



**NATIVE PLANT HABITAT MANAGEMENT
& LANDSCAPE MAINTENANCE SERVICES
FOR CENTRAL AND NORTH REGION LANDFILLS**

MA-299-17011739

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This Contract Number MA-299-17011739 to provide Landscape Maintenance Services for Native Plant Habitat Management & Landscape Maintenance Services for Central and North Region Landfills for OC Waste & Recycling ("**Contract**") is made and entered into upon execution of all necessary signatures between the County of Orange, a political subdivision of the State of California, by its OC Waste & Recycling ("**County**") and **Helix Environmental Construction Group, Inc.** ("**Contractor**"), with a principal office located at 7578 El Cajon Blvd, La Mesa, CA 91942. County and Contractor are collectively referred to as "Parties."

RECITALS

WHEREAS, Contractor responded to a Request for Proposal (RFP) to provide Native Plant Habitat Management & Landscape Maintenance Services for Central and North Region Landfills ("Services"); and

WHEREAS, the County Board of Supervisors has authorized the County Purchasing Agent or authorized Deputy to enter into this Contract with Contractor to provide the Services for a three-year period, effective July 15, 2017 through July 14, 2020, in an amount not to exceed \$1,200,000; and

WHEREAS, Contractor agrees to provide Services as more specifically described 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 Cost/Compensation for Contractor Services, attached hereto as Attachment C and incorporated herein;

WHEREAS, on March 15, 2018 the County entered into a landscape maintenance contract with another company for services at the Olinda Alpha Landfill but terminated that contract due to conditions at the site which more appropriately required the services of a native plant habitat management company; and

WHEREAS, the existing Contract with Helix authorizes native plant habitat management but did not include sufficient funding to cover the work required at the Olinda Alpha Landfill; and

WHEREAS, County now desires to increase the Contract monetary limit by \$600,000, for a revised cumulative Contract amount not to exceed \$1,800,000, in order to provide ongoing native habitat and landscape maintenance services as provided for in the Scope of Work for the approximately 150 acres of vegetated final cover as well as other areas at Olinda Alpha Landfill and other North Region sites, including weed removal, herbicide application, remedial planting, application of soil amendments, pest control and erosion control; and

WHEREAS, County now desires to amend Article S of the County General Terms and Conditions, in its entirety, as follows and incorporated herein:

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; and

WHEREAS, Contractor has confirmed in writing that they understand and are in compliance with the County's Conflict of Interest Policy as stated in Article S herein; and

WHEREAS, County issued Amendment Number Two to add labor classification *Restoration Supervisor II* at a rate of \$105.00 per hour to the Contract, with no change to the Contract monetary limit; and

WHEREAS, County now desires to amend Additional Term and Condition, Number One, titled Term; and

WHEREAS, County now desires to renew the Contract for one year, effective July 15, 2020, through July 14, 2021, in an amount not to exceed \$900,000, for a cumulative Contract total not to exceed \$2,700,000;

WHEREAS, the Silverado Fire on October 26, 2020 caused significant damage to the Native Plant Habitat and Landscape at the Frank R. Bowerman Landfill requiring extensive remediation; and

WHEREAS, County issued Amendment Four to increase the Contract in the amount of \$500,000, effective upon Board approval and execution of all necessary signatures, for a revised annual Contract total not to exceed \$1,400,000, and a revised cumulative Contract total not to exceed \$3,200,000, in order to repair the damages sustained in the Silverado Fire; and

WHEREAS, County now desires to renew the Contract for one year, effective July 15, 2021 through July 14, 2022, in an amount not to exceed \$1,000,000, for a cumulative Contract total not to exceed \$4,200,000;

NOW, THEREFORE, for and in consideration of the professional services and mutual promises to be performed for the County by the Contractor in connection with the Services and the compensation to be paid for such Services and mutual promises by the County, the Parties agree as follows:

ARTICLES

GENERAL TERMS AND CONDITIONS

- A. **Governing Law and Venue:** This Contract has been negotiated and executed in the state of California and shall be governed by and construed under the laws of the state of California. In the event of any legal action to enforce or interpret this Contract, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange

County, California, and the Parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure section 394. Furthermore, the Parties specifically agree to waive any and all rights to request that an action be transferred for trial to another County.

- B. **Entire Contract:** This Contract, its Attachments and Exhibits, 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 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, hereinafter "Purchasing Agent."
- C. **Amendments:** No alteration or variation of the terms of this Contract shall be valid unless made in writing and signed by the Parties; no oral understanding or agreement not incorporated herein shall be binding on either of the Parties; and no exceptions, alternatives, substitutes or revisions are valid or binding on County unless authorized by County in writing.
- D. **Taxes:** Unless otherwise provided herein or by law, price quoted does not include California state sales or use tax.
- E. **Delivery:** Time of delivery of services is of the essence in this Contract. County reserves the right to refuse any services or to cancel all or any part of the services not conforming to applicable specifications, reports, samples or description, or services that do not conform to the prescribed statement of work. Acceptance of any part of the services shall not bind County to accept future services, nor deprive it of the right to return documentation already accepted, at Contractor's expense. Delivery shall not be deemed to be complete until all services have actually been received and accepted in writing by County.
- F. **Acceptance/Payment:** Unless otherwise agreed to in writing by County, 1) acceptance shall not be deemed complete unless in writing and until all the services have actually been received to the satisfaction of County, and 2) payment shall be made in arrears after satisfactory acceptance.
- A. **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 indemnities as identified in Article HH below, and as more fully described in Article HH, harmless from liability, loss, damage and expense, including reasonable counsel fees, incurred or sustained by County by reason of the failure of the goods/services to conform to such warranties, faulty work performance, negligent or unlawful acts, and non-compliance with any applicable state or federal codes, ordinances, orders, or statutes, including the Occupational Safety and Health Act (OSHA) and the California Industrial Safety Act. Such remedies shall be in addition to any other remedies provided by law.
- H. **Patent/Copyright Materials/Proprietary Infringement:** Unless otherwise expressly provided in this Contract, Contractor shall be solely responsible for clearing the right to use any patented or copyrighted materials in the performance of this Contract. Contractor warrants that any software as modified through services provided hereunder will not infringe upon or violate any patent, proprietary right, or trade secret right of any third party. Contractor agrees that, in accordance with the more specific requirement contained in Article HH below, it shall indemnify, defend and hold County and County 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.
- I. **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 subcontract 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. Notwithstanding the foregoing, the County hereby authorizes Contractor to use the services of subcontractors listed in Attachment D, solely with respect to non-routine services.

- A. **Licensed Subcontractor:** Each subcontractor selected for the work shall be licensed in the State of California in the subcontractor's particular field.
 - B. **Transactions:** Transactions with subcontractor shall be made through Contractor except when in emergency situations Contractor is not readily available, in which case detailed instructions shall be transmitted to subcontractors directly.
 - C. **Responsibility:** Contractor shall be fully responsible to County for the acts and omissions of subcontractors and all persons directly or indirectly employed by them as Contractor is for Contractor's acts and omissions and of persons directly or indirectly employed by Contractor. Contractor shall pay each subcontractor promptly the amount allowed Contractor on account of such subcontractor's work to the extent of such subcontractor's interest therein.
 - D. **Contractual Relations:** Nothing contained in this Contract shall create any contractual relations between County and a subcontractor.
- J. **Non-Discrimination:** In the performance of this Contract, Contractor agrees that it will comply with the requirements of Section 1735 of the California Labor Code and not engage nor permit any sub-Contractors 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 Section 1720 et seq. of the California Labor Code.
- K. **Termination:** In addition to any other remedies or rights it may have by law and as set forth in paragraphs 21-23, 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 the Contractor. Exercise by County of its right to terminate the Contract shall relieve County of all further obligations.
- L. **Consent to Breach Not Waiver:** No term or provision of this Contractor shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. Any consent by any party to, or waiver of, a breach by the other, whether express or implied, shall not constitute consent to, waiver of, or excuse for any other different or subsequent breach.
- M. **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.
- N. **Independent Contractor:** Contractor shall be considered an independent Contractor and neither Contractor, its employees, nor anyone working under Contractor shall be considered an agent or an employee of County. Neither Contractor, its employees, nor anyone working under Contractor, shall qualify for workers' compensation or other fringe benefits of any kind through County.
- O. **Performance:** Contractor shall perform all work under this Contract, taking necessary steps 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 services furnished by the Contractor under this Contract. Contractor shall perform all work diligently including those of County required in its governmental

capacity, in connection with performance of the services; and, if permitted to subcontract, shall be fully responsible for all services performed by subcontractors.

- P. **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 that the insurance provisions of this Contract have been complied with. Contractor agrees to keep such insurance coverage, Certificates of Insurance, and endorsements on deposit with the County during the entire term of this Contract. In addition, all subcontractors performing work on behalf of Contractor pursuant to this Contract shall obtain insurance subject to the same terms and conditions as set forth herein for Contractor.

Contractor shall ensure that all subcontractors performing work on behalf of Contractor pursuant to this Contract shall be covered under Contractor's insurance as an Additional Insured or maintain insurance subject to the same terms and conditions as set forth herein for Contractor. Contractor shall not allow subcontractors to work if subcontractors have less than the level of coverage required by County from Contractor under this Contract. It is the obligation of Contractor to provide notice of the insurance requirements to every subcontractor and to receive proof of insurance prior to allowing any subcontractor to begin work. Such proof of insurance must be maintained by Contractor through the entirety of this Contract for inspection by County representative(s) at any reasonable time.

All self-insured retentions (SIRs) 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 for the full term of this Contract, the County may terminate this Contract.

Qualified Insurer

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

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

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

Coverage

Minimum Limits

Commercial General Liability	\$1,000,000 per occurrence \$2,000,000 aggregate
Automobile Liability including coverage for owned, non-owned and hired vehicles	\$1,000,000 per occurrence
Workers Compensation	Statutory
Employers Liability Insurance	\$1,000,000 per occurrence

Required Coverage Forms

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

The Business Auto Liability coverage shall be written on ISO form CA 00 01, CA 00 05, CA 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 the County of Orange its elected and appointed officials, officers, agents and employees as Additional Insureds.
- 2) 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 shall be excess and non-contributing.

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

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

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

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

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

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

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

County shall notify Contractor in writing of changes in the insurance requirements. If Contractor does not deposit copies of acceptable Certificates of Insurance and endorsements with County incorporating such changes within thirty (30) days of receipt of such notice, this Contract may be in breach without further notice to Contractor, and County shall be entitled to all legal remedies.

