

CONTRACT MA-080-21010645

FOR

CONSTRUCTION SITE FLAGGER SERVICES

BETWEEN

OC PUBLIC WORKS

AND

MYERS & SONS HI-WAY SAFETY, INC.



**CONTRACT MA-080-21010645
WITH
MYERS & SONS HI-WAY SAFETY, INC.
FOR
CONSTRUCTION SITE FLAGGER SERVICES**

Amendment No. 1: Amend language to include Orange County Flood Control District

THIS CONTRACT MA-080-21010645 for Construction Site Flagger Services (hereinafter referred to as "Contract") is made and entered into as of the date fully executed by and between the County of Orange, a political subdivision of the State of California, (hereinafter referred to as "County"), Orange County Flood Control District, a body corporate and politic (hereinafter referred to as "District"), and Myers & Sons Hi-way Safety, Inc., with a place of business at 13310 5th Street, Chino CA 91710 (hereinafter referred to as "Contractor"), with a County and Contractor sometimes referred to as "Party" or collectively as "Parties".

ATTACHMENTS

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

Attachment A – Scope of Services

Attachment B – Payment/Compensation

Attachment C – Staffing Plan

Exhibit I- County of Orange Local Small Business (OCLSB) Preference Certification Requirements

RECITALS

WHEREAS, Contractor and County are entering into this Contract for Construction Site Flagger Services under a firm fixed fee Contract; and,

WHEREAS, County solicited Contract for Construction Site Flagger Services as set forth herein, and Contractor represented that it is qualified to provide Construction Site Flagger Services to the County as further set forth here; and,

WHEREAS, Contractor agrees to provide Construction Site Flagger Services to the County as further set forth in the Scope of Work, attached hereto as Attachment A; and,

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

WHEREAS, the County Board of Supervisors has authorized the Procurement Officer or designee to enter into a Contract for Construction Site Flagger Services with the Contractor; and,

WHEREAS, the District relies on County staff to carry out its duties pursuant to the Orange County Flood Control District Act, Water Code App. §§ 36-1 et seq., and County staff may request Contractor to perform services under this Contract on behalf of District; and,

NOW, THEREFORE, the Parties mutually agree as follows:

DEFINITIONS

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

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 Procurement Officer or designee.
- C. **Amendments:** No alteration or variation of the terms of this Contract shall be valid unless made in writing and signed by the parties; no oral understanding or agreement not incorporated herein shall be binding on either of the parties; and no exceptions, alternatives, substitutes or revisions are valid or binding on County unless authorized by County in writing.
- D. **Taxes:** Unless otherwise provided herein or by law, price quoted does not include California state sales or use tax. Out-of-state Contractors shall indicate California Board of Equalization permit number and sales permit number on invoices, if California sales tax is added and collectable. If no permit numbers are shown, sales tax will be deducted from payment. The Auditor-Controller will then pay use tax directly to the State of California in lieu of payment of sales tax to the Contractor.
- E. **Delivery:** Time of delivery of goods or services is of the essence in this Contract. County reserves the right to refuse any goods or services and to cancel all or any part of the goods not conforming to applicable specifications, drawings, samples 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 indemnities as identified in **article "Z"** below, and as more fully described in **article "Z,"** harmless from liability, loss, damage and expense, including reasonable counsel fees, incurred or sustained by County by reason of the failure of the goods/services to conform to such warranties, faulty work performance, negligent or unlawful acts, and non-compliance with any applicable state or federal codes, ordinances, orders, or statutes, including the Occupational Safety and Health Act (OSHA) and the California Industrial Safety Act. Such remedies shall be in addition to any other remedies provided by law.

