, regulations, generally accepted accounting principles and good business judgment and objectively reasonable.

The Contractor shall have the right to appeal, under the County's protest procedure, any determination made by the County, except that if the contractor failed to submit the termination settlement proposal within the time provided and failed to request a time extension, there is no right of appeal.

In arriving at the amount due the contractor under this clause, there shall be deducted:

1. All payment to the Contractor under the terminated portion of this Contract;
2. Any claim which the County has against the Contractor under this or any other contract; and
3. The agreed price for or proceeds of sale of materials, supplies, or other things acquired by the Contractor or sold under the provisions of this clause and not recovered by or credited to the County.

If the termination is partial, the Contractor may file a proposal with the County's Project Manager for an equitable adjustment of the price(s) of the continued portion of the Contract. The County's Project Manager shall make any equitable adjustment agreed upon. Any proposal by the Contractor for an equitable adjustment under this clause shall be requested within 30 days from the effective date of termination unless extended in writing by the County's Project Manager.

The County may:

1. Under the terms and conditions it prescribes, make partial payment and payments against costs incurred by the Contractor for their terminated portion of the contract, if the County believes that the total of these payments will not exceed the amount to which the Contractor will be entitled; and
2. If the total payments exceed the amount finally determined to be due, the Contractor shall repay the excess to the County upon demand.

In determining the amount payable to the Contractor and notwithstanding any other provision, if it appears that the Contractor would have sustained a loss on the entire Contract had it been completed, the County shall allow no profit and shall reduce the settlement to reflect the indicated rate of loss.

Unless otherwise provided in this Contract or by statute, the Contractor shall maintain all records and documents relating to the terminated portion of this contract for three (3) years after final settlement. This includes all books and other evidence bearing on the Contractor's costs and expenses under this Contract. The Contractor shall make these records and documents available to the County, at the Contractor's office, at all reasonable times, without any direct charge. If approved by the County, photographs, microphotographs, electronic storage, or other authentic reproductions may be maintained instead of original records and documents.

14. **Orderly Termination:** Upon termination or other expiration of this Contract, each Party shall promptly return to the other Party all papers, materials, and other properties of the other held by each for purposes of execution of the Contract. In addition, each Party will assist the other Party in orderly termination of this Contract and the transfer of all aspects, tangible and intangible, as may be necessary for the orderly, non-disruptive business continuation of each Party.
15. **Errors and Omissions:** All reports, files and other documents prepared and submitted by Contractor shall be complete and shall be carefully checked by the professional(s) identified by Contractor as Project Manager and key personnel attached hereto, prior to submission to the County. Contractor agrees that County review is discretionary and Contractor shall not assume that the County will discover errors and/or omissions. If the County discovers any errors or omissions prior to approving Contractor's reports, files and other written documents, the reports, files or documents will be returned to Contractor for correction. Should the County or others discover errors or omissions in the reports, files or other written documents submitted by Contractor after participating County approval thereof, County approval of Contractor's reports, files or documents shall not be used as a defense by Contractor in any action between the County and Contractor, and the reports, files or documents will be returned to Contractor for correction.
16. **Contractor's Records:** Contractor shall keep an accurate record of time expended by Contractor in the performance of this Contract. Such record shall be available for periodic inspection by the County at reasonable times. Such records will be retained for four (4) years after the expiration or termination of this Contract.
17. **Publication:** No copies of sketches, schedules, written documents, computer based data, photographs, maps or graphs, including graphic art work, resulting from performance or prepared in connection with this Contract, are to be released by Contractor and/or anyone acting under the supervision of Contractor to any person, partnership, company, corporation, or agency, without prior written approval by the County, except as necessary for the performance of the services of this Contract. All press releases, including graphic display information to be published in newspapers, magazines, etc., are to be administered only by the County unless otherwise agreed to by all Parties.
18. **News/Information Release:** The Contractor agrees that it will not issue any news releases or make any contact with the media in connection with either the award of this Contract or any subsequent

amendment of, or effort under this Contract. Contractors must first obtain review and approval of said media contact from the County through the County's Project Manager. Any requests for interviews or information received by the media should be referred directly to the County. Contractors are not authorized to serve as a media spokespersons for County projects without first obtaining permission from the County Project Manager.

19. **Conditions Affecting Work:** The Contractor shall be responsible for taking all steps reasonably necessary to ascertain the nature and location of the work to be performed under this Contract, and to know the general conditions which can affect the work or the cost thereof. Any failure by the Contractor to do so will not relieve Contractor from responsibility for successfully performing the work without additional cost to the participating County. The County assumes no responsibility for any understanding or representations concerning the nature, location(s) or general conditions made by any of its officers or agents prior to the execution of this Contract, unless such understanding or representations by the County are expressly stated in the Contract.
20. **Child Support Enforcement Requirements:** Contractor is required to comply with the child support enforcement requirements of the County. Failure of the Contractor to comply with all federal, state, and local reporting requirements for child support enforcement or to comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment shall constitute a material breach of the Contract. Failure to cure such breach within 60 calendar days of notice from the County shall constitute grounds for termination of the Contract.
21. **Notices:** Any and all notices, requests demands and other communications contemplated, called for, permitted, or required to be given hereunder shall be in writing, except through the course of the Parties' Project Managers routine exchange of information and cooperation during the terms of the work and services. Any written communications shall be deemed to have been duly given upon actual in-person delivery, if delivery is by direct hand, or upon delivery on the actual day of receipt or no greater than four (4) calendar days after being mailed by US certified or registered mail, return receipt requested, postage prepaid, whichever occurs first. The date of mailing shall count as the first day. All communications shall be addressed to the appropriate Party at the address stated herein or such other address as the Parties hereto may designate by written notice from time to time in the manner aforesaid.