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

- Q. **Bills and Liens:** Contractor shall pay promptly all indebtedness for professional services and material 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 HH, 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.
- R. **Changes:** Contractor shall make no changes in the work or perform any additional work without the County's specific written approval.
- S. ~~**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.~~
- T. **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 (thirty-six) hours of the start of the delay and Contractor avails himself of any available remedies.
- U. **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.
- V. **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 HH, 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.
- W. **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.
- X. **Pricing:** The Contract pricing shall include full compensation for providing all required services 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.
- Y. **Intentionally left blank.**
- Z. **Terms and Conditions:** Contractor acknowledges that it has read and agrees to all terms and conditions included in this Contract.
- AA. **Headings:** The various headings and numbers herein, the grouping of provisions of this Contract into separate clauses and paragraphs, and the organization hereof are for the purpose of convenience only and shall not limit or otherwise affect the meaning hereof.

- BB. **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.
- CC. **Calendar Days:** Any reference to the word “day” or “days” herein shall mean calendar day or calendar days, respectively, unless otherwise expressly provided.
- DD. **Attorney 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.
- EE. **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.
- FF. **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.
- GG. **Employee Eligibility Verification:** The Contractor warrants that it fully complies with all Federal and State statutes and regulations regarding the employment of aliens and others and that all its employees performing work under this Contract meet the citizenship or alien status requirement set forth in Federal statutes and regulations. The Contractor shall obtain, from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by Federal or State statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. §1324 et seq., as they currently exist and as they may be hereafter amended. The Contractor shall retain all such documentation for all covered employees for the period prescribed by the law. The Contractor shall indemnify, defend with counsel approved in writing by County, and hold harmless, the County, its agents, officers, and employees from employer sanctions and any other liability which may be assessed against the Contractor or the County or both in connection with any alleged violation of any Federal or State statutes or regulations pertaining to the eligibility for employment of any persons performing work under this Contract.
- HH. **Indemnification Provisions:** 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.
- II. **Audits/Inspections:** Contractor agrees to permit the County’s Auditor-Controller or the Auditor-Controller’s authorized representative (including auditors from a private auditing firm hired by the County) access during normal working hours to all books, accounts, records, reports, files, financial records, supporting documentation, including payroll and accounts payable/receivable records, and other papers or property of Contractor for the purpose of auditing or inspecting any aspect of performance under this Contract. The inspection and/or audit will be confined to those matters connected with the performance of the Contract including, but not limited to, the costs

of administering the Contract. The County will provide reasonable notice of such an audit or inspection.

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

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

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

Additional Terms and Conditions**1. Term**

The effective date of this Contract shall be July 15, 2017 and will continue for a period of three (3) years, through July 14, 2020, with an option to renew annually for two (2) additional years in one (1) year increments, with excess funds to be carried over from year to year, not to exceed the revised cumulative Contract total. Any renewal after the initial three-year term may require approval of the Orange County Board of Supervisors.

2. Project Manager-County

The County shall appoint a Project Manager to act as liaison between the County and the Contractor during the term of this Contract. The County's Project Manager (Site Project Manager) shall coordinate the activities of the County staff assigned to work with the Contractor.

The Site Project Manager shall have the right to require the removal and replacement of the Contractor's Project Manager and key personnel. The Site 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 Site Project Manager. The Site Project Manager shall review and approve the appointment of the replacement for the Contractor's Project Manager and key personnel. Said approval shall not be unreasonably withheld.

3. Contractor's Project Manager and Key Personnel

Contractor shall appoint a Project Manager to direct the Contractor's efforts in fulfilling Contractor's obligations under this Contract. This Project Manager shall be subject to approval by the County and shall not be changed without written consent of the Site Project Manager, which consent shall not be unreasonably withheld.

The Contractor's Project Manager and key 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. Key personnel are those individuals who report directly to the Contractor's Project Manager.

4. Entirety

This Contract and all of its Attachments and Exhibits comprise the entire Contract between the Contractor and the County. Additional or new terms contained in this Contract, which vary from the Contractor's proposal, are deemed accepted by the Contractor by execution of this Contract or other commencement of performance hereunder. All previous proposals, offers, discussions, preliminary understandings, and other communications relative to this Contract, oral or written, are hereby superseded, except to the extent that they have incorporated into this Contract. No future waiver of, exception to, addition to, or alteration of any of the terms, conditions and/or provisions of this Contract shall be considered valid unless specifically agreed to in writing by both Parties.

5. Precedence

The documents herein consist of this Contract and its attachments and exhibits. 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 and exhibits.

6. Compensation

This is a fixed ceiling, time and materials Contract. Contractor agrees to accept the specified compensation set forth in Exhibit C, Cost/Compensation for Contractor Services, as full remuneration for performing all services and furnishing all staffing and materials called for; and for any reasonably foreseeable difficulties which may arise or be encountered in the execution of the services until acceptance; and for risks connected with the services; and for performance by the Contractor of all of its duties and obligations hereunder.

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 *as applicable* 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.

7. Contractor's Expense

The Contractor will be responsible for all costs related to photocopying, telephone communications, fax communications, and parking while on County sites during the performance of work and services under this Contract.

8. Changes/Extra Work/Modifications

The Contractor shall make no changes in this Contract without the County's written consent. In the event that there are new or unforeseen requirements, the County with the Contractor's concurrence has the discretion to request official changes at any time without changing the intent of this Contract.

If County-initiated changes affect price, the Contractor's ability to deliver services or the project schedule, the Contractor shall give the County written notice no later than seven calendar days from the date the change was proposed and the Contractor was notified of the change. Such changes shall be agreed to in writing and incorporated into a Contract modification before becoming effective. Said modification shall be issued by the Deputy Purchasing Agent or his designee and may be subject to approval by the County Board of Supervisors. Nothing herein shall prohibit the Contractor from proceeding with the work set forth in Attachment A, Scope of Work.

All extra services are by mutual consent of all Parties and may be subject to the approval of the County Board of Supervisors.

9. Ownership of Documents

The County has permanent ownership of all directly connected and derivative materials produced under this Contract by the Contractor. All documents, reports and other incidental or derivative work or materials furnished hereunder shall become and remain the sole properties of the County and may be used by the County as it may require without additional cost to the County. None of the documents, reports and other incidental or derivative work or furnished materials shall be used by the Contractor without the express written consent of the County.

10. Data – Title to

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

11. Reports/Meetings

The Contractor shall develop reports and any other relevant documents necessary to complete the services and requirement as set forth in this Contract. The Site Project Manager and the Contractor's Project Manager will meet on reasonable notice to discuss the Contractor's performance and progress under this Contract. If requested, Contractor's Project Manager and other project personnel shall attend all meetings. The Contractor shall provide such information that is requested by the County for the purpose of monitoring progress under this Contract. Meetings held between OC Waste & Recycling staff and Contractor's staff to discuss Contractor's non-performance or lack thereof shall not be billable to the County.

12. Records

Contractor shall keep an accurate record of time expended by Contractor and/or Subcontractors working for Contractor in the performance of this Contract. Such record shall be available for periodic inspection by the County at reasonable times.

13. 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. This obligation shall apply to the Contractor; the Contractor's employees, agents, and relatives; sub-tier Contractors; 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.

The County of Orange Board of Supervisors policy prohibits its employees from engaging in activities involving a conflict of interest. The Contractor shall not, during the period of this Contract, employ any County employee for any purpose.

14. Child Support Enforcement Requirements

In order to comply with child support enforcement requirements of the County of Orange, within ten (10) days of notification of selection of award of Contract, but prior to official award of Contract, the selected Contractor hereby agrees to furnish OC Waste & Recycling/Purchasing with the required Contractor data and certifications.

Failure of the Contractor to timely submit the data and/or certifications required may result in the Contract being awarded to another Contractor. In the event a Contract has been issued, 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 sixty (60) calendar days of notice from the County shall constitute grounds for termination of this Contract.

15. Contractor Bankruptcy/Insolvency

If the Contractor should be adjudged bankrupt or should have a general assignment for the benefit of its creditors or if a receiver should be appointed on account of the Contractor's insolvency, the County may terminate this 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, except as necessary for the performance of the services of this Contract. All press releases, including graphic display information to be published in newspapers, magazines, etc., are to be administered only by the County unless otherwise agreed to by both Parties.

17. Subject to Fiscal Appropriations

This Contract is subject to and contingent upon applicable budgetary appropriations being approved by the County of Orange Board of Supervisors for each fiscal year during the term of this Contract. If such appropriations are not approved, this Contract will be terminated without penalty to the County.

18. Breach of Contract

The failure of the Contractor to comply with any of the provisions, covenants or conditions of this Contract shall be a material breach of this Contract. In such event the County may, and in addition to any other remedies available at law, in equity, or otherwise specified in this Contract:

- a. 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
- c. Offset against any monies billed by the Contractor but yet unpaid by the County those monies disallowed pursuant to the above.

19. Interpretation of Contract

In the event of a conflict or question involving the provisions of any part of this Contract, interpretation and clarification as necessary shall be determined by the Site Project Manager. If disagreement exists between the Contractor and the Site Project Manager in interpreting the provision(s), final interpretation and clarification shall be determined by the County's Purchasing Agent or his designee.

20. Disputes

- A. The Parties shall deal in good faith and attempt to resolve potential disputes informally. If the dispute concerning a question of fact arising under the terms of this Contract is not disposed of in a reasonable period of time by the Contractor's Project Manager and the Site Project Manager, such matter shall be brought to the attention of the County's Purchasing Agent by way of the following process:
 1. The Contractor shall submit to the Site Project Manager a written demand for a final decision regarding the disposition of any dispute between the Parties arising under, related to, or involving this Contract, unless the County, on its own initiative, has already rendered such a final decision.
 2. The Contractor's written demand shall be fully supported by factual information, and, if such demand involves a cost adjustment to the Contract, the Contractor shall include with the demand a written statement signed by a senior official indicating that the demand is made in good faith, that the supporting data are accurate and complete, and that the amount requested accurately reflects the Contract adjustment for which the Contractor believes the County is liable.
- B. Pending the final resolution of any dispute arising under, related to, or involving this Contract, the Contractor agrees to diligently proceed with the performance of this Contract, including the delivery of goods and/or provision of services. The Contractor's failure to diligently proceed shall be considered a material breach of this Contract.

Any final decision of the County shall be expressly identified as such, shall be in writing, and shall be signed by the County's Purchasing Agent or his designee. If the County fails to render a decision within 90 days after receipt of the Contractor's demand, it shall be deemed a final decision adverse to the Contractor's contentions. The County's final decision shall be conclusive and binding regarding the dispute unless the Contractor commences action in a court of competent jurisdiction.

