

CONTRACT MA-080-18011421

FOR

**ANNUAL TREE MAINTENANCE AND TREE PEST MANAGEMENT
SERVICES**

BETWEEN

OC PUBLIC WORKS

AND

BRIGHTVIEW TREE CARE SERVICES, INC.



**CONTRACT MA-080-18011421
WITH
BRIGHTVIEW TREE CARE SERVICES, INC.
FOR
ANNUAL TREE MAINTENANCE AND TREE PEST MANAGEMENT SERVICES**

THIS CONTRACT MA-080-18011421 for Annual Tree Maintenance and Tree Pest Management Services (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 BrightView Tree Care Services, Inc., with a place of business at 1960 S. Yale, Santa Ana, CA 92704 (hereinafter referred to as “Contractor”), with a County and Contractor sometimes referred to as “Party” or collectively as “Parties”.

ATTACHMENTS

This Contract is comprised of this document and the following Attachments, which are attached hereto and incorporated by reference into this Contract:

Attachment A – Scope of Services

Attachment B – Payment/Compensation

RECITALS

WHEREAS, Contractor and County are entering into this Contract for Annual Tree Maintenance and Tree Pest Management Services under a firm fixed fee Contract; and,

WHEREAS, County solicited Contract for Annual Tree Maintenance and Tree Pest Management Services as set forth herein, and Contractor represented that it is qualified to provide Annual Tree Maintenance and Tree Pest Management Services to the County as further set forth here; and,

WHEREAS, Contractor agrees to provide Annual Tree Maintenance and Tree Pest Management Services to the County as further set forth in the Scope of Work, attached hereto as Attachment A; and,

WHEREAS, County agrees to pay Contractor based on the schedule of fees set forth in Payment/Compensation, attached hereto as Attachment B; and,

WHEREAS, the County Board of Supervisors has authorized the County Procurement Officer or designee to enter into a Contract for Annual Tree Maintenance and Tree Pest Management Services with the Contractor; and,

NOW, THEREFORE, the Parties mutually agree as follows:

DEFINITIONS

DPA shall mean the Deputy Purchasing Agent assigned to this Contract.

ARTICLESGeneral Terms and Conditions:

- A. **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 adjudication to another county.
- B. **Entire Contract:** This Contract 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 County unless authorized by County in writing. Electronic acceptance of any additional terms, conditions or supplemental Contracts by any 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 Procurement Officer or designee.
- C. **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.
- D. **Taxes:** Unless otherwise provided herein or by law, price quoted does not include California state sales or use tax. Out-of-state Contractors shall indicate California Board of Equalization permit number and sales permit number on invoices, if California sales tax is added and collectable. If no permit numbers are shown, sales tax will be deducted from payment. The Auditor-Controller will then pay use tax directly to the State of California in lieu of payment of sales tax to the Contractor.
- E. **Delivery:** Time of delivery of goods or services is of the essence in this Contract. 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, 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 County. Delivery shall not be deemed to be complete until all goods or services have actually been received and accepted in writing by County.
- F. **Acceptance Payment:** Unless otherwise agreed to in writing by 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 satisfactory acceptance.
- G. **Warranty:** Contractor expressly warrants that the goods 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 County and its indemnities as identified in **article "Z"** below, and as more fully described in **article "Z,"** harmless from liability, loss, damage and expense, including reasonable counsel fees, incurred or

sustained by 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.

- H. **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, proprietary right, or trade secret right of any third party. Contractor agrees that, in accordance with the more specific requirement contained in **Article “Z”** below, it shall indemnify, defend and hold County and 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, costs and expenses but not including attorney’s fees.

- I. **Assignment:** 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 by Contractor without the express written consent of County. Any attempt by Contractor to assign 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.

- J. **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 penalties pursuant to Section 1741 of the California Labor Code.

- K. **Termination:** In addition to any other remedies or rights it may have by law, County has the right to immediately terminate this Contract without penalty for cause or after 30 days’ written notice without cause, unless otherwise specified. Cause shall be defined as any material breach of contract, any misrepresentation or fraud on the part of the Contractor. Exercise by County of its right to terminate the Contract shall relieve County of all further obligation.

- L. **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.

- M. **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 County. Neither Contractor, its employees nor anyone working under Contractor shall qualify for workers’ compensation or other fringe benefits of any kind through County.

- N. **Performance Warranty:** Contractor shall warrant all work under this Contract, taking necessary steps and precautions to perform the work to 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 workmanlike manner;

shall furnish all necessary labor, supervision, machinery, equipment, materials, and supplies, shall at its sole expense obtain and maintain all permits and licenses required by public authorities, including those of County required in its governmental capacity, in connection with performance of the work. If permitted to subcontract, Contractor shall be fully responsible for all work performed by subcontractors.

O. Insurance Requirements:

Prior to the provision of services under this Contract, the Contractor agrees to purchase all required insurance at Contractor's expense, including all endorsements required herein, necessary to satisfy the County that the insurance provisions of this Contract have been complied with. Contractor agrees to keep such insurance coverage, Certificates of Insurance, and endorsements 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.

Contractor shall ensure that all subcontractors performing work on behalf of Contractor pursuant to this Contract shall be covered under Contractor's insurance as an Additional Insured or maintain insurance subject to the same terms and conditions as set forth herein for Contractor. Contractor shall not allow subcontractors to work if subcontractors have less than the level of coverage required by County from Contractor under this Contract. It is the obligation of Contractor to provide notice of the insurance requirements to every subcontractor and to receive proof of insurance prior to allowing any subcontractor to begin work. Such proof of insurance must be maintained by Contractor through the entirety of this Contract for inspection by County representative(s) at any reasonable time.

All self-insured retentions (SIRs) shall be clearly stated on the Certificate of Insurance. Any self-insured retention (SIR) in an amount in excess of Fifty Thousand Dollars (\$50,000) shall specifically be approved by the County's Risk Manager, or designee, upon review of Contractor's current audited financial report. If Contractor's SIR is approved, Contractor, in addition to, and without limitation of, any other indemnity provision(s) in this Contract, agrees to all of the following:

- 1) In addition to the duty to indemnify and hold the County harmless against any and all liability, claim, demand or suit resulting from Contractor's, its agents, employee's or subcontractor's performance of this Contract, Contractor shall defend the County at its sole cost and expense with counsel approved by Board of Supervisors against same; and
- 2) Contractor's duty to defend, as stated above, shall be absolute and irrespective of any duty to indemnify or hold harmless; and
- 3) The provisions of California Civil Code Section 2860 shall apply to any and all actions to which the duty to defend stated above applies, and the Contractor's SIR provision shall be interpreted as though the Contractor was an insurer and the County was the insured.

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 with a minimum rating of A- (Secure A.M. Best's Rating) and VIII (Financial Size Category as determined by the most current edition of the **Best's Key Rating Guide/Property-Casualty/United States or ambest.com**). It

is preferred, but not mandatory, that the insurer be licensed to do business in the state of California (California Admitted Carrier).

If the insurance carrier does not have an A.M. Best Rating of A-/VIII, the CEO/Office of Risk Management retains the right to approve or reject a carrier after a review of the company's performance and financial ratings.

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

<u>Coverage</u>	<u>Minimum Limits</u>
Commercial General Liability	\$1,000,000 per occurrence \$2,000,000 aggregate
Automobile Liability including coverage for owned, non-owned and hired vehicles	\$1,000,000 per occurrence
Workers Compensation	Statutory
Employers Liability Insurance	\$1,000,000 per occurrence

Required Coverage Forms

The Commercial General Liability coverage shall be written on Insurance Services Office (ISO) form CG 00 01, or a substitute form providing liability coverage at least as broad.

The Business Auto Liability coverage shall be written on ISO form CA 00 01, CA 00 05, CA 0012, CA 00 20, or a substitute form providing coverage at least as broad.

Required Endorsements

The Commercial General Liability policy shall contain the following endorsements, which shall accompany the Certificate of Insurance:

- 1) An Additional Insured endorsement using ISO form CG 20 26 04 13 or a form at least as broad naming the *County of Orange its elected and appointed officials, officers, agents and employees* as Additional Insureds, or provide blanket coverage, which will state **AS REQUIRED BY WRITTEN CONTRACT.**
- 2) A primary non-contributing endorsement using ISO form CG 20 01 04 13, or a form at least as broad evidencing that the Contractor's insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing.

The Workers' Compensation policy shall contain a waiver of subrogation endorsement waiving all rights of subrogation against the *County of Orange, its elected and appointed officials, officers, agents and employees* or provide blanket coverage, which will state **AS REQUIRED BY WRITTEN CONTRACT.**

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

Contractor shall notify County in writing within thirty (30) days of any policy cancellation and ten (10) days for non-payment of premium and provide a copy of the cancellation notice to County. Failure to provide written notice of cancellation may constitute a material breach of the Contract, upon which the County may suspend or terminate this Contract.

