

CONTRACT CT-012-22010685
BETWEEN
COUNTY OF ORANGE, OC COMMUNITY RESOURCES
AND
HABITAT WEST, INC.
FOR
INVASIVE PLANT CONTROL SERVICES

This Contract CT-012-22010685 for Invasive Plant Control 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 on behalf of OC Community Resources, OC Parks hereinafter referred to as “County” and Habitat West, Inc., with a place of business at 2067 Wineridge Pl #B, Escondido CA 92029, hereinafter referred to as “Contractor”, with County and Contractor sometimes individually referred to as “Party”, or collectively referred to 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 Work
Attachment B – Payment and Compensation
Exhibit 1 – Project Maps
Exhibit 2 – 2021-22 Weed Priority List
Exhibit 3 – County of Orange Integrated Pest Management (IPM) Requirements
Exhibit 4 – County Best Management Practices (BMPs)

RECITALS

WHEREAS, County solicited Contract for Invasive Plant Control Services as set forth herein, and Contractor responded and represented that it is qualified to provide Services to the County as further set forth here; and

WHEREAS, Contractor agrees to provide Invasive Plant Control 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 and Compensation, attached hereto as Attachment B; and

NOW, THEREFORE, the Parties mutually agree as follows:

ARTICLES

I. 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 Contractor.
- E. **Delivery:** Time of delivery of commodities and services is of the essence in this Contract. County reserves the right to refuse any commodities and services and to cancel all or any part of the commodities not conforming to applicable specifications, drawings, samples or descriptions or services that do not conform to the prescribed scope of work. Acceptance of any part of the order for commodities shall not bind County to accept future shipments nor deprive it of the right to return commodities already accepted at Contractor's expense. Over shipments and under shipments of commodities shall be only as agreed to in writing by County. Delivery shall not be deemed to be complete until all commodities 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 commodities/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 commodities 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 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 commodities/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 Indemnites 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 Contractor. Exercise by County of its right to terminate 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 commodities/services furnished by 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:** Prior to the provision of services under this contract, Contractor agrees to purchase all required insurance at Contractor's expense, including all endorsements required herein, necessary to satisfy 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 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 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 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 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 Contractor's SIR provision shall be interpreted as though Contractor was an insurer and County was the insured.

If Contractor fails to maintain insurance acceptable to County for the full term of this contract, 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 Contractor shall provide the minimum limits and coverage as set forth below:

<u>Coverage</u>	<u>Minimum Limits</u>
Commercial General Liability	\$1,000,000 per occurrence
	\$2,000,000 aggregate

Automobile Liability including coverage for owned, non-owned and hired vehicles	\$1,000,000 per occurrence
Workers' Compensation	Statutory
Employers' Liability Insurance	\$1,000,000 per occurrence

Required Coverage Forms

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

The Business Auto Liability coverage shall be written on ISO form CA 00 01, CA 00 05, CA 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 ***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 Contractor's insurance is primary and any insurance or self-insurance maintained by 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 ***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 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 Contract, upon which 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 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 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 County agrees to an assignment of 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 County.

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

In addition, Contractor has the duty to notify County in writing of any change in Contractor's status with respect to name changes that do not require an assignment of Contract. Contractor is also obligated to notify County in writing if Contractor becomes a party to any litigation against County, or a party to litigation that may reasonably affect Contractor's performance under 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 County any time there is a change in Contractor's name, conflict of interest or litigation status, Contractor must also provide an update to County of its status in these areas whenever requested by County.

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 Contractor, this obligation shall apply to Contractor's employees, agents, and subcontractors associated with the provision of goods and services provided under this Contract. 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 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:** 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. 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. Contractor shall retain all such documentation for all covered employees for the period prescribed by the law. Contractor shall indemnify, defend with counsel approved in writing by County, and hold harmless, County, its agents, officers, and employees from employer sanctions and any other liability which may be assessed against Contractor or 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 County's Auditor-Controller or the Auditor-Controller's authorized representative (including auditors from a private auditing firm hired by 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 Contract including, but not limited to, the costs of administering Contract. County will provide reasonable notice of such an audit or inspection.

County reserves the right to audit and verify 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 County to audit records and interview staff of any subcontractor related to performance of this Contract.

Should Contractor cease to exist as a legal entity, Contractor's records pertaining to this Contract shall be forwarded to 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:** Contractor shall notify County of Orange assigned Deputy Purchasing Agent in writing when the expenditures against Contract reach 75 percent of the dollar limit on Contract. County will not be responsible for any expenditure overruns and will not pay for work exceeding the dollar limit on Contract unless a change order to cover those costs has been issued.

Additional Terms and Conditions:

1. **Scope of Contract:** This Contract specifies Contractual terms and conditions by which County will procure Invasive Plant Control 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 upon execution of all necessary signatures and continue through and including ~~June 30, 2022~~, **July 31, 2022**, unless otherwise terminated by County. This contract may be extended with no additional cost, upon mutual concurrence, but cannot be renewed.
3. **Breach of Contract:** The failure of 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 County may,

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

- a. Terminate Contract immediately, pursuant to Section K herein;
 - b. Afford 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 Contractor is in breach; and
 - d. Offset against any monies billed by Contractor but yet unpaid by County those monies disallowed pursuant to the above.
4. **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.
 5. **Conflict of Interest – Contractor’s Personnel:** Contractor shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with the best interests of County. This obligation shall apply to Contractor; Contractor’s employees, agents, and subcontractors associated with accomplishing work and services hereunder. 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 County.
 6. **Conflict of Interest – County Personnel:** County of Orange Board of Supervisors policy prohibits its employees from engaging in activities involving a conflict of interest. Contractor shall not, during the period of this Contract, employ any County employee for any purpose.
 7. **Contractor’s Project Manager and Key Personnel:** Contractor shall appoint a Project Manager to direct Contractor’s efforts in fulfilling Contractor’s obligations under this Contract. This Project Manager shall be subject to approval by County and shall not be changed without the written consent of County’s Project Manager, which consent shall not be unreasonably withheld.

