

CONTRACT MA-080-14011538
FOR
WEED ABATEMENT SERVICES

THIS Contract MA-080-14011538 for Weed Abatement Services, (hereinafter referred to as "Contract") is made and entered into as of the date fully executed by and between the County of Orange, a political subdivision of the State of California, (hereinafter referred to as "County") and Natures Image, Inc., a State of California Corporation (hereinafter referred to as "Contractor") with County and Contractor sometimes individually referred to as ("Party"), or collectively referred to as ("Parties").

RECITALS

WHEREAS, County and Contractor are entering into this Contract for Weed Abatement Services under a Usage Contract; and,

WHEREAS, County solicited for Weed Abatement Services as set forth herein, and Contractor has represented that it is qualified to provide Weed Abatement Services to County as further set forth herein; and,

WHEREAS, Contractor agrees to provide Weed Abatement Services as further set forth in the Scope of Work, attached hereto as Attachment A and incorporated herein; and,

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

NOW THEREFORE, the Parties mutually agree as follows:

ARTICLES

1. **Scope of Contract:** This Contract, including attachment(s), specifies the contractual terms and conditions by which Contractor will provide Weed Abatement Services under a Usage Contract.
2. **Term:** The initial term of this Contract shall become effective April 29, 2014, and shall continue through December 31, 2014 unless otherwise terminated as provided herein. This Contract may be renewed upon expiration for four (4) additional years, upon mutual agreement of both Parties. County is not obligated to give a reason or notice if it elects not to renew. Renewal amendments may require approval of the County Board of Supervisors.

Amendment #1

~~**Term:** Contract shall become effective January 1, 2015, and shall continue for one year from that date, unless otherwise terminated as provided herein. This Contract may be renewed upon expiration for three (3) additional years, upon mutual agreement of both Parties. County is not obligated to give a reason or notice if it elects not to renew. Renewal amendments may require approval of the County Board of Supervisors.~~

Amendment #2

~~**Term:** Contract shall become effective January 1, 2016, and shall continue for two years from that date, unless otherwise terminated as provided herein. This Contract may be renewed upon expiration for one (1) additional year, upon mutual agreement of both~~

~~Parties. County is not obligated to give a reason or notice if it elects not to renew. Renewal amendments may require approval of the County Board of Supervisors.~~

Amendment #3

Term: Contract shall become effective January 1, 2018, and shall continue for one year from that date, unless otherwise terminated as provided herein.

3. **Contingency of Funds:** Contractor acknowledges that funding or portions of funding for this Contract may be contingent upon state budget approval; receipt of funds from, and/or obligation of funds by, the state of California to County; and inclusion of sufficient funding for the services hereunder in the budget approved by County's Board of Supervisors for each fiscal year covered by this Contract. If such approval, funding or appropriations are not forthcoming, or are otherwise limited, County may immediately terminate or modify this Contract without penalty.
4. **Precedence:** The Contract documents consist of this Contract and attachments. In the event of a conflict between or among the Contract documents, the order of precedence shall be the provisions of the main body of this Contract, i.e., those provisions set forth in the recitals and articles of this Contract, and then the attachments.
5. **Contractor's Project Manager and Contractor Personnel:** Contractor shall appoint a Project Manager, as specified in Article 28. "Notices" to direct Contractor's efforts in fulfilling Contractor's obligations under this Contract. This Project Manager shall not be changed without the written consent of County's Project Manager. Contractor's Project Manager and Contractor personnel shall be assigned to this project for the duration of this Contract and shall diligently pursue all work and services to meet the project time lines. Contractor personnel are those individuals who report directly to Contractor's Project Manager. Contractor warrants that all Contractor personnel engaged in the performance of work under this Contract shall possess sufficient experience and/education to perform the services requested by County.
6. **County's Project Manager:** County shall appoint a Project Manager, as specified in Article 28. "Notices," to act as liaison between County and Contractor during the term of this Contract. County's Project Manager shall coordinate the activities of County staff assigned to work with Contractor.

County's Project Manager shall have the right to require the removal and replacement of Contractor's Project Manager and Contractor personnel. County's Project Manager shall notify Contractor in writing of such action. Contractor shall accomplish the removal within 14 calendar days after written notice by County's Project Manager. County's Project Manager shall review and approve in writing the appointment of the replacement for Contractor's Project Manager.

7. **Conflict of Interest:** Contractor shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with the best interests of County. This obligation shall apply to Contractor; Contractor's employees, agents, and relatives; subcontractors; and third parties associated with accomplishing work and services hereunder. Contractor's efforts shall include, but not be limited to establishing precautions to prevent its employees or agents from making, receiving, providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to appear to influence individuals to act contrary to the best interests of County.
8. **Existing Site Conditions:** Information respecting the site of the work given in drawings or specifications has been obtained by County's representatives and is believed to be

reasonably correct, but County does not warrant either the completeness or accuracy of such information, and it is the responsibility of Contractor to verify all such information.

9. **Hazardous Conditions:** Whenever Contractor's operations create a condition hazardous to traffic or to the public, Contractor shall provide flagmen and furnish, erect and maintain control devices as are necessary to prevent accidents or damage or injury to the public at Contractor's expense and without cost to County. Contractor shall comply with County directives regarding potential hazards.

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

Signs, lights, flags, and other warning and safety devices shall conform to the requirements set forth in Chapter 5 of the current traffic manual, Traffic Control for Construction and Maintenance Work Zones, published by the state of California Department of Transportation.

10. **Conditions Affecting Work:** Contractor shall be responsible for taking all steps reasonably necessary to ascertain the nature and location of the work to be performed under this Contract and to know the general conditions which can affect the work or the cost thereof. Any failure by Contractor to do so will not relieve Contractor from responsibility for successfully performing the work without additional cost to County. County assumes no responsibility for any understanding or representations concerning the nature, location(s) or general conditions made by any of its officers or agents prior to the execution of this Contract, unless such understanding or representations by County are expressly stated in the Contract.
11. **Contractor's Personnel:** Contractor warrants that all Contractor personnel engaged in the performance of work under this Contract shall possess sufficient experience and education to perform the services requested by County. County expressly retains the right to have any of Contractor personnel removed from performing services under this Contract. Contractor shall effectuate the removal of the specified Contractor personnel from providing any services to County under this Contract within one business day of notification by County. County shall submit the directive in writing to Contractor's Project Manager. County is not required to provide any reason, rationale or additional factual information if it elects to request any specific Contractor personnel be removed from performing services under this Contract.
12. **Usage:** No guarantee is given by County to Contractor regarding usage of this Contract. Usage figures, if provided, are approximate, based upon the last usage. Contractor agrees to supply services and/or commodities requested, as needed by County, at prices listed in the Contract, regardless of quantity requested. Orders may be placed against this Contract at the convenience of the using agency/department.
13. **Usage Reports:** Upon County request, Contractor shall submit usage reports to County which shall include, at minimum, summarized quantities used during the Contract period by line item description as specified in the Contract. The usage report shall be in a format specified by County.
14. **Cooperative Agreement:** The provisions and pricing of this Contract will be extended to other County of Orange agencies/departments ("cooperative entities"). Cooperative entities wishing to use this Contract will be responsible for issuing their own purchase

documents/price agreements, providing for their own acceptance, and making any subsequent payments. The cooperative entities are responsible for obtaining all certificates of insurance and bonds required. Contractor is responsible for providing each cooperative entity a copy of the Contract upon request by the cooperative entity. County of Orange makes no guarantee of usage by other users of this Contract. County of Orange may authorize the loading of this agreement into an electronic commerce system.