The Commercial General Liability policy shall contain a severability of interests clause also known as a “separation of insureds” clause (standard in the ISO CG 0001 policy).

Insurance certificates should be forwarded to the agency/department address listed on the solicitation.

If the Contractor fails to provide the insurance certificates and endorsements within seven (7) days of notification by CEO/Procurement or the agency/department procurement 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 (30) 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, nor act in any way to reduce the policy coverage and limits available from the insurer.

P. **Changes:** Contractor shall make no changes in the work or perform any additional work without the County’s specific written approval.

~~Q. **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, and the County agrees to an assignment of the 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.~~

~~County reserves the right to immediately terminate the Contract in the event the County determines that the assignee is not qualified or is otherwise unacceptable to the County for the provision of services under the Contract.~~

R. **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 County within 36 hours of the start of the delay and Contractor avails himself of any available remedies.

S. **Confidentiality:** Contractor agrees to maintain the confidentiality of all County and 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

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No. 1 –
removed.

records and information shall be considered confidential and kept confidential by Contractor and Contractor's staff, agents and employees.

- T. **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 County in its governmental capacity and all other laws applicable to the services at the time services are provided to and accepted by County. Contractor acknowledges that County is relying on Contractor to ensure such compliance, and pursuant to the requirements of **article "Z"** below, Contractor agrees that it shall defend, indemnify and hold County and County INDEMNITEES harmless from all liability, damages, costs and expenses arising from or related to a violation of such laws.
- U. **Intentionally Left Blank**
- V. **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.
- W. **Attorney Fees:** In any action or proceeding to enforce or interpret any provision of this Contract, each party shall bear their own attorney's fees, costs and expenses.
- X. **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 had 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 effect the purpose of the parties and this Contract.
- Y. **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 County, and hold harmless, the County, 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.
- Z. **Indemnification:** Contractor agrees to indemnify, defend with counsel approved in writing by County, and hold County, its elected and appointed officials, officers, employees, agents and those special districts and agencies which County's Board of Supervisors acts as the governing

Board (“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 Contractor pursuant to this Contract. If judgment is entered against Contractor and County by a court of competent jurisdiction because of the concurrent active negligence of County or County Indemnitees, Contractor and County agree that liability will be apportioned as determined by the court. Neither party shall request a jury apportionment.

- AA. **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 Contract shall be forwarded to the County’s project manager.

- BB. **Contingency of Funds:** Contractor acknowledges that funding or portions of funding for this Contract may be contingent upon state budget approval; receipt of funds from, and/or obligation of funds by, the state of California to County; and inclusion of sufficient funding for the services hereunder in the budget approved by County’s Board of Supervisors 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.

- CC. **Expenditure Limit:** The Contractor shall notify the County of Orange assigned Deputy Purchasing Agent in writing when the expenditures against the Contract reach 75 percent of the dollar limit on the Contract. The County will not be responsible for any expenditure overruns and will not pay for work exceeding the dollar limit on the Contract unless a change order to cover those costs has been issued.

Additional Terms and Conditions:

1. **Scope of Contract:** This Contract specifies the contractual terms and conditions by which the County will procure Annual Tree Maintenance and Tree Pest Management Service from Contractor as further detailed in the Scope of Work, identified and incorporated herein by this reference as “Attachment A”.

~~2. **Term of Contract:** This Contract shall commence June 18, 2018 and continue for three (3) calendar years from that date, unless otherwise terminated by County. This Contract may be renewed as set forth in Article 3 below.~~

2. **Term:** This Contract shall commence June 18, 2018 and continue for four (4) calendar years from that date, unless otherwise terminated by County. This Contract may be renewed as set forth in Article 3 below. The Parties have exercised the renewal provision below one (1) time.

~~3. **Renewal:** This Contract may be renewed by mutual written agreement of both Parties for two (2) additional one year terms. The County does not have to give reason if it elects not to renew. Renewal periods may be subject to approval by the County of Orange Board of Supervisors.~~

3. **Renewal:** This Contract may be renewed by mutual written agreement of both Parties for one (1) additional one-year term. The County does not have to give reason if it elects not to renew. Renewal periods may be subject to approval by the County of Orange Board of Supervisors.

4. **Adjustments – Scope of Work:** No adjustments made to the Scope of Work will be authorized without prior written approval of the County assigned Deputy Purchasing Agent.

5. **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:

- a) Terminate the Contract immediately, pursuant to Section K herein;
- b) 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;
- c) Discontinue payment to the Contractor for and during the period in which the Contractor is in breach; and
- d) Offset against any monies billed by the Contractor but yet unpaid by the County those monies disallowed pursuant to the above.

6. **Civil Rights:** Contractor attests that services provided shall be in accordance with the provisions of Title VI and Title VII of the Civil Rights Act of 1964, as amended, Section 504 of the Rehabilitation Act of 1973, as amended; the Age Discrimination Act of 1975 as amended; Title II of the Americans with Disabilities Act of 1990, and other applicable State and federal laws and regulations prohibiting discrimination on the basis of race, color, national origin, ethnic group identification, age, religion, marital status, sex or disability.

~~7. **Conflict of Interest – Contractor’s Personnel:** 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 subcontractors associated with accomplishing work and services hereunder. The Contractor’s efforts shall include, but not be limited to establishing precautions to prevent its employees, agents, and subcontractors from~~

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~~providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to influence or appear to influence County staff or elected officers from acting in the best interests of the County.~~

8. **Conflict of Interest – County Personnel:** The County of Orange Board of Supervisors policy prohibits its employees from engaging in activities involving a conflict of interest. The Contractor shall not, during the period of this Contract, employ any County employee for any purpose.
9. **Contractor’s Project Manager and Key Personnel:** Contractor shall appoint a Project Manager 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, whose consent shall not be unreasonably withheld.

The Contractor’s Project Manager shall be assigned to this project for the duration of the Contract and shall diligently pursue all work and services to meet the project time lines. The County’s Project Manager shall have the right to require the removal and replacement of the Contractor’s Project Manager from providing services to the County under this Contract. The County’s Project manager shall notify the Contractor in writing of such action. The Contractor shall accomplish the removal within five (5) business 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. The County is not required to provide any additional information, reason or rationale in the event it The County is not required to provide any additional information, reason or rationale in the event it requires the removal of Contractor’s Project Manager from providing further services under the Contract.

10. **Contractor Personnel – Reference Checks:** The Contractor warrants that all persons employed to provide service under this Contract have satisfactory past work records indicating their ability to adequately perform the work under this Contract. Contractor’s employees assigned to this project must meet character standards as demonstrated by background investigation and reference checks, coordinated by the agency/department issuing this Contract.
11. **Contractor’s Expense:** The Contractor will be responsible for all costs related to photo copying, telephone communications, fax communications, and parking while on County sites during the performance of work and services under this Contract. The County will not provide free parking for any service in the County Civic Center.
12. **Contractor’s Records:** The Contractor shall keep true and accurate accounts, records, books and data which shall correctly reflect the business transacted by the Contractor in accordance with generally accepted accounting principles. These records shall be stored in Orange County for a period of three (3) years after final payment is received from the County. Storage of records in another county will require written approval from the County of Orange assigned Deputy Purchasing Agent.
13. **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 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.

14. **County of Orange Child Support Enforcement:** All Contractors are required to comply with the child support enforcement requirements of the County of Orange. 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. In order to comply with the child support enforcement requirements of the County of Orange, all bidders/proposers must furnish to the Contract administrator, the Procurement Officer, 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.

Failure to cure such breach within 60 calendar days of notice from the County shall constitute grounds for termination of the Contract.

15. **Data – Title To:** All materials, documents, data or information obtained from the County data files or any County 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.
16. **Default – Reprourement Costs:** In case of Contract breach by Contractor, resulting in termination by the County, the County may procure the goods and/or services from other sources. If the cost for those goods and/or services is higher than under the terms of the existing Contract, Contractor will be responsible for paying the County the difference between the Contract cost and the price paid, and the County may deduct this cost from any unpaid balance due the Contractor. The price paid by the County shall be the prevailing market price at the time such purchase is made. This is in addition to any other remedies available under this Contract and under law.
17. **Disputes – Contract:**
- A. 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, as specified in Article 23. “Notices,” such matter shall be brought to the attention of the County Deputy Purchasing Agent by way of the following process:
 - 1. The Contractor shall submit to the agency/department assigned Deputy Purchasing Agent 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.

2. 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.
- B. 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 Deputy 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. Nothing in this section shall be construed as affecting the County's right to terminate the Contract for cause or termination for convenience as stated in section K herein.