Contractor’s Project Manager shall be assigned to this project for the duration of Contract and shall diligently pursue all work and services to meet the project time lines. County’s Project Manager shall have the right to require the removal and replacement of Contractor’s Project Manager from providing services to County under this Contract. County’s Project manager shall notify Contractor in writing of such action. Contractor shall accomplish the removal within five (5) business days after written notice by County’s Project Manager. County’s Project Manager shall review and approve the appointment of the replacement for Contractor’s Project Manager. 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 Contract.
 8. **Contractor Personnel – Reference Checks:** 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.

9. **Contractor Personnel – Uniform/Badges/Identification:** Contractor warrants that all persons employed to provide service under this Contract have satisfactory past work records indicating their ability to accept the kind of responsibility 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 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 (7) 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 (7) days prior to any changes in this procedure.

10. **Contractor's Records:** Contractor shall keep true and accurate accounts, records, books and data which shall correctly reflect the business transacted by 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 County. Storage of records in another county will require written approval from County of Orange assigned Deputy Purchasing Agent.

11. **Conditions Affecting Work:** 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 Contractor to do so will not relieve Contractor from responsibility for successfully performing the work without additional cost to County. 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 County are expressly stated in Contract.

12. **Cooperative Contract:** 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 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. Contractor is responsible for providing each cooperative entity a copy of Contract upon request by the cooperative entity. County of Orange makes no guarantee of usage by other users of this Contract.

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 County, at County's request.

13. **Data – Title To:** All materials, documents, data or information obtained from County data files or any County medium furnished to Contractor in the performance of this Contract will at all times remain the property of County. Such data or information may not be used or copied for direct or indirect use by Contractor after completion or termination of this Contract without the express written consent of County. All materials, documents, data or information, including copies, must be returned to County at the end of this Contract.

14. **Default – Re-Procurement Costs:** In case of Contract breach by Contractor, resulting in termination by County, County may procure the commodities and services from other sources. If the cost for those commodities and services is higher than under the terms of the existing Contract, Contractor will be responsible for paying County the difference between Contract cost and the price paid, and County may deduct this cost from any unpaid balance due Contractor. The price paid by 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.

15. **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 Contractor's Project Manager and County's Project Manager, such matter shall be brought to the attention of County Deputy Purchasing Agent by way of the following process:
 - i. 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 County, on its own initiative, has already rendered such a final decision.
 - ii. Contractor's written demand shall be fully supported by factual information, and, if such demand involves a cost adjustment to Contract, 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 Contract adjustment for which Contractor believes County is liable.
- b. Pending the final resolution of any dispute arising under, related to, or involving this Contract, Contractor agrees to diligently proceed with the performance of this Contract, including the delivery of commodities and/or provision of services. Contractor's failure to diligently proceed shall be considered a material breach of this Contract.

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

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

- a. 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).
- b. Establish a drug-free awareness program as required by Government Code Section 8355(a)(2) to inform employees about all of the following:
 - i. The dangers of drug abuse in the workplace;
 - ii. The organization's policy of maintaining a drug-free workplace;
 - iii. Any available counseling, rehabilitation and employee assistance programs; and

- iv. Penalties that may be imposed upon employees for drug abuse violations.
 - c. Provide as required by Government Code Section 8355(a)(3) that every employee who works under this Contract:
 - i. Will receive a copy of the company's drug-free policy statement; and
 - ii. Will agree to abide by the terms of the company's statement as a condition of employment under this Contract.
 - d. Failure to comply with these requirements may result in suspension of payments under Contract or termination of Contract or both, and Contractor may be ineligible for award of any future County contracts if County determines that any of the following has occurred:
 - i. Contractor has made false certification, or
 - ii. Contractor violates the certification by failing to carry out the requirements as noted above.
17. **Equal Employment Opportunity:** 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. 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, 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. 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. 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.
18. **News/Information Release:** 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 County through County's Project Manager.
19. **Notices:** Any and all notices, requests demands and other communications contemplated, called for, permitted, or required to be given hereunder shall be in writing with a copy provided to the assigned Deputy Purchasing Agent (DPA), except through the course of the parties' project managers' routine exchange of information and cooperation during the terms of the work and services. Any written communications shall be deemed to have been duly given upon actual in-person delivery, if delivery is by direct hand, or upon delivery on the actual day of receipt or no

greater than four (4) calendar days after being mailed by US certified or registered mail, return receipt requested, postage prepaid, whichever occurs first. The date of mailing shall count as the first day. All communications shall be addressed to the appropriate party at the address stated herein or such other address as the parties hereto may designate by written notice from time to time in the manner aforesaid.

Contractor: Habitat West, Inc.
Attn: Jim Corbett
Address: 2067 Wineridge Pl #B, Escondido CA 92029
Telephone: 619-520-4969
Email: jim@habitatwest.com

County: OC Community Resources/OC Parks
Attn: Alisa Flint
Address: 14302 Old Myford Road
Telephone: 949-585-6470
Email: alisa.flint@ocparks.com

Assigned DPA: County of Orange
OC Community Resources, Purchasing & Contract Services
Attn: Wayne Hsiao, DPA
601 North Ross Street
6th Floor
Santa Ana, CA 92701
Telephone: 949-923-3742
Email: wayne.hsiao@ocparks.com

20. **Precedence:** Contract documents consist of this Contract and its exhibits and attachments. In the event of a conflict between or among 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.
21. **Termination – Orderly:** After receipt of a termination notice from County of Orange, Contractor may submit to 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 County upon written request of Contractor. Upon termination County agrees to pay Contractor for all services performed prior to termination which meet the requirements of Contract, provided, however, that such compensation combined with previously paid compensation shall not exceed the total compensation set forth in 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 Contract.
22. **Usage:** No guarantee is given by County to Contractor regarding usage of this Contract. Usage figures, if provided, are approximations. Contractor agrees to supply services and/or commodities requested, as needed by County of Orange, at rates/prices listed in Contract, regardless of quantity requested.
23. **Usage Reports:** Contractor shall submit usage reports on an annual basis to the assigned Deputy Purchasing Agent of 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 Contract term, or any subsequent renewal term, if applicable.