Contractor:

West Coast Storm, Inc.  
654 South Lincoln Avenue  
San Bernardino, CA 92408  
Attn: Rafael Padilla  
**O: 909.890.5700**  
F: 909.890.5988  
[rpadilla@wcstorm.net](mailto:rpadilla@wcstorm.net)

Brian Martello, Project Manager  
[bmartello@wcstorm.net](mailto:bmartello@wcstorm.net)

County:

OC Public Works / Procurement  
Attn: Joe A. Urbano  
OC Public Works  
300 N. Flower Street  
Santa Ana, CA 92703-5000  
**O: 714.667.9621**  
F: 714.834.4569  
[Joe.urbano@ocpw.ocgov.com](mailto:Joe.urbano@ocpw.ocgov.com)

OCTA:

Orange County Transit Authority (OCTA)  
Attn: Hal McCutchan, OCTA Project Manager  
550 South Main Street  
P.O. Box 14184  
Orange, CA 92863-1584  
**O: 714.560.5759**  
[hmccutchan@octa.net](mailto:hmccutchan@octa.net)

22. **Governing Law and Venue:** This Contract has been negotiated and executed in the state of California and shall be governed by and construed under the laws of the state of California. In the event of any legal action to enforce or interpret this Contract, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the Parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure Section 394. Furthermore, the Parties specifically agree to waive any and all rights to request that an action be transferred for trial to another county.
23. **Entire Contract:** This Contract, including Attachments A, B, and C which are attached hereto and incorporated herein by this reference, when accepted by the Contractor either in writing or by the shipment of any article or other commencement of performance hereunder, contains the entire Contract between the Parties with respect to the matters herein, and there are no restrictions, promises, warranties or undertakings other than those set forth herein or referred to herein. No exceptions, alternatives, substitutes or revisions are valid or binding on the County unless authorized by the County in writing. Electronic acceptance of any additional terms, conditions or supplemental contracts by any selection or delegated by the County employee or agent, including but not limited to installers of software, shall not be valid or binding on County unless accepted in writing by County's Deputy Purchasing Agent.
24. **Amendments:** No alteration or variation of the terms of this Contract shall be valid unless made in writing and signed by the Parties; no oral understanding or agreement not incorporated herein shall be binding on either of the Parties; and no exceptions, alternatives, substitutes or revisions are valid or binding on County unless authorized by County in writing.
25. **Taxes:** Unless otherwise provided herein or by law, price quoted does not include California state sales or use tax.
26. **Delivery:** Time of delivery of goods or services is of the essence in this Contract. The County reserves the right to refuse any goods or services and to cancel all or any part of the goods not conforming to applicable specifications, drawings, samples or descriptions or services that do not conform to the prescribed statement of work. Acceptance of any part of the order for goods shall not bind County to accept future shipments nor deprive it of the right to return goods already accepted at Contractor's expense. Over-shipments and under-shipments of goods shall be only as agreed to in writing by the County. Delivery shall not be deemed to be complete until all goods or services have actually been received and accepted in writing by the County.
27. **Acceptance/Payment:** Unless otherwise agreed to in writing by the County, 1) acceptance shall not be deemed complete unless in writing and until all the goods/services have actually been received, inspected, and tested to the satisfaction of County, and 2) payment shall be made in arrears after services have been provided.
28. **Warranty:** Contractor expressly warrants that the goods/services covered by this Contract are 1) free of liens or encumbrances, 2) merchantable and good for the ordinary purposes for which they are used, and 3) fit for the particular purpose for which they are intended. Acceptance of this order shall

constitute an agreement upon Contractor's part to indemnify, defend and hold the County and its indemnitees as identified in Article 38, below, and as more fully described in Article 38, harmless from liability, loss, damage and expense, including reasonable counsel fees, incurred or sustained by the County by reason of the failure of the goods/services to conform to such warranties, faulty work performance, negligent or unlawful acts, and non-compliance with any applicable state or federal codes, ordinances, orders, or statutes, including the Occupational Safety and Health Act ("OSHA") and the California Industrial Safety Act. Such remedies shall be in addition to any other remedies provided by law.

29. **Patent/Copyright Materials/Proprietary Infringement:** Unless otherwise expressly provided in this Contract, Contractor shall be solely responsible for clearing the right to use any patented or copyrighted materials in the performance of this Contract. Contractor warrants that any software as modified through services provided hereunder will not infringe upon or violate any patent, property right, or trade secret right of any third party. Contractor agrees that, in accordance with the more specific requirement contained in Article 38, below, it shall indemnify, defend and hold the County and the County Indemnitees harmless from any and all such claims and be responsible for payment of all costs, damages, penalties and expenses related to or arising from such claim(s), including, but not limited to, attorneys fees, costs and expenses.

30. **Assignment or Subcontracting:** The terms, covenants, and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators and assigns of the Parties. Furthermore, neither the performance of this Contract nor any portion thereof may be assigned or subcontracted by Contractor without the express written consent of the County. Any attempt by Contractor to assign or subcontract the performance or any portion thereof of this Contract without the express written consent of County shall be invalid and shall constitute a breach of this Contract.

In the event that the Contractor is authorized by the County to subcontract, this Contract shall prevail and the terms of any subcontract shall incorporate by reference and not conflict with the terms of this Contract. At the discretion of the County Project Manager, the County reserves the right to communicate directly with the subcontractor(s) on any aspect of the Contract.

31. **Non-Discrimination:** In the performance of this Contract, Contractor agrees that it will comply with the requirements of Section 1735 of the California Labor Code and not engage nor permit any subcontractors to engage in discrimination in employment of persons because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, or sex of such persons. Contractor acknowledges that a violation of this provision shall subject Contractor to all the penalties imposed for a violation of anti discrimination law or regulation including, but not limited to, Section 1720 et seq. of the California Labor Code.
32. **Termination:** In addition to any other remedies or rights it may have by law, the County has the right to terminate this Contract without penalty immediately with cause or after 30 days' written notice without cause, unless otherwise specified. Cause shall be defined as any breach of Contract, any misrepresentation or fraud on the part of the Contractor. Exercise by the County of its right to terminate the Contract shall relieve the County of all further obligations under this Contract.
33. **Consent to Breach Not Waiver:** No term or provision of this Contract shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by the Party claimed to have waived or consented. Any consent by any Party to, or waiver of, a breach by the other, whether express or implied, shall not constitute consent to, waiver of, or excuse for any other different or subsequent breach.
34. **Remedies Not Exclusive:** The remedies for breach set forth in this Contract are cumulative as to one another and as to any other provided by law, rather than exclusive; and the expression of certain

remedies in this Contract does not preclude resort by either Party to any other remedies provided by law.