18. **Drug-Free Workplace:** The Contractor hereby certifies compliance with Government Code Section 8355 in matters relating to providing a drug-free workplace. The Contractor will:

1. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by Government Code Section 8355(a)(1).
2. Establish a drug-free awareness program as required by Government Code Section 8355(a)(2) to inform employees about all of the following:
 - a. The dangers of drug abuse in the workplace;
 - b. The organization's policy of maintaining a drug-free workplace;
 - c. Any available counseling, rehabilitation and employee assistance programs; and
 - d. Penalties that may be imposed upon employees for drug abuse violations.
3. Provide as required by Government Code Section 8355(a)(3) that every employee who works under this Contract:
 - a. Will receive a copy of the company's drug-free policy statement; and
 - b. Will agree to abide by the terms of the company's statement as a condition of employment under this Contract.

Failure to comply with these requirements may result in suspension of payments under the Contract or termination of the Contract or both, and the Contractor may be ineligible for award of any future County contracts if the County determines that any of the following has occurred:

1. The Contractor has made false certification, or
2. The Contractor violates the certification by failing to carry out the requirements as noted above.

19. **EDD Independent Contractor Reporting Requirements:** Effective January 1, 2001, the County of Orange is required to file in accordance with subdivision (a) of Section 6041A of the Internal Revenue Code for services received from a “service provider” to whom the County pays \$600 or more or with whom the County enters into a contract for \$600 or more within a single calendar year. The purpose of this reporting requirement is to increase child support collection by helping to locate parents who are delinquent in their child support obligations.

The term “service provider” is defined in California Unemployment Insurance Code Section 1088.8, subarticle B.2 as “an individual who is not an employee of the service recipient for California purposes and who received compensation or executes a contract for services performed for that service recipient within or without the state.” The term is further defined by the California Employment Development Department to refer specifically to independent Contractors. An independent Contractor is defined as “an individual who is not an employee of the ... government entity for California purposes and who receives compensation or executes a contract for services performed for that ... government entity either in or outside of California.”

The reporting requirement does not apply to corporations, general partnerships, limited liability partnerships, and limited liability companies.

Additional information on this reporting requirement can be found at the California Employment Development Department web site located at http://www.edd.ca.gov/Employer_Services.htm

20. **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 the Contractor after 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.

21. **Equal Employment Opportunity:** The Contractor shall comply with U.S. Executive Order 11246 entitled, “Equal Employment Opportunity” as amended by Executive Order 11375 and as supplemented in Department of Labor regulations (41 CFR, Part 60) and applicable state of California regulations as may now exist or be amended in the future. The Contractor shall not discriminate against any employee or applicant for employment on the basis of race, color, national origin, ancestry, religion, sex, marital status, political affiliation or physical or mental condition.

Regarding handicapped persons, the Contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to provide equal opportunity to handicapped persons in employment or in advancement in employment or otherwise treat qualified handicapped individuals without discrimination based upon their

physical or mental handicaps in all employment practices such as the following: employment, upgrading, promotions, transfers, recruitments, advertising, layoffs, terminations, rate of pay or other forms of compensation, and selection for training, including apprenticeship. The Contractor agrees to comply with the provisions of Sections 503 and 504 of the Rehabilitation Act of 1973, as amended, pertaining to prohibition of discrimination against qualified handicapped persons in all programs and/or activities as detailed in regulations signed by the Secretary of the Department of Health and Human Services effective June 3, 1977, and found in the Federal Register, Volume 42, No. 68 dated May 4, 1977, as may now exist or be amended in the future.

Regarding Americans with disabilities, Contractor agrees to comply with applicable provisions of Title 1 of the Americans with Disabilities Act enacted in 1990 as may now exist or be amended in the future.

22. **News/Information Release:** The Contractor agrees that it will not issue any news releases in connection with either the award of this Contract or any subsequent amendment of or effort under this Contract without first obtaining review and written approval of said news releases from the County through the County’s Project Manager.

~~23. **Notices:** Any and all notices, requests demands and other communications contemplated, called for, permitted, or required to be given hereunder shall be in writing with a copy provided to the assigned Deputy Purchasing Agent (DPA), 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: BrightView Tree Care Services, Inc.
Attn: Michael Lourenco
1960 S. Yale
Santa Ana, CA 92704
Phone: 949-539-1966
Email: Michael.Lourenco@brightview.com~~

~~County’s Project Manager: OC Public Works/Operations & Maintenance
Attn: Kris Ruiz
2301 N. Glassell Street
Orange, CA 92865
Phone: 714-955-0346
Email: Kris.Ruiz@ocpw.ocgov.com~~

~~OC Public Works/Facilities Operations
Attn: Jennifer Carroll
1143 E. Fruit Street
Santa Ana, CA 92704
Phone: 714-667-4942
Email: Jennifer.Carroll@ocpw.ocgov.com~~

~~cc: OC Public Works/Procurement Section
Attn: Eddie Perkins, County DPA~~

2301 N. Glassell Street
Orange, CA 92865
Phone: 714-667-9635
Email: Eddie.Perkins@ocpw.ocgov.com

23. **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 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: BrightView Tree Care Services, Inc.
Attn: Armando Arvizu
1900 S. Lewis Street
Phone: 714-546-7843
Email: armando.arvizu@brightview.com

County's Project Manager: OC Public Works/Operations & Maintenance
Attn: Kris Ruiz
2301 N. Glassell Street
Orange, CA 92865
Phone: 714-955-0346
Email: Kris.Ruiz@ocpw.ocgov.com

Amendment No. 1 – updated notice information

OC Public Works/Facilities Operations
Attn: Robert Kmetz
1143 E. Fruit Street
Santa Ana, CA 92701
Phone: 714-667-3281
Email: robert.kmetz@ocpw.ocgov.com

cc: OC Public Works/Purchasing
Attn: Nicholas Murray, DPA
601 N. Ross Street
Santa Ana, CA 92701
Phone: 714.667.1659
Email: nicholas.murray@ocpw.ocgov.com

24. **Precedence:** The Contract documents consist of this Contract and its exhibits and 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 exhibits and attachments.

25. **Regional Cooperative Agreement (RCA):** 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/Contracts, providing for their own acceptance, and making any subsequent payments. Contractor shall be required to include in any Contract entered into with another department 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.

- 26. **Termination – Orderly:** After receipt of a termination notice from the County of Orange, the Contractor may submit to the County a termination claim, if applicable. Such claim shall be submitted promptly, but in no event later than 60 days from the effective date of the termination, unless one or more extensions in writing are granted by the County upon written request of the Contractor. Upon termination County agrees to pay the Contractor for all services performed prior to termination which meet the requirements of the Contract, provided, however, that such compensation combined with previously paid compensation shall not exceed the total compensation set forth in the Contract. 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 performance of the Contract.
- 27. **Usage:** No guarantee is given by the County to the Contractor regarding usage of this Contract. Usage figures, if provided, are approximations. The Contractor agrees to supply services and/or commodities requested, as needed by the County of Orange, at rates/prices listed in the Contract, regardless of quantity requested.
- 28. **Usage Reports:** The Contractor shall submit usage reports on an annual basis to the assigned Deputy Purchasing Agent of the County of Orange user agency/department. The usage report shall be in a format specified by the user agency/department and shall be submitted 90 days prior to the expiration date of the contract term, or any subsequent renewal term, if applicable.

29. **Change of Ownership/Name, Litigation Status, Conflicts with County Interests:**

Contractor agrees that if there is a change or transfer in ownership of Contractor’s business prior to completion of this Contract, and the County agrees to an assignment of the Contract, the new owners shall be required under the terms of sale or other instruments of transfer to assume Contractor’s duties and obligations contained in this Contract and complete them to the satisfaction of the County.

County reserves the right to immediately terminate the Contract in the event the County determines that the assignee is not qualified or is otherwise unacceptable to the County for the provision of services under the Contract.

In addition, Contractor has the duty to notify the County in writing of any change in the Contract. The Contractor is also obligated to notify the County in writing if the Contractor becomes a party to any litigation against the County, or a party to litigation that may reasonably affect the Contractor’s performance under the Contract, as well as any potential conflicts of interest between Contractor and County that may arise prior to or during the period of Contract

Amendment No.
1 - Added

performance. While Contractor will be required to provide this information without prompting from the County any time there is a change in Contractor's name, conflict of interest or litigation status, Contractor must also provide an update to the County of its status in these areas whenever requested by the County.

The Contractor shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with County interests. In addition to the Contractor, this obligation shall apply to the Contractor's employees, agents, and subcontractors associated with the provision of goods and services provided under this Contract. The Contractor's efforts shall include, but not be limited to establishing rules and procedures preventing its employees, agents, and subcontractors from providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to influence or appear to influence County staff or elected officers in the performance of their duties.

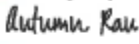
30. **Aggregate Contract:** This is an Aggregate Contract with *West Coast Arborists, Inc., BrightView Tree Care Services, Inc., and Great Scott Tree Service, Inc.* with a Total Aggregate Contract Amount not to exceed \$1,615,000.

Signature Page follows

Signature Page

IN WITNESS WHEREOF, the Parties hereto have executed this Contract on the day and year first above written.

