

**SUBMITTAL TO THE BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

538



**FROM:** Fire

**SUBMITTAL DATE:**  
May 2, 2011

**SUBJECT:** Standardized Flat Rates and Professional Service Agreements for Weed Abatement Services throughout Riverside County

**RECOMMENDED MOTION:** That the Board of Supervisors:

1. Authorize Riverside County Fire Department to increase the existing Standardized Flat Rates for Weed Abatement Service; and
2. Authorize the Purchasing Agent to establish agreement(s) with (DeGuire Weed Abatement, Scott Tractor Service, Winn Kinniman, Inland Empire Property Services, Inc, Ace Weed Abatement, Inc, Phillips and Jordan, Inc, and Carry-all in the amount of \$100,000 each; and
3. Approve and execute the one year professional service agreements to these vendors for Weed Abatement Service up to the \$1,000,000 aggregate annually, which contains an option to renew the agreement for an additional four (4) year period; and
4. Authorize the Purchasing Agent, in accordance with Ordinance No. 459, to exercise the renewal option, move funds between contractors as needed within the annual aggregate amount, and to sign amendments that do not change the substantive terms of the agreement; and
5. Direct the Clerk of the board to return three (3) original signed agreements to Riverside County Fire Department.

**BACKGROUND:** (on Page 2)

\_\_\_\_\_  
John R. Hawkins,  
County Fire Chief

<b>FINANCIAL DATA</b>	Current F.Y. Total Cost:	\$ 1,000,000	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	10/11

<b>SOURCE OF FUNDS:</b> 100% Weed Abatement Fees	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

**C.E.O. RECOMMENDATION:**

**APPROVE**

BY:   
Robert Tremaine

**County Executive Office Signature**

**MINUTES OF THE BOARD OF SUPERVISORS**

On motion of Supervisor Buster, seconded by Supervisor Stone and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Buster, Tavaglione, Stone, Benoit and Ashley  
Nays: None  
Absent: None  
Date: May 10, 2011  
xc: Fire, Purchasing

Kecia Harper-Ihem  
Clerk of the Board  
By:   
Deputy

FORM APPROVED COUNTY COUNSEL  
BY:   
Billy Corbett, Purchasing Manager  
DATE:   
NEAL R. KIPNIS  
Departmental Concurrence  
Dep't Recomm.: ☐ Consent ☒ Policy  
Per Exec. Ofc.: ☐ Consent ☒ Policy

RE: Standardized Flat Rates and Professional Service Agreements for Weed  
Abatement Services throughout Riverside County

Date: May 2, 2011

Page 2

**BACKGROUND:**

The Riverside County Fire Department administers Weed Abatement Services (disking, mowing, and hand cleaning), which are required to comply with Riverside County Ordinance No. 695.

The existing Weed Abatement Services rates were established in 2006 and have continued with no increase through 2010; as a result, the county is having difficulty retaining contractors. By the end of 2010, the county had one contractor who fulfilled his contractual obligations as well as the obligations of the other contractors. The existing rate is \$126.00 and is lower than rates charged by private companies.

The following items are all inclusive

- Fuel
- Disposal fees
- Transportation to disposal site
- Returning equipment to a site location
- Rental of equipment
- Hiring additional personnel
- Administrative fees including but not limited to photographs, camera, CD for processing photo

The County of Riverside Fire Department would like to establish the following "standardized flat rates:

**Current Rates**

\$ 60.00/per half acre  
\$120.00/per one acre

**Proposed Increased Rate**

\$130.00 per acre rounded to the nearest acre

**Hand Cleaning based on Actual Square Feet of Work Completed**

For light vegetation (grass fuel class), minimum \$130.00 per parcel using cost of \$0.03 per square foot.

For medium vegetation (brush 4ft. & under), minimum \$130.00 per parcel using cost of \$0.05 per square foot.

For heavy vegetation (brush over 4ft.), minimum \$130.00 per parcel using cost of \$0.07 per square foot.

For extremely heavy vegetation (brush that is due to size, type, density, terrain is impossible to mow, disc, string trim, or other hand labor methods are impractical for clearance), minimum \$130.00 per parcel using cost of \$0.12 per square foot.

**PRICE REASONABLENESS:**

**RE: Standardized Flat Rates and Professional Service Agreements for Weed Abatement Services throughout Riverside County**

**Date: May 2, 2011**

**Page 3**

**PRICE REASONABLENESS:**

The rates were determined by researching other local agencies and taking into consideration the rates were all inclusive. The approximate cost increase is 33% for discing/mowing and 2.52% for handwork. The County received responses from six (6) weed abatement suppliers and seeks approval to contract with each of them for the weed abatement services.

In 2010, the County of Riverside cleared 163 more parcels and 12,636 more square feet of brush than in 2009. The proposed all-inclusive flat rate will increase the cost paid to the contractors as well as decrease the county's involvement in the "weed abatement business".

**Local Area Rate Comparisons:**

**City of Riverside** – Tractor with mower and operator (\$100.00 per/hr), Handwork minimum (\$85.00 plus \$40.00 per/hr for labor and tools)

**City of Moreno Valley** – Discing (\$92.00 for the 1<sup>st</sup> acre or any portion thereof and 62.00 each additional acre), Mowing (\$92.00 for the 1<sup>st</sup> acre or any portion thereof and \$92.00 each additional acre), Hand work (\$29.00 per/hr plus the City pays for dump fees and \$1.00 per photo).

**City of Temecula** – Mowing (.25 acres or less \$145.00), (\$105.00 up to 1 acre and \$99.75 each additional acre), (Handwork (\$45.00 per man hour plus dump fees).

**City of Corona** – Discing (\$102.60 per/hr), Mowing – (\$109.37 per/hr), Handwork-Weedeater \$-5.36 per/hr).

**PROFESSIONAL SERVICE AGREEMENT**

**for**

**WEED ABATEMENT SERVICES**

**between**

**COUNTY OF RIVERSIDE**

**and**

**PHILLIPS & JORDAN**





**TABLE OF CONTENTS**

<b><u>SECTION HEADING</u></b>	<b><u>PAGE NUMBER</u></b>
1. Description of Services .....	3
2. Period of Performance.....	3
3. Compensation.....	3-4
4. Alteration or Changes to the Agreement .....	4-5
5. Termination.....	5
6. Ownership/Use of Contract Materials and Products .....	5
7. Conduct of CONTRACTOR.....	6
8. Inspection of Service: Quality Control/Assurance .....	6-7
9. Independent CONTRACTOR .....	7
10. Subcontract for Work or Services .....	7
11. Disputes .....	7-8
12. Licensing and Permits .....	8
13. Use by Other Political Entities .....	8
14. Non-Discrimination .....	8
15. Records and Documents .....	8-9
16. Confidentiality .....	9
17. Administration/Contract Liaison.....	9
18. Notices .....	10
19. Force Majeure .....	10
20. EDD Reporting Requirements.....	10
21. Hold Harmless/Indemnification .....	11-12
22. Insurance .....	12-14
23. General .....	14-15
Exhibit A-Scope of Service .....	16-20
Exhibit B- Payment Provisions.....	21

This Agreement, made and entered into this 10<sup>TH</sup> day of May, 2011, by and between Phillips & Jordan (herein referred to as "CONTRACTOR"), and the COUNTY OF RIVERSIDE, a political subdivision of the State of California, (herein referred to as "COUNTY"). The parties agree as follows:

**1. Description of Services**

**1.1** CONTRACTOR shall provide all services as outlined and specified in Exhibit A, Scope of Services, consisting 16 through 20 pages at the prices stated in Exhibit B, Payment Provisions, consisting of page 21..

**1.2** CONTRACTOR represents that it has the skills, experience and knowledge necessary to fully and adequately perform under this Agreement and the COUNTY relies upon this representation. CONTRACTOR shall perform to the satisfaction of the COUNTY and in conformance to and consistent with the highest standards of firms/professionals in the same discipline in the State of California.

**1.3** CONTRACTOR affirms this it is fully apprised of all of the work to be performed under this Agreement; and the CONTRACTOR agrees it can properly perform this work at the prices stated in Exhibit B. CONTRACTOR is not to perform services or provide products outside of the Agreement.

**1.4** Acceptance by the COUNTY of the CONTRACTOR's performance under this Agreement does not operate as a release of CONTRACTOR's responsibility for full compliance with the terms of this Agreement.

**2. Period of Performance**

**2.1** This Agreement shall be effective upon signature of this Agreement by both parties and continue in effect through May 10<sup>th</sup> 2011 with the option to renew for four (4) additional years, renewable in one (1) year increments by written amendment, unless terminated earlier. CONTRACTOR shall commence performance upon signature of this Agreement by both parties and shall diligently and continuously perform thereafter.

**3. Compensation**

**3.1** The COUNTY shall pay the CONTRACTOR for services performed, products provided and expenses incurred in accordance with the terms of Exhibit B, Payment Provisions. Maximum payments by COUNTY to CONTRACTOR shall not exceed \$100,000.00 annually including all expenses. Service by area shall be based upon a standard rotation. The rotation will be initially established by a method in which every CONTRACTOR will have the opportunity to obtain a minimum of one area. The COUNTY is not responsible for any fees or costs incurred above or beyond the contracted amount and shall have no obligation to purchase any specified amount of services or products. Unless otherwise specifically stated in

Exhibit B, COUNTY shall not be responsible for payment of any of CONTRACTOR's expenses related to this Agreement.

**3.3** CONTRACTOR shall be paid only in accordance with an invoice submitted to COUNTY by CONTRACTOR within fifteen (15) days from the last day of each calendar month, and COUNTY shall pay the invoice within thirty (30) working days from the date of receipt of the invoice. Payment shall be made to CONTRACTOR only after services have been rendered or delivery of materials or products, and acceptance has been made by COUNTY. Prepare invoices in duplicate. For this Agreement, send the original and duplicate copies of invoices to:

Riverside County Fire Department  
210 W. San Jacinto  
Perris, CA 92570

- a) Each invoice shall contain a minimum of the following information: invoice number and date; remittance address; bill-to and ship-to addresses of ordering department/division; Agreement number FPARC-98889-001-05/12 quantities; item descriptions, unit prices, extensions, sales/use tax if applicable, and an invoice total.
- b) Invoices shall be rendered monthly in arrears.

**3.4** The COUNTY obligation for payment of this Agreement beyond the current fiscal year end is contingent upon and limited by the availability of COUNTY funding from which payment can be made. No legal liability on the part of the COUNTY shall arise for payment beyond June 30 of each calendar year unless funds are made available for such payment. In the event that such funds are not forthcoming for any reason, COUNTY shall immediately notify CONTRACTOR in writing; and this Agreement shall be deemed terminated, have no further force, and effect.

#### **4. Alteration or Changes to the Agreement**

**4.1** The Board of Supervisors and the COUNTY Purchasing Agent and/or his designee is the only authorized COUNTY representatives who may at any time, by written order, alter this Agreement. If any such alteration causes an increase or decrease in the cost of, or the time required for the performance under this Agreement, an equitable adjustment shall be made in the Agreement price or delivery schedule, or both, and the Agreement shall be modified by written amendment accordingly.

**4.2** Any claim by the CONTRACTOR for additional payment related to this Agreement shall be made in writing by the CONTRACTOR within 30 days of when the CONTRACTOR has or should have notice of any actual or claimed change in the work, which results in additional and unanticipated cost to the CONTRACTOR. If the COUNTY Purchasing Agent decides that the facts provide sufficient justification, he may authorize additional payment to the CONTRACTOR pursuant to the claim. Nothing in this section

shall excuse the CONTRACTOR from proceeding with performance of the Agreement even if there has been a change.

**5. Termination**

**5.1.** COUNTY may terminate this Agreement without cause upon 30 days written notice served upon the CONTRACTOR stating the extent and effective date of termination.

**5.2** COUNTY may, upon five (5) days written notice, terminate this Agreement for CONTRACTOR's default, if CONTRACTOR refuses or fails to comply with the terms of this Agreement or fails to make progress to endanger performance and does not immediately cure such failure. In the event of such termination, the COUNTY may proceed with the work in any manner deemed proper by COUNTY.

**5.3** After receipt of the notice of termination, CONTRACTOR shall:

- (a) Stop all work under this Agreement on the date specified in the notice of termination; and
- (b) Transfer to COUNTY and deliver in the manner as directed by COUNTY any materials, reports or other products, which, if the Agreement had been completed or continued, would have been required to be furnished to COUNTY.

**5.4** After termination, COUNTY shall make payment only for CONTRACTOR's performance up to the date of termination in accordance with this Agreement and at the rates set forth in Exhibit B.

**5.5** CONTRACTOR's rights under this Agreement shall terminate (except for fees accrued prior to the date of termination) upon dishonesty or a willful or material breach of this Agreement by CONTRACTOR; or in the event of CONTRACTOR's unwillingness or inability for any reason whatsoever to perform the terms of this Agreement. In such event, CONTRACTOR shall not be entitled to any further compensation under this Agreement.

**5.6** The rights and remedies of COUNTY provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or this Agreement.

**6. Ownership/Use of Contract Materials and Products**

The CONTRACTOR agrees that all materials, reports or products in any form, including electronic, created by CONTRACTOR for which CONTRACTOR has been compensated by COUNTY pursuant to this Agreement shall be the sole property of the COUNTY; and may be used by the COUNTY for any purpose COUNTY deems to be appropriate, including, but not limit to, duplication and/or distribution within the COUNTY or to third parties. CONTRACTOR agrees not to release or circulate in whole or part such materials, reports or products without prior written authorization of the COUNTY.

**7. Conduct of CONTRACTOR**

7.1 The CONTRACTOR covenants that it presently has no interest, including, but not limited to, other projects or contracts, and shall not acquire any such interest, direct or indirect, which would conflict in any manner or degree with CONTRACTOR's performance under this Agreement. The CONTRACTOR further covenants that no person or subCONTRACTOR having any such interest shall be employed or retained by CONTRACTOR under this Agreement. The CONTRACTOR agrees to inform the COUNTY of all the CONTRACTOR's interests, if any, which are or may be perceived as incompatible with the COUNTY's interests.

7.2 The CONTRACTOR shall not, under circumstances which could be interpreted as an attempt to influence the recipient in the conduct of his/her duties, accept any gratuity or special favor from individuals or firms with whom the CONTRACTOR is doing business or proposing to do business, in accomplishing the work under this Agreement.

7.3 The CONTRACTOR or its employees shall not offer gifts, gratuity, favors, and entertainment directly or indirectly to COUNTY employees.

**8. Inspection of Service; Quality Control/Assurance**

8.1 All performance (which includes services, workmanship, materials, supplies and equipment furnished or utilized in the performance of this Agreement) shall be subject to inspection and test by the COUNTY or other regulatory agencies at all times. The CONTRACTOR shall provide adequate cooperation to any inspector or other COUNTY representative to permit him/her to determine the CONTRACTOR's conformity with the terms of this Agreement. If any services performed or products provided by CONTRACTOR are not in conformance with the terms of this Agreement, the COUNTY shall have the right to require the CONTRACTOR to perform the services or provide the products in conformance with the terms of the Agreement at no additional cost to the COUNTY. When the services to be performed or the products to be provided are of such nature that the difference cannot be corrected, the COUNTY shall have the right to: (1) require the CONTRACTOR immediately to take all necessary steps to ensure future performance in conformity with the terms of the Agreement; and/or (2) reduce the Agreement price to reflect the reduced value of the services performed or products provided. The COUNTY may also terminate this Agreement for default and charge to CONTRACTOR any costs incurred by the COUNTY because of the CONTRACTOR's failure to perform.

8.2 CONTRACTOR shall establish adequate procedures for self-monitoring and quality control and assurance to ensure proper performance under this Agreement; and shall permit a COUNTY

representative or other regulatory official to monitor, assess or evaluate CONTRACTOR's performance under this Agreement at any time upon reasonable notice to CONTRACTOR.

**9. Independent CONTRACTOR**

The CONTRACTOR is, for purposes relating to this Agreement, an independent CONTRACTOR and shall not be deemed an employee of the COUNTY. It is expressly understood and agreed that the CONTRACTOR (including its employees, agents and subCONTRACTORS) shall in no event be entitled to any benefits to which COUNTY employees are entitled, including but not limited to overtime, any retirement benefits, worker's compensation benefits, and injury leave or other leave benefits. There shall be no employer-employee relationship between the parties; and CONTRACTOR shall hold COUNTY harmless from any and all claims that may be made against COUNTY based upon any contention by a third party that an employer-employee relationship exists by reason of this Agreement. It is further understood and agreed by the parties that CONTRACTOR in the performance of this Agreement is subject to the control or direction of COUNTY merely as to the results to be accomplished and not as to the means and methods for accomplishing the results.

**10. Subcontract for Work or Services**

No contract shall be made by the CONTRACTOR with any other party for furnishing any of the work or services under this Agreement without the prior written approval of the COUNTY; but this provision shall not require the approval of contracts of employment between the CONTRACTOR and personnel assigned under this Agreement, or for parties named in the proposal and agreed to under this Agreement.

**11. Disputes**

**11.1** The parties shall attempt to resolve any disputes amicably at the working level. If that is not successful, the dispute shall be referred to the senior management of the parties. Any dispute relating to this Agreement, which is not resolved by the parties, shall be decided by the COUNTY's Purchasing Department's Compliance Contract Officer who shall furnish the decision in writing. The decision of the COUNTY's Compliance Contract Officer shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, capricious, arbitrary, or so grossly erroneous as necessarily to imply bad faith. The CONTRACTOR shall proceed diligently with the performance of this Agreement pending the resolution of a dispute.

**11.2** Prior to the filing of any legal action related to this Agreement, the parties shall be obligated to attend a mediation session in Riverside County before a neutral third party mediator. A second mediation

session shall be required if the first session is not successful. The parties shall share the cost of the mediations.

**12. Licensing and Permits**

CONTRACTOR shall comply with all State or other licensing requirements, including but not limited to the provisions of Chapter 9 of Division 3 of the Business and Professions Code. All licensing requirements shall be met at the time proposals are submitted to the COUNTY. CONTRACTOR warrants that it has all necessary permits, approvals, certificates, waivers and exemptions necessary for performance of this Agreement as required by the laws and regulations of the United States, the State of California, the County of Riverside and all other governmental agencies with jurisdiction, and shall maintain these throughout the term of this Agreement.

**13. Use By Other Political Entities**

The CONTRACTOR agrees to extend the same pricing, terms and conditions as stated in this Agreement to each and every political entity, special district, and related non-profit entity in Riverside County. It is understood that other entities shall make purchases in their own name, make direct payment, and be liable directly to the CONTRACTOR; and COUNTY shall in no way be responsible to CONTRACTOR for other entities' purchases.

**14. Non-Discrimination**

CONTRACTOR shall not be discriminate in the provision of services, allocation of benefits, accommodation in facilities, or employment of personnel on the basis of ethnic group identification, race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status or sex in the performance of this Agreement; and, to the extent they shall be found to be applicable hereto, shall comply with the provisions of the California Fair Employment and Housing Act (Gov. Code 12900 et. seq), the Federal Civil Rights Act of 1964 (P.L. 88-352), the Americans with Disabilities Act of 1990 (42 U.S.C. S1210 et seq.) and all other applicable laws or regulations.

**15. Records and Documents**

CONTRACTOR shall make available, upon written request by any duly authorized Federal, State or COUNTY agency, a copy of this Agreement and such books, documents and records as are necessary to certify the nature and extent of the CONTRACTOR's costs related to this Agreement. All such books, documents and records shall be maintained by CONTRACTOR for at least five years following termination

of this Agreement and be available for audit by the COUNTY. CONTRACTOR shall provide to the COUNTY reports and information related to this Agreement as requested by COUNTY.

**16. Confidentiality**

**16.1** The CONTRACTOR shall not use for personal gain or make other improper use of privileged or confidential information which is acquired in connection with this Agreement. The term "privileged or confidential information" includes but is not limited to: unpublished or sensitive technological or scientific information; medical, personnel, or security records; anticipated material requirements or pricing/purchasing actions; COUNTY information or data which is not subject to public disclosure; COUNTY operational procedures; and knowledge of selection of CONTRACTORS, subCONTRACTORS or suppliers in advance of official announcement.

**16.2** The CONTRACTOR shall protect from unauthorized disclosure names and other identifying information concerning persons receiving services pursuant to this Agreement, except for general statistical information not identifying any person. The CONTRACTOR shall not use such information for any purpose other than carrying out the CONTRACTOR's obligations under this Agreement. The CONTRACTOR shall promptly transmit to the COUNTY all third party requests for disclosure of such information. The CONTRACTOR shall not disclose, except as otherwise specifically permitted by this Agreement or authorized in advance in writing by the COUNTY, any such information to anyone other than the COUNTY. For purposes of this paragraph, identity shall include, but not be limited to, name, identifying number, symbol, or other identifying particular assigned to the individual, such as finger or voice print or a photograph.

**17. Administration/Contract Liaison**

The COUNTY Purchasing Agent, or designee, shall administer this Agreement on behalf of the COUNTY. The Purchasing Department is to serve as the liaison with CONTRACTOR in connection with this Agreement.



**18. Notices**

All correspondence and notices required or contemplated by this Agreement shall be delivered to the respective parties at the addresses set forth below and are deemed submitted two days after their deposit in the United States mail, postage prepaid:

**COUNTY OF RIVERSIDE**

County of Riverside Purchasing  
2980 Washington St.  
Riverside, CA 92504  
Attn: Debra Macias

**CONTRACTOR**

Phillips & Jordan  
25809 Business Center Dr., Suite A  
Redlands, CA 92374

**19. Force Majeure**

If either party is unable to comply with any provision of this Agreement due to causes beyond its reasonable control, and which could not have been reasonably anticipated, such as acts of God, acts of war, civil disorders, or other similar acts, such party shall not be held liable for such failure to comply.

**20. EDD Reporting Requirements**

In order to comply with child support enforcement requirements of the State of California, the COUNTY may be required to submit a Report of Independent CONTRACTOR(s) form **DE 542** to the Employment Development Department. The CONTRACTOR agrees to furnish the required data and certifications to the COUNTY within 10 days of notification of award of Agreement when required by the EDD. This data will be transmitted to governmental agencies charged with the establishment and enforcement of child support orders. Failure of the CONTRACTOR to timely submit the data and/or certificates required may result in the contract being awarded to another CONTRACTOR. In the event a contract has been issued, failure of the CONTRACTOR to comply with all federal and state reporting requirements for child support enforcement or to comply with all lawfully served Wage and Earnings Assignments Orders and Notices of Assignment shall constitute a material breach of Agreement. If CONTRACTOR has any questions concerning this reporting requirement, please call (916) 657-0529. CONTRACTOR should also contact its local Employment Tax Customer Service Office listed in the telephone directory in the State Government section under "Employment Development Department" or access their Internet site at [www.edd.ca.gov](http://www.edd.ca.gov).

**21. Hold Harmless/Indemnification**

**21.1** CONTRACTOR shall indemnify and hold harmless the County of Riverside, its Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives (individually and collectively hereinafter referred to as Indemnitees) from any liability whatsoever, based or asserted upon any services of CONTRACTOR, its officers, employees, subCONTRACTORS, agents or representatives arising out of or in any way relating to this Agreement, including but not limited to property damage, bodily injury, or death or any other element of any kind or nature whatsoever arising from the performance of CONTRACTOR, its officers, employees, subCONTRACTORS, agents or representatives Indemnitors from this Agreement. CONTRACTOR shall defend, at its sole expense, all costs and fees including, but not limited, to attorney fees, cost of investigation, defense and settlements or awards, the Indemnitees in any claim or action based upon such alleged acts or omissions.

**21.2** With respect to any action or claim subject to indemnification herein by CONTRACTOR, CONTRACTOR shall, at their sole cost, have the right to use counsel of their own choice and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of COUNTY; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes CONTRACTOR'S indemnification to Indemnitees as set forth herein.

**21.2** CONTRACTOR'S obligation hereunder shall be satisfied when CONTRACTOR has provided to COUNTY the appropriate form of dismissal relieving COUNTY from any liability for the action or claim involved.

**21.3** The specified insurance limits required in this Agreement shall in no way limit or circumscribe CONTRACTOR'S obligations to indemnify and hold harmless the Indemnitees herein from third party claims.

**21.4** In the event there is conflict between this clause and California Civil Code Section 2782, this clause shall be interpreted to comply with Civil Code 2782. Such interpretation shall not relieve the CONTRACTOR from indemnifying the Indemnitees to the fullest extent allowed by law.

**21.5** CONTRACTOR's indemnification obligations shall also apply to any action or claim regarding actual or alleged intellectual property infringement related to any material or product provided to COUNTY pursuant to this Agreement. In the event of any such action or claim, CONTRACTOR shall provide immediate notice to COUNTY of the action or claim. CONTRACTOR may defend or settle the action or claim as CONTRACTOR deems appropriate; however, CONTRACTOR shall be required to

obtain for COUNTY the right to continue to use the material or product (or a similar non-infringing material or product with the same function) on terms identical to those stated in this Agreement.

## **22. Insurance**

**22.1** Without limiting or diminishing the CONTRACTOR'S obligation to indemnify or hold the COUNTY harmless, CONTRACTOR shall procure and maintain or cause to be maintained, at its sole cost and expense, the following insurance coverage's during the term of this Agreement. As respects to the insurance section only, the COUNTY herein refers to the County of Riverside, its Agencies, Districts, Special Districts, and Departments, their respective directors, officers, Board of Supervisors, employees, elected or appointed officials, agents or representatives as Additional Insureds.

**22.2 Workers' Compensation:** If the CONTRACTOR has employees as defined by the State of California, the CONTRACTOR shall maintain statutory Workers' Compensation Insurance (Coverage A) as prescribed by the laws of the State of California. Policy shall include Employers' Liability (Coverage B) including Occupational Disease with limits not less than \$1,000,000 per person per accident. The policy shall be endorsed to waive subrogation in favor of the County of Riverside.

**22.3 Commercial General Liability:** Commercial General Liability insurance coverage, including but not limited to, premises liability, unmodified contractual liability, products and completed operations liability, personal and advertising injury, and cross liability coverage, covering claims which may arise from or out of CONTRACTOR'S performance of its obligations hereunder. Policy shall name the COUNTY as Additional Insured. Policy's limit of liability shall not be less than \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit.

**22.4 Vehicle Liability:** If vehicles or mobile equipment are used in the performance of the obligations under this Agreement, then CONTRACTOR shall maintain liability insurance for all owned, non-owned or hired vehicles so used in an amount not less than \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit. Policy shall name the COUNTY as Additional Insureds.

### **22.6 General Insurance Provisions - All lines:**

1) Any insurance carrier providing insurance coverage hereunder shall be admitted to the State of California and have an A M BEST rating of not less than A: VIII (A:8) unless such requirements are waived, in writing, by the County Risk Manager. If the County's Risk Manager waives a requirement for a particular insurer such waiver is only valid for that specific insurer and only for one policy term.

2) The CONTRACTOR must declare its insurance self-insured retention for each coverage required herein. If any such self-insured retention exceed \$500,000 per occurrence each such retention shall have the prior written consent of the County Risk Manager before the commencement of operations under this Agreement. Upon notification of self-insured retention unacceptable to the COUNTY, and at the election of the County's Risk Manager, CONTRACTOR'S carriers shall either; 1) reduce or eliminate such self-insured retention as respects this Agreement with the COUNTY, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, and defense costs and expenses.

3) CONTRACTOR shall cause CONTRACTOR'S insurance carrier(s) to furnish the County of Riverside with either 1) a properly executed original Certificate(s) of Insurance and certified original copies of Endorsements effecting coverage as required herein, and 2) if requested to do so orally or in writing by the County Risk Manager, provide original Certified copies of policies including all Endorsements and all attachments thereto, showing such insurance is in full force and effect. Further, said Certificate(s) and policies of insurance shall contain the covenant of the insurance carrier(s) that thirty (30) days written notice shall be given to the County of Riverside prior to any material modification, cancellation, expiration or reduction in coverage of such insurance. In the event of a material modification, cancellation, expiration, or reduction in coverage, this Agreement shall terminate forthwith, unless the County of Riverside receives, prior to such effective date, another properly executed original Certificate of Insurance and original copies of endorsements or certified original policies, including all endorsements and attachments thereto evidencing coverage's set forth herein and the insurance required herein is in full force and effect. ***CONTRACTOR shall not commence operations until the COUNTY has been furnished original Certificate (s) of Insurance and certified original copies of endorsements and if requested, certified original policies of insurance including all endorsements and any and all other attachments as required in this Section. An individual authorized by the insurance carrier to do so on its behalf shall sign the original endorsements for each policy and the Certificate of Insurance.***

4) It is understood and agreed to by the parties hereto that the CONTRACTOR'S insurance shall be construed as primary insurance, and the COUNTY'S insurance and/or deductibles and/or self-insured retention's or self-insured programs shall not be construed as contributory.

5) If, during the term of this Agreement or any extension thereof, there is a material change in the scope of services; or, there is a material change in the equipment to be used in the performance of the scope of work; or, the term of this Agreement, including any extensions thereof, exceeds five (5) years; the COUNTY reserves the right to adjust the types of insurance and the monetary limits of liability required

under this Agreement, if in the County Risk Manager's reasonable judgment, the amount or type of insurance carried by the CONTRACTOR has become inadequate.

6) CONTRACTOR shall pass down the insurance obligations contained herein to all tiers of subCONTRACTORS working under this Agreement.

7) The insurance requirements contained in this Agreement may be met with a program(s) of self-insurance acceptable to the COUNTY.

8) CONTRACTOR agrees to notify COUNTY of any claim by a third party or any incident or event that may give rise to a claim arising from the performance of this Agreement.

### **23. General**

**23.1** CONTRACTOR shall not delegate or assign any interest in this Agreement, whether by operation of law or otherwise, without the prior written consent of COUNTY. Any attempt to delegate or assign any interest herein shall be deemed void and of no force or effect.

**23.2** Any waiver by COUNTY of any breach of any one or more of the terms of this Agreement shall not be construed to be a waiver of any subsequent or other breach of the same or of any other term of this Agreement. Failure on the part of COUNTY to require exact, full and complete compliance with any terms of this Agreement shall not be construed as in any manner changing the terms or preventing COUNTY from enforcement of the terms of this Agreement.

**23.3** In the event the CONTRACTOR receives payment under this Agreement, which is later disallowed by COUNTY for nonconformance with the terms of the Agreement, the CONTRACTOR shall promptly refund the disallowed amount to the COUNTY on request; or at its option the COUNTY may offset the amount disallowed from any payment due to the CONTRACTOR.

**23.4** CONTRACTOR shall not provide partial delivery or shipment of services or products unless specifically stated in the Agreement.

**23.5** CONTRACTOR shall not provide any services or products subject to any chattel mortgage or under a conditional sales contract or other agreement by which an interest is retained by a third party. The CONTRACTOR warrants that it has good title to all materials or products used by CONTRACTOR or provided to COUNTY pursuant to this Agreement, free from all liens, claims or encumbrances.

**23.6** Nothing in this Agreement shall prohibit the COUNTY from acquiring the same type or equivalent equipment, products, materials or services from other sources, when deemed by the COUNTY to be in its best interest. The COUNTY reserves the right to purchase more or less than the quantities specified in this Agreement.

**23.7** The COUNTY agrees to cooperate with the CONTRACTOR in the CONTRACTOR's performance under this Agreement, including, if stated in the Agreement, providing the CONTRACTOR with reasonable facilities and timely access to COUNTY data, information, and personnel.

**23.8** CONTRACTOR shall comply with all applicable Federal, State and local laws and regulations. CONTRACTOR will comply with all applicable COUNTY policies and procedures. In the event that there is a conflict between the various laws or regulations that may apply, the CONTRACTOR shall comply with the more restrictive law or regulation.

**23.9** CONTRACTOR shall comply with all air pollution control, water pollution, safety and health ordinances, statutes, or regulations, which apply to performance under this Agreement.

**23.10** CONTRACTOR shall comply with all requirements of the Occupational Safety and Health Administration (OSHA) standards and codes as set forth by the U.S. Department of Labor and the State of California (Cal/OSHA).

**23.11** This Agreement shall be governed by the laws of the State of California. Any legal action related to the performance or interpretation of this Agreement shall be filed only in the Superior Court of the State of California located in Riverside, California, and the parties waive any provision of law providing for a change of venue to another location. In the event any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

**23.12** This Agreement, including any attachments or exhibits, constitutes the entire Agreement of the parties with respect to its subject matter and supersedes all prior and contemporaneous representations, proposals, discussions and communications, whether oral or in writing. This Agreement may be changed or modified only by a written amendment signed by authorized representatives of both parties.

**COUNTY:**

County of Riverside  
2980 Washington St.  
Riverside, CA 92504

**ATTEST:**

KECIA HARPER-IHEM, Clerk  
  
DEPUTY

Signature: \_\_\_\_\_

Print Name: Bob BusterTitle: Chairman, Board of Supervisors

Dated: \_\_\_\_\_

MAY 10 2011

FOR APPROVED COUNTY COUNSEL

BY: \_\_\_\_\_

NEAL R. KIPNIS

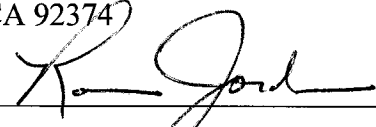
Page 15 of 16

RFP#

**CONTRACTOR:**

Phillips & Jordan  
25809 Business Center Dr., Suite A  
Redlands, CA 92374

Signature: \_\_\_\_\_

Print Name: Ronnie JordanTitle: Vice PresidentDated: April 29, 2011

MAY 10 2011

3.17

## EXHIBIT A SCOPE OF SERVICE

### 1. Requirements

1. The CONTRACTOR shall provide necessary personnel, equipment, and supplies to accomplish the requested weed abatement and related services within the County of Riverside.

2. The Riverside County Fire Department will provide the necessary weed abatement maps to accomplish the work upon contract award. The maps remain the property of the Fire Department and must be maintained in good condition.

3. The Fire Department will provide a field inspector who will be available to assist the CONTRACTOR in planning and outlining the required work.

### 2. **CONTRACTOR shall**

#### 1. Disking

Weed abatement by disking shall be accomplished by cultivating with a double-throw disk at sufficient depth turning and loosening the soil, placing all weeds under the soil surface. Disking is the plowing of weeds using reasonable care so as to not disturb under/over ground utilities, destruction to fencing, buildings, equipment, supplies or adjoining land, including fire due to reckless/negligent plowing of land. The requirement for the finished product shall be clearance between the property that has the debris and other adjoining parcels of land.

**a. Cross Disking-** Where the nature of the soil is such that it is not receptive to the cutting edge of the disks the area shall be cross-disked to reduce the magnitude of any exposed combustibles.

**b. Dust Control-** The CONTRACTOR accepts sole responsibility to comply with Federal, State and Local laws, Regulations and Ordinances including but not limited to South Coast Air Quality Management Division (SCAQMD) Rule 403. This standard exempts CONTRACTORS from dust control measures if contracted with the Riverside County Fire Department.

### 3. Standard for Clearing

Clearing of land shall be done in accordance with Riverside County Ordinance No. 695.4 unless superseded by ordinance revision.

1. CONTRACTOR's agree to furnish tractors, disks and mowers in all areas suitable to complete the job of disking property. The CONTRACTOR agrees to provide transportation to and from job sites, for their equipment and all necessary fuel, etc., at his/her expense. Standard for clearing will be as assigned by the Hazard Reduction Office to include disking, mowing, hand labor or a combination thereof. **The mowing height shall be three (3) inches or less. Disk and mow rate include any handwork required to remove hazards along fence lines, around trees, etc. All rates include any hauling or disposal fees.**
2. CONTRACTORS may be used in tumbleweed abatement in all ten areas.
3. CONTRACTORS agree to have equipment and personnel (labor) to work all areas quoted. See maps for location of areas. **ALL EQUIPMENT LISTED WILL BE VISUALLY INSPECTED AND APPROVED BY THE FIRE DEPARTMENT PRIOR TO USE.**
4. CONTRACTORS agree, at his/her own expense submit **a minimum of four (4) 4" x 6" digital photographs.** Two (2) photographs are "before" pictures and two (2) are "after" pictures. The pictures must contain the following: **identify the APN, date/time, the word "before" or "after" written on a white board and CONTRACTOR's business name.** CONTRACTOR's photographs will be given to the inspectors as verification that the job has been completed. **Larger parcels will require more than four (4) 4"x6" photos. . CONTRACTOR(s) shall**

**deliver additional copies of all photographs to the County on formatted compact disk(s), each compact disc will be specific to book or portion thereof completed.** The photographs must be received within two (2) weeks of completion of the job. Photos shall be submitted in a standard 6"x9" Manila Envelope. Envelopes shall be provided at CONTRACTOR's expense. It is required that digital photographs be used to ensure that photographs include digital date and time and are clear enough to use as evidence of completion of work. **CONTRACTORS will not be paid for their services until these photographs have been provided and accepted as satisfactory work by the Fire Department.**

3. County shall provide the CONTRACTOR with a written job assignment sheet of the job site at the time of the job walk for the lot size, cost, type of cleaning and brush size. For parcels requiring payment for hand cleaning a CONTRACTOR signature will be required. The signature is to ensure CONTRACTOR understands the work to be performed and the cost associated. Once the job has been completed, the CONTRACTOR must provide detailed pictures of the job site(s) as specified in section (4).
4. **The successful CONTRACTOR(s) shall not miss more than two (2) consecutive days or not more than five (5) days out of twenty (20) days, when work has been assigned, regardless of the reason (i.e. equipment failure, illness, etc.).** The CONTRACTOR(s) shall work with inspectors on completion of work under certain weather conditions. Each book or portion of shall be completed within 20 working days, excluding weather and fire conditions. Acceptable workday for the CONTRACTOR is a minimum of eight (8) hours.
5. The CONTRACTOR's will be required to provide all services within forty-eight hours of notification of a need for these services. If the CONTRACTOR's cannot provide these services within this time frame due to equipment breakdown, over-scheduling, etc., the COUNTY will contact the next vendor based on a standard rotation method.

**Liquidated Damages (Fine for failure to complete work by specified date)**

Pursuant to Government Code Section 53069.85 ~~95 (Exhibit G)~~, CONTRACTOR agrees that two hundred and fifty dollars (\$250.00) for each working day beyond the specified cleaning period required to complete the work is a fair and reasonable estimate of the damages which the COUNTY will suffer because of the CONTRACTOR's delay; therefore, it is agreed by both parties hereto and said amount shall be charged against the CONTRACTOR's and shall be deducted as liquidated damages from any amount due him/her under this contract if work is not completed on schedule.

**Unsatisfactory Performance Provision**

The Riverside County fire Chief or his designee shall inspect the work and judge the performance of the CONTRACTOR(s) pursuant to all Weed/Vegetation Abatement Work. If the contract work is incomplete and/or unsatisfactory; the CONTRACTOR fails to provide the services specified in the schedule supplied by the Riverside County Fire Inspector; or if a lesser number of hours of service than eight (8) hours per day and forty hours per week is provided by the CONTRACTOR, the amount payable under the contract shall be reduced by \$19.00 per hour, per each County Inspector involved to correct the problem or major fraction of an hour that service is provided. This provision shall apply to any down-time on the part of the CONTRACTOR(s), when performance deficiencies exceed 15% of the work scheduled in any given day, based on an eight (8) hour work day, regardless of its origin (including, but not limited to, lack of sufficient manpower, machinery or parts, equipment failure, absence of supervisory personnel or inadequate replace for equipment or manpower, unless the deficiency is the direct result of an act of God, i.e., rain, fire, flood, and determined by the Riverside County Fire Captain.



6. CONTRACTOR(s) shall not work outside the scope of this RFP, without the written authorization from the Fire Department. The only equipment allowed would be the exception of those areas, which require a mower (see block A). The Fire Department will advise the successful CONTRACTOR(s) where the mowing will be allowed. **Use of non-authorized equipment and /or methods will result in nonpayment by the County** and the CONTRACTOR may be held liable for any damages incurred.
7. Where there are locked gates to the property, the CONTRACTOR(s) will be given instructions on how to enter the property. **The CONTRACTOR(s) will be responsible for any damage done not in accordance to given instructions. All services must be coordinated through the Fire Prevention Inspector and performed during the hours of 7:00 a.m. to 4:00 p.m. Monday through Friday, excluding holidays/weekends unless otherwise authorized by the County.**
8. CONTRACTOR shall be paid rounded to the nearest 1 acre. Handwork shall be a minimum per parcel price using sq. footage cost for brush category type. If the sq. footage exceeds the cost per sq ft cost for brush category type will be used. .
9. **SCAQMD RULE 403 Exemptions**  
The provisions of the Rule (403) shall not apply to:  
(H) Weed abatement operations ordered by a County agricultural commissioner or State, County, or Municipal Fire Department, provided that:
  - a. Mowing, cutting, or other similar process is used which maintains weed stubble at three (3) inches above soil; and
  - b. Any disking or similar operation which cuts into and disturbs the soil, where watering is used prior to initiation of these activities and a determination is made by the agency issuing the weed abatement order that due to fire hazard conditions, rocks, or other physical obstruction it is not practical to meet the conditions specified in SCAQMD rule 403 clause (g), (H), (i). the provisions of this clause shall not exempt the owner of any property from stabilizing, in accordance with paragraph (d) (2), disturbed surface areas, which have been created as a result of weed abatement actions.

#### 4. **Hand Cleaning and Hauling**

Whenever it is impractical by reason of topography, location of trees, sprinkler systems, shrubbery, buildings, fences or type of vegetation cover to disk and when authorized by the County Fire Chief or his representatives as set forth in Ordinance 695.4 unless superseded by ordinance revision the vegetation shall be removed or thinned **by hand labor**. The Inspector will specify the degree of hand labor to be accomplished on any parcel based upon square footage. The minimum requirement is clearing between the property line that has the debris and the improved parcel(s) of land. Dirt or mowed down materials shall have stubble no greater than 3 inches in height per the Public Resources and Health and Safety Code. Handwork classes include: 1) light grass, 2) medium brush (four (4) feet and under) and 3) heavy brush (more than four (4) feet).

#### 5. **Standard for Cleaning**

A contract for hand cleaning with the Riverside County will be for the sole purpose of weed abatement. The inspections and notification of the property owners will be done by the Fire Department.

1. A minimum of a two (2) person hand-crew with CONTRACTORs supervision or designee, transportation and tools shall be available at all times. Additional crewmembers may be necessary to complete the work. CONTRACTOR must have sufficient additional resources available for

additional work requirements as requested by the COUNTY.

2. Payments for hand-labor shall be based on measurements, to the actual square feet, taken by the Inspector and the CONTRACTOR. The unit price for hand cleaning shall include full compensation for furnishing all labor, materials, tools and equipments for cutting the weeds, loading the materials into trucks and hauling them to a COUNTY disposal site.
3. 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, and all disposal fees. All materials hauled to the approved site shall be covered according to local codes.
4. Some parcels will may require **partial cleaning**. That area which is cleaned will be measured and applicable unit rate will apply. The Inspector may assign partial cleaning projects.
5. If it were determined by the Fire Department that a **second cleaning** or partial cleaning is necessary, the work would occur at any time. The existing rates would apply and the CONTRACTOR(s) shall be prepared to start work upon 48 hours notice.
6. The CONTRACTOR(s) shall furnish all hand tools, power equipment and safety equipment necessary to accomplish the specified work. The Hand-crew Supervisor will stock spare replacement parts that commonly fail or are lost. All supervisors will have portable water readily available at all times for each crewmember.
7. Gas Weed eaters with adequate supplies and parts for repairs must be supplied for hand crews. Each hand- crew must have minimum of one (1) gas powered weed eater for every two men: for example: a four (4) man crew must be supplied with a minimum of two (2) weed eaters, etc. A sufficient reserve of weed eaters shall be available to eliminate down time.
8. The material cut down by hand labor **shall be hauled away to a lawful dumpsite and lawfully disposed of at CONTRACTOR's expense..** The loading of debris removed from the lot is to be accomplished as cleaning is completed. **No materials will be left on the lot for later pick up,** as this would not remove the fire hazard. Under certain circumstances with prior approval by the Fire Department cut down material may disposed of by disking under.
9. Suitable flatbed hydraulic dump trucks or trailers with high sides for hauling are to be provided throughout the handwork operation and is to be operated and maintained at the expense of the CONTRACTOR. All trimmings and rubbish shall be hauled to a lawful dumpsite and lawfully disposed of at the CONTRACTOR's expense.

**ALL EQUIPMENT WILL BE SUBJECT TO VISUAL INSPECTION BY THE FIRE DEPARTMENT PRIOR TO WEED ABATEMENT.**

## 6. Additional Terms and Conditions

It will be the responsibility of the CONTRACTOR(s) to keep an accurate account of the names of his/her employees as well as the dates, locations, and the type of work they perform. This information must be submitted to the Riverside County Fire Department upon request.

1. All personnel (labor) will be furnished by the CONTRACTOR(s). Each worker will be able to perform his/her duties in a manner that will not endanger the employees' health or safety or the health and safety of others and be attired with appropriate protective clothing and footwear. The CONTRACTOR(s) will furnish gloves, safety glasses, hearing protection, and any other safety equipment that is necessary for this type of work. The CONTRACTOR(s) shall provide safe and healthful working conditions and transport equipment and shall at all times comply with OSHA requirements. All trucks shall be equipped with rear flashing amber warning lights and traffic control cones.
2. All handwork will be completed within a time frame specified by the inspector. This time frame will be based on the amount of work to be accomplished.
3. Proof of insurance will be provided (including but not limited to General liability, Auto, Workers' Compensation, Wavier of Subrogation and Endorsements, all naming the County of Riverside as "additional insured") by the CONTRACTOR prior to any work being started and shall remain in effect through the term of this contract.
4. No employee drinking alcohol or under the influence of alcohol and/or drugs shall be allowed to participate in the performance of this contract, nor shall any employee bring alcohol and/or drugs onto the work location covered in this contract. The CONTRACTOR(s) agree to remove immediately and replace any employee whose conduct and/or workmanship are in any way unsatisfactory to the County.
5. The CONTRACTOR(s) at his/her own expense will furnish supervision of hand-crews. All supervisors and lead personnel must be able to communicate (speak, read, and write) with the inspector in the English language.
6. The work, labor and/or materials which the bidder proposed to furnish to the COUNTY **must** comply in all respects with the appropriate equipment and safety regulations of all Federal, State and Local regulatory commissions whether such equipment and/or safety features have been specifically outlined/required this RFP or not.
7. All cleaning must meet the specification of the Riverside County Fire Department and must be approved in writing by the Fire Department Inspector.
8. The CONTRACTOR(s) shall accept sole responsibility for compliance with Federal, State and Local laws, regulations and ordinances including but not limited to South Coast Air Quality Management (SCAQMD) Division Rule 403/ See exemptions outlined on Page 7 of this RFP.

The amount of work and type of work to be performed shall be under the direction of and only with the authorization of the Riverside County Fire Department, contact information to be provided after award.

**EXHIBIT B  
PAYMENT PROVISIONS**

**Mowing and Disking – flat rate of \$130.00 per acre rounded to the nearest acre**

**Hand Cleaning based on Actual Square Feet of Work Completed**

Minimum \$130.00 per parcel using sq. ft. cost for fuel class if exceeds: \$0.03 sq. ft (Light=grass)

Minimum \$130.00 per parcel using sq. ft cost for fuel class if exceeds: \$0.05 sq/ ft. (Medium=brush 4ft. & under)

Minimum \$130.00 per parcel using sq. ft. cost for fuel class if exceeds: \$0.07 sq. ft. (Heavy=brush over 4ft.)

Minimum \$130.00 per parcel using sq. ft. cost for fuel class if exceeds: \$0.12 sq. ft, (Extremely Heavy Brush that is due to size, type, density, terrain is impossible to mow, disc, string trim, or other hand labor methods are impractical for clearance)

**PROFESSIONAL SERVICE AGREEMENT**

**for**

**WEED ABATEMENT SERVICES**

**between**

**COUNTY OF RIVERSIDE**

**and**

**SCOTT TRACTOR SERVICES**



**TABLE OF CONTENTS**

<b><u>SECTION HEADING</u></b>	<b><u>PAGE NUMBER</u></b>
1. Description of Services .....	3
2. Period of Performance.....	3
3. Compensation.....	3-4
4. Alteration or Changes to the Agreement .....	4-5
5. Termination .....	5
6. Ownership/Use of Contract Materials and Products .....	5
7. Conduct of CONTRACTOR.....	6
8. Inspection of Service: Quality Control/Assurance .....	6-7
9. Independent CONTRACTOR .....	7
10. Subcontract for Work or Services .....	7
11. Disputes .....	7-8
12. Licensing and Permits .....	8
13. Use by Other Political Entities .....	8
14. Non-Discrimination .....	8
15. Records and Documents .....	8-9
16. Confidentiality .....	9
17. Administration/Contract Liaison.....	9
18. Notices .....	10
19. Force Majeure .....	10
20. EDD Reporting Requirements.....	10
21. Hold Harmless/Indemnification .....	11-12
22. Insurance .....	12-14
23. General .....	14-15
Exhibit A-Scope of Service .....	16-20
Exhibit B- Payment Provisions.....	21

This Agreement, made and entered into this 10<sup>TH</sup> day of May, 2011, by and between Scott Tractor Services (herein referred to as "CONTRACTOR"), and the COUNTY OF RIVERSIDE, a political subdivision of the State of California, (herein referred to as "COUNTY"). The parties agree as follows:

**1. Description of Services**

**1.1** CONTRACTOR shall provide all services as outlined and specified in Exhibit A, Scope of Services, consisting 16 through 20 pages at the prices stated in Exhibit B, Payment Provisions, consisting of page 21..

**1.2** CONTRACTOR represents that it has the skills, experience and knowledge necessary to fully and adequately perform under this Agreement and the COUNTY relies upon this representation. CONTRACTOR shall perform to the satisfaction of the COUNTY and in conformance to and consistent with the highest standards of firms/professionals in the same discipline in the State of California.

**1.3** CONTRACTOR affirms this it is fully apprised of all of the work to be performed under this Agreement; and the CONTRACTOR agrees it can properly perform this work at the prices stated in Exhibit B. CONTRACTOR is not to perform services or provide products outside of the Agreement.

**1.4** Acceptance by the COUNTY of the CONTRACTOR's performance under this Agreement does not operate as a release of CONTRACTOR's responsibility for full compliance with the terms of this Agreement.

**2. Period of Performance**

**2.1** This Agreement shall be effective upon signature of this Agreement by both parties and continue in effect through May 10<sup>th</sup> 2011 with the option to renew for four (4) additional years, renewable in one (1) year increments by written amendment, unless terminated earlier. CONTRACTOR shall commence performance upon signature of this Agreement by both parties and shall diligently and continuously perform thereafter.

**3. Compensation**

**3.1** The COUNTY shall pay the CONTRACTOR for services performed, products provided and expenses incurred in accordance with the terms of Exhibit B, Payment Provisions. Maximum payments by COUNTY to CONTRACTOR shall not exceed \$100,000.00 annually including all expenses. Service by area shall be based upon a standard rotation. The rotation will be initially established by a method in which every CONTRACTOR will have the opportunity to obtain a minimum of one area. The COUNTY is not responsible for any fees or costs incurred above or beyond the contracted amount and shall have no obligation to purchase any specified amount of services or products. Unless otherwise specifically stated in

Exhibit B, COUNTY shall not be responsible for payment of any of CONTRACTOR's expenses related to this Agreement.

**3.3** CONTRACTOR shall be paid only in accordance with an invoice submitted to COUNTY by CONTRACTOR within fifteen (15) days from the last day of each calendar month, and COUNTY shall pay the invoice within thirty (30) working days from the date of receipt of the invoice. Payment shall be made to CONTRACTOR only after services have been rendered or delivery of materials or products, and acceptance has been made by COUNTY. Prepare invoices in duplicate. For this Agreement, send the original and duplicate copies of invoices to:

Riverside County Fire Department  
210 W. San Jacinto  
Perris, CA 92570

- a) Each invoice shall contain a minimum of the following information: invoice number and date; remittance address; bill-to and ship-to addresses of ordering department/division; Agreement number FPARC-98889-001-05/12 quantities; item descriptions, unit prices, extensions, sales/use tax if applicable, and an invoice total.
- b) Invoices shall be rendered monthly in arrears.

**3.4** The COUNTY obligation for payment of this Agreement beyond the current fiscal year end is contingent upon and limited by the availability of COUNTY funding from which payment can be made. No legal liability on the part of the COUNTY shall arise for payment beyond June 30 of each calendar year unless funds are made available for such payment. In the event that such funds are not forthcoming for any reason, COUNTY shall immediately notify CONTRACTOR in writing; and this Agreement shall be deemed terminated, have no further force, and effect.

#### **4. Alteration or Changes to the Agreement**

**4.1** The Board of Supervisors and the COUNTY Purchasing Agent and/or his designee is the only authorized COUNTY representatives who may at any time, by written order, alter this Agreement. If any such alteration causes an increase or decrease in the cost of, or the time required for the performance under this Agreement, an equitable adjustment shall be made in the Agreement price or delivery schedule, or both, and the Agreement shall be modified by written amendment accordingly.

**4.2** Any claim by the CONTRACTOR for additional payment related to this Agreement shall be made in writing by the CONTRACTOR within 30 days of when the CONTRACTOR has or should have notice of any actual or claimed change in the work, which results in additional and unanticipated cost to the CONTRACTOR. If the COUNTY Purchasing Agent decides that the facts provide sufficient justification, he may authorize additional payment to the CONTRACTOR pursuant to the claim. Nothing in this section



shall excuse the CONTRACTOR from proceeding with performance of the Agreement even if there has been a change.

**5. Termination**

5.1. COUNTY may terminate this Agreement without cause upon 30 days written notice served upon the CONTRACTOR stating the extent and effective date of termination.

5.2 COUNTY may, upon five (5) days written notice, terminate this Agreement for CONTRACTOR's default, if CONTRACTOR refuses or fails to comply with the terms of this Agreement or fails to make progress to endanger performance and does not immediately cure such failure. In the event of such termination, the COUNTY may proceed with the work in any manner deemed proper by COUNTY.

5.3 After receipt of the notice of termination, CONTRACTOR shall:

- (a) Stop all work under this Agreement on the date specified in the notice of termination; and
- (b) Transfer to COUNTY and deliver in the manner as directed by COUNTY any materials, reports or other products, which, if the Agreement had been completed or continued, would have been required to be furnished to COUNTY.

5.4 After termination, COUNTY shall make payment only for CONTRACTOR's performance up to the date of termination in accordance with this Agreement and at the rates set forth in Exhibit B.

5.5 CONTRACTOR's rights under this Agreement shall terminate (except for fees accrued prior to the date of termination) upon dishonesty or a willful or material breach of this Agreement by CONTRACTOR; or in the event of CONTRACTOR's unwillingness or inability for any reason whatsoever to perform the terms of this Agreement. In such event, CONTRACTOR shall not be entitled to any further compensation under this Agreement.

5.6 The rights and remedies of COUNTY provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or this Agreement.

**6. Ownership/Use of Contract Materials and Products**

The CONTRACTOR agrees that all materials, reports or products in any form, including electronic, created by CONTRACTOR for which CONTRACTOR has been compensated by COUNTY pursuant to this Agreement shall be the sole property of the COUNTY; and may be used by the COUNTY for any purpose COUNTY deems to be appropriate, including, but not limit to, duplication and/or distribution within the COUNTY or to third parties. CONTRACTOR agrees not to release or circulate in whole or part such materials, reports or products without prior written authorization of the COUNTY.

**7. Conduct of CONTRACTOR**

**7.1** The CONTRACTOR covenants that it presently has no interest, including, but not limited to, other projects or contracts, and shall not acquire any such interest, direct or indirect, which would conflict in any manner or degree with CONTRACTOR's performance under this Agreement. The CONTRACTOR further covenants that no person or subCONTRACTOR having any such interest shall be employed or retained by CONTRACTOR under this Agreement. The CONTRACTOR agrees to inform the COUNTY of all the CONTRACTOR's interests, if any, which are or may be perceived as incompatible with the COUNTY's interests.

**7.2** The CONTRACTOR shall not, under circumstances which could be interpreted as an attempt to influence the recipient in the conduct of his/her duties, accept any gratuity or special favor from individuals or firms with whom the CONTRACTOR is doing business or proposing to do business, in accomplishing the work under this Agreement.

**7.3** The CONTRACTOR or its employees shall not offer gifts, gratuity, favors, and entertainment directly or indirectly to COUNTY employees.

**8. Inspection of Service; Quality Control/Assurance**

**8.1** All performance (which includes services, workmanship, materials, supplies and equipment furnished or utilized in the performance of this Agreement) shall be subject to inspection and test by the COUNTY or other regulatory agencies at all times. The CONTRACTOR shall provide adequate cooperation to any inspector or other COUNTY representative to permit him/her to determine the CONTRACTOR's conformity with the terms of this Agreement. If any services performed or products provided by CONTRACTOR are not in conformance with the terms of this Agreement, the COUNTY shall have the right to require the CONTRACTOR to perform the services or provide the products in conformance with the terms of the Agreement at no additional cost to the COUNTY. When the services to be performed or the products to be provided are of such nature that the difference cannot be corrected, the COUNTY shall have the right to: (1) require the CONTRACTOR immediately to take all necessary steps to ensure future performance in conformity with the terms of the Agreement; and/or (2) reduce the Agreement price to reflect the reduced value of the services performed or products provided. The COUNTY may also terminate this Agreement for default and charge to CONTRACTOR any costs incurred by the COUNTY because of the CONTRACTOR's failure to perform.

**8.2** CONTRACTOR shall establish adequate procedures for self-monitoring and quality control and assurance to ensure proper performance under this Agreement; and shall permit a COUNTY

representative or other regulatory official to monitor, assess or evaluate CONTRACTOR's performance under this Agreement at any time upon reasonable notice to CONTRACTOR.

**9. Independent CONTRACTOR**

The CONTRACTOR is, for purposes relating to this Agreement, an independent CONTRACTOR and shall not be deemed an employee of the COUNTY. It is expressly understood and agreed that the CONTRACTOR (including its employees, agents and subCONTRACTORs) shall in no event be entitled to any benefits to which COUNTY employees are entitled, including but not limited to overtime, any retirement benefits, worker's compensation benefits, and injury leave or other leave benefits. There shall be no employer-employee relationship between the parties; and CONTRACTOR shall hold COUNTY harmless from any and all claims that may be made against COUNTY based upon any contention by a third party that an employer-employee relationship exists by reason of this Agreement. It is further understood and agreed by the parties that CONTRACTOR in the performance of this Agreement is subject to the control or direction of COUNTY merely as to the results to be accomplished and not as to the means and methods for accomplishing the results.

**10. Subcontract for Work or Services**

No contract shall be made by the CONTRACTOR with any other party for furnishing any of the work or services under this Agreement without the prior written approval of the COUNTY; but this provision shall not require the approval of contracts of employment between the CONTRACTOR and personnel assigned under this Agreement, or for parties named in the proposal and agreed to under this Agreement.

**11. Disputes**

**11.1** The parties shall attempt to resolve any disputes amicably at the working level. If that is not successful, the dispute shall be referred to the senior management of the parties. Any dispute relating to this Agreement, which is not resolved by the parties, shall be decided by the COUNTY's Purchasing Department's Compliance Contract Officer who shall furnish the decision in writing. The decision of the COUNTY's Compliance Contract Officer shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, capricious, arbitrary, or so grossly erroneous as necessarily to imply bad faith. The CONTRACTOR shall proceed diligently with the performance of this Agreement pending the resolution of a dispute.

**11.2** Prior to the filing of any legal action related to this Agreement, the parties shall be obligated to attend a mediation session in Riverside County before a neutral third party mediator. A second mediation

session shall be required if the first session is not successful. The parties shall share the cost of the mediations.

**12. Licensing and Permits**

CONTRACTOR shall comply with all State or other licensing requirements, including but not limited to the provisions of Chapter 9 of Division 3 of the Business and Professions Code. All licensing requirements shall be met at the time proposals are submitted to the COUNTY. CONTRACTOR warrants that it has all necessary permits, approvals, certificates, waivers and exemptions necessary for performance of this Agreement as required by the laws and regulations of the United States, the State of California, the County of Riverside and all other governmental agencies with jurisdiction, and shall maintain these throughout the term of this Agreement.

**13. Use By Other Political Entities**

The CONTRACTOR agrees to extend the same pricing, terms and conditions as stated in this Agreement to each and every political entity, special district, and related non-profit entity in Riverside County. It is understood that other entities shall make purchases in their own name, make direct payment, and be liable directly to the CONTRACTOR; and COUNTY shall in no way be responsible to CONTRACTOR for other entities' purchases.

**14. Non-Discrimination**

CONTRACTOR shall not be discriminate in the provision of services, allocation of benefits, accommodation in facilities, or employment of personnel on the basis of ethnic group identification, race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status or sex in the performance of this Agreement; and, to the extent they shall be found to be applicable hereto, shall comply with the provisions of the California Fair Employment and Housing Act (Gov. Code 12900 et. seq), the Federal Civil Rights Act of 1964 (P.L. 88-352), the Americans with Disabilities Act of 1990 (42 U.S.C. S1210 et seq.) and all other applicable laws or regulations.

**15. Records and Documents**

CONTRACTOR shall make available, upon written request by any duly authorized Federal, State or COUNTY agency, a copy of this Agreement and such books, documents and records as are necessary to certify the nature and extent of the CONTRACTOR's costs related to this Agreement. All such books, documents and records shall be maintained by CONTRACTOR for at least five years following termination

of this Agreement and be available for audit by the COUNTY. CONTRACTOR shall provide to the COUNTY reports and information related to this Agreement as requested by COUNTY.

**16. Confidentiality**

**16.1** The CONTRACTOR shall not use for personal gain or make other improper use of privileged or confidential information which is acquired in connection with this Agreement. The term "privileged or confidential information" includes but is not limited to: unpublished or sensitive technological or scientific information; medical, personnel, or security records; anticipated material requirements or pricing/purchasing actions; COUNTY information or data which is not subject to public disclosure; COUNTY operational procedures; and knowledge of selection of CONTRACTORS, subCONTRACTORS or suppliers in advance of official announcement.

**16.2** The CONTRACTOR shall protect from unauthorized disclosure names and other identifying information concerning persons receiving services pursuant to this Agreement, except for general statistical information not identifying any person. The CONTRACTOR shall not use such information for any purpose other than carrying out the CONTRACTOR's obligations under this Agreement. The CONTRACTOR shall promptly transmit to the COUNTY all third party requests for disclosure of such information. The CONTRACTOR shall not disclose, except as otherwise specifically permitted by this Agreement or authorized in advance in writing by the COUNTY, any such information to anyone other than the COUNTY. For purposes of this paragraph, identity shall include, but not be limited to, name, identifying number, symbol, or other identifying particular assigned to the individual, such as finger or voice print or a photograph.

**17. Administration/Contract Liaison**

The COUNTY Purchasing Agent, or designee, shall administer this Agreement on behalf of the COUNTY. The Purchasing Department is to serve as the liaison with CONTRACTOR in connection with this Agreement.

**18. Notices**

All correspondence and notices required or contemplated by this Agreement shall be delivered to the respective parties at the addresses set forth below and are deemed submitted two days after their deposit in the United States mail, postage prepaid:

**COUNTY OF RIVERSIDE**

County of Riverside Purchasing  
2980 Washington St.  
Riverside, CA 92504  
Attn: Debra Macias

**CONTRACTOR**

Scott Tractor Services  
P.O. Box 478  
Bloomington, CA 92316

**19. Force Majeure**

If either party is unable to comply with any provision of this Agreement due to causes beyond its reasonable control, and which could not have been reasonably anticipated, such as acts of God, acts of war, civil disorders, or other similar acts, such party shall not be held liable for such failure to comply.

**20. EDD Reporting Requirements**

In order to comply with child support enforcement requirements of the State of California, the COUNTY may be required to submit a Report of Independent CONTRACTOR(s) form **DE 542** to the Employment Development Department. The CONTRACTOR agrees to furnish the required data and certifications to the COUNTY within 10 days of notification of award of Agreement when required by the EDD. This data will be transmitted to governmental agencies charged with the establishment and enforcement of child support orders. Failure of the CONTRACTOR to timely submit the data and/or certificates required may result in the contract being awarded to another CONTRACTOR. In the event a contract has been issued, failure of the CONTRACTOR to comply with all federal and state reporting requirements for child support enforcement or to comply with all lawfully served Wage and Earnings Assignments Orders and Notices of Assignment shall constitute a material breach of Agreement. If CONTRACTOR has any questions concerning this reporting requirement, please call (916) 657-0529. CONTRACTOR should also contact its local Employment Tax Customer Service Office listed in the telephone directory in the State Government section under "Employment Development Department" or access their Internet site at [www.edd.ca.gov](http://www.edd.ca.gov).

**21. Hold Harmless/Indemnification**

**21.1** CONTRACTOR shall indemnify and hold harmless the County of Riverside, its Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives (individually and collectively hereinafter referred to as Indemnitees) from any liability whatsoever, based or asserted upon any services of CONTRACTOR, its officers, employees, subCONTRACTORS, agents or representatives arising out of or in any way relating to this Agreement, including but not limited to property damage, bodily injury, or death or any other element of any kind or nature whatsoever arising from the performance of CONTRACTOR, its officers, employees, subCONTRACTORS, agents or representatives Indemnitors from this Agreement. CONTRACTOR shall defend, at its sole expense, all costs and fees including, but not limited, to attorney fees, cost of investigation, defense and settlements or awards, the Indemnitees in any claim or action based upon such alleged acts or omissions.

**21.2** With respect to any action or claim subject to indemnification herein by CONTRACTOR, CONTRACTOR shall, at their sole cost, have the right to use counsel of their own choice and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of COUNTY; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes CONTRACTOR'S indemnification to Indemnitees as set forth herein.

**21.2** CONTRACTOR'S obligation hereunder shall be satisfied when CONTRACTOR has provided to COUNTY the appropriate form of dismissal relieving COUNTY from any liability for the action or claim involved.

**21.3** The specified insurance limits required in this Agreement shall in no way limit or circumscribe CONTRACTOR'S obligations to indemnify and hold harmless the Indemnitees herein from third party claims.

**21.4** In the event there is conflict between this clause and California Civil Code Section 2782, this clause shall be interpreted to comply with Civil Code 2782. Such interpretation shall not relieve the CONTRACTOR from indemnifying the Indemnitees to the fullest extent allowed by law.

**21.5** CONTRACTOR's indemnification obligations shall also apply to any action or claim regarding actual or alleged intellectual property infringement related to any material or product provided to COUNTY pursuant to this Agreement. In the event of any such action or claim, CONTRACTOR shall provide immediate notice to COUNTY of the action or claim. CONTRACTOR may defend or settle the action or claim as CONTRACTOR deems appropriate; however, CONTRACTOR shall be required to

obtain for COUNTY the right to continue to use the material or product (or a similar non-infringing material or product with the same function) on terms identical to those stated in this Agreement.

## **22. Insurance**

**22.1** Without limiting or diminishing the CONTRACTOR'S obligation to indemnify or hold the COUNTY harmless, CONTRACTOR shall procure and maintain or cause to be maintained, at its sole cost and expense, the following insurance coverage's during the term of this Agreement. As respects to the insurance section only, the COUNTY herein refers to the County of Riverside, its Agencies, Districts, Special Districts, and Departments, their respective directors, officers, Board of Supervisors, employees, elected or appointed officials, agents or representatives as Additional Insureds.

**22.2 Workers' Compensation:** If the CONTRACTOR has employees as defined by the State of California, the CONTRACTOR shall maintain statutory Workers' Compensation Insurance (Coverage A) as prescribed by the laws of the State of California. Policy shall include Employers' Liability (Coverage B) including Occupational Disease with limits not less than \$1,000,000 per person per accident. The policy shall be endorsed to waive subrogation in favor of the County of Riverside.

**22.3 Commercial General Liability:** Commercial General Liability insurance coverage, including but not limited to, premises liability, unmodified contractual liability, products and completed operations liability, personal and advertising injury, and cross liability coverage, covering claims which may arise from or out of CONTRACTOR'S performance of its obligations hereunder. Policy shall name the COUNTY as Additional Insured. Policy's limit of liability shall not be less than \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit.

**22.4 Vehicle Liability:** If vehicles or mobile equipment are used in the performance of the obligations under this Agreement, then CONTRACTOR shall maintain liability insurance for all owned, non-owned or hired vehicles so used in an amount not less than \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit. Policy shall name the COUNTY as Additional Insureds.

### **22.6 General Insurance Provisions - All lines:**

1) Any insurance carrier providing insurance coverage hereunder shall be admitted to the State of California and have an A M BEST rating of not less than A: VIII (A:8) unless such requirements are waived, in writing, by the County Risk Manager. If the County's Risk Manager waives a requirement for a particular insurer such waiver is only valid for that specific insurer and only for one policy term.



2) The CONTRACTOR must declare its insurance self-insured retention for each coverage required herein. If any such self-insured retention exceed \$500,000 per occurrence each such retention shall have the prior written consent of the County Risk Manager before the commencement of operations under this Agreement. Upon notification of self-insured retention unacceptable to the COUNTY, and at the election of the County's Risk Manager, CONTRACTOR'S carriers shall either; 1) reduce or eliminate such self-insured retention as respects this Agreement with the COUNTY, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, and defense costs and expenses.

3) CONTRACTOR shall cause CONTRACTOR'S insurance carrier(s) to furnish the County of Riverside with either 1) a properly executed original Certificate(s) of Insurance and certified original copies of Endorsements effecting coverage as required herein, and 2) if requested to do so orally or in writing by the County Risk Manager, provide original Certified copies of policies including all Endorsements and all attachments thereto, showing such insurance is in full force and effect. Further, said Certificate(s) and policies of insurance shall contain the covenant of the insurance carrier(s) that thirty (30) days written notice shall be given to the County of Riverside prior to any material modification, cancellation, expiration or reduction in coverage of such insurance. In the event of a material modification, cancellation, expiration, or reduction in coverage, this Agreement shall terminate forthwith, unless the County of Riverside receives, prior to such effective date, another properly executed original Certificate of Insurance and original copies of endorsements or certified original policies, including all endorsements and attachments thereto evidencing coverage's set forth herein and the insurance required herein is in full force and effect. ***CONTRACTOR shall not commence operations until the COUNTY has been furnished original Certificate (s) of Insurance and certified original copies of endorsements and if requested, certified original policies of insurance including all endorsements and any and all other attachments as required in this Section. An individual authorized by the insurance carrier to do so on its behalf shall sign the original endorsements for each policy and the Certificate of Insurance.***

4) It is understood and agreed to by the parties hereto that the CONTRACTOR'S insurance shall be construed as primary insurance, and the COUNTY'S insurance and/or deductibles and/or self-insured retention's or self-insured programs shall not be construed as contributory.

5) If, during the term of this Agreement or any extension thereof, there is a material change in the scope of services; or, there is a material change in the equipment to be used in the performance of the scope of work; or, the term of this Agreement, including any extensions thereof, exceeds five (5) years; the COUNTY reserves the right to adjust the types of insurance and the monetary limits of liability required

under this Agreement, if in the County Risk Manager's reasonable judgment, the amount or type of insurance carried by the CONTRACTOR has become inadequate.

6) CONTRACTOR shall pass down the insurance obligations contained herein to all tiers of subCONTRACTORS working under this Agreement.

7) The insurance requirements contained in this Agreement may be met with a program(s) of self-insurance acceptable to the COUNTY.

8) CONTRACTOR agrees to notify COUNTY of any claim by a third party or any incident or event that may give rise to a claim arising from the performance of this Agreement.

**23. General**

**23.1** CONTRACTOR shall not delegate or assign any interest in this Agreement, whether by operation of law or otherwise, without the prior written consent of COUNTY. Any attempt to delegate or assign any interest herein shall be deemed void and of no force or effect.

**23.2** Any waiver by COUNTY of any breach of any one or more of the terms of this Agreement shall not be construed to be a waiver of any subsequent or other breach of the same or of any other term of this Agreement. Failure on the part of COUNTY to require exact, full and complete compliance with any terms of this Agreement shall not be construed as in any manner changing the terms or preventing COUNTY from enforcement of the terms of this Agreement.

**23.3** In the event the CONTRACTOR receives payment under this Agreement, which is later disallowed by COUNTY for nonconformance with the terms of the Agreement, the CONTRACTOR shall promptly refund the disallowed amount to the COUNTY on request; or at its option the COUNTY may offset the amount disallowed from any payment due to the CONTRACTOR.

**23.4** CONTRACTOR shall not provide partial delivery or shipment of services or products unless specifically stated in the Agreement.

**23.5** CONTRACTOR shall not provide any services or products subject to any chattel mortgage or under a conditional sales contract or other agreement by which an interest is retained by a third party. The CONTRACTOR warrants that it has good title to all materials or products used by CONTRACTOR or provided to COUNTY pursuant to this Agreement, free from all liens, claims or encumbrances.

**23.6** Nothing in this Agreement shall prohibit the COUNTY from acquiring the same type or equivalent equipment, products, materials or services from other sources, when deemed by the COUNTY to be in its best interest. The COUNTY reserves the right to purchase more or less than the quantities specified in this Agreement.

Contract ID # FPARC-98889-001-05/12

23.7 The COUNTY agrees to cooperate with the CONTRACTOR in the CONTRACTOR's performance under this Agreement, including, if stated in the Agreement, providing the CONTRACTOR with reasonable facilities and timely access to COUNTY data, information, and personnel.

23.8 CONTRACTOR shall comply with all applicable Federal, State and local laws and regulations. CONTRACTOR will comply with all applicable COUNTY policies and procedures. In the event that there is a conflict between the various laws or regulations that may apply, the CONTRACTOR shall comply with the more restrictive law or regulation.

23.9 CONTRACTOR shall comply with all air pollution control, water pollution, safety and health ordinances, statutes, or regulations, which apply to performance under this Agreement.

23.10 CONTRACTOR shall comply with all requirements of the Occupational Safety and Health Administration (OSHA) standards and codes as set forth by the U.S. Department of Labor and the State of California (Cal/OSHA).

23.11 This Agreement shall be governed by the laws of the State of California. Any legal action related to the performance or interpretation of this Agreement shall be filed only in the Superior Court of the State of California located in Riverside, California, and the parties waive any provision of law providing for a change of venue to another location. In the event any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

23.12 This Agreement, including any attachments or exhibits, constitutes the entire Agreement of the parties with respect to its subject matter and supersedes all prior and contemporaneous representations, proposals, discussions and communications, whether oral or in writing. This Agreement may be changed or modified only by a written amendment signed by authorized representatives of both parties.

**COUNTY:**

County of Riverside  
2980 Washington St.  
Riverside, CA 92504

## ATTEST:

KECIA HARPER-IHEM, Clerk  
*Kecia Harper-Ihem*  
DEPUTY

Signature: *Bob Buster*Print Name: Bob BusterTitle: Chairman, Board of SupervisorsDated: MAY 10 2011**CONTRACTOR:**

Scott Tractor

P.O. Box 478  
Bloomington, CA 92316

Signature: *M. Scott*Print Name: Melanie ScottTitle: OWNERDated: 4-29-11

FORM APPROVED COUNTY COUNSEL

RFP#

BY: *Neal R. Kipnis*

NEAL R. KIPNIS

Page 15 of 16  
DATE

MAY 10 2011 3:17

## EXHIBIT A SCOPE OF SERVICE

### 1. Requirements

1. The CONTRACTOR shall provide necessary personnel, equipment, and supplies to accomplish the requested weed abatement and related services within the County of Riverside.

2. The Riverside County Fire Department will provide the necessary weed abatement maps to accomplish the work upon contract award. The maps remain the property of the Fire Department and must be maintained in good condition.

3. The Fire Department will provide a field inspector who will be available to assist the CONTRACTOR in planning and outlining the required work.

### 2. **CONTRACTOR shall**

#### 1. Disking

Weed abatement by disking shall be accomplished by cultivating with a double-throw disk at sufficient depth turning and loosening the soil, placing all weeds under the soil surface. Disking is the plowing of weeds using reasonable care so as to not disturb under/over ground utilities, destruction to fencing, buildings, equipment, supplies or adjoining land, including fire due to reckless/negligent plowing of land. The requirement for the finished product shall be clearance between the property that has the debris and other adjoining parcels of land.

**a. Cross Disking-** Where the nature of the soil is such that it is not receptive to the cutting edge of the disks the area shall be cross-disked to reduce the magnitude of any exposed combustibles.

**b. Dust Control-** The CONTRACTOR accepts sole responsibility to comply with Federal, State and Local laws, Regulations and Ordinances including but not limited to South Coast Air Quality Management Division (SCAQMD) Rule 403. This standard exempts CONTRACTORs from dust control measures if contracted with the Riverside County Fire Department.

### 3. Standard for Clearing

Clearing of land shall be done in accordance with Riverside County Ordinance No. 695.4 unless superseded by ordinance revision.

1. CONTRACTOR's agree to furnish tractors, disks and mowers in all areas suitable to complete the job of disking property. The CONTRACTOR agrees to provide transportation to and from job sites, for their equipment and all necessary fuel, etc., at his/her expense. Standard for clearing will be as assigned by the Hazard Reduction Office to include disking, mowing, hand labor or a combination thereof. **The mowing height shall be three (3) inches or less. Disk and mow rate include any handwork required to remove hazards along fence lines, around trees, etc. All rates include any hauling or disposal fees.**
2. CONTRACTORs may be used in tumbleweed abatement in all ten areas.
3. CONTRACTORs agree to have equipment and personnel (labor) to work all areas quoted. See maps for location of areas. **ALL EQUIPMENT LISTED WILL BE VISUALLY INSPECTED AND APPROVED BY THE FIRE DEPARTMENT PRIOR TO USE.**
4. CONTRACTORs agree, at his/her own expense submit a **minimum of four (4) 4" x 6" digital photographs**. Two (2) photographs are "before" pictures and two (2) are "after" pictures. The pictures must contain the following: **identify the APN, date/time, the word "before" or "after" written on a white board and CONTRACTOR's business name**. CONTRACTOR's photographs will be given to the inspectors as verification that the job has been completed. **Larger parcels will require more than four (4) 4"x6" photos. . CONTRACTOR(s) shall**

**deliver additional copies of all photographs to the COUNTY on formatted compact disk(s), each compact disc will be specific to book or portion thereof completed.** The photographs must be received within two (2) weeks of completion of the job. Photos shall be submitted in a standard 6"x9" Manila Envelope. Envelopes shall be provided at CONTRACTOR's expense. It is required that digital photographs be used to ensure that photographs include digital date and time and are clear enough to use as evidence of completion of work. **CONTRACTORS will not be paid for their services until these photographs have been provided and accepted as satisfactory work by the Fire Department.**

3. COUNTY shall provide the CONTRACTOR with a written job assignment sheet of the job site at the time of the job walk for the lot size, cost, type of cleaning and brush size. For parcels requiring payment for hand cleaning a CONTRACTOR signature will be required. The signature is to ensure CONTRACTOR understands the work to be performed and the cost associated. Once the job has been completed, the CONTRACTOR must provide detailed pictures of the job site(s) as specified in section (4).
4. **The CONTRACTOR(s) shall not miss more than two (2) consecutive days or not more than five (5) days out of twenty (20) days, when work has been assigned, regardless of the reason (i.e. equipment failure, illness, etc.).** The CONTRACTOR(s) shall work with inspectors on completion of work under certain weather conditions. Each book or portion of shall be completed within 20 working days, excluding weather and fire conditions. Acceptable workday for the CONTRACTOR is a minimum of eight (8) hours.
5. The CONTRACTOR's will be required to provide all services within forty-eight hours of notification of a need for these services. If the CONTRACTOR's cannot provide these services within this time frame due to equipment breakdown, over-scheduling, etc., the COUNTY will contact the next vendor based on a standard rotation method.

**Liquidated Damages (Fine for failure to complete work by specified date)**

Pursuant to Government Code Section 53069.85 ~~95 (Exhibit G)~~, CONTRACTOR agrees that two hundred and fifty dollars (\$250.00) for each working day beyond the specified cleaning period required to complete the work is a fair and reasonable estimate of the damages which the COUNTY will suffer because of the CONTRACTOR's delay; therefore, it is agreed by both parties hereto and said amount shall be charged against the CONTRACTOR's and shall be deducted as liquidated damages from any amount due him/her under this contract if work is not completed on schedule.

**Unsatisfactory Performance Provision**

The Riverside County fire Chief or his designee shall inspect the work and judge the performance of the CONTRACTOR(s) pursuant to all Weed/Vegetation Abatement Work. If the contract work is incomplete and/or unsatisfactory; the CONTRACTOR fails to provide the services specified in the schedule supplied by the Riverside County Fire Inspector; or if a lesser number of hours of service than eight (8) hours per day and forty hours per week is provided by the CONTRACTOR, the amount payable under the contract shall be reduced by \$19.00 per hour, per each County Inspector involved to correct the problem or major fraction of an hour that service is provided. This provision shall apply to any down-time on the part of the CONTRACTOR(s), when performance deficiencies exceed 15% of the work scheduled in any given day, based on an eight (8) hour work day, regardless of its origin (including, but not limited to, lack of sufficient manpower, machinery or parts, equipment failure, absence of supervisory personnel or inadequate replace for equipment or manpower, unless the deficiency is the direct result of an act of God, i.e., rain, fire, flood, and determined by the Riverside County Fire Captain.

6. CONTRACTOR(s) shall not work outside the scope of this RFP, without the written authorization from the Fire Department. The only equipment allowed would be the exception of those areas, which require a mower (see block A). The Fire Department will advise the successful CONTRACTOR(s) where the mowing will be allowed. **Use of non-authorized equipment and /or methods will result in nonpayment by the County** and the CONTRACTOR may be held liable for any damages incurred.
7. Where there are locked gates to the property, the CONTRACTOR(s) will be given instructions on how to enter the property. **The CONTRACTOR(s) will be responsible for any damage done not in accordance to given instructions. All services must be coordinated through the Fire Prevention Inspector and performed during the hours of 7:00 a.m. to 4:00 p.m. Monday through Friday, excluding holidays/weekends unless otherwise authorized by the County.**
8. CONTRACTOR shall be paid rounded to the nearest 1 acre. Handwork shall be a minimum per parcel price using sq. footage cost for brush category type. If the sq. footage exceeds the cost per sq ft cost for brush category type will be used. .
9. **SCAQMD RULE 403 Exemptions**  
The provisions of the Rule (403) shall not apply to:  
(H) Weed abatement operations ordered by a County agricultural commissioner or State, County, or Municipal Fire Department, provided that:
  - a. Mowing, cutting, or other similar process is used which maintains weed stubble at three (3) inches above soil; and
  - b. Any disking or similar operation which cuts into and disturbs the soil, where watering is used prior to initiation of these activities and a determination is made by the agency issuing the weed abatement order that due to fire hazard conditions, rocks, or other physical obstruction it is not practical to meet the conditions specified in SCAQMD rule 403 clause (g), (H), (i). the provisions of this clause shall not exempt the owner of any property from stabilizing, in accordance with paragraph (d) (2), disturbed surface areas, which have been created as a result of weed abatement actions.

#### **4. Hand Cleaning and Hauling**

Whenever it is impractical by reason of topography, location of trees, sprinkler systems, shrubbery, buildings, fences or type of vegetation cover to disk and when authorized by the County Fire Chief or his representatives as set forth in Ordinance 695.4 unless superseded by ordinance revision the vegetation shall be removed or thinned **by hand labor**. The Inspector will specify the degree of hand labor to be accomplished on any parcel based upon square footage. The minimum requirement is clearing between the property line that has the debris and the improved parcel(s) of land. Dirt or mowed down materials shall have stubble no greater than 3 inches in height per the Public Resources and Health and Safety Code. Handwork classes include: 1) light grass, 2) medium brush (four (4) feet and under) and 3) heavy brush (more than four (4) feet).

#### **5. Standard for Cleaning**

A contract for hand cleaning with the Riverside County will be for the sole purpose of weed abatement. The inspections and notification of the property owners will be done by the Fire Department.

1. A minimum of a two (2) person hand-crew with CONTRACTORs supervision or designee, transportation and tools shall be available at all times. Additional crewmembers may be necessary to complete the work. CONTRACTOR must have sufficient additional resources available for

additional work requirements as requested by the COUNTY.

2. Payments for hand-labor shall be based on measurements, to the actual square feet, taken by the Inspector and the CONTRACTOR. The unit price for hand cleaning shall include full compensation for furnishing all labor, materials, tools and equipments for cutting the weeds, loading the materials into trucks and hauling them to a COUNTY disposal site.
3. 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, and all disposal fees. All materials hauled to the approved site shall be covered according to local codes.
4. Some parcels will may require **partial cleaning**. That area which is cleaned will be measured and applicable unit rate will apply. The Inspector may assign partial cleaning projects.
5. If it were determined by the Fire Department that a **second cleaning** or partial cleaning is necessary, the work would occur at any time. The existing rates would apply and the CONTRACTOR(s) shall be prepared to start work upon 48 hours notice.
6. The CONTRACTOR(s) shall furnish all hand tools, power equipment and safety equipment necessary to accomplish the specified work. The Hand-crew Supervisor will stock spare replacement parts that commonly fail or are lost. All supervisors will have portable water readily available at all times for each crewmember.
7. Gas Weed eaters with adequate supplies and parts for repairs must be supplied for hand crews. Each hand- crew must have minimum of one (1) gas powered weed eater for every two men: for example: a four (4) man crew must be supplied with a minimum of two (2) weed eaters, etc. A sufficient reserve of weed eaters shall be available to eliminate down time.
8. The material cut down by hand labor **shall be hauled away to a lawful dumpsite and lawfully disposed of at CONTRACTOR's expense..** The loading of debris removed from the lot is to be accomplished as cleaning is completed. **No materials will be left on the lot for later pick up,** as this would not remove the fire hazard. Under certain circumstances with prior approval by the Fire Department cut down material may disposed of by disking under.
9. Suitable flatbed hydraulic dump trucks or trailers with high sides for hauling are to be provided throughout the handwork operation and is to be operated and maintained at the expense of the CONTRACTOR. All trimmings and rubbish shall be hauled to a lawful dumpsite and lawfully disposed of at the CONTRACTOR's expense.

**ALL EQUIPMENT WILL BE SUBJECT TO VISUAL INSPECTION BY THE FIRE DEPARTMENT PRIOR TO WEED ABATEMENT.**

## 6. Additional Terms and Conditions

It will be the responsibility of the CONTRACTOR(s) to keep an accurate account of the names of his/her employees as well as the dates, locations, and the type of work they perform. This information must be submitted to the Riverside County Fire Department upon request.

1. All personnel (labor) will be furnished by the CONTRACTOR(s). Each worker will be able to perform his/her duties in a manner that will not endanger the employees' health or safety or the health and safety of others and be attired with appropriate protective clothing and footwear. The CONTRACTOR(s) will furnish gloves, safety glasses, hearing protection, and any other safety equipment that is necessary for this type of work. The CONTRACTOR(s) shall provide safe and healthful working conditions and transport equipment and shall at all times comply with OSHA requirements. All trucks shall be equipped with rear flashing amber warning lights and traffic control cones.
2. All handwork will be completed within a time frame specified by the inspector. This time frame will be based on the amount of work to be accomplished.
3. Proof of insurance will be provided (including but not limited to General liability, Auto, Workers' Compensation, Waiver of Subrogation and Endorsements, all naming the County of Riverside as "additional insured") by the CONTRACTOR prior to any work being started and shall remain in effect through the term of this contract
4. No employee drinking alcohol or under the influence of alcohol and/or drugs shall be allowed to participate in the performance of this contract, nor shall any employee bring alcohol and/or drugs onto the work location covered in this contract. The CONTRACTOR(s) agree to remove immediately and replace any employee whose conduct and/or workmanship are in any way unsatisfactory to the County.
5. The CONTRACTOR(s) at his/her own expense will furnish supervision of hand-crews. All supervisors and lead personnel must be able to communicate (speak, read, and write) with the inspector in the English language.
6. The work, labor and/or materials which the bidder proposed to furnish to the COUNTY **must** comply in all respects with the appropriate equipment and safety regulations of all Federal, State and Local regulatory commissions whether such equipment and/or safety features have been specifically outlined/required this RFP or not.
7. All cleaning must meet the specification of the Riverside County Fire Department and must be approved in writing by the Fire Department Inspector.
8. The CONTRACTOR(s) shall accept sole responsibility for compliance with Federal, State and Local laws, regulations and ordinances including but not limited to South Coast Air Quality Management (SCAQMD) Division Rule 403/ See exemptions outlined on Page 7 of this RFP.

The amount of work and type of work to be performed shall be under the direction of and only with the authorization of the Riverside County Fire Department, contact information to be provided after award.



**EXHIBIT B  
PAYMENT PROVISIONS**

**Mowing and Disking – flat rate of \$130.00 per acre rounded to the nearest acre**

**Hand Cleaning based on Actual Square Feet of Work Completed**

Minimum \$130.00 per parcel using sq. ft. cost for fuel class if exceeds: \$0.03 sq. ft (Light=grass)

Minimum \$130.00 per parcel using sq. ft cost for fuel class if exceeds: \$0.05 sq/ ft. (Medium=brush 4ft. & under)

Minimum \$130.00 per parcel using sq. ft. cost for fuel class if exceeds: \$0.07 sq. ft. (Heavy=brush over 4ft.)

Minimum \$130.00 per parcel using sq. ft. cost for fuel class if exceeds: \$0.12 sq, ft, (Extremely Heavy Brush that is due to size, type, density, terrain is impossible to mow, disc, string trim, or other hand labor methods are impractical for clearance)

**PROFESSIONAL SERVICE AGREEMENT**

**for**

**WEED ABATEMENT SERVICES**

**between**

**COUNTY OF RIVERSIDE**

**and**

**CARRY-ALL**



**TABLE OF CONTENTS**

<b><u>SECTION HEADING</u></b>	<b><u>PAGE NUMBER</u></b>
1. Description of Services .....	3
2. Period of Performance.....	3
3. Compensation.....	3-4
4. Alteration or Changes to the Agreement .....	4-5
5. Termination.....	5
6. Ownership/Use of Contract Materials and Products .....	5
7. Conduct of CONTRACTOR.....	6
8. Inspection of Service: Quality Control/Assurance .....	6-7
9. Independent CONTRACTOR .....	7
10. Subcontract for Work or Services .....	7
11. Disputes .....	7-8
12. Licensing and Permits .....	8
13. Use by Other Political Entities .....	8
14. Non-Discrimination .....	8
15. Records and Documents .....	8-9
16. Confidentiality .....	9
17. Administration/Contract Liaison.....	9
18. Notices .....	10
19. Force Majeure .....	10
20. EDD Reporting Requirements.....	10
21. Hold Harmless/Indemnification .....	11-12
22. Insurance .....	12-14
23. General .....	14-15
Exhibit A-Scope of Service .....	16-20
Exhibit B- Payment Provisions.....	21

This Agreement, made and entered into this 10<sup>TH</sup> day of May, 2011, by and between Carry-All (herein referred to as "CONTRACTOR"), and the COUNTY OF RIVERSIDE, a political subdivision of the State of California, (herein referred to as "COUNTY"). The parties agree as follows:

**1. Description of Services**

1.1 CONTRACTOR shall provide all services as outlined and specified in Exhibit A, Scope of Services, consisting 16 through 20 pages at the prices stated in Exhibit B, Payment Provisions, consisting of page 21..

1.2 CONTRACTOR represents that it has the skills, experience and knowledge necessary to fully and adequately perform under this Agreement and the COUNTY relies upon this representation. CONTRACTOR shall perform to the satisfaction of the COUNTY and in conformance to and consistent with the highest standards of firms/professionals in the same discipline in the State of California.

1.3 CONTRACTOR affirms this it is fully apprised of all of the work to be performed under this Agreement; and the CONTRACTOR agrees it can properly perform this work at the prices stated in Exhibit B. CONTRACTOR is not to perform services or provide products outside of the Agreement.

1.4 Acceptance by the COUNTY of the CONTRACTOR's performance under this Agreement does not operate as a release of CONTRACTOR's responsibility for full compliance with the terms of this Agreement.

**2. Period of Performance**

2.1 This Agreement shall be effective upon signature of this Agreement by both parties and continue in effect through May 10<sup>th</sup> 2011 with the option to renew for four (4) additional years, renewable in one (1) year increments by written amendment, unless terminated earlier. CONTRACTOR shall commence performance upon signature of this Agreement by both parties and shall diligently and continuously perform thereafter.

**3. Compensation**

3.1 The COUNTY shall pay the CONTRACTOR for services performed, products provided and expenses incurred in accordance with the terms of Exhibit B, Payment Provisions. Maximum payments by COUNTY to CONTRACTOR shall not exceed \$100,000.00 annually including all expenses. Service by area shall be based upon a standard rotation. The rotation will be initially established by a method in which every CONTRACTOR will have the opportunity to obtain a minimum of one area. The COUNTY is not responsible for any fees or costs incurred above or beyond the contracted amount and shall have no obligation to purchase any specified amount of services or products. Unless otherwise specifically stated in

Exhibit B, COUNTY shall not be responsible for payment of any of CONTRACTOR's expenses related to this Agreement.

**3.3** CONTRACTOR shall be paid only in accordance with an invoice submitted to COUNTY by CONTRACTOR within fifteen (15) days from the last day of each calendar month, and COUNTY shall pay the invoice within thirty (30) working days from the date of receipt of the invoice. Payment shall be made to CONTRACTOR only after services have been rendered or delivery of materials or products, and acceptance has been made by COUNTY. Prepare invoices in duplicate. For this Agreement, send the original and duplicate copies of invoices to:

Riverside County Fire Department  
210 W. San Jacinto  
Perris, CA 92570

- a) Each invoice shall contain a minimum of the following information: invoice number and date; remittance address; bill-to and ship-to addresses of ordering department/division; Agreement number FPARC-98889-001-05/12 quantities; item descriptions, unit prices, extensions, sales/use tax if applicable, and an invoice total.
- b) Invoices shall be rendered monthly in arrears.

**3.4** The COUNTY obligation for payment of this Agreement beyond the current fiscal year end is contingent upon and limited by the availability of COUNTY funding from which payment can be made. No legal liability on the part of the COUNTY shall arise for payment beyond June 30 of each calendar year unless funds are made available for such payment. In the event that such funds are not forthcoming for any reason, COUNTY shall immediately notify CONTRACTOR in writing; and this Agreement shall be deemed terminated, have no further force, and effect.

#### **4. Alteration or Changes to the Agreement**

**4.1** The Board of Supervisors and the COUNTY Purchasing Agent and/or his designee is the only authorized COUNTY representatives who may at any time, by written order, alter this Agreement. If any such alteration causes an increase or decrease in the cost of, or the time required for the performance under this Agreement, an equitable adjustment shall be made in the Agreement price or delivery schedule, or both, and the Agreement shall be modified by written amendment accordingly.

**4.2** Any claim by the CONTRACTOR for additional payment related to this Agreement shall be made in writing by the CONTRACTOR within 30 days of when the CONTRACTOR has or should have notice of any actual or claimed change in the work, which results in additional and unanticipated cost to the CONTRACTOR. If the COUNTY Purchasing Agent decides that the facts provide sufficient justification, he may authorize additional payment to the CONTRACTOR pursuant to the claim. Nothing in this section

shall excuse the CONTRACTOR from proceeding with performance of the Agreement even if there has been a change.

**5. Termination**

5.1. COUNTY may terminate this Agreement without cause upon 30 days written notice served upon the CONTRACTOR stating the extent and effective date of termination.

5.2 COUNTY may, upon five (5) days written notice, terminate this Agreement for CONTRACTOR's default, if CONTRACTOR refuses or fails to comply with the terms of this Agreement or fails to make progress to endanger performance and does not immediately cure such failure. In the event of such termination, the COUNTY may proceed with the work in any manner deemed proper by COUNTY.

5.3 After receipt of the notice of termination, CONTRACTOR shall:

- (a) Stop all work under this Agreement on the date specified in the notice of termination; and
- (b) Transfer to COUNTY and deliver in the manner as directed by COUNTY any materials, reports or other products, which, if the Agreement had been completed or continued, would have been required to be furnished to COUNTY.

5.4 After termination, COUNTY shall make payment only for CONTRACTOR's performance up to the date of termination in accordance with this Agreement and at the rates set forth in Exhibit B.

5.5 CONTRACTOR's rights under this Agreement shall terminate (except for fees accrued prior to the date of termination) upon dishonesty or a willful or material breach of this Agreement by CONTRACTOR; or in the event of CONTRACTOR's unwillingness or inability for any reason whatsoever to perform the terms of this Agreement. In such event, CONTRACTOR shall not be entitled to any further compensation under this Agreement.

5.6 The rights and remedies of COUNTY provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or this Agreement.

**6. Ownership/Use of Contract Materials and Products**

The CONTRACTOR agrees that all materials, reports or products in any form, including electronic, created by CONTRACTOR for which CONTRACTOR has been compensated by COUNTY pursuant to this Agreement shall be the sole property of the COUNTY; and may be used by the COUNTY for any purpose COUNTY deems to be appropriate, including, but not limit to, duplication and/or distribution within the COUNTY or to third parties. CONTRACTOR agrees not to release or circulate in whole or part such materials, reports or products without prior written authorization of the COUNTY.

## **7. Conduct of CONTRACTOR**

7.1 The CONTRACTOR covenants that it presently has no interest, including, but not limited to, other projects or contracts, and shall not acquire any such interest, direct or indirect, which would conflict in any manner or degree with CONTRACTOR's performance under this Agreement. The CONTRACTOR further covenants that no person or subCONTRACTOR having any such interest shall be employed or retained by CONTRACTOR under this Agreement. The CONTRACTOR agrees to inform the COUNTY of all the CONTRACTOR's interests, if any, which are or may be perceived as incompatible with the COUNTY's interests.

7.2 The CONTRACTOR shall not, under circumstances which could be interpreted as an attempt to influence the recipient in the conduct of his/her duties, accept any gratuity or special favor from individuals or firms with whom the CONTRACTOR is doing business or proposing to do business, in accomplishing the work under this Agreement.

7.3 The CONTRACTOR or its employees shall not offer gifts, gratuity, favors, and entertainment directly or indirectly to COUNTY employees.

## **8. Inspection of Service; Quality Control/Assurance**

8.1 All performance (which includes services, workmanship, materials, supplies and equipment furnished or utilized in the performance of this Agreement) shall be subject to inspection and test by the COUNTY or other regulatory agencies at all times. The CONTRACTOR shall provide adequate cooperation to any inspector or other COUNTY representative to permit him/her to determine the CONTRACTOR's conformity with the terms of this Agreement. If any services performed or products provided by CONTRACTOR are not in conformance with the terms of this Agreement, the COUNTY shall have the right to require the CONTRACTOR to perform the services or provide the products in conformance with the terms of the Agreement at no additional cost to the COUNTY. When the services to be performed or the products to be provided are of such nature that the difference cannot be corrected, the COUNTY shall have the right to: (1) require the CONTRACTOR immediately to take all necessary steps to ensure future performance in conformity with the terms of the Agreement; and/or (2) reduce the Agreement price to reflect the reduced value of the services performed or products provided. The COUNTY may also terminate this Agreement for default and charge to CONTRACTOR any costs incurred by the COUNTY because of the CONTRACTOR's failure to perform.

8.2 CONTRACTOR shall establish adequate procedures for self-monitoring and quality control and assurance to ensure proper performance under this Agreement; and shall permit a COUNTY

representative or other regulatory official to monitor, assess or evaluate CONTRACTOR's performance under this Agreement at any time upon reasonable notice to CONTRACTOR.

**9. Independent CONTRACTOR**

The CONTRACTOR is, for purposes relating to this Agreement, an independent CONTRACTOR and shall not be deemed an employee of the COUNTY. It is expressly understood and agreed that the CONTRACTOR (including its employees, agents and subCONTRACTORS) shall in no event be entitled to any benefits to which COUNTY employees are entitled, including but not limited to overtime, any retirement benefits, worker's compensation benefits, and injury leave or other leave benefits. There shall be no employer-employee relationship between the parties; and CONTRACTOR shall hold COUNTY harmless from any and all claims that may be made against COUNTY based upon any contention by a third party that an employer-employee relationship exists by reason of this Agreement. It is further understood and agreed by the parties that CONTRACTOR in the performance of this Agreement is subject to the control or direction of COUNTY merely as to the results to be accomplished and not as to the means and methods for accomplishing the results.

**10. Subcontract for Work or Services**

No contract shall be made by the CONTRACTOR with any other party for furnishing any of the work or services under this Agreement without the prior written approval of the COUNTY; but this provision shall not require the approval of contracts of employment between the CONTRACTOR and personnel assigned under this Agreement, or for parties named in the proposal and agreed to under this Agreement.

**11. Disputes**

**11.1** The parties shall attempt to resolve any disputes amicably at the working level. If that is not successful, the dispute shall be referred to the senior management of the parties. Any dispute relating to this Agreement, which is not resolved by the parties, shall be decided by the COUNTY's Purchasing Department's Compliance Contract Officer who shall furnish the decision in writing. The decision of the COUNTY's Compliance Contract Officer shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, capricious, arbitrary, or so grossly erroneous as necessarily to imply bad faith. The CONTRACTOR shall proceed diligently with the performance of this Agreement pending the resolution of a dispute.

**11.2** Prior to the filing of any legal action related to this Agreement, the parties shall be obligated to attend a mediation session in Riverside County before a neutral third party mediator. A second mediation



session shall be required if the first session is not successful. The parties shall share the cost of the mediations.

**12. Licensing and Permits**

CONTRACTOR shall comply with all State or other licensing requirements, including but not limited to the provisions of Chapter 9 of Division 3 of the Business and Professions Code. All licensing requirements shall be met at the time proposals are submitted to the COUNTY. CONTRACTOR warrants that it has all necessary permits, approvals, certificates, waivers and exemptions necessary for performance of this Agreement as required by the laws and regulations of the United States, the State of California, the County of Riverside and all other governmental agencies with jurisdiction, and shall maintain these throughout the term of this Agreement.

**13. Use By Other Political Entities**

The CONTRACTOR agrees to extend the same pricing, terms and conditions as stated in this Agreement to each and every political entity, special district, and related non-profit entity in Riverside County. It is understood that other entities shall make purchases in their own name, make direct payment, and be liable directly to the CONTRACTOR; and COUNTY shall in no way be responsible to CONTRACTOR for other entities' purchases.

**14. Non-Discrimination**

CONTRACTOR shall not be discriminate in the provision of services, allocation of benefits, accommodation in facilities, or employment of personnel on the basis of ethnic group identification, race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status or sex in the performance of this Agreement; and, to the extent they shall be found to be applicable hereto, shall comply with the provisions of the California Fair Employment and Housing Act (Gov. Code 12900 et. seq), the Federal Civil Rights Act of 1964 (P.L. 88-352), the Americans with Disabilities Act of 1990 (42 U.S.C. S1210 et seq.) and all other applicable laws or regulations.

**15. Records and Documents**

CONTRACTOR shall make available, upon written request by any duly authorized Federal, State or COUNTY agency, a copy of this Agreement and such books, documents and records as are necessary to certify the nature and extent of the CONTRACTOR's costs related to this Agreement. All such books, documents and records shall be maintained by CONTRACTOR for at least five years following termination

of this Agreement and be available for audit by the COUNTY. CONTRACTOR shall provide to the COUNTY reports and information related to this Agreement as requested by COUNTY.

**16. Confidentiality**

**16.1** The CONTRACTOR shall not use for personal gain or make other improper use of privileged or confidential information which is acquired in connection with this Agreement. The term "privileged or confidential information" includes but is not limited to: unpublished or sensitive technological or scientific information; medical, personnel, or security records; anticipated material requirements or pricing/purchasing actions; COUNTY information or data which is not subject to public disclosure; COUNTY operational procedures; and knowledge of selection of CONTRACTORS, subCONTRACTORS or suppliers in advance of official announcement.

**16.2** The CONTRACTOR shall protect from unauthorized disclosure names and other identifying information concerning persons receiving services pursuant to this Agreement, except for general statistical information not identifying any person. The CONTRACTOR shall not use such information for any purpose other than carrying out the CONTRACTOR's obligations under this Agreement. The CONTRACTOR shall promptly transmit to the COUNTY all third party requests for disclosure of such information. The CONTRACTOR shall not disclose, except as otherwise specifically permitted by this Agreement or authorized in advance in writing by the COUNTY, any such information to anyone other than the COUNTY. For purposes of this paragraph, identity shall include, but not be limited to, name, identifying number, symbol, or other identifying particular assigned to the individual, such as finger or voice print or a photograph.

**17. Administration/Contract Liaison**

The COUNTY Purchasing Agent, or designee, shall administer this Agreement on behalf of the COUNTY. The Purchasing Department is to serve as the liaison with CONTRACTOR in connection with this Agreement.

**18. Notices**

All correspondence and notices required or contemplated by this Agreement shall be delivered to the respective parties at the addresses set forth below and are deemed submitted two days after their deposit in the United States mail, postage prepaid:

**COUNTY OF RIVERSIDE**

County of Riverside Purchasing  
2980 Washington St.  
Riverside, CA 92504  
Attn: Debra Macias

**CONTRACTOR**

Carry-All  
P.O. Box 5451  
Norco, CA 92860

**19. Force Majeure**

If either party is unable to comply with any provision of this Agreement due to causes beyond its reasonable control, and which could not have been reasonably anticipated, such as acts of God, acts of war, civil disorders, or other similar acts, such party shall not be held liable for such failure to comply.

**20. EDD Reporting Requirements**

In order to comply with child support enforcement requirements of the State of California, the COUNTY may be required to submit a Report of Independent CONTRACTOR(s) form **DE 542** to the Employment Development Department. The CONTRACTOR agrees to furnish the required data and certifications to the COUNTY within 10 days of notification of award of Agreement when required by the EDD. This data will be transmitted to governmental agencies charged with the establishment and enforcement of child support orders. Failure of the CONTRACTOR to timely submit the data and/or certificates required may result in the contract being awarded to another CONTRACTOR. In the event a contract has been issued, failure of the CONTRACTOR to comply with all federal and state reporting requirements for child support enforcement or to comply with all lawfully served Wage and Earnings Assignments Orders and Notices of Assignment shall constitute a material breach of Agreement. If CONTRACTOR has any questions concerning this reporting requirement, please call (916) 657-0529. CONTRACTOR should also contact its local Employment Tax Customer Service Office listed in the telephone directory in the State Government section under "Employment Development Department" or access their Internet site at [www.edd.ca.gov](http://www.edd.ca.gov).

**21. Hold Harmless/Indemnification**

**21.1** CONTRACTOR shall indemnify and hold harmless the County of Riverside, its Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives (individually and collectively hereinafter referred to as Indemnitees) from any liability whatsoever, based or asserted upon any services of CONTRACTOR, its officers, employees, subCONTRACTORS, agents or representatives arising out of or in any way relating to this Agreement, including but not limited to property damage, bodily injury, or death or any other element of any kind or nature whatsoever arising from the performance of CONTRACTOR, its officers, employees, subCONTRACTORS, agents or representatives Indemnitors from this Agreement. CONTRACTOR shall defend, at its sole expense, all costs and fees including, but not limited, to attorney fees, cost of investigation, defense and settlements or awards, the Indemnitees in any claim or action based upon such alleged acts or omissions.

**21.2** With respect to any action or claim subject to indemnification herein by CONTRACTOR, CONTRACTOR shall, at their sole cost, have the right to use counsel of their own choice and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of COUNTY; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes CONTRACTOR'S indemnification to Indemnitees as set forth herein.

**21.2** CONTRACTOR'S obligation hereunder shall be satisfied when CONTRACTOR has provided to COUNTY the appropriate form of dismissal relieving COUNTY from any liability for the action or claim involved.

**21.3** The specified insurance limits required in this Agreement shall in no way limit or circumscribe CONTRACTOR'S obligations to indemnify and hold harmless the Indemnitees herein from third party claims.

**21.4** In the event there is conflict between this clause and California Civil Code Section 2782, this clause shall be interpreted to comply with Civil Code 2782. Such interpretation shall not relieve the CONTRACTOR from indemnifying the Indemnitees to the fullest extent allowed by law.

**21.5** CONTRACTOR's indemnification obligations shall also apply to any action or claim regarding actual or alleged intellectual property infringement related to any material or product provided to COUNTY pursuant to this Agreement. In the event of any such action or claim, CONTRACTOR shall provide immediate notice to COUNTY of the action or claim. CONTRACTOR may defend or settle the action or claim as CONTRACTOR deems appropriate; however, CONTRACTOR shall be required to

obtain for COUNTY the right to continue to use the material or product (or a similar non-infringing material or product with the same function) on terms identical to those stated in this Agreement.

## **22. Insurance**

**22.1** Without limiting or diminishing the CONTRACTOR'S obligation to indemnify or hold the COUNTY harmless, CONTRACTOR shall procure and maintain or cause to be maintained, at its sole cost and expense, the following insurance coverage's during the term of this Agreement. As respects to the insurance section only, the COUNTY herein refers to the County of Riverside, its Agencies, Districts, Special Districts, and Departments, their respective directors, officers, Board of Supervisors, employees, elected or appointed officials, agents or representatives as Additional Insureds.

**22.2 Workers' Compensation:** If the CONTRACTOR has employees as defined by the State of California, the CONTRACTOR shall maintain statutory Workers' Compensation Insurance (Coverage A) as prescribed by the laws of the State of California. Policy shall include Employers' Liability (Coverage B) including Occupational Disease with limits not less than \$1,000,000 per person per accident. The policy shall be endorsed to waive subrogation in favor of the County of Riverside.

**22.3 Commercial General Liability:** Commercial General Liability insurance coverage, including but not limited to, premises liability, unmodified contractual liability, products and completed operations liability, personal and advertising injury, and cross liability coverage, covering claims which may arise from or out of CONTRACTOR'S performance of its obligations hereunder. Policy shall name the COUNTY as Additional Insured. Policy's limit of liability shall not be less than \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit.

**22.4 Vehicle Liability:** If vehicles or mobile equipment are used in the performance of the obligations under this Agreement, then CONTRACTOR shall maintain liability insurance for all owned, non-owned or hired vehicles so used in an amount not less than \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit. Policy shall name the COUNTY as Additional Insureds.

### **22.6 General Insurance Provisions - All lines:**

1) Any insurance carrier providing insurance coverage hereunder shall be admitted to the State of California and have an A M BEST rating of not less than A: VIII (A:8) unless such requirements are waived, in writing, by the County Risk Manager. If the County's Risk Manager waives a requirement for a particular insurer such waiver is only valid for that specific insurer and only for one policy term.

2) The CONTRACTOR must declare its insurance self-insured retention for each coverage required herein. If any such self-insured retention exceed \$500,000 per occurrence each such retention shall have the prior written consent of the County Risk Manager before the commencement of operations under this Agreement. Upon notification of self-insured retention unacceptable to the COUNTY, and at the election of the County's Risk Manager, CONTRACTOR'S carriers shall either; 1) reduce or eliminate such self-insured retention as respects this Agreement with the COUNTY, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, and defense costs and expenses.

3) CONTRACTOR shall cause CONTRACTOR'S insurance carrier(s) to furnish the County of Riverside with either 1) a properly executed original Certificate(s) of Insurance and certified original copies of Endorsements effecting coverage as required herein, and 2) if requested to do so orally or in writing by the County Risk Manager, provide original Certified copies of policies including all Endorsements and all attachments thereto, showing such insurance is in full force and effect. Further, said Certificate(s) and policies of insurance shall contain the covenant of the insurance carrier(s) that thirty (30) days written notice shall be given to the County of Riverside prior to any material modification, cancellation, expiration or reduction in coverage of such insurance. In the event of a material modification, cancellation, expiration, or reduction in coverage, this Agreement shall terminate forthwith, unless the County of Riverside receives, prior to such effective date, another properly executed original Certificate of Insurance and original copies of endorsements or certified original policies, including all endorsements and attachments thereto evidencing coverage's set forth herein and the insurance required herein is in full force and effect. ***CONTRACTOR shall not commence operations until the COUNTY has been furnished original Certificate (s) of Insurance and certified original copies of endorsements and if requested, certified original policies of insurance including all endorsements and any and all other attachments as required in this Section. An individual authorized by the insurance carrier to do so on its behalf shall sign the original endorsements for each policy and the Certificate of Insurance.***

4) It is understood and agreed to by the parties hereto that the CONTRACTOR'S insurance shall be construed as primary insurance, and the COUNTY'S insurance and/or deductibles and/or self-insured retention's or self-insured programs shall not be construed as contributory.

5) If, during the term of this Agreement or any extension thereof, there is a material change in the scope of services; or, there is a material change in the equipment to be used in the performance of the scope of work; or, the term of this Agreement, including any extensions thereof, exceeds five (5) years; the COUNTY reserves the right to adjust the types of insurance and the monetary limits of liability required

under this Agreement, if in the County Risk Manager's reasonable judgment, the amount or type of insurance carried by the CONTRACTOR has become inadequate.

6) CONTRACTOR shall pass down the insurance obligations contained herein to all tiers of subCONTRACTORS working under this Agreement.

7) The insurance requirements contained in this Agreement may be met with a program(s) of self-insurance acceptable to the COUNTY.

8) CONTRACTOR agrees to notify COUNTY of any claim by a third party or any incident or event that may give rise to a claim arising from the performance of this Agreement.

### **23. General**

**23.1** CONTRACTOR shall not delegate or assign any interest in this Agreement, whether by operation of law or otherwise, without the prior written consent of COUNTY. Any attempt to delegate or assign any interest herein shall be deemed void and of no force or effect.

**23.2** Any waiver by COUNTY of any breach of any one or more of the terms of this Agreement shall not be construed to be a waiver of any subsequent or other breach of the same or of any other term of this Agreement. Failure on the part of COUNTY to require exact, full and complete compliance with any terms of this Agreement shall not be construed as in any manner changing the terms or preventing COUNTY from enforcement of the terms of this Agreement.

**23.3** In the event the CONTRACTOR receives payment under this Agreement, which is later disallowed by COUNTY for nonconformance with the terms of the Agreement, the CONTRACTOR shall promptly refund the disallowed amount to the COUNTY on request; or at its option the COUNTY may offset the amount disallowed from any payment due to the CONTRACTOR.

**23.4** CONTRACTOR shall not provide partial delivery or shipment of services or products unless specifically stated in the Agreement.

**23.5** CONTRACTOR shall not provide any services or products subject to any chattel mortgage or under a conditional sales contract or other agreement by which an interest is retained by a third party. The CONTRACTOR warrants that it has good title to all materials or products used by CONTRACTOR or provided to COUNTY pursuant to this Agreement, free from all liens, claims or encumbrances.

**23.6** Nothing in this Agreement shall prohibit the COUNTY from acquiring the same type or equivalent equipment, products, materials or services from other sources, when deemed by the COUNTY to be in its best interest. The COUNTY reserves the right to purchase more or less than the quantities specified in this Agreement.

**23.7** The COUNTY agrees to cooperate with the CONTRACTOR in the CONTRACTOR's performance under this Agreement, including, if stated in the Agreement, providing the CONTRACTOR with reasonable facilities and timely access to COUNTY data, information, and personnel.

**23.8** CONTRACTOR shall comply with all applicable Federal, State and local laws and regulations. CONTRACTOR will comply with all applicable COUNTY policies and procedures. In the event that there is a conflict between the various laws or regulations that may apply, the CONTRACTOR shall comply with the more restrictive law or regulation.

**23.9** CONTRACTOR shall comply with all air pollution control, water pollution, safety and health ordinances, statutes, or regulations, which apply to performance under this Agreement.

**23.10** CONTRACTOR shall comply with all requirements of the Occupational Safety and Health Administration (OSHA) standards and codes as set forth by the U.S. Department of Labor and the State of California (Cal/OSHA).

**23.11** This Agreement shall be governed by the laws of the State of California. Any legal action related to the performance or interpretation of this Agreement shall be filed only in the Superior Court of the State of California located in Riverside, California, and the parties waive any provision of law providing for a change of venue to another location. In the event any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

**23.12** This Agreement, including any attachments or exhibits, constitutes the entire Agreement of the parties with respect to its subject matter and supersedes all prior and contemporaneous representations, proposals, discussions and communications, whether oral or in writing. This Agreement may be changed or modified only by a written amendment signed by authorized representatives of both parties.

**COUNTY:**  
County of Riverside  
2980 Washington St.  
Riverside, CA 92504

ATTEST:  
KECIA HARPER-IHEM, Clerk  
By [Signature]  
DEPUTY

**CONTRACTOR:**

Johnny Carrion  
P.O.Box 5451  
Norco, CA 92860

Signature: Bob Buster

Print Name: Bob Buster

Title: Chairman, Board of Supervisors

Dated: MAY 10 2011

Signature: [Signature]

Print Name: Johnny Carrion

Title: OWNER

Dated: 4-29-11

RFP# FPARC092

FOR APPROVED COUNTY COUNSEL

BY: [Signature]  
NEAL R. KIPNIS DATE

MAY 10 2011 3.17



## EXHIBIT A SCOPE OF SERVICE

### 1. Requirements

1. The CONTRACTOR shall provide necessary personnel, equipment, and supplies to accomplish the requested weed abatement and related services within the County of Riverside.
2. The Riverside County Fire Department will provide the necessary weed abatement maps to accomplish the work upon contract award. The maps remain the property of the Fire Department and must be maintained in good condition.
3. The Fire Department will provide a field inspector who will be available to assist the CONTRACTOR in planning and outlining the required work.

### 2. **CONTRACTOR shall**

#### 1. Disking

Weed abatement by disking shall be accomplished by cultivating with a double-throw disk at sufficient depth turning and loosening the soil, placing all weeds under the soil surface. Disking is the plowing of weeds using reasonable care so as to not disturb under/over ground utilities, destruction to fencing, buildings, equipment, supplies or adjoining land, including fire due to reckless/negligent plowing of land. The requirement for the finished product shall be clearance between the property that has the debris and other adjoining parcels of land.

- a. **Cross Disking-** Where the nature of the soil is such that it is not receptive to the cutting edge of the disks the area shall be cross-disked to reduce the magnitude of any exposed combustibles.
- b. **Dust Control-** The CONTRACTOR accepts sole responsibility to comply with Federal, State and Local laws, Regulations and Ordinances including but not limited to South Coast Air Quality Management Division (SCAQMD) Rule 403. This standard exempts CONTRACTORs from dust control measures if contracted with the Riverside County Fire Department.

### 3. Standard for Clearing

Clearing of land shall be done in accordance with Riverside County Ordinance No. 695.4 unless superseded by ordinance revision.

1. CONTRACTOR's agree to furnish tractors, disks and mowers in all areas suitable to complete the job of disking property. The CONTRACTOR agrees to provide transportation to and from job sites, for their equipment and all necessary fuel, etc., at his/her expense. Standard for clearing will be as assigned by the Hazard Reduction Office to include disking, mowing, hand labor or a combination thereof. **The mowing height shall be three (3) inches or less. Disk and mow rate include any handwork required to remove hazards along fence lines, around trees, etc. All rates include any hauling or disposal fees.**
2. CONTRACTORs may be used in tumbleweed abatement in all ten areas.
3. CONTRACTORs agree to have equipment and personnel (labor) to work all areas quoted. See maps for location of areas. **ALL EQUIPMENT LISTED WILL BE VISUALLY INSPECTED AND APPROVED BY THE FIRE DEPARTMENT PRIOR TO USE.**
4. CONTRACTORs agree, at his/her own expense submit **a minimum of four (4) 4" x 6" digital photographs.** Two (2) photographs are "before" pictures and two (2) are "after" pictures. The pictures must contain the following: **identify the APN, date/time, the word "before" or "after" written on a white board and CONTRACTOR's business name.** CONTRACTOR's photographs will be given to the inspectors as verification that the job has been completed. **Larger parcels will require more than four (4) 4"x6" photos. . CONTRACTOR(s) shall**

**deliver additional copies of all photographs to the COUNTY on formatted compact disk(s), each compact disc will be specific to book or portion thereof completed.** The photographs must be received within two (2) weeks of completion of the job. Photos shall be submitted in a standard 6"x9" Manila Envelope. Envelopes shall be provided at CONTRACTOR's expense. It is required that digital photographs be used to ensure that photographs include digital date and time and are clear enough to use as evidence of completion of work. **CONTRACTORS will not be paid for their services until these photographs have been provided and accepted as satisfactory work by the Fire Department.**

3. COUNTY shall provide the CONTRACTOR with a written job assignment sheet of the job site at the time of the job walk for the lot size, cost, type of cleaning and brush size. For parcels requiring payment for hand cleaning a CONTRACTOR signature will be required. The signature is to ensure CONTRACTOR understands the work to be performed and the cost associated. Once the job has been completed, the CONTRACTOR must provide detailed pictures of the job site(s) as specified in section (4).
4. **The CONTRACTOR(s) shall not miss more than two (2) consecutive days or not more than five (5) days out of twenty (20) days, when work has been assigned, regardless of the reason (i.e. equipment failure, illness, etc.).** The CONTRACTOR(s) shall work with inspectors on completion of work under certain weather conditions. Each book or portion of shall be completed within 20 working days, excluding weather and fire conditions. Acceptable workday for the CONTRACTOR is a minimum of eight (8) hours.
5. The CONTRACTOR's will be required to provide all services within forty-eight hours of notification of a need for these services. If the CONTRACTOR's cannot provide these services within this time frame due to equipment breakdown, over-scheduling, etc., the COUNTY will contact the next vendor based on a standard rotation method.

**Liquidated Damages (Fine for failure to complete work by specified date)**

Pursuant to Government Code Section 53069.85 ~~95 (Exhibit G)~~, CONTRACTOR agrees that two hundred and fifty dollars (\$250.00) for each working day beyond the specified cleaning period required to complete the work is a fair and reasonable estimate of the damages which the COUNTY will suffer because of the CONTRACTOR's delay; therefore, it is agreed by both parties hereto and said amount shall be charged against the CONTRACTOR's and shall be deducted as liquidated damages from any amount due him/her under this contract if work is not completed on schedule.

**Unsatisfactory Performance Provision**

The Riverside County fire Chief or his designee shall inspect the work and judge the performance of the CONTRACTOR(s) pursuant to all Weed/Vegetation Abatement Work. If the contract work is incomplete and/or unsatisfactory; the CONTRACTOR fails to provide the services specified in the schedule supplied by the Riverside County Fire Inspector; or if a lesser number of hours of service than eight (8) hours per day and forty hours per week is provided by the CONTRACTOR, the amount payable under the contract shall be reduced by \$19.00 per hour, per each County Inspector involved to correct the problem or major fraction of an hour that service is provided. This provision shall apply to any down-time on the part of the CONTRACTOR(s), when performance deficiencies exceed 15% of the work scheduled in any given day, based on an eight (8) hour work day, regardless of its origin (including, but not limited to, lack of sufficient manpower, machinery or parts, equipment failure, absence of supervisory personnel or inadequate replace for equipment or manpower, unless the deficiency is the direct result of an act of God, i.e., rain, fire, flood, and determined by the Riverside County Fire Captain.

6. CONTRACTOR(s) shall not work outside the scope of this RFP, without the written authorization from the Fire Department. The only equipment allowed would be the exception of those areas, which require a mower (see block A). The Fire Department will advise the successful CONTRACTOR(s) where the mowing will be allowed. **Use of non-authorized equipment and /or methods will result in nonpayment by the County** and the CONTRACTOR may be held liable for any damages incurred.
7. Where there are locked gates to the property, the CONTRACTOR(s) will be given instructions on how to enter the property. **The CONTRACTOR(s) will be responsible for any damage done not in accordance to given instructions. All services must be coordinated through the Fire Prevention Inspector and performed during the hours of 7:00 a.m. to 4:00 p.m. Monday through Friday, excluding holidays/weekends unless otherwise authorized by the County.**
8. CONTRACTOR shall be paid rounded to the nearest 1 acre. Handwork shall be a minimum per parcel price using sq. footage cost for brush category type. If the sq. footage exceeds the cost per sq ft cost for brush category type will be used. .
9. **SCAQMD RULE 403 Exemptions**  
The provisions of the Rule (403) shall not apply to:  
(H) Weed abatement operations ordered by a County agricultural commissioner or State, County, or Municipal Fire Department, provided that:

- a. Mowing, cutting, or other similar process is used which maintains weed stubble at three (3) inches above soil; and
- b. Any disking or similar operation which cuts into and disturbs the soil, where watering is used prior to initiation of these activities and a determination is made by the agency issuing the weed abatement order that due to fire hazard conditions, rocks, or other physical obstruction it is not practical to meet the conditions specified in SCAQMD rule 403 clause (g), (H), (i). the provisions of this clause shall not exempt the owner of any property from stabilizing, in accordance with paragraph (d) (2), disturbed surface areas, which have been created as a result of weed abatement actions.

#### 4. **Hand Cleaning and Hauling**

Whenever it is impractical by reason of topography, location of trees, sprinkler systems, shrubbery, buildings, fences or type of vegetation cover to disk and when authorized by the County Fire Chief or his representatives as set forth in Ordinance 695.4 unless superseded by ordinance revision the vegetation shall be removed or thinned **by hand labor**. The Inspector will specify the degree of hand labor to be accomplished on any parcel based upon square footage. The minimum requirement is clearing between the property line that has the debris and the improved parcel(s) of land. Dirt or mowed down materials shall have stubble no greater than 3 inches in height per the Public Resources and Health and Safety Code. Handwork classes include: 1) light grass, 2) medium brush (four (4) feet and under) and 3) heavy brush (more than four (4) feet).

#### 5. **Standard for Cleaning**

A contract for hand cleaning with the Riverside County will be for the sole purpose of weed abatement. The inspections and notification of the property owners will be done by the Fire Department.

1. A minimum of a two (2) person hand-crew with CONTRACTORs supervision or designee, transportation and tools shall be available at all times. Additional crewmembers may be necessary to complete the work. CONTRACTOR must have sufficient additional resources available for

additional work requirements as requested by the COUNTY.

2. Payments for hand-labor shall be based on measurements, to the actual square feet, taken by the Inspector and the CONTRACTOR. The unit price for hand cleaning shall include full compensation for furnishing all labor, materials, tools and equipments for cutting the weeds, loading the materials into trucks and hauling them to a COUNTY disposal site.
3. 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, and all disposal fees. All materials hauled to the approved site shall be covered according to local codes.
4. Some parcels will may require **partial cleaning**. That area which is cleaned will be measured and applicable unit rate will apply. The Inspector may assign partial cleaning projects.
5. If it were determined by the Fire Department that a **second cleaning** or partial cleaning is necessary, the work would occur at any time. The existing rates would apply and the CONTRACTOR(s) shall be prepared to start work upon 48 hours notice.
6. The CONTRACTOR(s) shall furnish all hand tools, power equipment and safety equipment necessary to accomplish the specified work. The Hand-crew Supervisor will stock spare replacement parts that commonly fail or are lost. All supervisors will have portable water readily available at all times for each crewmember.
7. Gas Weed eaters with adequate supplies and parts for repairs must be supplied for hand crews. Each hand- crew must have minimum of one (1) gas powered weed eater for every two men: for example: a four (4) man crew must be supplied with a minimum of two (2) weed eaters, etc. A sufficient reserve of weed eaters shall be available to eliminate down time.
8. The material cut down by hand labor **shall be hauled away to a lawful dumpsite and lawfully disposed of at CONTRACTOR's expense..** The loading of debris removed from the lot is to be accomplished as cleaning is completed. **No materials will be left on the lot for later pick up,** as this would not remove the fire hazard. Under certain circumstances with prior approval by the Fire Department cut down material may disposed of by disking under.
9. Suitable flatbed hydraulic dump trucks or trailers with high sides for hauling are to be provided throughout the handwork operation and is to be operated and maintained at the expense of the CONTRACTOR. All trimmings and rubbish shall be hauled to a lawful dumpsite and lawfully disposed of at the CONTRACTOR's expense.

**ALL EQUIPMENT WILL BE SUBJECT TO VISUAL INSPECTION BY THE FIRE DEPARTMENT PRIOR TO WEED ABATEMENT.**

## 6. Additional Terms and Conditions

It will be the responsibility of the CONTRACTOR(s) to keep an accurate account of the names of his/her employees as well as the dates, locations, and the type of work they perform. This information must be submitted to the Riverside County Fire Department upon request.

1. All personnel (labor) will be furnished by the CONTRACTOR(s). Each worker will be able to perform his/her duties in a manner that will not endanger the employees' health or safety or the health and safety of others and be attired with appropriate protective clothing and footwear. The CONTRACTOR(s) will furnish gloves, safety glasses, hearing protection, and any other safety equipment that is necessary for this type of work. The CONTRACTOR(s) shall provide safe and healthful working conditions and transport equipment and shall at all times comply with OSHA requirements. All trucks shall be equipped with rear flashing amber warning lights and traffic control cones.
2. All handwork will be completed within a time frame specified by the inspector. This time frame will be based on the amount of work to be accomplished.
3. Proof of insurance will be provided (including but not limited to General liability, Auto, Workers' Compensation, Waiver of Subrogation and Endorsements, all naming the County of Riverside as "additional insured") by the CONTRACTOR prior to any work being started and shall remain in effect through the term of this contract
4. No employee drinking alcohol or under the influence of alcohol and/or drugs shall be allowed to participate in the performance of this contract, nor shall any employee bring alcohol and/or drugs onto the work location covered in this contract. The CONTRACTOR(s) agree to remove immediately and replace any employee whose conduct and/or workmanship are in any way unsatisfactory to the County.
5. The CONTRACTOR(s) at his/her own expense will furnish supervision of hand-crews. All supervisors and lead personnel must be able to communicate (speak, read, and write) with the inspector in the English language.
6. The work, labor and/or materials which the bidder proposed to furnish to the COUNTY **must** comply in all respects with the appropriate equipment and safety regulations of all Federal, State and Local regulatory commissions whether such equipment and/or safety features have been specifically outlined/required this RFP or not.
7. All cleaning must meet the specification of the Riverside County Fire Department and must be approved in writing by the Fire Department Inspector.
8. The CONTRACTOR(s) shall accept sole responsibility for compliance with Federal, State and Local laws, regulations and ordinances including but not limited to South Coast Air Quality Management (SCAQMD) Division Rule 403/ See exemptions outlined on Page 7 of this RFP.

The amount of work and type of work to be performed shall be under the direction of and only with the authorization of the Riverside County Fire Department, contact information to be provided after award.

**EXHIBIT B  
PAYMENT PROVISIONS**

**Mowing and Disking – flat rate of \$130.00 per acre rounded to the nearest acre**

**Hand Cleaning based on Actual Square Feet of Work Completed**

Minimum \$130.00 per parcel using sq. ft. cost for fuel class if exceeds: \$0.03 sq. ft. (Light=grass)

Minimum \$130.00 per parcel using sq. ft cost for fuel class if exceeds: \$0.05 sq/ ft. (Medium=brush 4ft. & under)

Minimum \$130.00 per parcel using sq. ft. cost for fuel class if exceeds: \$0.07 sq. ft. (Heavy=brush over 4ft.)

Minimum \$130.00 per parcel using sq. ft. cost for fuel class if exceeds: \$0.12 sq. ft, (Extremely Heavy Brush that is due to size, type, density, terrain is impossible to mow, disc, string trim, or other hand labor methods are impractical for clearance)

**PROFESSIONAL SERVICE AGREEMENT**

**for**

**WEED ABATEMENT SERVICES**

**between**

**COUNTY OF RIVERSIDE**

**and**

**DEGUIRE WEED ABATEMENT**



**TABLE OF CONTENTS**

<b><u>SECTION HEADING</u></b>	<b><u>PAGE NUMBER</u></b>
1. Description of Services .....	3
2. Period of Performance .....	3
3. Compensation.....	3-4
4. Alteration or Changes to the Agreement .....	4-5
5. Termination .....	5
6. Ownership/Use of Contract Materials and Products .....	5
7. Conduct of CONTRACTOR.....	6
8. Inspection of Service: Quality Control/Assurance .....	6-7
9. Independent CONTRACTOR .....	7
10. Subcontract for Work or Services .....	7
11. Disputes .....	7-8
12. Licensing and Permits .....	8
13. Use by Other Political Entities .....	8
14. Non-Discrimination .....	8
15. Records and Documents .....	8-9
16. Confidentiality .....	9
17. Administration/Contract Liaison.....	9
18. Notices .....	10
19. Force Majeure .....	10
20. EDD Reporting Requirements.....	10
21. Hold Harmless/Indemnification .....	11-12
22. Insurance .....	12-14
23. General .....	14-15
Exhibit A-Scope of Service .....	16-20
Exhibit B- Payment Provisions.....	21



This Agreement, made and entered into this 10<sup>TH</sup> day of May, 2011, by and between DeGuire Weed Abatement (herein referred to as "CONTRACTOR"), and the COUNTY OF RIVERSIDE, a political subdivision of the State of California, (herein referred to as "COUNTY"). The parties agree as follows:

**1. Description of Services**

1.1 CONTRACTOR shall provide all services as outlined and specified in Exhibit A, Scope of Services, consisting 16 through 20 pages at the prices stated in Exhibit B, Payment Provisions, consisting of page 21..

1.2 CONTRACTOR represents that it has the skills, experience and knowledge necessary to fully and adequately perform under this Agreement and the COUNTY relies upon this representation. CONTRACTOR shall perform to the satisfaction of the COUNTY and in conformance to and consistent with the highest standards of firms/professionals in the same discipline in the State of California.

1.3 CONTRACTOR affirms this it is fully apprised of all of the work to be performed under this Agreement; and the CONTRACTOR agrees it can properly perform this work at the prices stated in Exhibit B. CONTRACTOR is not to perform services or provide products outside of the Agreement.

1.4 Acceptance by the COUNTY of the CONTRACTOR's performance under this Agreement does not operate as a release of CONTRACTOR's responsibility for full compliance with the terms of this Agreement.

**2. Period of Performance**

2.1 This Agreement shall be effective upon signature of this Agreement by both parties and continue in effect through May 10<sup>th</sup> 2011 with the option to renew for four (4) additional years, renewable in one (1) year increments by written amendment, unless terminated earlier. CONTRACTOR shall commence performance upon signature of this Agreement by both parties and shall diligently and continuously perform thereafter.

**3. Compensation**

3.1 The COUNTY shall pay the CONTRACTOR for services performed, products provided and expenses incurred in accordance with the terms of Exhibit B, Payment Provisions. Maximum payments by COUNTY to CONTRACTOR shall not exceed \$100,000.00 annually including all expenses. Service by area shall be based upon a standard rotation. The rotation will be initially established by a method in which every CONTRACTOR will have the opportunity to obtain a minimum of one area. The COUNTY is not responsible for any fees or costs incurred above or beyond the contracted amount and shall have no obligation to purchase any specified amount of services or products. Unless otherwise specifically stated in

Exhibit B, COUNTY shall not be responsible for payment of any of CONTRACTOR's expenses related to this Agreement.

**3.3** CONTRACTOR shall be paid only in accordance with an invoice submitted to COUNTY by CONTRACTOR within fifteen (15) days from the last day of each calendar month, and COUNTY shall pay the invoice within thirty (30) working days from the date of receipt of the invoice. Payment shall be made to CONTRACTOR only after services have been rendered or delivery of materials or products, and acceptance has been made by COUNTY. Prepare invoices in duplicate. For this Agreement, send the original and duplicate copies of invoices to:

Riverside County Fire Department  
210 W. San Jacinto  
Perris, CA 92570

- a) Each invoice shall contain a minimum of the following information: invoice number and date; remittance address; bill-to and ship-to addresses of ordering department/division; Agreement number FPARC-98889-001-05/12 quantities; item descriptions, unit prices, extensions, sales/use tax if applicable, and an invoice total.
- b) Invoices shall be rendered monthly in arrears.

**3.4** The COUNTY obligation for payment of this Agreement beyond the current fiscal year end is contingent upon and limited by the availability of COUNTY funding from which payment can be made. No legal liability on the part of the COUNTY shall arise for payment beyond June 30 of each calendar year unless funds are made available for such payment. In the event that such funds are not forthcoming for any reason, COUNTY shall immediately notify CONTRACTOR in writing; and this Agreement shall be deemed terminated, have no further force, and effect.

#### **4. Alteration or Changes to the Agreement**

**4.1** The Board of Supervisors and the COUNTY Purchasing Agent and/or his designee is the only authorized COUNTY representatives who may at any time, by written order, alter this Agreement. If any such alteration causes an increase or decrease in the cost of, or the time required for the performance under this Agreement, an equitable adjustment shall be made in the Agreement price or delivery schedule, or both, and the Agreement shall be modified by written amendment accordingly.

**4.2** Any claim by the CONTRACTOR for additional payment related to this Agreement shall be made in writing by the CONTRACTOR within 30 days of when the CONTRACTOR has or should have notice of any actual or claimed change in the work, which results in additional and unanticipated cost to the CONTRACTOR. If the COUNTY Purchasing Agent decides that the facts provide sufficient justification, he may authorize additional payment to the CONTRACTOR pursuant to the claim. Nothing in this section

shall excuse the CONTRACTOR from proceeding with performance of the Agreement even if there has been a change.

**5. Termination**

**5.1.** COUNTY may terminate this Agreement without cause upon 30 days written notice served upon the CONTRACTOR stating the extent and effective date of termination.

**5.2** COUNTY may, upon five (5) days written notice, terminate this Agreement for CONTRACTOR's default, if CONTRACTOR refuses or fails to comply with the terms of this Agreement or fails to make progress to endanger performance and does not immediately cure such failure. In the event of such termination, the COUNTY may proceed with the work in any manner deemed proper by COUNTY.

**5.3** After receipt of the notice of termination, CONTRACTOR shall:

- (a) Stop all work under this Agreement on the date specified in the notice of termination; and
- (b) Transfer to COUNTY and deliver in the manner as directed by COUNTY any materials, reports or other products, which, if the Agreement had been completed or continued, would have been required to be furnished to COUNTY.

**5.4** After termination, COUNTY shall make payment only for CONTRACTOR's performance up to the date of termination in accordance with this Agreement and at the rates set forth in Exhibit B.

**5.5** CONTRACTOR's rights under this Agreement shall terminate (except for fees accrued prior to the date of termination) upon dishonesty or a willful or material breach of this Agreement by CONTRACTOR; or in the event of CONTRACTOR's unwillingness or inability for any reason whatsoever to perform the terms of this Agreement. In such event, CONTRACTOR shall not be entitled to any further compensation under this Agreement.

**5.6** The rights and remedies of COUNTY provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or this Agreement.

**6. Ownership/Use of Contract Materials and Products**

The CONTRACTOR agrees that all materials, reports or products in any form, including electronic, created by CONTRACTOR for which CONTRACTOR has been compensated by COUNTY pursuant to this Agreement shall be the sole property of the COUNTY; and may be used by the COUNTY for any purpose COUNTY deems to be appropriate, including, but not limit to, duplication and/or distribution within the COUNTY or to third parties. CONTRACTOR agrees not to release or circulate in whole or part such materials, reports or products without prior written authorization of the COUNTY.

## **7. Conduct of CONTRACTOR**

7.1 The CONTRACTOR covenants that it presently has no interest, including, but not limited to, other projects or contracts, and shall not acquire any such interest, direct or indirect, which would conflict in any manner or degree with CONTRACTOR's performance under this Agreement. The CONTRACTOR further covenants that no person or subCONTRACTOR having any such interest shall be employed or retained by CONTRACTOR under this Agreement. The CONTRACTOR agrees to inform the COUNTY of all the CONTRACTOR's interests, if any, which are or may be perceived as incompatible with the COUNTY's interests.

7.2 The CONTRACTOR shall not, under circumstances which could be interpreted as an attempt to influence the recipient in the conduct of his/her duties, accept any gratuity or special favor from individuals or firms with whom the CONTRACTOR is doing business or proposing to do business, in accomplishing the work under this Agreement.

7.3 The CONTRACTOR or its employees shall not offer gifts, gratuity, favors, and entertainment directly or indirectly to COUNTY employees.

## **8. Inspection of Service; Quality Control/Assurance**

8.1 All performance (which includes services, workmanship, materials, supplies and equipment furnished or utilized in the performance of this Agreement) shall be subject to inspection and test by the COUNTY or other regulatory agencies at all times. The CONTRACTOR shall provide adequate cooperation to any inspector or other COUNTY representative to permit him/her to determine the CONTRACTOR's conformity with the terms of this Agreement. If any services performed or products provided by CONTRACTOR are not in conformance with the terms of this Agreement, the COUNTY shall have the right to require the CONTRACTOR to perform the services or provide the products in conformance with the terms of the Agreement at no additional cost to the COUNTY. When the services to be performed or the products to be provided are of such nature that the difference cannot be corrected, the COUNTY shall have the right to: (1) require the CONTRACTOR immediately to take all necessary steps to ensure future performance in conformity with the terms of the Agreement; and/or (2) reduce the Agreement price to reflect the reduced value of the services performed or products provided. The COUNTY may also terminate this Agreement for default and charge to CONTRACTOR any costs incurred by the COUNTY because of the CONTRACTOR's failure to perform.

8.2 CONTRACTOR shall establish adequate procedures for self-monitoring and quality control and assurance to ensure proper performance under this Agreement; and shall permit a COUNTY

representative or other regulatory official to monitor, assess or evaluate CONTRACTOR's performance under this Agreement at any time upon reasonable notice to CONTRACTOR.

**9. Independent CONTRACTOR**

The CONTRACTOR is, for purposes relating to this Agreement, an independent CONTRACTOR and shall not be deemed an employee of the COUNTY. It is expressly understood and agreed that the CONTRACTOR (including its employees, agents and subCONTRACTORS) shall in no event be entitled to any benefits to which COUNTY employees are entitled, including but not limited to overtime, any retirement benefits, worker's compensation benefits, and injury leave or other leave benefits. There shall be no employer-employee relationship between the parties; and CONTRACTOR shall hold COUNTY harmless from any and all claims that may be made against COUNTY based upon any contention by a third party that an employer-employee relationship exists by reason of this Agreement. It is further understood and agreed by the parties that CONTRACTOR in the performance of this Agreement is subject to the control or direction of COUNTY merely as to the results to be accomplished and not as to the means and methods for accomplishing the results.

**10. Subcontract for Work or Services**

No contract shall be made by the CONTRACTOR with any other party for furnishing any of the work or services under this Agreement without the prior written approval of the COUNTY; but this provision shall not require the approval of contracts of employment between the CONTRACTOR and personnel assigned under this Agreement, or for parties named in the proposal and agreed to under this Agreement.

**11. Disputes**

**11.1** The parties shall attempt to resolve any disputes amicably at the working level. If that is not successful, the dispute shall be referred to the senior management of the parties. Any dispute relating to this Agreement, which is not resolved by the parties, shall be decided by the COUNTY's Purchasing Department's Compliance Contract Officer who shall furnish the decision in writing. The decision of the COUNTY's Compliance Contract Officer shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, capricious, arbitrary, or so grossly erroneous as necessarily to imply bad faith. The CONTRACTOR shall proceed diligently with the performance of this Agreement pending the resolution of a dispute.

**11.2** Prior to the filing of any legal action related to this Agreement, the parties shall be obligated to attend a mediation session in Riverside County before a neutral third party mediator. A second mediation

session shall be required if the first session is not successful. The parties shall share the cost of the mediations.

**12. Licensing and Permits**

CONTRACTOR shall comply with all State or other licensing requirements, including but not limited to the provisions of Chapter 9 of Division 3 of the Business and Professions Code. All licensing requirements shall be met at the time proposals are submitted to the COUNTY. CONTRACTOR warrants that it has all necessary permits, approvals, certificates, waivers and exemptions necessary for performance of this Agreement as required by the laws and regulations of the United States, the State of California, the County of Riverside and all other governmental agencies with jurisdiction, and shall maintain these throughout the term of this Agreement.

**13. Use By Other Political Entities**

The CONTRACTOR agrees to extend the same pricing, terms and conditions as stated in this Agreement to each and every political entity, special district, and related non-profit entity in Riverside County. It is understood that other entities shall make purchases in their own name, make direct payment, and be liable directly to the CONTRACTOR; and COUNTY shall in no way be responsible to CONTRACTOR for other entities' purchases.

**14. Non-Discrimination**

CONTRACTOR shall not be discriminate in the provision of services, allocation of benefits, accommodation in facilities, or employment of personnel on the basis of ethnic group identification, race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status or sex in the performance of this Agreement; and, to the extent they shall be found to be applicable hereto, shall comply with the provisions of the California Fair Employment and Housing Act (Gov. Code 12900 et. seq), the Federal Civil Rights Act of 1964 (P.L. 88-352), the Americans with Disabilities Act of 1990 (42 U.S.C. S1210 et seq.) and all other applicable laws or regulations.

**15. Records and Documents**

CONTRACTOR shall make available, upon written request by any duly authorized Federal, State or COUNTY agency, a copy of this Agreement and such books, documents and records as are necessary to certify the nature and extent of the CONTRACTOR's costs related to this Agreement. All such books, documents and records shall be maintained by CONTRACTOR for at least five years following termination

of this Agreement and be available for audit by the COUNTY. CONTRACTOR shall provide to the COUNTY reports and information related to this Agreement as requested by COUNTY.

**16. Confidentiality**

**16.1** The CONTRACTOR shall not use for personal gain or make other improper use of privileged or confidential information which is acquired in connection with this Agreement. The term "privileged or confidential information" includes but is not limited to: unpublished or sensitive technological or scientific information; medical, personnel, or security records; anticipated material requirements or pricing/purchasing actions; COUNTY information or data which is not subject to public disclosure; COUNTY operational procedures; and knowledge of selection of CONTRACTORS, subCONTRACTORS or suppliers in advance of official announcement.

**16.2** The CONTRACTOR shall protect from unauthorized disclosure names and other identifying information concerning persons receiving services pursuant to this Agreement, except for general statistical information not identifying any person. The CONTRACTOR shall not use such information for any purpose other than carrying out the CONTRACTOR's obligations under this Agreement. The CONTRACTOR shall promptly transmit to the COUNTY all third party requests for disclosure of such information. The CONTRACTOR shall not disclose, except as otherwise specifically permitted by this Agreement or authorized in advance in writing by the COUNTY, any such information to anyone other than the COUNTY. For purposes of this paragraph, identity shall include, but not be limited to, name, identifying number, symbol, or other identifying particular assigned to the individual, such as finger or voice print or a photograph.

**17. Administration/Contract Liaison**

The COUNTY Purchasing Agent, or designee, shall administer this Agreement on behalf of the COUNTY. The Purchasing Department is to serve as the liaison with CONTRACTOR in connection with this Agreement.

**18. Notices**

All correspondence and notices required or contemplated by this Agreement shall be delivered to the respective parties at the addresses set forth below and are deemed submitted two days after their deposit in the United States mail, postage prepaid:

**COUNTY OF RIVERSIDE**

County of Riverside Purchasing  
2980 Washington St.  
Riverside, CA 92504  
Attn: Debra Macias

**CONTRACTOR**

DeGuire Weed Abatement  
20895 Warren Rd.  
Perris, CA 92570

**19. Force Majeure**

If either party is unable to comply with any provision of this Agreement due to causes beyond its reasonable control, and which could not have been reasonably anticipated, such as acts of God, acts of war, civil disorders, or other similar acts, such party shall not be held liable for such failure to comply.

**20. EDD Reporting Requirements**

In order to comply with child support enforcement requirements of the State of California, the COUNTY may be required to submit a Report of Independent CONTRACTOR(s) form **DE 542** to the Employment Development Department. The CONTRACTOR agrees to furnish the required data and certifications to the COUNTY within 10 days of notification of award of Agreement when required by the EDD. This data will be transmitted to governmental agencies charged with the establishment and enforcement of child support orders. Failure of the CONTRACTOR to timely submit the data and/or certificates required may result in the contract being awarded to another CONTRACTOR. In the event a contract has been issued, failure of the CONTRACTOR to comply with all federal and state reporting requirements for child support enforcement or to comply with all lawfully served Wage and Earnings Assignments Orders and Notices of Assignment shall constitute a material breach of Agreement. If CONTRACTOR has any questions concerning this reporting requirement, please call (916) 657-0529. CONTRACTOR should also contact its local Employment Tax Customer Service Office listed in the telephone directory in the State Government section under "Employment Development Department" or access their Internet site at [www.edd.ca.gov](http://www.edd.ca.gov).



**21. Hold Harmless/Indemnification**

**21.1** CONTRACTOR shall indemnify and hold harmless the County of Riverside, its Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives (individually and collectively hereinafter referred to as Indemnitees) from any liability whatsoever, based or asserted upon any services of CONTRACTOR, its officers, employees, subCONTRACTORS, agents or representatives arising out of or in any way relating to this Agreement, including but not limited to property damage, bodily injury, or death or any other element of any kind or nature whatsoever arising from the performance of CONTRACTOR, its officers, employees, subCONTRACTORS, agents or representatives Indemnitors from this Agreement. CONTRACTOR shall defend, at its sole expense, all costs and fees including, but not limited, to attorney fees, cost of investigation, defense and settlements or awards, the Indemnitees in any claim or action based upon such alleged acts or omissions.

**21.2** With respect to any action or claim subject to indemnification herein by CONTRACTOR, CONTRACTOR shall, at their sole cost, have the right to use counsel of their own choice and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of COUNTY; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes CONTRACTOR'S indemnification to Indemnitees as set forth herein.

**21.2** CONTRACTOR'S obligation hereunder shall be satisfied when CONTRACTOR has provided to COUNTY the appropriate form of dismissal relieving COUNTY from any liability for the action or claim involved.

**21.3** The specified insurance limits required in this Agreement shall in no way limit or circumscribe CONTRACTOR'S obligations to indemnify and hold harmless the Indemnitees herein from third party claims.

**21.4** In the event there is conflict between this clause and California Civil Code Section 2782, this clause shall be interpreted to comply with Civil Code 2782. Such interpretation shall not relieve the CONTRACTOR from indemnifying the Indemnitees to the fullest extent allowed by law.

**21.5** CONTRACTOR's indemnification obligations shall also apply to any action or claim regarding actual or alleged intellectual property infringement related to any material or product provided to COUNTY pursuant to this Agreement. In the event of any such action or claim, CONTRACTOR shall provide immediate notice to COUNTY of the action or claim. CONTRACTOR may defend or settle the action or claim as CONTRACTOR deems appropriate; however, CONTRACTOR shall be required to

obtain for COUNTY the right to continue to use the material or product (or a similar non-infringing material or product with the same function) on terms identical to those stated in this Agreement.

## **22. Insurance**

**22.1** Without limiting or diminishing the CONTRACTOR'S obligation to indemnify or hold the COUNTY harmless, CONTRACTOR shall procure and maintain or cause to be maintained, at its sole cost and expense, the following insurance coverage's during the term of this Agreement. As respects to the insurance section only, the COUNTY herein refers to the County of Riverside, its Agencies, Districts, Special Districts, and Departments, their respective directors, officers, Board of Supervisors, employees, elected or appointed officials, agents or representatives as Additional Insureds.

**22.2 Workers' Compensation:** If the CONTRACTOR has employees as defined by the State of California, the CONTRACTOR shall maintain statutory Workers' Compensation Insurance (Coverage A) as prescribed by the laws of the State of California. Policy shall include Employers' Liability (Coverage B) including Occupational Disease with limits not less than \$1,000,000 per person per accident. The policy shall be endorsed to waive subrogation in favor of the County of Riverside.

**22.3 Commercial General Liability:** Commercial General Liability insurance coverage, including but not limited to, premises liability, unmodified contractual liability, products and completed operations liability, personal and advertising injury, and cross liability coverage, covering claims which may arise from or out of CONTRACTOR'S performance of its obligations hereunder. Policy shall name the COUNTY as Additional Insured. Policy's limit of liability shall not be less than \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit.

**22.4 Vehicle Liability:** If vehicles or mobile equipment are used in the performance of the obligations under this Agreement, then CONTRACTOR shall maintain liability insurance for all owned, non-owned or hired vehicles so used in an amount not less than \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit. Policy shall name the COUNTY as Additional Insureds.

### **22.6 General Insurance Provisions - All lines:**

1) Any insurance carrier providing insurance coverage hereunder shall be admitted to the State of California and have an A M BEST rating of not less than A: VIII (A:8) unless such requirements are waived, in writing, by the County Risk Manager. If the County's Risk Manager waives a requirement for a particular insurer such waiver is only valid for that specific insurer and only for one policy term.

2) The CONTRACTOR must declare its insurance self-insured retention for each coverage required herein. If any such self-insured retention exceed \$500,000 per occurrence each such retention shall have the prior written consent of the County Risk Manager before the commencement of operations under this Agreement. Upon notification of self-insured retention unacceptable to the COUNTY, and at the election of the County's Risk Manager, CONTRACTOR'S carriers shall either; 1) reduce or eliminate such self-insured retention as respects this Agreement with the COUNTY, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, and defense costs and expenses.

3) CONTRACTOR shall cause CONTRACTOR'S insurance carrier(s) to furnish the County of Riverside with either 1) a properly executed original Certificate(s) of Insurance and certified original copies of Endorsements effecting coverage as required herein, and 2) if requested to do so orally or in writing by the County Risk Manager, provide original Certified copies of policies including all Endorsements and all attachments thereto, showing such insurance is in full force and effect. Further, said Certificate(s) and policies of insurance shall contain the covenant of the insurance carrier(s) that thirty (30) days written notice shall be given to the County of Riverside prior to any material modification, cancellation, expiration or reduction in coverage of such insurance. In the event of a material modification, cancellation, expiration, or reduction in coverage, this Agreement shall terminate forthwith, unless the County of Riverside receives, prior to such effective date, another properly executed original Certificate of Insurance and original copies of endorsements or certified original policies, including all endorsements and attachments thereto evidencing coverage's set forth herein and the insurance required herein is in full force and effect. ***CONTRACTOR shall not commence operations until the COUNTY has been furnished original Certificate (s) of Insurance and certified original copies of endorsements and if requested, certified original policies of insurance including all endorsements and any and all other attachments as required in this Section. An individual authorized by the insurance carrier to do so on its behalf shall sign the original endorsements for each policy and the Certificate of Insurance.***

4) It is understood and agreed to by the parties hereto that the CONTRACTOR'S insurance shall be construed as primary insurance, and the COUNTY'S insurance and/or deductibles and/or self-insured retention's or self-insured programs shall not be construed as contributory.

5) If, during the term of this Agreement or any extension thereof, there is a material change in the scope of services; or, there is a material change in the equipment to be used in the performance of the scope of work; or, the term of this Agreement, including any extensions thereof, exceeds five (5) years; the COUNTY reserves the right to adjust the types of insurance and the monetary limits of liability required

under this Agreement, if in the County Risk Manager's reasonable judgment, the amount or type of insurance carried by the CONTRACTOR has become inadequate.

6) CONTRACTOR shall pass down the insurance obligations contained herein to all tiers of subCONTRACTORS working under this Agreement.

7) The insurance requirements contained in this Agreement may be met with a program(s) of self-insurance acceptable to the COUNTY.

8) CONTRACTOR agrees to notify COUNTY of any claim by a third party or any incident or event that may give rise to a claim arising from the performance of this Agreement.

### **23. General**

**23.1** CONTRACTOR shall not delegate or assign any interest in this Agreement, whether by operation of law or otherwise, without the prior written consent of COUNTY. Any attempt to delegate or assign any interest herein shall be deemed void and of no force or effect.

**23.2** Any waiver by COUNTY of any breach of any one or more of the terms of this Agreement shall not be construed to be a waiver of any subsequent or other breach of the same or of any other term of this Agreement. Failure on the part of COUNTY to require exact, full and complete compliance with any terms of this Agreement shall not be construed as in any manner changing the terms or preventing COUNTY from enforcement of the terms of this Agreement.

**23.3** In the event the CONTRACTOR receives payment under this Agreement, which is later disallowed by COUNTY for nonconformance with the terms of the Agreement, the CONTRACTOR shall promptly refund the disallowed amount to the COUNTY on request; or at its option the COUNTY may offset the amount disallowed from any payment due to the CONTRACTOR.

**23.4** CONTRACTOR shall not provide partial delivery or shipment of services or products unless specifically stated in the Agreement.

**23.5** CONTRACTOR shall not provide any services or products subject to any chattel mortgage or under a conditional sales contract or other agreement by which an interest is retained by a third party. The CONTRACTOR warrants that it has good title to all materials or products used by CONTRACTOR or provided to COUNTY pursuant to this Agreement, free from all liens, claims or encumbrances.

**23.6** Nothing in this Agreement shall prohibit the COUNTY from acquiring the same type or equivalent equipment, products, materials or services from other sources, when deemed by the COUNTY to be in its best interest. The COUNTY reserves the right to purchase more or less than the quantities specified in this Agreement.

23.7 The COUNTY agrees to cooperate with the CONTRACTOR in the CONTRACTOR's performance under this Agreement, including, if stated in the Agreement, providing the CONTRACTOR with reasonable facilities and timely access to COUNTY data, information, and personnel.

23.8 CONTRACTOR shall comply with all applicable Federal, State and local laws and regulations. CONTRACTOR will comply with all applicable COUNTY policies and procedures. In the event that there is a conflict between the various laws or regulations that may apply, the CONTRACTOR shall comply with the more restrictive law or regulation.

23.9 CONTRACTOR shall comply with all air pollution control, water pollution, safety and health ordinances, statutes, or regulations, which apply to performance under this Agreement.

23.10 CONTRACTOR shall comply with all requirements of the Occupational Safety and Health Administration (OSHA) standards and codes as set forth by the U.S. Department of Labor and the State of California (Cal/OSHA).

23.11 This Agreement shall be governed by the laws of the State of California. Any legal action related to the performance or interpretation of this Agreement shall be filed only in the Superior Court of the State of California located in Riverside, California, and the parties waive any provision of law providing for a change of venue to another location. In the event any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

23.12 This Agreement, including any attachments or exhibits, constitutes the entire Agreement of the parties with respect to its subject matter and supersedes all prior and contemporaneous representations, proposals, discussions and communications, whether oral or in writing. This Agreement may be changed or modified only by a written amendment signed by authorized representatives of both parties.

**COUNTY:**

County of Riverside  
2980 Washington St.  
Riverside, CA 92504

Signature: \_\_\_\_\_

Print Name: Bob BusterTitle: Chairman, Board of Supervisors

Dated: \_\_\_\_\_

**ATTEST:**

KECIA HARPER-IHEM, Clerk

By [Signature]  
DEPUTY**CONTRACTOR:**

DeGuire Weed Abatement  
20895 Warren Rd.  
Perris, CA 92570

Signature: \_\_\_\_\_

Print Name: JAMES J. DEGUIRETitle: OWNER/OPERATORDated: APRIL 28<sup>th</sup> 2011

RFP#

FORM APPROVED COUNTY COUNSEL

BY: [Signature] Page 15 of 21  
NEAL R. KIPNIS DATE

MAY 10 2011 3.17

## EXHIBIT A SCOPE OF SERVICE

### 1. Requirements

1. The CONTRACTOR shall provide necessary personnel, equipment, and supplies to accomplish the requested weed abatement and related services within the County of Riverside.

2. The Riverside County Fire Department will provide the necessary weed abatement maps to accomplish the work upon contract award. The maps remain the property of the Fire Department and must be maintained in good condition.

3. The Fire Department will provide a field inspector who will be available to assist the CONTRACTOR in planning and outlining the required work.

### 2. **CONTRACTOR shall**

#### 1. Disking

Weed abatement by disking shall be accomplished by cultivating with a double-throw disk at sufficient depth turning and loosening the soil, placing all weeds under the soil surface. Disking is the plowing of weeds using reasonable care so as to not disturb under/over ground utilities, destruction to fencing, buildings, equipment, supplies or adjoining land, including fire due to reckless/negligent plowing of land. The requirement for the finished product shall be clearance between the property that has the debris and other adjoining parcels of land.

**a. Cross Disking-** Where the nature of the soil is such that it is not receptive to the cutting edge of the disks the area shall be cross-disked to reduce the magnitude of any exposed combustibles.

**b. Dust Control-** The CONTRACTOR accepts sole responsibility to comply with Federal, State and Local laws, Regulations and Ordinances including but not limited to South Coast Air Quality Management Division (SCAQMD) Rule 403. This standard exempts CONTRACTORS from dust control measures if contracted with the Riverside County Fire Department.

### 3. Standard for Clearing

Clearing of land shall be done in accordance with Riverside County Ordinance No. 695.4 unless superseded by ordinance revision.

1. CONTRACTOR's agree to furnish tractors, disks and mowers in all areas suitable to complete the job of disking property. The CONTRACTOR agrees to provide transportation to and from job sites, for their equipment and all necessary fuel, etc., at his/her expense. Standard for clearing will be as assigned by the Hazard Reduction Office to include disking, mowing, hand labor or a combination thereof. **The mowing height shall be three (3) inches or less. Disk and mow rate include any handwork required to remove hazards along fence lines, around trees, etc. All rates include any hauling or disposal fees.**
2. CONTRACTORS may be used in tumbleweed abatement in all ten areas.
3. CONTRACTORS agree to have equipment and personnel (labor) to work all areas quoted. See maps for location of areas. **ALL EQUIPMENT LISTED WILL BE VISUALLY INSPECTED AND APPROVED BY THE FIRE DEPARTMENT PRIOR TO USE.**
4. CONTRACTORS agree, at his/her own expense submit a **minimum of four (4) 4" x 6" digital photographs**. Two (2) photographs are "before" pictures and two (2) are "after" pictures. The pictures must contain the following: **identify the APN, date/time, the word "before" or "after" written on a white board and CONTRACTOR's business name.** CONTRACTOR's photographs will be given to the inspectors as verification that the job has been completed. **Larger parcels will require more than four (4) 4"x6" photos. . CONTRACTOR(s) shall**

**deliver additional copies of all photographs to the County on formatted compact disk(s), each compact disc will be specific to book or portion thereof completed.** The photographs must be received within two (2) weeks of completion of the job. Photos shall be submitted in a standard 6"x9" Manila Envelope. Envelopes shall be provided at CONTRACTOR's expense. It is required that digital photographs be used to ensure that photographs include digital date and time and are clear enough to use as evidence of completion of work. **CONTRACTORS will not be paid for their services until these photographs have been provided and accepted as satisfactory work by the Fire Department.**

3. County shall provide the CONTRACTOR with a written job assignment sheet of the job site at the time of the job walk for the lot size, cost, type of cleaning and brush size. For parcels requiring payment for hand cleaning a CONTRACTOR signature will be required. The signature is to ensure CONTRACTOR understands the work to be performed and the cost associated. Once the job has been completed, the CONTRACTOR must provide detailed pictures of the job site(s) as specified in section (4).
4. **The successful CONTRACTOR(s) shall not miss more than two (2) consecutive days or not more than five (5) days out of twenty (20) days, when work has been assigned, regardless of the reason (i.e. equipment failure, illness, etc.).** The CONTRACTOR(s) shall work with inspectors on completion of work under certain weather conditions. Each book or portion of shall be completed within 20 working days, excluding weather and fire conditions. Acceptable workday for the CONTRACTOR is a minimum of eight (8) hours.
5. The CONTRACTOR's will be required to provide all services within forty-eight hours of notification of a need for these services. If the CONTRACTOR's cannot provide these services within this time frame due to equipment breakdown, over-scheduling, etc., the COUNTY will contact the next vendor based on a standard rotation method.

**Liquidated Damages (Fine for failure to complete work by specified date)**

Pursuant to Government Code Section 53069.85 ~~95 (Exhibit G)~~, CONTRACTOR agrees that two hundred and fifty dollars (\$250.00) for each working day beyond the specified cleaning period required to complete the work is a fair and reasonable estimate of the damages which the COUNTY will suffer because of the CONTRACTOR's delay; therefore, it is agreed by both parties hereto and said amount shall be charged against the CONTRACTOR's and shall be deducted as liquidated damages from any amount due him/her under this contract if work is not completed on schedule.

**Unsatisfactory Performance Provision**

The Riverside County fire Chief or his designee shall inspect the work and judge the performance of the CONTRACTOR(s) pursuant to all Weed/Vegetation Abatement Work. If the contract work is incomplete and/or unsatisfactory; the CONTRACTOR fails to provide the services specified in the schedule supplied by the Riverside County Fire Inspector; or if a lesser number of hours of service than eight (8) hours per day and forty hours per week is provided by the CONTRACTOR, the amount payable under the contract shall be reduced by \$19.00 per hour, per each County Inspector involved to correct the problem or major fraction of an hour that service is provided. This provision shall apply to any down-time on the part of the CONTRACTOR(s), when performance deficiencies exceed 15% of the work scheduled in any given day, based on an eight (8) hour work day, regardless of its origin (including, but not limited to, lack of sufficient manpower, machinery or parts, equipment failure, absence of supervisory personnel or inadequate replace for equipment or manpower, unless the deficiency is the direct result of an act of God, i.e., rain, fire, flood, and determined by the Riverside County Fire Captain.

6. CONTRACTOR(s) shall not work outside the scope of this RFP, without the written authorization from the Fire Department. The only equipment allowed would be the exception of those areas, which require a mower (see block A). The Fire Department will advise the successful CONTRACTOR(s) where the mowing will be allowed. **Use of non-authorized equipment and /or methods will result in nonpayment by the County** and the CONTRACTOR may be held liable for any damages incurred.
7. Where there are locked gates to the property, the CONTRACTOR(s) will be given instructions on how to enter the property. **The CONTRACTOR(s) will be responsible for any damage done not in accordance to given instructions. All services must be coordinated through the Fire Prevention Inspector and performed during the hours of 7:00 a.m. to 4:00 p.m. Monday through Friday, excluding holidays/weekends unless otherwise authorized by the County.**
8. CONTRACTOR shall be paid rounded to the nearest 1 acre. Handwork shall be a minimum per parcel price using sq. footage cost for brush category type. If the sq. footage exceeds the cost per sq ft cost for brush category type will be used. .
9. **SCAQMD RULE 403 Exemptions**  
The provisions of the Rule (403) shall not apply to:  
(H) Weed abatement operations ordered by a County agricultural commissioner or State, County, or Municipal Fire Department, provided that:
  - a. Mowing, cutting, or other similar process is used which maintains weed stubble at three (3) inches above soil; and
  - b. Any disking or similar operation which cuts into and disturbs the soil, where watering is used prior to initiation of these activities and a determination is made by the agency issuing the weed abatement order that due to fire hazard conditions, rocks, or other physical obstruction it is not practical to meet the conditions specified in SCAQMD rule 403 clause (g), (H), (i). the provisions of this clause shall not exempt the owner of any property from stabilizing, in accordance with paragraph (d) (2), disturbed surface areas, which have been created as a result of weed abatement actions.

#### 4. **Hand Cleaning and Hauling**

Whenever it is impractical by reason of topography, location of trees, sprinkler systems, shrubbery, buildings, fences or type of vegetation cover to disk and when authorized by the County Fire Chief or his representatives as set forth in Ordinance 695.4 unless superseded by ordinance revision the vegetation shall be removed or thinned **by hand labor**. The Inspector will specify the degree of hand labor to be accomplished on any parcel based upon square footage. The minimum requirement is clearing between the property line that has the debris and the improved parcel(s) of land. Dirt or mowed down materials shall have stubble no greater than 3 inches in height per the Public Resources and Health and Safety Code. Handwork classes include: 1) light grass, 2) medium brush (four (4) feet and under) and 3) heavy brush (more than four (4) feet).

#### 5. **Standard for Cleaning**

A contract for hand cleaning with the Riverside County will be for the sole purpose of weed abatement. The inspections and notification of the property owners will be done by the Fire Department.

1. A minimum of a two (2) person hand-crew with CONTRACTORs supervision or designee, transportation and tools shall be available at all times. Additional crewmembers may be necessary to complete the work. CONTRACTOR must have sufficient additional resources available for



additional work requirements as requested by the COUNTY.

2. Payments for hand-labor shall be based on measurements, to the actual square feet, taken by the Inspector and the CONTRACTOR. The unit price for hand cleaning shall include full compensation for furnishing all labor, materials, tools and equipments for cutting the weeds, loading the materials into trucks and hauling them to a COUNTY disposal site.
3. 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, and all disposal fees. All materials hauled to the approved site shall be covered according to local codes.
4. Some parcels will may require **partial cleaning**. That area which is cleaned will be measured and applicable unit rate will apply. The Inspector may assign partial cleaning projects.
5. If it were determined by the Fire Department that a **second cleaning** or partial cleaning is necessary, the work would occur at any time. The existing rates would apply and the CONTRACTOR(s) shall be prepared to start work upon 48 hours notice.
6. The CONTRACTOR(s) shall furnish all hand tools, power equipment and safety equipment necessary to accomplish the specified work. The Hand-crew Supervisor will stock spare replacement parts that commonly fail or are lost. All supervisors will have portable water readily available at all times for each crewmember.
7. Gas Weed eaters with adequate supplies and parts for repairs must be supplied for hand crews. Each hand- crew must have minimum of one (1) gas powered weed eater for every two men: for example: a four (4) man crew must be supplied with a minimum of two (2) weed eaters, etc. A sufficient reserve of weed eaters shall be available to eliminate down time.
8. The material cut down by hand labor **shall be hauled away to a lawful dumpsite and lawfully disposed of at CONTRACTOR's expense..** The loading of debris removed from the lot is to be accomplished as cleaning is completed. **No materials will be left on the lot for later pick up,** as this would not remove the fire hazard. Under certain circumstances with prior approval by the Fire Department cut down material may disposed of by diskling under.
9. Suitable flatbed hydraulic dump trucks or trailers with high sides for hauling are to be provided throughout the handwork operation and is to be operated and maintained at the expense of the CONTRACTOR. All trimmings and rubbish shall be hauled to a lawful dumpsite and lawfully disposed of at the CONTRACTOR's expense.

**ALL EQUIPMENT WILL BE SUBJECT TO VISUAL INSPECTION BY THE FIRE DEPARTMENT PRIOR TO WEED ABATEMENT.**

## 6. Additional Terms and Conditions

It will be the responsibility of the CONTRACTOR(s) to keep an accurate account of the names of his/her employees as well as the dates, locations, and the type of work they perform. This information must be submitted to the Riverside County Fire Department upon request.

1. All personnel (labor) will be furnished by the CONTRACTOR(s). Each worker will be able to perform his/her duties in a manner that will not endanger the employees' health or safety or the health and safety of others and be attired with appropriate protective clothing and footwear. The CONTRACTOR(s) will furnish gloves, safety glasses, hearing protection, and any other safety equipment that is necessary for this type of work. The CONTRACTOR(s) shall provide safe and healthful working conditions and transport equipment and shall at all times comply with OSHA requirements. All trucks shall be equipped with rear flashing amber warning lights and traffic control cones.
2. All handwork will be completed within a time frame specified by the inspector. This time frame will be based on the amount of work to be accomplished.
3. Proof of insurance will be provided (including but not limited to General liability, Auto, Workers' Compensation, Wavier of Subrogation and Endorsements, all naming the County of Riverside as "additional insured") by the CONTRACTOR prior to any work being started and shall remain in effect through the term of this contract
4. No employee drinking alcohol or under the influence of alcohol and/or drugs shall be allowed to participate in the performance of this contract, nor shall any employee bring alcohol and/or drugs onto the work location covered in this contract. The CONTRACTOR(s) agree to remove immediately and replace any employee whose conduct and/or workmanship are in any way unsatisfactory to the County.
5. The CONTRACTOR(s) at his/her own expense will furnish supervision of hand-crews. All supervisors and lead personnel must be able to communicate (speak, read, and write) with the inspector in the English language.
6. The work, labor and/or materials which the bidder proposed to furnish to the COUNTY must comply in all respects with the appropriate equipment and safety regulations of all Federal, State and Local regulatory commissions whether such equipment and/or safety features have been specifically outlined/required this RFP or not.
7. All cleaning must meet the specification of the Riverside County Fire Department and must be approved in writing by the Fire Department Inspector.
8. The CONTRACTOR(s) shall accept sole responsibility for compliance with Federal, State and Local laws, regulations and ordinances including but not limited to South Coast Air Quality Management (SCAQMD) Division Rule 403/ See exemptions outlined on Page 7 of this RFP.

The amount of work and type of work to be performed shall be under the direction of and only with the authorization of the Riverside County Fire Department, contact information to be provided after award.

**EXHIBIT B  
PAYMENT PROVISIONS**

**Mowing and Disking – flat rate of \$130.00 per acre rounded to the nearest acre**

**Hand Cleaning based on Actual Square Feet of Work Completed**

Minimum \$130.00 per parcel using sq. ft. cost for fuel class if exceeds: \$0.03 sq. ft (Light=grass)

Minimum \$130.00 per parcel using sq. ft cost for fuel class if exceeds: \$0.05 sq/ ft. (Medium=brush 4ft. & under)

Minimum \$130.00 per parcel using sq. ft. cost for fuel class if exceeds: \$0.07 sq. ft. (Heavy=brush over 4ft.)

Minimum \$130.00 per parcel using sq. ft. cost for fuel class if exceeds: \$0.12 sq, ft, (Extremely Heavy Brush that is due to size, type, density, terrain is impossible to mow, disc, string trim, or other hand labor methods are impractical for clearance)

**PROFESSIONAL SERVICE AGREEMENT**

**for**

**WEED ABATEMENT SERVICES**

**between**

**COUNTY OF RIVERSIDE**

**and**

**KINCO WEED ABATEMENT**



MAY 10 2011 3:17

**TABLE OF CONTENTS**

<b><u>SECTION HEADING</u></b>	<b><u>PAGE NUMBER</u></b>
1. Description of Services .....	3
2. Period of Performance.....	3
3. Compensation.....	3-4
4. Alteration or Changes to the Agreement .....	4-5
5. Termination .....	5
6. Ownership/Use of Contract Materials and Products .....	5
7. Conduct of CONTRACTOR.....	6
8. Inspection of Service: Quality Control/Assurance .....	6-7
9. Independent CONTRACTOR .....	7
10. Subcontract for Work or Services .....	7
11. Disputes .....	7-8
12. Licensing and Permits .....	8
13. Use by Other Political Entities .....	8
14. Non-Discrimination .....	8
15. Records and Documents .....	8-9
16. Confidentiality .....	9
17. Administration/Contract Liaison.....	9
18. Notices .....	10
19. Force Majeure .....	10
20. EDD Reporting Requirements.....	10
21. Hold Harmless/Indemnification .....	11-12
22. Insurance .....	12-14
23. General .....	14-15
Exhibit A-Scope of Service .....	16-20
Exhibit B- Payment Provisions.....	21

This Agreement, made and entered into this 10<sup>TH</sup> day of May, 2011, by and between Kinco Weed Abatement (herein referred to as "CONTRACTOR"), and the COUNTY OF RIVERSIDE, a political subdivision of the State of California, (herein referred to as "COUNTY"). The parties agree as follows:

**1. Description of Services**

**1.1** CONTRACTOR shall provide all services as outlined and specified in Exhibit A, Scope of Services, consisting 16 through 20 pages at the prices stated in Exhibit B, Payment Provisions, consisting of page 21..

**1.2** CONTRACTOR represents that it has the skills, experience and knowledge necessary to fully and adequately perform under this Agreement and the COUNTY relies upon this representation. CONTRACTOR shall perform to the satisfaction of the COUNTY and in conformance to and consistent with the highest standards of firms/professionals in the same discipline in the State of California.

**1.3** CONTRACTOR affirms this it is fully apprised of all of the work to be performed under this Agreement; and the CONTRACTOR agrees it can properly perform this work at the prices stated in Exhibit B. CONTRACTOR is not to perform services or provide products outside of the Agreement.

**1.4** Acceptance by the COUNTY of the CONTRACTOR's performance under this Agreement does not operate as a release of CONTRACTOR's responsibility for full compliance with the terms of this Agreement.

**2. Period of Performance**

**2.1** This Agreement shall be effective upon signature of this Agreement by both parties and continue in effect through May 10<sup>th</sup> 2011 with the option to renew for four (4) additional years, renewable in one (1) year increments by written amendment, unless terminated earlier. CONTRACTOR shall commence performance upon signature of this Agreement by both parties and shall diligently and continuously perform thereafter.

**3. Compensation**

**3.1** The COUNTY shall pay the CONTRACTOR for services performed, products provided and expenses incurred in accordance with the terms of Exhibit B, Payment Provisions. Maximum payments by COUNTY to CONTRACTOR shall not exceed \$100,000.00 annually including all expenses. Service by area shall be based upon a standard rotation. The rotation will be initially established by a method in which every CONTRACTOR will have the opportunity to obtain a minimum of one area. The COUNTY is not responsible for any fees or costs incurred above or beyond the contracted amount and shall have no obligation to purchase any specified amount of services or products. Unless otherwise specifically stated in

Exhibit B, COUNTY shall not be responsible for payment of any of CONTRACTOR's expenses related to this Agreement.

**3.3** CONTRACTOR shall be paid only in accordance with an invoice submitted to COUNTY by CONTRACTOR within fifteen (15) days from the last day of each calendar month, and COUNTY shall pay the invoice within thirty (30) working days from the date of receipt of the invoice. Payment shall be made to CONTRACTOR only after services have been rendered or delivery of materials or products, and acceptance has been made by COUNTY. Prepare invoices in duplicate. For this Agreement, send the original and duplicate copies of invoices to:

Riverside County Fire Department  
210 W. San Jacinto  
Perris, CA 92570

- a) Each invoice shall contain a minimum of the following information: invoice number and date; remittance address; bill-to and ship-to addresses of ordering department/division; Agreement number FPARC-98889-001-05/12 quantities; item descriptions, unit prices, extensions, sales/use tax if applicable, and an invoice total.
- b) Invoices shall be rendered monthly in arrears.

**3.4** The COUNTY obligation for payment of this Agreement beyond the current fiscal year end is contingent upon and limited by the availability of COUNTY funding from which payment can be made. No legal liability on the part of the COUNTY shall arise for payment beyond June 30 of each calendar year unless funds are made available for such payment. In the event that such funds are not forthcoming for any reason, COUNTY shall immediately notify CONTRACTOR in writing; and this Agreement shall be deemed terminated, have no further force, and effect.

#### **4. Alteration or Changes to the Agreement**

**4.1** The Board of Supervisors and the COUNTY Purchasing Agent and/or his designee is the only authorized COUNTY representatives who may at any time, by written order, alter this Agreement. If any such alteration causes an increase or decrease in the cost of, or the time required for the performance under this Agreement, an equitable adjustment shall be made in the Agreement price or delivery schedule, or both, and the Agreement shall be modified by written amendment accordingly.

**4.2** Any claim by the CONTRACTOR for additional payment related to this Agreement shall be made in writing by the CONTRACTOR within 30 days of when the CONTRACTOR has or should have notice of any actual or claimed change in the work, which results in additional and unanticipated cost to the CONTRACTOR. If the COUNTY Purchasing Agent decides that the facts provide sufficient justification, he may authorize additional payment to the CONTRACTOR pursuant to the claim. Nothing in this section

shall excuse the CONTRACTOR from proceeding with performance of the Agreement even if there has been a change.

**5. Termination**

**5.1.** COUNTY may terminate this Agreement without cause upon 30 days written notice served upon the CONTRACTOR stating the extent and effective date of termination.

**5.2** COUNTY may, upon five (5) days written notice, terminate this Agreement for CONTRACTOR's default, if CONTRACTOR refuses or fails to comply with the terms of this Agreement or fails to make progress to endanger performance and does not immediately cure such failure. In the event of such termination, the COUNTY may proceed with the work in any manner deemed proper by COUNTY.

**5.3** After receipt of the notice of termination, CONTRACTOR shall:

- (a) Stop all work under this Agreement on the date specified in the notice of termination; and
- (b) Transfer to COUNTY and deliver in the manner as directed by COUNTY any materials, reports or other products, which, if the Agreement had been completed or continued, would have been required to be furnished to COUNTY.

**5.4** After termination, COUNTY shall make payment only for CONTRACTOR's performance up to the date of termination in accordance with this Agreement and at the rates set forth in Exhibit B.

**5.5** CONTRACTOR's rights under this Agreement shall terminate (except for fees accrued prior to the date of termination) upon dishonesty or a willful or material breach of this Agreement by CONTRACTOR; or in the event of CONTRACTOR's unwillingness or inability for any reason whatsoever to perform the terms of this Agreement. In such event, CONTRACTOR shall not be entitled to any further compensation under this Agreement.

**5.6** The rights and remedies of COUNTY provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or this Agreement.

**6. Ownership/Use of Contract Materials and Products**

The CONTRACTOR agrees that all materials, reports or products in any form, including electronic, created by CONTRACTOR for which CONTRACTOR has been compensated by COUNTY pursuant to this Agreement shall be the sole property of the COUNTY; and may be used by the COUNTY for any purpose COUNTY deems to be appropriate, including, but not limit to, duplication and/or distribution within the COUNTY or to third parties. CONTRACTOR agrees not to release or circulate in whole or part such materials, reports or products without prior written authorization of the COUNTY.



## **7. Conduct of CONTRACTOR**

7.1 The CONTRACTOR covenants that it presently has no interest, including, but not limited to, other projects or contracts, and shall not acquire any such interest, direct or indirect, which would conflict in any manner or degree with CONTRACTOR's performance under this Agreement. The CONTRACTOR further covenants that no person or subCONTRACTOR having any such interest shall be employed or retained by CONTRACTOR under this Agreement. The CONTRACTOR agrees to inform the COUNTY of all the CONTRACTOR's interests, if any, which are or may be perceived as incompatible with the COUNTY's interests.

7.2 The CONTRACTOR shall not, under circumstances which could be interpreted as an attempt to influence the recipient in the conduct of his/her duties, accept any gratuity or special favor from individuals or firms with whom the CONTRACTOR is doing business or proposing to do business, in accomplishing the work under this Agreement.

7.3 The CONTRACTOR or its employees shall not offer gifts, gratuity, favors, and entertainment directly or indirectly to COUNTY employees.

## **8. Inspection of Service; Quality Control/Assurance**

8.1 All performance (which includes services, workmanship, materials, supplies and equipment furnished or utilized in the performance of this Agreement) shall be subject to inspection and test by the COUNTY or other regulatory agencies at all times. The CONTRACTOR shall provide adequate cooperation to any inspector or other COUNTY representative to permit him/her to determine the CONTRACTOR's conformity with the terms of this Agreement. If any services performed or products provided by CONTRACTOR are not in conformance with the terms of this Agreement, the COUNTY shall have the right to require the CONTRACTOR to perform the services or provide the products in conformance with the terms of the Agreement at no additional cost to the COUNTY. When the services to be performed or the products to be provided are of such nature that the difference cannot be corrected, the COUNTY shall have the right to: (1) require the CONTRACTOR immediately to take all necessary steps to ensure future performance in conformity with the terms of the Agreement; and/or (2) reduce the Agreement price to reflect the reduced value of the services performed or products provided. The COUNTY may also terminate this Agreement for default and charge to CONTRACTOR any costs incurred by the COUNTY because of the CONTRACTOR's failure to perform.

8.2 CONTRACTOR shall establish adequate procedures for self-monitoring and quality control and assurance to ensure proper performance under this Agreement; and shall permit a COUNTY

representative or other regulatory official to monitor, assess or evaluate CONTRACTOR's performance under this Agreement at any time upon reasonable notice to CONTRACTOR.

**9. Independent CONTRACTOR**

The CONTRACTOR is, for purposes relating to this Agreement, an independent CONTRACTOR and shall not be deemed an employee of the COUNTY. It is expressly understood and agreed that the CONTRACTOR (including its employees, agents and subCONTRACTORS) shall in no event be entitled to any benefits to which COUNTY employees are entitled, including but not limited to overtime, any retirement benefits, worker's compensation benefits, and injury leave or other leave benefits. There shall be no employer-employee relationship between the parties; and CONTRACTOR shall hold COUNTY harmless from any and all claims that may be made against COUNTY based upon any contention by a third party that an employer-employee relationship exists by reason of this Agreement. It is further understood and agreed by the parties that CONTRACTOR in the performance of this Agreement is subject to the control or direction of COUNTY merely as to the results to be accomplished and not as to the means and methods for accomplishing the results.

**10. Subcontract for Work or Services**

No contract shall be made by the CONTRACTOR with any other party for furnishing any of the work or services under this Agreement without the prior written approval of the COUNTY; but this provision shall not require the approval of contracts of employment between the CONTRACTOR and personnel assigned under this Agreement, or for parties named in the proposal and agreed to under this Agreement.

**11. Disputes**

**11.1** The parties shall attempt to resolve any disputes amicably at the working level. If that is not successful, the dispute shall be referred to the senior management of the parties. Any dispute relating to this Agreement, which is not resolved by the parties, shall be decided by the COUNTY's Purchasing Department's Compliance Contract Officer who shall furnish the decision in writing. The decision of the COUNTY's Compliance Contract Officer shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, capricious, arbitrary, or so grossly erroneous as necessarily to imply bad faith. The CONTRACTOR shall proceed diligently with the performance of this Agreement pending the resolution of a dispute.

**11.2** Prior to the filing of any legal action related to this Agreement, the parties shall be obligated to attend a mediation session in Riverside County before a neutral third party mediator. A second mediation

session shall be required if the first session is not successful. The parties shall share the cost of the mediations.

**12. Licensing and Permits**

CONTRACTOR shall comply with all State or other licensing requirements, including but not limited to the provisions of Chapter 9 of Division 3 of the Business and Professions Code. All licensing requirements shall be met at the time proposals are submitted to the COUNTY. CONTRACTOR warrants that it has all necessary permits, approvals, certificates, waivers and exemptions necessary for performance of this Agreement as required by the laws and regulations of the United States, the State of California, the County of Riverside and all other governmental agencies with jurisdiction, and shall maintain these throughout the term of this Agreement.

**13. Use By Other Political Entities**

The CONTRACTOR agrees to extend the same pricing, terms and conditions as stated in this Agreement to each and every political entity, special district, and related non-profit entity in Riverside County. It is understood that other entities shall make purchases in their own name, make direct payment, and be liable directly to the CONTRACTOR; and COUNTY shall in no way be responsible to CONTRACTOR for other entities' purchases.

**14. Non-Discrimination**

CONTRACTOR shall not be discriminate in the provision of services, allocation of benefits, accommodation in facilities, or employment of personnel on the basis of ethnic group identification, race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status or sex in the performance of this Agreement; and, to the extent they shall be found to be applicable hereto, shall comply with the provisions of the California Fair Employment and Housing Act (Gov. Code 12900 et. seq), the Federal Civil Rights Act of 1964 (P.L. 88-352), the Americans with Disabilities Act of 1990 (42 U.S.C. S1210 et seq.) and all other applicable laws or regulations.

**15. Records and Documents**

CONTRACTOR shall make available, upon written request by any duly authorized Federal, State or COUNTY agency, a copy of this Agreement and such books, documents and records as are necessary to certify the nature and extent of the CONTRACTOR's costs related to this Agreement. All such books, documents and records shall be maintained by CONTRACTOR for at least five years following termination

of this Agreement and be available for audit by the COUNTY. CONTRACTOR shall provide to the COUNTY reports and information related to this Agreement as requested by COUNTY.

**16. Confidentiality**

**16.1** The CONTRACTOR shall not use for personal gain or make other improper use of privileged or confidential information which is acquired in connection with this Agreement. The term "privileged or confidential information" includes but is not limited to: unpublished or sensitive technological or scientific information; medical, personnel, or security records; anticipated material requirements or pricing/purchasing actions; COUNTY information or data which is not subject to public disclosure; COUNTY operational procedures; and knowledge of selection of CONTRACTORS, subCONTRACTORS or suppliers in advance of official announcement.

**16.2** The CONTRACTOR shall protect from unauthorized disclosure names and other identifying information concerning persons receiving services pursuant to this Agreement, except for general statistical information not identifying any person. The CONTRACTOR shall not use such information for any purpose other than carrying out the CONTRACTOR's obligations under this Agreement. The CONTRACTOR shall promptly transmit to the COUNTY all third party requests for disclosure of such information. The CONTRACTOR shall not disclose, except as otherwise specifically permitted by this Agreement or authorized in advance in writing by the COUNTY, any such information to anyone other than the COUNTY. For purposes of this paragraph, identity shall include, but not be limited to, name, identifying number, symbol, or other identifying particular assigned to the individual, such as finger or voice print or a photograph.

**17. Administration/Contract Liaison**

The COUNTY Purchasing Agent, or designee, shall administer this Agreement on behalf of the COUNTY. The Purchasing Department is to serve as the liaison with CONTRACTOR in connection with this Agreement.

**18. Notices**

All correspondence and notices required or contemplated by this Agreement shall be delivered to the respective parties at the addresses set forth below and are deemed submitted two days after their deposit in the United States mail, postage prepaid:

**COUNTY OF RIVERSIDE**

County of Riverside Purchasing  
2980 Washington St.  
Riverside, CA 92504  
Attn: Debra Macias

**CONTRACTOR**

Kinco Weed Abatement  
11445 Countyside Dr.  
Fontana, CA 92337

**19. Force Majeure**

If either party is unable to comply with any provision of this Agreement due to causes beyond its reasonable control, and which could not have been reasonably anticipated, such as acts of God, acts of war, civil disorders, or other similar acts, such party shall not be held liable for such failure to comply.

**20. EDD Reporting Requirements**

In order to comply with child support enforcement requirements of the State of California, the COUNTY may be required to submit a Report of Independent CONTRACTOR(s) form **DE 542** to the Employment Development Department. The CONTRACTOR agrees to furnish the required data and certifications to the COUNTY within 10 days of notification of award of Agreement when required by the EDD. This data will be transmitted to governmental agencies charged with the establishment and enforcement of child support orders. Failure of the CONTRACTOR to timely submit the data and/or certificates required may result in the contract being awarded to another CONTRACTOR. In the event a contract has been issued, failure of the CONTRACTOR to comply with all federal and state reporting requirements for child support enforcement or to comply with all lawfully served Wage and Earnings Assignments Orders and Notices of Assignment shall constitute a material breach of Agreement. If CONTRACTOR has any questions concerning this reporting requirement, please call (916) 657-0529. CONTRACTOR should also contact its local Employment Tax Customer Service Office listed in the telephone directory in the State Government section under "Employment Development Department" or access their Internet site at [www.edd.ca.gov](http://www.edd.ca.gov).

**21. Hold Harmless/Indemnification**

**21.1** CONTRACTOR shall indemnify and hold harmless the County of Riverside, its Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives (individually and collectively hereinafter referred to as Indemnitees) from any liability whatsoever, based or asserted upon any services of CONTRACTOR, its officers, employees, subCONTRACTORS, agents or representatives arising out of or in any way relating to this Agreement, including but not limited to property damage, bodily injury, or death or any other element of any kind or nature whatsoever arising from the performance of CONTRACTOR, its officers, employees, subCONTRACTORS, agents or representatives Indemnitors from this Agreement. CONTRACTOR shall defend, at its sole expense, all costs and fees including, but not limited, to attorney fees, cost of investigation, defense and settlements or awards, the Indemnitees in any claim or action based upon such alleged acts or omissions.

**21.2** With respect to any action or claim subject to indemnification herein by CONTRACTOR, CONTRACTOR shall, at their sole cost, have the right to use counsel of their own choice and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of COUNTY; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes CONTRACTOR'S indemnification to Indemnitees as set forth herein.

**21.2** CONTRACTOR'S obligation hereunder shall be satisfied when CONTRACTOR has provided to COUNTY the appropriate form of dismissal relieving COUNTY from any liability for the action or claim involved.

**21.3** The specified insurance limits required in this Agreement shall in no way limit or circumscribe CONTRACTOR'S obligations to indemnify and hold harmless the Indemnitees herein from third party claims.

**21.4** In the event there is conflict between this clause and California Civil Code Section 2782, this clause shall be interpreted to comply with Civil Code 2782. Such interpretation shall not relieve the CONTRACTOR from indemnifying the Indemnitees to the fullest extent allowed by law.

**21.5** CONTRACTOR's indemnification obligations shall also apply to any action or claim regarding actual or alleged intellectual property infringement related to any material or product provided to COUNTY pursuant to this Agreement. In the event of any such action or claim, CONTRACTOR shall provide immediate notice to COUNTY of the action or claim. CONTRACTOR may defend or settle the action or claim as CONTRACTOR deems appropriate; however, CONTRACTOR shall be required to

obtain for COUNTY the right to continue to use the material or product (or a similar non-infringing material or product with the same function) on terms identical to those stated in this Agreement.

## **22. Insurance**

**22.1** Without limiting or diminishing the CONTRACTOR'S obligation to indemnify or hold the COUNTY harmless, CONTRACTOR shall procure and maintain or cause to be maintained, at its sole cost and expense, the following insurance coverage's during the term of this Agreement. As respects to the insurance section only, the COUNTY herein refers to the County of Riverside, its Agencies, Districts, Special Districts, and Departments, their respective directors, officers, Board of Supervisors, employees, elected or appointed officials, agents or representatives as Additional Insureds.

**22.2 Workers' Compensation:** If the CONTRACTOR has employees as defined by the State of California, the CONTRACTOR shall maintain statutory Workers' Compensation Insurance (Coverage A) as prescribed by the laws of the State of California. Policy shall include Employers' Liability (Coverage B) including Occupational Disease with limits not less than \$1,000,000 per person per accident. The policy shall be endorsed to waive subrogation in favor of the County of Riverside.

**22.3 Commercial General Liability:** Commercial General Liability insurance coverage, including but not limited to, premises liability, unmodified contractual liability, products and completed operations liability, personal and advertising injury, and cross liability coverage, covering claims which may arise from or out of CONTRACTOR'S performance of its obligations hereunder. Policy shall name the COUNTY as Additional Insured. Policy's limit of liability shall not be less than \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit.

**22.4 Vehicle Liability:** If vehicles or mobile equipment are used in the performance of the obligations under this Agreement, then CONTRACTOR shall maintain liability insurance for all owned, non-owned or hired vehicles so used in an amount not less than \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit. Policy shall name the COUNTY as Additional Insureds.

### **22.6 General Insurance Provisions - All lines:**

1) Any insurance carrier providing insurance coverage hereunder shall be admitted to the State of California and have an A M BEST rating of not less than A: VIII (A:8) unless such requirements are waived, in writing, by the County Risk Manager. If the County's Risk Manager waives a requirement for a particular insurer such waiver is only valid for that specific insurer and only for one policy term.

2) The CONTRACTOR must declare its insurance self-insured retention for each coverage required herein. If any such self-insured retention exceed \$500,000 per occurrence each such retention shall have the prior written consent of the County Risk Manager before the commencement of operations under this Agreement. Upon notification of self-insured retention unacceptable to the COUNTY, and at the election of the County's Risk Manager, CONTRACTOR'S carriers shall either; 1) reduce or eliminate such self-insured retention as respects this Agreement with the COUNTY, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, and defense costs and expenses.

3) CONTRACTOR shall cause CONTRACTOR'S insurance carrier(s) to furnish the County of Riverside with either 1) a properly executed original Certificate(s) of Insurance and certified original copies of Endorsements effecting coverage as required herein, and 2) if requested to do so orally or in writing by the County Risk Manager, provide original Certified copies of policies including all Endorsements and all attachments thereto, showing such insurance is in full force and effect. Further, said Certificate(s) and policies of insurance shall contain the covenant of the insurance carrier(s) that thirty (30) days written notice shall be given to the County of Riverside prior to any material modification, cancellation, expiration or reduction in coverage of such insurance. In the event of a material modification, cancellation, expiration, or reduction in coverage, this Agreement shall terminate forthwith, unless the County of Riverside receives, prior to such effective date, another properly executed original Certificate of Insurance and original copies of endorsements or certified original policies, including all endorsements and attachments thereto evidencing coverage's set forth herein and the insurance required herein is in full force and effect. ***CONTRACTOR shall not commence operations until the COUNTY has been furnished original Certificate (s) of Insurance and certified original copies of endorsements and if requested, certified original policies of insurance including all endorsements and any and all other attachments as required in this Section. An individual authorized by the insurance carrier to do so on its behalf shall sign the original endorsements for each policy and the Certificate of Insurance.***

4) It is understood and agreed to by the parties hereto that the CONTRACTOR'S insurance shall be construed as primary insurance, and the COUNTY'S insurance and/or deductibles and/or self-insured retention's or self-insured programs shall not be construed as contributory.

5) If, during the term of this Agreement or any extension thereof, there is a material change in the scope of services; or, there is a material change in the equipment to be used in the performance of the scope of work; or, the term of this Agreement, including any extensions thereof, exceeds five (5) years; the COUNTY reserves the right to adjust the types of insurance and the monetary limits of liability required



under this Agreement, if in the County Risk Manager's reasonable judgment, the amount or type of insurance carried by the CONTRACTOR has become inadequate.

6) CONTRACTOR shall pass down the insurance obligations contained herein to all tiers of subCONTRACTORS working under this Agreement.

7) The insurance requirements contained in this Agreement may be met with a program(s) of self-insurance acceptable to the COUNTY.

8) CONTRACTOR agrees to notify COUNTY of any claim by a third party or any incident or event that may give rise to a claim arising from the performance of this Agreement.

### **23. General**

**23.1** CONTRACTOR shall not delegate or assign any interest in this Agreement, whether by operation of law or otherwise, without the prior written consent of COUNTY. Any attempt to delegate or assign any interest herein shall be deemed void and of no force or effect.

**23.2** Any waiver by COUNTY of any breach of any one or more of the terms of this Agreement shall not be construed to be a waiver of any subsequent or other breach of the same or of any other term of this Agreement. Failure on the part of COUNTY to require exact, full and complete compliance with any terms of this Agreement shall not be construed as in any manner changing the terms or preventing COUNTY from enforcement of the terms of this Agreement.

**23.3** In the event the CONTRACTOR receives payment under this Agreement, which is later disallowed by COUNTY for nonconformance with the terms of the Agreement, the CONTRACTOR shall promptly refund the disallowed amount to the COUNTY on request; or at its option the COUNTY may offset the amount disallowed from any payment due to the CONTRACTOR.

**23.4** CONTRACTOR shall not provide partial delivery or shipment of services or products unless specifically stated in the Agreement.

**23.5** CONTRACTOR shall not provide any services or products subject to any chattel mortgage or under a conditional sales contract or other agreement by which an interest is retained by a third party. The CONTRACTOR warrants that it has good title to all materials or products used by CONTRACTOR or provided to COUNTY pursuant to this Agreement, free from all liens, claims or encumbrances.

**23.6** Nothing in this Agreement shall prohibit the COUNTY from acquiring the same type or equivalent equipment, products, materials or services from other sources, when deemed by the COUNTY to be in its best interest. The COUNTY reserves the right to purchase more or less than the quantities specified in this Agreement.

23.7 The COUNTY agrees to cooperate with the CONTRACTOR in the CONTRACTOR's performance under this Agreement, including, if stated in the Agreement, providing the CONTRACTOR with reasonable facilities and timely access to COUNTY data, information, and personnel.

23.8 CONTRACTOR shall comply with all applicable Federal, State and local laws and regulations. CONTRACTOR will comply with all applicable COUNTY policies and procedures. In the event that there is a conflict between the various laws or regulations that may apply, the CONTRACTOR shall comply with the more restrictive law or regulation.

23.9 CONTRACTOR shall comply with all air pollution control, water pollution, safety and health ordinances, statutes, or regulations, which apply to performance under this Agreement.

23.10 CONTRACTOR shall comply with all requirements of the Occupational Safety and Health Administration (OSHA) standards and codes as set forth by the U.S. Department of Labor and the State of California (Cal/OSHA).

23.11 This Agreement shall be governed by the laws of the State of California. Any legal action related to the performance or interpretation of this Agreement shall be filed only in the Superior Court of the State of California located in Riverside, California, and the parties waive any provision of law providing for a change of venue to another location. In the event any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

23.12 This Agreement, including any attachments or exhibits, constitutes the entire Agreement of the parties with respect to its subject matter and supersedes all prior and contemporaneous representations, proposals, discussions and communications, whether oral or in writing. This Agreement may be changed or modified only by a written amendment signed by authorized representatives of both parties.

**COUNTY:** ATTEST:  
County of Riverside KECIA HARPER-IHEM, Clerk  
2980 Washington St. *[Signature]*  
Riverside, CA 92504 DEPUTY

Signature: *Bob Buster*

Print Name: Bob Buster  
Title: Chairman, Board of Supervisors

Dated: MAY 10 2011

**CONTRACTOR:**  
Kinco Weed Abatement  
*11445 County side Dr.*  
*Fontana, CA 92337*

Signature: *[Signature]*

Print Name: WIN KINGMAN  
Title: OWNER

Dated: 4-29-11

RFP#

FORM APPROVED COUNTY COUNSEL  
BY: *[Signature]*  
NEAL R. KIPNIS DATE 5/2/11

MAY 10 2011 3.17

## EXHIBIT A SCOPE OF SERVICE

### 1. Requirements

1. The CONTRACTOR shall provide necessary personnel, equipment, and supplies to accomplish the requested weed abatement and related services within the County of Riverside.

2. The Riverside County Fire Department will provide the necessary weed abatement maps to accomplish the work upon contract award. The maps remain the property of the Fire Department and must be maintained in good condition.

3. The Fire Department will provide a field inspector who will be available to assist the CONTRACTOR in planning and outlining the required work.

### 2. **CONTRACTOR shall**

#### 1. Disking

Weed abatement by disking shall be accomplished by cultivating with a double-throw disk at sufficient depth turning and loosening the soil, placing all weeds under the soil surface. Disking is the plowing of weeds using reasonable care so as to not disturb under/over ground utilities, destruction to fencing, buildings, equipment, supplies or adjoining land, including fire due to reckless/negligent plowing of land. The requirement for the finished product shall be clearance between the property that has the debris and other adjoining parcels of land.

**a. Cross Disking-** Where the nature of the soil is such that it is not receptive to the cutting edge of the disks the area shall be cross-disked to reduce the magnitude of any exposed combustibles.

**b. Dust Control-** The CONTRACTOR accepts sole responsibility to comply with Federal, State and Local laws, Regulations and Ordinances including but not limited to South Coast Air Quality Management Division (SCAQMD) Rule 403. This standard exempts CONTRACTORs from dust control measures if contracted with the Riverside County Fire Department.

### 3. Standard for Clearing

Clearing of land shall be done in accordance with Riverside County Ordinance No. 695.4 unless superseded by ordinance revision.

1. CONTRACTOR's agree to furnish tractors, disks and mowers in all areas suitable to complete the job of disking property. The CONTRACTOR agrees to provide transportation to and from job sites, for their equipment and all necessary fuel, etc., at his/her expense. Standard for clearing will be as assigned by the Hazard Reduction Office to include disking, mowing, hand labor or a combination thereof. **The mowing height shall be three (3) inches or less. Disk and mow rate include any handwork required to remove hazards along fence lines, around trees, etc. All rates include any hauling or disposal fees.**
2. CONTRACTORs may be used in tumbleweed abatement in all ten areas.
3. CONTRACTORs agree to have equipment and personnel (labor) to work all areas quoted. See maps for location of areas. **ALL EQUIPMENT LISTED WILL BE VISUALLY INSPECTED AND APPROVED BY THE FIRE DEPARTMENT PRIOR TO USE.**
4. CONTRACTORs agree, at his/her own expense submit a **minimum of four (4) 4" x 6" digital photographs**. Two (2) photographs are "before" pictures and two (2) are "after" pictures. The pictures must contain the following: **identify the APN, date/time, the word "before" or "after" written on a white board and CONTRACTOR's business name**. CONTRACTOR's photographs will be given to the inspectors as verification that the job has been completed. **Larger parcels will require more than four (4) 4"x6" photos. . CONTRACTOR(s) shall**

**deliver additional copies of all photographs to the County on formatted compact disk(s), each compact disc will be specific to book or portion thereof completed.** The photographs must be received within two (2) weeks of completion of the job. Photos shall be submitted in a standard 6"x9" Manila Envelope. Envelopes shall be provided at CONTRACTOR's expense. It is required that digital photographs be used to ensure that photographs include digital date and time and are clear enough to use as evidence of completion of work. **CONTRACTORS will not be paid for their services until these photographs have been provided and accepted as satisfactory work by the Fire Department.**

3. County shall provide the CONTRACTOR with a written job assignment sheet of the job site at the time of the job walk for the lot size, cost, type of cleaning and brush size. For parcels requiring payment for hand cleaning a CONTRACTOR signature will be required. The signature is to ensure CONTRACTOR understands the work to be performed and the cost associated. Once the job has been completed, the CONTRACTOR must provide detailed pictures of the job site(s) as specified in section (4).
4. **The successful CONTRACTOR(s) shall not miss more than two (2) consecutive days or not more than five (5) days out of twenty (20) days, when work has been assigned, regardless of the reason (i.e. equipment failure, illness, etc.).** The CONTRACTOR(s) shall work with inspectors on completion of work under certain weather conditions. Each book or portion of shall be completed within 20 working days, excluding weather and fire conditions. Acceptable workday for the CONTRACTOR is a minimum of eight (8) hours.
5. The CONTRACTOR's will be required to provide all services within forty-eight hours of notification of a need for these services. If the CONTRACTOR's cannot provide these services within this time frame due to equipment breakdown, over-scheduling, etc., the COUNTY will contact the next vendor based on a standard rotation method.

**Liquidated Damages (Fine for failure to complete work by specified date)**

Pursuant to Government Code Section 53069.85 ~~95 (Exhibit G)~~, CONTRACTOR agrees that two hundred and fifty dollars (\$250.00) for each working day beyond the specified cleaning period required to complete the work is a fair and reasonable estimate of the damages which the COUNTY will suffer because of the CONTRACTOR's delay; therefore, it is agreed by both parties hereto and said amount shall be charged against the CONTRACTOR's and shall be deducted as liquidated damages from any amount due him/her under this contract if work is not completed on schedule.

**Unsatisfactory Performance Provision**

The Riverside County fire Chief or his designee shall inspect the work and judge the performance of the CONTRACTOR(s) pursuant to all Weed/Vegetation Abatement Work. If the contract work is incomplete and/or unsatisfactory; the CONTRACTOR fails to provide the services specified in the schedule supplied by the Riverside County Fire Inspector; or if a lesser number of hours of service than eight (8) hours per day and forty hours per week is provided by the CONTRACTOR, the amount payable under the contract shall be reduced by \$19.00 per hour, per each County Inspector involved to correct the problem or major fraction of an hour that service is provided. This provision shall apply to any down-time on the part of the CONTRACTOR(s), when performance deficiencies exceed 15% of the work scheduled in any given day, based on an eight (8) hour work day, regardless of its origin (including, but not limited to, lack of sufficient manpower, machinery or parts, equipment failure, absence of supervisory personnel or inadequate replace for equipment or manpower, unless the deficiency is the direct result of an act of God, i.e., rain, fire, flood, and determined by the Riverside County Fire Captain.

6. CONTRACTOR(s) shall not work outside the scope of this RFP, without the written authorization from the Fire Department. The only equipment allowed would be the exception of those areas, which require a mower (see block A). The Fire Department will advise the successful CONTRACTOR(s) where the mowing will be allowed. **Use of non-authorized equipment and /or methods will result in nonpayment by the County** and the CONTRACTOR may be held liable for any damages incurred.
7. Where there are locked gates to the property, the CONTRACTOR(s) will be given instructions on how to enter the property. **The CONTRACTOR(s) will be responsible for any damage done not in accordance to given instructions. All services must be coordinated through the Fire Prevention Inspector and performed during the hours of 7:00 a.m. to 4:00 p.m. Monday through Friday, excluding holidays/weekends unless otherwise authorized by the County.**
8. CONTRACTOR shall be paid rounded to the nearest 1 acre. Handwork shall be a minimum per parcel price using sq. footage cost for brush category type. If the sq. footage exceeds the cost per sq ft cost for brush category type will be used. .
9. **SCAQMD RULE 403 Exemptions**  
The provisions of the Rule (403) shall not apply to:  
(H) Weed abatement operations ordered by a County agricultural commissioner or State, County, or Municipal Fire Department, provided that:

- a. Mowing, cutting, or other similar process is used which maintains weed stubble at three (3) inches above soil; and
- b. Any disking or similar operation which cuts into and disturbs the soil, where watering is used prior to initiation of these activities and a determination is made by the agency issuing the weed abatement order that due to fire hazard conditions, rocks, or other physical obstruction it is not practical to meet the conditions specified in SCAQMD rule 403 clause (g), (H), (i). the provisions of this clause shall not exempt the owner of any property from stabilizing, in accordance with paragraph (d) (2), disturbed surface areas, which have been created as a result of weed abatement actions.

#### 4. **Hand Cleaning and Hauling**

Whenever it is impractical by reason of topography, location of trees, sprinkler systems, shrubbery, buildings, fences or type of vegetation cover to disk and when authorized by the County Fire Chief or his representatives as set forth in Ordinance 695.4 unless superseded by ordinance revision the vegetation shall be removed or thinned **by hand labor**. The Inspector will specify the degree of hand labor to be accomplished on any parcel based upon square footage. The minimum requirement is clearing between the property line that has the debris and the improved parcel(s) of land. Dirt or mowed down materials shall have stubble no greater than 3 inches in height per the Public Resources and Health and Safety Code. Handwork classes include: 1) light grass, 2) medium brush (four (4) feet and under) and 3) heavy brush (more than four (4) feet).

#### 5. **Standard for Cleaning**

A contract for hand cleaning with the Riverside County will be for the sole purpose of weed abatement. The inspections and notification of the property owners will be done by the Fire Department.

1. A minimum of a two (2) person hand-crew with CONTRACTORs supervision or designee, transportation and tools shall be available at all times. Additional crewmembers may be necessary to complete the work. CONTRACTOR must have sufficient additional resources available for

additional work requirements as requested by the COUNTY.

2. Payments for hand-labor shall be based on measurements, to the actual square feet, taken by the Inspector and the CONTRACTOR. The unit price for hand cleaning shall include full compensation for furnishing all labor, materials, tools and equipments for cutting the weeds, loading the materials into trucks and hauling them to a COUNTY disposal site.
3. 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, and all disposal fees. All materials hauled to the approved site shall be covered according to local codes.
4. Some parcels will may require **partial cleaning**. That area which is cleaned will be measured and applicable unit rate will apply. The Inspector may assign partial cleaning projects.
5. If it were determined by the Fire Department that a **second cleaning** or partial cleaning is necessary, the work would occur at any time. The existing rates would apply and the CONTRACTOR(s) shall be prepared to start work upon 48 hours notice.
6. The CONTRACTOR(s) shall furnish all hand tools, power equipment and safety equipment necessary to accomplish the specified work. The Hand-crew Supervisor will stock spare replacement parts that commonly fail or are lost. All supervisors will have portable water readily available at all times for each crewmember.
7. Gas Weed eaters with adequate supplies and parts for repairs must be supplied for hand crews. Each hand- crew must have minimum of one (1) gas powered weed eater for every two men: for example: a four (4) man crew must be supplied with a minimum of two (2) weed eaters, etc. A sufficient reserve of weed eaters shall be available to eliminate down time.
8. The material cut down by hand labor **shall be hauled away to a lawful dumpsite and lawfully disposed of at CONTRACTOR's expense..** The loading of debris removed from the lot is to be accomplished as cleaning is completed. **No materials will be left on the lot for later pick up,** as this would not remove the fire hazard. Under certain circumstances with prior approval by the Fire Department cut down material may disposed of by disking under.
9. Suitable flatbed hydraulic dump trucks or trailers with high sides for hauling are to be provided throughout the handwork operation and is to be operated and maintained at the expense of the CONTRACTOR. All trimmings and rubbish shall be hauled to a lawful dumpsite and lawfully disposed of at the CONTRACTOR's expense.

**ALL EQUIPMENT WILL BE SUBJECT TO VISUAL INSPECTION BY THE FIRE DEPARTMENT PRIOR TO WEED ABATEMENT.**

## 6. Additional Terms and Conditions

It will be the responsibility of the CONTRACTOR(s) to keep an accurate account of the names of his/her employees as well as the dates, locations, and the type of work they perform. This information must be submitted to the Riverside County Fire Department upon request.

1. All personnel (labor) will be furnished by the CONTRACTOR(s). Each worker will be able to perform his/her duties in a manner that will not endanger the employees' health or safety or the health and safety of others and be attired with appropriate protective clothing and footwear. The CONTRACTOR(s) will furnish gloves, safety glasses, hearing protection, and any other safety equipment that is necessary for this type of work. The CONTRACTOR(s) shall provide safe and healthful working conditions and transport equipment and shall at all times comply with OSHA requirements. All trucks shall be equipped with rear flashing amber warning lights and traffic control cones.
2. All handwork will be completed within a time frame specified by the inspector. This time frame will be based on the amount of work to be accomplished.
3. Proof of insurance will be provided (including but not limited to General liability, Auto, Workers' Compensation, Wavier of Subrogation and Endorsements, all naming the County of Riverside as "additional insured") by the CONTRACTOR prior to any work being started and shall remain in effect through the term of this contract
4. No employee drinking alcohol or under the influence of alcohol and/or drugs shall be allowed to participate in the performance of this contract, nor shall any employee bring alcohol and/or drugs onto the work location covered in this contract. The CONTRACTOR(s) agree to remove immediately and replace any employee whose conduct and/or workmanship are in any way unsatisfactory to the County.
5. The CONTRACTOR(s) at his/her own expense will furnish supervision of hand-crews. All supervisors and lead personnel must be able to communicate (speak, read, and write) with the inspector in the English language.
6. The work, labor and/or materials which the bidder proposed to furnish to the COUNTY must comply in all respects with the appropriate equipment and safety regulations of all Federal, State and Local regulatory commissions whether such equipment and/or safety features have been specifically outlined/required this RFP or not.
7. All cleaning must meet the specification of the Riverside County Fire Department and must be approved in writing by the Fire Department Inspector.
8. The CONTRACTOR(s) shall accept sole responsibility for compliance with Federal, State and Local laws, regulations and ordinances including but not limited to South Coast Air Quality Management (SCAQMD) Division Rule 403/ See exemptions outlined on Page 7 of this RFP.

The amount of work and type of work to be performed shall be under the direction of and only with the authorization of the Riverside County Fire Department, contact information to be provided after award.

**EXHIBIT B  
PAYMENT PROVISIONS**

**Mowing and Disking – flat rate of \$130.00 per acre rounded to the nearest acre**

**Hand Cleaning based on Actual Square Feet of Work Completed**

Minimum \$130.00 per parcel using sq. ft. cost for fuel class if exceeds: \$0.03 sq. ft (Light=grass)

Minimum \$130.00 per parcel using sq. ft cost for fuel class if exceeds: \$0.05 sq/ ft. (Medium=brush 4ft. & under)

Minimum \$130.00 per parcel using sq. ft. cost for fuel class if exceeds: \$0.07 sq. ft. (Heavy=brush over 4ft.)

Minimum \$130.00 per parcel using sq. ft. cost for fuel class if exceeds: \$0.12 sq, ft, (Extremely Heavy Brush that is due to size, type, density, terrain is impossible to mow, disc, string trim, or other hand labor methods are impractical for clearance)



**PROFESSIONAL SERVICE AGREEMENT**

**for**

**WEED ABATEMENT SERVICES**

**between**

**COUNTY OF RIVERSIDE**

**and**

**ACE WEED ABATEMENT**



**TABLE OF CONTENTS**

<b><u>SECTION HEADING</u></b>	<b><u>PAGE NUMBER</u></b>
1. Description of Services .....	3
2. Period of Performance.....	3
3. Compensation.....	3-4
4. Alteration or Changes to the Agreement .....	4-5
5. Termination .....	5
6. Ownership/Use of Contract Materials and Products .....	5
7. Conduct of CONTRACTOR.....	6
8. Inspection of Service: Quality Control/Assurance .....	6-7
9. Independent CONTRACTOR .....	7
10. Subcontract for Work or Services .....	7
11. Disputes .....	7-8
12. Licensing and Permits .....	8
13. Use by Other Political Entities .....	8
14. Non-Discrimination .....	8
15. Records and Documents .....	8-9
16. Confidentiality .....	9
17. Administration/Contract Liaison.....	9
18. Notices .....	10
19. Force Majeure .....	10
20. EDD Reporting Requirements.....	10
21. Hold Harmless/Indemnification .....	11-12
22. Insurance .....	12-14
23. General .....	14-15
Exhibit A-Scope of Service .....	16-20
Exhibit B- Payment Provisions.....	21

This Agreement, made and entered into this 10<sup>TH</sup> day of May, 2011, by and between Ace Weed Abatement (herein referred to as "CONTRACTOR"), and the COUNTY OF RIVERSIDE, a political subdivision of the State of California, (herein referred to as "COUNTY"). The parties agree as follows:

**1. Description of Services**

1.1 CONTRACTOR shall provide all services as outlined and specified in Exhibit A, Scope of Services, consisting 16 through 20 pages at the prices stated in Exhibit B, Payment Provisions, consisting of page 21..

1.2 CONTRACTOR represents that it has the skills, experience and knowledge necessary to fully and adequately perform under this Agreement and the COUNTY relies upon this representation. CONTRACTOR shall perform to the satisfaction of the COUNTY and in conformance to and consistent with the highest standards of firms/professionals in the same discipline in the State of California.

1.3 CONTRACTOR affirms this it is fully apprised of all of the work to be performed under this Agreement; and the CONTRACTOR agrees it can properly perform this work at the prices stated in Exhibit B. CONTRACTOR is not to perform services or provide products outside of the Agreement.

1.4 Acceptance by the COUNTY of the CONTRACTOR's performance under this Agreement does not operate as a release of CONTRACTOR's responsibility for full compliance with the terms of this Agreement.

**2. Period of Performance**

2.1 This Agreement shall be effective upon signature of this Agreement by both parties and continue in effect through May 10<sup>th</sup> 2011 with the option to renew for four (4) additional years, renewable in one (1) year increments by written amendment, unless terminated earlier. CONTRACTOR shall commence performance upon signature of this Agreement by both parties and shall diligently and continuously perform thereafter.

**3. Compensation**

3.1 The COUNTY shall pay the CONTRACTOR for services performed, products provided and expenses incurred in accordance with the terms of Exhibit B, Payment Provisions. Maximum payments by COUNTY to CONTRACTOR shall not exceed \$100,000.00 annually including all expenses. Service by area shall be based upon a standard rotation. The rotation will be initially established by a method in which every CONTRACTOR will have the opportunity to obtain a minimum of one area. The COUNTY is not responsible for any fees or costs incurred above or beyond the contracted amount and shall have no obligation to purchase any specified amount of services or products. Unless otherwise specifically stated in

Exhibit B, COUNTY shall not be responsible for payment of any of CONTRACTOR's expenses related to this Agreement.

**3.3** CONTRACTOR shall be paid only in accordance with an invoice submitted to COUNTY by CONTRACTOR within fifteen (15) days from the last day of each calendar month, and COUNTY shall pay the invoice within thirty (30) working days from the date of receipt of the invoice. Payment shall be made to CONTRACTOR only after services have been rendered or delivery of materials or products, and acceptance has been made by COUNTY. Prepare invoices in duplicate. For this Agreement, send the original and duplicate copies of invoices to:

Riverside County Fire Department  
210 W. San Jacinto  
Perris, CA 92570

- a) Each invoice shall contain a minimum of the following information: invoice number and date; remittance address; bill-to and ship-to addresses of ordering department/division; Agreement number FPARC-98889-001-05/12 quantities; item descriptions, unit prices, extensions, sales/use tax if applicable, and an invoice total.
- b) Invoices shall be rendered monthly in arrears.

**3.4** The COUNTY obligation for payment of this Agreement beyond the current fiscal year end is contingent upon and limited by the availability of COUNTY funding from which payment can be made. No legal liability on the part of the COUNTY shall arise for payment beyond June 30 of each calendar year unless funds are made available for such payment. In the event that such funds are not forthcoming for any reason, COUNTY shall immediately notify CONTRACTOR in writing; and this Agreement shall be deemed terminated, have no further force, and effect.

#### **4. Alteration or Changes to the Agreement**

**4.1** The Board of Supervisors and the COUNTY Purchasing Agent and/or his designee is the only authorized COUNTY representatives who may at any time, by written order, alter this Agreement. If any such alteration causes an increase or decrease in the cost of, or the time required for the performance under this Agreement, an equitable adjustment shall be made in the Agreement price or delivery schedule, or both, and the Agreement shall be modified by written amendment accordingly.

**4.2** Any claim by the CONTRACTOR for additional payment related to this Agreement shall be made in writing by the CONTRACTOR within 30 days of when the CONTRACTOR has or should have notice of any actual or claimed change in the work, which results in additional and unanticipated cost to the CONTRACTOR. If the COUNTY Purchasing Agent decides that the facts provide sufficient justification, he may authorize additional payment to the CONTRACTOR pursuant to the claim. Nothing in this section

shall excuse the CONTRACTOR from proceeding with performance of the Agreement even if there has been a change.

**5. Termination**

**5.1** COUNTY may terminate this Agreement without cause upon 30 days written notice served upon the CONTRACTOR stating the extent and effective date of termination.

**5.2** COUNTY may, upon five (5) days written notice, terminate this Agreement for CONTRACTOR's default, if CONTRACTOR refuses or fails to comply with the terms of this Agreement or fails to make progress to endanger performance and does not immediately cure such failure. In the event of such termination, the COUNTY may proceed with the work in any manner deemed proper by COUNTY.

**5.3** After receipt of the notice of termination, CONTRACTOR shall:

- (a) Stop all work under this Agreement on the date specified in the notice of termination; and
- (b) Transfer to COUNTY and deliver in the manner as directed by COUNTY any materials, reports or other products, which, if the Agreement had been completed or continued, would have been required to be furnished to COUNTY.

**5.4** After termination, COUNTY shall make payment only for CONTRACTOR's performance up to the date of termination in accordance with this Agreement and at the rates set forth in Exhibit B.

**5.5** CONTRACTOR's rights under this Agreement shall terminate (except for fees accrued prior to the date of termination) upon dishonesty or a willful or material breach of this Agreement by CONTRACTOR; or in the event of CONTRACTOR's unwillingness or inability for any reason whatsoever to perform the terms of this Agreement. In such event, CONTRACTOR shall not be entitled to any further compensation under this Agreement.

**5.6** The rights and remedies of COUNTY provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or this Agreement.

**6. Ownership/Use of Contract Materials and Products**

The CONTRACTOR agrees that all materials, reports or products in any form, including electronic, created by CONTRACTOR for which CONTRACTOR has been compensated by COUNTY pursuant to this Agreement shall be the sole property of the COUNTY; and may be used by the COUNTY for any purpose COUNTY deems to be appropriate, including, but not limit to, duplication and/or distribution within the COUNTY or to third parties. CONTRACTOR agrees not to release or circulate in whole or part such materials, reports or products without prior written authorization of the COUNTY.

## **7. Conduct of CONTRACTOR**

7.1 The CONTRACTOR covenants that it presently has no interest, including, but not limited to, other projects or contracts, and shall not acquire any such interest, direct or indirect, which would conflict in any manner or degree with CONTRACTOR's performance under this Agreement. The CONTRACTOR further covenants that no person or subCONTRACTOR having any such interest shall be employed or retained by CONTRACTOR under this Agreement. The CONTRACTOR agrees to inform the COUNTY of all the CONTRACTOR's interests, if any, which are or may be perceived as incompatible with the COUNTY's interests.

7.2 The CONTRACTOR shall not, under circumstances which could be interpreted as an attempt to influence the recipient in the conduct of his/her duties, accept any gratuity or special favor from individuals or firms with whom the CONTRACTOR is doing business or proposing to do business, in accomplishing the work under this Agreement.

7.3 The CONTRACTOR or its employees shall not offer gifts, gratuity, favors, and entertainment directly or indirectly to COUNTY employees.

## **8. Inspection of Service; Quality Control/Assurance**

8.1 All performance (which includes services, workmanship, materials, supplies and equipment furnished or utilized in the performance of this Agreement) shall be subject to inspection and test by the COUNTY or other regulatory agencies at all times. The CONTRACTOR shall provide adequate cooperation to any inspector or other COUNTY representative to permit him/her to determine the CONTRACTOR's conformity with the terms of this Agreement. If any services performed or products provided by CONTRACTOR are not in conformance with the terms of this Agreement, the COUNTY shall have the right to require the CONTRACTOR to perform the services or provide the products in conformance with the terms of the Agreement at no additional cost to the COUNTY. When the services to be performed or the products to be provided are of such nature that the difference cannot be corrected, the COUNTY shall have the right to: (1) require the CONTRACTOR immediately to take all necessary steps to ensure future performance in conformity with the terms of the Agreement; and/or (2) reduce the Agreement price to reflect the reduced value of the services performed or products provided. The COUNTY may also terminate this Agreement for default and charge to CONTRACTOR any costs incurred by the COUNTY because of the CONTRACTOR's failure to perform.

8.2 CONTRACTOR shall establish adequate procedures for self-monitoring and quality control and assurance to ensure proper performance under this Agreement; and shall permit a COUNTY

representative or other regulatory official to monitor, assess or evaluate CONTRACTOR's performance under this Agreement at any time upon reasonable notice to CONTRACTOR.

**9. Independent CONTRACTOR**

The CONTRACTOR is, for purposes relating to this Agreement, an independent CONTRACTOR and shall not be deemed an employee of the COUNTY. It is expressly understood and agreed that the CONTRACTOR (including its employees, agents and subCONTRACTORS) shall in no event be entitled to any benefits to which COUNTY employees are entitled, including but not limited to overtime, any retirement benefits, worker's compensation benefits, and injury leave or other leave benefits. There shall be no employer-employee relationship between the parties; and CONTRACTOR shall hold COUNTY harmless from any and all claims that may be made against COUNTY based upon any contention by a third party that an employer-employee relationship exists by reason of this Agreement. It is further understood and agreed by the parties that CONTRACTOR in the performance of this Agreement is subject to the control or direction of COUNTY merely as to the results to be accomplished and not as to the means and methods for accomplishing the results.

**10. Subcontract for Work or Services**

No contract shall be made by the CONTRACTOR with any other party for furnishing any of the work or services under this Agreement without the prior written approval of the COUNTY; but this provision shall not require the approval of contracts of employment between the CONTRACTOR and personnel assigned under this Agreement, or for parties named in the proposal and agreed to under this Agreement.

**11. Disputes**

**11.1** The parties shall attempt to resolve any disputes amicably at the working level. If that is not successful, the dispute shall be referred to the senior management of the parties. Any dispute relating to this Agreement, which is not resolved by the parties, shall be decided by the COUNTY's Purchasing Department's Compliance Contract Officer who shall furnish the decision in writing. The decision of the COUNTY's Compliance Contract Officer shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, capricious, arbitrary, or so grossly erroneous as necessarily to imply bad faith. The CONTRACTOR shall proceed diligently with the performance of this Agreement pending the resolution of a dispute.

**11.2** Prior to the filing of any legal action related to this Agreement, the parties shall be obligated to attend a mediation session in Riverside County before a neutral third party mediator. A second mediation

session shall be required if the first session is not successful. The parties shall share the cost of the mediations.

**12. Licensing and Permits**

CONTRACTOR shall comply with all State or other licensing requirements, including but not limited to the provisions of Chapter 9 of Division 3 of the Business and Professions Code. All licensing requirements shall be met at the time proposals are submitted to the COUNTY. CONTRACTOR warrants that it has all necessary permits, approvals, certificates, waivers and exemptions necessary for performance of this Agreement as required by the laws and regulations of the United States, the State of California, the County of Riverside and all other governmental agencies with jurisdiction, and shall maintain these throughout the term of this Agreement.

**13. Use By Other Political Entities**

The CONTRACTOR agrees to extend the same pricing, terms and conditions as stated in this Agreement to each and every political entity, special district, and related non-profit entity in Riverside County. It is understood that other entities shall make purchases in their own name, make direct payment, and be liable directly to the CONTRACTOR; and COUNTY shall in no way be responsible to CONTRACTOR for other entities' purchases.

**14. Non-Discrimination**

CONTRACTOR shall not be discriminate in the provision of services, allocation of benefits, accommodation in facilities, or employment of personnel on the basis of ethnic group identification, race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status or sex in the performance of this Agreement; and, to the extent they shall be found to be applicable hereto, shall comply with the provisions of the California Fair Employment and Housing Act (Gov. Code 12900 et. seq), the Federal Civil Rights Act of 1964 (P.L. 88-352), the Americans with Disabilities Act of 1990 (42 U.S.C. S1210 et seq.) and all other applicable laws or regulations.

**15. Records and Documents**

CONTRACTOR shall make available, upon written request by any duly authorized Federal, State or COUNTY agency, a copy of this Agreement and such books, documents and records as are necessary to certify the nature and extent of the CONTRACTOR's costs related to this Agreement. All such books, documents and records shall be maintained by CONTRACTOR for at least five years following termination



of this Agreement and be available for audit by the COUNTY. CONTRACTOR shall provide to the COUNTY reports and information related to this Agreement as requested by COUNTY.

**16. Confidentiality**

**16.1** The CONTRACTOR shall not use for personal gain or make other improper use of privileged or confidential information which is acquired in connection with this Agreement. The term "privileged or confidential information" includes but is not limited to: unpublished or sensitive technological or scientific information; medical, personnel, or security records; anticipated material requirements or pricing/purchasing actions; COUNTY information or data which is not subject to public disclosure; COUNTY operational procedures; and knowledge of selection of CONTRACTORS, subCONTRACTORS or suppliers in advance of official announcement.

**16.2** The CONTRACTOR shall protect from unauthorized disclosure names and other identifying information concerning persons receiving services pursuant to this Agreement, except for general statistical information not identifying any person. The CONTRACTOR shall not use such information for any purpose other than carrying out the CONTRACTOR's obligations under this Agreement. The CONTRACTOR shall promptly transmit to the COUNTY all third party requests for disclosure of such information. The CONTRACTOR shall not disclose, except as otherwise specifically permitted by this Agreement or authorized in advance in writing by the COUNTY, any such information to anyone other than the COUNTY. For purposes of this paragraph, identity shall include, but not be limited to, name, identifying number, symbol, or other identifying particular assigned to the individual, such as finger or voice print or a photograph.

**17. Administration/Contract Liaison**

The COUNTY Purchasing Agent, or designee, shall administer this Agreement on behalf of the COUNTY. The Purchasing Department is to serve as the liaison with CONTRACTOR in connection with this Agreement.

**18. Notices**

All correspondence and notices required or contemplated by this Agreement shall be delivered to the respective parties at the addresses set forth below and are deemed submitted two days after their deposit in the United States mail, postage prepaid:

**COUNTY OF RIVERSIDE**

County of Riverside Purchasing  
2980 Washington St.  
Riverside, CA 92504  
Attn: Debra Macias

**CONTRACTOR**

Ace Weed Abatement  
P.O. Box 9920  
Moreno Valley, CA 92552

**19. Force Majeure**

If either party is unable to comply with any provision of this Agreement due to causes beyond its reasonable control, and which could not have been reasonably anticipated, such as acts of God, acts of war, civil disorders, or other similar acts, such party shall not be held liable for such failure to comply.

**20. EDD Reporting Requirements**

In order to comply with child support enforcement requirements of the State of California, the COUNTY may be required to submit a Report of Independent CONTRACTOR(s) form **DE 542** to the Employment Development Department. The CONTRACTOR agrees to furnish the required data and certifications to the COUNTY within 10 days of notification of award of Agreement when required by the EDD. This data will be transmitted to governmental agencies charged with the establishment and enforcement of child support orders. Failure of the CONTRACTOR to timely submit the data and/or certificates required may result in the contract being awarded to another CONTRACTOR. In the event a contract has been issued, failure of the CONTRACTOR to comply with all federal and state reporting requirements for child support enforcement or to comply with all lawfully served Wage and Earnings Assignments Orders and Notices of Assignment shall constitute a material breach of Agreement. If CONTRACTOR has any questions concerning this reporting requirement, please call (916) 657-0529. CONTRACTOR should also contact its local Employment Tax Customer Service Office listed in the telephone directory in the State Government section under "Employment Development Department" or access their Internet site at [www.edd.ca.gov](http://www.edd.ca.gov).

**21. Hold Harmless/Indemnification**

**21.1** CONTRACTOR shall indemnify and hold harmless the County of Riverside, its Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives (individually and collectively hereinafter referred to as Indemnitees) from any liability whatsoever, based or asserted upon any services of CONTRACTOR, its officers, employees, subCONTRACTORS, agents or representatives arising out of or in any way relating to this Agreement, including but not limited to property damage, bodily injury, or death or any other element of any kind or nature whatsoever arising from the performance of CONTRACTOR, its officers, employees, subCONTRACTORS, agents or representatives Indemnitors from this Agreement. CONTRACTOR shall defend, at its sole expense, all costs and fees including, but not limited, to attorney fees, cost of investigation, defense and settlements or awards, the Indemnitees in any claim or action based upon such alleged acts or omissions.

**21.2** With respect to any action or claim subject to indemnification herein by CONTRACTOR, CONTRACTOR shall, at their sole cost, have the right to use counsel of their own choice and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of COUNTY; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes CONTRACTOR'S indemnification to Indemnitees as set forth herein.

**21.2** CONTRACTOR'S obligation hereunder shall be satisfied when CONTRACTOR has provided to COUNTY the appropriate form of dismissal relieving COUNTY from any liability for the action or claim involved.

**21.3** The specified insurance limits required in this Agreement shall in no way limit or circumscribe CONTRACTOR'S obligations to indemnify and hold harmless the Indemnitees herein from third party claims.

**21.4** In the event there is conflict between this clause and California Civil Code Section 2782, this clause shall be interpreted to comply with Civil Code 2782. Such interpretation shall not relieve the CONTRACTOR from indemnifying the Indemnitees to the fullest extent allowed by law.

**21.5** CONTRACTOR's indemnification obligations shall also apply to any action or claim regarding actual or alleged intellectual property infringement related to any material or product provided to COUNTY pursuant to this Agreement. In the event of any such action or claim, CONTRACTOR shall provide immediate notice to COUNTY of the action or claim. CONTRACTOR may defend or settle the action or claim as CONTRACTOR deems appropriate; however, CONTRACTOR shall be required to

obtain for COUNTY the right to continue to use the material or product (or a similar non-infringing material or product with the same function) on terms identical to those stated in this Agreement.

## **22. Insurance**

**22.1** Without limiting or diminishing the CONTRACTOR'S obligation to indemnify or hold the COUNTY harmless, CONTRACTOR shall procure and maintain or cause to be maintained, at its sole cost and expense, the following insurance coverage's during the term of this Agreement. As respects to the insurance section only, the COUNTY herein refers to the County of Riverside, its Agencies, Districts, Special Districts, and Departments, their respective directors, officers, Board of Supervisors, employees, elected or appointed officials, agents or representatives as Additional Insureds.

**22.2 Workers' Compensation:** If the CONTRACTOR has employees as defined by the State of California, the CONTRACTOR shall maintain statutory Workers' Compensation Insurance (Coverage A) as prescribed by the laws of the State of California. Policy shall include Employers' Liability (Coverage B) including Occupational Disease with limits not less than \$1,000,000 per person per accident. The policy shall be endorsed to waive subrogation in favor of the County of Riverside.

**22.3 Commercial General Liability:** Commercial General Liability insurance coverage, including but not limited to, premises liability, unmodified contractual liability, products and completed operations liability, personal and advertising injury, and cross liability coverage, covering claims which may arise from or out of CONTRACTOR'S performance of its obligations hereunder. Policy shall name the COUNTY as Additional Insured. Policy's limit of liability shall not be less than \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit.

**22.4 Vehicle Liability:** If vehicles or mobile equipment are used in the performance of the obligations under this Agreement, then CONTRACTOR shall maintain liability insurance for all owned, non-owned or hired vehicles so used in an amount not less than \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit. Policy shall name the COUNTY as Additional Insureds.

### **22.6 General Insurance Provisions - All lines:**

1) Any insurance carrier providing insurance coverage hereunder shall be admitted to the State of California and have an A M BEST rating of not less than A: VIII (A:8) unless such requirements are waived, in writing, by the County Risk Manager. If the County's Risk Manager waives a requirement for a particular insurer such waiver is only valid for that specific insurer and only for one policy term.

2) The CONTRACTOR must declare its insurance self-insured retention for each coverage required herein. If any such self-insured retention exceed \$500,000 per occurrence each such retention shall have the prior written consent of the County Risk Manager before the commencement of operations under this Agreement. Upon notification of self-insured retention unacceptable to the COUNTY, and at the election of the County's Risk Manager, CONTRACTOR'S carriers shall either; 1) reduce or eliminate such self-insured retention as respects this Agreement with the COUNTY, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, and defense costs and expenses.

3) CONTRACTOR shall cause CONTRACTOR'S insurance carrier(s) to furnish the County of Riverside with either 1) a properly executed original Certificate(s) of Insurance and certified original copies of Endorsements effecting coverage as required herein, and 2) if requested to do so orally or in writing by the County Risk Manager, provide original Certified copies of policies including all Endorsements and all attachments thereto, showing such insurance is in full force and effect. Further, said Certificate(s) and policies of insurance shall contain the covenant of the insurance carrier(s) that thirty (30) days written notice shall be given to the County of Riverside prior to any material modification, cancellation, expiration or reduction in coverage of such insurance. In the event of a material modification, cancellation, expiration, or reduction in coverage, this Agreement shall terminate forthwith, unless the County of Riverside receives, prior to such effective date, another properly executed original Certificate of Insurance and original copies of endorsements or certified original policies, including all endorsements and attachments thereto evidencing coverage's set forth herein and the insurance required herein is in full force and effect. ***CONTRACTOR shall not commence operations until the COUNTY has been furnished original Certificate (s) of Insurance and certified original copies of endorsements and if requested, certified original policies of insurance including all endorsements and any and all other attachments as required in this Section. An individual authorized by the insurance carrier to do so on its behalf shall sign the original endorsements for each policy and the Certificate of Insurance.***

4) It is understood and agreed to by the parties hereto that the CONTRACTOR'S insurance shall be construed as primary insurance, and the COUNTY'S insurance and/or deductibles and/or self-insured retention's or self-insured programs shall not be construed as contributory.

5) If, during the term of this Agreement or any extension thereof, there is a material change in the scope of services; or, there is a material change in the equipment to be used in the performance of the scope of work; or, the term of this Agreement, including any extensions thereof, exceeds five (5) years; the COUNTY reserves the right to adjust the types of insurance and the monetary limits of liability required

under this Agreement, if in the County Risk Manager's reasonable judgment, the amount or type of insurance carried by the CONTRACTOR has become inadequate.

6) CONTRACTOR shall pass down the insurance obligations contained herein to all tiers of subCONTRACTORS working under this Agreement.

7) The insurance requirements contained in this Agreement may be met with a program(s) of self-insurance acceptable to the COUNTY.

8) CONTRACTOR agrees to notify COUNTY of any claim by a third party or any incident or event that may give rise to a claim arising from the performance of this Agreement.

**23. General**

**23.1** CONTRACTOR shall not delegate or assign any interest in this Agreement, whether by operation of law or otherwise, without the prior written consent of COUNTY. Any attempt to delegate or assign any interest herein shall be deemed void and of no force or effect.

**23.2** Any waiver by COUNTY of any breach of any one or more of the terms of this Agreement shall not be construed to be a waiver of any subsequent or other breach of the same or of any other term of this Agreement. Failure on the part of COUNTY to require exact, full and complete compliance with any terms of this Agreement shall not be construed as in any manner changing the terms or preventing COUNTY from enforcement of the terms of this Agreement.

**23.3** In the event the CONTRACTOR receives payment under this Agreement, which is later disallowed by COUNTY for nonconformance with the terms of the Agreement, the CONTRACTOR shall promptly refund the disallowed amount to the COUNTY on request; or at its option the COUNTY may offset the amount disallowed from any payment due to the CONTRACTOR.

**23.4** CONTRACTOR shall not provide partial delivery or shipment of services or products unless specifically stated in the Agreement.

**23.5** CONTRACTOR shall not provide any services or products subject to any chattel mortgage or under a conditional sales contract or other agreement by which an interest is retained by a third party. The CONTRACTOR warrants that it has good title to all materials or products used by CONTRACTOR or provided to COUNTY pursuant to this Agreement, free from all liens, claims or encumbrances.

**23.6** Nothing in this Agreement shall prohibit the COUNTY from acquiring the same type or equivalent equipment, products, materials or services from other sources, when deemed by the COUNTY to be in its best interest. The COUNTY reserves the right to purchase more or less than the quantities specified in this Agreement.

**23.7** The COUNTY agrees to cooperate with the CONTRACTOR in the CONTRACTOR's performance under this Agreement, including, if stated in the Agreement, providing the CONTRACTOR with reasonable facilities and timely access to COUNTY data, information, and personnel.

**23.8** CONTRACTOR shall comply with all applicable Federal, State and local laws and regulations. CONTRACTOR will comply with all applicable COUNTY policies and procedures. In the event that there is a conflict between the various laws or regulations that may apply, the CONTRACTOR shall comply with the more restrictive law or regulation.

**23.9** CONTRACTOR shall comply with all air pollution control, water pollution, safety and health ordinances, statutes, or regulations, which apply to performance under this Agreement.

**23.10** CONTRACTOR shall comply with all requirements of the Occupational Safety and Health Administration (OSHA) standards and codes as set forth by the U.S. Department of Labor and the State of California (Cal/OSHA).

**23.11** This Agreement shall be governed by the laws of the State of California. Any legal action related to the performance or interpretation of this Agreement shall be filed only in the Superior Court of the State of California located in Riverside, California, and the parties waive any provision of law providing for a change of venue to another location. In the event any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

**23.12** This Agreement, including any attachments or exhibits, constitutes the entire Agreement of the parties with respect to its subject matter and supersedes all prior and contemporaneous representations, proposals, discussions and communications, whether oral or in writing. This Agreement may be changed or modified only by a written amendment signed by authorized representatives of both parties.

**COUNTY:**

County of Riverside  
2980 Washington St.  
Riverside, CA 92504

**ATTEST:**

KECIA HARPER-JHEM, Clerk  
By [Signature]  
DEPUTY

Signature: \_\_\_\_\_

Bob BusterPrint Name: Bob BusterTitle: Chairman, Board of Supervisors

Dated: \_\_\_\_\_

MAY 10 2011

FORM APPROVED COUNTY COUNSEL

BY: \_\_\_\_\_

NEAL R. KIPNIS

Page 13 of 16

RFP# \_\_\_\_\_

**CONTRACTOR:**

Ace Weed Abatement, Inc.

PO Box 9920  
Moreno Valley, CA 92552

Signature: \_\_\_\_\_

[Signature]Print Name: Charles Macie ITitle: President

Dated: \_\_\_\_\_

4/29/2011

MAY 10 2011 3.17

## EXHIBIT A SCOPE OF SERVICE

### 1. Requirements

1. The CONTRACTOR shall provide necessary personnel, equipment, and supplies to accomplish the requested weed abatement and related services within the County of Riverside.
2. The Riverside County Fire Department will provide the necessary weed abatement maps to accomplish the work upon contract award. The maps remain the property of the Fire Department and must be maintained in good condition.
3. The Fire Department will provide a field inspector who will be available to assist the CONTRACTOR in planning and outlining the required work.

### 2. **CONTRACTOR shall**

#### 1. Disking

Weed abatement by disking shall be accomplished by cultivating with a double-throw disk at sufficient depth turning and loosening the soil, placing all weeds under the soil surface. Disking is the plowing of weeds using reasonable care so as to not disturb under/over ground utilities, destruction to fencing, buildings, equipment, supplies or adjoining land, including fire due to reckless/negligent plowing of land. The requirement for the finished product shall be clearance between the property that has the debris and other adjoining parcels of land.

- a. **Cross Disking-** Where the nature of the soil is such that it is not receptive to the cutting edge of the disks the area shall be cross-disked to reduce the magnitude of any exposed combustibles.
- b. **Dust Control-** The CONTRACTOR accepts sole responsibility to comply with Federal, State and Local laws, Regulations and Ordinances including but not limited to South Coast Air Quality Management Division (SCAQMD) Rule 403. This standard exempts CONTRACTORS from dust control measures if contracted with the Riverside County Fire Department.

### 3. Standard for Clearing

Clearing of land shall be done in accordance with Riverside County Ordinance No. 695.4 unless superseded by ordinance revision.

1. CONTRACTOR's agree to furnish tractors, disks and mowers in all areas suitable to complete the job of disking property. The CONTRACTOR agrees to provide transportation to and from job sites, for their equipment and all necessary fuel, etc., at his/her expense. Standard for clearing will be as assigned by the Hazard Reduction Office to include disking, mowing, hand labor or a combination thereof. **The mowing height shall be three (3) inches or less. Disk and mow rate include any handwork required to remove hazards along fence lines, around trees, etc. All rates include any hauling or disposal fees.**
2. CONTRACTORS may be used in tumbleweed abatement in all ten areas.
3. CONTRACTORS agree to have equipment and personnel (labor) to work all areas quoted. See maps for location of areas. **ALL EQUIPMENT LISTED WILL BE VISUALLY INSPECTED AND APPROVED BY THE FIRE DEPARTMENT PRIOR TO USE.**
4. CONTRACTORS agree, at his/her own expense submit a **minimum of four (4) 4" x 6" digital photographs**. Two (2) photographs are "before" pictures and two (2) are "after" pictures. The pictures must contain the following: **identify the APN, date/time, the word "before" or "after" written on a white board and CONTRACTOR's business name.** CONTRACTOR's photographs will be given to the inspectors as verification that the job has been completed. **Larger parcels will require more than four (4) 4"x6" photos. . CONTRACTOR(s) shall**



**deliver additional copies of all photographs to the County on formatted compact disk(s), each compact disc will be specific to book or portion thereof completed.** The photographs must be received within two (2) weeks of completion of the job. Photos shall be submitted in a standard 6"x9" Manila Envelope. Envelopes shall be provided at CONTRACTOR's expense. It is required that digital photographs be used to ensure that photographs include digital date and time and are clear enough to use as evidence of completion of work. **CONTRACTORS will not be paid for their services until these photographs have been provided and accepted as satisfactory work by the Fire Department.**

3. County shall provide the CONTRACTOR with a written job assignment sheet of the job site at the time of the job walk for the lot size, cost, type of cleaning and brush size. For parcels requiring payment for hand cleaning a CONTRACTOR signature will be required. The signature is to ensure CONTRACTOR understands the work to be performed and the cost associated. Once the job has been completed, the CONTRACTOR must provide detailed pictures of the job site(s) as specified in section (4).
4. **The successful CONTRACTOR(s) shall not miss more than two (2) consecutive days or not more than five (5) days out of twenty (20) days, when work has been assigned, regardless of the reason (i.e. equipment failure, illness, etc.).** The CONTRACTOR(s) shall work with inspectors on completion of work under certain weather conditions. Each book or portion of shall be completed within 20 working days, excluding weather and fire conditions. Acceptable workday for the CONTRACTOR is a minimum of eight (8) hours.
5. The CONTRACTOR's will be required to provide all services within forty-eight hours of notification of a need for these services. If the CONTRACTOR's cannot provide these services within this time frame due to equipment breakdown, over-scheduling, etc., the COUNTY will contact the next vendor based on a standard rotation method.

**Liquidated Damages (Fine for failure to complete work by specified date)**

Pursuant to Government Code Section 53069.85 ~~95 (Exhibit G)~~, CONTRACTOR agrees that two hundred and fifty dollars (\$250.00) for each working day beyond the specified cleaning period required to complete the work is a fair and reasonable estimate of the damages which the COUNTY will suffer because of the CONTRACTOR's delay; therefore, it is agreed by both parties hereto and said amount shall be charged against the CONTRACTOR's and shall be deducted as liquidated damages from any amount due him/her under this contract if work is not completed on schedule.

**Unsatisfactory Performance Provision**

The Riverside County fire Chief or his designee shall inspect the work and judge the performance of the CONTRACTOR(s) pursuant to all Weed/Vegetation Abatement Work. If the contract work is incomplete and/or unsatisfactory; the CONTRACTOR fails to provide the services specified in the schedule supplied by the Riverside County Fire Inspector; or if a lesser number of hours of service than eight (8) hours per day and forty hours per week is provided by the CONTRACTOR, the amount payable under the contract shall be reduced by \$19.00 per hour, per each County Inspector involved to correct the problem or major fraction of an hour that service is provided. This provision shall apply to any down-time on the part of the CONTRACTOR(s), when performance deficiencies exceed 15% of the work scheduled in any given day, based on an eight (8) hour work day, regardless of its origin (including, but not limited to, lack of sufficient manpower, machinery or parts, equipment failure, absence of supervisory personnel or inadequate replace for equipment or manpower, unless the deficiency is the direct result of an act of God, i.e., rain, fire, flood, and determined by the Riverside County Fire Captain.