24. **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.
25. **Permits and Licenses:** Contractor shall be required to obtain any and all approvals, permits and/or licenses which may be required in connection with the permitted operation as set out herein. No permit approval or consent given hereunder by County in its governmental capacity shall affect or limit Contractor's obligations hereunder, nor shall any approvals or consents given by County as a party to this Contract, be deemed approval as to compliance or conformance with applicable governmental codes, laws, ordinances, rules, or regulations.
26. **Prevailing Wage (Labor Code §1773):** Pursuant to the provisions of Section 1773 et seq. of the California Labor Code, 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>.

Contractor shall post a copy of such wage rates at the job site and shall pay the adopted prevailing wage rates. Contractor shall comply with the provisions of Sections 1775 and 1813 of the Labor Code.

a. **Labor Code Requirements**

Contractor and all Subcontractors shall comply with all applicable requirements of the Labor Code throughout the performance of Contract, including but not limited to the following:

i. **Wage Rates**

Contractor and any Subcontractor(s) shall comply with the provisions of California Labor Code Sections 1771 et seq. and shall pay workers employed on Contract not less than the general prevailing rates of per diem wages and holiday and overtime wages as determined by the Director of Industrial Relations. Contractor shall post all job site notices as required by Labor Code Section 1771.4(a), including a copy of these wage rates for each craft, classification, or type of worker needed in the performance of this Contract. Copies of these rates are on file at the principal office of OWNER's representative, or may be obtained from the State Office, Department of Industrial Relations ("DIR") or from the DIR's website at www.dir.ca.gov. If Contract is federally funded, Contractor and any Subcontractor(s) shall not pay less than the higher of these rates or the rates determined by the United States Department of Labor.

ii. **Wage Rate Penalty**

Contractor and any Subcontractor(s) shall comply with the provisions of Labor Code Section 1775. Contractor and any Subcontractor(s) shall be subject to a penalty in an amount up to \$200, or a higher amount as provided by Section 1775, for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rates for any work done by Contractor or Subcontractor(s) under Contract.

iii. **Work Hour Penalty**

As provided by Labor Code Section 1810, 8 hours of labor shall constitute a legal day's work, and 40 hours shall constitute a legal week's work. The time of service of any worker employed under Contract shall be restricted to 8 hours during any one calendar day, and 40 hours during any one calendar week, except as provided herein.

Contractor shall forfeit to OWNER \$25, or a higher amount as provided by Labor Code Section 1813, for each worker employed in the performance of this Contract by Contractor or by any Subcontractor(s) for each calendar day during which such worker is required or permitted to work more than the legal day's or week's work, except as provided by Labor Code Section 1815.

iv. **Registration of Contractors**

Contractor 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 Contract.

v. **Payroll Records**

Contractor and any Subcontractor(s) shall comply with the requirements of Labor Code Section 1776. Such compliance includes the obligation to furnish the records specified in Section 1776 directly to the Labor Commissioner in an electronic format, or other format as specified by the Commissioner, in the manner provided by Labor Code Section 1771.4.

The requirements of Labor Code Section 1776 provide in part:

- Contractor and any Subcontractor(s) performing any portion of the work under this Contract shall keep an accurate record, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by Contractor or any Subcontractor(s) in connection with the work.
- Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:

The information contained in the payroll record is true and correct.

The employer has complied with the requirements of Labor Code Sections 1771, 1811, and 1815 for any work performed by his or her employees in connection with Contract.

- The payroll records shall be certified and shall be available for inspection at the principal office of Contractor on the basis set forth in Labor Code Section 1776.
- Contractor shall inform OWNER of the location of the payroll records, including the street address, city and county, and shall, within five working days, provide a notice of any change of location and address of the records. Pursuant to Labor Code Section 1776, Contractor and any Subcontractor(s) shall have 10 days in which to provide a certified copy of the payroll records subsequent to receipt of a written notice requesting the records described herein. In the event that Contractor or any Subcontractor fails to comply within the 10-day period, he or she shall, as a penalty to OWNER, forfeit \$100, or a higher amount as provided by Section 1776, for each calendar day, or portion thereof, for each worker to whom the noncompliance pertains, until strict compliance is effectuated. Contractor acknowledges that, without limitation as to other remedies of enforcement available to OWNER, upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement of the California

Department of Industrial Relations, such penalties shall be withheld from progress payments then due Contractor. Contractor is not subject to a penalty assessment pursuant to this Section due to the failure of a Subcontractor to comply with this Section.

SIGNATURE PAGE

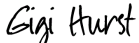
IN WITNESS WHEREOF, the Parties hereto have executed this Contract on the date following their respective signatures.

Habitat West, Inc.*

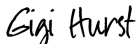
** If the Contractor is a corporation, signatures of two specific corporate officers are required as further set forth.*

The first corporate officer signature must be one of the following: 1) the Chairman of the Board; 2) the President; 3) any Vice President.

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.