35. **Independent Contractor:** Contractor shall be considered an independent contractor and neither Contractor, its employees, nor anyone working under Contractor shall be considered an agent or an employee of the County. Neither Contractor, its employees nor anyone working under Contractor shall qualify for workers' compensation or other fringe benefits of any kind through either the participating County.
36. **Performance:** Contractor shall perform all work under this Contract, taking necessary steps and precautions to perform the work to the County's satisfaction. Contractor shall be responsible for the professional quality, technical assurance, timely completion and coordination of all documentation and other goods/services furnished by the Contractor under this Contract. Contractor shall perform all work diligently, carefully, and in a good and workman-like manner; shall furnish all labor, supervision, machinery, equipment, materials, and supplies necessary therefore; shall at its sole expense obtain and maintain all permits and licenses required by public authorities, including those of the County required in its governmental capacity, in connection with performance of the work; and, if permitted to subcontract, shall be fully responsible for all work performed by subcontractors.
37. **Indemnification and Insurance:**

**Indemnification Provisions:** Contactor agrees to indemnify, defend with counsel approved in writing by the County and any participating Cities, and hold the County and any participating Cities, its elected and appointed officials, officers, employees, agents and those special districts and agencies which the Cities Council's/County's Board of Supervisors acts as the governing Board ("Cities and County Indemnitees") harmless from any claims, demands or liability of any kind or nature, including, but not limited to, personal injury or property damage, arising from or related to the services, products or other performance provided by Contactor pursuant to this Contract. If judgment is entered against Contactor and the County and any participating Cities by a court of competent jurisdiction because of the concurrent active negligence of the County and any participating Cities or the Cities and County Indemnitees, Contactor and the County agree that liability will be apportioned as determined by the court. Neither party shall request a jury apportionment.

**Insurance Provisions:** Prior to the provisions of services under this Contract, the Contractor agrees to purchase all required insurance at Contractor's expense and to deposit with the County Certificates of Insurance, including all endorsements required herein, necessary to satisfy the County that the insurance provisions of this Contract have been complied with and to keep such insurance coverage and the certificates therefore on deposit with the County during the entire term of this Contract. In addition, all subcontractors performing work on behalf of Contractor pursuant to this Contract shall obtain insurance subject to the same terms and conditions as set forth herein for Contractor.

All insurance policies required by this Contract shall declare any deductible or self-insured retention (SIR) in an amount in excess of \$25,000 (\$5,000 for automobile liability), which shall specifically be approved by the County Executive Office (CEO)/Office of Risk Management. Contractor shall be responsible for reimbursement of any deductible to the insurer. Any self-insured retentions (SIRs) or deductibles shall be clearly stated on the Certificate of Insurance.

If the Contractor fails to maintain insurance acceptable to the County for the full term of this Contract, the County may terminate this Contract.

**Qualified Insurer:** The policy or policies of insurance must be issued by an insurer licensed to do business in the state of California (California Admitted Carrier).

Minimum insurance company ratings as determined by the most current edition of the **Best's Key Rating Guide/Property-Casualty/United States or ambest.com** shall be A-(Secure Best's Rating) and VIII (Financial Size Category).

If the carrier is a non-admitted carrier in the state of California, CEO/Office of Risk Management retains the right to approve or reject carrier after a review of the company's performance and financial ratings.

This policy or policies of insurance maintained by the Contractor shall provide the minimum limits and coverage as set forth below:

Coverage	Minimum Limits
Commercial General Liability with broad form property damage and contractual liability	\$1,000,000 combined single limit per occurrence \$2,000,000 aggregate
Automobile Liability including coverage for owned, non-owned and hired vehicles	\$1,000,000 combined single limit per occurrence
Workers' Compensation	Statutory
Employers' Liability Insurance	\$1,000,000 per occurrence
Professional Liability Insurance	\$1,000,000 per claims made or per occurrence

All liability insurance, except Professional Liability, required by this Contract shall be at least \$1,000,000 combined single limit per occurrence. Professional Liability may also be provided on a "Claims Made" basis. The minimum aggregate limit for the Commercial General Liability policy shall be \$2,000,000.

The County of Orange shall be added as an additional insured on all insurance policies required by this contract with respect to work done by the contractor under the terms of this Contract(except Worker's Compensation/Employers' Liability).. An additional insured endorsement evidencing that the County of Orange is an additional insured shall accompany the Certificate of Insurance.

All insurance policies required by this Contract shall be primary insurance, and any insurance maintained by the County of Orange shall be excess and non-contributing with insurance provided by these policies. An endorsement evidencing that the Contractor's insurance is primary and non-contributing shall specifically accompany the Certificate of Insurance for the Commercial General Liability.

All insurance policies required by this Contract shall give the County of Orange 30 days notice in the event of cancellation. This shall be evidenced by an endorsement separate from the Certificate of Insurance. In addition, the cancellation clause must include language as follows, which edits the pre-printed ACORD certificate.

**SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT. ~~BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENT OR REPRESENTATIVE.~~**

All insurance policies required by this Contract shall waive all rights to subrogation against the County of Orange and members of the Board of Supervisors, its elected and appointed officials, officers, agents and employees when acting in the scope of their appointment or employment.

If contractor's Professional Liability policy is a "claims made" policy, contractor shall agree to maintain professional liability coverage for two years following completion of contract.

The Commercial General Liability policy shall contain a severability of interests clause.

If the Contractor fails to provide the insurance certificates and endorsements within seven days of notification by CEO/Purchasing or the agency/department purchasing division, award may be made to the next qualified vendor.

County expressly retains the right to require Contractor to increase or decrease insurance of any of the above insurance types throughout the term of this Contract. Any increase or decrease in insurance will be as deemed by County of Orange Risk Manager as appropriate to adequately protect County.

County shall notify Contractor in writing of changes in the insurance requirements. If Contractor does not deposit copies of acceptable certificates of insurance and endorsements with County incorporating such changes within thirty days of receipt of such notice, this Contract may be in breach without further notice to Contractor, and County shall be entitled to all legal remedies.

The procuring of such required policy or policies of insurance shall not be construed to limit Contractor's liability hereunder nor to fulfill the indemnification provisions and requirements of this Contract.

The County of Orange Certificate of Insurance and the Special Endorsement for the County of Orange can be utilized to verify compliance with the above-mentioned insurance requirements in place of commercial insurance certificates and endorsements.

38. **Bills and Liens:** Contractor shall pay promptly all indebtedness for labor, materials and equipment used in performance of the work. Contractor shall not permit any lien or charge to attach to the work or the premises, but if any does so attach, Contractor shall promptly procure its release and, in accordance with the requirements of Article 38, above, indemnify, defend, and hold the County and any participating Cities harmless and be responsible for payment of all costs, damages, penalties and expenses related to or arising from or related thereto.
39. **Changes:** Contractor shall make no changes in the work or perform any additional work without the County's specific written approval.
40. **Change of Ownership:** Contractor agrees that if there is a change or transfer in ownership of Contractor's business prior to completion of this Contract, the new owners shall be required under terms of sale or other transfer to assume Contractor's duties and obligations contained in this Contract and complete them to the satisfaction of the County.
41. **Force Majeure:** Contractor shall not be assessed with liquidated damages or unsatisfactory performance penalties during any delay beyond the time named for the performance of this Contract caused by any act of God, war, civil disorder, employment strike or other cause beyond its reasonable control, provided Contractor gives written notice of the cause of the delay to the County within 36 hours of the start of the delay and Contractor avails himself of any available remedies.
42. **Confidentiality:** Contractor agrees to maintain the confidentiality of all the County and the County-related records and information pursuant to all statutory laws relating to privacy and confidentiality that currently exist or exist at any time during the term of this Contract. All such records and information shall be considered confidential and kept confidential by Contractor and Contractor's staff, agents and employees.