- H. **Patent/Copyright Materials/Proprietary Infringement:** Unless otherwise expressly provided in this Contract, Contractor shall be solely responsible for clearing the right to use any patented or copyrighted materials in the performance of this Contract. Contractor warrants that any software as modified through services provided hereunder will not infringe upon or violate any patent, proprietary right, or trade secret right of any third party. Contractor agrees that, in accordance with the more specific requirement contained in **article "Z"** below, it shall indemnify, defend and hold County and County Indemnitees harmless from any and all such claims and be responsible for payment of all costs, damages, penalties and expenses related to or arising from such claim(s), including, costs and expenses but not including attorney's fees.
- I. **Assignment:** The terms, covenants, and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators and assigns of the parties. Furthermore, neither the performance of this Contract nor any portion thereof may be assigned by Contractor without the express written consent of County. Any attempt by Contractor to assign the performance or any portion thereof of this Contract without the express written consent of County shall be invalid and shall constitute a breach of this Contract.
- J. **Non-Discrimination:** In the performance of this Contract, Contractor agrees that it will comply with the requirements of Section 1735 of the California Labor Code and not engage nor permit any subcontractors to engage in discrimination in employment of persons because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, or sex of such persons. Contractor acknowledges that a violation of this provision shall subject Contractor to penalties pursuant to Section 1741 of the California Labor Code.
- K. **Termination:** In addition to any other remedies or rights it may have by law, County has the right to immediately terminate this Contract without penalty for cause or after 30 days' written notice without cause, unless otherwise specified. Cause shall be defined as any material breach of contract, any misrepresentation or fraud on the part of the Contractor. Exercise by County of its right to terminate the Contract shall relieve County of all further obligation.
- L. **Consent to Breach Not Waiver:** No term or provision of this Contract shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. Any consent by any party to, or waiver of, a breach by the other, whether express or implied, shall not constitute consent to, waiver of, or excuse for any other different or subsequent breach.
- M. **Independent Contractor:** Contractor shall be considered an independent contractor and neither Contractor, its employees, nor anyone working under Contractor shall be considered an agent or an employee of County. Neither Contractor, its employees nor anyone working under Contractor shall qualify for workers' compensation or other fringe benefits of any kind through County.
- N. **Performance Warranty:** Contractor shall warrant all work under this Contract, taking necessary steps and precautions to perform the work to County's satisfaction. Contractor shall be responsible for the professional quality, technical assurance, timely completion and coordination of all

documentation and other goods/services furnished by the Contractor under this Contract. Contractor shall perform all work diligently, carefully, and in a good and workmanlike manner; shall furnish all necessary labor, supervision, machinery, equipment, materials, and supplies, shall at its sole expense obtain and maintain all permits and licenses required by public authorities, including those of County required in its governmental capacity, in connection with performance of the work. If permitted to subcontract, Contractor shall be fully responsible for all work performed by subcontractors.

Amendment No. 1: Amend language to update to current requirements and include Orange County Flood Control District

O. Insurance Requirements:

Prior to the provision of services under this Contract, the Contractor agrees to carry 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 current, provide Certificates of Insurance, and endorsements to 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 (SIR)’s shall be clearly stated on the Certificate of Insurance. Any SIR in excess of Fifty Thousand Dollars \$50,000 shall specifically be approved by the County’s Risk Manager, or designee. The County reserves the right to require current audited financial reports from Contractor. If Contractor is self-insured, Contractor will indemnify the County for any and all claims resulting or arising from Contractor’s services in accordance with the indemnity provision stated in this contract.

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

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

Qualified Insurer

The policy or policies of insurance must be issued by an insurer with a minimum rating of A- (Secure A.M. Best's Rating) and VIII (Financial Size Category as determined by the most current edition of the **Best's Key Rating Guide/Property-Casualty/United States or ambest.com**). ~~It is preferred, but not mandatory, that the insurer be licensed to do business in the state of California (California Admitted Carrier).~~

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

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

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

Increased insurance limits may be satisfied with Excess/Umbrella policies. Excess/Umbrella policies when required must provide Follow Form coverage.

Required Coverage Forms

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

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

Required Endorsements

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

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

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

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

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

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

Insurance certificates should be emailed to OCPWCompliance@ocpw.ocgov.com

If email is not possible, then Insurance certificates should specifically be forwarded to:

OC Public Works
Attn: OCPW Procurement
601 N. Ross Street, 4th Floor
Santa Ana, CA 92701

If the Contractor fails to provide the insurance certificates and endorsements within seven (7) days of notification by CEO/Procurement or the agency/department procurement division, award may be made to the next qualified vendor.

