

Contract MA-280-21010479

for

Grease Interceptor Maintenance & Repair Services

Between

County of Orange, John Wayne Airport

and

Ocean Blue Environmental, Inc.



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Contract MA-280-21010479

For

Grease Interceptor Maintenance & Repair Services

Between

County of Orange, John Wayne Airport

And

Ocean Blue Environmental Services, Inc.

This Agreement (“Contract”) is made between the County of Orange, a political subdivision of the State of California, through its department John Wayne Airport (“County” or “JWA”), and **Ocean Blue Environmental Services, Inc.** (“Contractor”), which are sometimes individually referred to as a “Party” or collectively referred to as the “Parties.”

Recitals

Whereas, Contractor responded to an Request for Proposal (RFP) for providing **Grease Interceptor Maintenance & Repair Services** for County; and

Whereas, Contractor responded and represented that its proposed goods and services shall meet or exceed the requirements and specifications of the RFP; and

Whereas, Contractor agrees to provide goods and services, as further set forth in the Scope of Work, attached hereto as Attachment A and incorporated herein; and

Whereas, County agrees to pay Contractor the fees as more specifically described in Contractor’s Pricing, attached hereto as Attachment B and incorporated herein;

Now Therefore, Parties mutually agree as follows:

Articles

General 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 Purchasing Agent 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 or descriptions or services that do not conform to the prescribed statement of work. Acceptance of any part of the order for goods shall not bind County to accept future shipments nor deprive it of the right to return goods already accepted at Contractor's expense. Over shipments and under shipments of goods shall be only as agreed to in writing by 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 indemnitees as identified in paragraph "Z" below, and as more fully described in paragraph "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 paragraph "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	\$10,000,000 per occurrence Commercial Ramp Access
Workers’ Comp/Employer’s Liability	Statutory/\$1,000,000 per occurrence
Pollution Liability	\$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 00 12, CA 00 20, or a substitute form providing liability coverage 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, employees and agents* 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, employees and agents**, 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, employees and agents 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 001 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/Purchasing or the agency/department purchasing division, award may be made to the next qualified vendor.

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

County shall notify Contractor in writing of changes in the insurance requirements. If Contractor does not deposit copies of acceptable Certificates of Insurance and endorsements with County incorporating such changes within thirty (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/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 Contractor's status with respect to name changes that do not require an assignment of 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 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.

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 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 paragraph "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. Freight

Prior to the County's express acceptance of delivery of products. Contractor assumes full responsibility for all transportation, transportation scheduling, packing, handling, insurance, and other services associated with delivery of all products deemed necessary under this Contract.

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 agreement 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 **Grease Interceptor Maintenance & Repair Services** 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 be effective **September 14, 2020** through and including **September 13, 2022** upon execution of all necessary signatures unless otherwise terminated by County. This Contract may be renewed as set forth in paragraph 3 below.~~

~~**3. Renewable Annually with Concurrence**~~

~~The Contract may be renewed for three (3) additional one (1) year terms with the agreement of both parties. The County does not have to give reason if it decides not to renew. Renewal terms may be subject to approval by the County of Orange Board of Supervisors. In no case shall this Contract exceed five (5) years in duration.~~

~~**4. Contract Amount Not to Exceed**~~

~~Contract Amount not to exceed \$400,000.00. This contract amount shall not exceed \$200,000.00 annually or \$1,000,000.00 for 5 years without Board of Supervisors approval.~~

5. Adjustments – Scope of Work

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

6. Airport Security

Contractor, Contractor’s employees and Contractor’s subcontractors must complete a background clearance SIDA class in order to obtain an I.D. badge.

Badge Acquisition: Prior to issuance of a security badge(s), designated Contractor personnel who shall be working on-site at JWA terminal, and engaged in the performance of work under this Contract must pass JWA’s screening requirements, which include an F.B.I. background investigation (fingerprinting) and Security Threat Assessment (STA) (estimated fee is \$29.00 for fingerprinting and \$11.00 for STA per person.). It may take up to two weeks to obtain clearance. Contractor’s designated personnel shall need to take a 2-hour SIDA training class at JWA and pass the written test (estimated fee is \$10.00 per person). Contractor shall be responsible for all costs associated with the background checks, and abide by all of the security requirements set forth by the Transportation Security Agency (TSA) and JWA. Contractor’s designated personnel must successfully complete the badge acquisition within 14 days of Contract execution, unless other arrangements have been coordinated by County Project Coordinator or designee in writing.

Driving Endorsement: In addition to obtaining a JWA access control badge, Contractor’s service staff must also take an Airport provided training course and pass a test to acquire an airfield driving endorsement.

Badge Holder Requirements and Responsibilities: TSA approved security program for JWA requires that each person issued a JWA security badge is made aware of his/her responsibilities regarding the privilege of access to restricted areas of JWA.