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43. **Compliance with Laws:** Contractor represents and warrants that services to be provided under this Contract shall fully comply, at Contractor's expense, with all standards, laws, statutes, restrictions, ordinances, requirements, and regulations (collectively "laws"), including, but not limited to those issued by the County in its governmental capacity and all other laws applicable to the services at the time services are provided to and accepted by the County. Contractor acknowledges that the County is relying on Contractor to ensure such compliance, and pursuant to the requirements of Article 38, above, Contractor agrees that it shall defend, indemnify and hold the County and the County Indemnitees harmless from all liability, damages, costs and expenses arising from or related to a violation of such laws.
44. **Freight (F.O.B. Destination):** Contractor assumes full responsibility for all transportation scheduling, packaging, handling, insurance, and other services associated with delivery of all products deemed necessary under this Contract.
45. **Pricing:** The Contract price shall include full compensation for providing all required goods, in accordance with required specifications, or services, as specified herein or when applicable, in the scope of services attached to this Contract, and no additional compensation will be allowed therefore, unless otherwise provided for in this Contract.
46. **Waiver of Jury Trial:** Each Party acknowledges that it is aware of and has had the opportunity to seek advice of counsel of its choice with respect to its rights to trial by jury, and each Party, for itself and its successors, creditors, and assigns, does hereby expressly and knowingly waive and release all such rights to trial by jury in any action, proceeding or counterclaim brought by any Party hereto against the other (and/or against its officers, directors, employees, agents, or subsidiary or affiliated entities) on or with regard to any matters whatsoever arising out of or in any way connected with this Contract and/or any other claim of injury or damage.
47. **Terms and Conditions:** Contractor acknowledges that it has read and agrees to all terms and conditions included in this Contract.
48. **Headings:** The various headings and numbers herein, the grouping of provisions of this Contract into separate clauses and paragraphs, and the organization hereof are for the purpose of convenience only and shall not limit or otherwise affect the meaning hereof.
49. **Severability:** If any term, covenant, condition or provision of this Contract is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.
50. **Calendar Days:** Any reference to the word "day" or "days" herein mean calendar day or calendar days, respectively, unless otherwise expressly provided.
51. **Attorney Fees:** In any action or proceeding to enforce or interpret any provisions of this Contract, or where any provisions hereof is validly asserted as a defense, each Party shall bear its own attorney's fees, costs and expenses.
52. **Interpretation:** This Contract has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with in this Contract. In addition, each Party has been represented by experienced and knowledgeable independent legal counsel of their own choosing or has knowingly declined to seek such counsel despite being encouraged and given the opportunity to do so. Each Party further acknowledges that they have not been influenced to any extent whatsoever in executing this Contract by any other Party hereto or by any person representing them, or both. Accordingly, any rule or law (including California Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this Contract against the Party that has drafted it is

not applicable and is waived. The provisions of this Contract shall be interpreted in a reasonable manner to affect the purpose of the Parties and this Contract.

53. **Authority:** The Parties to this Contract represent and warrant that this Contract has been duly authorized and executed and constitutes the legally binding obligation of their respective organization or entity, enforceable in accordance with its terms.
54. **Audits/Inspections:** Contractor agrees to permit the County's Auditor-Controller or the Auditor-Controller's authorized representative (including auditors from a private auditing firm hired by the County) access during normal working hours to all books, accounts, records, reports, files, financial records, supporting documentation, including payroll and accounts payable/receivable records, and other papers or property of contractor for the purpose of auditing or inspecting any aspect of performance under this contract. The inspection and/or audit will be confined to those matters connected with the performance of the contract including, but not limited to, the costs of administering the contract. The County will provide reasonable notice of such an audit or inspection.

The County reserves the right to audit and verify the contractor's records before final payment is made.

Contractor agrees to maintain such records for possible audit for a minimum of three years after final payment, unless a longer period of records retention is stipulated under this contract or by law. Contractor agrees to allow interviews of any employees or others who might reasonably have information related to such records. Further, contractor agrees to include a similar right to the County to audit records and interview staff of any subcontractor related to performance of this contract.

Should the contractor cease to exist as a legal entity, the contractor's records pertaining to this agreement shall be forwarded to the surviving entity in a merger or acquisition or, in the event of liquidation, to the County's project manager.

55. **Employee Eligibility Verification:** The Contractor warrants that it fully complies with all Federal and State statutes and regulations regarding the employment of aliens and others and that all its employees performing work under this Contract meet the citizenship or alien status requirement set forth in Federal statutes and regulations. The Contractor shall obtain, from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by Federal or State statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. §1324 et seq., as they currently exist and as they may be hereafter amended. The Contractor shall retain all such documentation for all covered employees for the period prescribed by the law. The Contractor shall indemnify, defend with counsel approved in writing by the County, and hold harmless, the County and any participating Cities, its agents, officers, and employees from employer sanctions and any other liability which may be assessed against the Contractor or the County or both in connection with any alleged violation of any Federal or State statutes or regulations pertaining to the eligibility for employment of any persons performing work under this Contract.

**56. Prevailing Wage (Labor Code 1773):**

Pursuant to the provisions of Section 1773 of the Labor Code of the state of California, the contractor shall comply with the general prevailing wage rates of per diem wages and the general prevailing rates for holiday and overtime wages in this locality for each craft, classification, or type of worker needed to execute this contract. The rates are available from the Director of the Department of Industrial Relations at the following website: <http://www.dir.ca.gov/dlsr/DPreWageDetermination.htm>. The contractor shall post a copy of such

wage rates at the job site and shall pay the adopted prevailing wage rates. The contractor shall comply with the provisions of Sections 1775 and 1813 of the Labor Code.