DocuSigned by: 	Gigi Hurst	President/CEO	11/29/2021
69797A2E5204478...			
Signature	Name	Title	Date

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

DocuSigned by: 	Gigi Hurst	Secretary	11/29/2021
69797A2E5204478...			
Signature	Name	Title	Date

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

DocuSigned by: 	wayne Hsiao	Procurement Manager	12/3/2021
42FEF95F5CEA444...			
Signature	Name	Title	Date

ATTACHMENT A**SCOPE OF WORK
INVASIVE PLANT CONTROL SERVICES****Definitions:**

“County”: means the County of Orange.

“Project Manager” (PM): means the County representative, or designee, that is assigned to administer this contract.

“Contractor”: means the individual, partnership, corporation, joint venture, or other legal entity entering into a contract with County to perform work.

“Contractor Project Manager” (CPM): means the Contractor’s assigned representative to oversee Contractor’s employees in the performance of the work under this contract, and the primary point of contact to communicate with County’s representative and coordinate work.

“OC Parks” or “Orange County Parks”: means the department within OC Community Resources responsible for management and operation of County regional parks, recreational areas, and nature areas.

“Park” or “Park Facilities”: means all developed and undeveloped areas of the listed County regional park.

“NPDES”: means the National Pollutant Discharge Elimination System.

INTRODUCTION

Orange County Parks (OC Parks) facilities provide vital habitat to wildlife as well as recreational benefits to the public. Non-native, invasive plant species are widely cited as a leading threat to native habitat, biodiversity and ecological function. To protect and enhance habitat for wildlife, an invasive plant control program has been established that requires Contractor support to implement. The plant control program consists of treating non-native species, primarily in wildland settings, across up to 20 facilities annually.

The following list of exhibits supplement the scope of work:

Exhibit 1 – Project Maps

- 1.1. Portfolio Map
- 1.2. Park Facility Maps
- 1.3. Emergency Access Maps

Exhibit 2 – County of Orange Integrated Pest Management (IPM) Requirements**Exhibit 3 – 2011-22 Weed Priority List****Exhibit 4 – County Best Management Practices (BMPs)****SCOPE OF SERVICES**

For purposes of this contract, all OC Parks facilities have been divided into two separate regions, each of which corresponds to an OC Parks Project Manager (PM) area of responsibility (see **Exhibit 1 – Project Maps**).

As part of the Invasive Plant Control Program for OC Parks, Contractor shall perform targeted invasive weed control as directed by PM. Work shall occur year-round, with a majority of work performed from January 1 to June 30 of each year.

Contractor shall coordinate with PM on the method and timing of weed control, and type and rate of products or chemicals recommended for treating weeds. Upon approval by PM, Contractor shall treat targeted weed species and if applicable, apply chemicals at rates in accordance with related product labels and regulations using the lowest effective label rate. All weed control activities shall comply with County of Orange Integrated Pest Management (IPM) Requirements (**Exhibit 3**). County IPM guidelines may be updated, and Contractor shall be provided with the most current version.

Control efforts shall involve manual, mechanical, and chemical (herbicide application) treatment of targeted non-native weed species within all management units of OC Parks. The primary targets for invasive control shall be Natural Communities Coalition Category 1 and Category 2 priority weeds, as listed in **Exhibit 2 – 2011-22 Weed Priority List**. Additional non-native species or sites may be added depending on detection, prioritization and scheduling. Under this Contract, Contractor shall be responsible for searching and treating up to 20,000 acres for the above invasive weed species using the most effective method based on species, timing, and site conditions. Work shall be charged on a time and materials basis not to exceed the total contract amount.

Contractor shall be compensated for the actual number of hours worked in each Park surveying and treating weeds and for time spent learning and utilizing work reporting software. Estimates are provided to assist Contractor in projecting typical work. Actual acres, hours, target weeds, cover, and specific locations may vary at time of treatment in response to actual field conditions and Contractor must be able to adjust to actual field conditions. Contractor shall monitor status of the remaining weed control contract budget at all times in order to plan and coordinate prioritization of treatment with PM.

CONTRACTOR REQUIREMENTS

Qualifications:

Contractor shall be able to provide personnel who have been fully trained in all aspects of weed identification and abatement.

- Contractor and field staff must hold applicable and current licenses to apply pesticides for weed control in the State of California.
- Contractor must have familiarity with all weed control methods including manual removal, mechanical weed removal, herbicide application, as well as related tools and equipment and chemical handling procedures.
- Contractor shall designate a Contractor PM (CPM) with experience in weed abatement supervision to oversee weed management activities under this contract. CPM must be able to receive and carry out verbal and/or written instructions in English provided by PM. CPM shall be the primary point of contact for PM for weed management requests.
- Contractor shall conduct annual herbicide application training for all field staff.
- Contractor shall provide crews of 3-6 people for invasive plant control.
- Contractor must be able to identify common target weeds species in varying stages of growth.

License Requirements:

Contractor must hold a current pest control business license. Contractor shall include at least two staff members holding current Qualified Applicators Licenses; it is beneficial if a Pest Control Advisor is on staff. All licenses must be current, issued by the State of California and be registered in Orange County. Contractor is responsible for retaining all appropriate government licenses required to complete the scope of work at no additional cost to the County. At all times during the term of the Contract, Contractor shall

have in full force and effect all licenses required by law for the performance of the services described in this Contract. Copies of the licensing information shall be made available to the County upon request.

WORK SPECIFICATIONS

Coordination:

Contractor shall designate a CPM to oversee weed management activities under this contract. CPM shall be the primary point of contact for PM for weed management requests. Contractor shall maintain a telephonic communications system such that calls are answered within four business hours, five days a week, 8 a.m. through 4 p.m.