All persons within the restricted air operation areas of JWA are required to display, on their person, a JWA security badge; unless they are specifically exempted for safety reasons or they are under escort by a properly badge individual. Each JWA employee, JWA Contractor, subcontractor or tenant employee who has been issued a JWA security badge is responsible for challenging any individual who is not properly displaying a JWA issued or approved and valid identification badge. Any person who is not properly displaying or who cannot produce a valid JWA security badge must immediately be referred to the Sheriff's Department - Airport Police Services Office for proper handling.

JWA security badge is the property of County and must be returned upon termination of Contractor personnel employment and/or termination, expiration or completion of Contract. The loss of a badge shall be reported within 24 hours to the Sheriff's Department - Airport Police Services by calling (949) 252-5000. Individuals that lose their badge shall be required to pay a fee before receiving a replacement badge. The charge for lost badge replacement shall be at the current posted rate located in the JWA Administration Office. A report shall be made before a replacement badge shall be issued. JWA security badge is nontransferable.

In the event that a contractor's badge is not returned to JWA upon termination of Contractor personnel employment and/or termination or expiration of Contract, a fine of \$250.00 per badge shall be charged to Contractor. Contractor's final payment may be held by County or a deduction from contractor's payment(s) may be made to ensure that funding is available to cover the fine in the event that badges are not returned.

Contractor shall submit the names, addresses, and driver's license numbers for all Contractor personnel who shall be engaged in work under this Contract to County Project Coordinator within seven days after award of the Contract or within seven days after the start of any new Contractor personnel and/or prior to the start of any work. No worker shall be used in performance of this work that has not passed the background check

7. Americans with Disabilities Act (ADA)

Section 504 of the Rehabilitation Act of 1973 as amended; Title VI and VII of the Civil Rights Act of 1964 as amended; Americans with Disabilities Act, 42 USC 12101; California Code of Regulations, Title 2, Title 22: California Government Code, Sections 11135, et seq; and other federal and state laws and executive orders prohibit discrimination. All programs, activities, employment opportunities, and services must be made available to all persons, including persons with disabilities.

8. Anti-Idling Policy

Within six months of Contract execution, Contractor must develop, implement and submit to the Airport Director for approval a fleet-wide anti-idling policy. At a minimum, the anti-idling policy shall include the requirement that vehicle engines shall be turned off when vehicles are not occupied, and that occupied vehicles be turned off after no more than a five-minute idling period. Contractor's policy shall also include all third party vehicles that enter Airport property at the direction of Contractor.

9. Bills and Liens

Contractor shall pay promptly all indebtedness for labor, materials and equipment used in performance of the work. Contractor shall not permit any lien or charge to attach to the work or the premises, but if any does so attach, Contractor shall promptly procure its release and, in accordance with the requirements of paragraph "Z" above, indemnify, defend, and hold County harmless and be responsible for payment of all costs, damages, penalties and expenses related to or arising from or related thereto.

10. 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.

11. 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.

12. 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.

13. 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 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.

14. 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.

15. 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.

16. Contractor Personnel – Uniforms/Badges/Identification

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.

All Contractor’s employees shall be required to wear uniforms, badges or other means of identification which are to be furnished by the contractor and must be worn at all times while working on County

property. The assigned Deputy Purchasing Agent must be notified in writing, within seven days of notification of award of Contract, of the uniform and/or badges and/or other identification to be worn by employees prior to beginning work and notified in writing seven days prior to any changes in this procedure.

17. Contractor Personnel – 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.

18. 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.

19. 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, which 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 three (3) 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 requires the removal of Contractor's Project Manager from providing further services under the Contract.

20. 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.

21. 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.

22. Discounts – Prompt Payment

The County of Orange shall process payments with discounts offered for prompt payment and the checks for those payments. If disputes arise over the timeliness of the payment, the date of the postmark shall be the determining factor. The County shall not be held responsible for delays by the US Postal Service, and no additional payment shall be due the Contractor in the event of such delay.

23. 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, 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.

24. Debarment

Contractor shall certify that neither Contractor nor its principles are presently debarred, proposed for debarment, declared ineligible or voluntarily excluded from participation in the transaction by any Federal department or agency.

25. Discount Verification

For Contracts that are based on standard rates or list prices, the Contractor is required to state on the invoice the source and date of the rate/price and, when discounts are quoted, show the list rate/price and the discount.

The agency/department shall certify on the invoice that the prices are per the current price list for all items that have a per unit cost exceeding \$250.00 and that the appropriate discounts were applied.

26. Emergency/Declared Disaster Requirements

In the event JWA experiences or is situated within or proximate to a federal, State, or locally declared emergency or disaster area, this Contract may be subject to unusual usage. Contractor shall perform during such an emergency or disaster under the same terms and conditions that normally apply. All pricing of the goods/services shall remain unchanged regardless of exigent circumstances. If Contractor is unable to supply the goods/services under the terms of the Contract, then Contractor shall provide proof of such disruption and a copy of applicable invoice(s) for the goods/services from Contractor's supplier(s). Additional profit as a result of supplying goods/services during an emergency or disaster shall not be permitted. In the event of an emergency or disaster, emergency purchase order numbers will be assigned. All applicable invoices from the Contractor shall show both the emergency purchase order number and the Contract number.