BRIGHTVIEW TREE CARE SERVICES, INC.*

DocuSigned by:
 Autumn Rau Vice President 4/9/2018
 Signature Name Title Date

Signature Name Title Date


COUNTY OF ORANGE, a political subdivision of the State of California

COUNTY AUTHORIZED SIGNATURE:

 Eddie Perkins Deputy Purchasing Agent 5/8/18
 Signature (Print) Name Title Date

ORANGE COUNTY FLOOD CONTROL DISTRICT, a body corporate and politic

ORANGE COUNTY FLOOD CONTROL DISTRICT AUTHORIZED SIGNATURE:

 Eddie Perkins Deputy Purchasing Agent 5/8/18
 Signature (Print) Name Title Date

APPROVED AS TO FORM:

County Counsel DocuSigned by:
 Daniel Shephard
 By Deputy
 Date 4/11/2018

* 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 signee to bind the corporation.

Signature Page

IN WITNESS WHEREOF, the Parties hereto have executed this Contract on the day and year first above written.

BRIGHTVIEW TREE CARE SERVICES, INC.*

Signature	Name	Title	Date
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Signature	Name	Title	Date
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COUNTY OF ORANGE, A political subdivision of the State of California

COUNTY AUTHORIZED SIGNATURE:

Signature	(Print) Name	Title	Date
		Deputy Purchasing Agent	

APPROVED AS TO FORM:

County Counsel

By _____
Deputy

Date _____

* 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 signee to bind the corporation.

**ATTACHMENT A
SCOPE OF WORK**

- I. SCOPE OF WORK:** Contractor shall furnish all staffing, labor, equipment, materials and incidentals required for Annual Tree Maintenance and Tree Pest Management Services. Services shall be provided on an as-needed basis as required by County.
- II. DESCRIPTION OF WORK:** This Contract is for Annual Tree Maintenance and Tree Pest Management Services at various County locations as required by County.
- A. Work to be done consists of trimming street trees for vehicle and pedestrian clearance, aesthetic tree trimming, trimming of large trees, palm tree trimming, tree removal, stump removal, GIS/GPS tree inventory, pesticide recommendation, pesticide application/injection, arborist services, reports, flood control channel right-of-way trimming, and other tree maintenance. Emergency work such as removal of hanging limbs and downed trees is also included. Locations will be at various County facilities/locations countywide in incorporated and unincorporated areas of the County of Orange and within the Orange County Flood Control District.
- B. Work locations for this Contract will include public roads within the unincorporated portions of Orange County, various County facilities in incorporated and unincorporated areas, flood control channels, and public roads in the incorporated cities for which County is under Contract to perform road maintenance. This Contract does not include work on any interstate freeway or highway, State highway, State maintained highway, or Private Street, in County or contracted cities. County shall be contacted when jurisdiction of a street or highway is in question.
- III. CONTRACTOR REQUIREMENTS:**
- A. Contractor shall hold an active D49 – Tree Service license issued by the California State Contractors License Board, License C27: Landscaping Contractor, and C61: Limited Specialty. Also Contractor shall have a license Agricultural Pest Control Adviser (PCA) and Qualified Applicator Certificate or License. Copies of the licensing and certification information shall be made available to the County upon request.
- B. All tree trimmers shall be ISA (International Society of Arboriculture) Certified Tree Workers and work under the direction of an ISA (International Society of Arboriculture) Certified Arborist.
- C. Conduct: Contractor personnel providing services under this Contract shall not be incompetent, disorderly, under the influence of alcohol or drugs, fail or otherwise refuse to perform the work properly and acceptably, or be otherwise objectionable. County expressly retains the right to request any specific Contract personnel be precluded from providing services to County under this Contract. County is not required to provide any reason for requested removal of specified Contract personnel. Contractor shall effectuate removal of the requested Contractor personnel within three (3) business days.
- D. Supervision: Contractor shall provide a supervisor or foreman who shall be present at all times during Contract operations, and who shall be responsible for both conduct and workmanship. Said supervisor or foreman shall be able to communicate effectively in English, both written and oral.

IV. CONTRACTOR PERFORMANCE REQUIREMENTS:

- A. All pruning shall be performed according to International Society of Arboriculture publication "Tree Pruning & Guidelines" and American National Standards Institute (ANSI) A300 & 2133.1 standards.
- B. Working Hours: Contractor shall conduct all operations between 7 a.m. and 4 p.m., Monday through Friday, on all local streets, parks, County facilities, or flood control channels, unless prior arrangements are made with County's Project Manager. Some County facilities may require work to be performed during other than normal working hours or on weekends only. All operations on arterial or collector streets will be performed between 9 a.m. and 3 p.m. Should an issue arise as to whether a street is an arterial or collector street, the final determination shall be made by County. If Contractor desires to work hours or days other than as provided, it may file a written request subject to approval stating intended operations, hours and dates, with a reason for schedule change.
- C. Sound Control: Contractor shall comply with all County and local sound control and noise level rules, regulations, and ordinance, which apply to any work performed pursuant to the Contract, and will make every effort to control any undue noise resulting from its operation.
- D. Dust Control: Contractor shall perform his operations in such a manner as to limit dust. Contractor will not create dust in such a quantity as to violate the South Coast Air Quality Management District (AQMD) regulations.
- E. Debris Removal: All trash and debris will be removed from work area by the end of each working day.
 - 1. At other times during the progress of work, when required, Contractor shall remove all surplus materials, rubbish, and debris resulting from the work.
 - 2. Work area will be left in a neat, clean and acceptable condition as approved by County's Project Manager.
 - 3. No stockpile of debris will be allowed at the site.
 - 4. Contractor shall pick up and dispose of materials at a site outside of County right-of-way approved for disposal of such materials.
 - 5. Any debris dropped on the public street during entrance or exit of the site will be removed immediately by Contractor.
- F. Water: Contractor shall furnish all water required for performance of this work, will make all arrangements for obtaining all water with the governing water district, and will comply with all requirements set forth by the governing water district.
- G. Utilities: Underground main distribution conduits such as water, gas, sewer, electrical power, telephone, or cable television may not be affected by the work indicated in the work packages since only surface excavation is required. Contractor shall assume that every property parcel will be served by a service connection for each type of utility and will protect all such service connection. Contractor shall contact UNDERGROUND SERVICE ALERT (USA) at (800)422-4133 for all subsurface excavation and will contact utility companies to mark locations if necessary.
- H. Parking Control: Parked cars may interfere with the work to be performed. Therefore Contractor shall post, maintain, and subsequently remove, temporary "Tow Away No Parking" signs along the streets work is to be performed no less than 24 hours prior to the start of said work. Contractor shall furnish signs per sample provided by County. Contractor shall fill in day and date for scheduled work. Contractor shall be responsible for replacing any signs which are damaged or removed in order to maintain notice to the public.

Contractor shall be responsible for the removal of all temporary "Tow Away No Parking" signs upon completion of the work in posted area.

- I. Traffic Control: Contractor shall conduct its operations in a manner which will minimize traffic congestion during A. M. and P. M. peak-hour traffic. This may require beginning work after the A. M. peak-hour traffic and ending work before the P. M. peak-hour traffic.
 1. Contractor shall maintain access to schools and commercial areas at all times during project operation.
 2. The following shall be added to Subsection 7-10.1, "Traffic and Access", of the Standard Specifications:
 - a) Spillage resulting from hauling operations along or across any publically traveled way will be removed immediately by Contractor, at its expense.
 - b) When entering or leaving roadways carrying public traffic, Contractor's equipment, whether empty or loaded, will in all cases yield to public traffic.
 3. The following shall be added to Subsection 7-10.3, "Street Closures, Detours, Barricades", of the Standard Specifications:
 - a) Special emphasis will be placed on the use of "Construction Zone Ahead" (C18R) signs at the beginning, end and all access and/or intersecting streets with roads under construction. In addition to construction zone signs, rough road signs (W33) will be used on all roads with a posted or marked bicycle trail.
 - b) Contractor shall provide and maintain all signs, barricades, pedestals, flashers, delineators and other necessary facilities for the protection of the motoring and pedestrian public within the limits of the construction area and all its approaches, including advanced signing and barricades. Contractor shall also post proper signs to notify public regarding condition of roadway, all in accordance with provisions of the Vehicle Code and "Manual of Traffic Controls", as published by the State of California, Department of Transportation, most current edition.
 4. Flashing arrow signs, of the appropriate type per the "Manual of Traffic of Traffic Controls", latest edition, will be provided for all lane closures on all arterial highways and collector streets.
 5. Portable delineators, either conical (traffic cone) or tubular shaped plastic devices, with a minimum height of 28 inches will be used for delineation of the travel way.
 6. If the traffic cones or portable delineators are damaged, displaced or deemed unacceptable for any reason by County's Project Manager or are not in an upright position from any cause, said cones or portable delineators will immediately be replaced or restored to their original location, in an upright position, by Contractor.
 7. Contractor will maintain 11' lanes of traffic in each direction at all times.
 8. Contractor shall furnish such flagmen as are necessary to give adequate warning to traffic or to the public of any dangerous conditions to be encountered. Flagmen, while on duty and assigned to give warning to the public that the street is under construction and of any dangerous conditions to be encountered as a result thereof, will perform their duties and will be provided with the necessary equipment in accordance with the current "Instructions to Flaggers", by the State of California, Department of Transportation. The equipment will be furnished and kept clean and in good repair by Contractor, at its expense.
 9. Should Contractor appear to be neglectful or negligent in furnishing warning and protective measures as provided, County's Project Manager may direct attention to the

existence of a hazard and necessary warning and protective measures will be furnished and installed by Contractor, at its expense. Should County's Project Manager point out the inadequacy of warning and protective measures, such action on the part of County's Project Manager will not relieve Contractor from responsibility for public safety or abrogate its obligation to furnish and pay for these devices.

