

CONTRACT MA-080-13011890**FOR****FUEL MODIFICATION, MOWING/DISCING, FIRE HAZARD AND WEED ABATEMENT**

THIS Aggregate Contract MA-080-13011890 for Fuel Modification, Mowing/Discing, Fire Hazard and Weed Abatement, (hereinafter referred to as "Contract") is made and entered into as of the date fully executed by and between the County of Orange, a political subdivision of the State of California, (hereinafter referred to as "County") and Phillips and Jordan, Inc., a State of North Carolina corporation, (hereinafter referred to as "Contractor") with County and Contractor sometimes individually referred to as ("Party"), or collectively referred to as ("Parties").

RECITALS

WHEREAS, County and Contractor are entering into this Contract for Fuel Modification, Mowing/Discing, Fire Hazard and Weed Abatement under a Usage Contract; and,

WHEREAS, County solicited Fuel Modification, Mowing/Discing, Fire Hazard and Weed Abatement as set forth herein, and Contractor has represented that it is qualified to provide Fuel Modification, Mowing/Discing, Fire Hazard and Weed Abatement to County as further set forth herein; and,

WHEREAS, Contractor agrees to provide Fuel Modification, Mowing/Discing, Fire Hazard and Weed Abatement to County as further set forth in the Scope of Work, attached hereto as Attachment A and incorporated herein; and,

WHEREAS, County agrees to pay Contractor the fees as 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 Contractor will provide Fuel Modification, Mowing/Discing, Fire Hazard and Weed Abatement under a Usage Contract.
2. **Term:** The initial term of this Contract shall become effective July 1, 2014, and shall continue for one (1) year from that date unless otherwise terminated as provided herein. This Contract may be renewed upon expiration for three (3) additional years, upon mutual agreement of both Parties. County is 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.
3. **Aggregate Contract:** This is an aggregate Contract with Phillips and Jordan, Inc. and Warren Brothers Tractor Work with a Total Aggregate Contract Amount not to exceed \$175,000.
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 may immediately terminate or modify this Contract without penalty.

5. **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.
6. **Contractor's Project Manager and Contractor Personnel:** Contractor shall appoint a Project Manager, as specified in Article 29. "Notices" to direct Contractor's efforts in fulfilling Contractor's obligations under this Contract. This Project Manager shall be subject to approval by County and shall not be changed without the written consent of County's Project Manager, which consent shall not be unreasonably withheld. Contractor's Project Manager and Contractor personnel shall be assigned to this project for the duration of this Contract and shall diligently pursue all work and services to meet the project time lines. Contractor personnel are those individuals who report directly to Contractor's Project Manager. Contractor warrants that all Contractor personnel engaged in the performance of work under this Contract shall possess sufficient experience and/education to perform the services requested by County.
7. **County's Project Manager:** County shall appoint a Project Manager, as specified in Article 29. "Notices", to act as liaison between County and Contractor during the term of this Contract. County's Project Manager shall coordinate the activities of County staff assigned to work with Contractor.

County's Project Manager shall have the right to require the removal and replacement of Contractor's Project Manager and Contractor personnel. County's Project Manager shall notify Contractor in writing of such action. Contractor shall accomplish the removal within 14 calendar days after written notice by County's Project Manager. County's Project Manager shall review and approve the appointment of the replacement for Contractor's Project Manager and Contractor personnel. Said approval shall not be unreasonably withheld.

8. **Conflict of Interest:** Contractor shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with the best interests of County. This obligation shall apply to Contractor; Contractor's employees, agents, and relatives; sub-tier Consultants; and third parties associated with accomplishing work and services hereunder. 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 County.
9. **Existing Site Conditions:** Information respecting the site of the work given in drawings or specifications has been obtained by County's representatives and is believed to be reasonably correct, but County does not warrant either the completeness or accuracy of such information, and it is the responsibility of Contractor to verify all such information.
10. **Hazardous Conditions:** Whenever Contractor's operations create a condition hazardous to traffic or to the public, Contractor shall provide flagmen and furnish, erect and maintain control devices as are necessary to prevent accidents or damage or injury to the public at Contractor's expense and without cost to County. Contractor shall comply with County directives regarding potential hazards.

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

- Signs, lights, flags, and other warning and safety devices shall conform to the requirements set forth in Chapter 5 of the current traffic manual, Traffic Control for Construction and Maintenance Work Zones, published by the state of California Department of Transportation.
11. **Conditions Affecting Work:** Contractor shall be responsible for taking all steps reasonably necessary to ascertain the nature and location of the work to be performed under this Contract and to know the general conditions which can affect the work or the cost thereof. Any failure by Contractor to do so will not relieve Contractor from responsibility for successfully performing the work without additional cost to County. County assumes no responsibility for any understanding or representations concerning the nature, location(s) or general conditions made by any of its officers or agents prior to the execution of this Contract, unless such understanding or representations by County are expressly stated in the Contract.
 12. **Contractor's Personnel:** Contractor warrants that all Contractor personnel engaged in the performance of work under this Contract shall possess sufficient experience and education to perform the services requested by County. County expressly retains the right to have any of Contractor personnel removed from performing services under this Contract. Contractor shall effectuate the removal of the specified Contractor personnel from providing any services to County under this Contract within one business day of notification by County. County shall submit the request in writing to Contractor's Project Manager. County is not required to provide any reason, rationale or additional factual information if it elects to request any specific Contractor personnel be removed from performing services under this Contract.
 13. **Usage:** No guarantee is given by County to Contractor regarding usage of this Contract. Usage figures, if provided, are approximate, based upon the last usage. Contractor agrees to supply services and/or commodities requested, as needed by County, 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.
 14. **Usage Reports:** Upon County request, Contractor shall submit usage reports to County which shall include, at minimum, summarized quantities used during the Contract period by line item description as specified in the Contract. The usage report shall be in a format specified by County.
 15. **Cooperative Agreement:** The provisions and pricing of this Contract will be extended to other County of Orange agencies/departments ("cooperative entities"). Cooperative 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. The cooperative entities are responsible for obtaining all certificates of insurance and bonds required. Contractor is responsible for providing each cooperative entity a copy of the Contract upon request by the cooperative entity. County of Orange makes no guarantee of usage by other users of this Contract. County of Orange may authorize the loading of this agreement into an electronic commerce system.

Contractor shall be required to maintain a list of the cooperative entities that have used this Contract. The list shall report dollar volumes spent quarterly and annually and shall be provided on a quarterly basis to County lead agency.
 16. **Records:** Contractor shall keep true and accurate accounts, records, books and data which shall correctly reflect the business transacted by Contractor in accordance with generally accepted accounting principles. These records shall be stored in the County of Orange for a period of seven (7) years. Storage of records in another County will require special clearance from County's Project Manager for this project.

17. **Audits/Inspections:** Contractor agrees to permit County, which may include the Auditor-Controller or the Auditor-Controller's authorized representative (including auditors from a private auditing firm hired by County), access during normal working hours to all books, accounts, records, reports, files, financial records, supporting documentation, including payroll and accounts payable/receivable records, and other papers or property of Contractor for the purpose of auditing or inspecting any aspect of performance under this Contract. The inspection and/or audit will be confined to those matters connected with the performance of the Contract including, but not limited to, the costs of administering the Contract. County will provide reasonable notice of such an audit or inspection.

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

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

Should Contractor cease to exist as a legal entity, Contractor's records pertaining to this Contract shall be forwarded to the surviving entity in a merger or acquisition or, in the event of liquidation, to County's Project Manager.

18. **Child Support Enforcement Requirements:** Contractor is required to comply with the child support enforcement requirements of County. Failure of 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 County shall constitute grounds for termination of the Contract.
19. **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 County, 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 approval.
20. **News/Information Release:** 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 County through County's Project Manager. Any requests for interviews or information received by the media should be referred directly to County. Contractors are not authorized to serve as a media spokespersons for County projects without first obtaining permission from County's Project Manager.
21. **Breach of Contract:** The failure of 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 County may, and in addition to any other remedies available at law, in equity, or otherwise specified in this Contract:

- i. Afford 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;
 - ii. Discontinue payment to Contractor for and during the period in which Contractor is in breach and offset against any monies billed by Contractor but yet unpaid by County those monies disallowed pursuant to the above.
 - iii. Terminate the Contract immediately without penalty.
22. **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 Contractor's Supervisor and County's Project Manager as specified in Article 29. "Notices" by way of the following process, such matter shall be brought to the attention of County DPA by way of the following process:
 - i. Contractor shall submit to 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 County, on its own initiative, has already rendered such a final decision.
 - ii. Contractor's written demand shall be fully supported by factual information, and, if such demand involves a cost adjustment to the Contract, Contractor shall include with the demand a written statement signed by a senior official indicating that the demand is made in good faith, that the supporting data are accurate and complete, and that the amount requested accurately reflects the Contract adjustment for which Contractor believes County is liable.
 - iii. Pending the final resolution of any dispute arising under, related to, or involving this Contract, Contractor agrees to diligently proceed with the performance of this Contract, including the delivery of goods and/or provision of services. Contractor's failure to diligently proceed shall be considered a material breach of this Contract. Any final decision of County shall be expressly identified as such, shall be in writing, and shall be signed by County DPA or his designee. If County fails to render a decision within 90 days after receipt of Contractor's demand, it shall be deemed a final decision adverse to Contractor's contentions. County's final decision shall be conclusive and binding regarding the dispute unless Contractor commences action in a court of competent jurisdiction to contest such decision within 90 days following the date of County's final decision or one year following the accrual of the cause of action, whichever is later.
23. **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.
24. **Expenditure Limit:** Contractor shall notify County's Project Manager in writing when the expenditures against the Contract reach 75 percent of the dollar limit on the Contract. County 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.
25. **Errors and Omissions:** All reports, files and other documents prepared and submitted by Contractor shall be complete and shall be carefully checked by the professional(s) identified

- by Contractor as Project Manager and personnel prior to submission to County. Contractor agrees that County review is discretionary and Contractor shall not assume that County will discover errors and/or omissions. If County discovers any errors or omissions prior to approving Contractor's reports, files and other written documents, the reports, files or documents will be returned to Contractor for correction. Should County or others discover errors or omissions in the reports, files or other written documents submitted by Contractor after County approval thereof, County approval of Contractor's reports, files or documents shall not be used as a defense by Contractor in any action between County and Contractor, and the reports, files or documents will be returned to Contractor for correction.
26. **Ownership of Documents:** County has permanent ownership of all directly connected and derivative materials produced under this Contract by Contractor. All documents, reports and other incidental or derivative work or materials furnished hereunder shall become, and remain, the sole property of County and may be used by County as it may require without additional cost to County. None of the documents, reports and other incidental or derivative work or furnished materials shall be used by Contractor without the express written consent of County.
27. **Prevailing Wage (Labor Code Section 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 the locality for each craft, classification, or type of worker needed to execute this Contract. The rates are available from the County's Clerk of the Board Office, and from the Director of the Department of Industrial Relations (DIR) at the following website: <http://www.dir.ca.gov/dlsr/DPreWageDetermination.htm>. Contractor shall post a copy of such wage rates at the job site and shall pay the adopted prevailing wage rates. The Contractor shall comply with the provisions of Sections 1775 and 1813 of the Labor Code.
28. **Title to Data:** All materials, documents, data or information obtained from County data files or any County medium furnished to Contractor in the performance of this Contract will at all times remain the property of County. Such data or information may not be used or copied for direct or indirect use by Contractor after completion or termination of this Contract without the express written consent of County. All materials, documents, data or information, including copies, must be returned to County at the end of this Contract.
29. **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 County's Project Manager and Contractor's Project Manager 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.

County: OC Public Works/Operations & Maintenance Division
Attn: John Dean
2301 N. Glassell Street
Orange, CA 92865
Phone: 714.955.0241
Email: john.dean@ocpw.ocgov.com

County: OC Public Works/Operations & Maintenance Division
Attn: Jessie Prado
2301 N. Glassell Street
Orange, CA 92865
Phone: 714.955.0257
Email: jessie.prado@ocpw.ocgov.com

cc: OC Public Works/Procurement Division
Attn: Wendi Osborne, County DPA
2301 N. Glassell Street, 2nd Floor
Orange, CA 92865
Phone: 714.955.0233
Email: wendi.osborne@ocpw.ocgov.com

Contractor: Phillips and Jordan Inc.
Attn: Mike Wasgatt
25809 Business Center Dr., Suite A
Redlands, CA 92374
Phone: 909.799.7400
Email: mwasgatt@pandj.com

30. **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.
31. **Entire Contract:** This Contract, including Attachments which are attached hereto and incorporated herein by this reference, when accepted by 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 in writing. Electronic acceptance of any additional terms, conditions or supplemental Contracts by any County employee or agent, including but not limited to installers of software, shall not be valid or binding on County unless accepted in writing County's Purchasing Agent or his designee.
32. **Amendments:** No alteration or variation of the terms of this Contract shall be valid unless made in writing and signed by the Parties; no oral understanding or agreement not incorporated herein shall be binding on either of the Parties; and no exceptions, alternatives, substitutes or revisions are valid or binding on County unless authorized by County in writing.
33. **Taxes:** All prices shall include any applicable sales tax.
34. **Delivery:** Time of delivery of goods or services is of the essence in this Contract. County reserves the right to refuse any goods or services and to cancel all or any part of the goods not conforming to applicable specifications, drawings, samples or 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 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. Delivery shall not be deemed to be complete until all goods, or services, have actually been received and accepted in writing by County.
35. **Acceptance/Payment:** Unless otherwise agreed to in writing by County 1) acceptance shall not be deemed complete unless in writing and until all the goods/services have actually been received, inspected, and tested to the satisfaction of County, and 2) payment shall be made in arrears after services have been provided.
36. **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 its indemnitees as identified in Article "62" below, and as more fully described in Article "62", harmless from liability, loss, damage and expense, including reasonable counsel fees, incurred or sustained by County by reason of the failure of the goods/services to conform to such warranties, faulty work performance, negligent or unlawful acts, and non-compliance with any applicable state or federal codes, ordinances, orders, or statutes, including the Occupational Safety and Health Act (OSHA) and the California Industrial Safety Act. Such remedies shall be in addition to any other remedies provided by law.
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 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 Contractor. Exercise by County of its right to terminate the Contract shall relieve County 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 Contractor its employees nor anyone working for Contractor under this Contract shall be considered an agent or an employee of County. Neither Contractor, employees nor anyone working for Contractor under this Contract shall qualify for workers' compensation or other fringe benefits of any kind through County.
43. **Performance:** Contractor shall perform all work under this Contract, taking necessary steps and precautions to perform the work to County's satisfaction. Contractor shall be responsible for the professional quality, technical assurance, timely completion and coordination of all documentation and other goods/services furnished by 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 provisions of services under this Contract, Contractor agrees to purchase all required insurance at Contractor's expense and to deposit with County Certificates of Insurance, including all endorsements required herein, necessary to satisfy County that the insurance provisions of this Contract have been complied with and to keep such insurance coverage and the certificates therefore on deposit with County during the entire term of this Contract. In addition, all subcontractors performing work on behalf of Contractor pursuant to this Contract shall obtain insurance subject to the same terms and conditions as set forth herein for Contractor.

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 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), shall specifically be approved by County Executive Office (CEO)/Office of Risk Management.

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

Qualified Insurer: Minimum insurance company ratings as determined by the most current edition of the **Best's Key Rating Guide/Property-Casualty/United States or ambest.com** shall be A-(Secure A.M. Best's Rating) and VIII (Financial Size Category).

The policy or policies of insurance must be issued by an insurer licensed to do business in the state of California (California Admitted Carrier). If the carrier is a non-admitted carrier in the state of California and does not meet or exceed an A.M. Best rating of A-/VIII, CEO/Office of Risk Management retains the right to approve or reject carrier after a review of the company's performance and financial ratings. If the non-admitted carrier meets or exceeds the minimum A.M. Best rating of A-/VIII, the agency can accept the insurance.

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

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

Required Coverage Forms

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

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

Required Endorsements

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

- 1) An Additional Insured endorsement using ISO form CG 2010 or CG 2033 or a form at least as broad naming County of Orange, its elected and appointed officials, officers, employees, agents as Additional Insureds.
- 2) A primary non-contributing endorsement evidencing that Contractor's insurance is primary and any insurance or self-insurance maintained by County of Orange shall be excess and non-contributing.

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

The Workers' Compensation policy shall contain a waiver of subrogation endorsement waiving all rights of subrogation against County of Orange, and members of the Board of Supervisors, its elected and appointed officials, officers, agents and employees.

All insurance policies required by this Contract shall give County of Orange 30 days notice in the event of cancellation and 10 days for non-payment of premium. This shall be evidenced by policy provisions or an endorsement separate from the Certificate of Insurance.

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

Insurance certificates should be forwarded to:

County of Orange, OC Public Works
Attn: Procurement Division
2301 N. Glassell Street
Orange, CA 92865

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

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

County shall notify Contractor in writing of changes in the insurance requirements. If Contractor does not deposit copies of acceptable certificates of insurance and endorsements with County incorporating such changes within thirty days of receipt of such notice, this Contract may be in breach without further notice to Contractor, and County shall be entitled to all legal remedies.

The procuring of such required policy or policies of insurance shall not be construed to limit Contractor's liability hereunder nor to fulfill the indemnification provisions and requirements of this Contract, nor act in any way to reduce the policy coverage and limits available from the insurer.

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 "62" below, indemnify, defend, and hold County harmless and be responsible for payment of all costs, damages, penalties and expenses related to or arising from or related thereto.
46. **Changes:** Contractor shall make no changes in the work or perform any additional work without County's specific written approval.
47. **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.
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 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 County-related records and information pursuant to all statutory laws relating to privacy and confidentiality that currently exist or exist at any time during the term of this Contract. All such records and information shall be considered confidential and kept confidential by Contractor and Contractor's staff, agents and employees.
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 is relying on Contractor to ensure such compliance, and pursuant to the requirements of Article "62" below, Contractor agrees that it shall defend, indemnify and hold County and County Indemnitees harmless from all liability, damages, costs and expenses arising from or related to a violation of such laws.

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 Scope of Work attached to this Contract, and no additional compensation will be allowed therefore, unless otherwise provided for in this Contract.
53. **Waiver of Jury Trial:** Each Party acknowledges that it is aware of and has had the opportunity to seek advise of counsel of its choice with respect to its rights to trial by jury, and each Party, for itself and its successors, creditors, and assigns, does hereby expressly and knowingly waive and release all such rights to trial by jury in any action, proceeding or counterclaim brought by any Party hereto against the other (and/or against its officers, directors, employees, agents, or subsidiary or affiliated entities) on or with regard to any matters whatsoever arising out of or in any way connected with this Contract and /or any other claim of injury or damage.
54. **Terms and Conditions:** Contractor acknowledges that it has read and agrees to all terms and conditions included in this Contract.
55. **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.
56. **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.
57. **Calendar Days:** Any reference to the word “day” or “days” herein shall mean calendar day or calendar days, respectively, unless otherwise expressly provided.
58. **Attorneys 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.
59. **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 affect the purpose of the Parties and this Contract.
60. **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.

61. **Employee Eligibility Verification:** Contractor warrants that it fully complies with all Federal and State statutes and regulations regarding the employment of aliens and others and that all its employees performing work under this Contract meet the citizenship or alien status requirement set forth in Federal statutes and regulations. Contractor shall obtain, from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by Federal or State statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. §1324 et seq., as they currently exist and as they may be hereafter amended. Contractor shall retain all such documentation for all covered employees for the period prescribed by the law. Contractor shall indemnify, defend with counsel approved in writing by County, and hold harmless, County, its agents, officers, and employees from employer sanctions and any other liability which may be assessed against Contractor or County or both in connection with any alleged violation of any Federal or State statutes or regulations pertaining to the eligibility for employment of any persons performing work under this Contract.
62. **Indemnification:** Contractor agrees to indemnify, defend with counsel approved in writing by County, and hold County, its elected and appointed officials, officers, employees, agents and those special districts and agencies which County's Board of Supervisors acts as the governing Board ("County Indemnitees") harmless from any claims, demands or liability of any kind or nature, including but not limited to personal injury or property damage, arising from or related to the services, products or other performance provided by Contractor pursuant to this Contract. If judgment is entered against Contractor and County by a court of competent jurisdiction because of the concurrent active negligence of County or County Indemnitees, Contractor and County agree that liability will be apportioned as determined by the court. Neither Party shall request a jury apportionment.

Exhibit A

County of Orange, OC Public Works
Phillips and Jordan, Inc.

MA-080-13011890

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


PHILLIPS AND JORDAN INC*
a State of North Carolina corporation

By 

Print Name Dale S. Joiner

Title Vice President
Corporate Officer

Date February 12, 2014

By 

Print Name Christina M. Eddings

Title Assistant Secretary
Corporate Officer

Date February 12, 2014

COUNTY OF ORANGE
a political subdivision of the State of California


By _____

Print Name _____

Title _____

Date _____

APPROVED AS TO FORM:
County Counsel

By 
Deputy

Date 2-21-14

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

ATTACHMENT A SCOPE OF WORK

- I. SCOPE OF WORK:** Contractor shall furnish all staffing, labor, equipment materials and incidentals required for Fuel Modification, Mowing/Discing, Fire Hazard and Weed Abatement. Services shall be provided on an as-needed basis as required by County.
- II. DESCRIPTION OF WORK:** This Contract is for Fuel Modification, Mowing/Discing, Fire Hazard and Weed Abatement Service as required by County.
- A. Work to be done consists of mowing, discing for weed abatement, fuel modification, and associated debris removal. The purpose is to provide a reasonable degree of fire safety and abate potential fire hazards by removing flammable materials as required by County.
- B. Work locations for this Contract will be countywide in unincorporated areas of Orange County, County Flood Control Facilities, incorporated cities and agencies serviced by County: Laguna Hills, Lake Forest, Dana Point, Mission Viejo, Transportation Corridor Agency (TCA) parcels, and County of Orange properties in the Riverside, Corona, Chino, and San Bernardino areas.
- III. CONTRACTOR REQUIREMENTS:**
- A. Contractor shall maintain an accurate record showing name of employee, classification, actual hours worked, wages paid and benefits paid to each employee. This record will be subjected to inspection of County and State Division of Labor Law Enforcement in accordance with provisions of the State Labor Code 1776.
- B. Contractor agrees to permit County's Auditor-Controller or Director, OC Public Works, or their authorized representative, access during normal working hours to all books, accounts, records, reports files and other papers of property of Contractor for purpose of auditing any aspects of performance under Contract.
- C. Conduct: Contractor personnel providing services under this Contract shall not be incompetent, disorderly, under the influence of alcohol or drugs, who fails or otherwise refuses to perform the work properly and acceptably, or is otherwise objectionable. County expressly retains the right to request any specific Contract personnel be precluded from providing services to County under this Contract. County is not required to provide any reason for requested removal of specified Contract personnel. Contractor shall effectuate removal of the requested Contractor personnel within three (3) business days.
- D. Supervision: Contractor shall provide a supervisor or foreman who shall be present at all times during Contract operations, and who shall be responsible for both conduct and workmanship. Said supervisor or foreman shall be able to communicate effectively in both written and oral English.
- IV. CONTRACTOR PERFORMANCE REQUIREMENTS:**
- A. Contractor shall provide portable water readily available at all times for each crew.
- B. Contractor shall conform to all South Coast Air Quality Management District's (hereinafter referred to as "AQMD") regulations, which may apply to the types of equipment utilized under this Contract.
- C. Equipment, Tools, and Manpower: Contractor shall furnish all hand tools, power equipment, and safety equipment necessary to accomplish the specified work. Equipment, Tools, and Manpower shall consist of, but not be limited to the following:

Exhibit A

1. Contractor shall provide one (1) track layer tractor equipment with dirt pads with grousers worn not to exceed manufacture's specifications. The tractor used for pulling a disc shall be of a track layer type of the size and horsepower capable of pulling a double throw disc on slopes up to 35%. Tractor must be a minimum of 90 horsepower at the flywheel. Certification of horsepower shall be provided upon County's Project Manager's request.
 2. Contract shall provide one (1) double throw disc.
 3. Contractor shall provide one (1) truck transport with tilt trailer.
 4. Contractor shall provide one (1) rubber tire tractor. The rubber tire tractor for pulling a double throw, hydraulically actuated wheeled disc shall be provided for use in gentle terrain where frequent loading and unloading proves impractical. Tractor must be a minimum of 50 horsepower at the flywheel, and certification of horsepower will also be provided.
 5. Contractor shall provide two (2) high side hydraulic dump trucks equipped with rear flashing lights and traffic control cones.
 6. Hand tools shall include gas powered weed eaters, chain saws, whip hoes, shovels, hoes, rakes, trash cans and/or tarps and other tools and equipment as required for the removal of weeds, debris, and vegetative growth.
 7. Contractor shall provide a minimum of two (2) four-man hand crews with supervision, transportation, and tools. If more than two hand crews may be necessary to complete work Contractor shall have sufficient additional resources available to respond to additional work requirements as required by County.
 8. Hauling equipment: suitable flatbed hydraulic dump trucks with high sides for hauling are to be provided throughout handwork operations. All equipment shall be kept in good repair and conform to all State and local laws. All trucks shall be equipped with rear flashing lights and traffic control cones.
 9. Portable Toilet: Contractor shall furnish a portable toilet for Contractor's personnel. Portable toilet must have a containment tray, staked down, be clean in appearance, and area surrounding shall be clean and free of debris. Portable toilet will be placed in an obscure location and will not impede any residents. Toilet will be removed by the end of the last working day. Should the toilet not be removed on the last working day, Contractor shall be subject to a \$300.00 per day late penalty fee until toilet is removed. Late penalty fee will be deducted and withheld from payments due or become due to Contractor.
- D. Travel Time: All costs for travel time between parcels and/or to and from refuse disposal sites shall be considered as included in various items of work involved and no additional compensation shall be allowed therefore.
- E. Disposal Fees: All costs for refuse disposal shall be considered as included in various items of work involved and no additional compensation will be allowed therefore. Contractor shall be responsible for all dump/disposal fees in all unit prices quoted.
- F. Working Hours: Contractor shall conduct all operations between 7 a.m. and 4 p.m. during the normal work week, Monday through Friday on all local streets, and parks. All operations on arterial or collector streets will be performed between 9 a.m. and 3 p.m. If Contractor desires to work hours or days other than as provided, it may file a written request subject to approval stating intended operations, hours and dates, with a reason for schedule change.

Exhibit A

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- G. Sound Control: Contractor shall comply with all County and local sound control and noise level rules, regulations, and ordinance, which apply to any work performed pursuant to the Contract, and will make every effort to control any undue noise resulting from its operation.
- H. Dust Control: Contractor shall perform his operations in such a manner as to limit dust. Contractor will not create dust in such a quantity as to violate the South Coast Air Quality Management District (AQMD) regulations.
- I. Debris Removal: All trash and debris will be removed from work area by the end of each working day.
1. At other times during the progress of work, when required, Contractor shall remove all surplus materials, rubbish, and debris resulting from the work.
 2. Work area will be left in a neat, clean and acceptable condition as approved by County's Project Manager.
 3. No stockpile of debris will be allowed at the site.
 4. Contractor shall pick up and dispose of materials at a site outside of County right-of-way approved for disposal of such materials.
 5. Any debris dropped on the public street during entrance or exit of the site will be removed immediately by Contractor.
- J. Water: Contractor shall furnish all water required for performance of this work, will make all arrangements for obtaining all water with the governing water district, and will comply with all requirements set forth by the governing water district.
- K. Utilities: Underground main distribution conduits such as water, gas, sewer, electrical power, telephone, or cable television may not be affected by the work indicated in the work packages since only surface excavation is required. Contractor shall assume that every property parcel will be served by a service connection for each type of utility and will protect all such service connection. Contractor shall contact UNDERGROUND SERVICE ALERT (USA) at (800)422-4133 for all subsurface excavation and will contact utility companies to mark locations if necessary.
- L. Parking Control: Parked cars may interfere with the work to be performed. Therefore Contractor shall post, maintain, and subsequently remove, temporary "Tow Away No Parking" signs along the streets work is to be performed with no less than 24 hours prior to the start of said work. Contractor shall furnish signs per sample provided by County. Contractor shall fill in day and date for scheduled work. Contractor shall be responsible for replacing any signs which are damaged or removed in order to maintain notice to the public. Contractor shall be responsible for the removal of all temporary "Tow Away No Parking" signs upon completion of the work in posted area.
- M. Traffic Control: Contractor shall conduct its operations in a manner which will minimize traffic congestion during A. M. and P. M. peak-hour traffic. This may require beginning work after the A. M. peak-hour traffic and ending work before the P. M. peak-hour traffic.
1. Contractor shall maintain access to schools and commercial areas at all times during project operation.
 2. ADD to Subsection 7-10.1, "Traffic and Access", of the Standard Specifications the following:

Exhibit A

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

Exhibit A

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

BMP Fact Sheets shall include but shall not be limited to the following which may be viewed and downloaded at:

<http://ocwatersheds.com/documents/bmp/industrialcommercialbusinessesactivities>

- | | | | | |
|---------|---------|---------|---------|---------|
| a) IC7 | b) IC10 | c) IC17 | d) IC18 | e) IC19 |
| f) IC20 | g) IC21 | h) IC24 | | |

Exhibit A

4. These BMP Fact Sheets may be modified during the term of the Contract; and County's Project Manager shall provide Contractor with any such modified BMP Fact Sheets.
 5. Contractor shall, throughout the term of this Contract, comply with the BMP Fact Sheets as they exist now or are modified, and shall comply with all other requirements of the Stormwater Permits, as they exist at the time this Contract commences or as the Stormwater Permits may be modified. Contractor agrees to maintain current copies of the BMP Fact Sheets on the job sites throughout the term of this Contract. The BMPs applicable to uses authorized under this Contract must be performed as described within all applicable BMP Fact Sheets.
 6. Contractor may propose alternative BMPs that meet or exceed the pollution prevention performance of the BMP Fact Sheets. Any such alternative BMPs shall be submitted to the County's Project Manager for review and approval prior to implementation.
 - a) County's Project Manager may visit the job sites and/or review Contractor's records at any time to assure that activities conducted on the job sites comply with the requirements of this section. Contractor may be required to implement a self-evaluation program to demonstrate compliance with the requirements of this section.
- Q. Scheduling: County staff reviews, prioritizes and "packages" weed abatement, fuel modification, mowing, discing, and debris removal requests.
1. Contractor shall furnish a work plan indicating the day/date for work on each location in the work package.
 2. Contract shall start work within five (5) working days upon written or verbal notification from County's Project Manager.
 3. Completion Date: all work shall be completed within the allotted time as determined by County's Project Manager.
- R. Identification and Scheduling of Work: Work requests for Contract work are reviewed, prioritized and packaged by County staff.
1. Upon receipt of a package, County shall forward the work requested to Contractor by mail, fax or email.
 2. This Contract is considered seasonal work and is normally accomplished from April to June of each Contract year, but may be utilized at any time during the Contract year.
 3. Contractor shall begin the requested work within ten (10) days upon receipt of requested work unless otherwise approved by County's Project Manager.
 4. Contractor shall furnish a work plan indicating day/date for work on each location in the work package.
- S. Notification of Work: Except for next day emergency work Contractor shall notify County's Project Manager at least twenty-four (24) hours in advance of commencement of work. All work shall be diligently prosecuted to completion to satisfaction of County's Project Manager. Contractor must be capable of providing one or more craftsmen as needed to complete project in a diligent and timely manner.
- T. Acceptance of Work: Contractor shall provide County's Project Manager with a list of project locations requiring final inspection within two working days of completion.

Exhibit A

1. The list may be verbal or faxed to (714) 955-0378 to County's Project Manager. County will notify Contractor of any deficiencies within three (3) business days.
 2. Correction of work is required within seven (7) calendar days of receipt of the notification by County.
 3. All work at a location must be satisfactorily completed and approved by County prior to final approval for payment of that location.
- U. Deficient Performance: Liquidated damages shall be applied to deficient performance and/or late completion. Parties hereto agree that it is impracticable or extremely difficult to determine actual damages County shall sustain by reason of delay in performance. Therefore, Two Hundred Fifty Dollars (\$250.00) will be deducted and withheld from payments due or to become due to Contractor for each calendar day work is incomplete beyond the scheduled day, unless Contractor receives prior authorization for an extension of time by County's Project Manager.

V. SPECIFICATIONS:

- A. Weed Abatement Removal of all weeds, grasses and rubbish: Cut and remove all vegetation, regardless of condition, which is combustible brush in nature, such as weeds, brush, shrubs and grasses per County's Project Manager's direction. Vegetation shall be cut to 3" above ground maximum height unless otherwise directed by County's Project Manager. Removal of all rubbish and/or litter.
1. Furnish all labor tools, equipment and materials necessary for doing the work.
 2. Cutting and removing all vegetation to a maximum height of 3".
 3. Removing all trash and debris.
 4. Leaving work site and surrounding area in a clean manner.
- B. Weed Abatement Non-Removal of weeds and grasses: Cut weeds and leave clippings. Vegetation shall be cut to 3" above ground maximum height unless otherwise directed by County's Project Manager. Removal of all rubbish and/or litter.
1. Furnish all labor tools, equipment and materials necessary for doing the work.
 2. Cutting all vegetation to a maximum height of 3".
 3. Leave clippings.
 4. Removing all trash and rubbish.
 5. Leaving work site and surrounding area in a clean manner.
- C. Fuel Modification: Reduction (thinning and removal) of natural vegetation, such as chaparral, trees, litter, scrub oak or similar non cultivated vegetation growth by 30 to 50 percent as required by the County Project Manager. Vegetation roots shall be removed below ground and grasses at ground level. Removal of all rubbish and/or litter.
1. Furnishing all labor, tools equipment and materials necessary for doing work.

Exhibit A

2. Reducing vegetation by 30 to 50 percent.
 3. Removing vegetation roots below ground level.
 4. Removing all grasses to ground level.
 5. Removing all trash and debris.
 6. Leaving work site and surrounding area in a clean manner.
 7. Full compensation for conforming to the requirements of Fuel Modification shall be considered as included in Contract unit price bid per square foot in accordance with these specifications and no additional compensation will be allowed therefore.
- D. Mowing: Contractor's equipment shall be of a commercial variety with a minimum cutting width of 4 feet in a single pass. It shall leave a finished product of all vegetation not exceeding 2" in height and 2" in length on the entire parcel. Mowing of the parcel will also include removal of any trash or debris which may be on site.
1. Contractor shall mow those parcels indicated, to include flat and slope areas including assigned parkways between curb and sidewalk. Mowing of slope areas shall be accomplished by mechanical equipment such as an arm mower attached to a motorized tractor.
 2. Mowers shall be equipped with safety guards to prevent or reduce throwing of rocks or other material that could result in injury or damage to persons or private property. Equipment will be approved by County's Project Manager prior to starting any work.
 3. Furnishing all labor, tools, equipment and materials necessary for doing work.
 4. Mowing all vegetation to a maximum height of 2" and 2" in length.
 5. Removing any trash or debris.
 6. Performing any hand work as required.
 7. Leaving work site and surrounding area in a clean manner.
- E. Discing: Discing shall be performed in such a manner as to completely eliminate all standing weeds. Discing shall be accomplished by using a double throw disc at a depth of 6 inches to place all weeds under soil surface. Where the nature of the soil is such that it is not receptive to the cutting edge of the discs, the area may be cross disced to reduce the magnitude of any exposed combustibles only as directed by County's Project Manager.
- F. Debris Removal: Litter, trash, and debris stockpiles not directly associated with vegetation control activities. Removal of noxious or combustible debris stockpiles to complement other parcel management practices. Final disposal to be at a legal dump site.

Exhibit A

ATTACHMENT B CONTRACTOR'S PRICING

- I. COMPENSATION:** This is a usage Contract between County and Contractor for Fuel Modification, Mowing/Discing, Fire Hazard and Weed Abatement on an as needed basis, 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, equipment, materials and incidentals 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. **County shall have no obligation to pay any sum in excess of the Fixed Prices and Total Contract Amount specified herein unless authorized by amendment in accordance with Articles 32 and 46 of County Contract Terms and Conditions.**

- II. FEES AND CHARGES:** County will pay the following prices in accordance with the provisions of this Contract.

A. Pricing: Pricing shall be per Square Foot (S.F.), Acres and Tons as determined in each line item.

Line Item	Description	Unit	Unit Cost
1.	Weed Abatement Removal of all weeds, grasses and rubbish	S.F.	\$0.03*
2.	Weed Abatement Non-Removal of weeds and grasses	S.F.	\$0.02*
3.	Fuel Modification	S.F.	\$0.03*
4.	Mowing Vegetation	ACRE	\$290.00
5.	Discing	ACRE	\$290.00
6.	Debris Removal	TONS	\$100.00*

*Primary Contractor

B. Total Contract Amount (Aggregate amount between 2 Contractors): **\$175,000.00**

- 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.
- 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 during the term of this Contract not otherwise specified and provided for within this Contract.
- V. PAYMENT TERMS:** Invoices are to be submitted in arrears, after goods have been received. Payment will be net 30 days after receipt of an invoice in a format acceptable to the County of Orange. Invoices shall be verified and approved by County and subject to routine processing

Exhibit A

requirements. The responsibility for providing an acceptable invoice to County for payment rests with Contractor. Incomplete or incorrect invoices are not acceptable and will be returned to Contractor for correction.

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

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

VI. INVOICING INSTRUCTIONS: Contractor will provide an invoice on 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 Division
Attn: John Dean or Jessie Prado
2301 N. Glassell Street
Orange, CA 92866