27. 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.

28. Equipment Maintenance Service

Cleaning, inspecting, replacing all worn parts, lubricating, testing, and adjusting will be provided as required to maintain the equipment in satisfactory operating condition. The Contractor inspections will be completed during County work hours and will be coordinated with the agency/department having control of the equipment. Emergency service required and performed during normal business hours is included at no extra charge. The Contractor shall list any parts that are not considered part of this equipment maintenance Contract.

29. Equipment Maintenance Service – Parts

Contractor shall furnish and install all new parts, materials and lubricants which meet or exceed the

original equipment manufacturer's specifications. Any parts other than those manufactured by the original equipment manufacturer shall be approved by the County before being incorporated in the work performed by the Contractor under this contract. The Contractor shall maintain a reasonable supply of the parts needed under this contract and maintain a reasonable supply system for the acquisition of additional parts, either immediately or with minimal delay.

30. 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

31. Gratuities

The Contractor warrants that no gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor to any officer or employee of the County with a view toward securing the Contract or securing favorable treatment with respect to any determinations concerning the performance of the Contract. For breach or violation of this warranty, the County shall have the right to terminate the Contract, either in whole or in part, and any loss or damage sustained by the County in procuring on the open market any goods or services which the Contractor agreed to supply shall be borne and paid for by the Contractor. The rights and remedies of the County provided in the clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Contract.

32. Hazardous Conditions

Whenever the Contractor's operations create a condition hazardous to traffic or to the public, the Contractor shall provide flagmen and furnish, erect and maintain control devices as are necessary to prevent accidents or damage or injury to the public at Contractor's expense and without cost to the County. The Contractor shall comply with County directives regarding potential hazards.

Emergency lights and traffic cones must also be readily available at all times and must be used in any hazardous condition. Emergency traffic cones must be placed in front of and behind vehicles to warn oncoming traffic.

Signs, lights, flags, and other warning and safety devices shall conform to the requirements set forth in Chapter 6 of the current traffic manual, Traffic Control for Construction and Maintenance Work Zones, published by the state of California Department of Transportation

33. Headings

The various headings and numbers herein, the grouping of provisions of this Contract into separate clauses and paragraphs, and the organization hereof are for the purpose of convenience only and shall not limit or otherwise affect the meaning hereof.

34. Material, Workmanship, and Acceptance:

All materials furnished by Contractor in the work shall be new, high grade, and free from defects. Quality of Work shall be in accord with the generally accepted standards. Materials, parts, equipment and work quality shall be subject to County's approval.

Materials and work quality not conforming to the requirements of the Scope of Work shall be considered defective and shall be subject to rejection. Defective work or material, whether in place or

not, shall be removed immediately from the site by Contractor, at its expense, when so directed by County.

If Contractor fails to replace any defective or damaged work or material within 48 hours after notice, County may cause such work or materials to be replaced. Replacement expense shall be deducted from the amount to be paid to Contractor.

Where materials are specified by reference to standard specifications of the American Society for Testing Materials (ASTM), American National Standards Institute (ANSI), Builders Hardware Manufacturers Association (BHMA), Federal Specifications, or others, all applicable provisions of the designated specifications shall be considered as forming a part of the Contract documents to the same force and effect as if repeated therein.

35. Nondiscrimination – Statement of Compliance

The Contractor's signature affixed hereon and dated shall constitute a certification under penalty of perjury under the laws of the state of California that the Contractor has, unless exempted, complied with the nondiscrimination program requirements of Government Code Section 12990 (a-f) and Title 2, California Code of Regulations, Sections 11102 and 11103.

36. OEM Equipment Maintenance Standard

The Contractor agrees to maintain all equipment according to the original equipment manufacturer (OEM) specifications. The Contractor further agrees that all components will be OEM components. At the termination of the Contract the Contractor guarantees that equipment will meet OEM equipment certification standards.

37. 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.

38. Prevailing Wage (Labor Code §1773)

Pursuant to the provisions of Section 1773 et seq. of the California Labor Code, the Contractor shall comply with the general prevailing rates of per diem wages and the general prevailing rates for holiday and overtime wages in this locality for each craft, classification, or type of worker needed to execute this Contract. The rates are available from the Director of the Department of Industrial Relations at the following website: <http://www.dir.ca.gov/dlsr/DPreWageDetermination.htm>. The Contractor shall post a copy of such wage rates at the job site and shall pay the adopted prevailing wage rates. The Contractor shall comply with the provisions of Sections 1775 and 1813 of the Labor Code.

39. Price Increase/Decrease

No price increases will be permitted. The County requires documented proof of cost increases on Contracts prior to any price adjustment. A minimum of 30-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.

40. Project Manager, County

The County shall appoint a project manager to act as liaison between the County and the Contractor during the term of this Contract. The County's project manager shall coordinate the activities of the County staff assigned to work with the Contractor.