CPM shall meet and coordinate with PM throughout the weed season. Prior to start of the weed season (early fall), a pre-season meeting shall be held with CPM at OC Parks Headquarters to discuss the upcoming work plan. CPM shall also meet with PM and Operations Staff at each Park prior to initiation of field work.

CPM shall coordinate weed control report submittals and oversee invoicing under this Contract. Weed control report submittals include (1) Smartsheet Daily Reports, (2) Calflora Weed Manager, and (3) OC Parks Herbicide Tracking Tool. These reports are described in more detail below in Notifications and Reporting. When CPM is unavailable, a backup contact shall be furnished to PM for submitting weed treatment reports.

Target Species:

Exhibit 2 – 2021-22 Weed Priority List is the list of target weed species vetted by OC Parks, California State Parks, The Nature Conservancy, Natural Communities Coalition, California Invasive Plant Council and other OC Parks partners. This list is updated annually and shall be provided to Contractor upon each revision. **Contractor staff shall notify PM when unfamiliar with a target emergent weed species and identification training shall be provided at no cost to Contractor.**

Reporting and Documentation:

All control efforts shall be monitored and coordinated by PM and/or designee.

Record-keeping is a critical aspect of invasive plant management. Contractor shall provide the following to PM:

1. Daily Reporting via Smartsheet

Contractor shall submit a daily report form electronically at the completion of the work day. The daily report shall include:

- Park name and Park sub-unit(s) where work was completed
- Number of hours worked by staff type and activity
- Equipment and tools utilized
- Invasive species controlled
- Type and total amount of herbicide applied, if any

2. Calflora Reporting

Contractor is responsible for reporting work completed within a week of the treatment event via Calflora (www.calflora.org). Calflora experience is not necessary and training shall be provided to Contractor by PM at no cost to Contractor. Use of the Calflora app, Calflora Pro, requires an IOS or Android device; an external GPS receiver is required for sites under tree canopy. A login and password shall be provided to Contractor. The following data must be entered for each weed treatment completed:

- Treatment polygons
 - Scientific name of target species
 - Distribution
 - Number of plants
 - Percent cover of target species
 - Treatment method
 - Percent of area treated
3. OC Parks Pesticide and Fertilizer Tracking Application
OC Parks has a centralized system for tracking herbicide use. Contractor shall electronically submit a detailed record of all herbicides used for the past month at trax.ocparks.com by the 10th of the following month. A login and password shall be provided to Contractor.
4. Projected Two-week Outlook Schedule
CPM shall submit to PM every Thursday via email a projected two-week work schedule that identifies target species and treatment areas. The following information shall be included in the two-week outlook:
- Date(s) of proposed work
 - Park(s) and Park sub-unit(s) where work shall occur
 - Anticipated crew size(s)
 - Anticipated method(s) for removal, including herbicide chemicals if applicable
 - Anticipated species to be controlled

Failure to complete the required reporting will cause delays in County's acceptance of work and delay payment for services rendered.

TREATMENT

PM shall provide Contractor with digital maps of treatment areas in fall prior to the beginning of the weed season. Maps are for high-level guidance and general understanding of project needs, however specific targeted invasive plants populations to be controlled shall be dictated by conditions on the ground during the active growing season. Treatment approach shall be determined in coordination with and at direction of PM.

Contractor shall specify treatment methods intended to be implemented in the two-week outlook schedule. Treatment methods shall comply with all specifications in **Exhibit 3 – IPM Requirements** and **Exhibit 4 – County Best Management Practices (BMPs)**.

Contractor shall furnish all hand tools, power equipment, fire extinguishers and safety equipment necessary to accomplish specified work.

Contractor shall provide a schedule of fees inclusive of labor, equipment, transportation, dumping, and materials associated with each of the following:

Manual Treatment Methods:

Manual treatment includes physical removal of invasive plants and/or flower or seed heads using non-mechanical tools such as hands, shovels, picks, axes, hand-saws, loppers and machetes. Treatment includes removal and disposal of excess biomass and any fruiting bodies/seeds.

Mechanical Treatment Methods:

Mechanical treatment includes physical removal of invasive plants using mechanized tools such as mowers, brush-cutters, line trimmers, and chainsaws. All internal combustion equipment must be equipped with an approved spark arrester and sufficient noise control devices when not equipped with turbo charger; included but not limited to tractors, weed eaters, chain saws. Chipping and disposal of large trees (*e.g.*, Eucalyptus) may be required. Treatment includes removal and disposal of excess biomass and any fruiting bodies/seeds.

To assist with invasive species control, all hand tools, and power or driven equipment, including vehicles, shall be cleaned to remove vegetation before leaving a work area or entering a new work area.

Herbicide Treatment Methods:

OC Parks requires Contractor follow specifications outlined in **Exhibit 3 – IPM Requirements and OC Parks Pesticide Application Guidelines** when selecting and applying appropriate chemicals for weed treatment, and that Contractor staff is qualified to conduct herbicide application work.