21. Termination -- Default

If Contractor is in default of any of its obligations under this Contract and has not commenced cure within ten (10) days after receipt of a written notice of default from County and cured such default within the time specified in the notice, the County shall immediately be entitled to either commence resolution in accordance with this paragraph or to terminate this Contract by giving written notice to take effect immediately. Default shall include failure to carry out any of the requirements of this Contract, including, but not limited to not providing enough properly skilled workers or proper materials, persistently disregarding laws and or ordinances, not proceeding with the work as agreed to herein, or otherwise substantially violating any provision of this Contract. Upon termination of the Contract with Contractor, the County may begin negotiations with a third-party Contractor to provide goods and/or services as specified in this Contract.

The right of either party to terminate this Contract hereunder shall not be affected in any way by its waiver of or failure to take action with respect to any previous default.

22. Termination -- Convenience of the County

Notwithstanding any other provision of the Contract, County may at any time and without cause terminate in whole or in part, upon not less than thirty (30) days written notice to the Contractor. Such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying the effective date of the termination, whether the Contract shall be terminated in whole or in part and if applicable the portion of work to be terminated. The Contractor shall immediately stop work in accordance with the Notice of Termination and comply with any other direction as may be specified in the Notice of Termination or as provided subsequently by County. The County shall pay the Contractor for the work completed and accepted by County prior to the effective date of the termination, and such payment shall be Contractor's sole remedy. Under no circumstances will the Contractor be entitled to anticipatory or unearned profits, consequential damages, or other damages of any sort as a result of a termination in whole or in part under this provision. The Contractor shall insert in all subcontracts that the subcontractors shall stop work on the date of and if applicable the portion of work to be terminated in a Notice of Termination, and shall require sub-Contractors to insert the same condition in any lower tier subcontracts.

23. Termination -- Orderly

After receipt of a termination notice from the County of Orange, the Contractor shall submit to the County a termination claim, if applicable. Such claim shall be submitted promptly, but in no event later than sixty (60) days from the effective date of the termination, unless one or more extensions in writing are granted by the County upon written request of the Contractor. Upon termination County agrees to pay the Contractor for all services performed prior to termination which meet the requirements of the Contract, provided, however, that such compensation plus previously paid compensation shall not exceed the total compensation set forth in the Contract. Upon termination or other expiration of this Contract, each party shall promptly return to the other party all papers, materials, and other properties of the other held by each for purposes of 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. Health and Safety Plan (Exhibit 1)

The Contractor shall ensure compliance with all safety and hourly requirements for employees in accordance with

Federal, State, and County safety and health regulations and minimum wage laws. Contractor shall implement all proper health and safety precautions to protect its employees, County staff, the public, and the work.

All vehicles used by the Contractor to support this Contract must meet California Motor Vehicle and Cal-OSHA regulations and all other applicable codes required for use on highways in the State of California.

All Contractor employees shall be required to wear uniforms, badges or other acceptable means of identification, to be furnished by the Contractor while the employees are working in any OC Waste & Recycling facilities.

A Health & Safety Plan (H&SP) must be submitted within seven calendar days of receipt of the Notice of Award and be approved by the County Safety Inspector PRIOR to any Contractor staff entering County owned or operated landfills and other facilities. The H&SP shall address the areas of work to be performed in this SOW.

Include a cover letter outlining the purpose and overall contents of the H&SP, referencing the project number and description, and submit to the Site Project Manager.

The contents of each H&SP must meet all regulatory requirements for the specific work that will be conducted at the site. However, the following is a checklist of the minimal elements for a H&SP. Those plan elements which do not apply to the specific Contract, should be noted (such as "this operation does not involve any confined space work", as a note after Item h).

One or more of the following may be required to be included in a Contractor's H&SP:

- a. Site Background and SOW - Site specific with an emphasis on the type(s) of service performed, the hazards associated with such work and the programs in effect to protect the employee against those recognized hazards.
- b. Injury and Illness Prevention Program (C.C.R. Title 8, S 3203) - Required of all employers of ten or more employees.
- c. Code of Safe Practices (C.C.R. Title 8, S 1509) - All employers are required to have a Code of Safe Practices in writing and posted at the work place.
- d. Emergency Medical Services (C.C.R. Title 8, S 1512) - All employers are required to have this program in writing.
- e. Fire Protection Program (C.C.R. Title 8, S 1920) - All employers are required to have this program in writing.
- f. Hazard Communication Program (C.C.R. Title 8, S 5194) - All employers are required to have this program in writing, if there is potential for their employees to come into contact with any products that may be hazardous.
- g. Requirements for Excavations and Shoring (C.C.R. Title 8, S 1541.1) - All employers are required to have this program in writing, if excavating.
- h. Confined Space Procedures (C.C.R. Title 8, S 5156) - All employers are required to have this program in writing, if confined spaces will be entered.
- i. Hearing Conservation Program (C.C.R. Title 8, S 5097) - This program shall be written into the Health and Safety Plan, if employee noise exposures meet or exceed the levels outlined in C.C.R. Title 8, S 5097.
- j. Personal Protective Equipment (C.C.R. Title 8, S 3380 to S 3400) - Requirements must be included in the Health and Safety Plan, if personal protective equipment is required for the contracted work.
- k. Storage, Handling, and Dispensing of Flammable/Combustible Liquids (Uniform Fire Code Article 79) - Requirements must be included in the Health and Safety Plan, if flammable/combustible liquids will be stored, handled, or dispensed.
- l. Welding, Brazing, and Cutting (C.C.R. Title 8, S 1536 and S1537) - Requirements must be included in the Health and Safety Plan, if performing these actions.

- m. Compressed Gas Cylinders (C.C.R. Title 8, S 1740 to S1743) - Requirements must be included in the Health and Safety Plan, if storing or using compressed gas cylinders.

25. County Declared Emergency

In the event of an emergency or if Orange County is declared a disaster area by the County, state or federal government, this Contract may be subjected to unusual usage. The Contractor shall service the County during such an emergency or declared disaster under the same terms and conditions that apply during non-emergency/disaster conditions. The pricing quoted by the Contractor shall apply to serving the County's needs regardless of the circumstances. If the Contractor is unable to supply the goods/services under the terms of the Contract, then the Contractor shall provide proof of such disruption and a copy of the invoice for the goods/services from the Contractor's supplier(s). Additional profit margin as a result of supplying goods/services during an emergency or a declared disaster shall not be permitted. In the event of an emergency or declared disaster, emergency purchase order numbers will be assigned.

26. 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.

TO: COUNTY

OC Waste & Recycling/Purchasing

300 N. Flower Street, Ste. 400
Santa Ana, CA 92703
Attn: Purchasing Manager
Phone: (714) 834-4000

Copy:

OC Waste & Recycling
FRB Landfill
11002 Bee Canyon Access Road
Irvine, CA 92602
Attn: Project Manager

TO: CONTRACTOR

Helix Environmental Construction
Group, Inc.
7578 El Cajon Blvd.
La Mesa, CA 91942
Attn: Justin Fischbeck
Phone: (619) 462-1515

[Signature Page Follows]

The Parties hereto have executed this Contract on the dates shown opposite their respective signatures below.

HELIX ENVIRONMENTAL CONSTRUCTION GROUP, INC.*

Print Name	Title
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Signature	Date
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Print Name	Title
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Signature	Date
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* Pursuant to California Corporations Code Section 313, the signatures of two corporate officials are required to bind the corporation, one from each of the following two groups: 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.

County of Orange, a political subdivision of the State of California

Diane Dodson	Administrative Manager I
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Print Name	Title
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Signature	Date
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APPROVED AS TO FORM:

County Counsel

By _____

Paul Albarian, Deputy

Exhibit 1

Health & Safety Plan Requirements

As of 1991, the Department of Occupational Safety and Health (DOSH) - commonly referred to as Cal/OSHA - requires a written and effective ***Injury and Illness Prevention Program*** (IIPP). This is mandated in T8 CCR §3203, *General Industry* Safety Orders, and T8 CCR §1509, *Construction* Safety Orders. The IIPP is the primary component of a comprehensive Health & Safety Plan (HSP), and one that is closely evaluated by DOSH Compliance Officers. The OC Waste & Recycling Safety Inspector will review the corporate HSP according to these IIPP requirements:

- **Responsibility** - 3203(a)(1): Identify the person(s) with authority and responsibility for implementing the Program. [NOTE: This is overall authority for the program – field and office]
- **Compliance** – 3203(a) (2): Include a system for ensuring that employees comply with safety and healthy work practices. This includes employee recognition, i.e. safety incentives, disciplinary actions, remedial training or other means to ensure compliance.
- **Communication** – 3203(a)(3): Implement a system to communicate safety and health matters to all affected employees, including provisions whereby the employee can inform the employer of worksite hazards without fear of reprisal. This includes safety or “tailgate” meetings, written communications and/or postings, anonymous hazard reporting by employees, labor/management safety and health committees, or other means to ensure communication with employees.
- **Inspections** – 3203(a) (4): Include procedures for identifying and evaluating work place hazards, i.e. unsafe conditions and/or work practices. Also to be included in the inspection process is the addition of a new or previously unrecognized occupational safety and health hazard (substance, process, procedure or equipment).
- **Accident Investigations** – 3203(a) (5): The Program must include a procedure(s) to investigate injury or occupational illness.
- **Hazard Correction** – 3203(a) (6): Include methods and/or procedures for correcting unsafe and unhealthy work conditions, or practices, in a timely manner.
- **Safety Training & Instruction** – 3203(a)(7): Provide safety training and relevant instruction to employees:
 - New hires, re-classified employees and supervisors.
 - Upon discovery of new or previously unrecognized hazards, or introduction of new materials, policy or equipment.
- **Record Keeping & Documentation:** Records taken to implement and maintain the Program shall include:
 - Safety Inspections – 3203(b) (1): Inspection records, as required by subsection (a) (4), shall include person(s) conducting inspection, identified hazards and corrective actions taken. Retain records for at least one (1) year.
 - Training - 3203(b) (2): Employee training records, as required by subsection (a) (7), shall include employee name or other identifier, dates, type of training, and instructor(s). Retain records for at least one (1) year.

The IIPP is one of a handful of programs that may be required by DOSH. Depending on your operations, your work as a Contractor may require other written programs such as those defined below. It is your responsibility as a Contractor to maintain compliance with applicable standards beyond the basic IIPP requirements, and to submit for review any programs requested by the Safety Inspector should the need arise. The Safety Inspector can be contacted at (714) 834-4117 for additional guidance.

- Emergency Action Plan - T8 CCR 3220; Fire Prevention Plan - T8 CCR 3221; Hazard Communication Program - T8 CCR 5194; Confined Space Entry - T8 CCR 5156-5159; Respiratory Protection - T8 CCR 5144; Lockout/Tagout - T8 CCR 3314, 6003 & 2320; Chemical Hygiene - T8 CCR 5191 & Article 110; Bloodborne Pathogens - T8 CCR 5193; and Hearing Conservation - T8 CCR 5096 – 5100.