The County's project manager shall have the right to require the removal and replacement of the Contractor's project manager and key personnel. The County's project manager shall notify the Contractor in writing of such action. The Contractor shall accomplish the removal within three (3)

business days after written notice from the County's project manager. The County's project manager shall review and approve the appointment of the replacement for the Contractor's project manager and key personnel. Said approval shall not be unreasonably withheld. 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.

41. Protection and Restoration of Existing Areas

Contractor shall be responsible for protection of public and private property adjacent to the work. Contractor shall repair or replace all existing improvements that are damaged or removed as a result of their operation. Repairs and replacements shall be at least equal to existing improvements and shall match them in finish and dimension. All repairs shall be completed within two (2) working days from date of damage notification unless otherwise approved by County Project Manager.

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

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

43. Registration of Contractors

Contractors and all subcontractors must comply with the requirements of labor code section 1771.1(a), pertaining to registration of Contractors pursuant to section 1725.5. Registration and all related requirements of those sections must be maintained throughout the performance of the Contract.

44. Remedies Not Exclusive

The remedies for breach set forth in this Contract are cumulative as to one another and as to any other provided by law, rather than exclusive; and the expression of certain remedies in this Contract does not preclude resort by either party to any other remedies provided by law.

45. 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.

46. Reports/Meetings

The Contractor shall develop reports and any other relevant documents necessary to complete the services and requirements as set forth in this contract. The County's project manager and the Contractor's project manager will meet on reasonable notice to discuss the Contractor's performance and progress under this contract. If requested, the Contractor's project manager and other project

personnel shall attend all meetings. The Contractor shall provide such information that is requested by the County for the purpose of monitoring progress under this contract.

47. Safety Data Sheets (SDS)

The Contractor is required to provide a completed Safety Data Sheet (SDS) for each hazardous substance provided to the County under the Contractor’s Contract with the County. This includes hazardous substances that are not directly included in the Contract, but are included in the goods or services provided by the Contractor to the County. The provision of the SDSs must be in accordance with the requirements of California Labor Code Sections 6380 through 6399, General Industry Safety Order Section 5194, and Title 8, California Code of Regulations. The SDSs for each substance must be sent to the place of shipment or provision of goods/service.

Contractor is to provide live event services including but not limited to labor, tools, and equipment required for recorded audio, video and sound reinforcement for John Wayne Airport for various scheduled and non-scheduled meetings and events.

48. Services Contract -Follow-On Work

No person, firm, subsidiary or subcontractor of a firm that has been awarded a consulting services contract or a contract which includes a consulting component may be awarded a Contract for the performance of services, the purchase of goods or supplies, or the provision of any other related action which arises from or can reasonably be deemed an end-product of work performed under the initial consulting to consulting-related Contract.

49. State Funds - Audits

When and if state funds are used in whole or part to pay for the goods and/or services under this Contract, the Contractor agrees to allow the Contractor’s financial records to be audited by auditors from the State of California, the County of Orange, or a private auditing firm hired by the State or the County. The State or County shall provide reasonable notice of such audit.

50. Stop Work

The County may, at any time, by written stop work order to the Contractor, require the Contractor to stop all or any part of the work called for by this Contract for a period of 90 days after the stop work order is delivered to the Contractor and for any further period to which the parties may agree. The stop work order shall be specifically identified as such and shall indicate it is issued under this clause. Upon receipt of the stop work order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the stop work order during the period of work stoppage. Within a period of 90 days after a stop work order is delivered to the Contractor or within any extension of that period to which the parties shall have agreed, the County shall either:

1. Cancel the stop work order; or
2. Terminate work covered by the stop work order as provided for in the “Default” or “Termination” clause of this Contract.

If a stop work order issued under this clause is canceled or the period of the stop work order or any extension thereof expires, the Contractor shall resume work. The County shall make an equitable adjustment in the delivery schedule, the Contract price, or both, and the Contract shall be modified in writing accordingly if:

1. The stop work order results in an increase in the time required or in the Contractor’s cost properly allocable to the performance of any part of this Contract; and
2. The Contractor asserts its right to an equitable adjustment within 30 days after the end of the period of work stoppage, provided that if the County decides the facts justify the action, the

County may receive and act upon a proposal submitted at any time before final payment under this Contract.

If a stop work order is not canceled and the work covered by the stop work order is terminated in accordance with the provision entitled, "Termination" the County shall allow reasonable costs resulting from the stop work order in arriving at the termination settlement.

If a stop work order is not canceled and the work covered by the stop work order is terminated for default, the County shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop work order.

An appropriate equitable adjustment may be made in any related Contract of the Contractor that provides for adjustment and is affected by any stop work order under this clause. The County shall not be liable to the Contractor for loss of profits because of a stop work order issued under this clause.

If any provisions of this agreement are invalid under any applicable statute or rule of law, they are, to that extent, omitted, but the remainder of this agreement shall continue to be binding upon the parties hereto.

51. Subcontracting

No performance of this Contract or any portion thereof may be subcontracted by the Contractor without the express written consent of the County. Any attempt by the Contractor to subcontract any performance of this Contract without the express written consent of the County shall be invalid and shall constitute a breach of this Contract.