57. **Cooperative Agreement:** The provisions and pricing of this Contract will be extended to other California local or state governmental entities. Governmental entities wishing to use this Contract will be responsible for issuing their own purchase documents/price agreements, providing for their own acceptance, and making any subsequent payments. Contractor shall be required to include in any contract entered into with another agency or entity that is entered into as an extension of this Contract a contract clause that will hold harmless the County of Orange from all claims, demands, actions or causes of actions of every kind resulting directly or indirectly, arising out of, or in any way connected with the use of this Contract. Failure to do so will be considered a material breach of this Contract and grounds for immediate Contract termination. The cooperative entities are responsible for obtaining all certificates of insurance and bonds required. The Contractor is responsible for providing each cooperative entity a copy of the Contract upon request by the cooperative entity. The County of Orange makes no guarantee of usage by other users of this Contract.

The Contractor shall be required to maintain a list of the cooperative entities using this Contract. The list shall report dollar volumes spent annually and shall be provided on an annual basis to the County, at the County's request.

58. **Usage:** No guarantee is given by the County to the contractor regarding usage of this contract. Usage figures, if provided, are approximate, based upon the last usage. The contractor agrees to supply services and/or commodities requested, as needed by the County of Orange, at prices listed in the contract, regardless of quantity requested.

**Contract Signature Page**

IN WITNESS WHEREOF, the Parties hereto have executed this Contract on the dates shown below their respective signatures below.

**WEST COAST STORM, INC.**

By 

Print Name Michelle Padilla

Title President  
Corporate Officer

Date February 11, 2011

By 

Print Name Rafael Padilla

Title Chief Executive Officer/Corporate Secretary  
Corporate Officer

Date February 11, 2011

**COUNTY OF ORANGE**

A political subdivision of the State of California

By 

Print Name Joe A. Urbano

Title Admin. Manager I

Date 2/14/11

\* If the contracting party is a corporation, (2) two signatures are required: one (1) signature by the Chairman of the Board, the President or any Vice President; and one (1) signature by the Secretary, any Assistant Secretary, the Chief Financial Officer or any Assistant Treasurer. The signature of one person alone is sufficient to bind a corporation, as long as he or she holds corporate offices in each of the two categories described above. For County purposes, proof of such dual office holding will be satisfied by having the individual sign the instrument twice, each time indicating his or her office that qualifies under the above described provision. In the alternative, a single corporate signature is acceptable when accompanied by a corporate resolution demonstrating the legal authority of the signatory to bind the corporation.

ATTACHMENT A  
SCOPE OF WORK

FOR

**Automatic Retractable Screen Excluders, Connector Pipe Screen Full Capture Trash Systems, and  
Catch Basin Inserts**

**I. Background**

The Orange County Transportation Authority's (OCTA) Environmental Cleanup Program (ECP) provides a 2 percent allocation of annual Measure M2 (M2) gross revenues to improve overall water quality in Orange County from transportation-related pollution. ECP funds can be used to implement street and highway-related water quality improvement projects. These funds will assist Orange County cities and the County of Orange to meet federal Clean Water Act standards for urban runoff through the purchase and installation of recognized structural best management practices (BMPs). In addition, third parties, such as water and wastewater public entities, environmental resource organizations, and homeowners associations may nominate projects through a public agency that is willing and able to take responsibility for carrying out and maintaining the project.

The ECP's Tier 1 Grant Program consists of funding purchases and upgrades to existing catch basins with BMPs, such as screens, filters, inserts, and other "street-scale" flow projects. The Tier 1 Grant Program is designed to supplement, not supplant, existing transportation related water quality programs. Funds will be awarded to the highest cost-effective projects that improve water quality. The complete Tier 1 funding guidelines can be viewed online at [www.octa.net/water](http://www.octa.net/water).

A total of up to \$19.5 million is available for the Tier 1 program over a seven-year window from fiscal year 2011-12 through fiscal years 2017-18. For this initial call of projects, approximately \$2.8 million will be available for fiscal year 2011-12. The sequence of call for projects for the remaining time period will cover two, three-year periods encompassing fiscal years 2012/2013 thru 2014/2015 and 2015/2016 thru 2017/2018..

**II. Description of Project**

The purpose of this Scope of Work is to assemble a panel of vendors to achieve economies of scale on a list of fixed unit prices for the purchase and installation of automatic retractable screen (ARS) excluders, connector pipe screen (CPS) full capture trash systems, and catch basin inserts, herein referred to as "Storm Water Devices".<sup>1,2,3</sup> **Submitted proposals must include both equipment purchases and installation. For purchases and installation related to catch basin inserts, submitted proposals will only be accepted if either ARS and/or CPS units are included. As such, submitted proposals only for catch basin inserts purchases and installation will not be accepted.**

Selected vendors will be part of a Master Agreement between the Orange County's Public Works and OCTA, which will allow awarded entities to select from a listing of vendors to provide, supply, fabricate, construct, deliver, and install Storm Water Devices. As such, the goal of this Project is to establish a

<sup>1</sup> This Specification of Work is solely for the purchase and installation of automatic retractable screen (ARS) excluders, and connector pipe screen (CPS) and catch basin inserts full capture trash systems as a means of achieving economies of scale. Eligible entities can submit Tier 1 proposals without participating in the discussed Master Agreement and/or for devices that is not covered within this RFP.

<sup>2</sup> Proposals will not be accepted solely for equipment purchases or installations.

<sup>3</sup> Based on a January 2010 Countywide Survey, twenty entities indicated interest in obtaining ECP funds for approximately 10,000 storm water units.

Master Agreement that achieves strategic savings that would benefit the County and OCTA to act as the purchasing and contract administrators for eligible entities. ***Proposals that do not provide a discounted price that offer economies of scale that are more than standard bulk pricing/installation listing will not be considered.*** Proposals will not be accepted solely for equipment purchases or installations. Awarded ECP entities are not obligated to utilize the selected vendors. In addition, if an awarded entity is a party to this Master Agreement, a separate agreement, City Council resolution, or other protocol may be necessary with the selected vendor(s).

Each selected vendor will be under contract with the County of Orange's Public Works Department and OCTA, but will take primary direction from an awarded entity. Vendors will directly invoice and be paid by the awarded entity.

### **III. Minimum Eligibility Qualifications**

#### **A. Full Trash Capture Definition for Connector Pipe Screens and Catch Basin Inserts**

All Connector Pipe Screens installed and Catch Basin Inserts as part of this project must *trap all particles retained by a 5 mm mesh screen.*

For automatic retractable screens (ARS), the following hydraulic and operation criteria should be met.

#### **B. Hydraulic Criteria**

- When in the open position, the ARS must not reduce the hydraulic capacity of the catch basin by more than 10% over the mid and high flow range of the catch basin.