10. Contractor shall set up safety cones and barricades at all facilities in order to protect County staff and pedestrians.
 11. Contractor shall maintain safe working conditions at each work location.
 12. At the end of each day, all equipment and other obstructions shall be removed from the roadway.
- J. Protection and Restoration of Existing Areas: Contractor shall protect all furnishings and improvements from damage by its operations. All damage will be repaired or replaced, at the option of County, at Contractor's expense within three (3) days after notification of such damage by County's Project Manager. Repairs and/or replacements will be equal to original in all aspects.
- K. Safety: Contractor agrees to perform all work outlined in this Contract in such a manner as to meet all accepted standards for safe practices during operations and to maintain safe conditions or premises and ways at all times, including safely stored equipment, machines and materials. This includes compliance with current local, County, State or other legal intents and terms of the applicable Occupational Safety and Health Administration (OSHA) and CAL/OSHA Safety orders at all times so as to protect all persons, including Contractor's employees and agents, against injury or damage to property.
- L. Best Management Practices:
1. Contractor shall conduct operations under this Contract so as to assure that pollutants do not enter municipal storm drain systems which systems are comprised of, but are not limited to curbs and gutters that are part of the street systems ("Stormwater Drainage System"), and to ensure that pollutants do not directly impact "Receiving Waters" (as used herein, Receiving Waters include, but are not limited to, rivers, creeks, streams, estuaries, lakes, harbors, bays and oceans).
 2. The Santa Ana and San Diego Regional Water Quality Control Boards have issued National Pollutant Discharge Elimination System (NPDES) permits ("Stormwater Permits") to the County of Orange, and to the Orange County Flood Control District (District) and cities within Orange County, as co-permittees (hereinafter collectively referred to as "County Parties") which regulate the discharge of urban runoff from areas within the County of Orange, including the Premises under this Contract. The County Parties have enacted water quality ordinances that prohibit conditions and activities that may result in polluted runoff being discharged into the Stormwater Drainage System.
 3. To assure compliance with the Stormwater Permits and water quality ordinances, the County Parties have developed a Drainage Area Management Plan (DAMP) which includes a Local Implementation Plan (LIP) for each jurisdiction that contains Best Management Practices (BMPs) that parties using properties within Orange County must adhere to. As used herein, a BMP is defined as a technique, measure, or structural control that is used for a given set of conditions to manage the quantity and improve the quality of stormwater runoff in a cost effective manner. These BMPs are found within the County's LIP in the form of Model Maintenance Procedures and BMP Fact Sheets (the Model Maintenance Procedures and BMP Fact Sheets contained in the DAMP/LIP shall be referred to hereinafter collectively as "BMP Fact Sheets") and contain pollution prevention and source control techniques to eliminate non-stormwater

discharges and minimize the impact of pollutants on stormwater runoff.

4. BMP Fact Sheets shall include but not be limited to the following which may be viewed and downloaded at:
<http://ocwatersheds.com/documents/bmp/industrialcommercialbusinessesactivities>
 - a) IC17
 - b) IC21
 - c) IC24
 5. These BMP Fact Sheets may be modified during the term of the Contract; and County's Project Manager shall provide Contractor with any such modified BMP Fact Sheets.
 6. Contractor shall, throughout the term of this Contract, comply with the BMP Fact Sheets as they exist now or are modified, and shall comply with all other requirements of the Stormwater Permits, as they exist at the time this Contract commences or as the Stormwater Permits may be modified. Contractor agrees to maintain current copies of the BMP Fact Sheets on the job sites throughout the term of this Contract. The BMPs applicable to uses authorized under this Contract must be performed as described within all applicable BMP Fact Sheets.
 7. Contractor may propose alternative BMPs that meet or exceed the pollution prevention performance of the BMP Fact Sheets. Any such alternative BMPs shall be submitted to the County's Project Manager for review and approval prior to implementation.
 - a) County's Project Manager may visit the job sites and/or review Contractor's records at any time to assure that activities conducted on the job sites comply with the requirements of this section. Contractor may be required to implement a self-evaluation program to demonstrate compliance with the requirements of this section.
- M. Identification and Scheduling of Work: County conducts recurring inspections of all County maintained roads, flood control channels, and County facilities and investigates citizen complaints. County staff documents the work with Digital photos, a short summary of the problem and required repair using a Maintenance Inspection Report (MIR) form. This report includes the specific location and Thomas Guide reference. County staff reviews, prioritizes and "packages" these reports to include several locations in the same general geographic area. Work packages, including photos, will be prepared for Contractor biweekly. Biweekly work package may include any of the work items in the Contract. Contractor will furnish a work plan indicating the day/date for work on each location in the biweekly work package. County reserves the right to insert up to five (5) additional locations into a biweekly work package at any time. When this occurs, Contractor may request County to delete one or more other work locations from that biweekly work package if the total work package, including additional work, cannot be completed during designated completion period. County will respond to Contractor requests for deletion of work by close of business the next workday.
- N. Work Completion Schedule: County will complete preparation of the biweekly work package by close of business Tuesday for the two week period beginning the following Monday. All work in the work package is to be completed by close of business the second Friday following the beginning of the work period. All work in each biweekly work package is to be completed within the two week period designated for that work package. Contractor is responsible for notifying County if weather or other conditions preclude working on some or the entire work package. Such notification shall be made within four hours of the event/occurrence.
- County and Contractor are required to discuss the impact of weather or other agreed to delays in an attempt to identify these locations in the biweekly work package that cannot be completed on schedule. County will normally include deleted items in the next biweekly work package.

- O. Equipment and Tools: All equipment and tools utilized for tree pruning shall be designed for tree and shrub trimming and properly sharpened to adequately sever limb in a clean manner. **USE OF CLIMBING SPURS AND/OR SPIKED SHOES IS PROHIBITED.**
- P. Access Gates: Contractor shall be provided with keys to the access gates upon request. Contractor will return all keys upon completion of work and prior to request for payment. For each key not returned, the sum of One Hundred dollars (\$100.00) will be deducted and forfeited from any payment due to Contractor.
- Contractor shall keep all access gates closed except when entering and leaving the worksite. Contractor shall close and lock all access gates at the end of each working day. In the event that County is called out to lock a gate left open by Contractor, the sum of Two Hundred and Fifty dollars (\$250.00) based on minimum call back payments, will be deducted and forfeited from any payment due to Contractor.
- Q. Tree Inventory Program: All GIS/GPS and Tree Inventory work shall be performed by “in-house” Contractor. All GIS and inventory records created by the Contractor are property of the County of Orange. Contractor shall create and maintain County tree inventory (including species) in geodatabase format and shall be fully compatible with ESRI ArcGIS newest version. GPS work shall be performed using Trimble GeoXH 6000 or better. Contractor shall follow County workflow and schedule for import and export of tree inventory updates to/from Contractor's inventory system and County GIS. Contractor shall update and modify geodatabase themes as required by the County.
1. Tree Inventory Updates and additions: Contractor shall provide updates of the County GIS tree inventory at no additional cost to the County. Contractor shall update inventory, including metadata, and add new entries at no additional charge to the County for any tree that is the subject of any maintenance, inspection, or evaluation action.
- R. Pesticide Usage and Reporting: Contractor shall submit Pesticide Usage Report(s) to County Project Coordinator at the end of each month summarizing the facilities treated, pests treated, pesticides used, pesticide application rates, man hours and equipment.
- S. Pests and Diseases: All trees known or suspected to be diseased/infested, Contractor shall disinfect all tools and cut surfaces after each cut and between trees. All trees with known or suspected PHSB, Fusarium, Gold Spotted Oak Borer or other high priority pests/pathogens as determined by the County. Contractor shall handle all debris in a manner consistent with newest version of all appropriate Best Management Practices (BMP), which minimizes the chance of spreading infection or infestation. No additional charges for disinfection or special handling shall be allowed.
- T. PSHB/FD or other high priority pests/pathogens surveys and visual monitoring: Contractor shall perform visual surveys of OC Public Works trees from February through October, when beetle activity is easier to detect, for the presence of PSHB/FD or other high priority pests/pathogens and map its distribution. Trees that exhibit symptoms of PSHB/FD or other high priority pests/pathogens will be identified and the level of infestation will be assessed. Symptomatic trees that are located in PSHB-areas or that are non-reproductive hosts will be sampled for DNA analysis to confirm the presence of PSHB/FD or other high priority pests/pathogens. Coordinates will be recorded through either the ArcGIS Collector App for immediate updates to the County Tree Inventory. Mapping and monitoring the distribution of PSHB or other high priority pests/pathogens within the County will allow us to study the spread of the pests, progression of symptoms, and to better implement control procedures.