Exhibit 2

Regulatory Compliance Requirements (County)

The Contractor shall not be entitled to any time extensions or compensation for any cost due to any action required as a result of the Contractor's failure to comply with those provisions within the Contractor's control as listed below. The Contractor shall be responsible for ensuring that the Contractor's Subcontractor(s) comply with the provisions of this Attachment. The Contractor shall be liable for any action or inaction resulting in a fine imposed by the regulatory agencies on those incidents of noncompliance that is within the Contractor's area of responsibility.

A. PERMITS

1. The Contractor shall be responsible for obtaining all trade-related permits required by the Project, permits required for the operation and storage of any equipment or hazardous regulated materials brought onsite, and permits required for dispensing and storing of petroleum-related products.
2. The Contractor shall maintain copies of all permits required for construction of this Project at the job site. Exceptions to this shall be the South Coast Air Quality Management District (SCAQMD) permit for dust control and the SCAQMD permit and Local Enforcement Agency (LEA) approval for refuse excavation, if required, which shall be obtained by the County. However, it is still the responsibility of the Contractor to comply with the conditions in the SCAQMD permits and all other permits, which shall become a part of this Contract. The Contractor shall submit to the County a California Occupational Safety Health Agency (Cal-OSHA) Excavation Permit, if necessary. The Contractor shall obtain a copy of the landfill's National Pollutant Discharge Elimination System (NPDES), Storm Water Pollution Protection Plan (SWPPP) and Monitoring Program (MP) and comply with the conditions therein that are applicable to the Contractor.

B. REGULATORY COMPLIANCE AUTHORITIES

All work shall be performed in accordance with the most current regulatory criteria and standards, which include, but are not limited to:

- Waste Discharge Requirements issued by the respective California Regional Water Quality Control Boards;
- Resource Conservation and Recovery Act, Subtitle D;
- California Code of Regulations Titles 8 (Cal-OSHA), 14, 23, and 27;
- South Coast Air Quality Management District Rules 403, 431.1, Title V, NSPS and 1150.1;
- National Pollutant Discharge Elimination System (NPDES);
- County of Orange, OC Public Works Department;
- County of Orange, OC Public Works Department Grading Manual and Excavation Code;
- Uniform Fire Code;
- Others may include: APWA Standard Specifications, current County of Orange Hydrology Manual and California Environmental Quality Act, as well as instructions set forth by the Director of OC Waste & Recycling or designee; and
- Any other agency permits pertinent to the Project.

C. ORDINANCES

Construction shall conform to all federal, State, County, and local codes, ordinances, regulations, and standards having jurisdiction thereof. In the case of conflict between any such applicable documents mentioned above and the specifications and drawings, the highest requirement shall govern. No additional charges shall be allowed for any changes to make work conform to regulations of above-mentioned documents or governing agencies, but shall be considered as completely included in the Contract price.

D. CULTURAL/SCIENTIFIC RESOURCES

1. The County may employ the services of a paleontological/archaeological firm to monitor the excavation at the project site. The Contractor shall cooperate with the personnel of the firm. In the event the paleontologist or archaeologist asks the Contractor to stop work in a particular section of the excavation, the Contractor shall abide by the request immediately.
2. If the Contractor's operations uncover or Contractor's employees find any burial grounds or remains, ceremonial objects, petroglyphs, and archaeological or paleontological, or other artifacts of like nature within the construction area, the Contractor shall immediately notify the County's onsite representative of the Contractor's findings and shall modify the construction operations, so as not to disturb the findings pending receipt of notification as to determination of the final disposition of such findings from the County.
3. Should the findings, or notification as to disposition of findings, result in delays or extra work, additional time and/or extra work, payment will be allowed as provided for within this Contract.
4. Any findings of a cultural/scientific resource nature shall remain the property of the County and not become the property of the person or persons making the discovery.

E. DISPOSAL OF SOLID WASTE

The Contractor shall be responsible for proper disposal of all refuse. Unless the waste meets Class III solid waste criteria, and any other requirements in the landfill's solid waste facilities permit, the Contractor shall not dispose of said waste at the landfill. If the Contractor elects to dispose of Class III refuse in any OC Waste & Recycling operated landfill, the Contractor shall be responsible for processing refuse through the scales and shall pay the current gate fees, unless it is specified otherwise in the Contract.

Solid waste resulting from maintenance and service may be disposed of within the active landfill at no charge if acceptable within the guidelines of a Class III landfill and approved in writing by the County. The Contractor shall contact the Site Project Manager prior to disposal for the designated disposal area.

Any other solid waste or liquid waste resulting from service and maintenance that is unacceptable for disposal in a Class III landfill (including tires) shall be the sole responsibility of the Contractor and shall be included as part of the Fixed Rate Contract. The Contractor shall arrange for a State approved waste-handling firm to dispose of any material classified as hazardous or unacceptable waste. This firm shall be bonded and found acceptable to County of Orange CEO/Risk Management. The Contractor shall submit proof of this firm being retained by the Contractor within ten (10) calendar days of the effective date of the Contract. Any unacceptable refuse left beyond thirty (30) days may be disposed of by the County and any related costs shall be deducted directly from the monthly invoicing, performance bond, or other method at the option of OC Waste & Recycling, as stated within Section M of this Attachment, Maintenance Facility and Work Area.

F. DISPOSAL OF LIQUID WASTE

The County does not permit disposal of liquid waste of any kind in County Landfills. This includes any waste materials, sludge, soils, etc. with moisture content over 50%.

G. STORM PROTECTION

1. The Contractor shall take every practicable precaution to minimize danger to persons and to the work during rainy or windy conditions. The County shall protect all County facilities within their work project. Also the Contractor shall protect all facilities from damage due to the Contractor's negligence.

2. As part of its storm protection, the Contractor shall provide a storm water management plan (erosion control plan), to be reviewed and approved by the County. (Reference Section H of this Attachment, NPDES Storm Water Discharges.)

H. NPDES STORM WATER DISCHARGES

Work under this Contract shall be subject to the requirements of the NPDES storm water regulations.

The Contractor shall comply with the NPDES Regulations and the Storm Water Pollution Protection Plan for the landfill at which the work is to be conducted. Construction-related activities, including but not limited to the elements of the SWPPP, shall be performed to eliminate non-storm discharges to the storm water control system, by the Contractor and Subcontractor(s). The Contractor shall submit a Storm Water Management Plan in compliance with NPDES Regulations and site specific SWPPP. OC Waste & Recycling will notify the Contractor of any non-compliance with the foregoing stipulations, and appropriate actions shall be taken promptly. The Contractor shall also notify OC Waste & Recycling of any condition that could lead to noncompliance with the permit requirements. The Contractor shall be responsible for storm water monitoring at the landfill to comply with his proposed storm water plan, if necessary.

The Contractor shall not be entitled to any time extensions or compensation for any cost due to any action required as a result of the Contractor's failure to comply with those provisions of the SWPPP within the Contractor's control. The Contractor shall be responsible for ensuring that the Contractor's Subcontractor(s) comply with the provisions of this Section. The Contractor shall be liable for any action or fine imposed by the regulatory agencies on those incidents of noncompliance that are within the Contractor's area of responsibility.

The Contractor is not required to obtain an NPDES Construction Storm Water Industrial Activity Permit; however, the Contractor must abide by the site's NPDES requirements.

The appropriate SWPPP will be available for Contractor's review in the offices of the Site PM.

I. DISCOVERED HAZARDOUS WASTE

1. The Contractor shall promptly, and before the following conditions are disturbed, notify the County in writing of any:
 - a. Material that the Contractor believes may be hazardous waste, as defined in Section 25117 of the Health and Safety Code, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law;
 - b. Subsurface or latent physical conditions at the site differing from those indicated; and

Unknown physical conditions at the site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in the work provided for in the Contract.

2. The County shall promptly investigate the conditions, and if it finds that the conditions do materially so differ, or do involve a hazardous waste, and cause a decrease or increase in the Contractor's cost of, or the time required for, performance of any part of the work, the County shall issue a modification under the procedures described in the Contract. If hazardous waste is found, the County will contact its key waste Contractor to properly remove and dispose of the waste. The Contractor shall not disturb the waste. The Contractor shall immediately notify the County if the waste is found leaking, not containerized, or vapors or odors are detected.

3. In the event that a dispute arises between the County and the Contractor where the conditions materially differ, or involve hazardous waste, or a decrease or increase in the Contractor's cost of, or the time required for performance of any part of the work, the Contractor shall not be excused any scheduled completion date provided for by the Contract, but shall proceed with all work to be performed under the Contract. The Contractor retains any and all rights provided either by the Contract or by law pertaining to the resolution of disputes and protests between the contracting parties.

J. CONTRACTOR GENERATED HAZARDOUS WASTE

The Contractor is responsible for the proper handling, storage, transportation (per all Federal, State and Local Regulations), and disposal of any hazardous wastes, liquid wastes or nuisance wastes (i.e. finely divided, powdery/dusty materials, strong odor, etc.) it generates on County property or elsewhere when performing work on the County's behalf.

The Contractor must have an OC Waste & Recycling Safety Officer reviewed and County approved Emergency/Contingency Plan for handling spills of hazardous, liquid or nuisance materials it is using while working on County property or elsewhere when performing work on the County's behalf. This shall include proper handling, removal and disposal of these materials per all applicable Federal and State requirements. The Plan shall also include emergency notification to County staff and emergency personnel.

The spill-damaged area(s) must be restored/repared to its original condition by the Contractor in a correct and timely manner and to the satisfaction of the County.

The Contractor shall provide copies of all manifests, bills of lading, etc. to the County upon request to verify proper disposal to a licensed, permitted facility has occurred.

The County has the authority to perform inspections of the Contractor's work area at any time to insure all applicable regulations are being adhered to.

The Contractor is responsible for training their employees, as required by OSHA CCR Title 8, in the proper handling, storage, transportation and disposal of hazardous materials. These employees must also be trained in the Emergency/Contingency Plan and know immediate response procedures should a release occur.

The Contractor shall keep emergency response equipment and materials available in the working area, should a release occur.

K. FUGITIVE DUST EMISSION CONTROL

The Contractor shall comply with the requirements of the OC Waste & Recycling Fugitive Dust Emission Control Plan in conformance with the SCAQMD Rule 403. The Contractor shall also notify OC Waste & Recycling of any condition that could lead to noncompliance with the permit requirements.

The Contractor shall submit a Dust Control Plan to be received and approved by the County.