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

County shall notify Contractor in writing of changes in the insurance requirements. If Contractor does not provide acceptable Certificates of Insurance and endorsements to 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 **article "Z"** below, Contractor agrees that it shall defend, indemnify and hold County and County INDEMNITEES harmless from all liability, damages, costs and expenses arising from or related to a violation of such laws.
- U. **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, District, and their 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 or District by a court of competent jurisdiction because of the concurrent active negligence of County, District or County Indemnitees, Parties agree that liability will be apportioned as determined by the court. No party shall request a jury apportionment.
- AA. **Audits/Inspections:** Contractor agrees to permit the County's Auditor-Controller or the Auditor-Controller's authorized representative (including auditors from a private auditing firm hired by the County) access during normal working hours to all books, accounts, records, reports, files, financial records, supporting documentation, including payroll and accounts payable/receivable records, and other papers or property of Contractor for the purpose of auditing or inspecting any aspect of performance under this Contract. The inspection and/or audit will be confined to those matters connected with the performance of the Contract including, but not limited to, the costs of administering the Contract. The County will provide reasonable notice of such an audit or inspection.

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

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

Should the Contractor cease to exist as a legal entity, the Contractor's records pertaining to this Contract shall be forwarded to the County's project manager.

- BB. **Contingency of Funds:** Contractor acknowledges that funding or portions of funding for this Contract may be contingent upon state budget approval; receipt of funds from, and/or obligation of funds by, the state of California to County; and inclusion of sufficient funding for the services hereunder in the budget approved by County's Board of Supervisors for each fiscal year covered by this Contract. If such approval, funding or appropriations are not forthcoming, or are otherwise limited, County may immediately terminate or modify this Contract without penalty.
- CC. **Expenditure Limit:** The Contractor shall notify the County of Orange assigned Deputy Purchasing Agent in writing when the expenditures against the Contract reach 75 percent of the dollar limit on the Contract. The County will not be responsible for any expenditure overruns and will not pay for work exceeding the dollar limit on the Contract unless a change order to cover those costs has been issued.

Additional Terms and Conditions:

1. **Scope of Contract:** This Contract specifies the contractual terms and conditions by which the County will procure Construction Site Flagger 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 commence on December 11, 2020 and continue for three (3) calendar years from that date, unless otherwise terminated by County. This Contract may be renewed as set forth in article 3 below.

Amendment No. 1: Renew Contract for 1 year

3. **Renewal:** This Contract may be renewed by mutual written agreement of both Parties for Two (2) additional one (1) year terms. The County does not have to give reason if it elects not to renew. Renewal periods may be subject to approval by the County of Orange Board of Supervisors.

Contract shall be renewed for one (1) year from December 11, 2023 and through December 10, 2024, unless otherwise terminated as provided herein.

4. **Adjustments – Scope of Work:** No adjustments made to the Scope of Work will be authorized without prior written approval of the County assigned Deputy Purchasing Agent.
5. **Breach of Contract:** The failure of the Contractor to comply with any of the provisions, covenants or conditions of this Contract shall be a material breach of this Contract. In such event the County

may, and in addition to any other remedies available at law, in equity, or otherwise specified in this Contract:

- a) Terminate the Contract immediately, pursuant to Section K herein;
 - b) Afford the Contractor written notice of the breach and ten (10) calendar days or such shorter time that may be specified in this Contract within which to cure the breach;
 - c) Discontinue payment to the Contractor for and during the period in which the Contractor is in breach; and
 - d) Offset against any monies billed by the Contractor but yet unpaid by the County those monies disallowed pursuant to the above.
6. **Civil Rights:** Contractor attests that services provided shall be in accordance with the provisions of Title VI and Title VII of the Civil Rights Act of 1964, as amended, Section 504 of the Rehabilitation Act of 1973, as amended; the Age Discrimination Act of 1975 as amended; Title II of the Americans with Disabilities Act of 1990, and other applicable State and federal laws and regulations prohibiting discrimination on the basis of race, color, national origin, ethnic group identification, age, religion, marital status, sex or disability.
7. **Conflict of Interest – 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.
8. **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 five (5) business days after written notice by the County’s Project Manager. The County’s Project Manager shall review and approve the appointment of the replacement for the Contractor’s Project Manager. The County is not required to provide any additional information, reason or rationale in the event it requires the removal of Contractor’s Project Manager from providing further services under the Contract.
9. **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.
10. **Cooperative Agreement:** The provisions and pricing of this Contract will be extended to other California local or state governmental entities. Governmental entities wishing to use the pre-