Contractor shall be required to maintain a list of the cooperative entities that have used this Contract. The list shall report dollar volumes spent quarterly and annually and shall be provided on a quarterly basis to County lead agency.

15. **Prevailing Wage (Labor Code Section 1773):** Pursuant to the provisions of Section 1773 of the Labor Code of the State of California, the Contractor shall comply with the general prevailing rates of per diem wages and the general prevailing rates for holiday and overtime wages in the locality for each craft, classification, or type of worker needed to execute this Contract. The rates are available from the County's Clerk of the Board Office, and from the Director of the Department of Industrial Relations (DIR) at the following website: <http://www.dir.ca.gov/dlsr/DPreWageDetermination.htm>. Contractor shall post a copy of such wage rates at the job site and shall pay the adopted prevailing wage rates. The Contractor shall comply with the provisions of Sections 1775 and 1813 of the Labor Code
16. **Records:** Contractor shall keep true and accurate accounts, records, books and data which shall correctly reflect the business transacted by Contractor in accordance with generally accepted accounting principles. These records shall be stored in the County of Orange for a period of seven (7) years. Storage of records in another County will require special clearance from County's Project Manager for this project.
17. **Audits/Inspections:** Contractor agrees to permit County, which may include the Auditor-Controller or the Auditor-Controller's authorized representative (including auditors from a private auditing firm hired by County), access during normal working hours to all books, accounts, records, reports, files, financial records, supporting documentation, including payroll and accounts payable/receivable records, and other papers or property of Contractor for the purpose of auditing or inspecting any aspect of performance under this Contract. The inspection and/or audit will be confined to those matters connected with the performance of the Contract including, but not limited to, the costs of administering the Contract. County will provide reasonable notice of such an audit or inspection.

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

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

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

18. **Child Support Enforcement Requirements:** Contractor is required to comply with the child support enforcement requirements of County. Failure of Contractor to comply with all federal, state, and local reporting requirements for child support enforcement or to comply with all lawfully served Wage and Earnings Assignment Orders and Notices of

Assignment shall constitute a material breach of the Contract. Failure to cure such breach within 60 calendar days of notice from County shall constitute grounds for termination of the Contract.

19. **Publication:** No copies of sketches, schedules, written documents, computer based data, photographs, maps or graphs, including graphic art work, resulting from performance or prepared in connection with this Contract, are to be released by Contractor and/or anyone acting under the supervision of Contractor to any person, partnership, company, corporation, or agency, without prior written approval by County, except as necessary for the performance of the services of this Contract. All press contacts, including graphic display information to be published in newspapers, magazines, etc., are to be administered only after County approval.
20. **News/Information Release:** Contractor agrees that it will not issue any news releases or make any contact with the media in connection with either the award of this Contract or any subsequent amendment of, or effort under this Contract. Contractors must first obtain review and approval of said news media contact from County through County's Project Manager. Any requests for interviews or information received by the media should be referred directly to County. Contractors are not authorized to serve as a media spokespersons for County projects without first obtaining permission from County's Project Manager.
21. **Breach of Contract:** The failure of Contractor to comply with any of the provisions, covenants or conditions of this Contract, shall constitute a material breach of this Contract. In such event County may, and in addition to any other remedies available at law, in equity, or otherwise specified in this Contract:
 - i. Afford Contractor written notice of the breach and ten calendar days or such shorter time that may be specified in this Contract within which to cure the breach;
 - ii. Discontinue payment to Contractor for and during the period in which Contractor is in breach and offset against any monies billed by Contractor but yet unpaid by County those monies disallowed pursuant to the above.
 - iii. Terminate the Contract immediately without penalty.
22. **Contract Disputes:** The Parties shall deal in good faith and attempt to resolve potential disputes informally. If the dispute concerning a question of fact arising under the terms of this Contract is not disposed of in a reasonable period of time by Contractor's Supervisor and County's Project Manager as specified in Article 28. "Notices" by way of the following process, such matter shall be brought to the attention of County DPA by way of the following process:
 - i. Contractor shall submit to County DPA a written demand for a final decision regarding the disposition of any dispute between the Parties arising under, related to, or involving this Contract, unless County, on its own initiative, has already rendered such a final decision.
 - ii. Contractor's written demand shall be fully supported by factual information, and, if such demand involves a cost adjustment to the Contract, Contractor shall include with the demand a written statement signed by a senior official indicating that the demand is made in good faith, that the supporting data are accurate and

complete, and that the amount requested accurately reflects the Contract adjustment for which Contractor believes County is liable.

- iii. Pending the final resolution of any dispute arising under, related to, or involving this Contract, Contractor agrees to diligently proceed with the performance of this Contract, including the delivery of goods and/or provision of services. Contractor's failure to diligently proceed shall be considered a material breach of this Contract. Any final decision of County shall be expressly identified as such, shall be in writing, and shall be signed by County DPA or his designee. If County fails to render a decision within 90 days after receipt of Contractor's demand, it shall be deemed a final decision adverse to Contractor's contentions. County's final decision shall be conclusive and binding regarding the dispute unless Contractor commences action in a court of competent jurisdiction to contest such decision within 90 days following the date of County's final decision or one year following the accrual of the cause of action, whichever is later.

23. **Orderly Termination:** Upon termination or other expiration of this Contract, each Party shall promptly return to the other Party all papers, materials, and other properties of the other held by each for purposes of execution of the Contract. In addition, each Party will assist the other Party in orderly termination of this Contract and the transfer of all assets, tangible and intangible, as may be necessary for the orderly, non-disruptive business continuation of each Party.
24. **Expenditure Limit:** Contractor shall notify County's Project Manager in writing when the expenditures against the Contract reach 75 percent of the dollar limit on the Contract. County will not be responsible for any expenditure overruns and will not pay for work exceeding the dollar limit on the Contract unless an amendment to cover those costs has been issued.
25. **Errors and Omissions:** All reports, files and other documents prepared and submitted by Contractor shall be complete and shall be carefully checked by the professional(s) identified by Contractor as Project Manager and personnel prior to submission to County. Contractor agrees that County review is discretionary and Contractor shall not assume that County will discover errors and/or omissions. If County discovers any errors or omissions prior to approving Contractor's reports, files and other written documents, the reports, files or documents will be returned to Contractor for correction. Should County or others discover errors or omissions in the reports, files or other written documents submitted by Contractor after County approval thereof, County approval of Contractor's reports, files or documents shall not be used as a defense by Contractor in any action between County and Contractor, and the reports, files or documents will be returned to Contractor for correction.
26. **Ownership of Documents:** County has permanent ownership of all directly connected and derivative materials produced under this Contract by Contractor. All documents, reports and other incidental or derivative work or materials furnished hereunder shall become, and remain, the sole property of County may be used by County as it may require without additional cost to County. None of the documents, reports and other incidental or derivative work or furnished materials shall be used by Contractor without the express written consent of County.
27. **Title to Data:** All materials, documents, data or information obtained from County data files or any County medium furnished to Contractor in the performance of this Contract will at all times remain the property of County. Such data or information may not be used or copied for direct or indirect use by Contractor after completion or termination of this

Contract without the express written consent of County. All materials, documents, data or information, including copies, must be returned to County at the end of this Contract.