V. SPECIFICATIONS:

- A. **Emergency/On-Call Work:** Contractor is required to provide 24-hour emergency phone numbers and names of a minimum of two contact individuals within one week of award of Contract. Should phone number or contact person change during the course of the Contract those changes must be provided to County.
1. Contractor may be required to provide emergency/on-call response to hanging limbs, wind damaged or down trees. This may be at night, weekends or during storm conditions. Contractor will be given specific locations and requested work to be done at each location via telephone call from County authorized representative.
 2. Contractor is required to start work indicated within 90 minutes of initial telephone call and report to County authorized representative upon completion of work specified.
 3. Failure by Contractor to respond to an emergency within allotted 90 minutes will result in damage for additional inspection, administration and public safety sustained.
 4. One Hundred dollars (\$100.00) per hour will be deducted and forfeited from payment to Contractor for each and every hour over the 90 minutes specified with each emergency requested.
 5. Work performed under emergency provision of this Contract shall be paid for on a per location basis. This shall include all labor, tools, equipment and materials necessary for doing emergency work.
 6. Contractor will be required to provide all traffic control during emergency operations. Should work involve any high voltage lines, Contractor shall be required to notify responsible utility company.
 7. Contractor will be allowed to stockpile debris from Emergency/On-Call work operations on parkway or along curb. Such debris will be marked with lighted barricades at each end of stockpile. Stockpile must be removed by end of next working day. At no time shall Contractor's stockpile interfere with public access to roadways, driveways or sidewalks. Stockpiles shall not be placed in such a manner as to pose a hazard to the public.
 8. Full compensation for conforming to requirements of Emergency/On-Call Work includes:
 - a) Responding to telephone request with 90 minutes
 - b) Providing all traffic control
 - c) Stockpiling and barricading debris
 - d) Removing debris next working day
 - e) Furnishing all labor, materials, tools, equipment and incidentals necessary to perform work will be considered as included in Contract unit price bid per each in accordance with these Specifications and no additional compensation will be allowed therefore.
- B. **Street Tree Trimming:**
1. Trees shall be trimmed to provide a minimum clearance of 15' over roadways and 9' over walkways and parkways and all dead, broken, damaged, diseased and/or insect infested limbs within the tree will be removed. Trees will also be trimmed to remove any obstruction around traffic control devices, traffic signs and streetlights.
 2. Specific techniques employed shall be consistent with industry practice for size and

species of tree being trimmed. All dead, broken, damaged, diseased and/or insect infested limbs within the tree will be removed at trunk or main branch. All cuts will be ½” close, to the parent stem so that healing can readily start under normal conditions. All limbs 2” or greater will be undercut to prevent splitting. Remaining limbs and branches shall not be split or broken at cut. All crossed or rubbing limbs will be removed unless removal will result in large gaps in general outline of tree.

3. Full compensation for conforming to requirements of Street Tree Trimming includes:
 - a) Trimming tree consistent with industry practice for size and species of tree
 - b) Providing all traffic control
 - c) Providing a minimum of 15’ over roadways and 9’ over walkways and parkways
 - d) Removing all dead, broken, damaged, diseased and/or insect infested limbs
 - e) Removing any obstruction around traffic control devices, traffic signs and streetlights
 - f) Leaving tree with a pleasing appearance
 - g) Cleanup, removal and disposal of debris and trimmings
 - h) Furnishing all labor, materials, tools, equipment and incidentals necessary to perform work will be considered as included in Contract unit price bid per each in accordance with these Specifications and no additional compensation will be allowed therefore.

C. Aesthetic Tree Trimming:

1. Trees designated for aesthetic trimming shall be trimmed, shaped and thinned. Trimming will provide a symmetrical and aesthetically pleasing appearance typical of the species. Trees will also be trimmed to provide a minimum of 15’ over roadways and 9’ over walkways and parkways and all dead, broken, damaged, diseased and/or insect infested limbs within the tree will be removed. Trees will also be trimmed to remove any obstruction around traffic control devices, traffic signs and streetlights. Additional trimming may be performed to mitigate any extreme effect of clearance trimming and provide an aesthetic appearance.
2. Specific techniques employed shall be consistent with industry practice for size and species of tree being trimmed. All dead, broken, damaged, diseased and/or insect infested limbs within the tree will be removed at trunk or main branch. All cuts will be ½” close, to the parent stem so that healing can readily start under normal conditions. All limbs 2” or greater will be undercut to prevent splitting. Remaining limbs and branches shall not be split or broken at cut. All crossed or rubbing limbs will be removed unless removal will result in large gaps in general outline of tree. All trees shall be thinned of smaller limbs to distribute foliage evenly.
3. Full compensation for conforming to requirements of Aesthetic Tree Trimming includes:
 - a) Trimming tree consistent with industry practice for size and species of tree
 - b) Trimming to provide a symmetrical shape and aesthetically pleasing appearance
 - c) Providing a minimum of 15’ over roadways and 9’ over walkways and parkways
 - d) Removing all dead, broken, damaged, diseased and/or insect infested limbs
 - e) Removing any obstruction around traffic control devices, traffic signs and streetlights
 - f) Tree shall be left with a pleasing appearance

- g) Cleanup, removal and disposal of debris and trimmings
- h) Furnishing all labor, materials, tools, equipment and incidentals necessary to perform work will be considered as included in CONTRACT unit price bid per EACH in accordance with these Specifications and no additional compensation will be allowed therefore.

D. Trimming Trees for Volume Reduction:

- 1. County has an on-going program to repair sidewalks and curb and gutters damaged by tree roots. Repair of damaged concrete also includes root pruning to reduce reoccurrence of damage. In conjunction with repair of concrete, County may utilize this Contract to reduce volume of trees whose roots have been trimmed. This reduction in volume of root pruned trees is essential to reduce risk of that tree being felled by high winds.
- 2. Trees will also be trimmed to provide a minimum of 15' over roadways and 9' over walkways and parkways and all dead, broken, damaged, diseased and/or insect infested limbs within the tree will be removed. Trees will also be trimmed to remove any obstruction around traffic control devices, traffic signs and streetlights. Additional trimming may be performed to mitigate any extreme effect of clearance trimming and provide an aesthetic appearance.
- 3. Specific techniques employed shall be consistent with industry practice for size and species of tree being trimmed. All dead, broken, damaged, diseased and/or insect infested limbs within the tree will be removed at trunk or main branch. All cuts will be ½" close, to the parent stem so that healing can readily start under normal conditions. All limbs 2" or greater will be undercut to prevent splitting. Remaining limbs and branches shall not be split or broken at cut. All crossed or rubbing limbs will be removed unless removal will result in large gaps in general outline of tree. All trees shall be thinned of smaller limbs to distribute foliage evenly.
- 4. Full compensation for conforming to requirements of Trimming Trees for Volume Reduction includes:
 - a) Thinning tree consistent with industry practice for size and species of tree
 - b) Providing a minimum of 15' over roadways and 9' over walkways and parkways
 - c) Removing all dead, broken, damaged, diseased and/or insect infested limbs
 - d) Removing any obstruction around traffic control devices, traffic signs and streetlights
 - e) Tree shall be left with a pleasing appearance
 - f) Cleanup, removal and disposal of debris and trimmings
 - g) Furnishing all labor, materials, tools, equipment and incidentals necessary to perform work will be considered as included in Contract unit price bid per each in accordance with these Specifications and no additional compensation will be allowed therefore.

E. Palm Tree Trimming:

- 1. All dead, broken, damaged and/or hanging fronds will be removed up to the crown of tree. All frond bases will be sheared to within 6" of trunk. Upon completion of trimming, each tree shall have seven to nine (7 – 9) healthy fronds located at crown of tree. All other vegetation, such as ivy, growing up trunk, will be cut at ground level and removed from tree unless otherwise approved by County.

2. Full compensation for conforming to requirements of Palm Tree Trimming includes:
 - a) Thinning tree consistent with industry practice for size and species of tree
 - b) Providing a minimum of 15' over roadways and 9' over walkways and parkways
 - c) Removing all dead, broken, damaged, diseased and/or insect infested limbs
 - d) Removing any obstruction around traffic control devices, traffic signs and streetlights
 - e) Tree shall be left with a pleasing appearance
 - f) Cleanup, removal and disposal of debris and trimmings
 - g) Furnishing all labor, materials, tools, equipment and incidentals necessary to perform work will be considered as included in Contract unit price bid per each in accordance with these Specifications and no additional compensation will be allowed therefore.