- All herbicide must be applied directly to individual targeted plants using the lowest effective label rates (*e.g.*, spot-spray, cut-stump, basal bark spray, etc.).
- Contractor shall coordinate with PM on the type and amount of products or chemicals recommended for controlling vegetations. Upon approval by PM, Contractor shall apply herbicide products at rates within applicable product labeled rates and current California Department of Pesticide Regulation (CDPR) regulations.
- Contractor must provide written PCA recommendations to PM.
- Contractor is responsible for recording herbicide quantities applied onsite, as detailed in the Reporting and Documentation section.
- Herbicide preparation shall only be allowed in approved staging areas identified by PM. All herbicide mixing shall be more than 100 feet from a stream course or body of water.
- Contractor shall comply with all herbicide application requirements as set forth by the CDPR, County of Orange Agricultural Commissioner, Federal Environmental Protection Agency, California State Water Resource's Control Board, and all manufacturer instructions provided on product labels and Material Safety Data sheets.
- All equipment used for herbicide applications shall comply with all applicable State, Federal, and Cal OSHA Regulations.
- Contractor is responsible for all personal protective equipment (PPEs) and safety devices used by Contractor personnel engaged in the handling, formulation, transfer, application, and disposal of herbicide protects. Contractor must use all PPEs identified on the various product labels which may include but not be limited to face mask, respirator, goggles, caps or hats, protective clothing, gloves, etc. All clothing and protective gear used in the performance of herbicide applications shall be in conformance with all applicable legal and regulatory requirements.
- Work to be performed shall consist of furnishing all labor, equipment, and materials necessary to complete all spraying by means of backpack sprayer or spray rig truck, as determined by PM.
- All applicators must have current, documented herbicide application training that is available for submittal to OC Parks.

Expected Results:

PM shall inspect sites where work has been performed following weed treatment. Ninety (90) percent of treated plant populations showing obvious signs of decline is acceptable within two weeks following original herbicide application. Any deficiencies or deviations from the expected results shall be the responsibility of the Contractor to cure unless Contractor can prove deficiencies and/or deviations were caused by County negligence or omission.

Marking:

A brightly colored, non-toxic dye shall be used during all herbicide applications to aid the applicator in achieving adequate coverage of the target species. The dye shall be a non-toxic material such as Blazon, Turfmark or an equivalent. Dye application rate to be determined in concurrence with PM.

Weather Restrictions:

Herbicide treatment shall only be conducted when weather conditions are conducive to effective uptake of herbicide by the target species (*e.g.*, sunny and dry with ambient temperatures $\geq 65^{\circ}$ F, when plants are at the specified growing stage) and when wind conditions are such that herbicide drift is minimized (5 mph or less). Contractor shall check the weather forecast and for facility closures at assigned work locations, and shall cancel work if it is determined conditions shall be muddy and damage might be caused to facility roads. If work has begun onsite and inclement weather causes cessation of work, Contractor shall be paid for a minimum of two hours. Contractor shall notify PM in all instances of work cancellation.

Signage:

Contractor may be required to install temporary signage prior to herbicide applications. If required, a sign template shall be provided by OC Parks Contract Manager. Contractor shall be responsible for removing the signs following the appropriate post-application interval.

Restrictions Related to Protection of Birds During Bird Nesting Season:

Contractor agrees to avoid/minimize impacts to nesting birds in compliance with the Migratory Bird Treaty Act.

PRE-BID SITE VISITATION:

Prior to submission of the proposal, Contractors may visit the Parks on a bid walk to make a thorough examination and evaluation of the weed conditions and logistics of treatment. No additional compensation shall be allowed for this task.

TREATMENT LOCATIONS

Locations and invasive species to be treated shall be provided by PM upon initiation of contract. Treatment may include, but is not limited to, the OC Parks facilities identified in **Exhibit 1.1**. A majority of weed control efforts shall occur in wilderness settings. OC Parks wilderness settings are characterized by certain inherent dangers such as mountain lions, rattlesnakes, poison oak and rugged terrain. Additional sites and species may be added if funding permits.

ACCESS AND COOPERATION

Site access varies by location. A four-wheel drive truck is recommended for a majority of locations. Hiking to treat target species with backpack sprayers is required in many locations. Requests for ATV/UTV access must be reviewed and approved by PM. Hose used to apply herbicide from vehicle tanks must be positioned and maneuvered to avoid damage to native vegetation. All Park facilities are subject to closure during wet and muddy conditions. **Exhibit 1.3** identifies access points and roads.

Contractor shall cooperate with OC Parks staff in scheduling work around Park operations. Contractor shall provide notice to operations staff at each facility prior to work, as directed by County. All Park facilities have posted operating hours, and Contractor shall abide by these hours. No additional compensation or adjustment of allotted working schedule shall be granted for compliance with these requirements.

PERFORMANCE

Working Hours:

Work shall generally be performed between 7:00 a.m. and 4:00 p.m., Mondays through Fridays. There shall be no work on Holidays.

Contractor shall provide uniforms or other professional means of employee identification for all personnel. All Contractor personnel shall present a neat, clean appearance.

Contractor is responsible for all PPE and safety devices used by personnel engaged in the handling, formulation, transfer, application and disposal of weed treatment products and tools. Such items may include, but are not limited to, face masks, respirators, goggles, caps or hats, protective clothing, gloves, equipment, etc. All clothing, protective gear and equipment used in the performance of weed treatment shall be in conformance with applicable legal and regulatory requirements.

Work may be required in multiple Park facilities concurrently. Contractor must be able to provide multiple crews as needed to accomplish work in a timely fashion. Contractor shall work with PM to coordinate crews and prioritize workload when necessary.

Invasive plants individuals and populations targeted for treatment must exhibit symptoms of effective control (e.g., removed, cut, wilted, dead, etc.) within a week of treatment. If segments of targeted populations and/or individual targeted invasive plants show no signs of treatment upon inspection by the PM or designee, Contractor shall return to complete the work and no additional compensation shall be allowed for this task.

NPDES REQUIREMENTS AND BEST MANAGEMENT PRACTICES

The Santa Ana and San Diego Regional Water Quality Control Boards (RWQCB) have issued permits which govern stormwater and non-stormwater discharges to the storm drain system from areas owned and operated by the County of Orange, Orange County Flood Control District and incorporated cities of Orange County (collectively referred to as Permittees). RWQCB Permits are National Pollutant Discharge Elimination System (NPDES) Permits Numbers R8-2002-0001 and R9-2002-0001, respectively. Copies of the RWQCB Permits are available for review upon request.