negotiated prices and terms in this Contract will be responsible for issuing their own purchase documents/contracts, providing for their own acceptance, and making any subsequent payments. Contractor shall be required to include in any contract entered into with another department or entity that is entered into and incorporates by reference the pre-negotiated prices and terms of this Contract a contractual 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 by Contractor and grounds for immediate Contract termination. Departments or entities making use of the pre-negotiated prices and terms of this Contract are responsible for obtaining all certificates of insurance and bonds required when entering into their own contract. 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.

11. **County's Safety and Loss Prevention Resource Manual:** Contractor shall comply with the County's Safety and Loss Prevention Resource Manual and submit a copy of their Injury and Illness Prevention Program (IIPP) to the Project Manager prior to the start of the project. The IIPP shall meet the minimum requirement of California Code of Regulations, Title 8, Section 1509 or 3203. Contractor shall submit other safety programs that pertain to the type of job that will be performed on site.
12. **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.
13. **Default – Reprourement Costs:** In case of Contract breach by Contractor, resulting in termination by the County, the County may procure the goods and/or services from other sources. If the cost for those goods and/or services is higher than under the terms of the existing Contract, Contractor will be responsible for paying the County the difference between the Contract cost and the price paid, and the County may deduct this cost from any unpaid balance due the Contractor. The price paid by the County shall be the prevailing market price at the time such purchase is made. This is in addition to any other remedies available under this Contract and under law.
14. **Disputes – Contract:**
 - A. The parties shall deal in good faith and attempt to resolve potential disputes informally. If the dispute concerning a question of fact arising under the terms of this Contract is not disposed of in a reasonable period of time by the Contractor's Project Manager and the County's Project Manager, as specified in Article 19. "Notices," such matter shall be brought to the attention of the County Deputy Purchasing Agent by way of the following process:
 1. The Contractor shall submit to the agency/department assigned Deputy Purchasing Agent a written demand for a final decision regarding the disposition of any dispute between the parties arising under, related to, or involving this Contract, unless the County, on its own initiative, has already rendered such a final decision.

2. The Contractor's written demand shall be fully supported by factual information, and, if such demand involves a cost adjustment to the Contract, the Contractor shall include with the demand a written statement signed by a senior official indicating that the demand is made in good faith, that the supporting data are accurate and complete, and that the amount requested accurately reflects the Contract adjustment for which the Contractor believes the County is liable.

B. Pending the final resolution of any dispute arising under, related to, or involving this Contract, the Contractor agrees to diligently proceed with the performance of this Contract, including the delivery of goods and/or provision of services. The Contractor's failure to diligently proceed shall be considered a material breach of this Contract.

Any final decision of the County shall be expressly identified as such, shall be in writing, and shall be signed by the County Deputy Purchasing Agent or his designee. If the County fails to render a decision within 90 days after receipt of the Contractor's demand, it shall be deemed a final decision adverse to the Contractor's contentions. Nothing in this section shall be construed as affecting the County's right to terminate the Contract for cause or termination for convenience as stated in section K herein.

15. **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.

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

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

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

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

17. **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.

18. **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.

19. **News/Information Release:** The Contractor agrees that it will not issue any news releases in connection with either the award of this Contract or any subsequent amendment of or effort under this Contract without first obtaining review and written approval of said news releases from the County through the County's Project Manager.
20. **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.
21. **County of Orange Local Small Business Preference Requirements:** Contractor certifies it is in compliance with County of Orange Local Small Business Preference requirements at the time this contract is executed.