If the Contractor fails or refuses to correct the noncompliance immediately, OC Waste & Recycling may terminate the Contractor's right to proceed with the work, by written notice to the Contractor. In such event, OC Waste & Recycling may take over the work and prosecute the same to completion, by Contract or otherwise at the Contractor's expense, and may take possession of and utilize in completing the work such materials, appliances, and plants as may be on the site of the work and necessary therefore. Whether or not the Contractor's right to proceed with the work is terminated, the Contractor and the Contractor's Sureties shall be liable for any damage to the County resulting from the Contractor's refusal or failure to complete the work within the specified time. The Contractor shall not be entitled to any time extensions or compensation for any cost due to any such

action as a result of the Contractor's failure to comply with those provisions of the OC Waste & Recycling Fugitive Dust Emission Control Plan within the Contractor's control. The Contractor shall be responsible for ensuring that all Subcontractor(s) comply with the provisions of this section. The Contractor shall be liable for any action or fine imposed by the SCAQMD on those incidents of noncompliance that are within the Contractor's area of responsibility.

OC Waste & Recycling's Fugitive Dust Emission Control Plan (SCAQMD Rule 403-Fugitive Dust-April 1993) is available for Contractor's review in the offices of the Site PM.

L. BIOLOGICAL AND HABITAT PROTECTION

OC Waste & Recycling will inform the Contractor of any biological resources that would or could be impacted by the project, and specify any required mitigation measures or procedures to protect those resources during construction. The Contractor shall be responsible for complying with these protection measures, and for ensuring that all Subcontractors also comply. The County has the authority to perform inspections of the Contractor's work area at any time to ensure that these measures or procedures are being followed.

M. MAINTENANCE FACILITY AND WORK AREA

Maintenance facility areas have been designated at the Landfill for the purpose of maintaining County equipment. This area is intended to be available for use by the County's Equipment Maintenance Contractor and for other Contractors and haulers only upon permission and at the convenience of OC Waste & Recycling. Any Contractor permitted to utilize this area shall inspect the area and comply with any and all provisions of these Regulatory Compliance Section Articles. All Contractors shall keep the facility clean. If this facility becomes unavailable to the County's Equipment Maintenance Contractor for any reason, the County's Equipment Maintenance Contractor shall be provided an alternate location acceptable to the Site PM. No such guarantee of an alternate location is made to any other Contractor or hauler by the County. All costs related to relocating the facility is the sole responsibility of the County's Equipment Maintenance Contractor and shall be included as part of the fixed rate Contract.

Any damage or repairs caused by the Contractor or his vendors/suppliers to the designated maintenance area or other landfill facilities/projects shall be paid for or repaired by the Contractor to the satisfaction of OC Waste & Recycling. All construction and/or replacement shall be done with materials and equipment of the same kind constructed or product installed. If the Contractor does not repair the damaged facility/area within thirty (30) calendar days, the Contractor shall pay for all construction/installation and related costs performed by the County by direct deduction plus a five percent (5%) administration fee from the monthly invoice or by invoiced separate payment. Any facility considered crucial to the operation of the landfill must be repaired immediately and costs shall be paid by direct deduction plus a five percent (5%) administrative fee as above indicated in the same manner.

The Contractor shall be responsible for maintaining clean equipment and a clean working area. Removal of contaminated soil as a result of maintenance activities shall be the sole responsibility of the Contractor and shall be mitigated to OC Waste & Recycling's satisfaction immediately following written notice from the Site PM. The area of contamination may be tested and certified by a third independent party qualified to conduct the evaluation. The proposed certifying firm shall submit qualifications to the Site PM for acceptance and approval. All costs associated with contaminated soil removal, disposal and certification, if necessary, shall be the sole responsibility of the Contractor. Prior to removal, the Contractor must provide a manifest of transport showing legal disposal of contaminated material. A copy of the manifest, certified and approved by the disposal location, shall be provided to OC Waste & Recycling prior to shipment. If the manifest is not submitted,

OC Waste & Recycling will withhold or deduct directly the estimated cost of removal and disposal from monthly invoice, plus five percent (5%) administration fee until the manifest or appropriate documentation is submitted by the Contractor.

Upon written notice from the Site PM, if the Contractor does not comply with the removal of the contaminated soil immediately, OC Waste & Recycling will remove, process, transport, and certify the material as stated above and all costs incurred by OC Waste & Recycling for removal and disposal, plus a five percent (5%) administrative fee will be deducted directly from the Contractor's monthly invoice or through supplemental payment as approved by the Site PM.

The Contractor shall be responsible for the storage and protection of any and all products in accordance with manufacturer instructions; product seals and labels shall be intact and legible, and sensitive products shall be stored in weather tight, climate controlled enclosures. The Contractor shall arrange storage of products to permit access for inspection by OC Waste & Recycling or enforcement agency personnel.

N. Red Imported Fire Ant Interior Quarantine of Orange County

The Contractor shall be responsible for strict compliance with the quarantine of the County of Orange for the red imported fire ant as defined in the California Food and Agricultural Code in Division 4, Chapter 3, Subchapter 4, Article 4, Section §3432 incorporated herein by reference with regards to the quarantine area, the commodities covered, and the restriction on movement, possession and sale of commodities covered. Violation of any provision of this Article of this Contract and/or the State mandate by the Contractor shall require the Contractor to bear the full financial responsibility of any assessed fine or penalty on the County, indemnify the County by the completion and submission for County approval of an acceptable, detailed, incident report within five working days of the date of the violation or not later than five working days from the date of the notification of the violation, whichever is the later.

ATTACHMENT A SCOPE OF WORK

NATIVE PLANT HABITAT MANAGEMENT & LANDSCAPE MAINTENANCE SERVICES FOR CENTRAL AND NORTH REGION LANDFILLS

OC Waste & Recycling (OCWR) is required by local, State, and federal resource agencies to conduct California native plant habitat management and maintenance. The scope of work (SOW) shall consist of California native plant habitat management and landscape maintenance services for OCWR North and Central Region.

BACKGROUND

OC Waste & Recycling owns and operates the County of Orange's waste disposal system comprised of three active landfills, one inactive landfill, twenty former waste disposal stations, and four household hazardous waste collection centers. The active landfills are divided into three geographical regions: North Region, Central Region and South Region. This SOW addresses native plant habitat management and landscape maintenance for North Region and Central Region Landfills, specifically at Santiago Oaks Regional Park in the City of Orange, Olinda Alpha Landfill in the City of Brea, Frank R. Bowerman (FRB) Landfill in the City of Irvine, Santiago Canyon Landfill adjacent to Irvine Lake, and Gothard Street Disposal Station in Huntington Beach. Native plant habitat management and maintenance are a priority to OCWR at these sites as the department works to mitigate the impact of landfill operations upon its environmental surroundings.

CONCEPT

OCWR seeks to secure a Contractor to provide management and maintenance services for the native plant habitat sites within the North and Central Region Landfills. The Contractor shall be responsible for developing a brief management and maintenance plan for the identified sites, implementing the plan and monitoring its success. The Contractor shall meet monthly with the OCWR Biological Resources Monitor (BRM) to report the progress of the habitat management sites, and to recommend activities in addition to those regularly scheduled that are determined necessary or beneficial to the success of the management sites.

The Contractor will implement an “*adaptive management*” approach to guarantee the success of these management sites. *Adaptive management* is defined as the ongoing evaluation of habitat management techniques in light of monitoring results and other new information. These periodic evaluations are used over time to adapt both the management objectives and techniques to better achieve overall resource management goals.

DEFINITIONS

The following definitions will serve as basic terminology for the SOW.

Responsible Entities: Shall be those individuals or entities responsible for the successful implementation of this Contract for monitoring maintenance procedures and site performance, and for providing interim and final approval of the habitat mitigation program.

- OC Waste & Recycling Landfill Staff may include, but is not limited to:
 - OC Waste & Recycling Biological Resources Monitor
 - OC Waste & Recycling Site Project Manager (both for Central and North Region)
 - OC Waste & Recycling Regional Manager (both for Central and North Region)
- Native Plant Habitat Management & Landscape Maintenance Contractor
- Resource Agencies

OC Waste & Recycling Biological Resources Monitor (BRM): Is responsible for monitoring site conditions and maintenance activities within all native habitat sites, and for facilitating compliance with project performance standards. The BRM shall serve as the day-to-day contact regarding mitigation site status and the implementation of site remedial measures.

The BRM shall be responsible for monitoring maintenance activities, site conditions, and site performance, identifying appropriate remedial measures in coordination with the Contractor and OCWR Landfill Staff, and for facilitating compliance with the resource agency permit requirements. The BRM shall also be responsible for coordinating efforts among the Contractor, the County Biological Resources Monitor, appropriate OCWR Landfill Staff and the Resource Agencies regarding site status. The BRM shall attend, as appropriate, all onsite meetings during all maintenance procedures.

OC Waste & Recycling Landfill Staff: The County of Orange owns and operates all the previously listed sites. Operational and engineering staff is located on the Olinda Alpha and FRB Landfills to provide support to daily activities. Landfill staff or workforces will not be developing, implementing or maintaining the revegetation efforts at the service areas. However, OCWR reserves the right to use County forces at the direction of the BRM as a supplement to the Contractor's work effort if desired.

Native Plant Habitat Management & Maintenance Contractor (Contractor): Shall be responsible for facilitating the successful establishment and management of native habitat within all habitat sites. The Contractor shall be responsible for performing all site maintenance procedures including weed control, management of irrigation systems and regimes, erosion control, replacement plant establishment and protection, as described herein. The Contractor shall also be responsible for coordinating with the BRM as the primary contact, and OCWR Landfill Staff, as needed, regarding ongoing site maintenance status. The Contractor shall be responsible for communicating all maintenance issues and problems in an expeditious manner to facilitate the timely implementation of appropriate remedial measures.

The Contractor shall have a full-time, English speaking, foreman assigned to the project and that foreman shall be onsite during the performance of all tasks described herein and shall be responsible for compliance with specifications listed herein and in resource agency permits. The name, phone number, and contact information of the foreman assigned to the maintenance activities described herein shall be provided to the BRM prior to the initiation of maintenance activities. The foreman shall have in their possession at all times the name and contact information for the BRM and OCWR Landfill Staff. The County shall not be responsible for Contractor's drinking water, telephone, fax, and toilet needs while its workers are on site premises. The Contractor shall provide portable toilet facilities for their staff.

Resource Agencies: Are responsible for permit processing and program approval associated with the Native Plant Habitat Management and Maintenance and include the U.S. Army Corps of Engineers (USACE), California Department of Fish and Wildlife (CDFW), Regional Water Quality Control Board (RWQCB), and U.S. Fish and Wildlife Service (USFWS). The mitigation site maintenance and management specifications included in this document are based on requirements listed in the USACE, CDFW, RWQCB, and USFWS permits and authorizations. The Contractor shall be responsible for complying with the specific water quality protection measures listed herein, but not limited to the USACE, CDFW (1601), and RWQCB, permits and authorizations.