- F. Tree Removal with Stumping:
 1. Trees to be removed will be marked by County with an orange cross of paint on tree to be removed. Contractor shall remove only those trees so marked. Contractor will be given a list of tree removal locations and Contractor will be responsible for contacting Underground Service Alert (USA) at (800) 422-4133 for locating of underground utilities prior to stumping operations.
 2. Trees shall be felled in a manner consistent with industry practice with primary emphasis on safety of public and protection of adjacent property.
 3. Stumps and all above ground root systems will be ground to a minimum of 12" below level of adjacent ground. Holes will be filled with resulting mulch and raked level with adjacent ground. All wood, debris and excess mulch will be removed and surrounding area will be raked and swept clean.
 4. If stump grinding does not follow within same work day as removal, tree trunk shall be left 5' above grade or a safety barricade shall be placed and maintained over stump until stump grinding is complete.
 5. Full compensation for conforming to requirements of Tree Removal with Stumping includes:
 - a) Contacting USA
 - b) Backfilling and compacting root pruning mulch
 - c) Repairing or replacing damaged utility service connections or sprinkler systems
 - d) Cleanup, removal and disposal of debris and trimmings
 - e) Furnishing all labor, materials, tools, equipment and incidentals necessary to perform work will be considered as included in Contract unit price bid per each in accordance with these Specifications and no additional compensation will be allowed therefore.

- G. Tree Removal Only:
 1. Trees to be removed will be marked by County with an orange cross of paint on tree to be removed. Contractor shall remove only those trees so marked.
 2. Trees shall be felled in a manner consistent with industry practice with primary emphasis on safety of public and protection of adjacent property.

3. Stumps shall be left at 3' above grade.
 4. Full compensation for conforming to requirements of Tree Removal Only includes:
 - a) Removal of tree only
 - b) Cleanup, removal and disposal of debris and trimmings
 - c) Furnishing all labor, materials, tools, equipment and incidentals necessary to perform work will be considered as included in Contract unit price bid per each in accordance with these Specifications and no additional compensation will be allowed therefore.
- H. Stump Removal Only:
1. Stumps to be removed will be marked by County with an orange cross of paint on stump tree to be removed. Contractor shall remove only those stumps so marked. Contractor will be given a list of stump removal locations and Contractor will be responsible for contacting Underground Service Alert (USA) at (800) 422-4133 for locating of underground utilities prior to stumping operations.
 2. Stumps and all above ground root systems will be ground to a minimum of 12" below level of adjacent ground. Holes will be filled with resulting mulch and raked level with adjacent ground. All wood, debris and excess mulch will be removed and surrounding area will be raked and swept clean.
 3. Full compensation for conforming to requirements of Stump Removal Only includes:
 - a) Contacting USA
 - b) Backfilling and compacting root pruning mulch
 - c) Repairing or replacing damaged utility service connections or sprinkler systems
 - d) Cleanup, removal and disposal of debris and trimmings
 - e) Furnishing all labor, materials, tools, equipment and incidentals necessary to perform work will be considered as included in Contract unit price bid per Each in accordance with these Specifications and no additional compensation will be allowed therefore.
- I. Vegetation Trimming – Ground Cover:
1. County may request grid trimming from time to time. During trimming of trees within a specified grid, there may be low growing shrubs and vegetation overhanging the vertical plane of the curb face or sidewalk that requires trimming to eliminate hazard to vehicles or pedestrians. Vegetation shall be trimming vertically 6" back from face of curb or edge of sidewalk unless otherwise directed by County. This item includes all vegetation/ground cover up to and including 30" in height.
 2. Full compensation for conforming to requirements of Vegetation Trimming – Ground Cover includes:
 - a) Trimming vegetation up to 30" in height
 - b) Cleanup, removal and disposal of debris and trimmings
 - c) Furnishing all labor, materials, tools, equipment and incidentals necessary to perform work will be considered as included in Contract unit price bid per Linear Feet in accordance with these Specifications and no additional compensation will be allowed therefore.
- J. Vegetation Trimming – Bushes and Shrubs:

1. County may request grid trimming from time to time. During trimming of trees within a specified grid, there may be low growing bushes and shrubs overhanging the vertical plane of the curb face or sidewalk that requires trimming to eliminate hazard to vehicles or pedestrians. Vegetation shall be trimming vertically 6” back from face of curb or edge of sidewalk unless otherwise directed by County. This item includes all bushes and shrubs exceeding 30” in height.
2. Full compensation for conforming to requirements of Vegetation Trimming – Bushes and Shrubs includes:
 - a) Trimming vegetation up to 30” in height
 - b) Cleanup, removal and disposal of debris and trimmings
 - c) Furnishing all labor, materials, tools, equipment and incidentals necessary to perform work will be considered as included in Contract unit price bid per Linear Feet in accordance with these Specifications and no additional compensation will be allowed therefore.

K. Root Pruning:

1. To minimize future damage to public sidewalks, curbs and gutter, County may use this Contract for root pruning of trees. Root pruning work will be specified on a list specifying street address and location as well as identify root pruning along sidewalk or curb. Contractor shall be responsible for contacting Underground Service Alert (USA) at (800) 422-4133 for locating of underground utilities prior to root pruning operations.
2. Roots shall be pruned immediately adjacent to edge of sidewalk or curb or other improvement. Root pruning cuts shall be 4” wide, 16” deep as measured from top of sidewalk, curb or adjacent improvement and extend 8’ in each direction from centerline of tree (16’ total length).
3. Root pruning equipment shall be specifically designed for this purpose with cutting teeth sharpened adequately to sever roots in a clean manner and equipped with padded tracks or rubber tires to prevent scraping or marking of sidewalks.
4. All cuts shall be backfilled immediately upon completion of root pruning at each location. Backfill material shall consist of dirt and/or mulch from root pruning and shall be free from rocks. All debris generated by these operations will be immediately removed from site and properly disposed of outside right-of-way.
5. Contractor shall repair or replace all utility service connections or sprinkler systems with right-of-way which are damaged or removed as a result of root pruning operations. Repairs shall be implemented immediately and completed by end of next working day. Repairs and replacements will be at least equal to existing improvement and shall match them in finish and dimensions.
6. Full compensation for conforming to requirements of Root Pruning includes:
 - a) Contacting USA
 - b) Backfilling and compacting root pruning mulch
 - c) Repairing or replacing damaged utility service connections or sprinkler systems
 - d) Cleanup, removal and disposal of debris and trimmings
 - e) Furnishing all labor, materials, tools, equipment and incidentals necessary to perform work will be considered as included in Contract unit price bid per each in accordance with these Specifications and no additional compensation will be allowed therefore.

L. Crew Rental:

1. County may request Contractor to perform tree and/or vegetation operations outside scope of previously listed work items. Contractor shall be given specific location and job description by County and meet with County prior to any work being performed. Contractor shall furnish a three (3) man crew with equipment necessary to perform the requested work.

Full compensation for conforming to requirements of Crew Rental includes:

- a) Supplying a 3 man crew with all necessary equipment
- b) Cleanup, removal and disposal of debris and trimmings
- c) Furnishing all labor, materials, tools, equipment and incidentals necessary to perform work will be considered as included in Contract unit price bid per hour in accordance with these Specifications, and no additional compensation will be allowed therefore.

M. Certified Arborist:

1. Contractor may be requested to provide a Certified Arborist to evaluate a tree or trees for removal or trimming due items such as root rot, disease, and/or bug infestation. Contractor shall be given a specific location via telephone or fax from County. Contractor shall evaluate the tree and provide a written report with recommended action within seven days of request.
2. Full compensation for conforming to requirement of Certified Arborist includes: Evaluating tree, providing written report with recommended action, furnishing all labor, materials, tools, equipment and incidentals necessary to perform work will be considered as included in Contract unit price bid per hour in accordance with these Specifications and no additional compensation will be allowed therefore.

N. Pesticide/Fungicide Treatment of Trees:

1. Contractor shall have an “in-house” Qualified Applicator apply chemicals in accordance with the recommendations from the “in-house” Agricultural Pest Control Adviser (PCA) and all applicable product labels and regulations.
2. Applications will be made by drench, spray or injection as conditions warrant. The primary method of application shall be trunk or soil injection.
3. The following are pesticides that may be used on this Contract for treatment of Polyphagous Shot Hole Borer (PSHB), Golden Spotted Oak Borer (GSOB), Fusarium dieback and other pests. This list is not all inclusive or exhaustive.
 - a) Propiconazole
 - b) Tebuconazole
 - c) Thiabendazole
 - d) Emamectin benzoate
 - e) Imidacloprid
 - f) Dinotefuran
 - g) Bifenthrin
 - h) Carbaryl

O. Tree Planting

1. Tree species, size, and planting shall be approved by County project manager.
2. Tree planting consists of the installation of nursery stock container or palm trees supplied by the Contractor.
3. As stated previously herein, the Contractor shall identify the location of all utilities and private property landscape irrigation components prior to the planting of any tree. The Contractor shall assume full responsibility for any damage that occurs during the planting of any tree.
4. Contractor shall supply quality nursery stock which is fully rooted and representative of recognized standards for size and quality of the material being planted.
5. Brown trunk height (BTH) for palm trees shall be measured from the top of root ball to the lowest green frond attached to the trunk at an angle of ninety (90) degrees.
6. Planting stock shall be well watered prior to shipping and covered for the duration of transport. Trees that are delivered uncovered, with a dry or fractured root ball or with broken scaffold limbs will be rejected. Root bound material will be rejected. Palms that are delivered uncovered, with a dry root ball or with a soilless root ball will be rejected.
7. Contractor shall not begin excavation for the planting of a tree without first confirming that the planting site being considered is indeed the site intended for the planting of a tree.
8. In excavating planting pits, the Contractor shall not excavate deeper than the depth of the root ball of the tree being installed. The bottom of the planting pit shall be undisturbed so that the planted tree will not settle below top of root ball grade standards defined herein.
9. All nursery containers and box sides shall be removed from tree root balls prior to planting. The Contractor shall not install trees with box bottoms left on. All container debris (e.g. strapping, box fragments, nails) shall be removed from the planting pit prior to backfilling.
10. Contractor shall install the tree or palm so that the top of root ball is two (2) inches above surrounding finish grade. The Contractor shall not cut or trim the root ball as a means of meeting grade standards.
11. Contractor shall backfill hardwood tree plantings with an equal mix of excavated soil and topsoil. The topsoil portion of the backfill mix shall contain no more than ten (10) percent well decomposed organic fines.
12. Contractor shall backfill palm plantings with one hundred (100) percent washed mortar (plaster) sand.
13. Contractor shall cease backfilling when the planting pit is one-half (½) full and apply water to remove air pockets from the backfill. Once the water has drained, Contractor shall resume backfilling the planting pit.
14. Unit Cost shall include tree, planting, watering (90 days) and with appropriate tree staking for tree, size, and location. Tree shall be under Contractor warranty for 90 days.

P. Special disposal fee:

1. In an event where contractor has special green waste that requires special handling. Contractor may charge special disposal fee for Pest infected material or any other material that may require special handling. This shall be approved by County project manager before or during project and not after.

- Q. Crew rental for trees difficult to access:
1. County may request Contractor to perform tree and/or vegetation operations at locations that are difficult to access as of followed; non-maintained roads, bottom of large flood control basins, and certain flood control channels. This shall be approved by County project manager before or during project and not after. Contractor shall be given specific location and job description by County and meet with County prior to any work being performed. Contractor shall furnish a three (3 to 5) man crew with equipment necessary to perform the requested work.
 2. Full compensation for conforming to requirements of Crew Rental includes:
 - a) Supplying a 3 to 5 man crew with all necessary equipment.
 - b) Cleanup, removal and disposal of debris and trimmings.
 - c) Furnishing all labor, materials, tools, equipment and incidentals necessary to perform work will be considered as included in Contract unit price bid per hour in accordance with these Specifications, and no additional compensation will be allowed therefore.

**ATTACHMENT B
PAYMENT/COMPENSATION**

1. **Compensation:** This is a usage Contract between the County and Contractor for Annual Tree Maintenance and Tree Pest Management Services on an as needed basis, as set forth in Attachment A, "Scope of Work"

The Contractor agrees to accept the specified compensation as set forth in this Contract as full payment 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 Contractor shall only be compensated as set forth herein for work performed in accordance with the Scope of Work. **The County shall have no obligation to pay any sum in excess of the Fixed Prices and Total Contract Amount specified herein unless authorized by amendment in accordance with Articles C and P of the County Contract Terms and Conditions, which may require approval by the County Board of Supervisors.**

2. **Fees and Charges:** County will pay the following fees in accordance with the provisions of this Contract. Payment shall be as follows:
- A. **Pricing:** Pricing shall be per Each (EA), Linear Foot (LF), or Hourly (HR) as determined in each line item.

Line Item	Description	Unit	Unit Cost
1.	Emergency (90 minute response)	EA	\$850.00
2.	Priority (< 7 day response)	EA	\$450.00
3.	Street Tree Trimming	EA	\$65.00
4.	Aesthetic Trimming	EA	\$85.00
5.	Trimming Trees for Volume Reduction	EA	\$135.00
6.	Palm Tree Trimming (0-75 ft. height)	EA	\$35.00
7.	Palm Tree Trimming (76 ft. or greater height)	EA	\$65.00
8.	Palm Trunk Skinning in Excess of 10 feet	LF	\$15.00
9.	Tree Removal with Stumping	EA	\$510.00
10.	Tree Removal Only	EA	\$385.00
11.	Stump Removal Only	EA	\$190.00

12.	Vegetation Trimming – Ground Cover	LF	\$275.00
13.	Vegetation Trimming – Bushes and Shrubs	LF	\$275.00
14.	Root Pruning	EA	\$320.00
15.	Crew Rental	HR	\$265.00
16.	Certified Arborist	HR	\$100.00
17.	Insecticide Treatment	EA	\$45.00
18.	Fungicide Treatment	EA	\$45.00
19.	Tree Planting (0-15 gallon)	EA	\$150.00
20.	Tree Planting (24 Inch Box)	EA	\$450.00
21.	Tree Planting (36 Inch Box)	EA	\$1000.00
22.	Tree Planting (48 Inch Box)	EA	\$6000.00
23.	Tree Planting (60 Inch Box)	EA	\$8500.00
24.	Palm Tree Planting (Brown Trunk Height)	FT	\$600.00
25.	Tree Inventory, Identifying, Entry and Mapping (GIS/GPS)	EA	\$2.75
26.	Pests/Pathogens Surveys and Mappings (GIS/GPS)	HR	\$2.75
27.	Special disposal fee	EA	\$450.00
28.	Crew rental for trees difficult to access	HR	\$300.00

Amendment No. 1 – updated

B. **MISCELLANEOUS:** County may request similar like items not listed above to be purchased from this Contract at a price agreed upon in writing between County and Contractor at time of ordering.

~~C. **ANNUAL CONTRACT AMOUNT NOT TO EXCEED:.....\$1,615,000/YR**~~

C. TOTAL AGGREGATE CONTRACT AMOUNT NOT TO EXCEED: \$1,615,000.00/yr

3. **Price Increase/Decreases:** No price increases will be permitted during the first period of the Contract. The County requires documented proof of cost increases on Contracts prior to any price adjustment. A minimum of 120-days advance notice in writing is required to secure such adjustment. No retroactive price adjustments will be considered. All price decreases will automatically be extended to the County of Orange. The County may enforce, 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.

4. **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 during the term of this Contract not otherwise specified and provided for within this Contract.
5. **Contractor's Expense:** The Contractor will be responsible for all costs related to photo copying, telephone communications and fax communications while on County sites during the performance of work and services under this Contract.
6. **Payment Terms – Payment in Arrears:** Invoices are to be submitted in arrears to the user agency/department to the ship-to address, unless otherwise directed in this Contract. Contractor shall reference Contract number on invoice. Payment will be net 30 days after receipt of an invoice in a format acceptable to the County of Orange and verified and approved by the agency/department 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 of Orange 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 shall not preclude the right of 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.

7. **Taxpayer ID Number:** The Contractor shall include its taxpayer ID number on all invoices submitted to the County for payment to ensure compliance with IRS requirements and to expedite payment processing.
8. **Payment – Invoicing Instructions:** The Contractor will provide an invoice on the Contractor's letterhead for goods delivered and/or services rendered. In the case of goods, the Contractor will leave an invoice with each delivery. Each invoice will have a number and will include the following information:
 - A. Contractor's name and address
 - B. Contractor's remittance address, if different from 1 above
 - C. Contractor's Taxpayer ID Number
 - D. Name of County Agency/Department
 - E. Delivery/service address
 - F. Master Agreement (MA) or Purchase Order (PO) number
 - G. Agency/Department's Account Number
 - H. Date of invoice
 - I. Product/service description, quantity, and prices
 - J. Sales tax, if applicable
 - K. Freight/delivery charges, if applicable

L. Total

Invoices and support documentation are to be forwarded to:

OC Public Works/Procurement Services
Attn: Accounts Payable
PO Box 4048
Santa Ana, CA 92702-4048
Email: accountspayables@ocpw.ocgov.com

Contractor has the option of receiving payment directly to their bank account via an Electronic Fund Transfer (EFT) process in lieu of a check payment. Payment made via EFT will also receive Electronic Remittance Advice with the payment details via email. An email address will need to be provided to the County via an EFT Authorization Form. To request a form, please contact the DPA.