Contractor: Myers & Sons Hi-way Safety, Inc.
Attn: Luis Diaz
13310 5th Street
Chino, CA 91710
Phone: 909-591-1781
Email: LuisD@hiwaysafety.com

County's Project Manager: OC Public Works/Operations & Maintenance
Attn: Alex Ortega
2301 N Glassell St.
Orange CA, 92833
Phone: 714-955-0342
Email: Alex.Ortega@ocpw.ocgov.com

cc: OC Public Works/Procurement Section
Attn: Derek Coor, County DPA
601 North Ross Street
Santa Ana, CA 92702
Phone: 714-667-9651

Email: Derek.Coor@ocpw.ocgov.com

22. **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.
23. **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.
24. **Usage:** No guarantee is given by the County to the Contractor regarding usage of this Contract. Usage figures, if provided, are approximations. The Contractor agrees to supply services and/or commodities requested, as needed by the County of Orange, at rates/prices listed in the Contract, regardless of quantity requested.
25. **Usage Reports:** The Contractor shall submit usage reports on an annual basis to the assigned Deputy Purchasing Agent of the County of Orange user agency/department. The usage report shall be in a format specified by the user agency/department and shall be submitted 90 days prior to the expiration date of the contract term, or any subsequent renewal term, if applicable.
26. **Registration of Contractors:** All contractors and subcontractors must comply with the requirements of Labor Code Section 1771.1(a), pertaining to registration of contractors pursuant to Section 1725.5. Bids cannot be accepted from unregistered contractors except as provided in Section 1771.1. This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. After award of the contract, Contractor and each Subcontractor shall furnish electronic payroll records directly to the Labor Commissioner in the manner specified in Labor Code Section 1771.4.

Awarding agencies are not required to submit the notice of contract award through DIR's PWC-100 system on projects that fall within the small project exemption. The small project exemption applies for all public works projects that do not exceed:

- \$25,000 for new construction, alteration, installation, demolition or repair
- \$15,000 for maintenance

If the project meets or exceeds these amounts, the County and the Contractor are required to register the project with the California Department of Industrial Relations.

<https://www.dir.ca.gov/Public-Works/PublicWorks.html>

27. **Prevailing Wage: (Labor Code §1773):** Pursuant to the provisions of Section 1773 of the Labor Code of the state of California, the contractor shall comply with the general prevailing 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.

Signature Page follows

Signature Page

IN WITNESS WHEREOF, the Parties hereto have executed this Contract on the date following their respective signatures.

MYERS & SONS HI-WAY SAFETY, INC.*

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

COUNTY AUTHORIZED SIGNATURE:

Signature	(Print) Name	Title	Date
		Deputy Purchasing Agent	

APPROVED AS TO FORM:

County Counsel

By _____
Deputy

Date _____

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

Attachment A
Scope of work

I. SCOPE OF WORK: Contractor shall provide all labor, materials, tools, and equipment required for Construction Site Traffic Control/Flaggers. Services shall be provided on an as-needed basis as required by the County.

II. SPECIFICATIONS: Contractor shall provide all equipment as specified herein.

- A. Acceptable equipment shall be pickup trucks and/or stake beds with light bars and/or beacons.
- B. Acceptable equipment also includes everything in line items.
- C. All vehicles utilized in the performance of this Contract must meet all vehicle operating requirements of the State of California Department of Motor Vehicles, CAL OSHA regulations, and all other applicable codes required in the State of California.
- D. All vehicles shall be adequately maintained both mechanically and visually by Contractor, and shall be fully operational at all times.

III. CONTRACTOR REQUIREMENTS:

- A. Contractor shall provide services under this Contract in accordance with the California Manual on Uniform Traffic Control Devices, Chapter 6E, 2012 edition.
- B. Contractor shall ensure that all flaggers utilized under this Contract shall be properly trained in the fundamentals of flagging moving traffic in accordance with the California Code of Regulations, Title 8, Section 1599.
- C. Contractor shall have the capability of supplying traffic control and flaggers for any one job site or for use at multiple job sites as required by County and/or District.
- D. Contractor shall supply flaggers and the flaggers shall wear and bring all the proper safety equipment to the job sites which shall include, but not be limited to stop/slow paddles, flashlights, hardhats, safety vests, jackets, or shirts manufactured in accordance with the requirements of the American National Standards Institute (ANSI)/International Safety Equipment Association (ISEA) 107-2004, High Visibility Safety Apparel and Headwear.
- E. Contractor shall respond to requests on a 24-hour a day, 7-day a week basis.
- F. Contractor's response time to County's requests for Construction Site Flaggers in an emergency is critical. Contractor shall respond within two (2) hours of request for flaggers in an emergency. Contractor shall provide County Project Manager with a precise response time at the time of ordering. Failure to provide accurate response under emergency requests shall be grounds for immediate termination of this Contract.
- G. Contractor is required to provide the names and telephone numbers of personnel available 24-hours at the beginning of this Contract and on October 1st of each succeeding year.
- H. Contractor's Personnel:

1. **Background/Security:** All personnel engaged in performance of this Contract shall be warranted to possess sufficient experience and security records to perform this work. Contractor shall conduct a thorough background investigation of each employee providing services under this Contract, including but not limited to, investigation of employment and police records and shall maintain copy of that request.
2. **Conduct:** Contractor personnel providing services under this Contract shall not be incompetent, disorderly, under the influence of alcohol or drugs, or fail to perform the work properly and acceptably. While performing services under this Contract, personnel consistently come into contact with the general public. Personnel must be respectful and courteous to the public at all times.

IV. PERFORMANCE REQUIREMENTS:

- A. Flaggers, while on duty and assigned to give warning to the public of any dangerous conditions to be encountered, shall perform their duties in a professional manner.
- B. The equipment shall be furnished and kept clean and in good repair by Contractor, at Contractor's expense.
- C. Flaggers shall set up traffic control and direct all pedestrian and/or vehicle traffic through and/or around construction projects using stop/slow paddles.
- D. Flaggers shall utilize County supplied handheld two-way radios to communicate between flaggers and County and/or District personnel. Contractor shall be responsible for the repair and/or replacement of any lost or damaged County two-way radio. The two-way radios shall be issued by County when Contractor arrives at the job site and Contractor shall return the two-way radios at the end of each day/shift. Contractor shall never leave the job site with the two-way radios.
- E. Contractor is required to check in and check out of the job site with the Project Manager to pick up and return the two-way radios and receive job assignment.

V. OPERATING HOURS:

- A. **Regular Work Hours** shall be 6:00 A.M. – 3:30 P.M., Monday through Friday (8hour days)
- B. **Overtime/Saturday/Sundays/Holidays:** shall be all day Saturday, Sundays and Holidays.
- C. Variations of these hours may be required to meet specific job requirements.
- D. Contractor shall perform work in strict accordance with the work hours and work days arranged with the Project Manager.

VI. GENERAL CONDITIONS:

- A. If or when Contractor does not provide service as specified, County and/or District may provide or Contract with others to provide the services and the amount payable under the Contract shall be reduced by the cost to County and/or District of labor, material, overhead, and administration for such corrective action. Such action does not constitute an acceptable alternative to performance of the work by Contractor.
- B. Portal to portal charges shall **NOT** be allowed by County and District. Labor hours shall be charged on basis of actual time spent on each job, not on a portal-to-portal basis and shall be computed nearest one-quarter (1/4) hour. Contractor is required to check in and check out of the job site with the Project Manager.

VII. COUNTY AND/OR DISTRICT'S REQUIREMENTS:

- A. County's Project Manager will be responsible for requesting Construction Site Flaggers from Contractor.
- B. Routine Requests:
 - 1. County will place orders for traffic control, flaggers and equipment at least 24 hours in advance of the required date.
 - 2. Specific information regarding the job location, work hours, possible special conditions, and other job information will be provided at the time of the request.
 - 3. Period of usage shall be given at the time of the request to the best of County's estimation.
- C. Emergency Requests:
 - 1. County and/or District will call Contractor as need occurs, which may be at any time (24 hours a day) to furnish flaggers on an immediate response. In emergency situations Contractor shall respond within two (2) hours and will be expected to quote reasonable time frames for the arrival of crews to the location specified. **Contractor is advised not to quote time frames that cannot be met, and failure to provide crews in the time frame quoted may result in the termination of this Contract.**
 - 2. County will provide Contractor with as much specific information as is available, with final details sometimes being furnished directly to the crews by County and/or District staff at the job site.

**ATTACHMENT B
CONTRACTOR'S PRICING**

- I. COMPENSATION:** This is a fixed-rate usage Contract between the County and District and Contractor for Construction Site Flaggers on an as needed basis, as set forth in Attachment A "Scope of Work".