#### **C. Operation Criteria**

- The ARS should open during storm events. Jurisdiction's needs may vary and may require opening when there is as little as 1.5 inch of curb depth or deeper.
- In the closed position, the screen must be locked to prevent inadvertent opening. If springs are used to hold the screens closed, a minimum force of 25 pounds must be required to open the screen.
- The ARS must close and lock after the storm event has passed.
- The ARS must remain open when the water in the catch basin rises to the level of the street flow line.
- The ARS must not interfere with the placement of a connector pipe screen (CPS) unit and/or catch basin insert. Conversely, the ARS must operate properly with a CPS unit and/or catch basin insert in place.
- The ARS must open as required above when the screen is partially blocked with trash.
- The ARS must have a 1.5 inch opening between the top of the screen and the catch basin face plate and must open when water flows into this opening.

#### **D. Additional Requirements**

- Be prepared to deliver and/or install device(s) within two months of receipt of orders.
- Warranty parts and labor for a minimum of 10 years.

#### **IV. Equipment Design and Specifications Report**

All proposals shall include information pertaining to the proposed storm screen equipment, including, but not limited to: product description, design, engineering, siting, operational, and maintenance. The following information should be summarized in an Equipment Design and Specification Report (Report) for each proposed item in the given order as listed below. *A submittal that does not address all aspects of the following evaluation criteria and/or cannot be readily located within the Report will be deemed incomplete, and may be grounds for disqualification from the RFP.*

##### **A. Description/Design/Engineering**

- Describe how the equipment meets the full trash capture definition. For any proposed ARS; the minimum hydraulic and operation criteria must be met. If applicable, indicate if equipment is listed or going to be listed within the Los Angeles and/or San Francisco Bay Regional Water Quality Control Boards' full trash capture certification program. Include a copy of the full trash capture certification letter in the submittal.
- A detailed description of the equipment and design elements, inclusive of sizing (smallest to largest workable catch basins dimensions) and geometry (include diagrams or CAD files).
- Specificity to location or catch basin/pipe design and/or standardized installation.
- Materials used to construct the equipment (i.e., stainless steel, grade, plastic, etc.).
- Flow or range of flows for which equipment is rated (in cubic feet per second).
- Estimated design life of the equipment.

##### **B. Performance Effectiveness for Connector Pipe Screens and Catch Basin Inserts<sup>4</sup>**

- Performance effectiveness in reducing targeted pollutants and associated transportation related water quality impacts (include independent analyses if any).
- Trash capture and storage capacity of the equipment
- Overflow or bypass flow capacity of the equipment when full of trash and overflowing (i.e., storage capacity of the equipment when the one-year, one hour storm is no longer fully filtered).
- Maximum overflow or bypass flow capacity of the device (i.e., 10-year storm event)

##### **C. Siting, Operational, and Maintenance**

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<sup>4</sup> Due to ARS being retractable, performance effectiveness is difficult to access, however; if there is any information please provide.  
591792

- Description of vendor's installation process including consultation and review of device locations with County staff, traffic control during installation, and estimated time required to install each device.
- Description of the site-specific measurements and other information, the County must provide the vendor for determining the appropriate size and configuration of the device for that location.
- A discussion of any regulatory permits that may be required for installation.
- Maintenance requirements (describe in detail how the device must be maintained and the approximate amount of time required for cleaning or maintenance event. In addition, discuss whether the device has design capabilities for easy removal for cleaning or maintenance)
- Durability against external factors, such as street sweeping, car parking, etc.
- Availability of replacement parts and life expectancy
- Warranty coverage and duration
- Aesthetics and safety
- Any key factors that makes the device unique compared to other products

**D. Vendor's Installation Background**

- Ability of vendor to have staff and/or subcontractor(s) to manufacture device and provide installation to eligible entities within Orange County.
- Experience, background, training, and number of staff and/or subcontractor(s) who will fabricate and/or install device.

**E. Operating Locations, References, and Certifications**

- A minimum of three locations, inclusive of address or nearest intersection, and photos of device in operation within southern California, preferably Orange County
- References from three public agencies. Each reference must include the name of the public agency with contact person, description and City location of the services provided, date(s) of services and contract amount for projects similar to the services requested in this Scope of Work.
- Certifications obtained from public agencies and/or Regional Water Quality Boards

**V. Project Management, Coordination, and Administration**

A kick-off meeting with Contractor(s) and the County and OCTA shall be held to discuss the contractual terms of the Master Agreement. This will establish management, coordination, and administration protocols, and address other issues, as necessary, to ensure that the contractual terms are met. The Vendor's Project Manager shall communicate and coordinate in a timely manner all work and progress with the County's Purchasing and Contract Services Manager and OCTA's ECP Manager.

A monthly progress report detailing the storm water purchases and installation per awarded entity shall be prepared by the Vendor's Project Manager and submitted to the County's Purchasing and Contract Services Manager and OCTA's ECP Manager.

Monthly progress report(s) shall be received no later than the tenth (10th) calendar day of the month. The progress reports shall include the ongoing status of work, significant accomplishments, problems encountered and anticipated with potential solutions, and work planned for the next month (by task and responsible person). In addition, Contractor will be responsible for developing a Tier 1 Program spreadsheet to capture information from awarded ECP entities. The database will contain the following:

- Name of Entity
- Contact Name
- Contact Phone Number
- Contact E-mail Address
- Date of Installation
- Device inventory number, name, and type
- Size/capacity of device
- Location of installations (catch basin ID and nearest cross-section, inclusive of depicting locations within a GIS map on an entity basis as well as a countywide basis.
- Catch basin dimensions)
- Outflow pipe diameter if applicable
- Best estimate of catchment area
- Anticipated number of installations within the next month.

**ATTACHMENT B  
STAFFING PLAN**

**1. CONTRACTOR KEY PERSONNEL**

<b>Name</b>	<b>Classification/Designation</b>	<b>Years of Experience</b>	<b>Licenses/Certifications (include license number)</b>
Reggie Estrada	Project Manager	8	
Rafael Padilla	CEO	18	
Brian Martello	Project Director	11	
Ernest Jarvis	Project engineer	23	
Bryce Swanson	Project Manager	6	

The Contractor may reserve the right to involve other Contractor personnel, as their services are required. The specific individuals will be assigned based on the need and timing of the service/classification required. Assignment of additional key personnel shall be subject to COUNTY written approval. COUNTY reserves the right to have any of Contractor personnel removed from providing services to COUNTY under this AGREEMENT. COUNTY is not required to provide any reason for the request for removal of any Contractor personnel.

**2. SUBCONTRACTOR(S) (IF APPLICABLE)**

Listed below are subcontractor(s) anticipated by Contractor to perform services specified in Attachment A. Substitution or addition of Contractor subcontractors in any given project function shall be allowed only with prior written approval of the COUNTY Project Manager.

<b>Company Name &amp; Address</b>	<b>Contact Name and Telephone Number</b>	<b>Project Function</b>

**ATTACHMENT C  
COST SUMMARY**

- I. COMPENSATION:** This is a usage contract between COUNTY and West Coast Storm, Inc., hereinafter referred to as Contractor, for services provided in accordance with Attachment A, Scope of Work. The Contractor agrees to accept the specified compensation as set forth in this Contract as full remuneration for performing all services and furnishing all staffing and materials required, for any reasonably unforeseen difficulties which may arise or be encountered in the execution of the services until acceptance, for risks connected with the services, and for performance by the Contractor of all its duties and obligations hereunder. The OCTA/County shall have no obligation to pay any sum. Payment is to be fully recovered from the successful completion of individual property owner projects.

**PRICING:** The following two objectives have been satisfied through contract pricing:

1. Pricing is based on device sizing including breaks or discounts for quantity orders. Pricing shall include installations. Identify if pricing is per lineal foot or for entire units. If costs differ based on materials, contractor will provide a separate pricing module.
2. Volume based pricing has been established. As the program grows the economies of scale will benefit Orange County taxpayers and program participants.

West Coast Storm, Inc.					
<b>CPS &amp; ARS</b>					
length	Qty: 0 - 50	Qty: 51 - 100	Qty: 101 - 199	Qty: 200 - 499	Qty: 500 +
4' or less	\$774.00	\$774.00	\$674.00	\$674.00	\$624.00
4.1' - 6'	\$916.00	\$916.00	\$900.00	\$900.00	\$850.00
6' - 10'	\$1,012.00	\$1,012.00	\$996.00	\$996.00	\$946.00
10.1' - 16'	\$1,216.00	\$1,216.00	\$1,190.00	\$1,190.00	\$1,140.00
Greater than 16'	\$1,600.00	\$1,600.00	\$1,590.00	\$1,590.00	\$1,540.00
<b>ARS</b>					
length	Qty: 0 - 50	Qty: 51 - 100	Qty: 101 - 199	Qty: 200 - 499	Qty: 500 +
4' or less	\$399.00	\$399.00	\$324.00	\$324.00	\$299.00
4.1' - 6'	\$550.00	\$550.00	\$541.00	\$541.00	\$525.00
6' - 10'	\$646.00	\$646.00	\$637.00	\$637.00	\$621.00

10.1' - 16'	\$841.00	\$841.00	\$840.00	\$840.00	\$815.00
Greater than 16'	\$1,240.00	\$1,240.00	\$1,225.00	\$1,225.00	\$1,215.00
CPS					
length	Qty: 0 - 50	Qty: 51 - 100	Qty: 101 - 199	Qty: 200 - 499	Qty: 500 +
all sizes	\$375.00	\$375.00	\$350.00	\$350.00	\$325.00

**II. PRICE INCREASES/DECREASES:** No price increases will be permitted during the first period of the Contract. All price decreases will automatically be extended to the County. The County requires bona fide proof of cost increases on Contracts prior to any price adjustment. A minimum of ninety (90) days advance notice in writing is required to secure such adjustment. No retroactive price adjustments will be considered. The County may enforce, adjust, negotiate, or cancel escalating price Contracts or take any other action it deems appropriate, as it sees fit. The net dollar amount of profit will remain firm during the period of the Contract. Adjustments increasing the Contractor's profit will not be allowed.

**III. FIRM DISCOUNT AND PRICING STRUCTURE:** Contractor guarantees that prices quoted are equal to or less than prices quoted to any other local, State or Federal government entity for services of equal or lesser scope. Contractor agrees that no price increases shall be passed along to the County or participating Cities during the term of this Contract not otherwise specified and provided for within this Contract.

**IV. PAYMENT TERMS:** Invoices are to be submitted in arrears, after services have been completed and funding disbursement of the individual projects, to the address specified below. Payment will be net thirty (30) days after receipt of an invoice in a format acceptable to County of Orange and the participating City. Invoices shall be verified and approved by the County of Orange or the participating City and subject to routine processing requirements. The responsibility for providing an acceptable invoice rests with the Contractor.

Billing shall cover services and/or goods not previously invoiced. The Contractor shall reimburse the County or participating Cities for any monies paid to the Contractor for goods or services not provided or when goods or services do not meet the Contract requirements.

Payments made by the County or the participating City shall not preclude the right of the OCTA or the County from thereafter disputing any items or services involved or billed under this Contract and shall not be construed as acceptance of any part of the goods or services.

**V. PAYMENT- INVOICING INSTRUCTIONS:** The Contractor will provide an invoice on the Contractor's letterhead to the County or participating City Entity and a copy of the invoice to OCTA project manager. Each invoice will have a unique number and will include the following information:

1. Contractor's name and address
2. Contractor's remittance address, if different from 1, above
3. Name of City agency/department
4. Delivery/service address

5. Contract number
6. Service/Installation Date
7. Description of Tasks/Services (as specified above)
8. Hourly Rate, Classification/Title and Number of Hours for each Task/Service
9. Total
10. Taxpayer ID number

The responsibility for providing an acceptable invoice to the County or the participating City for payment rests with the Contractor. Incomplete or incorrect invoices are not acceptable and will be returned to the Contractor for correction. Copies of invoices and support documentation are to be forwarded to:

OC Public Works/Purchasing  
Attn: Accounts Payable  
300 N. Flower Street  
Santa Ana, CA 92703-5000

Orange County Transportation Authority  
Attn: Mr. Roger Lopez  
Manager, Local Measure M Program  
550 South Main Street  
P.O. Box 14184  
Orange, CA 92863-1584

**EXHIBIT 1  
ORANGE COUNTY CHILD SUPPORT ENFORCEMENT  
CERTIFICATION REQUIREMENTS**

In order to comply with child support enforcement requirements of Orange County, within 10 days of award of contract, the successful contractor must furnish to the Contract Administrator, Purchasing Agent or the agency/department Deputy Purchasing Agent:

- A. In the case of an individual contractor, his/her name, date of birth, Social Security number, and residence address;
- B. In the case of a contractor doing business in a form other than as an individual, the name, date of birth, Social Security number, and residence address of each individual who owns an interest of 10 percent or more in the contracting entity;
- C. A certification that the contractor has fully complied with all applicable federal and state reporting requirements regarding its employees; and
- D. A certification that the contractor has fully complied with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment and will continue to so comply.