In the event that the Contractor is authorized by the County to subcontract, this Contract shall take precedence over the terms of the Contract between Contractor and subcontractor, and shall incorporate by reference the terms of this Contract. The County shall look to the Contractor for performance and indemnification and not deal directly with any subcontractor. All work performed by a subcontractor must meet the approval of the County of Orange.

52. Substitutions

The Contractor is required to meet all specifications and requirements contained herein. No substitutions will be accepted without prior County written approval.

53. 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.

54. Usage

No guarantee is given by the County to the Contractor regarding usage of this Contract. 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.

55. Waivers - Contract

The failure of the County in any one or more instances to insist upon strict performance of any of the terms of this Contract or to exercise any option contained herein shall not be construed as a waiver or relinquishment to any extent of the right to assert or rely upon any such terms or option on any future occasion.

56. 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.

County: JWA/Maintenance
Attention: Richard Flores
3180 Airway Avenue
Costa Mesa, CA 92626
Phone: 949-252-5208
Email: RFlores@ocair.com

cc: JWA/Procurement
Attention: Monica Rodriguez, DPA
3160 Airway Avenue
Costa Mesa, CA 92626
Phone: 949-252-5240
Email: MMRodriguez@ocair.com

Contractor: Ocean Blue Environmental Services, Inc.
Attention: Justin Lee
925 West Esther Street
Long Beach, CA 90813
Phone: 562-624-4120
Email: jlee@ocean-blue.com

Signature Page

In Witness Whereof, Parties hereto have executed this Contract on the dates shown below their respective signatures below.

Ocean Blue Environmental Services, Inc.*:

Signature	Name	Title	Date
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Signature	Name	Title	Date
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**If Contractor is a corporation, signatures of two specific corporate officers are required as further set forth:*

The first signature must be one of the following: a) Chairman of the Board; b) President; or c) any Vice President.

The second signature must be one of the following: a) Secretary; b) Chief Financial Officer; c) any Assistant Secretary; or d) any Assistant Treasurer.

In the alternative, a single corporate signature is acceptable when accompanied by a corporate resolution demonstrating the legal authority of the signature to bind the company.

County Authorized Signature:

Signature	Name	Title	Date
	Monica Rodriguez	Deputy Purchasing Agent	

Attachment A
Scope of Work

A. Project Description

John Wayne Airport (JWA) currently has six (6) grease interceptors located in Terminals A, B, and C that remove accumulated fats, oils, and grease (FOG) and food waste from wastewater discharges from Food Service Establishments. These units, listed below, require routine inspection, cleaning, pumping, maintenance and record keeping to ensure proper operation. JWA is planning to add seven (7) additional grease interceptors, as these are installed, they will be added to the Contract.

#	Location	Make Model	Est. Gal	Est. Grease Cap.(lbs.)	Note
1	Airside - Loading dock/ Service Tunnel – 1st	Watts GI-250-K	350	500	Airside- requires badged personnel Shall always be cleaned beginning between 11 pm - 12 pm
2	Airside - Loading dock/ Service Tunnel – 2nd	Watts GI-250-K	350	500	Airside- requires badged personnel
3	Airside - Loading dock/ Service Tunnel – 3rd	Watts GI-250-K	350	500	Airside- requires badged personnel
4	Airside – Near Gate 18	Jay R Smith 8460	350	200	Airside- requires badged personnel
5	Landside – Lower Road Way Terminal C – Zone 5	Jensen Precast Model JP2000G	2000	n/a	Landside
6	Landside – Lower Road Way Terminal C – Zone 7	Jensen Precast Model JP2000G	2000	n/a	Landside
7	Airside – Site 1/ Column 22	Zurn Proceptor GMC750UPC	750	n/a	Airside- requires badged personnel
8	Airside – Site 2/Column 11	Zurn Proceptor GMC750UPC	750	n/a	Airside- requires badged personnel
9	Airside – Site 3/Column 7	Zurn Proceptor GMC750UPC	750	n/a	Airside- requires badged personnel
10	Airside – Site 8/Column 26	Zurn Proceptor GMC750UPC	750	n/a	Airside- requires badged personnel
11	Airside – Site 13/Column 45	Zurn Proceptor GMC750UPC	750	n/a	Airside- requires badged personnel
12	Airside – Site 14/Column 60	Zurn Proceptor GMC750UPC	750	n/a	Airside- requires badged personnel
13	Airside – Vino Volo/Column 31	Zurn Proceptor GMC750UPC	750	n/a	Airside- requires badged personnel

B. Scope of Services

Contractor shall provide cleaning, pumping, and maintenance of grease interceptors for County of Orange, John Wayne Airport. Contractor maintenance services to include visual inspection and identification of items for repair or replacement, identification of hydro-jetting needs, disposal/recycling of waste and provision of a maintenance log and waste manifests/tickets. Grease interceptors shall be maintained in efficient operating condition.

Contractor shall provide the required services (gallons per load) as described above. Other fees for unproductive time due to delays to Contractor start time caused by the County at various sites will be limited to a maximum of one (1) our of labor time.

Contractor shall perform services per frequency schedule as indicated below as well as on an as-needed, on-call basis. Services shall be completed during normal working hours of 11:00 p.m. to 5:00 a.m., except as noted above. Notwithstanding the service frequency identified in this Attachment A, Contractor shall be available to perform the required services 24 hours a day, seven (7) days a week with maximum two (2) hours response time in the event of emergency or any health hazard created by sewage build up.

Additional work items to include periodic hydro-jetting to keep the upstream and downstream lines clear, repair or replacement of grease interceptor parts and associated piping, and closed circuitry television (CCTV) video inspection.

Grease Interceptor Maintenance

1. Cleaning and Pumping

The cleaning and pumping of the grease interceptors shall include the complete removal of all contents by the Contractor, including accumulated FOG, floating materials, wastewater, sludge, and solids. Cleaning applies to the tank as well as in and around the interceptor manhole covers and pump lift stations. No FOG that has accumulated in a grease interceptor shall be allowed to pass into any sewer lateral, sewer system, storm drain, or public right-of-way during maintenance activities. Decanting or discharge of removed waste back into the interceptor from which the waste was removed or any other grease interceptor, for the purpose of reducing the volume to be disposed is prohibited. After all contents of the grease interceptor have been pumped out and the interceptor has been appropriately cleaned, the grease interceptor shall be refilled with clean water up to the level of the inlet pipe.

Contractor shall collect photos of the condition of each interceptor before and after cleaning and perform a visual check of the condition of the interceptor, baffles, pipes, inlets and outlets, as well as meters and pumps. Contractor shall provide information to the County Project Manager after every cleaning.

- **Cleaning and Pumping Frequency** – All grease interceptors shall be maintained by the Contractor in a manner consistent with a maintenance frequency approved by the County Project Manager. Grease interceptors shall be fully pumped out and cleaned out by the Contractor at a frequency such that the combined FOG and solids accumulation does not exceed 25% of the total design hydraulic depth of the grease interceptor. This is to ensure that the minimum hydraulic retention time and required available hydraulic volume. An advanced annual pumping/hydrojetting schedule may be arranged but may be modified at any time by the County Project Manager.
- **Additives** – Any additive(s) placed into the grease interceptor or building discharge line system by the Contractor on a constant, regular, or scheduled basis may only be done if authorized by the County Project Manager. Such additives may include, but not be limited to, enzymes, commercially available bacteria, or other additives designed to absorb, purge, consume, treat, or otherwise eliminate FOG. The use of additives by the Contractor shall in no way be considered as a substitution to the maintenance procedures required herein.
- **Chemical Treatment** – Contractor shall not use chemical treatments such as drain cleaners, acid and other chemicals designed to dissolve or remove grease, unless authorized by the County Project Manager in writing.

2. Recycling and/or Disposal of Grease Interceptor Waste

Wastewater, accumulated FOG, floating materials, sludge, solids, and other materials removed from the grease interceptors shall be recycled off site properly by the Contractor or designated waste hauler in accordance with Federal, State and/or local laws, and the Orange County Sanitation District's FOG Ordinance NO. OCSD-25. Waste haulers must be registered with the County Health Department. If recycling is not possible, the waste may be disposed properly off-site with approval of the County Project Manager.

The wastewater and solids shall be recycled and/or transported on a bill of lading; no waste shall be manifested as hazardous waste against John Wayne Airport's EPA ID number unless authorized by the

County Project Manager in writing.

3. Documentation and Manifests

All pumpage from grease interceptors must be tracked with documentation that confirm pumping, hauling, and disposal or recycling of waste. Contractor must provide John Wayne Airport with a copy of the original hauling and disposal or recycling receipts and documentation (include date, volume, and facility). If a manifest is used, the original manifest with original signatures must be left at the disposal facility.

4. Maintenance Log

A Grease Interceptor Cleaning Record Maintenance Log indicating each pumping shall be maintained by the Contractor. This log shall include the date, time of service, amount pumped, condition of equipment (including parts and lift pump stations), recommendations for repairs if any, hauler name, and disposal of recycling information including receipts. In addition, photographs of pre and post interceptor cleaning and items recommended for repair (if possible) shall be provided for each service visit. The log shall be updated at each service and made immediately available by the Contractor to the John Wayne Airport representative upon request.

C. Contractor's Responsibilities

1. Contractor shall provide the County Project Manager or designated representative, at least one (1) business day advance notice of planned work activities.
2. Contractor shall furnish, install, and maintain all signage, warning devices, barricades, cones, etc. to protect the public, Airport staff, and its workers during the performance of this Contract.
3. Contractor shall warrant all labor and materials used in the work for a period on one (1) year after completion and acceptance of the work.
4. Furnish all materials required for completion of the work. All materials shall be new, first quality and specifically suited for the specific use of work required.
5. At all sites, evaluate the specific materials and labor required to complete the repair or alteration.
6. Meet with County Project manager or designee, to evaluate a specific project and recommend a potential solution or solutions.
7. Perform all work in accordance with generally accepted industry practice for safe and efficient operation.

D. General Requirements

1. Contractor must ensure all precautions for safety are taken.
2. All tools and materials shall remain in Contractor's possession at all times.
3. All materials that could inflict injury shall be continuously cleaned up as work progresses.
4. All work areas shall be clean and secured prior to the end of each workday.
5. Contractor's employees shall plan their activities to minimize the number of times they must enter and exit the site.
6. Contractor's employees are to smoke only in designated areas.
7. Contractor's employees are not to use profanity or other inappropriate language while on-site.
8. Contractor shall furnish all vehicles required to transport labor equipment, and materials to job sites. All Contractors vehicles parked on-site shall be secure at all times.
9. Contractor shall advise County Project Manager or designee, in writing, of any additional maintenance or repair work necessary to maintain safe and efficient operation.
10. All inspections will be conducted by County's Project Manager or designee.

E. Hydro-Jetting

Hydro-jetting of Grease Interceptor inlet, baffle tees, and outlet of the grease trap mainlines shall be performed as requested by the County Project Manager or designee.

F. Grease Interceptor Repair Services

Contractor shall perform grease interceptor repairs as requested by the County Project Manager or designee. Repairs may include:

- Pipe repairs including but not limited to inlet, outlet and middle pipes including seals.
- Repair or replacement of parts including baffles and damaged lids and lid housing including seals.
- Replacement of lift pumps.

G. Emergency Services

The Contractor shall provide resources needed to provide emergency response services 24-hours per day, seven (7) days per week. Emergency response services include non-routine services necessary to repair and/or provide supplemental maintenance of the grease interceptor to maintain their continued operation. The Contractor is required to be able to respond within two (2) hours after being notified of the emergency response incident. If determined not to be an emergency, Contractor is required to respond within twenty-four (24) hours after notification.

H. Closed Circuit Television (CCTV) Video Inspection

As requested by the County, sewer drain lines shall be inspected utilizing CCTV to assess sewer line condition and blockages. Contractor shall provide a narrated copy of the CCTV video inspection including the location and description of features shown on the video.

I. Reports/Meetings

The Contractor shall develop reports and any other relevant documents necessary to complete the services and requirements as set forth in this Contract. The County's project manager and the Contractor's Project Manager will meet on reasonable notice to discuss the Contractor's performance and progress under this Contract. If requested, the Contractor's Project Manager and other project personnel shall attend all meetings. The Contractor shall provide such information that is requested by the County for the purpose of monitoring progress under this Contract.

J. Quality Assurance

County reserves the right to allow Contractor an opportunity to correct unsatisfactory or incomplete work, at no additional cost to County; and deduct damages from the invoice for unsatisfactory or incomplete work including administrative costs as determined by County (JWA).

K. Badging Requirements

Contractor shall provide at least one (1) technician who possesses a John Wayne Airport security badge with escort privileges at any time Contractor's crew is on-site. All badging fees must be paid for by the Contractor and badging fees will not be reimbursed.

Attachment B
Contractor's Pricing

This is a fixed price Contract between County and Contractor, for Grease Interceptor Maintenance and Repair Services, as set forth in Attachment A, "Scope of Work".

A. Compensation

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 rates specified herein unless authorized by amendment in accordance with Article C. of the County Contract Terms and Conditions.**

Contract Not to Exceed \$400,000.00

B. Fees and Charges

The County will pay the following fees in accordance with the provisions of this Contract. Payment shall be as follows:

1. Grease Interceptor Routine Maintenance and Hydro-Jetting

Price for each interceptor service including pump out, cleaning, inspection, recycling of grease and water, Hydro-Jetting, and documentation. All interceptors shall be maintained with a frequency at the discretion of the County Project Manager.

Pumping and Cleaning Flat Rate

Item	Location	Est. Gallons	Routine Services	Services for Emergency Calls	
			Rate Per Cleaning	Monday-Friday	*Weekends and Holidays
1	Airside—Loading Dock/Service Tunnel—1st	350	\$1,450.00	\$5,500.00	\$6,500.00
2	Airside—Loading Dock/Service Tunnel—2nd	350	\$1,450.00	\$5,500.00	\$6,500.00
3	Airside—Loading Dock/Service Tunnel—3rd	350	\$1,450.00	\$5,500.00	\$6,500.00
4	Airside—Near Gate 18	350	\$1,450.00	\$5,500.00	\$6,500.00
5	Landside—Lower Road Way Terminal C—Zone 5	2,000	\$3,600.00	\$5,500.00	\$6,500.00
6	Landside—Lower Road Way Terminal C—Zone 7	2,000	\$3,600.00	\$5,500.00	\$6,500.00
7	Airside—Site 1/Column 22	750	\$1,450.00	\$5,500.00	\$6,500.00
8	Airside—Site 2/Column 11	750	\$1,450.00	\$5,500.00	\$6,500.00
9	Airside—Site 3/Column 7	750	\$1,450.00	\$5,500.00	\$6,500.00
10	Airside—Site 8/Column 26	750	\$1,450.00	\$5,500.00	\$6,500.00
11	Airside—Site 13/Column 45	750	\$1,450.00	\$5,500.00	\$6,500.00
12	Airside—Site 14/Column 60	750	\$1,450.00	\$5,500.00	\$6,500.00
13	Airside—Vino Volo/Column 31	750	\$1,450.00	\$5,500.00	\$6,500.00

Hydro-Jetting Flat Rates

Item	Location	Est. Gallons	Routine Services	Services for Emergency Calls	
			Rate Per Cleaning	Monday-Friday	*Weekends and Holidays
1	Airside—Loading Dock/Service Tunnel—1st	350	\$450.00	\$0.00**	\$0.00**
2	Airside—Loading Dock/Service Tunnel—2nd	350	\$450.00	\$0.00**	\$0.00**
3	Airside—Loading Dock/Service Tunnel—3rd	350	\$450.00	\$0.00**	\$0.00**
4	Airside—Near Gate 18	350	\$450.00	\$0.00**	\$0.00**
5	Landside—Lower Road Way Terminal C—Zone 5	2,000	\$450.00	\$0.00**	\$0.00**
6	Landside—Lower Road Way Terminal C—Zone 7	2,000	\$450.00	\$0.00**	\$0.00**
7	Airside—Site 1/Column 22	750	\$450.00	\$0.00**	\$0.00**
8	Airside—Site 2/Column 11	750	\$450.00	\$0.00**	\$0.00**
9	Airside—Site 3/Column 7	750	\$450.00	\$0.00**	\$0.00**
10	Airside—Site 8/Column 26	750	\$450.00	\$0.00**	\$0.00**
11	Airside—Site 13/Column 45	750	\$450.00	\$0.00**	\$0.00**
12	Airside—Site 14/Column 60	750	\$450.00	\$0.00**	\$0.00**
13	Airside—Vino Volo/Column 31	750	\$450.00	\$0.00**	\$0.00**

* Services for Emergency Calls—After Hours: Weekends and major holidays (New Year’s Day, Memorial Day, July 4th, Thanksgiving Day, and Christmas Day) ** This service is included in the “Emergency Call Rate for Pumping and Cleaning”

2. Grease Interceptor Repair Services

Repairs shall be effected on a time and material bases. Contractor shall provide separate quote for each repair job. Contractor shall notify County Project Manager of all part costs and obtain approval prior to proceeding with services.

Labor: Labor hours shall be charged on the bases of actual time spent on each job, not on a portal to portal basis. Projects shall be estimated with ¼ to the nearest hours.

Equipment: Labor shall be inclusive of required equipment to accomplish repairs.

Materials: Materials will be reimbursed at cost, or state otherwise. A copy of the part receipt(s) must be submitted with the invoice for verification of price parts.

Repair Services	Hourly Rate
Regular Hours: Monday through Friday, 11:00 p.m.—5:00 a.m.	\$350.00
After Hours: Monday through Friday, including weekends and major holidays (New Year’s Day, Memorial Day, July 4 th , Thanksgiving Day and Christmas Day)	\$450.00

3. ~~Additional Services — Close Circuit Television Video (CCTV) Inspection~~

~~CCTV inspection and provision of a narrated copy of the work shall be effected on an hourly basis, inclusive of materials and equipment to perform the work.~~

Additional Services — CCTV Performance	Hourly Rate
Regular Hours: Monday through Friday, 11:00 p.m.— 5:00 a.m.	\$395.00
After Hours: Monday through Friday, including weekends and major holidays (New Year’s Day, Memorial Day, July 4th, Thanksgiving Day and Christmas Day)	\$495.00

C. ~~Final Payment~~

~~Final payment shall be issued based on the completion of the work as described in this Contract and County Project Manager accepts the all work and JWA issued badges are returned to Badging Office.~~

D. ~~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. Vendor 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.~~

E. ~~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~~

F. ~~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:~~

- ~~1. Contractor’s name and address~~
- ~~2. Contractor’s remittance address, if different from 1 above~~
- ~~3. Name of County Agency/Department~~
- ~~4. Delivery/service address~~
- ~~5. Master Agreement (MA) or Purchase Order (PO) number (Contract number)~~
- ~~6. Date of order and/or service dates~~
- ~~7. Product/service description, quantity, and prices~~
- ~~8. Sales tax, if applicable~~
- ~~9. Freight/delivery charges, if applicable~~
- ~~10. Total~~
- ~~11. Contractor’s Federal Taxpayer Identification Number~~
- ~~12. Contractor’s Invoice Number~~

~~Invoices and support documentation are to be forwarded to (not both):~~

Mailed to John Wayne Airport
Attention: Accounts Payable
3160 Airway Avenue
Costa Mesa, CA 92626

Or

Emailed to AccountsPayable@ocair.com