The Contractor agrees to accept the specified compensation as set forth in this Contract as full remuneration for performing all services and furnishing all staffing, shipping/freight, labor 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 below for work performed in accordance with the Scope of Work. **The County and District shall have no obligation to pay any sum in excess of the Fixed Rates and Total Not to Exceed Contract Amount specified herein unless authorized by amendment in accordance with Articles 28 and 43 of the County Contract Terms and Conditions, which may require approval by the County Board of Supervisors.**

- II. FEES AND CHARGES:** Payment shall be made in accordance with the provisions of this Contract.

Line Item	Description	Day Rate(8 Hrs. Monday-Friday)	Rate per Hour O.T after 8 Hrs.	Rate per day 8 Hrs. Weekends & holidays
1.	2 MAN CREW ONSITE UP TO 8 HOURS WITH EQUIPMENT: \$ 12 - PRE-WARNING SIGNS, 8 - TYPE I BARRICADES, 75 - CONES & 2 - 2WAY RADIOS. SINGLE FLAGGER	\$1,456.00	\$196.00	\$1,568.00
2.	1 MAN CREW ONSITE UP TO 8 HOURS WITH EQUIPMENT: \$ 8 - PRE-WARNING SIGNS, 8 - TYPE I BARRICADES, 50 - CONES.	\$732.50	\$98.00	\$784.00
3.	HIGH SPEED LANE CLOSER; 2 MAN CREW ONSITE UP TO 8 HOURS WITH EQUIPMENT: \$ 8 - PRE-WARNING SIGNS, 8 - TYPE I BARRICADES, 100 - CONES & 1 - SOLAR ARROW BOARD.	\$1,520.00	\$196.00	\$1,623.00
4.	HIGH SPEED LANE CLOSER; 1 MAN CREW ONSITE UP TO 8 HOURS WITH EQUIPMENT: \$ 8 - PRE-WARNING SIGNS, 8 - TYPE I BARRICADES, 50 - CONES & 1 - SOLAR ARROW BOARD	\$787.50	\$98.00	\$839.00
5.	ATTENUATOR TRUCK RENTAL	\$875.00	\$98.00	\$975.00
6.	TEMPORARY CRASH CUSHION RENTAL	\$55.00	\$55.00	\$55.00
7.	LIGHT TOWER RENTAL	\$95.00	\$95.00	\$95.00
8.	TEMPORARY BARRIER RENTAL	\$78.00	\$78.00	\$78.00
9.	TEMPORARY CHANNELIZER AND BARRICADE RENTALS	\$2.50	\$2.50	\$2.50
10.	CONSTRUCTION SIGN RENTAL	\$3.50	\$3.50	\$3.50

11.	RADAR SPEED TRAILER RENTAL	\$65.00	\$65.00	\$65.00
12.	FLASHING BEACON RENAL	\$9.50	\$9.50	\$9.50
13.	MISCELLANEOUS ITEM LINE	\$0	\$0	\$0

A. Cost shall be used off line items per day.

Amendment No. 1: Renew Contract for 1 year

B. **Total Not-to-Exceed Contract Amount:*** **\$1,500,000.00**

C. First Renewal Term Total Contract Amount Not to Exceed: \$300,000.00

III. PRICE INCREASES/DECREASES: No rate increases will be permitted during the first period of the Contract. All rate decreases will automatically be extended to the County and District. The County and District require bona fide proof of cost increases on Contracts prior to any rate adjustment. A minimum of one hundred eighty (180) days advance notice in writing is required to secure such adjustment. No retroactive rate adjustments will be considered. The County and District may enforce, adjust, negotiate, or cancel escalating rate 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.

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

V. CONTRACTOR’S EXPENSE: The Contractor will be responsible for all costs related to photo copying, telephone communications and fax communications while on County and/or District sites during the performance of work and services under this Contract.

VI. PAYMENT TERMS: Invoices are to be submitted in arrears, after goods have been received. Payment will be net 30 days after receipt of an invoice in a format acceptable to the County of Orange. Invoices shall be verified and approved by the County and subject to routine processing requirements. The responsibility for providing an acceptable invoice to the County for payment rests with the Contractor. Incomplete or incorrect invoices are not acceptable and will be returned to the Contractor for correction.