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

County: OC Public Works/OC Agricultural Commissioner
Attn: Jon Anderson
222 E. Bristol St.
Orange, CA 92865
Phone: 714.955.0110
Email: Jon.anderson@ocpw.ocgov.com

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

Contractor: Natures Image, Inc.
Attn: Grady Banister III
20361 Hermana Circle
Lake Forest, CA 92630
Phone: 949.680.4400
Email: gbanister@naturesimage.net

29. **Governing Law and Venue:** This Contract has been negotiated and executed in the State of California and shall be governed by and construed under the laws of the State of California. In the event of any legal action to enforce or interpret this Contract, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the Parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure section 394. Furthermore, the Parties specifically agree to waive any and all rights to request that an action be transferred for trial to another County.
30. **Entire Contract:** This Contract, including Attachments which are attached hereto and incorporated herein by this reference, when accepted by 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.

31. **Amendments:** No alteration or variation of the terms of this Contract shall be valid unless made in writing and signed by the Parties; no oral understanding or agreement not incorporated herein shall be binding on either of the Parties; and no exceptions, alternatives, substitutes or revisions are valid or binding on County unless authorized by County in writing.
32. **Taxes:** All prices shall include any applicable sales tax.
33. **Delivery:** Time of delivery of goods or services is of the essence in this Contract. County reserves the right to refuse any goods or services and to cancel all or any part of the goods not conforming to applicable specifications, drawings, samples or description, or services that do not conform to the prescribed Scope of Work. Acceptance of any part of the order for goods shall not bind County to accept future shipments, nor deprive it of the right to return goods already accepted, at Contractor's expense. Overshipments and undershipments of goods shall be only as agreed to in writing by County. Delivery shall not be deemed to be complete until all goods, or services, have actually been received and accepted in writing by County.
34. **Acceptance/Payment:** Unless otherwise agreed to in writing by County 1) acceptance shall not be deemed complete unless in writing and until all the goods/services have actually been received, inspected, and tested to the satisfaction of County, and 2) payment shall be made in arrears after services have been provided.
35. **Warranty:** Contractor expressly warrants that the goods/services covered by this Contract are 1) free of liens or encumbrances, 2) merchantable and good for the ordinary purposes for which they are used, and 3) fit for the particular purpose for which they are intended. Acceptance of this order shall constitute an agreement upon Contractor's part to indemnify, defend and hold County and its indemnities as identified in article "61" below, and as more fully described in article "61", 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.
36. **Assignment or Subcontracting:** The terms, covenants, and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators and assigns of the Parties. Furthermore, neither the performance of this Contract nor any portion thereof may be assigned or subcontracted by Contractor without the express written consent of County. Any attempt by Contractor to assign or sub-contract the performance or any portion thereof of this Contract without the express written consent of County shall be invalid and shall constitute a breach of this Contract.
37. **Non-Discrimination:** In the performance of this Contract, Contractor agrees that it will comply with the requirements of Section 1735 of the California Labor Code and not engage nor permit any subcontractors to engage in discrimination in employment of persons because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, or sex of such persons. Contractor acknowledges that a violation of this provision shall subject Contractor to all the penalties imposed for a violation of Anti-Discrimination Law or regulation, including but not limited to, Section 1720 et seq. of the California Labor Code.

38. **Termination:** In addition to any other remedies or rights it may have by law and those set forth in this Contract, County has the right to terminate this Contract without penalty immediately with cause or after 30 days' written notice without cause, unless otherwise specified. Cause shall be defined as any breach of Contract, any misrepresentation or fraud on the part of Contractor. Exercise by County of its right to terminate the Contract shall relieve County of all further obligations.
39. **Consent to Breach Not Waiver:** No term or provision of this Contract shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by the Party claimed to have waived or consented. Any consent by any Party to, or waiver of, a breach by the other, whether express or implied, shall not constitute consent to, waiver of, or excuse for any other different or subsequent breach.
40. **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.
41. **Independent Contractor:** Contractor shall be considered an independent Contractor and neither Contractor its employees nor anyone working for Contractor under this Contract shall be considered an agent or an employee of County. Neither Contractor, employees nor anyone working for Contractor under this Contract shall qualify for workers' compensation or other fringe benefits of any kind through County.
42. **Performance:** Contractor shall perform all work under this Contract, taking necessary steps and precautions to perform the work to County's satisfaction. Contractor shall be responsible for the professional quality, technical assurance, timely completion and coordination of all documentation and other goods/services furnished by Contractor under this Contract. Contractor shall perform all work diligently, carefully, and in a good and workman-like manner; shall furnish all labor, supervision, machinery, equipment, materials, and supplies necessary therefore; shall at its sole expense obtain and maintain all permits and licenses required by public authorities, including those of County required in its governmental capacity, in connection with performance of the work; and, if permitted to subcontract, shall be fully responsible for all work performed by subcontractors.
43. **Insurance Provisions:** Prior to the provisions of services under this Contract, Contractor agrees to purchase all required insurance at Contractor's expense and to deposit with County Certificates of Insurance, including all endorsements required herein, necessary to satisfy County that the insurance provisions of this Contract have been complied with and to keep such insurance coverage and the certificates therefore on deposit with County during the entire term of this Contract. In addition, all subcontractors performing work on behalf of Contractor pursuant to this Contract shall obtain insurance subject to the same terms and conditions as set forth herein for Contractor.

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

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

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

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

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

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

Required Coverage Forms

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

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

Required Endorsements

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

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

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

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

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

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

Insurance certificates should be forwarded to:

County of Orange, OC Public Works
Attn: Procurement and Special Services Division
2301 N. Glassell Street, 2nd Floor
Orange, CA 92865

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

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

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

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

44. **Bills and Liens:** Contractor shall pay promptly all indebtedness for labor, materials and equipment used in performance of the work. Contractor shall not permit any lien or charge to attach to the work or the premises, but if any does so attach, Contractor shall promptly procure its release and, in accordance with the requirements of Article "61" below, indemnify, defend, and hold County harmless and be responsible for payment of all costs, damages, penalties and expenses related to or arising from or related thereto.
45. **Changes:** Contractor shall make no changes in the work or perform any additional work without County's specific written approval.
46. **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.

47. **Force Majeure:** Contractor shall not be assessed with liquidated damages or unsatisfactory performance penalties during any delay beyond the time named for the performance of this Contract caused by any act of God, war, civil disorder, employment strike or other cause beyond its reasonable control, provided Contractor gives written notice of the cause of the delay to County within 36 hours of the start of the delay and Contractor avails himself of any available remedies.
48. **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.
49. **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 "61" below, Contractor agrees that it shall defend, indemnify and hold County and County Indemnitees harmless from all liability, damages, costs and expenses arising from or related to a violation of such laws.
50. **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.
51. **Pricing:** The Contract price, as more fully set forth in Attachment B, shall include full compensation for providing all required goods in accordance with required specifications, or services as specified herein or when applicable, in the Scope of Work attached to this Contract, and no additional compensation will be allowed therefore, unless otherwise provided for in this Contract.
52. **Waiver of Jury Trial:** Each Party acknowledges that it is aware of and has had the opportunity to seek advise of counsel of its choice with respect to its rights to trial by jury, and each Party, for itself and its successors, creditors, and assigns, does hereby expressly and knowingly waive and release all such rights to trial by jury in any action, proceeding or counterclaim brought by any Party hereto against the other (and/or against its officers, directors, employees, agents, or subsidiary or affiliated entities) on or with regard to any matters whatsoever arising out of or in any way connected with this Contract and /or any other claim of injury or damage.
53. **Terms and Conditions:** Contractor acknowledges that it has read and agrees to all terms and conditions included in this Contract.
54. **Headings:** The various headings and numbers herein, the grouping of provisions of this Contract into separate clauses and articles, and the organization hereof are for the purpose of convenience only and shall not limit or otherwise affect the meaning hereof.
55. **Severability:** If any term, covenant, condition or provision of this Contract is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

56. **Calendar Days:** Any reference to the word “day” or “days” herein shall mean calendar day or calendar days, respectively, unless otherwise expressly provided.
57. **Attorney’s Fees:** In any action or proceeding to enforce or interpret any provision of this Contract, or where any provision hereof is validly asserted as a defense, each Party shall bear its own attorney’s fees, costs and expenses.
58. **Interpretation:** This Contract has been negotiated at arm’s length and between persons sophisticated and knowledgeable in the matters dealt with in this Contract. In addition, each Party has been represented by experienced and knowledgeable independent legal counsel of their own choosing, or has knowingly declined to seek such counsel despite being encouraged and given the opportunity to do so. Each Party further acknowledges that they have not been influenced to any extent whatsoever in executing this Contract by any other Party hereto or by any person representing them, or both. Accordingly, any rule of law (including California Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this Contract against the Party that has drafted it is not applicable and is waived. The provisions of this Contract shall be interpreted in a reasonable manner to affect the purpose of the Parties and this Contract.
59. **Authority:** The Parties to this Contract represent and warrant that this Contract has been duly authorized and executed and constitutes the legally binding obligation of their respective organization or entity, enforceable in accordance with its terms.
60. **Employee Eligibility Verification:** Contractor warrants that it fully complies with all Federal and State statutes and regulations regarding the employment of aliens and others and that all its employees performing work under this Contract meet the citizenship or alien status requirement set forth in Federal statutes and regulations. Contractor shall obtain, from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by Federal or State statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. §1324 et seq., as they currently exist and as they may be hereafter amended. Contractor shall retain all such documentation for all covered employees for the period prescribed by the law. Contractor shall indemnify, defend with counsel approved in writing by County, and hold harmless, County, its agents, officers, and employees from employer sanctions and any other liability which may be assessed against Contractor or County or both in connection with any alleged violation of any Federal or State statutes or regulations pertaining to the eligibility for employment of any persons performing work under this Contract.
61. **Indemnification:** Contractor agrees to indemnify, defend with counsel approved in writing by County, and hold County, its elected and appointed officials, officers, employees, agents and those special s 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, County, agree that liability will be apportioned as determined by the court. Neither Party shall request a jury apportionment.

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

NATURES IMAGE, INC.*
A State of California corporation

By _____
Print
Name _____
Title _____
Corporate Officer
Date _____

By _____
Print
Name _____
Title _____
Corporate Officer
Date _____

COUNTY OF ORANGE
a political subdivision of the state of California

By: _____
Print
Name _____
Title: _____
Date: _____

APPROVED AS TO FORM:
County Counsel

By _____
Deputy
Date _____

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

ATTACHMENT A
SCOPE OF WORK

- I. **SCOPE OF WORK:** Contractor shall furnish staffing, labor, equipment, and incidentals required for Weed Abatement Services. Services shall be provided on an as-needed basis as required by the County.
- II. **DESCRIPTION OF WORK:** This Contract is for Weed/Vegetation Abatement with the County of Orange for the sole purpose of removing weeds, vegetation, brush, palm fronds, and rubbish. The inspections and notifying of property owners will be done by the County.
- A. **Purpose:** The purpose of the Weed/Vegetation Abatement Program is to provide a reasonable degree of fire safety to unincorporated areas of the County and abate potential fire hazards by the removal of flammable materials and the removal of noxious weeds to reduce their numbers and prevent the spread of the weeds on (1) private properties within the unincorporated areas and (2) County-owned properties.
- B. **Authority:** Under the authority of the California Health and Safety Code Section 14875 et seq. and through resolution by the Board of Supervisors of Orange County, the Agricultural Commissioner has been directed to enforce the applicable laws and be responsible for administering the Weed/Vegetation Abatement Program ("Program") and designate his assistants to aid in the administration of the Program. The Agricultural Commissioner and his staff will organize and supervise the Program, inspect work performed, and judge Contractor's performance.
- C. **Method of Cleaning:** The reduction of fire hazards will be accomplished by cutting and raking, discing under and mixing weeds/brush with the soil, hauling to a mulching operation, trimming, thinning, and grubbing of weeds/brush using removal by hand labor, or by any combination of methods that are approved and included in the scope of the contract and approved by the County.
- D. **Time Period:** The program will continue on a year-round basis. Adverse weather conditions may cause cleaning periods to be extended or rescheduled.

III. **DEFINITIONS:**

- A. **A.P. Maps** The same as Weed Abatement Maps. A.P. is defined as "Assessor's Parcel." A.P Maps will be used as the official measurement of the parcel.
- B. **Approved** Sanction of work by the County's Project Manager or designee that meets the standards of the County.
- C. **Bush versus Tree** A tree is comprised of one perennial stem that is three inches or more thick in diameter at a point roughly four and a half feet off the ground. Measurements of the diameter of the main stem shall be done at a point that is at least four and a half feet off the ground. Furthermore, bushes known as woody plants may have multiple perennial stems that are closer to the ground when compared to trees.

- D. **Days** Days, as used in the document, will be understood to mean working days (Monday through Friday) -
- excluding weekends and county holidays, unless otherwise stated.
- E. **Dumped Material** Piled debris found on a parcel which could endanger public safety by creating a fire hazard or has fire potential. This is distinguished from cuttings or trimmings that result during the cleaning of a parcel by the Contractor. Dumped material to be removed must be greater than 50 square feet and at least two feet high (example: 8' x 7' x 2'). This material will consist only of grasses, weeds, small and medium branches, and palm fronds (large tree trunks and logs are not included in this definition), and be a reasonably packed pile. Anything less than 50 square feet is considered a **Rubbish Pile** and is included in the overall hand cleaning/discing price.
- F. **Fire Break/Fuel Break** A designated cleared portion of the overall parcel:
Fire Break: cleared portion of the land down to mineral soil with variable distances

Fuel Break: a thinning or reduction of a portion of the existing fuel
- G. **Fuel** Fuel is any kind of combustible material. Some examples of fuel types: grass, sage, medium and heavy brush, logging slash, and timber.
- H. **Hand Cleaning** The removal of weeds, brush, vegetation, and/or debris using a mechanical weed-eater or other hand cutting tools.
- I. **Improvements** Shall mean fences, walls, walkways, sprinkler systems or piping, buildings, etc.
- J. **Lot** Same as "parcel" definition.
- K. **Notice of Violation** That document issued to a property owner to abate a fire hazard by removal of combustible items.
- L. **Palm Tree Trimming** To cut and remove the dead palm fronds (or skirt growth) to the specifications listed in the bidding sheets.
- M. **Parcel** Plot of land described by an Assessor's Parcel Number.
- N. **Parkway** Area between the curb and sidewalk.
- O. **Rubbish Pile** As defined in **Dumped Material** but is less than 50 square feet and is included in the overall cleaning price.

P. **Weeds/Brush**

All wild vegetation growing upon private property in the unincorporated areas of the County, as defined by Health and Safety Code Section 14875, which is combustible in nature or can become combustible within 60 days. The weeds and/or brush to be cleared may include weeds and brush that are still green, depending upon time of year.

Grass/Weeds: Grasses and weeds (including noxious weeds) are usually very thin (i.e. flashy fuels) and must be cleared all the way down to mineral soil to lessen potential fire risk. This category may include grasses and weeds that are still green, depending upon time of year.

Light Brush: Light brush is “bush-type” vegetation up to 4 feet tall. Native vegetation fits into this category. The dead and dying portions of the brush and undergrowth should be removed while leaving the rest of the plant intact. In some cases, per the County Project Manager or designee’s instructions, every other bush may be removed in a “checker-board type pattern.” The vegetation will be essentially limbed up and thinned out. This category may include light brush that is still green.

Heavy Brush: Heavy brush is thick vegetation that is over 4 feet tall. The dead and dying portions of the brush should be removed while leaving the rest of the plant intact. In some cases, per the County Project Manager or designee’s instructions, every other bush may be removed in a “checker-board type pattern.” The vegetation will be essentially limbed up and thinned out. This category may include heavy brush that is still green.

NOTE: In the event of a mixture of grass/weeds and light brush or heavy brush, the total area charges will be based upon the type of vegetation that covers 50% or a greater amount of the area to be cleared.

Q. **Work Day**

Not less than eight (8) hours per day (not including lunch or breaks). Workday shall not commence before 7 a.m.

R. **Work Week**

Monday through Friday, excluding weekends and holidays. Any exceptions would need to be approved in writing by the County.

IV. CONTRACTOR REQUIREMENTS:

- A. Contractor shall possess a **Class A – General Contractor and/or a C-27 Landscape Contractor** license and be licensed in accordance with Division 3, Chapter 9, of the Business and Professions Code of the State of California. And shall maintain the license in full force and in effect throughout the Contract term.

- B. **Contractor Representative:** The Contractor shall at all times be present at the job site during the course of the cleaning operations or will be represented by a responsible designated agent who can read, speak, and understand the English language. The Contractor's representative or agent shall have full authority to act for the Contractor in all matters relative to Weed/Vegetation Abatement cleaning operations. He shall further have the authority to sanction repairs when mechanical breakdowns occur.
- C. **Supervision:** The Contractor shall be responsible for providing qualified supervision in all areas of operations. Supervision will be provided at the expense of the Contractor. The supervisor will make necessary reports and work directly with the inspector in planning and scheduling of work.
- D. **Work Hours:** The Contractor shall not start work before 7:00 a.m. and will not work later than 5:00 p.m. on any workday. NOTE: Some private associations will not allow work before 8:00 am. The work week will not exceed five (5) days per week and no work on weekends without the express permission of the County.
- E. **Transportation:** All transportation of equipment and personnel to and from the job site will be arranged by the Contractor and at his expense. All vehicles shall be maintained in a safe condition and meet provisions of the California Vehicle Code.
- F. **Parking Equipment:** The Contractor shall make arrangements for parking sites for his equipment at night and on Saturdays, Sundays, and holidays. Equipment shall not be parked or stored on private property without the express permission of the property owner.
- G. **Removal of Private Property:** Under no condition will the Contractor or his agent or employees remove any item or items from any private property except that which has been authorized by the County's Project Manager or designee.
- H. **Operations:** The Contractor is required to provide sufficient personnel and operable equipment during weed/vegetation abatement cleaning as deemed necessary by the County. Removal of any such equipment designated to the Weed Abatement Program without immediate replacement must be approved by the Hazard Reduction Supervisor.
- I. **Interpretation of Specifications:** Should it appear that any matter relative to these specifications has not been sufficiently detailed or explained, the Contractor shall contact the County's Project Manager for clarification. In the event that satisfaction has not been reached, the Contractor may appeal to the County, through the Agricultural Commissioner.
- J. **Labor Code:** Pursuant to Labor Code Section 1775(a)(2)(A), the Contractor shall forfeit to the County between 40 dollars (\$40) to 120 dollars for each calendar day, or portion thereof, for each workman paid less than the pay scale provided herein, depending on whether the failure to pay the correct rate of per diem wages was a good faith mistake or of willful intent.
- K. **Employment of Apprentices:** With respect to the employment of apprentices, Contractor shall be familiar with and comply with the requirements of Labor Code Sections 1775.5 and 1775.6.
- L. **Hand crews:** Minimum of one hand crew is required (with a minimum of 5 workers) with supervision, transportation, and tools. More than one hand crew may be necessary to complete work. Contractor must have sufficient additional resources available to respond to additional work requirements as requested by County.

V. **COUNTY RESPONSIBILITIES**

- A. **Notice of Work Schedule:** The County shall give the Contractor a minimum of 5 days' notice prior to commencement of work. Only work that has been authorized by County shall be performed.
- B. All work sites, the degree to which they must be cleaned, and the method of cleaning, shall be determined by the County.
- C. In the event of a discrepancy over the number or size of sites cleaned, or the amount of work completed, the County shall be the final authority and shall state its determination in writing.
- D. Daily work orders shall be provided by County on a daily or "as needed" basis. Inspection and acceptance of the work by County is required prior to certification for payment. County shall be responsible for entering work orders into an automated system as jobs are completed. Work orders will be provided in an electronic format to Contractor for his approval prior to Contractor submitting invoices for payment.
- E. Work shall be entered into the automated accounting system daily and reports will be sent to the Contractor electronically. The report shall describe the property by Assessor's Parcel Number, upon which work has been performed and indicate completely the extent of work performed. A copy of the form, reviewed by the Contractor, shall be submitted electronically with each invoice.
- F. **County shall:**
 - 1. Provide, for viewing only, Weed Abatement maps as necessary to accomplish the work. Maps shall remain the property of the County. They must be maintained in good condition.
 - 2. Provide an County's Project Manager or designee who will be available to assist Contractor in planning and outlining the work.
 - 3. Pay for actual work done on previously approved site. All property measurements shall be made by County. All work orders shall be agreed upon by County and Contractor. Repeated unsatisfactory work will be reported to Deputy Purchasing Agent in charge of this Contract.
- G. **Final Decisions:** All scheduling of cleaning operations will be determined by the County. At any time during the cleaning operations, should a controversy arise as to the number of lots cleaned, the amount of work done or to be done, or the sizes of parcels cleaned by the Contractor, the matter will be studied and explained fully and the decision made by the County shall be final.
- H. **Termination of Operations:** Final authorization to terminate Weed/Vegetation Abatement operations will be made by the County's Project Manager or designee.
- I. **Acceptance of Work:** Designation of lots or parcels to be cleaned and degree and type of work to be accomplished shall be under the direction of the County. Inspection and acceptance of the work by the County's Project Manager or designee is required prior to certification for payment. Payment will be made only for the actual work done and actual area worked upon any property as determined by measurements made by the inspector. All

daily reports and work orders must be agreed upon by the County's Project Manager or designee and the Contractor.

- J. **Unauthorized Work:** Payment will not be made to the Contractor for work accomplished that was not authorized by the County's Project Manager or designee. Parcels that are clean, or show signs of substantial attempt to clean, are placed under cultivation, or are built upon before the Contractor's arrival to commence work, shall not be cleaned by the Contractor and no payment shall be made to the Contractor for any work done thereon, including any cost of moving Contractor's equipment to or from the location of any such parcel. Contractor shall note any such condition on the work order.
- K. **Quantities of Work:** Some of the properties that received the Weed Abatement Notice will not need cleaning and some will be cleaned by the owners. The County reserves the right to increase, decrease, or completely eliminate any item or items in the proposal without any adjustment in the unit price bid.
- L. **Error or Omission of Specifications:** The Contractor will not be allowed to take advantage of any error or omission in these specifications and plans. Full instruction will always be attempted to be given by the County when such error or omission is discovered.

VI. CONTRACTOR PERFORMANCE REQUIREMENTS:

- A. **Cleaning Period:** Contractor agrees to commence work on the date specified by the County and shall diligently pursue it to completion, excluding delay caused or authorized by the County or resulting from an act of God. Work will be carried out every day of the workweek and the majority of the work will be completed between April and June.
- B. **Work Timeframe:** The Contractor shall be prepared to start work on or after the following date: April 1st for each year of the Contract. Weed/Vegetation Abatement shall occur at any time of the year (within the specifications of this Contract) as directed by the County.
- C. **Furnish Manpower and Equipment:** *Upon validation of the receipt of the bid, the buyer shall authorize the bidder to be contacted by the Weed Abatement Program for an onsite equipment/vehicle inspection to ensure that the bidder's weed abatement equipment is suitable for weed abatement in wildland and fire-prone areas. Inability to inspect the equipment would prevent the bidder from progressing to the next stage of the bidding process. All equipment must remain in good working condition throughout the contract period.* Contractor is to furnish all supervision, labor, materials, equipment and tools such as, but not limited to, tractors, discs, trucks, mowers, whip hoes, shovels, hoes, rakes, trash cans and/or tarps, gas powered weed-eaters, chain saws, gas-powered blower, and other tools and equipment as required for the removal of weeds, debris, and vegetative growth from parcels, lots, and parkways in the unincorporated areas of Orange County. Also, the Contractor must have appropriate climbing gear for the removal of palm fronds: i.e. ladder, ropes, and climbing equipment. All equipment must be kept readily available.

NOTE: All internal combustion equipment must be equipped with an approved spark arrester when not equipped with turbo charger; including but not limited to tractors, weed-eaters, and chain saws.

- D. **Minimum Equipment Required:** Upon the commencement date for work to begin, the Contractor shall be able to provide the minimum required equipment listed below:
1. One (1) handwork vehicle that can carry the crew members and the daily equipment necessary for the job.
 2. One (1) track layer equipment with dirt type pads with grousers worn not to exceed manufacturer's specification or One (1) rubber tire tractor.
 3. One (1) double throw disc.
 4. One (1) truck transport with tilt trailer or ramp.
 5. One (1) high side hydraulic dump truck to haul vegetation debris with minimum bed measurements of 8'x 6' x 8' and a minimum capacity of 14 cubic yards (or other suitable vehicle at the discretion of the County).
 6. Gas weed eaters with adequate supplies and parts for repair must be supplied for handcrews. Each handcrew must have a minimum of one (1) gas-powered weed eater for every man and a sufficient reserve of weed eaters shall be available to eliminate down time. Tools for minor repair of tractor and parts and tools to repair the weed eaters must be available onsite. Weed eater line must also be available at all times.

Contractor shall submit to County a list of equipment (quantity, type, description, capacity, condition, and location) that will be used during the term of this Contract, within one week of Contract award and as requested throughout the Contract by the County's Project Manager or designee.

Contractor's equipment shall be subject to inspection and approval by County's Project Manager or designee at any time during the term of the Contract. If County deems a piece of equipment not suitable for weed abatement in wildland and fire-prone areas, Contractor shall submit a replacement piece of equipment immediately to County's Project Manager or designee for consideration.

- E. **Defective and Deficient Work:** All work which is determined by the County's Project Manager or designee to be defective or deficient in any of the requirements of the specifications shall be remedied immediately, or within a time approved by the County, by the Contractor at his expense in a manner acceptable to the County.
- F. **Complaints:** The Contractor will be responsible for promptly answering inquiries and complaints by the County or private property owners or citizens relative to any work, charges, damage, or any other questions that may arise as a result of Weed/Vegetation Abatement operations by the Contractor. Also, the County's Project Manager or designee will investigate and write a report listing any damages to private property.
- G. **Report of Damage:** The Contractor will promptly notify the County's Project Manager or designee of any damage to private property as a result of Weed/Vegetation Abatement operations, and remedy such at his expense immediately or within a time approved by the County.
- H. **Equipment Breakdown:** Contractor agrees that downtime of the tractors, discs, transports and/or dump trucks due to mechanical failure which exceeds 15% per each work day shall be considered excessive. The Contractor shall, at his own expense, be required to provide

- replacement equipment that meets minimum specifications when downtime exceeds 15% per each work day.
- I. **Street Maps:** Contractor shall provide Tractor Operator(s) and Crew Supervisor(s) with Orange County street maps.
 - J. **Fire Fighting & Safety Equipment:**
 - 1. All tractors shall be equipped with an approved spark arrestor when not equipped with turbo charger, a mounted 10 lbs. ABC or greater fire extinguisher, a mounted 2 ½ gallon pressurized water type fire extinguisher containing a 2 % soap solution to combat fires and to control an Africanized Honey Bee attack, and a round point shovel of a type and size suitable for putting out fires.
 - 2. All handcrew vehicles and waste-hauling truck shall also be equipped with a mounted 10 lbs. ABC or greater fire extinguisher, a mounted 2 ½ gallon pressurized water type fire extinguisher containing a 2 % soap solution to combat fires and to control an Africanized Honey Bee attack, and a round point shovel of a type and size suitable for putting out fires.
 - 3. All vehicles must have at least one amber warning light that can be seen from 360 degrees around the vehicle and has a light output of 25 Watts or greater. Emergency lights and traffic cones must also be readily available at all times and must be used in any hazardous condition. Emergency traffic cones shall be predominantly orange, fluorescent red-orange, or fluorescent yellow-orange (with a height of at least 450 mm or approximately 1.5 feet) must be placed both in front and behind vehicles, so as to warn oncoming traffic.
 - K. **Flagmen - Hazardous Traffic Situations:** If required or necessary for any reason, the Contractor will furnish at no expense to the County, flagmen for loading and unloading of equipment, or if at any time either the inspector or the Contractor deems necessary due to either hazardous traffic situations and/or unsafe parking areas. Refer to the State of California Vehicle Code Article 2, Section 21400 and the State of California Business, Transportation and Housing Agency Department of Transportation, Manual of Traffic Controls, Chapter 5, Control of Traffic Through Work Zone 5-07.
 - L. **Second or Public Nuisance Cleaning:** If it is determined by County that a second cleaning, or partial cleaning, is necessary, the work can be ordered by the County at any time. The rates as identified in Attachment B, "Contractor's Pricing" shall apply and Contractor shall be prepared to start work upon five (5) calendar days' notice.

VII. SPECIFICATIONS:

- A. **Discing**
 - 1. **General:** Weed/Vegetation Abatement by discing shall be accomplished by discing with a double throw disc at sufficient depth to place all weeds under soil surface. Parkway cleaning shall be part of the hand labor operation. Discing shall be performed in such a manner as to completely eliminate all standing weeds. Where the nature of the soil is such that it is not receptive to the cutting edge of the discs, the area shall be cross-discd to reduce the magnitude of any exposed combustibles. Wherever practical and unless otherwise specified, discing is to be considered the primary method of abating weeds.

NOTE: In special circumstances, mowing will be acceptable instead of discing for the same unit price as discing.

2. **Special Discing Conditions:** Where the nature of the soil is such that it is not receptive to the cutting edge of the disc being used and where the cross discing fails to meet the standards of the Agricultural Commissioner, it shall be the responsibility of the Contractor to provide the proper equipment to accomplish the approved cleaning. Any such work as determined by the Commissioner to be necessary, within a two-week period from the date of the initial discing work, shall be considered as part of the initial work and no additional compensation will be allowed.
3. **Equipment: Tractors and Disc:** The tractor used for pulling a disc shall be of a track layer type of the size and horsepower capable of pulling a double throw disc on slopes up to 35%. Tractor must be a minimum of 90 horsepower at the flywheel. Certification of horsepower shall be provided upon request. In addition, a rubber tire tractor for pulling a double throw, hydraulically actuated wheeled disc shall be provided for use in gentle terrain where frequent loading and unloading proves impractical. Tractor must be a minimum of 50 horsepower at the flywheel. Certification of horsepower shall be provided upon request. The County reserves the right to suspend cleaning operations or the use of equipment that could, under specific conditions such as low relative humidity and winds, cause a fire (i.e. "Red Flag" conditions).
4. **Tractor Operation:** All tractors and equipment must be in good mechanical condition and are subject to inspection and approval by the County before acceptance. All equipment shall be maintained by the Contractor on his own time and at his own expense. Contractor shall be required to maintain a regular maintenance schedule which shall be available for County inspection. All tractors and equipment will be operated by a qualified Contractor experienced in weed/vegetation abatement work of the type required by the Contract. Operators must speak and understand the English language. Spare replacement parts that commonly fail or are lost will be stocked by the equipment operator. Tractor operator shall be equipped with a minimum of small tools for making minor repairs in the field. Unless otherwise specified by the County, tractors shall not be equipped with a dozer blade while doing Weed/Vegetation Abatement cleaning for the County. Unless otherwise approved by the County, the disc used shall be hydraulically controlled with rubber tires for moving and loading of the equipment. It shall be able to turn easily and maneuver in small areas. It shall be heavy duty and capable of accomplishing a thorough mixing of soil and weeds. The disc must be in good mechanical condition.
5. **Transport Truck:** The truck (transport) for hauling the tractor and disc shall be of suitable size and horsepower to easily maneuver and negotiate all terrain traveled to reach the job sites. Transports will have a tilt type trailer or ramp for easy loading and unloading. All equipment must meet California Motor Vehicle and safety regulations and all other applicable codes required for use on highways in the State of California. Trucks shall be in good mechanical condition and shall be operated and maintained at the expense of the Contractor and at a time before or after working hours.
6. **Discing Operations and Maintenance:** Operations may be suspended at any time by the County's Project Manager or designee if any of the conditions listed in this section are found not to exist. All discing operations must be authorized by the County's Project Manager or designee and shall meet the specifications of the County. Final approval for work shall be in writing by the County's Project Manager or designee. Double throw disc will be operated by a qualified operator experienced in the type of weed/vegetation

abatement work required by this Contract. The disc will be operated and maintained in good condition by the Contractor at his expense and on his own time. Operators must speak and understand the English language. All tractors with mowers are to be equipped with safety shields to prevent or reduce the throwing of rocks or other material that could result in injury or damage to private property. Tractors shall be equipped with a minimum of small tools for making minor repairs in the field.

7. **Parkways:** When, in the opinion of the County's Project Manager or designee, it is determined that sufficient vegetative growth exists on a parking strip or parkway that when dry will transmit fire to be termed, in his opinion, a fire hazard or fire nuisance, the same vegetation cover will be abated. The Contractor is responsible for the completion of parkways. This operation should be done in conjunction with the discing operations.
8. **Accepted Method of Cleaning:** The accepted method for cleaning parkways is with the use of weed eater machines or a motorized heavy duty mower. The Contractor is to understand that he is not limited to use of weed eaters or mowing and that when the exception arises, another specified method of cleaning may be employed, but only under the direction of the County.
9. **Clean Up of Streets and Sidewalks:** All streets and sidewalks are to be left in a clean condition following the cleaning of parkways and parcels. Necessary tools such as blower, brooms and shovels for cleaning streets and sidewalks shall be provided by the Contractor and are to be available on the job site. The charge for this operation shall not be separate, but will be included in the unit price for cleaning the parcel.

B. **Hand Cleaning and Hauling**

1. **General:** Whenever it is impractical by reason of topography, location of trees, sprinkler systems, shrubbery, buildings, fences or type of vegetative cover to disc, and when authorized by the County's Project Manager or designee, the vegetation shall be removed or thinned by hand labor using hand labor type tools. The degree of hand labor to be accomplished on any parcel will be specified by the County. The Contractor shall furnish all hand tools, power equipment, and safety equipment necessary to accomplish the specified work. Spare replacement parts that commonly fail or are lost will be stocked by the Contractor and kept on the vehicle. The Contractor will have potable water readily available at all times for all employees. Suitable flatbed hydraulic dump trucks with high sides for hauling are to be provided throughout the handwork operation and are to be operated and maintained at the expense of the Contractor. All trimmings and rubbish shall be hauled to an approved mulching site at the Contractor's expense.
2. **Manpower, Health and Clothing:** All manpower will be furnished by the Contractor. Each worker will be able to perform his or her duties in a manner which will not endanger the employee's health or safety or the health or safety of others and be attired with appropriate protective clothing and footwear. Gloves, safety glasses, hearing protection, and any other safety equipment that is necessary for this type of work will be furnished by the Contractor. The Contractor shall provide safe and healthful working conditions and transport equipment and shall at all times comply with OSHA requirements and the State of California Vehicle Code. No employee drinking alcohol or under the influence of alcohol or drugs shall be allowed to participate in the performance of this Contract, nor shall any employee bring alcohol or drugs onto any work location required by this Contract. The Contractor agrees to remove immediately and replace any employee whose conduct or workmanship is in any way unsatisfactory to the County.

3. **Supervision Furnished by Contractor:** Supervision of hand crews will be furnished by the Contractor at his own expense. All supervisors must be able to communicate (speak) with the inspector in the English language.
 4. **Hauling/Disposal of Vegetation Waste & Debris:** The price for hauling materials to the nearest mulching site will include the trucks maintained in good mechanical condition, the operator (and helper if provided) of the truck, and all dump/disposal fees. Hand cleaning charges on parcels to be cleaned will include the loading and hauling of vegetative materials and/or rubbish that are to be removed to the nearest approved site. All materials hauled to the approved site shall be covered according to local codes. The loading of materials removed from lot to be accomplished as cleaning is completed. No materials are to be left on lot for later pickup, as this would not remove the fire hazard. Some parcels may only require a partial cleaning. That area which is cleaned shall be measured and applicable unit rate shall apply.
 5. **Travel Time to be Included in Unit Price:** Travel time between properties and/or to and from the disposal location shall not be charged. This charge is to be included in the unit rate.
 6. **Authorization/Approval:** The amount of work and type of work to be performed shall be under the direction of, and only with authorization of, the County. All cleaning must meet the specifications of the County and must be approved by the County's Project Manager or designee.
- C. **Palm Tree Trimming:** All dead, broken, damaged and/or hanging fronds will be removed up to the crown of tree. All frond bases will be sheared to within 6" of trunk. Upon completion of trimming, each tree shall have seven to nine (7 – 9) healthy fronds located at crown of tree.
- D. **HAULING OF DUMPED MATERIAL:** In the event dumped vegetative material of a hazardous nature is discovered on a property, the Contractor shall remove such debris based on the cubic yard formula of 1 yard x 1 yard x 1 yard. The Contractor's price for hauling of dumped material shall include the pickup, hauling, and dumping at an authorized disposal site.

**ATTACHMENT B
CONTRACTOR'S PRICING**

- I. COMPENSATION:** This is a usage Contract between County and Contractor for Weed Abatement Services on an as needed basis, as set forth in Attachment A "Scope of Work".

Contractor agrees to accept the specified compensation as set forth in this Contract as full remuneration for performing all services and furnishing all staffing, labor, equipment, materials and incidentals required, for any reasonably unforeseen difficulties which may arise or be encountered in the execution of the services until acceptance, for risks connected with the services, and for performance by Contractor of all its duties and obligations hereunder. Contractor shall only be compensated as set forth herein below for work performed in accordance with the Scope of Work. **County shall have no obligation to pay any sum in excess of the Fixed Rates and Total Contract Amount specified herein unless authorized by amendment in accordance with Articles 31 and 45 of County Contract Terms and Conditions.**

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

A. DISCING:

PLEASE PROVIDE A UNIT COST FOR EACH PROPERTY SIZE RANGE BELOW:

ITEM #	DESCRIPTION	UNIT	UNIT COST
1	(A) Property Size: 1 sq. ft. to 7,500 sq. ft. (Minimum Charge)	Per Property Size	\$119.00
2	(B) Property Size: 7,501 sq. ft. to 15,000 sq. ft.	Per Property Size	\$179.00
3	(C) Property Size: 15,001 sq. ft. to 30,000 sq. ft.	Per Property Size	\$240.00
4	(D) Property Size: 30,001 sq. ft. to 43,560 sq. ft.	Per Property Size	\$305.00
5	(E) Property Size: 1 acre or greater (Charges for areas greater than one acre in size will be prorated to the nearest 1/10 acre)	Per Acre	\$195.14

Amendment #1

5	(F) Property Size: 1 acre or greater (Charges for areas greater than one acre in size will be prorated to the nearest 1/10 acre)	Per Acre	\$195.14 \$195.00
---	--	----------	---------------------------------

- B. HAND CLEANING:** Payment shall be based on measurements to the nearest hundred (100) square feet, taken by County and Contractor.

ITEM #	DESCRIPTION	UNIT	UNIT COST
6	(G) Weeds/Grass (Minimum lot price)	Square Foot	\$0.029
7	(H) Light Brush (Up to 4') (Minimum lot price)	Square Foot	\$0.029
8	(I) Heavy Brush (Over 4') (Minimum lot price)	Square Foot	\$0.081

- C. PALM TREE TRIMMING FAN PALMS AND OTHER SPECIES (WASHINGTONIANS SPP., ET. AL):**

ITEM #	DESCRIPTION	UNIT	UNIT COST
9	(J) 3 Yr. Skirt Growth (5 – 8 Ft.)	Per Tree	\$95.00
10	(K) 5 Yr. Skirt Growth (8 – 12 Ft.)	Per Tree	\$190.00
11	(L) 8 Yr. Skirt Growth (12 – 15 Ft.)	Per Tree	\$380.00
12	(M) # of Additional trees (Same Property)	Per Tree	\$190.00

- D. HAULING OF DUMPED MATERIAL:**
REFERS TO THE DISPOSAL OF DUMPED MATERIAL ALREADY AT THE WORKSITE UPON ARRIVAL (DO NOT INCLUDE TRAVEL TIME IN BID)

ITEM #	DESCRIPTION	UNIT	UNIT COST
13	(N) Pickup, transport, & dumping of Dumped Material. Price = One cubic yard (H x W x D)	Cubic Yard	\$35.00

E. TOTAL CONTRACT AMOUNT SHALL NOT EXCEED: ~~\$130,000~~

AMENDMENT #2

E. TOTAL CONTRACT AMOUNT SHALL NOT EXCEED: \$200,000

AMENDMENT #3

E. TOTAL CONTRACT AMOUNT SHALL NOT EXCEED: \$65,000

- III. PRICE INCREASE/DECREASES:** No price increases will be permitted during the first period of the Contract. All price decreases will automatically be extended to the County. The County requires bona fide proof of cost increases on Contracts prior to any price adjustment. A minimum of one hundred eighty (180) days advance notice in writing is required to secure such adjustment. No retroactive price adjustments will be considered. The County may enforce, adjust, negotiate, or cancel escalating price Contracts or take any other action it deems appropriate, as it sees fit. The net dollar amount of profit will remain firm during the period of the Contract. Adjustments increasing the Contractor's profit will not be allowed.

- IV. FIRM DISCOUNT AND PRICING STRUCTURE:** Contractor guarantees that prices quoted are equal to or less than prices quoted to any other local, State or Federal government entity for services of

equal or lesser scope. Contractor agrees that no price increases shall be passed along to the County during the term of this Contract not otherwise specified and provided for within this Contract.

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

VI. PAYMENT TERMS: Invoices are to be submitted in arrears, after services have been completed, to the address specified below. Payment will be net 30 days after receipt of an invoice in a format acceptable to Orange County. Invoices shall be verified and approved by the County and subject to routine processing requirements. The responsibility for providing an acceptable invoice rests with the Contractor.

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

Payments made by 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 goods or services.

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

1. Contractor's name and address
2. Contractor's remittance address, if different from 1, above
3. Name of County agency/department
4. Delivery/service address
5. Contract number
6. Service Date
7. Description of Tasks/Services (as specified above)
8. Unit Cost Per Line Item
9. Total
10. Taxpayer ID number

The responsibility for providing an acceptable invoice to the County for payment rests with the Contractor. Incomplete or incorrect invoices are not acceptable and will be returned to the Contractor for correction. Invoices and support documentation are to be forwarded to:

OC Public Works/Procurement and Special Services Division
Attn: Procurement Support Section
300 N. Flower St., 8th Floor
Santa Ana, CA 92703

ATTACHMENT C
STAFFING PLAN

I. KEY PERSONNEL TO PERFORM CONTRACT DUTIES:

Name	Classification/Designation	Years of Experience

Contractor understands that the personnel represented as assigned to the Contract must remain working on the Contract throughout the duration of the Contract unless otherwise requested or approved by the County, as applicable. Substitution or addition of Contractor's key personnel in any given category or classification shall be allowed only with prior written approval of the County's Project Manager. ***Note: The written approval of substituted Contractor Key Personnel is for departmental use only and shall not be used for auditing purposes outside OC Public Works.***

The Contractor may reserve the right to involve other Contractor personnel, as their services are required. The specific individuals will be assigned based on the need and timing of the service/classification required. Assignment of additional key personnel shall be subject to County's Project Manager written approval. ***Note: The written approval of additional Contractor Key Personnel is for departmental use only and shall not be used for auditing purposes outside OC Public Works.*** County reserves the right to have any Contractor personnel removed from providing services to County under this Contract. County is not required to provide any reason for the request for removal of any Contractor personnel.

II. SUB-CONTRACTOR(S):

In accordance with Article 36, "Assignment or Sub-Contracting", listed below are Sub-contractor(s) anticipated by Contractor to perform services specified in Attachment A.

Company Name & Address	Contact Name and Telephone Number	Project Function