



**CONTRACT NUMBER  
MA-299-21010950  
WITH  
ENVENT CORPORATION  
FOR  
MOBILE THERMAL OXIDIZER GOODS AND SERVICES**

THIS CONTRACT Number MA-299-21010950 for Mobile Thermal Oxidizer Goods and Services (“**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, through its OC Waste & Recycling Department (“**County**”) and **Envent Corporation**, with a place of business at **3220 E 29<sup>th</sup> Street, Long Beach, CA 90806** (“**Contractor**”), with County and Contractor sometimes individually referred to as “**Party**” or collectively referred to as “**Parties**.”

**RECITALS**

**WHEREAS**, Contractor and County are entering into Contract Number MA-299-21010950, for Mobile Thermal Oxidizer Goods and Services under a firm-fixed price Contract, effective upon Board of Supervisor approval and execution of all necessary signatures, for one continuous year from that date, in an amount not to exceed \$3,000,000; and

**WHEREAS**, County solicited Contract for Mobile Thermal Oxidizer Goods and Services, and Contractor represented that it is qualified to provide Mobile Thermal Oxidizer Goods and Services to the County; and

**WHEREAS**, Contractor agrees to provide Mobile Thermal Oxidizer Goods and Services to the County as set forth in Attachment A, Scope of Work, attached hereto and incorporated herein; and

**WHEREAS**, County agrees to pay Contractor per the schedule of fees as set forth in Attachment B, Contractor Rates & Compensation, attached hereto and incorporated herein; and

**WHEREAS**, County now desires to renew the Contract for one year, effective February 9, 2022 through February 8, 2023, with no additional funds, carrying over unused funds from the previous year, not to exceed the cumulative contract total of \$3,000,000; and

**WHEREAS**, County now desires to add its Prima Deshecha Landfill to the Contract, with no additional funds to the Contract total; and

**WHEREAS**, County now desires to add funds in the amount of \$800,000 to the current Contract term, effective immediately upon Board of Supervisors’ approval and execution of all necessary signatures, for a new cumulative Contract total of \$3,800,000; and

**WHEREAS**, County now desires to renew the Contract for one year, effective February 9, 2023 through February 8, 2024, in an amount not to exceed \$3,000,000, carrying over unused funds from the previous year, not to exceed the cumulative Contract total of \$6,800,000;

**NOW, THEREFORE**, the Parties mutually 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 adjudication to another county.

- B. Entire Contract:** This Contract contains the entire Contract between the parties with respect to the matters herein, and there are no restrictions, promises, warranties or undertakings other than those set forth herein or referred to herein. No exceptions, alternatives, substitutes or revisions are valid or binding on County unless authorized by County in writing. Electronic acceptance of any additional terms, conditions or supplemental Contracts by any County employee or agent, including but not limited to installers of software, shall not be valid or binding on County unless accepted in writing by County's Purchasing Agent or designee.
- C. Amendments:** No alteration or variation of the terms of this Contract shall be valid unless made in writing and signed by the parties; no oral understanding or agreement not incorporated herein shall be binding on either of the parties; and no exceptions, alternatives, substitutes or revisions are valid or binding on County unless authorized by County in writing.
- D. Taxes:** Unless otherwise provided herein or by law, price quoted does not include California state sales or use tax. Out-of-state Contractors shall indicate California Board of Equalization permit number and sales permit number on invoices, if California sales tax is added and collectable. If no permit numbers are shown, sales tax will be deducted from payment. The Auditor-Controller will then pay use tax directly to the State of California in lieu of payment of sales tax to the Contractor.
- E. 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 descriptions or services that do not conform to the prescribed statement 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. Over shipments and under shipments 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.
- 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 goods/services have actually been received, inspected, and tested to the satisfaction of County, and 2) payment shall be made in arrears after satisfactory acceptance.
- G. Warranty:** Contractor expressly warrants that the goods 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 indemnittees as identified in paragraph "Z" below, and as more fully described in paragraph "Z," harmless from liability, loss, damage and expense, including reasonable counsel fees, incurred or sustained by County by reason of the failure of the 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 paragraph "Z" below, it shall indemnify, defend and hold County and County Indemnitees harmless from any and all such claims and be responsible for payment of all costs, damages, penalties and expenses related to or arising from such claim(s), including, costs and expenses but not including attorney's fees.

- I. Assignment:** The terms, covenants, and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators and assigns of the parties. Furthermore, neither the performance of this Contract nor any portion thereof may be assigned by Contractor without the express written consent of County. Any attempt by Contractor to assign the performance or any portion thereof of this Contract without the express written consent of County shall be invalid and shall constitute a breach of this Contract.
- J. Non-Discrimination:** In the performance of this Contract, Contractor agrees that it will comply with the requirements of Section 1735 of the California Labor Code and not engage nor permit any subcontractors to engage in discrimination in employment of persons because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, or sex of such persons. Contractor acknowledges that a violation of this provision shall subject Contractor to penalties pursuant to Section 1741 of the California Labor Code.
- K. Termination:** In addition to any other remedies or rights it may have by law, County has the right to immediately terminate this Contract without penalty for cause or after 30 days' written notice without cause, unless otherwise specified. Cause shall be defined as any material breach of contract, any misrepresentation or fraud on the part of the Contractor. Exercise by County of its right to terminate the Contract shall relieve County of all further obligation.
- L. Consent to Breach Not Waiver:** No term or provision of this Contract shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. Any consent by any party to, or waiver of, a breach by the other, whether express or implied, shall not constitute consent to, waiver of, or excuse for any other different or subsequent breach.
- M. Independent Contractor:** Contractor shall be considered an independent contractor and neither Contractor, its employees, nor anyone working under Contractor shall be considered an agent or an employee of County. Neither Contractor, its employees nor anyone working under Contractor shall qualify for workers' compensation or other fringe benefits of any kind through County.
- N. Performance Warranty:** Contractor shall warrant all work under this Contract, taking necessary steps and precautions to perform the work to County's satisfaction. Contractor shall be responsible for the professional quality, technical assurance, timely completion and coordination of all documentation and other goods/services furnished by the Contractor under this Contract. Contractor shall perform all work diligently, carefully, and in a good and workmanlike manner; shall furnish all necessary labor, supervision, machinery, equipment, materials, and supplies, shall at its sole expense obtain and maintain all permits and licenses required by public authorities, including those of County required in its governmental capacity, in connection with performance of the work. If permitted to subcontract, Contractor shall be fully responsible for all work performed by subcontractors.
- O. Insurance 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) shall be clearly stated on the Certificate of Insurance. Any self-insured retention (SIR) in an amount in excess of Fifty Thousand Dollars (\$50,000) shall specifically be approved by the County's Risk Manager, or designee, upon review of Contractor's current audited financial report. If Contractor's SIR is approved, Contractor, in addition to, and without limitation of, any other indemnity provision(s) in this Contract, agrees to all of the following:

- 1) In addition to the duty to indemnify and hold the County harmless against any and all liability, claim, demand or suit resulting from Contractor's, its agents, employee's or subcontractor's performance of this Contract, Contractor shall defend the County at its sole cost and expense with counsel approved by Board of Supervisors against same; and
- 2) Contractor's duty to defend, as stated above, shall be absolute and irrespective of any duty to indemnify or hold harmless; and
- 3) The provisions of California Civil Code Section 2860 shall apply to any and all actions to which the duty to defend stated above applies, and the Contractor's SIR provision shall be interpreted as though the Contractor was an insurer and the County was the insured.

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:

<b><u>Coverage</u></b>	<b><u>Minimum Limits</u></b>
Commercial General Liability	\$3,000,000 per occurrence \$3,000,000 aggregate
Automobile Liability coverage including <i>Owned, Non-Owned and Hired Vehicles</i>	\$1,000,000 per occurrence
Workers Compensation	Statutory

Employers' Liability Insurance

\$1,000,000 per occurrence

### **Required Coverage Forms**

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

The Business Auto Liability coverage shall be written on ISO form CA 00 01, CA 00 05, CA 00 12, CA 00 20, or a substitute form providing liability coverage as broad.

### **Required Endorsements**

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

- 1) An Additional Insured endorsement using ISO form CG 20 26 04 13 or a form at least as broad naming the ***County of Orange, its elected and appointed officials, officers, employees and agents*** as Additional Insureds, or provide blanket coverage, which will state ***As Required By Written Contract***.
- 2) A primary non-contributing endorsement using ISO Form CG 20 01 04 13, or a form at least as broad evidencing that 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, employees and agents***, or provide blanket coverage, which will state ***As Required By Written Contract***.

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

Contractor shall notify County in writing within thirty (30) days of any policy cancellation and ten (10) days for non-payment of premium and provide a copy of the cancellation notice to County. Failure to provide written notice of cancellation may constitute a material breach of 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 001 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.

- P. Changes:** Contractor shall make no changes in the work or perform any additional work without the County's specific written approval.
- Q. Change of Ownership/Name, Litigation Status, Conflicts with County Interests:** Contractor agrees that if there is a change or transfer in ownership of Contractor's business prior to completion of this Contract, and 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.

- R. Force Majeure:** Contractor shall not be assessed with liquidated damages or unsatisfactory performance penalties during any delay beyond the time named for the performance of this Contract caused by any act of God, war, civil disorder, employment strike or other cause beyond its reasonable control, provided Contractor gives written notice of the cause of the delay to County within 36 hours of the start of the delay and Contractor avails himself of any available remedies.
- S. Confidentiality:** Contractor agrees to maintain the confidentiality of all County and County-related records and information pursuant to all statutory laws relating to privacy and confidentiality that currently exist or exist at any time during the term of this Contract. All such records and information shall be considered confidential and kept confidential by Contractor and Contractor's staff, agents and employees.
- T. Compliance with Laws:** Contractor represents and warrants that services to be provided under this Contract shall fully comply, at Contractor's expense, with all standards, laws, statutes, restrictions,

ordinances, requirements, and regulations (collectively “laws”), including, but not limited to those issued by County in its governmental capacity and all other laws applicable to the services at the time services are provided to and accepted by County. Contractor acknowledges that County is relying on Contractor to ensure such compliance, and pursuant to the requirements of paragraph “Z” below, Contractor agrees that it shall defend, indemnify and hold County and County INDEMNITEES harmless from all liability, damages, costs and expenses arising from or related to a violation of such laws.

- U. **Freight:** Prior to the County’s express acceptance of delivery of products, Contractor assumes full responsibility for all transportation, transportation scheduling, packing, handling, insurance, and other services associated with delivery of all products deemed necessary under this Contract.
- V. **Severability:** If any term, covenant, condition or provision of this Contract is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.
- W. **Attorney Fees:** In any action or proceeding to enforce or interpret any provision of this Contract, each party shall bear their own attorney’s fees, costs and expenses.
- X. **Interpretation:** This Contract has been negotiated at arm’s length and between persons sophisticated and knowledgeable in the matters dealt with in this Contract. In addition, each party had been represented by experienced and knowledgeable independent legal counsel of their own choosing or has knowingly declined to seek such counsel despite being encouraged and given the opportunity to do so. Each party further acknowledges that they have not been influenced to any extent whatsoever in executing this Contract by any other party hereto or by any person representing them, or both. Accordingly, any rule or law (including California Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this Contract against the party that has drafted it is not applicable and is waived. The provisions of this Contract shall be interpreted in a reasonable manner to effect the purpose of the parties and this Contract.
- Y. **Employee Eligibility Verification:** 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.
- Z. **Indemnification:** Contractor agrees to indemnify, defend with counsel approved in writing by County, and hold County, its elected and appointed officials, officers, employees, agents and those special districts and agencies which County’s Board of Supervisors acts as the governing Board (“County Indemnitees”) harmless from any claims, demands or liability of any kind or nature, including but not limited to personal injury or property damage, arising from or related to the services, products or other performance provided by Contractor pursuant to this Contract. If judgment is entered against Contractor and County by a court of competent jurisdiction because of the concurrent active negligence of County or County Indemnitees, Contractor and County agree that liability will be apportioned as determined by the court. Neither party shall request a jury apportionment.

- AA. Audits/Inspections:** Contractor agrees to permit 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 agreement shall be forwarded to the County's Project Manager.

- BB. Contingency of Funds:** Contractor acknowledges that funding or portions of funding for this Contract may be contingent upon state budget approval; receipt of funds from, and/or obligation of funds by, the state of California to County; and inclusion of sufficient funding for the services hereunder in the budget approved by County's Board of Supervisors for each fiscal year covered by this Contract. If such approval, funding or appropriations are not forthcoming, or are otherwise limited, County may immediately terminate or modify this Contract without penalty.
- CC. Expenditure Limit:** The Contractor shall notify the County of Orange assigned Deputy Purchasing Agent in writing when the expenditures against the Contract reach 75 percent of the dollar limit on the Contract. The County will not be responsible for any expenditure overruns and will not pay for work exceeding the dollar limit on the Contract unless a change order to cover those costs has been issued.

## ADDITIONAL TERMS AND CONDITIONS

1. **Scope of Contract:** This Contract specifies the contractual terms and conditions by which the County will procure Mobile Thermal Oxidizer Goods and Services from Contractor as detailed in the Attachment A, Scope of Work.
2. **Renewable Annually with Concurrence:** This Contract is for a one year term, effective upon Board of Supervisor approval and execution of all necessary signature, for one continuous year from that date. This Contract may be renewed, on an annual basis, by mutual written agreement of both Parties for two (2) additional one (1) year terms, with unused funds to be carried over from year to year, not to exceed the cumulative Contract total. The County does not have to give reason if it elects not to renew. Renewal periods may be subject to approval by the County of Orange Board of Supervisors. Contractor's declination to renew this Contract will require a minimum of 120 days written notice prior to Contract expiration date. No price increases will be permitted during the Contract period, including renewal terms.
3. **Authorization Warranty:** The Contractor represents and warrants that the person executing this Contract on behalf of and for the Contractor is an authorized agent who has actual authority to bind



the Contractor to each and every term, condition and obligation of this agreement and that all requirements of the Contractor have been fulfilled to provide such actual authority.

4. **Precedence:** The Contract documents consist of this Contract and its exhibits 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 exhibits and attachments.
5. **Compensation:** The Contractor agrees to accept the specified compensation as set forth in this Contract as full payment for performing all services and furnishing all staffing and materials required, for any reasonably unforeseen difficulties which may arise or be encountered in the execution of the services until acceptance, for risks connected with the services, and for performance by the Contractor of all its duties and obligations hereunder.
6. **Substitutions:** The Contractor is required to meet all specifications and requirements contained herein. No substitutions will be accepted without prior County written approval.
7. **Usage:** No guarantee is given by the County to the Contractor regarding usage of this Contract. Usage figures, if provided, are approximations. The Contractor agrees to supply services and/or commodities requested, as needed by the County of Orange, at rates/prices listed in the Contract, regardless of quantity requested.
8. **Leased Equipment – Securing:** The Contractor agrees to brace and secure all leased equipment in a manner which meets seismic regulations. Bracing and securing must be done in a manner that would prevent earthquake damage to the equipment or to the environment to the extent possible. The bracing and securing should, to the extent possible, prevent the equipment from becoming a missile or a non-structural hazard in the event of an earthquake.
9. **Price Increase/Decrease:** No price increases will be permitted during the first period of the price agreement. The County requires documented proof of cost increases on Contracts prior to any price adjustment. A minimum of 30-days advance notice in writing is required to secure such adjustment. No retroactive price adjustments will be considered. All price decreases will automatically be extended to the County of Orange. The County may enforce, negotiate, or cancel escalating price Contracts or take any other action it deems appropriate, as it sees fit. The net dollar amount of profit will remain firm during the period of the Contract. Adjustments increasing the Contractor's profit will not be allowed.
10. **Amendments – Changes/Extra Work:** The Contractor shall make no changes to 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 or changes in laws or government regulations 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 (7) calendar days from the date the law or regulation went into effect or the date the change was proposed by the County and the Contractor was notified of the change. Such changes shall be agreed to in writing and incorporated into a Contract amendment. Said amendment shall be issued by the County assigned Deputy Purchasing Agent, shall require the mutual consent of all parties, and may be subject to approval by the County Board of Supervisors. Nothing herein shall prohibit the Contractor from proceeding with the work as set forth in this Contract.

11. **Default – Equipment, Software, or Service:** In the event any equipment, software or service furnished by the Contractor in the performance of this Contract should fail to conform to the specifications therein, the County may reject same, and it shall become the duty of the Contractor

to reclaim and remove the items without expense to the County and to immediately replace all such rejected equipment, software or service with others conforming to such specifications, provided that should the Contractor fail, neglect or refuse to do so, the County shall have the right to purchase on the open market a corresponding quantity of any such equipment, software or service and to deduct from any monies due or that may thereafter become due to the Contractor the difference between the price specified in this Contract and the actual cost to the County.

In the event the Contractor shall fail to make prompt delivery as specified of any equipment, software or service, the same conditions as to the rights of the County to purchase on the open market and to reimbursement set forth above shall apply, except as otherwise provided in this Contract.

In the event of the cancellation of this Contract, either in whole or in part, by reason of the default or breach by the Contractor, any loss or damage sustained by the County in procuring any equipment, software or service which the Contractor agreed to supply under this Contract shall be borne and paid for by the Contractor.

The rights and remedies of the County provided above shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Contract.

- 12. Contractor's Records:** The Contractor shall keep true and accurate accounts, records, books and data which shall correctly reflect the business transacted by the Contractor in accordance with generally accepted accounting principles. These records shall be stored in Orange County for a period of three (3) years after final payment is received from the County. Storage of records in another county will require written approval from the County of Orange assigned Deputy Purchasing Agent.
- 13. 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 property 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.
- 14. 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, must be returned to the County at the end of this Contract.
- 15. Contractor Personnel:** The Contractor warrants that all persons employed to provide service under this Contract have satisfactory past work records indicating their ability to adequately perform the work under this Contract. Contractor's employees assigned to this project must meet character standards as demonstrated by background investigation and reference checks, coordinated by the agency/department issuing this Contract.
- 16. Contractor Personnel – Drug Free Workplace:** The Contractor hereby certifies compliance with Government Code Section 8355 in matters relating to providing a drug-free workplace. The Contractor will:
  1. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying

actions to be taken against employees for violations, as required by Government Code Section 8355(a)(1).

2. Establish a drug-free awareness program as required by Government Code Section 8355(a)(2) to inform employees about all of the following:
  - a. The dangers of drug abuse in the workplace;
  - b. The organization's policy of maintaining a drug-free workplace;
  - c. Any available counseling, rehabilitation and employee assistance programs; and
  - d. Penalties that may be imposed upon employees for drug abuse violations.
3. Provide as required by Government Code Section 8355(a)(3) that every employee who works under this Contract:
  - a. Will receive a copy of the company's drug-free policy statement; and
  - b. Will agree to abide by the terms of the company's statement as a condition of employment under this Contract.

Failure to comply with these requirements may result in suspension of payments under the Contract or termination of the Contract or both, and the Contractor may be ineligible for award of any future County contracts if the County determines that any of the following has occurred:

1. The Contractor has made false certification, or
2. The Contractor violates the certification by failing to carry out the requirements as noted above.

**17. Conditions Affecting Work:** The Contractor shall be responsible for taking all steps reasonably necessary to ascertain the nature and location of the work to be performed under this Contract and to know the general conditions which can affect the work or the cost thereof. Any failure by the Contractor to do so will not relieve Contractor from responsibility for successfully performing the work without additional cost to the County. The County assumes no responsibility for any understanding or representations concerning the nature, location(s) or general conditions made by any of its officers or agents prior to the execution of this Contract, unless such understanding or representations by the County are expressly stated in the Contract.

**18. Subcontracting:** No performance of this Contract or any portion thereof may be subcontracted by the Contractor without the express written consent of the County. Any attempt by the Contractor to subcontract any performance of this Contract without the express written consent of the County shall be invalid and shall constitute a breach of this Contract.

In the event that the Contractor is authorized by the County to subcontract, this Contract shall take precedence over the terms of the Contract between Contractor and subcontractor, and shall incorporate by reference the terms of this Contract. The County shall look to the Contractor for performance and indemnification and not deal directly with any subcontractor. All work performed by a subcontractor must meet the approval of the County of Orange.

**19. Termination – Orderly:** After receipt of a termination notice from the County of Orange, the Contractor may submit to the County a termination claim, if applicable. Such claim shall be submitted promptly, but in no event later than 60 days from the effective date of the termination, unless one or more extensions in writing are granted by 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 combined with 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 performance of the Contract.

- 20. 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 the written consent of the County's Project Manager, which consent shall not be unreasonably withheld.

The Contractor's Project Manager shall be assigned to this project for the duration of the Contract and shall diligently pursue all work and services to meet the project time lines. The County's Project Manager shall have the right to require the removal and replacement of the Contractor's Project Manager from providing services to the County under this Contract. The County's Project manager shall notify the Contractor in writing of such action. The Contractor shall accomplish the removal within three (3) business days after written notice by the County's Project Manager. The County's Project Manager shall review and approve the appointment of the replacement for the Contractor's Project Manager. The County is not required to provide any additional information, reason or rationale in the event it requires the removal of Contractor's Project Manager from providing further services under the Contract.

- 21. Prevailing Wage (Labor Code §1773):** Pursuant to the provisions of Section 1773 et seq. of the California Labor Code, the Contractor shall comply with the general prevailing rates of per diem wages and the general prevailing rates for holiday and overtime wages in this locality for each craft, classification, or type of worker needed to execute this Contract. The rates are available from the Director of the Department of Industrial Relations at the following website: <http://www.dir.ca.gov/dlsr/DPreWageDetermination.htm>. The Contractor shall post a copy of such wage rates at the job site and shall pay the adopted prevailing wage rates. The Contractor shall comply with the provisions of Sections 1775 and 1813 of the Labor Code.

- 22. Equal Employment Opportunity:** The Contractor shall comply with U.S. Executive Order 11246 entitled, "Equal Employment Opportunity" as amended by Executive Order 11375 and as supplemented in Department of Labor regulations (41 CFR, Part 60) and applicable state of California regulations as may now exist or be amended in the future. The Contractor shall not discriminate against any employee or applicant for employment on the basis of race, color, national origin, ancestry, religion, sex, marital status, political affiliation or physical or mental condition.

Regarding handicapped persons, the Contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to provide equal opportunity to handicapped persons in employment or in advancement in employment or otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicaps in all employment practices such as the following: employment, upgrading, promotions, transfers, recruitments, advertising, layoffs, terminations, rate of pay or other forms of compensation, and selection for training, including apprenticeship. The Contractor agrees to comply with the provisions of Sections 503 and 504 of the Rehabilitation Act of 1973, as amended, pertaining to prohibition of discrimination against qualified handicapped persons in all programs and/or activities as detailed in regulations signed by the Secretary of the Department of Health and Human Services effective June 3, 1977, and found in the Federal Register, Volume 42, No. 68 dated May 4, 1977, as may now exist or be amended in the future.

Regarding Americans with disabilities, Contractor agrees to comply with applicable provisions of Title 1 of the Americans with Disabilities Act enacted in 1990 as may now exist or be amended in the future.

**23. Americans with Disabilities Act (ADA):** Section 504 of the Rehabilitation Act of 1973 as amended; Title VI and VII of the Civil Rights Act of 1964 as amended; Americans with Disabilities Act, 42 USC 12101; California Code of Regulations, Title 2, Title 22: California Government Code, Sections 11135, et seq; and other federal and state laws and executive orders prohibit discrimination. All programs, activities, employment opportunities, and services must be made available to all persons, including persons with disabilities.

**24. Nondiscrimination – Statement of Compliance:** The Contractor's signature affixed hereon and dated shall constitute a certification under penalty of perjury under the laws of the state of California that the Contractor has, unless, exempted, complied with the nondiscrimination program requirements of Government Code Section 12900 (a-f) and Title 2, California Code of Regulations, Sections 11102 and 11103.

**25. Disputes- Contract:**

- A. The parties shall deal in good faith and attempt to resolve potential disputes informally. If the dispute concerning a question of fact arising under the terms of this Contract is not disposed of in a reasonable period of time by the Contractor's Project Manager and the County's Project Manager, such matter shall be brought to the attention of the County Deputy Purchasing Agent by way of the following process:
  - 1. The Contractor shall submit to the agency/department assigned Deputy Purchasing Agent a written demand for a final decision regarding the disposition of any dispute between the parties arising under, related to, or involving this Contract, unless 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 Deputy 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. Nothing in this section shall be construed as affecting the County's right to terminate the Contract for cause or termination for convenience as stated in section K herein.

**26. 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. Terminate the Contract immediately, pursuant to Section K herein;
- B. Afford the Contractor written notice of the breach and ten (10) calendar days or such shorter time that may be specified in this Contract within which to cure the breach;
- C. Discontinue payment to the Contractor for and during the period in which the Contractor is

in breach; and

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

**27. Stop Work:** The County may, at any time, by written stop work order to the Contractor, require the Contractor to stop all or any part of the work called for by this Contract for a period of 90 days after the stop work order is delivered to the Contractor and for any further period to which the parties may agree. The stop work order shall be specifically identified as such and shall indicate it is issued under this clause. Upon receipt of the stop work order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the stop work order during the period of work stoppage. Within a period of 90 days after a stop work order is delivered to the Contractor or within any extension of that period to which the parties shall have agreed, the County shall either:

1. Cancel the stop work order; or
2. Terminate work covered by the stop work order as provided for in the "Default" or "Termination" clause of this Contract.

If a stop work order issued under this clause is canceled or the period of the stop work order or any extension thereof expires, the Contractor shall resume work. The County shall make an equitable adjustment in the delivery schedule, the Contract price, or both, and the Contract shall be modified in writing accordingly if:

1. The stop work order results in an increase in the time required or in the Contractor's cost properly allocable to the performance of any part of this Contract; and
2. The Contractor asserts its right to an equitable adjustment within 30 days after the end of the period of work stoppage, provided that if the County decides the facts justify the action, the County may receive and act upon a proposal submitted at any time before final payment under this Contract.

If a stop work order is not canceled and the work covered by the stop work order is terminated in accordance with the provision entitled, "Termination" the County shall allow reasonable costs resulting from the stop work order in arriving at the termination settlement.

If a stop work order is not canceled and the work covered by the stop work order is terminated for default, the County shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop work order.

An appropriate equitable adjustment may be made in any related Contract of the Contractor that provides for adjustment and is affected by any stop work order under this clause. The County shall not be liable to the Contractor for loss of profits because of a stop work order issued under this clause.

If any provisions of this agreement are invalid under any applicable statute or rule of law, they are, to that extent, omitted, but the remainder of this agreement shall continue to be binding upon the parties hereto.

**28. County Cooperative Contract:** The provisions and pricing of this Contract will be extended to other California local or state governmental entities. Governmental entities wishing to use this Contract will be responsible for issuing their own purchase documents/price agreements, providing for their own acceptance, and making any subsequent payments. Contractor shall be required to include in any Contract entered into with another agency or entity that is entered into as an

extension of this Contract a Contract clause that will hold harmless the County of Orange from all claims, demands, actions or causes of actions of every kind resulting directly or indirectly, arising out of, or in any way connected with the use of this contract. Failure to do so will be considered a material breach of this Contract and grounds for immediate Contract termination. The cooperative entities are responsible for obtaining all certificates of insurance and bonds required. The Contractor is responsible for providing each cooperative entity a copy of the Contract upon request by the cooperative entity. The County of Orange makes no guarantee of usage by other users of this Contract.

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

**29. Emergency/Declared Disaster Requirements:** 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. All applicable invoices from the Contractor shall show both the emergency purchase order number and the Contract number.

**30. Notices:** Any and all notices, requests, demands and other communications contemplated, called for, permitted, or required to be given hereunder shall be in writing with a copy provided to the assigned Deputy Purchasing Agent (DPA) listed below, except through the course of the parties' project managers' routine exchange of information and cooperation during the terms of the work and services. Any written communications shall be deemed to have been duly given upon actual in-person delivery, if delivery is by direct hand, or upon delivery on the actual day of receipt or no greater than four (4) calendar days after being mailed by US certified or registered mail, return receipt requested, postage prepaid, whichever occurs first. The date of mailing shall count as the first day. All communications shall be addressed to the appropriate Party at the address stated herein or such other address as the Parties hereto may designate by written notice from time to time in the manner aforesaid.

**Contractor**

Name: Envent Corporation  
 Address: 3220 E 29<sup>th</sup> Street  
 Long Beach, CA 90806  
 Attn: Dan Rapoport  
 Phone: (562) 756-5884  
 Email: [Daniel.Rapoport@envent.net](mailto:Daniel.Rapoport@envent.net)

**County**

Name: County of Orange, OC Waste & Recycling  
 Address: 601 N. Ross St. 5<sup>th</sup> Floor  
 Santa Ana, CA 92701  
 Attn: Jessica Vu  
 Phone: 714-834-4154  
 Email: [Jessica.Vu@ocwr.ocgov.com](mailto:Jessica.Vu@ocwr.ocgov.com)

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

***ENVENT CORPORATION\*:***

Print Name	Title
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Signature	Date
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Print Name	Title
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Signature	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 signee to bind the corporation.

\*\*\*\*\*

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

Print Name	Title
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Signature	Date
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APPROVED AS TO FORM

County Counsel

By \_\_\_\_\_  
Paul Albarian, Senior Deputy

Date \_\_\_\_\_



## **ATTACHMENT A SCOPE OF WORK**

### **I. SITE INFORMATION**

The Central Region Landfills includes the Frank R. Bowerman (FRB) Landfill, located near the City of Irvine at 11002 Bee Canyon Access Road. It is an active landfill operated by OC Waste & Recycling (County). The site can be accessed from Santa Ana Freeway exit at Sand Canyon Avenue. The normal operating hours at FRB Landfill are Monday through Saturday, 7:00 a.m. to 4:00 p.m. The Contractor may gain access to the site prior to or after the operating hours by coordinating with the County Project Manager.

Included in this scope of work are the closed sites which are Santiago Canyon Landfill, Gothard Street Landfill, and Cannery Street Landfill.

Santiago Canyon Landfill is located in Orange County near the City of Orange, on Santiago Canyon Road, approximately 2 miles southeast of the corner of Santiago Canyon Road and Jamboree Road. The address is 3099 Santiago Canyon Road, Orange CA 92666.

Gothard Street Landfill is located in the City of Huntington Beach on the west side of Gothard Street, 1/4 mile south of Talbert Avenue between Golden West and Gothard Streets. The address is 18131 Gothard Street, Huntington Beach, CA 92648.

Cannery Street Landfill is located northwest of Magnolia Street and Hamilton Avenue in the City of Huntington Beach. The physical address is 21377 Magnolia Street. Huntington Beach, CA 92646.

#### **Site Addresses and Contacts are as follows:**

##### **Frank R. Bowerman Landfill**

11002 Bee Canyon Access Road  
Irvine, CA 92602

##### **Santiago Canyon Landfill**

3099 Santiago Canyon Road  
Orange, CA 92666

##### **Gothard Street Landfill**

18131 Gothard Street  
Huntington Beach, CA 92648

##### **Cannery Street Landfill**

21377 Magnolia Street  
Huntington Beach, CA 92646

#### **County Project Manager (County PM):**

Kevin Hanson, Senior Project Manager  
(949) 551-7110  
Kevin.Hanson@ocwr.ocgov.com

## **II. CONTRACTOR REQUIREMENTS**

### **A. GENERAL**

1. Contractor shall provide mobile thermal oxidizer services at the FRB landfill on an as-needed basis. Time of service and duration to be determined by County Project Manager (County PM).
2. The Contractor shall furnish all permits and equipment required by the Air Quality Management District (AQMD).
3. The County reserves the right to request staffing changes from the Contractor at any time during the term of the Contract, at no cost to the County. Any staffing changes requested by the Contractor shall require the submittal of resumes for the County's concurrence prior to implementing the change. County reserves the right to request a change in Contractor's service personnel assigned to this Contract at any time with or without cause.
4. Contractor shall ensure that the mobile thermal oxidizer is kept in good operating order per the operation and maintenance manual for the equipment.
5. Contractor shall not make any changes in personnel assigned to this project without approval from the County PM. All work shall be performed in a skillful and workmanlike manner. Contractor's service team shall consist of local, experienced personnel at all times.
6. Contractor shall check in and check out with the County PM. Contractor and subcontractor employees shall always possess proper identification. Contractor shall coordinate all work with the County PM. Contractor shall bring to the attention of the County PM any potential problems discovered and offer suggestions or solutions before checking out.
7. Contractor shall take all reasonable precautions, as directed by the County, or in the absence of such direction, in accordance with sound industrial practices, to safeguard and protect County property. Damages to County property caused by Contractor's negligence shall be repaired at no cost (both labor and material) to the County.
8. Contractor shall keep the work areas clean and free from any debris at the completion of each task. All construction related, non-hazardous debris, may be disposed of on site, free of charge, by the Contractor in accordance with all applicable codes, ordinances, and laws pertaining to the disposal of the material.
9. Subcontractors assigned to a particular job shall have current licenses in their respective trades, crafts, or professions by the State of California or local authority that require licenses in those jurisdictions. Subcontractors shall not be used unless authorized by County in writing.
10. A kickoff meeting may be held between the County Site Engineer, County PM and Contractor after Contract award and after receipt and approval of Contractor's insurance certificates and Health & Safety Plan (H&SP).
11. Upon termination of the Contract, or upon County request, the Contractor shall surrender all spare parts, in good condition, to the County PM.
12. The County will not be responsible for Contractor's drinking water, telephone, fax, copier, and toilet needs while its workers are on site premises.

13. All meetings held between OC Waste & Recycling staff and Contractor staff to discuss work details and Contractor performance under this Contract shall not be billable to the County.

## **B. MINIMUM QUALIFICATIONS**

Contractor shall meet the following minimum criteria at all times during the term of this Contract:

1. Contractor's Project Manager shall have a minimum of five years of experience in the operation and maintenance of thermal oxidizer.
2. Contractor personnel to be assigned to operate, maintain, and perform troubleshooting services in accordance with this Contract shall have at least two years of experience in thermal oxidizer operation, and maintenance.
3. Contractor and personnel assigned to the job site shall have the appropriate certification as required by OSHA 29 CFR 1910.120 "40-hour training" and shall be well equipped and trained to face a hazardous situation.
4. Contractor shall have the ability to respond to any emergency situation within the response requirements for the emergency visits portion of Attachment A, Scope of Work.
5. Contractor shall provide, by itself, at least 80 percent of the quantity of work defined in Attachment A, Scope of Work, without subcontractor services. No subcontractors shall perform any work without the expressed written consent of the County PM.

## **III. HEALTH AND SAFETY PLAN (H&SP)**

**The Contractor shall provide a Health and Safety Plan within seven (7) days of Contract award. The Contractor shall not proceed with service until the required insurance and Health and Safety Plan have been received and approved by the County.**

### **1. Health and Safety Laws and Regulations**

The Contractor shall prepare a Health and Safety Plan in compliance with all local, municipal, state, and federal health and safety laws, orders, and regulations applicable to Contractor's operations in the performance of the Scope of Work hereunder. While on the premises of the County, Contractor and Contractor's employees, Subcontractors, and agents shall comply with the requirements of the Occupational Safety and Health Act and any State approved plan, and the regulations there under, to the extent applicable and shall ensure that all Contractor's employees, subcontractors, and agents have a safe place of work on the premises of the County.

Any Claims by Contractor for adjustments in time and/or cost for delays in the start of work due to Contractor's failure to deliver an H&SP acceptable to the County will not be considered.

The Contractor shall be solely and completely responsible for conditions on the job site, including safety of all persons and property during the performance of the work. The County's acceptance of Contractor's H&SP does not, in any way, relieve or transfer any such responsibilities to the County.

### **2. Health and Safety Plan Checklist**

The contents of the Health and Safety Plan shall meet all regulatory requirements for the specific work to be provided. The following is a checklist for the minimum elements for a Health and Safety Plan. Those

plan elements which will not apply to the specific Contract should be noted (such as “this construction 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 the Contractor’s Health and Safety Plan (H&SP):**

**Mandatory**

Site Background and Scope of Work: Site- specific with an emphasis on the type(s) of service(s) performed, the hazards associated with such work, and the programs in effect to protect the employee against those recognized hazards.

- A. Injury and Illness Prevention Program (Title 8, California Code of Regulations, section 3203): Required of all employers of 10 or more employees.
- B. Code of Safe Practices (Cal, Code Regs., Title 8 § 1509): All employers are required to have a Code of Safe Practices in writing and posted at the workplace.
- C. Emergency Medical Services (Cal. Code Regs., Title 8, § 1512): All employers are required to have this program in writing.
- D. Fire Protection Program (Cal. Code Regs., Title 8, § 1920): All employers are required to have this program in writing.

**Required by Scope of Work**

- A. Hazard Communication Program (Cal. Code Regs., Title 8, §5194): All employers are required to have this program in writing if there is a potential for their employees to come in contact with any products that may be hazardous.
- B. Hearing Conservation Program (Cal. Code Regs., Title 8, § 5097): This program shall be written into the H&SP if employee noise exposures meet or exceed the levels outline in Cal. Code Regs., Title 8 § 5097.
- C. Personal Protective Equipment (Cal. Code Regs., Title 8, §§3380-3400): Requirements must be included in the H&SP if personal protective equipment is required for the contracted work. Hard hats, safety goggles, orange vests, and audiometric (hearing) protection are required for work to be performed under this Contract.
- D. Storage, Handling, and Dispensing of Flammable/Combustible Liquids (Uniform Fire Code Article 79): Requirements must be included in the H&SP if flammable/combustible liquids will be stored, handled, or dispensed.

**IV. LIST OF TASKS**

**The work to be done shall include, but is not limited to, the following tasks:**

**Task A: Thermal Oxidizer Services (Routine Service)**

- 1. Contactor shall provide thermal oxidizer services, necessary equipment (including but not limited to blowers, knockout vessel, generator, and propane tanks), fuel, and permits to the FRB landfill on an as-needed basis to destruct landfill gas produced by the waste in the landfill. The need for such service will be determined by the County PM.

2. Contractor shall provide all necessary hoses and connections to connect the landfill gas system. Connections points will be installed by the County.
3. Contractor shall at minimum follow all safety guidelines dictated by the County.
4. Contractor shall provide the County with a daily log of activities performed and thermal oxidizer monitoring data.

#### **Task B: Special Services**

Contractor shall provide the County with a Task Order for any Special Services detailing all expenses, deliverables and duration of the Special Service to be approved by the County PM and site engineering. Material costs and other expenses incurred during a Special Service will only be reimbursed at actual cost plus a percentage agreed upon by Contractor and County PM. The percentage shall not exceed 10%. Any materials requested for reimbursement shall be accompanied by a receipt showing the actual cost paid by Contractor. If the anticipated cost of Special Services exceeds \$3,000, the Contractor shall solicit three separate bids for the County to reference, unless the provision is otherwise waived by the County PM. Any authorized Task Order approved by County PM must accompany any invoice billing for these Special Services. An authorized Task Order shall have the County PM signature.

#### **Task C: Emergency Calls**

County PM will determine if an emergency warrants an immediate response. The Contractor shall respond to all emergency calls within 3 hours of County PM's initial contact. The response shall consist of an initial assessment of the emergency and/or any necessary actions to mitigate the emergency. The Contractor shall provide the County PM with an around-the-clock emergency contact phone number. Failure to respond within the 3-hour timeframe may result in termination of the Contract in accordance with the terms and conditions contained herein.

#### **Task D: Non-Emergency Calls**

The Contractor shall respond to non-emergency visits within 72 hours of notification. The response shall consist of an initial assessment of the conditions and/or any necessary corrective actions. Failure to respond within the 72-hour timeframe may result in termination of the Contract in accordance with the terms and conditions contained herein.

#### **Summary of Terms for Non-Routine Services**

As-needed, Special Services and non-routine service calls will be placed against this Contract by the County PM. Each activity under this Task shall be covered by a Task Order. It is expressly understood that the tasks (service calls) to which the Contractor shall respond, will be on an as-needed basis, approved by the County PM. As each task is identified, the Contractor shall prepare a Task Order as described in Task B above, detailing the scope of work to be accomplished, list of deliverables, schedule for completion, and a not-to-exceed cost for its completion. If County PM determines it to be in the best interest of the County, the County may allow billing for non-routine services on a time-and-material basis or on a lump-sum basis.

The total not-to-exceed compensation will be broken down into individual tasks that have yet to be determined. The amounts allocated for each task may be transferred and adjusted within the total Contract amount with the written approval of the OCWR Director or designee. It will be the sole responsibility of the County PM to monitor, track, amend or move the task dollars within the total Contract amount.

## ATTACHMENT B CONTRACTOR RATES & COMPENSATION

- I. COMPENSATION:** This is a fixed-rate Contract between the County and Contractor for Mobile Thermal Oxidizer Services on an as-needed basis, as set forth in Attachment A, Scope of Work.

**The County shall have no obligation to pay any sum in excess of the Fixed Prices and Total Contract Amount specified herein unless authorized by amendment in accordance with Article C and P of the County Contract Terms and Conditions, which may require approval by the County Board of Supervisors.**

Add thermal oxidizer unit size/model and rates using table below for each:

Equipment & Supplies				
Unit size/model	Appr. Max Flow (sCFM ) at 50% Methane	Appr. MMBTU/H	Service Duration	Estimated Cost
EMTOS4500	300	10	Weekly	\$62,930.50
			Monthly	\$110,581.72
EMECS20	700	20	Weekly	\$66,961.93
			Monthly	\$122,676.01
EMECS42	1,400	42	Weekly	\$74,774.43
			Monthly	\$148,126.01
EMECS70	2,300	70	Weekly	\$77,294.43
			Monthly	\$155,686.01

Labor		
Personnel	Unit of Measure	Rate (per hour)
Degas Technician	Hourly – Standard Time	\$60.89
	Hourly - Overtime	\$74.42
	Hourly – Double Time	\$87.95
Crew Leader/ Senior Tech	Hourly – Standard Time	\$81.18
	Hourly - Overtime	\$94.71
	Hourly – Double Time	\$108.24

**Note:**

- Rates include all consumable materials (fuel, propane, etc.), mobilization, personal and addition equipment needed to provide landfill gas destruction services at the landfill.
- Overtime will not be paid on non-emergency response requests unless specifically authorized by the FRB County Project Manager at the time the request for service is initiated.
- Mobilization includes delivery, staging, and interconnection of the treatment, filtration, scrubbing, or vapor control system equipment only.
- Equipment Rental starts when it arrives on job site until it is picked up.

- Cancellation 48 hours prior to rental start date will not be charged.

**\*Weekly rate** is considered 7-days – If equipment is at a savings for weekly rates, Contractor shall advise County Personnel and shall be billed at the lowest rate.

**\*\*Monthly rate** is considered 4 weeks – If equipment is at a savings for monthly rate, but equipment term is less than 4 weeks. Contractor shall advise County Personnel and be shall be billed at the lowest rate.

**II. 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.

## ATTACHMENT C PAYMENT TERMS AND INVOICING INSTRUCTIONS

### **PAYMENT TERMS**

Contractor shall submit an invoice in *arrears* for the materials and services provided in the amounts listed which shall become effective and billable upon delivery and acceptance of goods and services as outlined in Attachment A, Scope of Work, and Attachment B, Contractor Rates & Compensation.

Payment due to the Contractor will be made within 45 days after receipt of a correctly submitted invoice. The Contractor shall reimburse the County of Orange for any monies paid to the Contractor for goods and services not provided.

Payment made by the County shall not preclude the right of the County from thereafter disputing any material or service billed or involved under this Contract and shall not be construed as acceptance of any part of the work (materials or services).

### **INVOICING INSTRUCTIONS**

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

The Contractor shall provide an invoice on the Contractor's letterhead. The invoice shall have a unique number and shall include the following information:

- a. Contractor's Name and Address
- b. Contractor's Remittance Address, if different from above
- c. Name of County Department
- d. MA Number (MA-299-21010950)
- e. Complete Breakdown of Charges
- f. Supporting Approval Documents, as applicable
- g. Total

Invoices and supporting documents shall be submitted to [ocwrinvoice@ocwr.ocgov.com](mailto:ocwrinvoice@ocwr.ocgov.com) or mailed to:

OC Waste & Recycling  
Attn: Accounts Payable  
601 N. Ross St. 5<sup>th</sup> Floor  
Santa Ana, CA 92701

**Payment (Electronic Funds Transfer EFT):** The County of Orange offers contractors the option of receiving payment directly to their bank account via an Electronic Fund Transfer (EFT) process in lieu of a check payment. Payment made via EFT will also receive an Electronic Remittance Advice with the payment details via e-mail. To request a form, please contact the department's procurement representative. Completed form and required documentation must be submitted by mail to the physical address listed on the EFT form. Forms submitted electronically will not be accepted.