Billing shall cover goods not previously invoiced. The Contractor shall reimburse the County of Orange and/or District for any monies paid to the Contractor for goods not provided, or when goods do not meet the contract requirements.

Payments made by the County shall not preclude the right of the County and/or District from thereafter disputing any items involved or billed under this contract and shall not be construed as acceptance of any part of the goods.

VII. INVOICING INSTRUCTIONS: The Contractor will provide an invoice on the Contractor’s letterhead. Each invoice will have a unique number and will include the following information:

- A. Contractor’s name and address
- B. Contractor’s remittance address, if different from (A), above

- C. Name of County agency/department
- D. Delivery/service address
- E. Contract number
- F. Service Date
- G. Description of Services
- H. Total
- I. Taxpayer ID number

Invoices and support documentation are to be forwarded to:

OC Public Works/Procurement Services
Attn: Ligia Godinez
2301 N. Glassell Street, 2nd Floor
Orange, CA 92865

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

**ATTACHMENT C
STAFFING PLAN
(IF APPLICABLE)**

1. Key Personnel

Name	Classification /Designation	Licenses/Certifications (Include license/certification number)	Years of Experience	Length of Time with Firm

Contractor understands that the individuals represented as assigned to the Contract must remain working on the Contract throughout the duration of the Contract unless otherwise requested or approved by County. Substitution of Contractor’s Key Personnel shall be allowed only with prior written approval of County’s Project Manager.

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

2. Subcontractor(s)

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

Company Name & Address	Contact Name and Telephone Number	Project Function

EXHIBIT I

**COUNTY OF ORANGE LOCAL SMALL BUSINESS (OCLSB) PREFERENCE
CERTIFICATION REQUIREMENTS**

To participate as an OCLSB the following requirements must be met:

- 1) A local small business must be certified with State of California the Department of General Services (DGS) as a Small Business - <https://caleprocure.ca.gov/pages/sbdvbe-index.aspx>
- 2) Upon certification as Small Business with DGS, the local small business shall access the OCLSB Preference portal at OCLSBverify.com, search their legal company/business name in the County's database and print the OCLSB Certification.
 - a. Business name shall match the Company Legal Name specified on the Company Profile.
- 3) Complete and sign the OCLSB Affirmation form attached herein. The signed Affirmation form and the OCLSB Certification are required and must be returned with the solicitation response in order to compete as an OLSB.
- 4) OCLSB Preference provides for the following:
 - a. Invitation for Bid – IFB
When the lowest bidder is not an OCLSB, the sole lowest certified OCLSB within five percent (5%) of the lowest bid shall be given the opportunity to price match. To participate as an OCLSB, the sole lowest qualified OCLSB must accept the County's offer to price match within three (3) business days from the County's offer, unless otherwise specified by the County.
 - b. Request for Proposal - RFP
An extra five percent (5%) shall be applied to the tallied score of each certified OCLSB to obtain the final score. If the final score of any OCLSB matches the final score of a non-OCLSB, preference shall be given to the certified OCLSB. If two or more OCLSBs have the same final score, the County shall determine the contract award based on the County's best interest.

OCLSB Certification must be valid at the date/time solicitation is closed, and it shall remain in effect at the time of contract award. County reserves the right to verify and/or reject incomplete documents.

County of Orange Local Small Business (OCLSB) Affirmation

To be certified as a Local Small Business by the County of Orange, a business shall meet (1) and (2) below:

- (1) Local Business requirements:
 - a) maintains their principal center of operations (i.e. headquarters) within Orange County, and;
 - b) has:
 - i. a business address located in the County of Orange that is not a post office box, or
 - ii. a valid business license or certificate of occupancy issued by the County of Orange or by an Orange County city, or other documentation acceptable to the County of Orange.

- (2) Small Business requirements:
 - a) must be certified as a Small Business by the State of California Department of General Services (DGS); and,
 - b) DGS Small Business requirements must be valid at the time of bid/proposal submittal.

I, certify that _____, (legal company/business name) is certified as an Orange County Local Small Business in accordance to OCLSB Preference certification requirements and currently meets the requirements set forth above.

Print Name

Title

Authorized Signature

Date

Please check below:

OCLSB Certificate attached

County Use Only

Solicitation Number:

Solicitation Description:

File Folder Number: