

CONTRACT MA-080-17011265

FOR

ENVIRONMENTAL MULTI-PURPOSE MAINTENANCE CONTRACT

THIS Contract MA-080-17011265 for Environmental Multi-Purpose Maintenance, (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"), the Orange County Flood Control District, a body corporate and politic, (hereinafter referred to as "District"), and OFRS, Inc., a State of California Corporation, with a place of business at 1875 Freeman Ave., Unit A, Signal Hill, CA 90755, (hereinafter referred to as "Contractor") with County, District and Contractor sometimes individually referred to as ("Party"), or collectively referred to as ("Parties").

RECITALS

WHEREAS, County, District and Contractor are entering into this Contract for Environmental Multi-Purpose Maintenance under a Usage Contract; and,

WHEREAS, County and District solicited for Environmental Multi-Purpose Maintenance contract as set forth herein, and Contractor has represented that it is qualified to provide Environmental Multi-Purpose Maintenance to the County and/or District as further set forth herein; and,

WHEREAS, Contractor agrees to provide Environmental Multi-Purpose Maintenance contract as further set forth in the Scope of Work, attached hereto as Attachment A and incorporated herein; and,

WHEREAS, County and/or District agree to pay Contractor the fees as further set forth in Contractor's Pricing, attached hereto as Attachment B and incorporated herein;

NOW THEREFORE, the Parties mutually agree as follows:

ARTICLES

1. **Scope of Contract:** This Contract, including attachment(s), specifies the contractual terms and conditions by which the Contractor will provide Environmental Multi-Purpose Maintenance under a usage Contract.

**Amendment No.3**

2. **Term:** This Contract shall be renewed, effective April 25, 2021, and shall continue for one (1) year from that date, unless otherwise terminated as provided herein.

**Amendment No.2**

3. ~~**Term:** This Contract shall be effective April 25, 2020 and shall continue for one (1) year from that date, unless otherwise terminated as provided herein. This Contract may be renewed upon expiration for one (1) additional year, upon mutual agreement of both parties. The County and/or District are not obligated to give a reason or notice if it elects not to renew. Renewal amendments require approval of the County Board of Supervisors.~~

~~**Term of Contract:** The term of this Contract shall be effective upon execution of all signatures or upon approval of the Orange County Board of Supervisors (serving as the governing board for both the County and District), whichever occurs later, and shall continue for three (3) years from that date, unless otherwise terminated as provided herein. This Contract may be renewed upon expiration for two (2) additional years, upon mutual consent of both parties. The County and/or District are not obligated to give a reason or notice if it elects not to renew. Renewal amendments may require approval of the County Board of Supervisors.~~

4. **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 and/or District may immediately terminate or modify this Contract without penalty.

**Amendment No. 2**

5. **Reserved**

**Aggregate:** This is an aggregate Contract with Ocean Blue Environmental Services Inc., and OFRS, Inc., with a total aggregate contract amount not to exceed \$3,000,000.00.

**Amendment #1**

~~Aggregate: This is an aggregate Contract with Ocean Blue Environmental Services Inc., and OFRS, Inc., with a total aggregate contract amount not to exceed \$2,000,000 per year.~~

6. **Precedence:** The Contract documents consist of this Contract 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 attachments.
7. **County and/or District's Project Manager:** The County and/or District shall appoint a Project Manager, as specified in Article 27, "Notices", to act as liaison between the County and/or District and the Contractor during the term of this Contract. The County's and/or District's Project Manager shall coordinate the activities of the County and/or District staff assigned to work with the Contractor.  

The County's and/or District's Project Manager shall have the right to require the removal and replacement of the Contractor's Project Manager and Contractor personnel. The County's and/or District's Project Manager shall notify the Contractor in writing of such action. The Contractor shall accomplish the removal within 14 calendar days after written notice by the County's and /or District's Project Manager. The County's and/or District's Project Manager shall review and approve the appointment of the replacement for the Contractor's Project Manager and Contractor personnel. Said approval shall not be unreasonably withheld.
8. **Contractor's Project Manager:** Contractor shall appoint a Project Manager, as specified in Article 27, "Notices", to direct the Contractor's efforts in fulfilling Contractor's obligations under this Contract. This Project Manager shall be subject to acceptance by the County and/or District and shall not be changed without the written consent of the County's and/or District's Project Manager, which consent shall not be unreasonably withheld.  

The Contractor's Project Manager and Key Personnel shall be assigned to this Contract for the duration of this Contract and shall diligently pursue all work and services to meet the project time lines. Contractor's Key Personnel are those individuals who report directly to the Contractor's Project Manager.
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 and/or District 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 and/or District are expressly stated in the Contract.
10. **Contractor's Records:** The Contractor shall keep true and accurate accounts, records, books and data which shall correctly reflect the business transacted by the Contractor in accordance with generally accepted accounting principles. These records shall be stored in Orange County for a period of three years after final payment is received from the County and/or District. Storage of records in another county will require written approval from the County of Orange assigned buyer.
11. **Usage:** No guarantee is given by the County and /or District to the Contractor regarding usage of this Contract. Usage figures, if provided, are approximate, based upon the last usage. The Contractor agrees to supply services and/or commodities requested, as needed by the County and/or District, at prices listed in the Contract, regardless of quantity requested. Orders may be placed against this contract at the convenience of the using agency/department.
12. **Usage Reports:** Upon County and/or District request, Contractor shall submit usage reports to the County and/or District which shall include, at minimum, summarized quantities, item descriptions (including Manufacturer/Part No.). The usage report shall be in a format specified by the County and/or District.

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

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

**Amendment#2**

14. **Reserved**

~~**Conflict of Interest:** The Contractor shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with the best interests of the County and/or District. This obligation shall apply to the Contractor; the Contractor's employees, agents, and relatives; sub-tier Consultants; and third parties associated with accomplishing work and services hereunder. The Contractor's efforts shall include, but not be limited to establishing precautions to prevent its employees or agents from making, receiving, providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to appear to influence individuals to act contrary to the best interests of the County and/or District.~~

**Amendment#2**

15. **Reserved**

~~**Child Support Enforcement Requirements:** Contractor is required to comply with the child support enforcement requirements of the County. Failure of the Contractor to comply with all federal, state, and local reporting requirements for child support enforcement or to comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment shall constitute a material breach of the Contract. Failure to cure such breach within 60 calendar days of notice from the County shall constitute grounds for termination of the Contract.~~

16. **Publication:** No copies of sketches, schedules, written documents, computer based data, photographs, maps or graphs, including graphic art work, resulting from performance or prepared in connection with this Contract, are to be released by Contractor and/or anyone acting under the supervision of Contractor to any person, partnership, company, corporation, or agency, without prior written approval by the County and/or District, except as necessary for the performance of the services of this Contract. All press contacts, including graphic display information to be published in newspapers, magazines, etc., are to be administered only after County and/or District approval.

17. **News/Information Release:** The Contractor agrees that it will not issue any news releases or make any contact with the media in connection with either the award of this Contract or any subsequent amendment of, or effort under this Contract. Contractors must first obtain review and approval of said news media contact from the County and or District through the County's and/or District's Project Manager. Any requests for interviews or information received by the media should be referred directly to the County and or District. Contractors are not authorized to serve as a media spokespersons for County and or District projects without first obtaining permission from the County and/or District Project Manager.

18. **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.

19. **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 the 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 County 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 County 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 County, 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.

Contractor and any Subcontractor(s) shall comply with the provisions of Labor Code Sections 1771 et seq., and shall pay workers employed on the 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 a copy of these wage rates at the job site for each craft, classification, or type of worker needed in the performance of this Contract, as well as any additional job site notices required by Labor Code Section 1771.4(b). Copies of these rates are on file at the principal office of County'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](http://www.dir.ca.gov). If the 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.

20. **Apprenticeship requirements:** The Contractor shall comply with Section 230.1(A), California Code of Regulations as required by the Department of Industrial Relations, Division of Apprenticeship Standards by submitting DAS Form to the Joint Apprenticeship Committee of the craft or trade in the area of the site.
21. **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.
22. **Breach of Contract:** The failure of the Contractor to comply with any of the provisions, covenants or conditions of this Contract, shall constitute a material breach of this Contract. In such event the County and or District may, and in addition to any other remedies available at law, in equity, or otherwise specified in this Contract:
  - a. Afford the Contractor written notice of the breach and ten calendar days or such shorter time that may be specified in this Contract within which to cure the breach;
  - b. Discontinue payment to the Contractor for and during the period in which the Contractor is in breach and offset against any monies billed by the Contractor but yet unpaid by the County and/or District those monies disallowed pursuant to the above.
  - c. Terminate the Contract immediately without penalty.
23. **Contract Disputes:** The Parties shall deal in good faith and attempt to resolve potential disputes informally. If the dispute concerning a question of fact arising under the terms of this Contract is not disposed of in a reasonable period of time by the Contractor's Supervisor and the County's and/or District's project manager as specified in Article "27", Notices by way of the following process, such matter shall be brought to the attention of the County DPA by way of the following process:
  - a. The Contractor shall submit to the County DPA a written demand for a final decision regarding the disposition of any dispute between the Parties arising under, related to, or involving this Contract, unless the County and/or District, on its own initiative, has already rendered such a final decision.
  - b. The Contractor's written demand shall be fully supported by factual information, and, if such demand involves a cost adjustment to the Contract, the Contractor shall include with the demand a written statement signed by a senior official indicating that the demand is made in good faith, that the supporting data are accurate and complete, and that the amount requested accurately reflects the Contract adjustment for which the Contractor believes the County and/or District is liable.
  - c. Pending the final resolution of any dispute arising under, related to, or involving this Contract, the Contractor agrees to diligently proceed with the performance of this Contract, including the delivery of goods and/or provision of services. The Contractor's failure to diligently proceed shall be considered a material breach of this Contract. Any final decision of the County and/or District shall be expressly identified as such, shall be in writing, and shall be signed by the County DPA or his designee. If the County and/or District 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. The County's and/or District's final decision shall be conclusive and binding regarding the dispute unless the Contractor commences action in a court of competent jurisdiction to contest such decision within 90 days following the date of the County's and/or District final decision or one year following the accrual of the cause of action, whichever is later.
24. **Orderly Termination:** Upon termination or other expiration of this Contract, each Party shall promptly return to the other Party all papers, materials, and other properties of the other held by each for purposes of execution of the Contract. In addition, each Party will assist the other Party in orderly termination of this Contract and the transfer of all assets, tangible and intangible, as may be necessary for the orderly, non-disruptive business continuation of each Party.

25. **Expenditure Limit:** The Contractor shall notify the County and/or District Project Manager in writing when the expenditures against the Contract reach 75 percent of the dollar limit on the Contract. The County and/or District will not be responsible for any expenditure overruns and will not pay for work exceeding the dollar limit on the Contract unless an amendment to cover those costs has been issued.
26. **Delivery Parking:** The County and/or District will not provide free parking for delivery services. Some locations may have loading zones available.
27. **Material Safety Data Sheets (MSDS):** The Contractor is required to provide a completed Material Safety Data Sheet (MSDS) for each hazardous substance provided to the County and/or District under the contract. 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 and/or District. The provision of the MSDS 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 MSDS for each substance must be sent to the County and/or District Project Manager and must also be sent to:

County of Orange CEO/Risk Management  
Attn: Safety and Loss Prevention Program  
PO Box 327  
Santa Ana, CA 92702

28. **Notices:** Any and all notices, requests demands and other communications contemplated, called for, permitted, or required to be given hereunder shall be in writing, except through the course of the parties' project managers' routine exchange of information and cooperation during the terms of the work and services. Any written communications shall be deemed to have been duly given upon actual in-person delivery, if delivery is by direct hand, or upon delivery on the actual day of receipt or no greater than four calendar days after being mailed by US certified or registered mail, return receipt requested, postage prepaid, whichever occurs first. The date of mailing shall count as the first day. All communications shall be addressed to the appropriate party at the address stated herein or such other address as the parties hereto may designate by written notice from time to time in the manner aforesaid.

**Amendment No.3**\_\_\_\_\_

County's Project Manager: OC Public Works/Operations & Maintenance

Attn: ~~Kris Ruiz~~ Theodore Luckham  
2301 N. Glassell Street  
Orange, CA 92865  
Phone: 714.955.0300  
Email: ~~Kris Ruiz~~ theodore.luckham@ocpw.ocgov.com

cc: OC Public Works/Purchasing  
Attn: ~~Avelino Javier~~ Nicholas Murray, DPA  
~~2301 N. Glassell Street~~ 601 N. Ross Street  
~~Orange, CA 92865~~ Santa Ana, CA 92701  
Phone: 714.667.9627 1659  
Email: ~~Avelino Javier~~ [nicholas.murray@ocpw.ocgov.com](mailto:nicholas.murray@ocpw.ocgov.com)

Contractor: OFRS, Inc.  
Attn: Charles Anzalone, Project Manager  
1875 Freeman Ave., Unit A  
Signal Hill, CA 90755  
Phone: 562.343.7100  
Email: [Canzalone@ofrsinc.com](mailto:Canzalone@ofrsinc.com)

29. **Governing Law and Venue:** This Contract has been negotiated and executed in the State of California and shall be governed by and construed under the laws of the State of California. In the event of any legal action to enforce or interpret this Contract, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the Parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure section 394. Furthermore, the Parties specifically agree to waive any and all rights to request that an action be transferred for trial to another County.
30. **Entire Contract:** This Contract, including Attachments which are attached hereto and incorporated herein by this reference, when accepted by the Contractor either in writing or by the shipment of any article or other commencement of performance hereunder, contains the entire Contract between the Parties with respect to the matters herein and there are no restrictions, promises, warranties or undertakings other than those set forth herein or referred to herein. No exceptions, alternatives, substitutes or revisions are valid or binding on County unless authorized by County and/or District in writing. Electronic acceptance of any additional terms, conditions or supplemental Contracts by any County and/or District employee or agent, including but not limited to installers of software, shall not be valid or binding on County and/or District unless accepted in writing County's Purchasing Agent or his designee.
31. **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 and/or District unless authorized by County and/or District in writing.
32. **Taxes:** Unless otherwise provided herein or by law, price quoted does not include California state sales or use tax.
33. **Delivery:** Time of delivery of goods or services is of the essence in this Contract. County and/or District 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 description, or services that do not conform to the prescribed Scope of Work. Acceptance of any part of the order for goods shall not bind County and/or District to accept future shipments, nor deprive it of the right to return goods already accepted, at Contractor's expense. Overshipments and undershipments of goods shall be only as agreed to in writing by County and/or District. Delivery shall not be deemed to be complete until all goods, or services, have actually been received and accepted in writing by County and/or District.
34. **Acceptance/Payment:** Unless otherwise agreed to in writing by County and/or District; 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/or District, and 2) payment shall be made in arrears.
35. **Warranty:** Contractor expressly warrants that the goods/services covered by this Contract are 1) free of liens or encumbrances, 2) merchantable and good for the ordinary purposes for which they are used, and 3) fit for the particular purpose for which they are intended. Acceptance of this order shall constitute an agreement upon Contractor's part to indemnify, defend and hold County and/or District and its indemnities as identified in Article 60. Indemnification, and as more fully described in Article 60. Indemnification, harmless from liability, loss, damage and expense, including reasonable counsel fees, incurred or sustained by County and/or District 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.
36. **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 60. Indemnification below, it shall indemnify, defend and hold County and/or District and their Indemnities

harmless from any and all such claims and be responsible for payment of all costs, damages, penalties and expenses related to or arising from such claim(s), including, but not limited to, attorney's fees, costs and expenses.

37. **Assignment or Subcontracting:** The terms, covenants, and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators and assigns of the parties. Furthermore, neither the performance of this Contract nor any portion thereof may be assigned or subcontracted by Contractor without the express written consent of County. Any attempt by Contractor to assign or sub-contract 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.
38. **Non-Discrimination:** In the performance of this Contract, Contractor agrees that it will comply with the requirements of Section 1735 of the California Labor Code and not engage nor permit any subcontractors to engage in discrimination in employment of persons because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, or sex of such persons. Contractor acknowledges that a violation of this provision shall subject Contractor to all the penalties imposed for a violation of Anti-Discrimination Law or regulation, including but not limited to, Section 1720 et seq. of the California Labor Code.
39. **Termination:** In addition to any other remedies or rights it may have by law and those set forth in this Contract, County and/or District has the right to terminate this Contract without penalty immediately with cause or after 30 days' written notice without cause, unless otherwise specified. Cause shall be defined as any breach of Contract, any misrepresentation or fraud on the part of the Contractor. Exercise by County and/or District of its right to terminate the Contract shall relieve County and/or District of all further obligations.
40. **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.
41. **Remedies Not Exclusive:** The remedies for breach set forth in this Contract are cumulative as to one another and as to any other provided by law, rather than exclusive; and the expression of certain remedies in this Contract does not preclude resort by either Party to any other remedies provided by law.
42. **Independent Contractor:** Contractor shall be considered an independent Contractor and neither the Contractor, its employees, nor anyone working for Contractor under this Contract shall be considered an agent or an employee of County and/or District. Neither the Contractor, employees nor anyone working for the Contractor under this Contract shall qualify for workers' compensation or other fringe benefits of any kind through County and/or District.
43. **Performance:** Contractor shall perform all work under this Contract, taking necessary steps and precautions to perform the work to County and/or District's satisfaction. Contractor shall be responsible for the professional quality, technical assurance, timely completion and coordination of all documentation and other goods/services furnished by the Contractor under this Contract. Contractor shall perform all work diligently, carefully, and in a good and workman-like manner; shall furnish all labor, supervision, machinery, equipment, materials, and supplies necessary therefore; shall at its sole expense obtain and maintain all permits and licenses required by public authorities, including those of County required in its governmental capacity, in connection with performance of the work; and, if permitted to subcontract, shall be fully responsible for all work performed by subcontractors.
44. **Insurance Provisions:** Prior to the provision of services under this Contract, the Contractor agrees to purchase all required insurance at Contractor's expense, including all endorsements required herein, necessary to satisfy the County and/or District that the insurance provisions of this Contract have been complied with. Contractor agrees to keep such insurance coverage, Certificates of Insurance, and endorsements on deposit with the County during the entire term of this Contract. In addition, all subcontractors performing work on behalf of Contractor

pursuant to this Contract shall obtain insurance subject to the same terms and conditions as set forth herein for Contractor.

Contractor shall ensure that all subcontractors performing work on behalf of Contractor pursuant to this Contract shall be covered under Contractor’s insurance as an Additional Insured or maintain insurance subject to the same terms and conditions as set forth herein for Contractor. Contractor shall not allow subcontractors to work if subcontractors have less than the level of coverage required by County and/or District 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 and/or District representative(s) at any reasonable time.

All self-insured retentions (SIRs) and deductibles shall be clearly stated on the Certificate of Insurance. If no SIRs or deductibles apply, indicate this on the Certificate of Insurance with a zero (0) by the appropriate line of coverage. Any self-insured retention (SIR) or deductible in an amount in excess of \$25,000 (\$5,000 for automobile liability), which shall specifically be approved by the County Executive Office (CEO)/Office of Risk Management upon review of Contractor’s current audited financial report.

If the Contractor fails to maintain insurance acceptable to the County and/or District for the full term of this Contract, the County and/or District 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:

Coverage	Minimum Limits
Commercial General Liability	\$5,000,000 per occurrence \$5,000,000 aggregate
Automobile Liability including coverage for owned, non-owned and hired vehicles	\$2,000,000 per occurrence
Workers' Compensation	Statutory
Employers' Liability Insurance	\$1,000,000 per occurrence
Longshore and Harbors Workers' Compensation	Statutory
Environmental/Pollution Liability Including NODs	\$3,000,000 per claims made or occurrence \$3,000,000 aggregate

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

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

**Required Endorsements**

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

An Additional Insured endorsement using ISO form CG 2010 or CG 2033 or a form at least as broad naming the County of Orange and Orange County Flood Control District, their elected and appointed officials, officers, agents and employees as Additional Insureds.

A primary non-contributing endorsement evidencing that the Contractor's insurance is primary and any insurance or self-insurance maintained by the County of Orange and District shall be excess and non-contributing.

The Automobile Liability policy shall contain the MCS-90 endorsement.

The Protection & indemnity and Contractor's Pollution Liability policies shall also contain the following endorsements which shall accompany the Certificate of Insurance:

An Additional Insured endorsement naming the County of Orange and Orange County Flood Control District, their elected and appointed officials, officers, agents and employees as Additional Insureds.

A primary non-contributing endorsement evidencing that the Contractor's insurance is primary and any insurance or self-insurance maintained by the County of Orange and District shall be excess and non-contributing.

The Workers' Compensation and Longshore and Harbor Workers' Compensation policies shall contain a waiver of subrogation endorsement waiving all rights of subrogation against the County of Orange and District, their elected and appointed officials, officers, agents and employees.

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

Contractor shall notify County and District 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 and District. Failure to provide written notice of cancellation may constitute a material breach of the Contract, upon which the County and District 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).

If Contractor's Pollution Liability policy is a claims-made policy, Contractor shall agree to maintain coverage for three (3) years following completion of contract.

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

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

County and/or District 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 and/or District.

County and/or District 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 and/or District 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 and/or District 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.

45. **Bills and Liens:** Contractor shall pay promptly all indebtedness for labor, materials and equipment used in performance of the work. Contractor shall not permit any lien or charge to attach to the work or the premises, but if any does so attach, Contractor shall promptly procure its release and, in accordance with the requirements of Article 60. Indemnification below, indemnify, defend, and hold County and/or District harmless and be responsible for payment of all costs, damages, penalties and expenses related to or arising from or related thereto.
46. **Changes:** Contractor shall make no changes in the work or perform any additional work without the County and/or District's specific written approval.

**Amendment#2**

47. **Reserved**

~~**Change of Ownership:** Contractor agrees that if there is a change or transfer in ownership of Contractor's business prior to completion of this Contract, the new owners shall be required under terms of sale or other transfer to assume Contractor's duties and obligations contained in this Contract and complete them to the satisfaction of County and/or District.~~

48. **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 and/or District within 36 hours of the start of the delay and Contractor avails himself of any available remedies.
49. **Confidentiality:** Contractor agrees to maintain the confidentiality of all County and/or District-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.
50. **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 and/or District is relying on Contractor to ensure such compliance, and pursuant to the requirements of Article 60 below, Contractor agrees that it shall defend, indemnify and hold County and/or District and their Indemnitees harmless from all liability, damages, costs and expenses arising from or related to a violation of such laws.
51. **Freight (F.O.B. Destination):** 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.

52. **Pricing:** The Contract price, as more fully set forth in Attachment B, shall include full compensation for providing all required goods in accordance with required specifications, or services as specified herein or when applicable, in the Contractors Pricing attached to this Contract, and no additional compensation will be allowed therefore, unless otherwise provided for in this Contract.
53. **Terms and Conditions:** Contractor acknowledges that it has read and agrees to all terms and conditions included in this Contract.
54. **Headings:** The various headings and numbers herein, the grouping of provisions of this Contract into separate clauses and Articles, and the organization hereof are for the purpose of convenience only and shall not limit or otherwise affect the meaning hereof.
55. **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.
56. **Calendar Days:** Any reference to the word “day” or “days” herein shall mean calendar day or calendar days, respectively, unless otherwise expressly provided.
57. **Attorney’s Fees:** In any action or proceeding to enforce or interpret any provision of this Contract, or where any provision hereof is validly asserted as a defense, each Party shall bear its own attorney’s fees, costs and expenses.
58. **Interpretation:** This Contract has been negotiated at arm’s length and between persons sophisticated and knowledgeable in the matters dealt with in this Contract. In addition, each Party has been represented by experienced and knowledgeable independent legal counsel of their own choosing, or has knowingly declined to seek such counsel despite being encouraged and given the opportunity to do so. Each Party further acknowledges that they have not been influenced to any extent whatsoever in executing this Contract by any other Party hereto or by any person representing them, or both. Accordingly, any rule of 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.
59. **Authority:** The Parties to this Contract represent and warrant that this Contract has been duly authorized and executed and constitutes the legally binding obligation of their respective organization or entity, enforceable in accordance with its terms.
60. **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/or District, and hold harmless, the County and/or District, its agents, officers, and employees from employer sanctions and any other liability which may be assessed against the Contractor or the County and/or District 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.

61. **Indemnification:** Contractor agrees to indemnify, defend with counsel approved in writing by County and/or District, and hold County and/or District, 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 and/or District by a court of competent jurisdiction because of the concurrent active negligence of County and/or District or County and/or District Indemnitees, Contractor, County and/or District agree that liability will be apportioned as determined by the court. Neither party shall request a jury apportionment.
62. **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 and/or District) 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 and/or District will provide reasonable notice of such an audit or inspection.

The County and/or District reserve 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 and/or District 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 surviving entity in a merger or acquisition or, in the event of liquidation, to the County and/or District's project manager.

**Amendment#2**

63. **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.*

IN WITNESS WHEREOF, the Parties hereto have executed this Contract on the dates opposite their respective signatures:

OFRS, Inc.  
a California Corporation

Date: \_\_\_\_\_

By \_\_\_\_\_

\_\_\_\_\_  
Print Name & Title

*(If a corporation, the document must be signed by two corporate officers. The 1<sup>st</sup> must be either Chairman of the Board, President or any Vice President.)*

Date: \_\_\_\_\_

By \_\_\_\_\_

\_\_\_\_\_  
Print Name & Title

*(If a corporation, the 2nd signature must be either the Secretary, an Assistant Secretary, the Chief Financial Officer, or any Assistant Treasurer.)*

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

Date: \_\_\_\_\_

By \_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name & Title

ORANGE COUNTY FLOOD CONTROL DISTRICT,  
a body corporate and politic

Date: \_\_\_\_\_

By \_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name & Title

Date: \_\_\_\_\_

**APPROVED AS TO FORM**  
Office of the County Counsel  
Orange County, California

By: \_\_\_\_\_  
Deputy

**ATTACHMENT A  
SCOPE OF WORK****I. SCOPE OF SERVICES:**

Contractor shall provide environmental multi-purpose maintenance for County of Orange (County) and Orange County Flood Control District (District). Contractor shall maintain the appearance of the property, facilities and structures within County and/or District's right of way.

Services shall consist of removal of debris & trash; homeless encampment and environmental clean-ups; hazardous waste removal; weed abatement & vegetation control (fire hazard prevention); herbicide & pesticide applications; fencing and gate repairs; drainage repairs; erosion control and repair; graffiti abatement & control; tree trimming & removals; and installation/maintenance/repair of signage. The Contractor shall provide all materials and equipment for the services specified above.

**II. GENERAL REQUIREMENTS:****A. Clean up of Debris, Trash and Hazardous Waste:**

Contractor shall pick-up all debris and trash, on the right-of-ways, and will remove and dispose of vegetation and refuse at specified dump sites within Orange County. Materials to be removed may include, but are not limited to, broken concrete, asphalt, construction debris, scrap metal, furniture, appliances, automobile parts, shopping carts, tires, trees, dead vegetation, dead animals, bagged or loose trash; Hazardous waste including but not limited to human feces, hypodermic needles, computer(s) and parts, etc. Individual items will be handled manually within Occupational Safety and Health Administration (OSHA) guidelines. Items removed which may be potentially hazardous, must be done so appropriately, under such guidelines.

1. Contractor is required to post notification of maintenance/clean-up work no less than 72 hours prior to the beginning of work when there are homeless encampments present in the work zone. County and/or District's project manager will supply the contractor with the approved notices to be posted.
2. Contractor shall photograph homeless encampments prior to removal. Photos are to be entered into the County GIS Map Data Collection System. This can either be done immediately, through the use of a Smartphone with GPS software or manually once at a computer with internet access.

All dump fees associated with maintenance services on the right-of-ways will be reimbursed at cost. County and/or District Project manager will verify and approve dump receipts prior to being invoiced. Copies of dump receipts shall be included with invoice.

**B. Disposal:**

All waste to be disposed of will be prioritized by County and/or District for recycling, treatment or disposal. Contractor shall provide County and/or District staff with costs estimates for available options and based on the above priority and feasible costs, County and/or District staff will provide direction to Contractor for appropriate waste disposal.

**C. Emergency Environmental Clean-Up Services:**

Environmental clean-up services requiring immediate response as determined by County and/or District staff shall be considered "emergencies". Upon contact for assistance with an emergency environmental clean-up, Contractor shall indicate within 10 minutes time if requested labor and equipment are available. If emergency response by the Contractor is mutually agreed upon and

initiated, Contractor shall mobilize resources based on information provided over the phone or via email by County and/or District staff. A field supervisor representing the Contractor shall arrive on scene within 30 minutes of initiation of an emergency response unless traffic or location of the incident makes travel within this time frame infeasible. All other labor, equipment and supplies shall arrive on scene as soon as possible but no more than 90 minutes from request by County and/or District staff unless otherwise agreed upon. Typical tasks that may be required of Contractor to be performed under the direction of County and/or District staff on an emergency environmental clean-up include:

1. Deploy containment and absorbent material/boom, and temporary barriers (such as dirt berms, sand and/or gravel bags) as needed, to control and recover pollutants.
2. Deploy heavy equipment as needed to establish containment berms; remove wastes and contaminated material; and position/relocate/recover equipment, containment booms, etc.
3. Deploy vacuum trucks of appropriate size as required, trailer-mounted and portable pumps and other equipment as necessary to contain and recover pollutants, contaminated debris, and sediment.
4. Perform steam/high pressure washing of roadways, underground stormdrain lines, flood control structures, and any other areas deemed necessary to remove pollutants and contamination. Where practical, vacor trucks may be used to "jet" underground pipelines in lieu of pressure washing. Capture and containment measures shall be implemented to prevent the release of pollutants and contaminated debris dislodged during the steam/high pressure washing cleaning procedure.
5. Perform confined-space entry when needed to conduct environmental clean-up services. Confined-space activities may involve work in oxygen deficient or hazardous atmospheres, requiring appropriate safety and monitoring equipment.
6. Under certain hazardous conditions Contractor may need to work in Levels A, B, C, or D PPE as part of this scope of work, and these costs should be included as appropriate with staff billing rates.
7. Set up temporary storage bins or tanks as needed for collection and quantification of solid and/or liquid wastes recovered during clean-up. Secondary containment shall be provided as necessary.
8. Deploy light towers for crews to operate safely at night or in darkness
9. Provide all necessary traffic control measures for crews to operate safely. Traffic control measures shall meet the requirements of the California Vehicle Code, Section 21400, and comply with the "California Manual on Uniform Traffic Control Devices for Streets and Highways.
10. Conduct video camera inspection of underground stormdrain lines as necessary.
11. Deploy skiffs, pontoon boats and other watercraft as necessary to conduct emergency clean-up operation in deep water flood control channels, flood control basins, harbors and lakes.
12. Perform trauma scene and human waste cleanups, including decontamination of blood/sewage-borne pathogens within impacted areas. Contractor must be a Registered Trauma Scene Management Practitioner (RTSMP).
13. Recover abandoned and illegally disposed waste from County and/or District right of way as directed by County and/or District staff. Waste material may include hazardous and non-hazardous items, as well as universal wastes such as electronic products, batteries, fluorescent bulbs, etc.

14. Assist County and/or District with incident command duties in accordance with the federal Incident Command System (ICS) as follows:
  - a. Establish Incident Command post upon request by County and/or District staff.
  - b. Prepare Incident Action Plans (IAP) on-site as needed.
15. Perform all work in compliance with environmental and safety regulations.
16. Prior to waste pickup, Contractor shall determine and provide suggestions to County and/or District on the most cost effective and appropriate waste disposal options.
17. When County and/or District staff contacts Contractor to request services, the following shall be provided:
  - a. Any and all information regarding the incident via phone and/or email, including details such as the exact location of the incident, the nature material spilled/released, estimated volume, estimated impacted areas, staging areas, incident command location;
  - b. Requests for specific labor, equipment and resources. If the specific requested labor and equipment cannot be provided by Contractor, County and/or District staff shall be immediately notified before alternate equipment/resources are dispatched. If labor, equipment and resources are dispatched which were not requested by County and/or District staff or mutually agreed upon between Contractor and County and/or District staff, Contractor shall not be compensated.
18. County and/or District staff shall function as incident command unless otherwise notified and shall direct all on-scene environmental clean-up operations by Contractor. No critical response decisions should be made by Contractor without consulting County and/or District staff.
19. Participate in post-incident debriefings and other meetings as requested by County and/or District staff.
20. Due to the potential for litigation and consequences of misinformation, Contractor shall ensure that questions or information requests regarding incidents are referred to County and/or District staff.
21. Upon request, other specialized tasks or activities not listed above may be required by County and/or District staff. These tasks may include retaining subcontractors or third party services.

**D. Non-Emergency Environmental Clean-Up Services:**

Environmental clean-up services not requiring immediate response as determined by County and/or District staff shall be considered “non-emergencies”. Upon request, County and/or District staff and Contractor shall establish a mutually agreeable schedule for non-emergency environmental clean-ups. Typical tasks that may be required of Contractor to be performed under the direction of County and/or District staff on a non-emergency environmental clean-up include all of those identified within Section E of this scope of work.

**E. Weed Abatement & Vegetation Control:**

Weed abatement and vegetation control, shall be performed in accordance with California Health and Safety Codes and municipal code requirements of the Orange County Flood Control District. Weed

abatement shall be by mowing, mechanical weed trimmer or hand tool removal, to augment the herbicide program. Contractor shall dispose of vegetation and/or weeds (including cut brush).

**F. Herbicide and Pesticide Application:**

Herbicide application shall be completed by a Certified Pest Control Applicator, under the supervision of a Pest Control Advisor. All personnel shall be licensed, by the State of California and all work will have written Pest Control Recommendations - submitted to the County Agricultural Commissioner in accordance with applicable regulations. The Orange County Public Works Operation and Maintenance (OCPW/O&M) Project Manager overseeing this contract will confer with the Pest Control Advisor to determine the best chemical and rate of application on an individual parcel basis. This work is supplemental to herbicide control currently performed by Orange County Public Works (OCPW). The OCPW/O&M Project Manager will identify areas that require Herbicide Control.

OCPW/O&M Project Manager shall be notified at least one week in advance of the time set for application of any chemicals so that an OCPW/O&M representative may witness the application.

The notification shall include all related MSDS certifications for all herbicides, pest control, and other chemical materials.

**G. Fence and Gate Maintenance:**

Work shall consist of maintenance and repair to existing County and/or District welded wire mesh, chain link, post and cable, and any other fencing or barrier repairs as may be required. The frequency of fence repair is dependent upon vandalism and/or accidents which occur along the County and/or District right-of-way. Fence material will be County and/or District standards approved and approved by OCPW/OM Project Manager.

**H. Drainage System and Maintenance Repairs:**

Contractor shall remove silt, drift, and/or obstructions, from County and/or District drainage channels, and restore erosion damage, upon direction of OCPW/OM Project Manager. The removal of vegetation and/or debris will be done in a manner which preserves the functional performance of all County and/or District drainage facilities and in a manner that does not create depressions in the ground capable of ponding water. Contractor will also be required to maintain County and/or District right-of-way vehicular access and maintenance roads, removing any obstructions and repairing erosion damage.

Contractor shall place erosion prevention materials (i.e. sandbags, silt fence, fiber rolls, straw waddles, etc.) along areas of right-of-way where potential flooding of adjacent properties may occur at OCPW/OM Project Managers direction. This shall be done prior to any inclement weather, if possible. OCPW/OM Project Manager may request Contractor's crew work outside of normal scheduled days during times of excessive inclement weather.

**I. Graffiti Abatement & Control:**

Contractor shall control graffiti through painting or cleaning on structures, walls, fences, signs, bridges and abutments, under the direction of OCPW/OM Project Manager. Paint shall be applied by roller, brush, or spray apparatus, (including extension arms from 10' to 25'), when requested. Contractor shall use water-based paint, except on roadway signs, where chemical cleaners will be used. (Contractor will consult with OCPW/OM Project Manager for situations where cleaning is ineffective, and may be directed to utilize other cleaners or to apply aluminum paint.) Application of paint or cleaning of graffiti

will be performed so as to preserve County and/or District maintenance information on signs, and structures (only as directed) (e.g. speed signs, milepost signs, and roadway signs).

**J. Photos and Documentation:**

Contractor shall photograph graffiti prior to removal. Photos are to be entered into the Orange County Sheriff's Dept., Tracking Automated and Graffiti Reporting System (T.A.G.R.S.) Program database. This can either be done immediately, through the use of a Smartphone with GPS software or manually once at a computer with internet access. The T.A.G.R.S Program was created and is used by law enforcement as well as outside agencies in order to have one centralized location for tracking all areas (input into system) and costs associated with each area/time of removal.

**K. Tree Trimming and Removals:**

Contractor shall trim and/or remove trees in order to maintain access and clear visibility of flood control channels, drainage facilities, maintenance roads and grade crossings, as well as those on County and/or District property causing harm to adjacent property/facilities/etc. Contractor shall provide labor and equipment necessary to clear areas where required in order to maintain the County and/or District right-of-ways. Work will consist of tree trimming and/or removals, occasional tree replanting, pole line removal and transport and brush removal. Due to the inaccessibility of certain properties, some trees may need to be climbed with the aid of ropes and others may require use of boom truck with a standard bucket lift, in order to be trimmed. Fall Protection shall be used where required.

**L. Tree Work Safety:**

The Contractor shall perform their work method in compliance with federal standards, local city ordinances and requirements, and CCR Title 8 (Cal/OSHA), Article 12. Tree Work, Maintenance or Removal Standards, and Subchapter 13, Logging and Sawmill Safety Orders, Article 5. Falling and Bucking as applicable to scope. The contractor shall fully understand and comply with the applicable Cal/OSHA standards and maintain required documentation available at the scope task site for review by the Authority's representative.

**M. Maintenance, Repair and/or New Installation of County and/or District Signs:**

Maintenance of existing County and/or District signs within the County and/or District right-of-way shall consist of cleaning (wiping clean, or by chemical cleaner) signs to remove graffiti or other substance hindering visibility of words. Repair will consist of correcting bent or broken posts and replace missing hardware (anti-vandalism type). Repair to existing signage is required prior to replacing with new. Contractor shall provide necessary chemicals for removal of graffiti from signs, as well as other materials required to perform this task. All sign material shall meet County and/or District standards and approved by OCPW/OM Project Manager.

**N. Pest/Insect Control:**

Contractor shall perform, on a case by case basis, reasonable pest/insect control to maintain the County and/or District right-of-way free of pests/insects.

**O. Flagging and Traffic Control:**

Contractor will have available Flagmen and Traffic Control as needed, to provide protection for the public, other municipalities, and County and/or District staff that may need access to the operating right-of-way. Contractor shall set up detours with all signage and traffic control devices per County and/or District standards as needed.

**P. Labor Skill and Standards of Performance:**

These performance standards shall apply to Contractor in the performance of any subsequent work or specialized trades herein, including any Subcontractor(s) that may be employed by the Contractor.

Failure to begin and diligently prosecute the services as further described herein may be considered grounds for termination of the contract. It will be the Contractor's responsibility to obtain the necessary labor, materials, and/or subcontractor resources to complete the assignment(s).

If any person employed by the Contractor, or employed as a subcontractor, should fail or refuse to carry out the work or shall appear to be incompetent or to act in a disorderly manner, he/she shall be discharged immediately upon the request of the County and/or District and such person shall not again be employed for any of the services required for the County and/or District.

The Contractor is responsible for determining the correct number of personnel, labor classifications, and equipment necessary to complete the work.

**Q. Key Personnel:**

Contractor shall provide resumes of proposed qualified staff and references, as indicated.

**R. Project Manager:****Duties:**

Plans, directs, and coordinates the activities of the Contractor (including all subcontractors) in performance of the Services to assure compliance with Contract terms and conditions, applicable regulations, County and District standards, and budgets. Serves as the point of contact for OCPW/OM staff for all matters relating to the Contract. Reviews, annual budget and work plan, training schedule, invoices. Supervises, promotes, manages, transfers, and disciplines Contractor staff and arranges with OCPW/OM for replacement personnel in the event of vacancies.

**Minimum Requirements:**

1. Desirable 10 years' experience in supervising or directing the work of others engaged in flood control right of way maintenance and five years' experience in managing construction and/or maintenance.
2. Knowledge of the safe and proper procedures hand and power tools maintenance equipment.
3. Must be able to demonstrate ability to communicate in written and verbal English language with prior record keeping experience.

**S. Supervisor/Foreman:****Duties:**

Contractor shall designate an employee (supervisor/foreman) as a primary point of contact and have the authority to act for the Contractor. Foreman is required to assist and coordinate the activities of the right-of-way maintenance crew on the County and/or District right-of-way by arranging for the materials, tools, and equipment required for the maintenance services, arranging for protection of workplace, coordinating with other County and/or District staff, contractor's, and affected public agencies, training employees in proper work methods, inspecting work methods and site conditions for

safety conditions and efficiency of use of labor and material, and preparing documentation of work performed and resources (labor, material, equipment, and supplies) used.

**Minimum Requirements:**

1. Desirable three to five years of flood control maintenance experience and/or construction including at least two years of experience in supervising or directing the work of others engaged in flood control maintenance
2. Knowledge of the safe and proper procedures for operating maintenance hand and power tools.
3. Must be able to demonstrate ability to communicate in written and verbal English language with prior record keeping experience.
4. Ability to work outdoors in all weather conditions, to lift objects weighing a minimum of 50 Ibs and must have the ability to distinguish colors and to hear warning signals and radio and telephone devices

T. **Equipment Operator:**

**Duties:**

Operates and performs operator-level duties of smaller equipment and rubber tired off- equipment such as a backhoe, skip loaders, and skid steers. May work as a member of a crew or independently

**Minimum Requirements:**

1. Desirable one to three years' experience in the operation of rubber tired equipment used in the course of flood control maintenance and/or construction.
2. Knowledge of safe and proper procedures for operating this equipment.
3. Ability to work outdoors in all weather conditions, to lift objects weighing a minimum of 50 Ibs and must have the ability to distinguish colors and to hear warning signals and radio and telephone devices.
4. Ability to communicate in the written and verbal English language.

U. **Qualifications Applicable to all Positions:**

**Minimum Requirements:**

1. Able to communicate in written and verbal English language. Required to pass pre-employment physical examination which includes blood and/or urine testing.
2. Ability to work outdoors in all weather conditions, to lift objects weighing a minimum of 50 Ibs and must have the ability to distinguish colors and to hear warning signals and radio and telephone devices.
3. The appropriate licensing; professional experience, academic training, and technical skills for the assigned work

**V. Work Plan:**

The Contractor shall establish, develop, maintain and implement a work plan that; provides an organizational chart of the project team and identifies their respective responsibilities; identifies all resources necessary to complete the work; identifies any resources provided by subcontractors; and any outlines management tools that will be utilized to manage the work.

**W. Quality Control Plan (QCP)**

The Quality Control Plan should include management's role and commitment to quality work, while optimizing cost and schedule performance. It shall describe implementation of policies, procedures and processes that ensure work is performed to the specifications, including a corrective action plan should corrections be necessary, and the methods in place to ensure non-recurrence.

**X. Workmanship:**

Contractor shall provide workers who are fully trained to the skill level necessary to complete a given job in a satisfactory manner. Contractor warrants that employees shall have all appropriate training needed for the work; have sufficient skill, knowledge and experience to perform such work; have tools and equipment appropriate for the given work; and that all contract work is performed in a safe, professional and workmanlike manner.

Contractor will not substitute any employee for another unless both have been trained equally, and at such time still current within such training. Training costs due to employee changes, requested by contractor, will be at the contractor's expense.

**Y. Non-Conforming Work:**

OCPW/OM Project Manager may reduce payment for any of the following; non-compliant work, noncompliant work left in place; corrective work or unauthorized work.

**Z. Emergency Work (Non-Emergency Environmental Clean-Up):**

Contractor and sub-contractors must have 24-hour contact number(s) and an acceptable means of emergency "on-call" communication with the OCPW/OM Project Manager.

Four (4) hour response time may be required in cases of emergency. Contractor shall be paid a 4 hour minimum for emergency service. Contractor shall be paid time and a half for hours worked beyond 40 hours per week, with prior approval of County and/or District Project Manager.

**AA. Unsafe Conditions:**

Contractor and or its Subcontractor are to immediately notify the OCPW/OM Project Manager of any unsafe or questionable condition that exists on the right-of-way. Project Manager will then notify the necessary parties.

**BB. Schedule:**

The Contractor shall submit a weekly schedule, for anticipated work to be performed by following week including location. Any deviations must be discussed and approved by OCPW/OM Project Manager.

Contractor and/or subcontractor shall respond and perform non-emergency as-needed work request from the County and/or District Project Manager within one (1) working day, except in cases of emergency, where an immediate response may be requested.

Normal work week will consist of five eight-hour days, Monday thru Friday. Contractor is to include proposed work hours as part of the submitted work plan

**CC. Daily Report:**

Contractor will email County and/or District Project Manager a daily progress report. This report will include type of work completed by location, personnel and equipment used, and other direct cost.

**DD. Monthly Report:**

In addition to the terms of the Contract, Contractor shall submit a monthly report to include;

Provide daily work reports as back-up to invoices submitted for payment

1. Itemization of the materials used and corresponding vendor's invoice copies;
2. Direct cost of labor;
3. Equipment rental charges;
4. Workers' certified payrolls;
5. Equipment used; size, type and identification number.

Attach a summary sheet for the hours expended for each task for each month and total project to date.

**EE. Equipment:**

The Contractor's equipment shall be in good repair and able to operate efficiently and safely. All equipment used in the performance of this contract shall be in operable condition and meet the local, state and federal safety requirements. All equipment used shall be inspected and serviced regularly. The inspection and service records shall be available upon request. All vehicles shall be registered, licensed, insured and operated by a licensed driver. All vehicles shall follow laws regarding parking, driving, and licensing.

The Contractor's equipment shall have the proper safety devices maintained at all times while in use. If equipment does not contain proper safety devices and/or is being operated in an unsafe manner, the OCPW/OM Project Manager shall direct the Contractor to remove such Equipment and/or operation until the deficiency is corrected to the satisfaction of the OCPW/OM Project Manager.

The OCPW/OM Project Manager may inspect the Contractor's equipment and tools at any time. The daily anticipated equipment necessary to perform this work, but not limited to:

1. One (1) Foreman/supervisor pick-up truck.
2. One (1) Crew truck.
3. One (1) truck with automatic dumping capability with a minimum hauling capacity of 6 cubic yards.
4. Hand and power tools consisting of weed trimmers, chain and pole saws, hedge trimmer, but not limited to; with a value of \$500.00, shall be considered part of the Contractors overhead cost.
5. The anticipated heavy equipment necessary to perform this work including, but not limited to the following;
6. Backhoe
7. Dozer-D4 or equal
8. Skip loader with a 4 in 1 bucket
9. Street sweeper, and skid steer with attachments

Unless equipment rates are specifically identified in the Agreement, reimbursement for equipment will be either at the CALTRANS published rates within "Labor Surcharge and Equipment Rental Rates" or the actual rental rate, whichever is less. Equipment rental payment is full compensation for:

Rental equipment costs, including moving rental equipment to and from the site using its own power.

Transport equipment costs for rental equipment that cannot be transported economically using its own power. No payment is made during transport for the transported equipment.

**ATTACHMENT B**  
**CONTRACTOR'S PRICING (FEE SCHEDULE)**

- I. COMPENSATION:** This is a usage Contract between County, District and Contractor for environmental multi-purpose maintenance, as set forth in Attachment A, "Scope of Work". Contractor agrees to accept the specified compensation as set forth in this Contract as full remuneration for performing all services and furnishing all staffing, labor, insurance, bonds, prevailing wage, vehicles, equipment, tools, materials, overhead, travel, etc. 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 below for work performed in accordance with the Scope of Work. **The County and/or District shall not pay any sum in excess of the Total Contract Amount specified below unless authorized by amendment in accordance with Article 30 and 45 of the County Contract Terms and Conditions.**
- II. PRICING:** Payment shall be made in accordance with the provisions of this Contract. Partial payments may be allowed at the discretion of the County and/or District Project Manager.

**A. Hourly Rates and Classification/Titles**

CLASSIFICATION/TITLES	HOURLY RATE		
	REGULAR HOURLY RATE	AFTER HOURS HOURLY RATE	HOLIDAY HOURLY RATE
PROJECT MANAGER-Non Trade Craft	\$95.00	\$105.00	\$150.00
FOREMAN/SUPERVISOR- Working Foreman	\$78.00	\$86.00	\$130.00
FLAGMAN Group 1 Classification	\$74.00	\$81.00	\$125.00
EQUIPMENT OPERATOR- Group 3 Op Engineer	\$98.00	\$107.00	\$168.00
DRIVER-DUMP TRUCK – Group 4 Teamster	\$76.00	\$83.00	\$121.00
LABORER – Group 1 Classification	\$74.00	\$81.00	\$125.00
ADMINISTRATIVE	\$38.00	\$38.00	\$70.00

- i. Labor hours shall be charged on the basis of actual time spent on each job, not on a portal-to-portal basis, and shall be computed to the nearest one quarter (1/4) hour.
- ii. Regular Hours shall mean Monday through Friday 7:00 am to 5:00 pm; After Hours shall mean Monday through Friday 5:01 pm through 6:59 am and all day Saturday and Sunday; Holidays shall mean Thanksgiving, Christmas, Labor Day, and Fourth of July, etc.

**B. Equipment List:**

EQUIPMENT TYPE	RATE		
	HOURLY	DAILY	WEEKLY
FOREMAN/SUPERVISOR PICK-UP TRUCK	\$9.00	\$72.00	\$280.00
CREW TRUCK	\$11.00	\$88.00	\$425.00
DUMP TRUCK (MIN. 6 CUBIC YARDS)	\$30.00	\$225.00	\$900.00
BACKHOE	\$28.00	\$220.00	\$850.00
DOZER-d4 OR EQUAL	\$38.00	\$375.00	\$1500.00
SKIP LOADER WITH 4 IN 1 BUCKET	\$31.00	\$255.00	\$875.00
STREET SWEEPER	\$45.00	\$350.00	\$1250.00
SKID STEER WITH ATTACHMENTS	\$23.00	\$205.00	\$800.00

EQUIPMENT MOVE-ON	\$125.00
EQUIPMENT MOVE-OFF	\$125.00
FUEL SURCHARGE = 10% OF DAILY EQUIPMENT CHARGE	
4 HOUR MINIMUM ON ALL EQUIPMENT CHARGES	
DAILY FIELD SUPPLIES AND HSE CHARGE (GLOVES, PPE, TYVEK, BAGS)	\$21.00 PER EMPLOYEE

C. **ADDITIONAL WORK:** Any additional labor, tools, equipment, etc. not listed above must be approved by the County Project Manager in accordance with Attachment A, "Scope of Work".

**AMENDMENT #1**

~~D. ANNUAL AGGREGATE CONTRACT AMOUNT SHALL NOT EXCEED: \$ 1,000,000 / PER YEAR~~

~~E. TOTAL AGGREGATE CONTRACT AMOUNT SHALL NOT EXCEED: \$3,000,000~~

**AMENDMENT #2**

**D. TOTAL CONTRACT AMOUNT SHALL NOT EXCEED: \$2,000,000.00**

~~D. ANNUAL AGGREGATE CONTRACT AMOUNT SHALL NOT EXCEED: \$2,000,000/YEAR~~

~~E. TOTAL AGGREGATE CONTRACT AMOUNT SHALL NOT EXCEED: \$6,000,000~~

**AMENDMENT NO. 3**

**D. TOTAL CONTRACT AMOUNT SHALL NOT EXCEED: \$2,000,000.00**

- III. PRICE INCREASES/DECREASES:** No price increases will be permitted during the term of the Contract. All price decreases will automatically be extended to County and/or District.
- IV. 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 and/or District during the term of this Contract not otherwise specified and provided for within this Contract.
- V. 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.
- VI. REIMBURSABLE ITEMS:** Reimbursable items are non-salary items that are not included in the Scope of Work but necessary for completion of the work and must be authorized in advance by the County and/or District Project Manager. Invoices for reimbursable items shall be identified as such and include copies of receipts or other proof of payment as determined by the County and/or District Project Manager. Reimbursable items shall be charged at cost.
- VII. PAYMENT TERMS:** Invoices are to be submitted in monthly arrears, after services have been completed, to the address specified below. Payment will be net thirty (30) days after receipt of an invoice in a format acceptable to the County and/or District. Invoices shall be verified and approved by County and/or District and subject to routine processing requirements. The responsibility for providing an acceptable invoice to County and/or District for payment rests with Contractor. Incomplete or incorrect invoices are not acceptable and will be returned to the Contractor for correction.

Billing shall cover services and/or goods not previously invoiced. The Contractor shall reimburse the County and/or District for any monies paid to the Contractor for goods or services not provided or when goods or services do not meet the Contract requirements. Payments made by County and/or District shall not preclude the right of County and/or District 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.

- VIII. 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/Operations & Maintenance  
Attn: Kris Ruiz  
2301 N. Glassell Street, 2<sup>nd</sup> 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 PLAN1. **Key Personnel to perform Contract duties**

Name	Classification/Designation	Years of Experience	Contractor or Subcontractor
Chip Anzalone	Project Manager	16	Contractor
Uodome Hom	Working Foreman	5	Contractor
Jason Doolin	Site Safety Coordinator/Operator	15	Contractor
Joe Rodriguez	Laborer	12	Contractor
Chhoeun Chheng	Laborer	5	Contractor
Taylor Marshall	CFO/Billing	12	Contractor
Jonna Henderson	Human Resources	25	Contractor
Eileen Bullen	Health and Safety Coordinator	25	Contractor

Contractor understands that those individuals represented as assigned to the project must remain working on the project throughout the duration of the project unless otherwise requested or approved in writing by the County and/or District. Substitution or addition of Contractor's Key Personnel in any given classification/title shall be allowed only with prior written approval of the County and/or District Project Manager. During the term of this Contract, Contractor shall maintain a business office in Southern California.

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

2. **Subcontractor(s)**

In accordance with Article 36, "Assignment or Subcontracting," 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 the County and/or District Project Manager.

Company Name & Address	Contact Name & Telephone Number	Project Function
Gold Coast Fencing	Scott 562.867.2027	Large Scale Fencing Repairs
Patriot Environmental	Randy Balik 310.341.5004	Vacuum Truck Services
Medical Env. Technologies	Scott McLaughlin 619.448.2000	Medical Waste Transporter