Native Plant Species: Plant species that are indigenous to Southern California and, specifically, typical of the riparian and coastal sage scrub plant communities located within southern Orange County.

Native Plant Species Suppliers: OCWR currently has a contract with a nursery supplier for the provision of container plants and replacement plant species. All replacement plant species specified by the Biological Monitor shall be obtained under the terms of the OCWR container plant contract, as applicable.

Exotic and Weed Species: Ornamental plant species and invasive plant species native to other areas of the United States (outside of Southern California) and to Europe, Asia, Africa, etc. Exotic and weedy species found onsite include, but are not limited to, the following table. Invasive exotic species shall also include all species listed on the California Invasive Pest Plant Council (Cal-IPC) Invasive Plant Inventory. The BRM may identify additional exotic and weed species for removal throughout the maintenance period.

Scientific Name	Common Name
<i>Arundo donax</i> *	giant reed
<i>Atriplex semibaccata</i>	Australian saltbush
<i>Avena sp.</i>	wild oat
<i>Brassica nigra</i> *	Black mustard
<i>Centaurea melitensis</i>	toalote
<i>Cortaderia selloana</i>	Pampas grass
<i>Cynara cardunculus</i> *	artichoke thistle
<i>Cynodon dactylon</i>	Bermuda grass
<i>Foeniculum vulgare</i>	fennel
<i>Hirschfeldia incana</i> *	Summer mustard
<i>Lactuca serriola</i>	Prickly lettuce
<i>Malva parviflora</i>	Cheese weed
<i>Melilotus alba</i>	white sweetclover
<i>Mesembryanthemum nodiflorum</i>	Slender-leaved iceplant
<i>Nicotiana glauca</i>	tree tobacco
<i>Helminthotheca echioides</i>	bristly ox-tongue
<i>Piptatherum miliaceum</i>	smilo grass
<i>Plantago major</i>	common plantain
<i>Polypogon monspeliensis</i>	annual beard grass
<i>Salsola tragus</i>	Russian thistle
<i>Sonchus asper ssp. asper</i>	prickly sow thistle
<i>Tamarix ramosissima</i> *	saltcedar
<i>Vulpia myuros</i>	fescue
*Highly invasive species	

CONTRACTOR TASK REQUIREMENTS

The Contractor shall be responsible for facilitating the successful establishment and management of native habitat within all mitigation sites. The Contractor shall be responsible for performing all site maintenance procedures including, but not limited to, weed control, management of irrigation systems, replacement plant establishment and protection, as described herein. The Contractor shall also be responsible for coordinating with the OC Waste & Recycling BRM regarding ongoing site maintenance status. The Contractor shall be responsible for communicating all maintenance issues and problems in an expeditious manner to facilitate the timely implementation of appropriate remedial measures.

The Contractor shall employ a combination of any or all of the following maintenance activities to achieve the service area goals and objectives. Additional maintenance activities may be proposed as appropriate during the term of this Contract, but should be well detailed in Contractor's proposal to account for benefit and level of effort required. The Contractor will implement an "adaptive management" approach to guarantee the success of these management sites.

Weed control: All weeds shall be removed by hand, mechanically, or with herbicides used in accordance with applicable regulations including OC Waste & Recycling's Integrated Pest Management (IPM) Policy, and only after consultation with the BRM. Weed control should ideally occur at any particular site before exotic plant material begins to produce seed in that area.

Pest control: Herbivore damage and insect infestation can seriously affect plant establishment in the early stages of plant growth. The Contractor shall be responsible for preventing plant damage caused by any pest infestation. Remedial actions include, but are not limited to, installation of individual wire cages.

Erosion control: The Contractor shall install erosion control devices where site preparation or other restoration activities cause soil disturbance and will routinely clean, maintain, and inspect such devices. Once sufficient vegetative cover has developed, the erosion control devices shall be removed, and Best Management Practices (BMPs) shall be implemented as required to prevent movement of sediment into wetlands or off the restoration site. The Contractor shall provide an erosion control plan prior to beginning work.

Remedial planting: The Contractor shall be responsible for remedial planting if deemed necessary by OC Waste & Recycling. This may include application of soil amendments specified by OC Waste & Recycling. Plant material and soil amendments may be provided by OCWR or by the Contractor from a qualified Native Plant Species Supplier. To ensure success, planting should be performed only between the months of November and February, or as otherwise authorized by the BRM.

Trash and Debris Removal: Trash or other debris may enter the site during rain or wind events. The Contractor is responsible for removing any accumulated trash and debris observed during maintenance activities. Dead or downed wood from native species will not be removed except as required for safety reasons or flood control purposes. All garbage, debris, or weed biomass will be removed from all areas maintenance and disposed of appropriately at a County Landfill. Tipping fees will be at OCWR expense.

Vandalism: The Contractor shall note any instance of vandalism and report occurrences to the Site Project Manager within 24 hours of its observation. The Contractor shall be responsible for repair of damage to native habitat that is caused by vandalism.

TASKS WITHIN THE SCOPE OF THIS CONTRACT:

Task 1: Santiago Oaks Regional Park:

The Contractor shall be responsible for the maintenance of 200 coast live oak trees and understory vegetation planted along a trail at Santiago Oaks Regional Park, an Orange County park managed by OC Parks. The goal is to create a healthy riparian coast live oak habitat and create shade for a trail that burned in March 2007. The existing container plants were installed in 2011 and 2012. Some replacement trees may be needed.

Task 2: Olinda Alpha Landfill

The Contractor may be required to perform weed control on an as-needed basis on approximately 150 acres of disturbed areas on this active landfill in Brea, California. This site also has approximately 10 acres of irrigated ornamental planting. The goal is to maintain ornamental landscaping to screen aspects of the landfill.

Task 3: FRB Landfill Native Plant Habitat Management and Maintenance Areas

The Monument/Site Entrance area of this active landfill is approximately 0.6 acre in size and contains irrigated ornamental native vegetation. The goal is to maintain an aesthetically pleasing and weed free landscape. The area is irrigated regularly via a water truck hookup.

The FRB Office landscaping consists of 1.3 acres of ornamental drought tolerant vegetation, immediately surrounding the office, operations staff quarters, and picnic area. All areas are irrigated with reclaimed water via drip irrigation. The scope of this task may also include maintenance of expanded office landscaping areas, as required.

The Wetland Basin Mitigation Site is 4 acre wetland and riparian habitat restoration project located at the southern perimeter of FRB landfill. This site was installed in fall 2013. The goal is to create wetland and riparian habitat and meet the following performance standards.

Table 1. Wetland Basin Performance Standards

	Native Plant Species Percent Coverage	
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Year	Wetland/Riparian Creation Area: Mitigation Basin Floor and Lower Side Slopes (2.54 acres)	Woodland Creation Area: Upper Mitigation Basin Side Slopes (0.20 acre)	Enhancement Area (x1.6 acres)	Non-Native Plant Species Percent Coverage
One	20%	10	10	<15%
Two	40%	30	30	<5%
Three	60%	50	50	<5%
Four	75%	70	70	<5%
Five	90%	85	85	<5%

The West Channel Mitigation Site has several habitats, 0.41 acre of coastal sage scrub habitat, 1.31 acres of sycamore woodland habitat (50 trees), 0.14 acre of riparian scrub habitat, and 0.84 acre of oak woodland habitat (50 trees). The goal is to maintain the mitigation site and obtain sign-off from regulatory agencies.

The remediated Landslide Backcut and East Flank landslide areas (80 acres) are not habitat mitigation, but need to be maintained as a grassland habitat for erosion control. Portions of this area encroach into OC Parks. These areas shall be maintained as coastal sage scrub revegetation.

Task 4: Santiago Canyon Landfill

This closed landfill has approximately 150 acres grassland and coastal scrub habitat. The goal for this task is to keep a weed-free site and drainages free of vegetation.

Task 5: Gothard Disposal Station

This closed landfill has approximately 10 acres of coastal sage scrub and ornamental vegetation. The goal for this task is to keep a weed-free site, maintain ornamental vegetation, and keep native vegetation from encroaching upon cleared areas.

Note: Although these are the habitat management and maintenance areas identified at this time, it is possible that future unforeseen events related to landfill operations and/or regulatory requirements may result in unexpected native plant habitat impacts, therefore additional tasks may be required on other landfills within the OCWR North and Central Regions.

Task 6 - Monthly Monitoring, Reporting and Meetings (as needed)

The Contractor shall monitor and submit to OCWR one report for each service area on a monthly basis, as required by the Site Project Manager. The reports shall describe all maintenance activities conducted during the previous monthly period, including photographs and daily reports. Additionally, the Contractor shall include in each report recommended activities and associated costs for the upcoming monthly monitoring period. A tailgate meeting will be held each month at FRB to discuss each report and approve recommended activities for the following monitoring period.

ADDITIONAL CONTRACTOR REQUIREMENTS

Labor Requirements: The Contractor shall furnish all labor, equipment and tools required for the native plant habitat revegetation services at OCWR Landfills and designated closed sites. The Contractor at his own expense will furnish supervision of the crews.

Existing Plant Species: The Contractor, at his own expense, shall replace any damaged native plants or habitat areas (damaged from Contractor operations) with plants or acreage of equal value at a replacement ratio of 1:1 (or as determined by the BRM and as required by project permits), or reimburse OCWR for the cost of replacement based on this ratio. The BRM shall be the sole judge of the replacement of the plant.

Water Quality/Soils Quality Control: The Contractor shall not introduce foreign material and/or liquid such as oil, gasoline, or other petroleum products to any soil within the mitigation sites, the drip line (the outside edge of foliage overhang) of any native plant species, or within existing drainages. Should any such contamination of the soil occur due to Contractor activities, the Contractor shall remove the affected soil as directed by the BRM and replace it with acceptable soil. Also, the Contractor shall be responsible for complying with the specific water quality protection measures listed herein and in the USACE, CDFW (1601), and RWQCB, permits and agreements.

Storage and Staging: All staging and storage of equipment, vehicles, and materials shall be located outside of the mitigation sites and existing drainages. Construction equipment, vehicles, and materials shall not be placed on planted/seeded mitigation species, existing native vegetation, or within sensitive resource areas. The location of equipment staging and storage areas shall be identified on a map submitted to the BRM. In the event that temporary storage of replacement plant materials is necessary, these materials shall be stored in a safe, inconspicuous location, and protected from vandalism.

NON-ROUTINE TASKS:

During the term of this Contract, OCWR will require habitat management and landscape maintenance services not specifically described in the above tasks. When non-routine tasks arise the Site Project Manager will issue a Request for Service (RFS). Upon receipt of a RFS from Site Project Manager, Contractor shall provide a detailed proposal of manpower, equipment, material, time and cost for issuance and authorization of a non-routine task. Only upon written acceptance by the Site Project Manager of the proposal and issuance of a Notice to Proceed (NTP) authorizing non-routine tasks to be performed.