The certifications will be stated as follows:

*"I certify that **WEST COAST STORM, INC.** is in full compliance with all applicable federal and state reporting requirements regarding its employees and with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignments and will continue to be in compliance throughout the term of Contract **MA-080-11011795** with Orange County. I understand that failure to comply shall constitute a material breach of the contract and that failure to cure such breach within 10 calendar days of notice from the County shall constitute grounds for termination of the contract.*

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

Failure of the contractor to timely submit the data and/or certifications required above or to comply with all federal and state reporting requirements for child support enforcement or to comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment shall constitute a material breach of the contract. Failure to cure such breach within 10 calendar days of notice from the County shall constitute grounds for termination of the contract.

After notification of award, the successful contractor may use the forms supplied herein, to furnish required information listed above.

**ORANGE COUNTY CHILD SUPPORT ENFORCEMENT  
CERTIFICATION REQUIREMENTS**

- A. In the case of an individual contractor, his/her name, date of birth, Social Security number, and residence address:

Name: \_\_\_\_\_  
D.O.B: \_\_\_\_\_  
Social Security No: \_\_\_\_\_  
Residence Address: \_\_\_\_\_  
\_\_\_\_\_

- B. In the case of a contractor doing business in a form other than as an individual, the name, date of birth, Social Security number, and residence address of each individual who owns an interest of 10 percent or more in the contracting entity:

Name: \_\_\_\_\_  
D.O.B: \_\_\_\_\_  
Social Security No: \_\_\_\_\_  
Residence Address: \_\_\_\_\_  
\_\_\_\_\_

Name: \_\_\_\_\_  
D.O.B: \_\_\_\_\_  
Social Security No: \_\_\_\_\_  
Residence Address: \_\_\_\_\_  
\_\_\_\_\_

Name: \_\_\_\_\_  
D.O.B: \_\_\_\_\_  
Social Security No: \_\_\_\_\_  
Residence Address: \_\_\_\_\_  
\_\_\_\_\_

(Additional sheets may be used if necessary)

- C. A certification that the contractor has fully complied with all applicable federal and state reporting requirements regarding its employees; and
- D. A certification that the contractor has fully complied with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment and will continue to so comply.

*"I certify that **WEST COAST STORM, INC.** is in full compliance with all applicable federal and state reporting requirements regarding its employees and with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignments and will continue to be in compliance throughout the term of Contract **MA-080-11011795** with Orange County. I understand that failure to comply shall constitute a material breach of the contract and that failure to cure such breach within 10 calendar days of notice from the County shall constitute grounds for termination of the contract.*

---

Authorized Signature

Name

Title

**EXHIBIT II**

**EDD INDEPENDENT CONTRACTOR REPORTING REQUIREMENTS**

California Senate Bill 542 requires businesses and government entities to report specified information regarding independent Consultants to the Employment Development Department (EDD). This information will be used by the EDD to assist in locating parents who are delinquent in their child support payments. An independent Contractor is defined as a sole proprietor who is not an employee of the business or government entity for which that individual is performing a service and who received compensation and/or executes a contract for services performed for that business or government entity either in or outside of California.

To comply with the reporting requirements of SB 542, County procedures for contracting with independent contracts mandate that the following information be completed and forwarded to the contracting agency/department immediately upon request:

- First name, middle initial and last name
- Social Security Number
- Address
- Start and expiration dates of Contract
- Amount of Contract

_____		
First Name	Middle Initial	Last Name
SSN _____		
Contract No. _____		
Start Date _____	Expiration Date _____	
Dollar value of Contract _____		

AMENDMENT #1  
TO  
CONTRACT MA-080-11011795  
BETWEEN  
THE COUNTY OF ORANGE  
AND  
WEST COAST STORM, INC.

This Amendment is made and entered into as of the date fully executed by and between the County of Orange, a political subdivision of the State of California, (hereinafter referred to as "County") and West Coast Storm, Inc, with a place of business at 654 South Lincoln Avenue, San Bernardino, CA 92408, (hereinafter referred to as "Contractor"), which are sometimes individually referred to as ("Party") or collectively referred to as ("Parties").

WHEREAS, the County and Contractor entered into Contract MA-080-11011795, effective February 14, 2011 through February 13, 2012, to establish a master cooperative agreement for Automatic Retractable Screen Excluders, Connector Pipe Screen Full Capture Systems, and Catch Basin Inserts, (hereinafter referred to as "Contract"); and

WHEREAS, both Parties now desire to amend the Contract to extend the termination date;

NOW THEREFORE, the Parties agree as follows:

1. The termination date of the Contract shall be extended from the current end date of February 13, 2012, to the new expiration date of June 30, 2012.
2. Article "2. Term of Contract" of the Contract shall be amended to extend the effective dates and shall read in its entirety as follows:

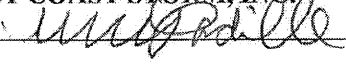
1. **Contract Term**

Contract shall become effective on February 14, 2011, and shall continue through the period of June 30, 2012, unless otherwise terminated by County. This Contract may be renewed upon expiration, for three (3) additional one-year periods, upon mutual agreement of both parties. The County is not obligated to give a reason or notice if it elects not to renew.

3. All terms and conditions contained in this Contract shall remain the same.

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment on the date first above written.

**WEST COAST STORM, INC.\***

By 

Print  
Name Michelle Padilla

Title President

Date March 15, 2011

By 

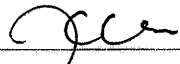
Print  
Name Rafael Padilla

Title Chief Executive Officer/Corporate Secretary

Date March 15, 2011

**COUNTY OF ORANGE**

a political subdivision of the State of California

By 

Print  
Name Joe A. Urbano

Title Admin Manager / DPA

Date 3/16/11

\*If the contracting party is a corporation, (2) two signatures are required: one (1) signature by the Chairman of the Board, the President or any Vice President; and one (1) signature by the Secretary, any Assistant Secretary, the Chief Financial Officer or any Assistant Treasurer. The signature of one person alone is sufficient to bind a corporation, as long as he or she holds corporate offices in each of the two categories described above. For County purposes, proof of such dual office holding will be satisfied by having the individual sign the instrument twice, each time indicating his or her office that qualifies under the above described provision. In the alternative, a single corporate signature is acceptable when accompanied by a corporate resolution demonstrating the legal authority of the signator to bind the corporation.