SPECIFIC REQUIREMENTS/RESTRICTIONS

Contractor shall provide at least one English-speaking person who shall be present at all times during the execution of this Contract, be thoroughly familiar with the types of materials and equipment used during the execution of the services, and direct and supervise all services performed as specified herein. Furthermore, Contractor shall provide adequate labor to provide services in accordance with these specifications. Services shall be accepted by PM upon satisfactory completion of all specifications described herein. All personnel shall be informed of and shall abide by the following responsibilities and restrictions:

- Access into project areas for this contract shall be limited to weekdays unless otherwise specified by PM or designee.
- Contract crews shall only utilize access roads approved by PM or designee.
- The vehicle speed limit shall not exceed 10 mph.
- Vehicles shall park off the roads on pre-designated areas identified by PM or designee.
- All staging of equipment and materials shall be conducted within areas identified by PM or designee.
- No litter, including tobacco debris, food packaging, and construction materials shall be allowed on the job site.
- All litter shall be collected at the end of each day and shall be disposed of off-site.
- No smoking shall be permitted within OC Parks facility boundaries, including staging areas.

- No toxic materials, including hydrocarbons, fuel, antifreeze, etc., shall be allowed to be deposited on the soil surface within the job sites. Herbicides approved for treatment of invasive weeds by PM are allowed.
- All equipment maintenance, including re-fueling, lubrication and herbicide mixing shall be conducted off-site.
- Equipment and materials shall not be stored within OC Parks facility boundaries.
- Equipment and clothing, including shoes, must be cleaned of weed seed before entering a treatment site to reduce spread.
- All spills of toxic materials shall be cleaned up immediately and PM shall be notified immediately.
- There shall be no harm to or harassment of any wildlife species, including snakes. PM shall be notified of any wildlife encountered during spray efforts and work areas that were abandoned due to the presence of wildlife.
- PM shall be notified of any observation of unauthorized encampment, and work areas that were abandoned due to the presence of such encampments.

LIST OF ALL OC PARKS FACILITIES BY CONTRACT AREA

CONTRACT AREA 1

1. Laguna Niguel Regional Park
28241 La Paz Road, Laguna Niguel, CA 92677
2. Aliso and Wood Canyons Wilderness Park*
28373 Alicia Parkway, Laguna Niguel, CA 92677
3. Upper Newport Bay Nature Preserve*
2301 University Drive, Newport Beach, CA 92660
4. Talbert Regional Park*
1298 Victoria Avenue, Costa Mesa, CA 92627
5. Harriett M. Wiedner Regional Park
19251 Seapoint Ave., Huntington Beach, CA 92648
6. Irvine Ranch Open Space
4727 Portola Pkwy, Irvine, CA 92620
7. Irvine Regional Park*
1 Irvine Park Road, Orange, CA 92869
8. Peters Canyon Regional Park*
8548 E. Canyon View Ave., Orange, CA 92869
9. Santiago Oaks Regional Park*
2145 N. Windes Drive, Orange, CA 92869
10. El Modena Open Space*
11. Yorba Regional Park
7600 E. La Palma, Anaheim, CA 92807
12. Featherly Regional Park
24001 Santa Ana Canyon Road, Anaheim, CA 92808
13. Carbon Canyon Regional Park
4442 Carbon Canyon Road, Brea, CA 92823
14. Arden Modjeska Historic Park
29042 Modjeska Canyon Road, Modjeska, California
15. Heritage Hill Historic Park
25151 Serrano Road, Lake Forest, CA 92630-2534
16. Irvine Ranch Historic Park
13042 Old Myford Rd., Irvine, CA 92602

CONTRACT AREA 2

1. William Mason Regional Park
18712 University Drive, Irvine, CA 92612-2601
2. Laguna Coast Wilderness Park*
18751 Laguna Canyon Road, Laguna Beach, CA 92651
3. Ronald W. Caspers Wilderness Park**
33401 Ortega Hwy., San Juan Capistrano, CA 92675
4. Thomas F. Riley Wilderness Park**
30952 Oso Parkway, Coto De Caza, CA 92679
5. O'Neill Regional Park**
30892 Trabuco Canyon Road, Trabuco Canyon, CA 92678
6. Whiting Ranch Wilderness Park*
26701 Portola Parkway, Foothill Ranch, CA 92610
7. Modjeska Canyon Nature Preserve
8. Ted Craig Regional Park
3300 State College Blvd., Fullerton, CA 92835
9. Tri-City Regional Park
2301 Kraemer Blvd., Placentia, CA 92870
10. Ralph B. Clark Regional Park
8800 Rosecrans Ave., Buena Park, CA 90621
11. Mile Square Regional Park
16801 Euclid St., Fountain Valley, CA 92708
12. Regional Trails & Open Space
13. South Coastal Operations

* Natural Community Conservation Plan (NCCP) facility

** Southern Subregion Conservation Plan (SSHCP) facility

ATTACHMENT B**PAYMENT AND COMPENSATION**

1. **Compensation:** This is a firm-fixed fee Contract between County and Contractor for Tree Care and Maintenance Services as set forth in Attachment A, Scope of Work.

County does not pay for portal-to-portal charges.