PROJECT DELIVERABLES

- Annual Maintenance Plan: Plan shall detail general work sequence, anticipated durations, routine service frequency (herbicide application, Irrigation system test, etc.)
- Monthly Monitoring Reports, including future recommendations of maintenance activities.
- Monthly look ahead schedule including deviations from annual plan non-routine task order work; monthly schedule shall also indicate labor trends and crew size.
- Upon receipt of RFS from Site Project Manager, Contractor shall provide a detailed proposal of manpower, equipment, material, time and cost for issuance and authorization of non-routine task. Only upon written acceptance by OCWR of the proposal and issuance of a NTP authorizing non-routine tasks be performed.

CONTRACTOR EXPERIENCE

The Contractor shall have a minimum of five (5) years of experience with maintaining native habitat mitigation site(s) and shall have successfully completed installation/maintenance at a minimum of two native riparian habitat creation/restoration sites that are at least two (2) acres in size and two (2) native coastal sage scrub habitat creation/restoration sites that are at least ten (10) acres in size.

These projects shall include expertise and experience with:

- non-native species control and management within natural habitat areas;
- management of mitigation site irrigation systems and application regimes;
- native plant and seed mix establishment;
- protection of natural resources; and
- implementation of erosion control measures.

The Contractor shall hold, at a minimum, a Qualified Applicator License. The workers who plant and maintain the vegetation shall possess specialized skills. They shall be capable of distinguishing numerous native species of plants and weeds. Workers shall be capable of following specified weed eradication procedures such as string trimming. In order to use herbicides, workers shall have a Pest Control Business License, and at least one individual on site at any time, such as a foreman or a supervisor, shall hold a Qualified Applicator License.

**ATTACHMENT B
COUNTY SUPPLIED ITEMS & RESOURCES****County will supply the following items and resources:**

1. Staging Area: The County will provide a staging area for the Contractor to establish a maintenance yard for storage of equipment and materials. A minimum 45' x 85' graded area accessible in all weather conditions.
2. Trash disposal: All trash, green-waste, and debris generated from the sites shall be disposed of at a County landfill at no cost to Contractor.
3. Water: The cost of all water needed for temporary and permanent irrigation systems associated with this project shall be paid by the County.
4. Access Road Work: County personnel shall be responsible to provide and maintain all site access roads passable for a 4-wheel drive maintenance vehicle.
5. Digital files in AutoCADD or GIS software.
6. Copies of resource agency permits.
7. Annual monitoring reports and mitigation plans for each area.

ATTACHMENT C

COST/COMPENSATION FOR CONTRACTOR SERVICES

Section I: Compensation

A. General

This is a fixed ceiling, time and materials contract between the County and the Contractor for Native Plant Habitat Management & Landscape Maintenance Services for Central and North Region Landfills as provided in Attachment A, Scope of Work.

Total Contract amount shall not exceed **\$1,200,000** for the period July 15, 2017 through July 14, 2020.

The Contractor agrees to accept the compensation specified herein as full remuneration for performing all services and furnishing all staffing and materials called for; and for any reasonably foreseeable difficulties which may arise or be encountered in the prosecution of the services; and for performance by the Contractor of all its duties and obligations hereunder.

The ceiling amount of this Contract shall include all expenses related to the performance of work and services required to meet the tasks and deliverables as set forth in Attachment A, Scope of Work. Contractor shall provide a cost breakdown of each identifiable task/deliverables specified in their response to Attachment A, Scope of Work.

The Contractor shall notify the Site Project Manager and Deputy Director in writing when expenditures against the Contract reach 75% of the total dollar limit of the Contract. County will not be responsible for any expenditure overruns and will not pay for work exceeding the total dollar limit of the Contract unless an amendment to cover those costs has been issued by the County. This notification must come within 3 working days of receipt of invoice that is within the notification limit.

The County shall have no obligation to pay any sum in excess of said ceiling price, unless authorized by a written modification issued in accordance with Articles "C" and "R" of this Contract. The Contractor shall fully perform and complete its duties and obligations under this Contract, regardless of the number of man-hours required of the Contractor in effectuating such performance and completion. Labor hours and other costs incurred to complete the services and materials as set forth in this Contract, which exceed the total project cost, shall be borne by the Contractor.

All extra work resulting in an increase in the Contract total ceiling amount shall be authorized by written modification to this Contract. Said modification shall be issued by the County of Orange, Purchasing Agent or his designee and may be subject to approval by the County Board of Supervisors.

Section II: Payment

A. Invoicing Instructions

Invoices and supporting documentation are to be sent to:
County Of Orange/OC Waste & Recycling
Attn: Accounts Payable
300 N. Flower Street, Suite 400
Santa Ana, CA 92703

The County's Contract Administrator or designee is responsible for approval of invoices and subsequent submittal of invoices to the Auditor-Controller for processing payment. Each invoice shall identify the Contractor name, services itemized and detailed information providing the amount being invoiced. Submit invoices electronically, via email to the following email address:

ocwrinvoice@ocwr.ocgov.com

Payment (Electronic Funds Transfer EFT): The County offers Contractor the option of receiving payment directly to their bank account via an Electronic Fund Transfer (EFT) process in lieu of a check payment. Payment made via EFT will also receive an Electronic Remittance Advice with the payment details via e-mail. An e-mail address will need to be provided to the County via an EFT Authorization Form. To request a form, please contact the Deputy Purchasing Agent. Upon completion of the form, please mail, fax or email to the Deputy Purchasing Agent.

B. Acceptable invoicing format

The Contractor may bill on the standard invoice form but the following references must be made:

- County contract #MA-299-17011739
- Task or Sub Task Number (if available)
- Copy of pre-approved task order quote (signed by Site Project Manager)
- Detailed description of tasks/services and deliverables
- Date of service
- Cost per hour (for labor, unless lump sum basis)
- Material costs (including any back-up documentation, as required, unless lump sum basis)
- Subcontractor costs (if applicable)
- Equipment costs (if applicable)
- Total Invoice Amount

The responsibility for providing an acceptable invoice to the County Of Orange for payment rests with the Contractor. Incomplete or incorrect invoices are not acceptable and will be returned to the Contractor for correction. The invoice must be verified by the Site Project Manager and is subject to routine processing requirements of the County. Payments made by the County shall not preclude the right of the County from thereafter disputing any items or services involved or billed under this Contract and shall not be construed as acceptance of any part of the services.

C. Terms

The Contractor shall submit an invoice monthly in arrears. Payment due to the Contractor will be made within forty-five (45) days after receipt of a correctly submitted invoice.

Payments made by the County of Orange shall not preclude the right of the County from thereafter disputing any items or services involved or billed under this Contract, and shall not be construed as acceptance of any part of the services. Monthly progress payments will be made as approved by Site Project Manager.

D. Task and Deliverable Payment Schedule

Task 1: Santiago Oaks Regional Park

Task 2: Olinda Alpha Landfill

Task 3: FRB Landfill Native Plant Habitat Management and Maintenance Areas

Task 4: Santiago Canyon Landfill

Task 5: Gothard Disposal Station

Task 6: Monthly Monitoring, reporting, and Meeting Future Needs tasks and Non-Routine Tasks

Contractor costs should be budgeted per task and habitat area but monthly billing may be allocated based on actual time and material basis that results from Contract performance in each specific area not-to-exceed total Contract amount.

The total not-to-exceed compensation shall be broken down by tasks. It will be the sole responsibility of the Site Project Manager assigned to this Contract to monitor, track and approve task dollars within the not-to-exceed budget. Each activity under this Contract will be covered by a Task Order. It is expressly understood that the tasks to which the Contractor is asked to respond to, will be on an “as-needed” basis and authorized by the Site Project Manager. As each task is identified, the Contractor will prepare a “Task Order” which details the scope of work to be accomplished, list of deliverables, schedule for completion, and a not-to-exceed cost for its completion. Each task order will be reviewed and approved by the Site Project Manager prior to commencement of the proposed work. These services may be paid on a time and materials basis or lump sum basis as mutually agreed by Site Project Manager and Contractor. The Task Order authorization must be submitted with the invoice in order for payment to be made.

E. Time and Materials

LABOR REQUIREMENTS: The hourly and/or per call rate(s) shall include direct and indirect labor charges, truck, all necessary equipment, tools, overhead, travel, other expenses, and all profit applicable to services identified by Contractor. Overtime will not be paid on non-emergency response requests, unless specifically authorized by the Site Project Manager at the time the request for service is initiated.

Straight time is eight hours a day. The start time and the lunchtime are flexible depending upon the nature of the work. Overtime is any time after the straight time hours on weekdays, all day Saturday and Sunday, and will only be paid for emergency time and materials work. The Contractor shall obtain prior written approval from the Site Project Manager before working overtime except on emergency calls.

CLASSIFICATIONS AND RATES:

Labor Rates per Hour

Principal	\$175
Director of Operations	\$130
Project Manager	\$130
Assistant Project Manager	\$65
Field Supervisor	\$70
Foreman	\$60
Lead	\$49
Restoration Technician 3	\$41
Restoration Technician 2	\$35
Restoration Technician 1	\$29
Operator	\$85

Contractor-Owned Equipment Rates

Equipment Type	Daily Rate	Weekly Rate	Monthly Rate
Water truck	\$275	\$1,000	\$2,700
Water trailer	\$125	\$400	\$750
Dump Trailer	\$150	\$525	\$900
Utility Vehicle	\$65	\$225	\$500
Large Herbicide Spray Rig	\$150	\$575	\$1600

Other Expenses

Herbicide	\$ 0.94	Per ounce
Monthly Report	\$125	Per report

SUBCONTRACTOR COSTS: With written pre-approval by the Site Project Manager, the use of

subcontractors or specialized services labor and equipment shall be reimbursed at the actual cost plus 10%.

MATERIAL COSTS: With written pre-approval by the Site Project Manager, plants, parts and materials purchased by the Contractor or by its subcontractor, shall be reimbursed at actual cost plus the percentage quoted in proposal. All parts shall be F.O.B Destination. All applicable taxes on materials will be applied after the mark-up has been added; no additional cost or mark-up will be applied to the sales tax amount. The Contractor is to provide with every invoice, a copy of the supplier's invoice for any part or material costing \$100.00 or more.

All replacement parts shall be new, except when rebuilt or remanufactured parts are most cost effective and pre-authorized by the Site Project Manager.

Materials shall be billed at Contractor's Actual Cost Plus 10%. The markup may be applied only to the actual cost of the parts or materials, excluding tax.