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 Contractor of all its duties and obligations hereunder. Contractor shall only be compensated as set forth herein for work performed in accordance with the Scope of Work. **County shall have no obligation to pay any sum in excess of the fixed rates specified herein unless authorized by amendment in accordance with Articles C & P of County Contract Terms and Conditions.**

2. **Fees and Charges:** County will pay the following fees in accordance with the provisions of this Contract. Payment shall be as follows:

Personnel	Hourly Rate
Pest Control Advisor / Habitat Specialist	\$133.00
PCA Recommendation (each)	\$200.00
Landscape Supervisor with QAL	\$75.00
Landscape Foreman with Truck	\$46.55
Skilled Laborer trained in Herbicide application	\$34.00
Skilled Laborer	\$32.00
Equipment	
Dump truck	\$175/day
Water truck	\$130/hour
Chipper, 9"	\$210/day
Kawasaki Mule OHV	\$75/day
Chainsaw	\$45/day
String trimmer	\$25/day
Two-man auger	\$45/day
Back pack sprayer	\$10/day
Fuel (for equipment)	Actual cost
Chemical	\$65.40/gallon
Disposable chemical PPE	\$9 per applicator, each day
Administrative staff	\$48/hour

TOTAL NOT TO EXCEED CONTRACT AMOUNT OF: \$50,000

3. **Price Increase/Decreases:** No price increases will be permitted during the first period of Contract. 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 County of Orange. 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 Contract. Adjustments increasing Contractor's profit will not be allowed.

4. **Firm Discount and Pricing Structure:** Contractor guarantees that prices quoted are equal to or less than prices quoted to any other local, State or Federal government entity for services of equal or lesser scope. Contractor agrees that no price increases shall be passed along to County during the term of this Contract not otherwise specified and provided for within this Contract.
5. **Contractor's Expense:** Contractor will be responsible for all costs related to photo copying, telephone communications and fax communications while on County sites during the performance of work and services under this Contract.
6. **Payment Terms – Payment in Arrears:** Invoices are to be submitted in arrears to the user agency/department to the ship-to address, unless otherwise directed in this Contract. Contractor shall reference Contract number on invoice. Payment will be net 30 days after receipt of an invoice in a format acceptable to 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 Contractor.

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

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

7. **Taxpayer ID Number:** Contractor shall include its taxpayer ID number on all invoices submitted to County for payment to ensure compliance with IRS requirements and to expedite payment processing.
8. **Payment – Invoicing Instructions:** Contractor will provide an invoice on Contractor's letterhead for goods delivered and/or services rendered. In the case of goods, Contractor will leave an invoice with each delivery. Each invoice will have a number and will include the following information:
 - a. Contractor's name and address
 - b. Contractor's remittance address, if different from 1 above
 - c. Contractor's Taxpayer ID Number
 - d. Name of County Agency/Department
 - e. Delivery/service address
 - f. Contract **CT-012-22010685**
 - g. Agency/Department's Account Number
 - h. Date of invoice
 - i. Product/service description, quantity, and prices
 - j. Sales tax, if applicable
 - k. Freight/delivery charges, if applicable
 - l. Copy of invoices for cost reimbursement
 - m. Total

Invoice and support documentation are to be forwarded to:

OC Community Resources: Accounts Payable
Attn: Accounts Payable
601 North Ross Street
6th Floor
Santa Ana, CA 92701

9. **Payment (Electronic Funds Transfer (EFT)):** County of Orange offers contractors 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 an Electronic Remittance Advice with the payment details via e-mail. An e-mail address will need to be provided to The County of Orange via an EFT Authorization Form. To request a form, please contact the agency/department Procurement Buyer listed in Contract. Upon completion of the form, please mail, fax or email to the address or phone listed on the form.

EXHIBIT 1

PROJECT MAPS
(SEE SEPARATE ATTACHMENT)

EXHIBIT 2

COUNTY OF ORANGE INTEGRATED PEST MANAGEMENT (IPM) REQUIREMENTS
(SEE SEPARATE ATTACHMENT)

EXHIBIT 3

COUNTY BEST MANAGEMENT PRACTICES (BMPS)
(SEE SEPARATE ATTACHMENT)

EXHIBITS 1-4

INVASIVE PLANT CONTROL SERVICES

EXHIBIT 1

PROJECT MAPS

OC PARKS PORTFOLIO by MAP and OC PARKS PROJECT MANAGER



OC Parks Facilities by Project Manager

Contract Area 1	Contract Area 2
Mid-county Operations Group Laguna Niguel Regional Park Aliso & Wood Canyons Wilderness Park*	Laguna Canyon Operations Group William Mason Regional Park Laguna Coast Wilderness Park*
North Coastal Operations Group Upper Newport Bay Nature Preserve* Talbert Regional Park* Harriett M. Wieder Regional Park	Saddleback Operations Group Ronald W. Caspers Wilderness Park** Thomas F. Riley Wilderness Park**
Irvine Ranch Open Space*	Foothill Operations Group O'Neill Regional Park** Whiting Ranch Wilderness Park* Modjeska Canyon Nature Preserve
East Orange Operations Group Irvine Regional Park* Peters Canyon Regional Park* Santiago Oaks Regional Park* El Modena Open Space*	North Operations Group Ted Craig Regional Park Tri-City Regional Park Ralph B. Clark Regional Park
Central Operations Group Yorba Regional Park Featherly Regional Park Carbon Canyon Regional Park	Mile Square Operations Group Mile Square Regional Park
Historical Operations Arden Modjeska Historic Park Heritage Hill Historic Park Irvine Ranch Historic Park <i>Etc.</i>	Regional Trails & Open Space
	South Coastal Operations

* Natural Community Conservation Plan (NCCP) facility

** Southern Subregion Conservation Plan
SSHCP) facility

EXHIBIT 1.2

INDIVIDUAL PARK MAPS

(May not be inclusive of all facilities targeted for treatment in a given year)

Aliso
and
Wood
Canyons
Wilderness
Park



DISSEMINATION AND PRECEDENCE BY:
 JCI, Netco 2010
 Address: London

DATA RECEIVED:
 – Secondary data and information: Business Director – Single Asset 2010

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DATED: April 07, 2010