Contractor shall warrant all labor and materials used in the work for a period of one (1) year (or in accordance with Contractor's or Manufacturer's Warranty, if longer) after completion of repairs, if applicable.

F. Reimbursable Costs

Contractor's reasonable out-of-pocket expenses will be directly reimbursable by the County with prior written approval by the Site Project Manager. Reimbursable items shall be billed on an **actual cost basis** with no markup and submitted with complete back-up documentation, as may be required by the Site Project Manager.

Items Considered Non-Reimbursable:

1. General overhead costs such as accounting, computer rentals, and items generally required for the basic operations of daily business or directly related to the Contract Task Orders.
2. Cost of cellular phones, cell phone usage plans and usage minutes, and other mobile communication devices.
3. Telephone, fax, and internet use.
4. Any item specified in the task order scope of work, necessary to complete the scope of work, or deliverables from the scope of work.
5. Mileage between the Contractor's home base and OC Waste & Recycling.
6. Any costs other than those explicitly authorized in Items Considered Reimbursable, unless advanced written approval has been obtained from Site Project Manager.

**ATTACHMENT D
SUBCONTRACTOR SERVICES**

The Contractor shall hereinafter state that any Subcontractor(s) who will be the Subcontractor(s) on the job for each particular trade or subdivision of the work and will state the firm name and principal location of the mill, shop, or office of each. Failure to list all Subcontractors performing more than 5% of the work may be considered cause for default of the Contract.

Subcontractor	Work, Trade, Service	License(s)	Location of Shop or Service
No Subcontractors are anticipated			

ATTACHMENT E

PERFORMANCE AND ACCEPTANCE PLAN

OC Waste & Recycling has developed preliminary goals, objectives, and performance standards for each targeted service area. Contractor shall meet or exceed performance standards in Table 1 of Attachment A, Scope of Work.

Contractor shall perform all work within the requirements outlined herein and Attachment A, as well as resource agencies for environmental permits and program approvals associated with native habitat management and landscape maintenance services including the U.S. Army Corps of Engineers (ACOE), U.S. Fish and Wildlife (USFWS), California Department of Fish and Wildlife (CDFW), and Regional Water Quality Control Board (RWQCB). The mitigation site maintenance and management specifications included in the Scope of Work are based on requirements listed in the above mentioned permits and authorizations. Contractor shall be responsible for complying with the specific water quality protection measures listed herein.

As part of the Acceptance Plan, Contractor shall schedule for County staff and biological monitors to inspect the site and verify success standard have been achieved. After reviewing the plan and verifying that all tasks have been completed to the satisfaction of the County, the Site Project Manager will sign a Notice of Completion to be provided by Contractor.

The Performance and Acceptance Plan shall satisfy the requirements specified below:

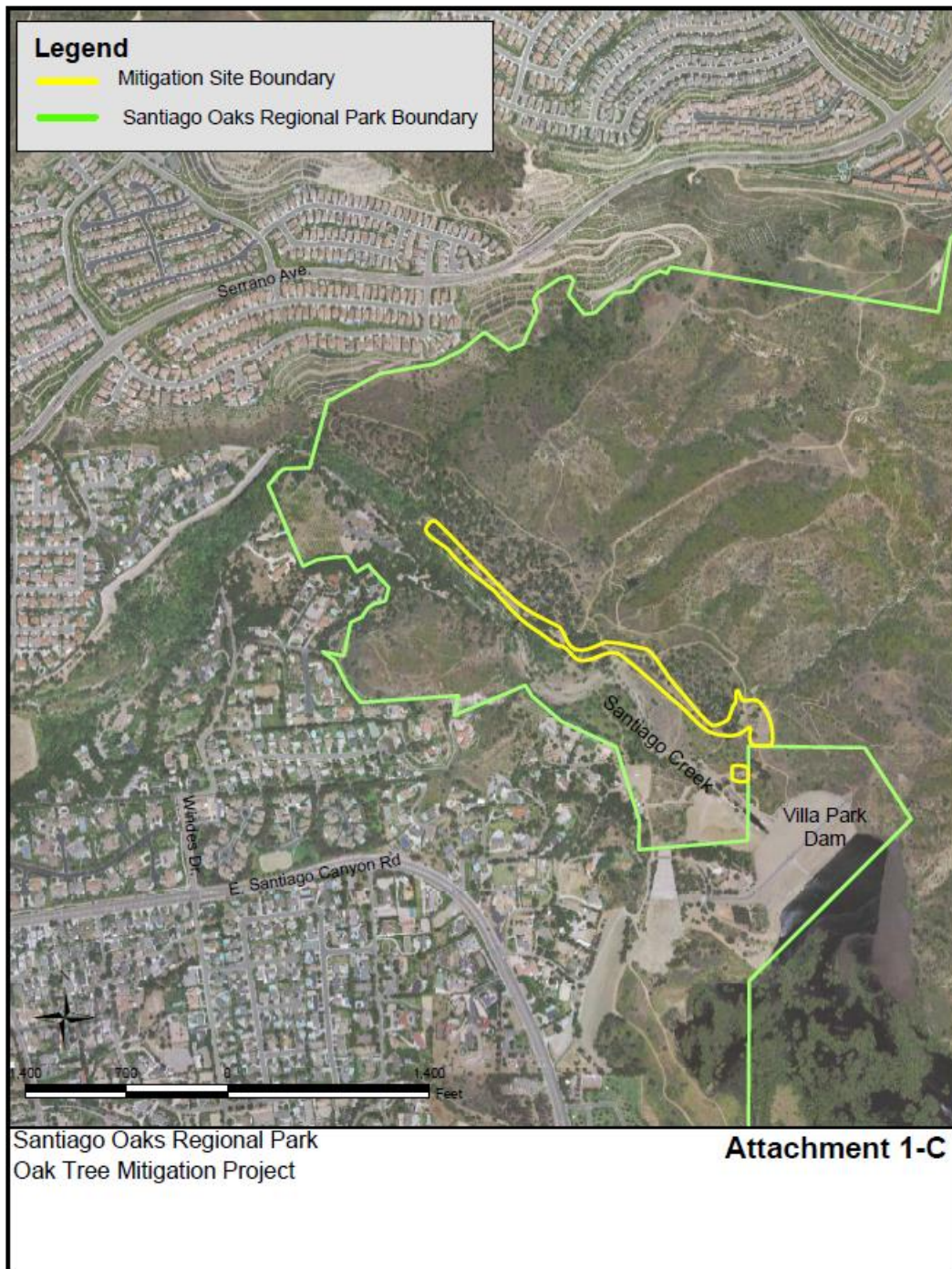
1. The plan shall be tailored to verify that all of the requirements, features, and performance measures of the Native Habitat Management & Landscape Maintenance Services for Central and North Region Landfills specified in Attachment A, Scope of Work, are fully satisfied.
2. The plan will package the deliverables into a final product.
3. The plan will be executed by the Contractor.
4. After successful completion of all plan review to the satisfaction of the OC Waste & Recycling team, the Site Project Manager will sign a notice of completion to be provided by the Contractor.

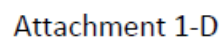


Attachment 1-A: Frank R. Bowerman Landfill

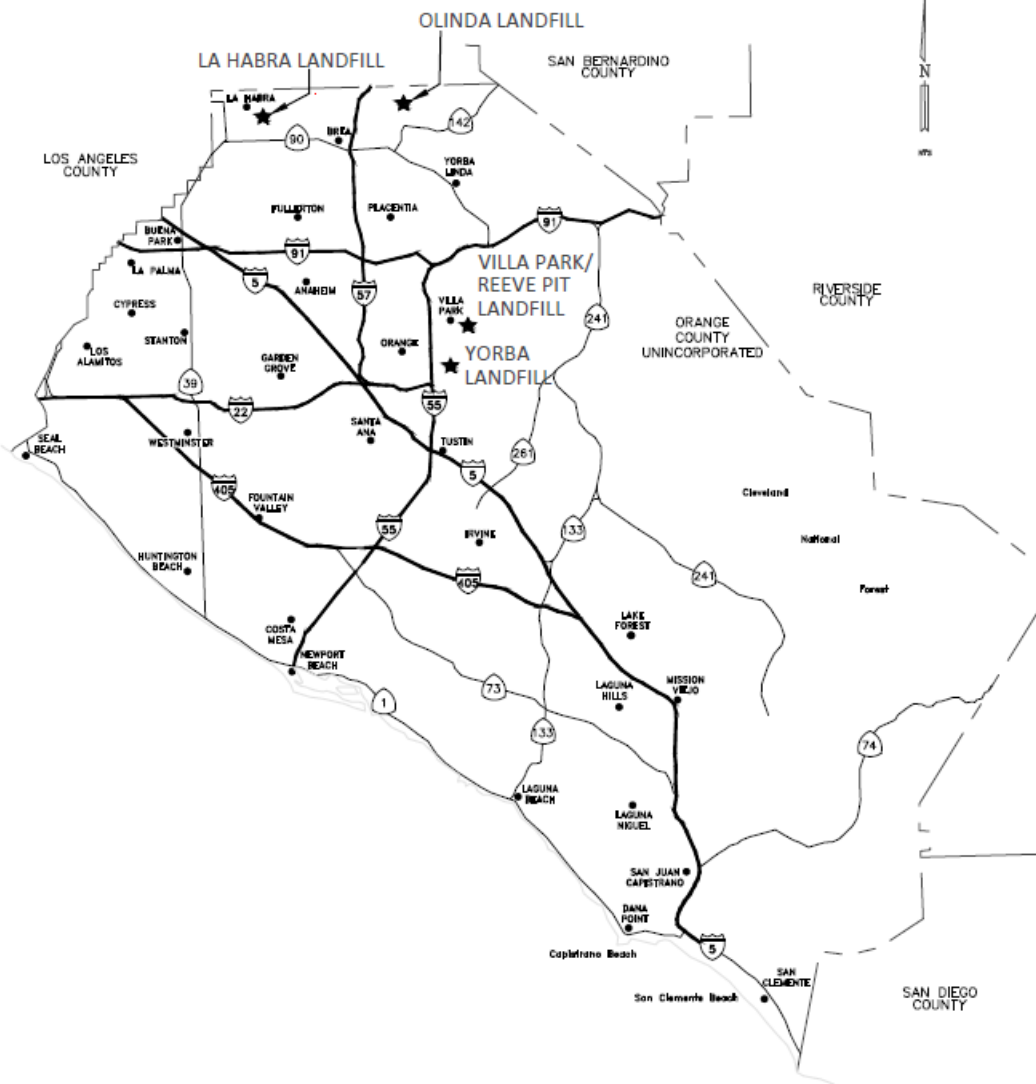


Attachment 1-B: Santiago Canyon Landfill





NORTH REGION VICINITY MAP



Attachment 1-E