6. CONTRACTOR(s) shall not work outside the scope of this RFP, without the written authorization from the Fire Department. The only equipment allowed would be the exception of those areas, which require a mower (see block A). The Fire Department will advise the successful CONTRACTOR(s) where the mowing will be allowed. **Use of non-authorized equipment and /or methods will result in nonpayment by the County** and the CONTRACTOR may be held liable for any damages incurred.
7. Where there are locked gates to the property, the CONTRACTOR(s) will be given instructions on how to enter the property. **The CONTRACTOR(s) will be responsible for any damage done not in accordance to given instructions. All services must be coordinated through the Fire Prevention Inspector and performed during the hours of 7:00 a.m. to 4:00 p.m. Monday through Friday, excluding holidays/weekends unless otherwise authorized by the County.**
8. CONTRACTOR shall be paid rounded to the nearest 1 acre. Handwork shall be a minimum per parcel price using sq. footage cost for brush category type. If the sq. footage exceeds the cost per sq ft cost for brush category type will be used. .
9. **SCAQMD RULE 403 Exemptions**  
The provisions of the Rule (403) shall not apply to:  
(H) Weed abatement operations ordered by a County agricultural commissioner or State, County, or Municipal Fire Department, provided that:

- a. Mowing, cutting, or other similar process is used which maintains weed stubble at three (3) inches above soil; and
- b. Any disking or similar operation which cuts into and disturbs the soil, where watering is used prior to initiation of these activities and a determination is made by the agency issuing the weed abatement order that due to fire hazard conditions, rocks, or other physical obstruction it is not practical to meet the conditions specified in SCAQMD rule 403 clause (g), (H), (i). the provisions of this clause shall not exempt the owner of any property from stabilizing, in accordance with paragraph (d) (2), disturbed surface areas, which have been created as a result of weed abatement actions.

#### 4. **Hand Cleaning and Hauling**

Whenever it is impractical by reason of topography, location of trees, sprinkler systems, shrubbery, buildings, fences or type of vegetation cover to disk and when authorized by the County Fire Chief or his representatives as set forth in Ordinance 695.4 unless superseded by ordinance revision the vegetation shall be removed or thinned **by hand labor**. The Inspector will specify the degree of hand labor to be accomplished on any parcel based upon square footage. The minimum requirement is clearing between the property line that has the debris and the improved parcel(s) of land. Dirt or mowed down materials shall have stubble no greater than 3 inches in height per the Public Resources and Health and Safety Code. Handwork classes include: 1) light grass, 2) medium brush (four (4) feet and under) and 3) heavy brush (more than four (4) feet).

#### 5. **Standard for Cleaning**

A contract for hand cleaning with the Riverside County will be for the sole purpose of weed abatement. The inspections and notification of the property owners will be done by the Fire Department.

1. A minimum of a two (2) person hand-crew with CONTRACTORs supervision or designee, transportation and tools shall be available at all times. Additional crewmembers may be necessary to complete the work. CONTRACTOR must have sufficient additional resources available for

additional work requirements as requested by the COUNTY.

2. Payments for hand-labor shall be based on measurements, to the actual square feet, taken by the Inspector and the CONTRACTOR. The unit price for hand cleaning shall include full compensation for furnishing all labor, materials, tools and equipments for cutting the weeds, loading the materials into trucks and hauling them to a COUNTY disposal site.
3. 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, and all disposal fees. All materials hauled to the approved site shall be covered according to local codes.
4. Some parcels will may require **partial cleaning**. That area which is cleaned will be measured and applicable unit rate will apply. The Inspector may assign partial cleaning projects.
5. If it were determined by the Fire Department that a **second cleaning** or partial cleaning is necessary, the work would occur at any time. The existing rates would apply and the CONTRACTOR(s) shall be prepared to start work upon 48 hours notice.
6. The CONTRACTOR(s) shall furnish all hand tools, power equipment and safety equipment necessary to accomplish the specified work. The Hand-crew Supervisor will stock spare replacement parts that commonly fail or are lost. All supervisors will have portable water readily available at all times for each crewmember.
7. Gas Weed eaters with adequate supplies and parts for repairs must be supplied for hand crews. Each hand- crew must have minimum of one (1) gas powered weed eater for every two men: for example: a four (4) man crew must be supplied with a minimum of two (2) weed eaters, etc. A sufficient reserve of weed eaters shall be available to eliminate down time.
8. The material cut down by hand labor **shall be hauled away to a lawful dumpsite and lawfully disposed of at CONTRACTOR's expense.** The loading of debris removed from the lot is to be accomplished as cleaning is completed. **No materials will be left on the lot for later pick up,** as this would not remove the fire hazard. Under certain circumstances with prior approval by the Fire Department cut down material may disposed of by disking under.
9. Suitable flatbed hydraulic dump trucks or trailers with high sides for hauling are to be provided throughout the handwork operation and is to be operated and maintained at the expense of the CONTRACTOR. All trimmings and rubbish shall be hauled to a lawful dumpsite and lawfully disposed of at the CONTRACTOR's expense.

**ALL EQUIPMENT WILL BE SUBJECT TO VISUAL INSPECTION BY THE FIRE DEPARTMENT PRIOR TO WEED ABATEMENT.**

## 6. Additional Terms and Conditions

It will be the responsibility of the CONTRACTOR(s) to keep an accurate account of the names of his/her employees as well as the dates, locations, and the type of work they perform. This information must be submitted to the Riverside County Fire Department upon request.

1. All personnel (labor) will be furnished by the CONTRACTOR(s). Each worker will be able to perform his/her duties in a manner that will not endanger the employees' health or safety or the health and safety of others and be attired with appropriate protective clothing and footwear. The CONTRACTOR(s) will furnish gloves, safety glasses, hearing protection, and any other safety equipment that is necessary for this type of work. The CONTRACTOR(s) shall provide safe and healthful working conditions and transport equipment and shall at all times comply with OSHA requirements. All trucks shall be equipped with rear flashing amber warning lights and traffic control cones.
2. All handwork will be completed within a time frame specified by the inspector. This time frame will be based on the amount of work to be accomplished.
3. Proof of insurance will be provided (including but not limited to General liability, Auto, Workers' Compensation, Waiver of Subrogation and Endorsements, all naming the County of Riverside as "additional insured") by the CONTRACTOR prior to any work being started and shall remain in effect through the term of this contract
4. No employee drinking alcohol or under the influence of alcohol and/or drugs shall be allowed to participate in the performance of this contract, nor shall any employee bring alcohol and/or drugs onto the work location covered in this contract. The CONTRACTOR(s) agree to remove immediately and replace any employee whose conduct and/or workmanship are in any way unsatisfactory to the County.
5. The CONTRACTOR(s) at his/her own expense will furnish supervision of hand-crews. All supervisors and lead personnel must be able to communicate (speak, read, and write) with the inspector in the English language.
6. The work, labor and/or materials which the bidder proposed to furnish to the COUNTY must comply in all respects with the appropriate equipment and safety regulations of all Federal, State and Local regulatory commissions whether such equipment and/or safety features have been specifically outlined/required this RFP or not.
7. All cleaning must meet the specification of the Riverside County Fire Department and must be approved in writing by the Fire Department Inspector.
8. The CONTRACTOR(s) shall accept sole responsibility for compliance with Federal, State and Local laws, regulations and ordinances including but not limited to South Coast Air Quality Management (SCAQMD) Division Rule 403/ See exemptions outlined on Page 7 of this RFP.

The amount of work and type of work to be performed shall be under the direction of and only with the authorization of the Riverside County Fire Department, contact information to be provided after award.

**EXHIBIT B  
PAYMENT PROVISIONS**

**Mowing and Disking – flat rate of \$130.00 per acre rounded to the nearest acre**

**Hand Cleaning based on Actual Square Feet of Work Completed**

Minimum \$130.00 per parcel using sq. ft. cost for fuel class if exceeds: \$0.03 sq. ft (Light=grass)

Minimum \$130.00 per parcel using sq. ft cost for fuel class if exceeds: \$0.05 sq/ ft. (Medium=brush 4ft. & under)

Minimum \$130.00 per parcel using sq. ft. cost for fuel class if exceeds: \$0.07 sq. ft. (Heavy=brush over 4ft.)

Minimum \$130.00 per parcel using sq. ft. cost for fuel class if exceeds: \$0.12 sq, ft, (Extremely Heavy Brush that is due to size, type, density, terrain is impossible to mow, disc, string trim, or other hand labor methods are impractical for clearance)

**PROFESSIONAL SERVICE AGREEMENT**

**for**

**WEED ABATEMENT SERVICES**

**between**

**COUNTY OF RIVERSIDE**

**and**

**INLAND EMPIRE PROPERTY SERVICE**



MAY 10 2011 3.17

**TABLE OF CONTENTS**

<b><u>SECTION HEADING</u></b>	<b><u>PAGE NUMBER</u></b>
1. Description of Services .....	3
2. Period of Performance.....	3
3. Compensation.....	3-4
4. Alteration or Changes to the Agreement .....	4-5
5. Termination.....	5
6. Ownership/Use of Contract Materials and Products .....	5
7. Conduct of CONTRACTOR.....	6
8. Inspection of Service: Quality Control/Assurance .....	6-7
9. Independent CONTRACTOR .....	7
10. Subcontract for Work or Services .....	7
11. Disputes .....	7-8
12. Licensing and Permits .....	8
13. Use by Other Political Entities .....	8
14. Non-Discrimination .....	8
15. Records and Documents .....	8-9
16. Confidentiality .....	9
17. Administration/Contract Liaison.....	9
18. Notices .....	10
19. Force Majeure .....	10
20. EDD Reporting Requirements.....	10
21. Hold Harmless/Indemnification .....	11-12
22. Insurance .....	12-14
23. General .....	14-15
Exhibit A-Scope of Service .....	16-20
Exhibit B- Payment Provisions.....	21

This Agreement, made and entered into this 10<sup>TH</sup> day of May, 2011, by and between Inland Property Service (herein referred to as "CONTRACTOR"), and the COUNTY OF RIVERSIDE, a political subdivision of the State of California, (herein referred to as "COUNTY"). The parties agree as follows:

**1. Description of Services**

1.1 CONTRACTOR shall provide all services as outlined and specified in Exhibit A, Scope of Services, consisting 16 through 20 pages at the prices stated in Exhibit B, Payment Provisions, consisting of page 21..

1.2 CONTRACTOR represents that it has the skills, experience and knowledge necessary to fully and adequately perform under this Agreement and the COUNTY relies upon this representation. CONTRACTOR shall perform to the satisfaction of the COUNTY and in conformance to and consistent with the highest standards of firms/professionals in the same discipline in the State of California.

1.3 CONTRACTOR affirms this it is fully apprised of all of the work to be performed under this Agreement; and the CONTRACTOR agrees it can properly perform this work at the prices stated in Exhibit B. CONTRACTOR is not to perform services or provide products outside of the Agreement.

1.4 Acceptance by the COUNTY of the CONTRACTOR's performance under this Agreement does not operate as a release of CONTRACTOR's responsibility for full compliance with the terms of this Agreement.

**2. Period of Performance**

2.1 This Agreement shall be effective upon signature of this Agreement by both parties and continue in effect through May 10<sup>th</sup> 2011 with the option to renew for four (4) additional years, renewable in one (1) year increments by written amendment, unless terminated earlier. CONTRACTOR shall commence performance upon signature of this Agreement by both parties and shall diligently and continuously perform thereafter.

**3. Compensation**

3.1 The COUNTY shall pay the CONTRACTOR for services performed, products provided and expenses incurred in accordance with the terms of Exhibit B, Payment Provisions. Maximum payments by COUNTY to CONTRACTOR shall not exceed \$100,000.00 annually including all expenses. Service by area shall be based upon a standard rotation. The rotation will be initially established by a method in which every CONTRACTOR will have the opportunity to obtain a minimum of one area. The COUNTY is not responsible for any fees or costs incurred above or beyond the contracted amount and shall have no obligation to purchase any specified amount of services or products. Unless otherwise specifically stated in



Exhibit B, COUNTY shall not be responsible for payment of any of CONTRACTOR's expenses related to this Agreement.

**3.3** CONTRACTOR shall be paid only in accordance with an invoice submitted to COUNTY by CONTRACTOR within fifteen (15) days from the last day of each calendar month, and COUNTY shall pay the invoice within thirty (30) working days from the date of receipt of the invoice. Payment shall be made to CONTRACTOR only after services have been rendered or delivery of materials or products, and acceptance has been made by COUNTY. Prepare invoices in duplicate. For this Agreement, send the original and duplicate copies of invoices to:

Riverside County Fire Department  
210 W. San Jacinto  
Perris, CA 92570

- a) Each invoice shall contain a minimum of the following information: invoice number and date; remittance address; bill-to and ship-to addresses of ordering department/division; Agreement number FPARC-98889-001-05/12 quantities; item descriptions, unit prices, extensions, sales/use tax if applicable, and an invoice total.
- b) Invoices shall be rendered monthly in arrears.

**3.4** The COUNTY obligation for payment of this Agreement beyond the current fiscal year end is contingent upon and limited by the availability of COUNTY funding from which payment can be made. No legal liability on the part of the COUNTY shall arise for payment beyond June 30 of each calendar year unless funds are made available for such payment. In the event that such funds are not forthcoming for any reason, COUNTY shall immediately notify CONTRACTOR in writing; and this Agreement shall be deemed terminated, have no further force, and effect.

#### **4. Alteration or Changes to the Agreement**

**4.1** The Board of Supervisors and the COUNTY Purchasing Agent and/or his designee is the only authorized COUNTY representatives who may at any time, by written order, alter this Agreement. If any such alteration causes an increase or decrease in the cost of, or the time required for the performance under this Agreement, an equitable adjustment shall be made in the Agreement price or delivery schedule, or both, and the Agreement shall be modified by written amendment accordingly.

**4.2** Any claim by the CONTRACTOR for additional payment related to this Agreement shall be made in writing by the CONTRACTOR within 30 days of when the CONTRACTOR has or should have notice of any actual or claimed change in the work, which results in additional and unanticipated cost to the CONTRACTOR. If the COUNTY Purchasing Agent decides that the facts provide sufficient justification, he may authorize additional payment to the CONTRACTOR pursuant to the claim. Nothing in this section

shall excuse the CONTRACTOR from proceeding with performance of the Agreement even if there has been a change.

**5. Termination**

**5.1.** COUNTY may terminate this Agreement without cause upon 30 days written notice served upon the CONTRACTOR stating the extent and effective date of termination.

**5.2** COUNTY may, upon five (5) days written notice, terminate this Agreement for CONTRACTOR's default, if CONTRACTOR refuses or fails to comply with the terms of this Agreement or fails to make progress to endanger performance and does not immediately cure such failure. In the event of such termination, the COUNTY may proceed with the work in any manner deemed proper by COUNTY.

**5.3** After receipt of the notice of termination, CONTRACTOR shall:

- (a) Stop all work under this Agreement on the date specified in the notice of termination; and
- (b) Transfer to COUNTY and deliver in the manner as directed by COUNTY any materials, reports or other products, which, if the Agreement had been completed or continued, would have been required to be furnished to COUNTY.

**5.4** After termination, COUNTY shall make payment only for CONTRACTOR's performance up to the date of termination in accordance with this Agreement and at the rates set forth in Exhibit B.

**5.5** CONTRACTOR's rights under this Agreement shall terminate (except for fees accrued prior to the date of termination) upon dishonesty or a willful or material breach of this Agreement by CONTRACTOR; or in the event of CONTRACTOR's unwillingness or inability for any reason whatsoever to perform the terms of this Agreement. In such event, CONTRACTOR shall not be entitled to any further compensation under this Agreement.

**5.6** The rights and remedies of COUNTY provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or this Agreement.

**6. Ownership/Use of Contract Materials and Products**

The CONTRACTOR agrees that all materials, reports or products in any form, including electronic, created by CONTRACTOR for which CONTRACTOR has been compensated by COUNTY pursuant to this Agreement shall be the sole property of the COUNTY; and may be used by the COUNTY for any purpose COUNTY deems to be appropriate, including, but not limit to, duplication and/or distribution within the COUNTY or to third parties. CONTRACTOR agrees not to release or circulate in whole or part such materials, reports or products without prior written authorization of the COUNTY.

## **7. Conduct of CONTRACTOR**

7.1 The CONTRACTOR covenants that it presently has no interest, including, but not limited to, other projects or contracts, and shall not acquire any such interest, direct or indirect, which would conflict in any manner or degree with CONTRACTOR's performance under this Agreement. The CONTRACTOR further covenants that no person or subCONTRACTOR having any such interest shall be employed or retained by CONTRACTOR under this Agreement. The CONTRACTOR agrees to inform the COUNTY of all the CONTRACTOR's interests, if any, which are or may be perceived as incompatible with the COUNTY's interests.

7.2 The CONTRACTOR shall not, under circumstances which could be interpreted as an attempt to influence the recipient in the conduct of his/her duties, accept any gratuity or special favor from individuals or firms with whom the CONTRACTOR is doing business or proposing to do business, in accomplishing the work under this Agreement.

7.3 The CONTRACTOR or its employees shall not offer gifts, gratuity, favors, and entertainment directly or indirectly to COUNTY employees.

## **8. Inspection of Service; Quality Control/Assurance**

8.1 All performance (which includes services, workmanship, materials, supplies and equipment furnished or utilized in the performance of this Agreement) shall be subject to inspection and test by the COUNTY or other regulatory agencies at all times. The CONTRACTOR shall provide adequate cooperation to any inspector or other COUNTY representative to permit him/her to determine the CONTRACTOR's conformity with the terms of this Agreement. If any services performed or products provided by CONTRACTOR are not in conformance with the terms of this Agreement, the COUNTY shall have the right to require the CONTRACTOR to perform the services or provide the products in conformance with the terms of the Agreement at no additional cost to the COUNTY. When the services to be performed or the products to be provided are of such nature that the difference cannot be corrected, the COUNTY shall have the right to: (1) require the CONTRACTOR immediately to take all necessary steps to ensure future performance in conformity with the terms of the Agreement; and/or (2) reduce the Agreement price to reflect the reduced value of the services performed or products provided. The COUNTY may also terminate this Agreement for default and charge to CONTRACTOR any costs incurred by the COUNTY because of the CONTRACTOR's failure to perform.

8.2 CONTRACTOR shall establish adequate procedures for self-monitoring and quality control and assurance to ensure proper performance under this Agreement; and shall permit a COUNTY

representative or other regulatory official to monitor, assess or evaluate CONTRACTOR's performance under this Agreement at any time upon reasonable notice to CONTRACTOR.

**9. Independent CONTRACTOR**

The CONTRACTOR is, for purposes relating to this Agreement, an independent CONTRACTOR and shall not be deemed an employee of the COUNTY. It is expressly understood and agreed that the CONTRACTOR (including its employees, agents and subCONTRACTORS) shall in no event be entitled to any benefits to which COUNTY employees are entitled, including but not limited to overtime, any retirement benefits, worker's compensation benefits, and injury leave or other leave benefits. There shall be no employer-employee relationship between the parties; and CONTRACTOR shall hold COUNTY harmless from any and all claims that may be made against COUNTY based upon any contention by a third party that an employer-employee relationship exists by reason of this Agreement. It is further understood and agreed by the parties that CONTRACTOR in the performance of this Agreement is subject to the control or direction of COUNTY merely as to the results to be accomplished and not as to the means and methods for accomplishing the results.

**10. Subcontract for Work or Services**

No contract shall be made by the CONTRACTOR with any other party for furnishing any of the work or services under this Agreement without the prior written approval of the COUNTY; but this provision shall not require the approval of contracts of employment between the CONTRACTOR and personnel assigned under this Agreement, or for parties named in the proposal and agreed to under this Agreement.

**11. Disputes**

**11.1** The parties shall attempt to resolve any disputes amicably at the working level. If that is not successful, the dispute shall be referred to the senior management of the parties. Any dispute relating to this Agreement, which is not resolved by the parties, shall be decided by the COUNTY's Purchasing Department's Compliance Contract Officer who shall furnish the decision in writing. The decision of the COUNTY's Compliance Contract Officer shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, capricious, arbitrary, or so grossly erroneous as necessarily to imply bad faith. The CONTRACTOR shall proceed diligently with the performance of this Agreement pending the resolution of a dispute.

**11.2** Prior to the filing of any legal action related to this Agreement, the parties shall be obligated to attend a mediation session in Riverside County before a neutral third party mediator. A second mediation

session shall be required if the first session is not successful. The parties shall share the cost of the mediations.

**12. Licensing and Permits**

CONTRACTOR shall comply with all State or other licensing requirements, including but not limited to the provisions of Chapter 9 of Division 3 of the Business and Professions Code. All licensing requirements shall be met at the time proposals are submitted to the COUNTY. CONTRACTOR warrants that it has all necessary permits, approvals, certificates, waivers and exemptions necessary for performance of this Agreement as required by the laws and regulations of the United States, the State of California, the County of Riverside and all other governmental agencies with jurisdiction, and shall maintain these throughout the term of this Agreement.

**13. Use By Other Political Entities**

The CONTRACTOR agrees to extend the same pricing, terms and conditions as stated in this Agreement to each and every political entity, special district, and related non-profit entity in Riverside County. It is understood that other entities shall make purchases in their own name, make direct payment, and be liable directly to the CONTRACTOR; and COUNTY shall in no way be responsible to CONTRACTOR for other entities' purchases.

**14. Non-Discrimination**

CONTRACTOR shall not be discriminate in the provision of services, allocation of benefits, accommodation in facilities, or employment of personnel on the basis of ethnic group identification, race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status or sex in the performance of this Agreement; and, to the extent they shall be found to be applicable hereto, shall comply with the provisions of the California Fair Employment and Housing Act (Gov. Code 12900 et. seq), the Federal Civil Rights Act of 1964 (P.L. 88-352), the Americans with Disabilities Act of 1990 (42 U.S.C. S1210 et seq.) and all other applicable laws or regulations.

**15. Records and Documents**

CONTRACTOR shall make available, upon written request by any duly authorized Federal, State or COUNTY agency, a copy of this Agreement and such books, documents and records as are necessary to certify the nature and extent of the CONTRACTOR's costs related to this Agreement. All such books, documents and records shall be maintained by CONTRACTOR for at least five years following termination

of this Agreement and be available for audit by the COUNTY. CONTRACTOR shall provide to the COUNTY reports and information related to this Agreement as requested by COUNTY.

**16. Confidentiality**

16.1 The CONTRACTOR shall not use for personal gain or make other improper use of privileged or confidential information which is acquired in connection with this Agreement. The term "privileged or confidential information" includes but is not limited to: unpublished or sensitive technological or scientific information; medical, personnel, or security records; anticipated material requirements or pricing/purchasing actions; COUNTY information or data which is not subject to public disclosure; COUNTY operational procedures; and knowledge of selection of CONTRACTORS, subCONTRACTORS or suppliers in advance of official announcement.

16.2 The CONTRACTOR shall protect from unauthorized disclosure names and other identifying information concerning persons receiving services pursuant to this Agreement, except for general statistical information not identifying any person. The CONTRACTOR shall not use such information for any purpose other than carrying out the CONTRACTOR's obligations under this Agreement. The CONTRACTOR shall promptly transmit to the COUNTY all third party requests for disclosure of such information. The CONTRACTOR shall not disclose, except as otherwise specifically permitted by this Agreement or authorized in advance in writing by the COUNTY, any such information to anyone other than the COUNTY. For purposes of this paragraph, identity shall include, but not be limited to, name, identifying number, symbol, or other identifying particular assigned to the individual, such as finger or voice print or a photograph.

**17. Administration/Contract Liaison**

The COUNTY Purchasing Agent, or designee, shall administer this Agreement on behalf of the COUNTY. The Purchasing Department is to serve as the liaison with CONTRACTOR in connection with this Agreement.

**18. Notices**

All correspondence and notices required or contemplated by this Agreement shall be delivered to the respective parties at the addresses set forth below and are deemed submitted two days after their deposit in the United States mail, postage prepaid:

**COUNTY OF RIVERSIDE**

County of Riverside Purchasing  
2980 Washington St.  
Riverside, CA 92504  
Attn: Debra Macias

**CONTRACTOR**

Inland Empire Property Service  
P.O. Box 9908  
Moreno Valley, CA 92552

**19. Force Majeure**

If either party is unable to comply with any provision of this Agreement due to causes beyond its reasonable control, and which could not have been reasonably anticipated, such as acts of God, acts of war, civil disorders, or other similar acts, such party shall not be held liable for such failure to comply.

**20. EDD Reporting Requirements**

In order to comply with child support enforcement requirements of the State of California, the COUNTY may be required to submit a Report of Independent CONTRACTOR(s) form **DE 542** to the Employment Development Department. The CONTRACTOR agrees to furnish the required data and certifications to the COUNTY within 10 days of notification of award of Agreement when required by the EDD. This data will be transmitted to governmental agencies charged with the establishment and enforcement of child support orders. Failure of the CONTRACTOR to timely submit the data and/or certificates required may result in the contract being awarded to another CONTRACTOR. In the event a contract has been issued, failure of the CONTRACTOR to comply with all federal and state reporting requirements for child support enforcement or to comply with all lawfully served Wage and Earnings Assignments Orders and Notices of Assignment shall constitute a material breach of Agreement. If CONTRACTOR has any questions concerning this reporting requirement, please call (916) 657-0529. CONTRACTOR should also contact its local Employment Tax Customer Service Office listed in the telephone directory in the State Government section under "Employment Development Department" or access their Internet site at [www.edd.ca.gov](http://www.edd.ca.gov).

**21. Hold Harmless/Indemnification**

**21.1** CONTRACTOR shall indemnify and hold harmless the County of Riverside, its Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives (individually and collectively hereinafter referred to as Indemnitees) from any liability whatsoever, based or asserted upon any services of CONTRACTOR, its officers, employees, subCONTRACTORS, agents or representatives arising out of or in any way relating to this Agreement, including but not limited to property damage, bodily injury, or death or any other element of any kind or nature whatsoever arising from the performance of CONTRACTOR, its officers, employees, subCONTRACTORS, agents or representatives Indemnitors from this Agreement. CONTRACTOR shall defend, at its sole expense, all costs and fees including, but not limited, to attorney fees, cost of investigation, defense and settlements or awards, the Indemnitees in any claim or action based upon such alleged acts or omissions.

**21.2** With respect to any action or claim subject to indemnification herein by CONTRACTOR, CONTRACTOR shall, at their sole cost, have the right to use counsel of their own choice and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of COUNTY; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes CONTRACTOR'S indemnification to Indemnitees as set forth herein.

**21.2** CONTRACTOR'S obligation hereunder shall be satisfied when CONTRACTOR has provided to COUNTY the appropriate form of dismissal relieving COUNTY from any liability for the action or claim involved.

**21.3** The specified insurance limits required in this Agreement shall in no way limit or circumscribe CONTRACTOR'S obligations to indemnify and hold harmless the Indemnitees herein from third party claims.

**21.4** In the event there is conflict between this clause and California Civil Code Section 2782, this clause shall be interpreted to comply with Civil Code 2782. Such interpretation shall not relieve the CONTRACTOR from indemnifying the Indemnitees to the fullest extent allowed by law.

**21.5** CONTRACTOR's indemnification obligations shall also apply to any action or claim regarding actual or alleged intellectual property infringement related to any material or product provided to COUNTY pursuant to this Agreement. In the event of any such action or claim, CONTRACTOR shall provide immediate notice to COUNTY of the action or claim. CONTRACTOR may defend or settle the action or claim as CONTRACTOR deems appropriate; however, CONTRACTOR shall be required to



obtain for COUNTY the right to continue to use the material or product (or a similar non-infringing material or product with the same function) on terms identical to those stated in this Agreement.

## **22. Insurance**

**22.1** Without limiting or diminishing the CONTRACTOR'S obligation to indemnify or hold the COUNTY harmless, CONTRACTOR shall procure and maintain or cause to be maintained, at its sole cost and expense, the following insurance coverage's during the term of this Agreement. As respects to the insurance section only, the COUNTY herein refers to the County of Riverside, its Agencies, Districts, Special Districts, and Departments, their respective directors, officers, Board of Supervisors, employees, elected or appointed officials, agents or representatives as Additional Insureds.

**22.2 Workers' Compensation:** If the CONTRACTOR has employees as defined by the State of California, the CONTRACTOR shall maintain statutory Workers' Compensation Insurance (Coverage A) as prescribed by the laws of the State of California. Policy shall include Employers' Liability (Coverage B) including Occupational Disease with limits not less than \$1,000,000 per person per accident. The policy shall be endorsed to waive subrogation in favor of the County of Riverside.

**22.3 Commercial General Liability:** Commercial General Liability insurance coverage, including but not limited to, premises liability, unmodified contractual liability, products and completed operations liability, personal and advertising injury, and cross liability coverage, covering claims which may arise from or out of CONTRACTOR'S performance of its obligations hereunder. Policy shall name the COUNTY as Additional Insured. Policy's limit of liability shall not be less than \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit.

**22.4 Vehicle Liability:** If vehicles or mobile equipment are used in the performance of the obligations under this Agreement, then CONTRACTOR shall maintain liability insurance for all owned, non-owned or hired vehicles so used in an amount not less than \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit. Policy shall name the COUNTY as Additional Insureds.

### **22.6 General Insurance Provisions - All lines:**

1) Any insurance carrier providing insurance coverage hereunder shall be admitted to the State of California and have an A M BEST rating of not less than A: VIII (A:8) unless such requirements are waived, in writing, by the County Risk Manager. If the County's Risk Manager waives a requirement for a particular insurer such waiver is only valid for that specific insurer and only for one policy term.

2) The CONTRACTOR must declare its insurance self-insured retention for each coverage required herein. If any such self-insured retention exceed \$500,000 per occurrence each such retention shall have the prior written consent of the County Risk Manager before the commencement of operations under this Agreement. Upon notification of self-insured retention unacceptable to the COUNTY, and at the election of the County's Risk Manager, CONTRACTOR'S carriers shall either; 1) reduce or eliminate such self-insured retention as respects this Agreement with the COUNTY, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, and defense costs and expenses.

3) CONTRACTOR shall cause CONTRACTOR'S insurance carrier(s) to furnish the County of Riverside with either 1) a properly executed original Certificate(s) of Insurance and certified original copies of Endorsements effecting coverage as required herein, and 2) if requested to do so orally or in writing by the County Risk Manager, provide original Certified copies of policies including all Endorsements and all attachments thereto, showing such insurance is in full force and effect. Further, said Certificate(s) and policies of insurance shall contain the covenant of the insurance carrier(s) that thirty (30) days written notice shall be given to the County of Riverside prior to any material modification, cancellation, expiration or reduction in coverage of such insurance. In the event of a material modification, cancellation, expiration, or reduction in coverage, this Agreement shall terminate forthwith, unless the County of Riverside receives, prior to such effective date, another properly executed original Certificate of Insurance and original copies of endorsements or certified original policies, including all endorsements and attachments thereto evidencing coverage's set forth herein and the insurance required herein is in full force and effect. ***CONTRACTOR shall not commence operations until the COUNTY has been furnished original Certificate (s) of Insurance and certified original copies of endorsements and if requested, certified original policies of insurance including all endorsements and any and all other attachments as required in this Section. An individual authorized by the insurance carrier to do so on its behalf shall sign the original endorsements for each policy and the Certificate of Insurance.***

4) It is understood and agreed to by the parties hereto that the CONTRACTOR'S insurance shall be construed as primary insurance, and the COUNTY'S insurance and/or deductibles and/or self-insured retention's or self-insured programs shall not be construed as contributory.

5) If, during the term of this Agreement or any extension thereof, there is a material change in the scope of services; or, there is a material change in the equipment to be used in the performance of the scope of work; or, the term of this Agreement, including any extensions thereof, exceeds five (5) years; the COUNTY reserves the right to adjust the types of insurance and the monetary limits of liability required

under this Agreement, if in the County Risk Manager's reasonable judgment, the amount or type of insurance carried by the CONTRACTOR has become inadequate.

6) CONTRACTOR shall pass down the insurance obligations contained herein to all tiers of subCONTRACTORS working under this Agreement.

7) The insurance requirements contained in this Agreement may be met with a program(s) of self-insurance acceptable to the COUNTY.

8) CONTRACTOR agrees to notify COUNTY of any claim by a third party or any incident or event that may give rise to a claim arising from the performance of this Agreement.

### **23. General**

**23.1** CONTRACTOR shall not delegate or assign any interest in this Agreement, whether by operation of law or otherwise, without the prior written consent of COUNTY. Any attempt to delegate or assign any interest herein shall be deemed void and of no force or effect.

**23.2** Any waiver by COUNTY of any breach of any one or more of the terms of this Agreement shall not be construed to be a waiver of any subsequent or other breach of the same or of any other term of this Agreement. Failure on the part of COUNTY to require exact, full and complete compliance with any terms of this Agreement shall not be construed as in any manner changing the terms or preventing COUNTY from enforcement of the terms of this Agreement.

**23.3** In the event the CONTRACTOR receives payment under this Agreement, which is later disallowed by COUNTY for nonconformance with the terms of the Agreement, the CONTRACTOR shall promptly refund the disallowed amount to the COUNTY on request; or at its option the COUNTY may offset the amount disallowed from any payment due to the CONTRACTOR.

**23.4** CONTRACTOR shall not provide partial delivery or shipment of services or products unless specifically stated in the Agreement.

**23.5** CONTRACTOR shall not provide any services or products subject to any chattel mortgage or under a conditional sales contract or other agreement by which an interest is retained by a third party. The CONTRACTOR warrants that it has good title to all materials or products used by CONTRACTOR or provided to COUNTY pursuant to this Agreement, free from all liens, claims or encumbrances.

**23.6** Nothing in this Agreement shall prohibit the COUNTY from acquiring the same type or equivalent equipment, products, materials or services from other sources, when deemed by the COUNTY to be in its best interest. The COUNTY reserves the right to purchase more or less than the quantities specified in this Agreement.

**23.7** The COUNTY agrees to cooperate with the CONTRACTOR in the CONTRACTOR's performance under this Agreement, including, if stated in the Agreement, providing the CONTRACTOR with reasonable facilities and timely access to COUNTY data, information, and personnel.

**23.8** CONTRACTOR shall comply with all applicable Federal, State and local laws and regulations. CONTRACTOR will comply with all applicable COUNTY policies and procedures. In the event that there is a conflict between the various laws or regulations that may apply, the CONTRACTOR shall comply with the more restrictive law or regulation.

**23.9** CONTRACTOR shall comply with all air pollution control, water pollution, safety and health ordinances, statutes, or regulations, which apply to performance under this Agreement.

**23.10** CONTRACTOR shall comply with all requirements of the Occupational Safety and Health Administration (OSHA) standards and codes as set forth by the U.S. Department of Labor and the State of California (Cal/OSHA).

**23.11** This Agreement shall be governed by the laws of the State of California. Any legal action related to the performance or interpretation of this Agreement shall be filed only in the Superior Court of the State of California located in Riverside, California, and the parties waive any provision of law providing for a change of venue to another location. In the event any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

**23.12** This Agreement, including any attachments or exhibits, constitutes the entire Agreement of the parties with respect to its subject matter and supersedes all prior and contemporaneous representations, proposals, discussions and communications, whether oral or in writing. This Agreement may be changed or modified only by a written amendment signed by authorized representatives of both parties.

**COUNTY:**

County of Riverside  
2980 Washington St.  
Riverside, CA 92504

ATTEST:

KECIA HARPER-IHEM, Clerk  
By [Signature]  
DEPUTY

Signature: [Signature]Print Name: Bob BusterTitle: Chairman, Board of SupervisorsDated: MAY 10 2011

FORM APPROVED COUNTY COUNSEL

BY: [Signature]

NEAL R. KIPNIS

Page 10 of 10

RFP#

**CONTRACTOR:**

Inland Empire Property Services, Inc.

PO Box 9908  
Moreno Valley, CA 92552

Signature: [Signature]Print Name: Charles MacielTitle: PresidentDated: 4/29/2011

MAY 10 2011 3.17

## EXHIBIT A SCOPE OF SERVICE

### 1. Requirements

1. The CONTRACTOR shall provide necessary personnel, equipment, and supplies to accomplish the requested weed abatement and related services within the County of Riverside.

2. The Riverside County Fire Department will provide the necessary weed abatement maps to accomplish the work upon contract award. The maps remain the property of the Fire Department and must be maintained in good condition.

3. The Fire Department will provide a field inspector who will be available to assist the CONTRACTOR in planning and outlining the required work.

### 2. **CONTRACTOR shall**

#### 1. Disking

Weed abatement by disking shall be accomplished by cultivating with a double-throw disk at sufficient depth turning and loosening the soil, placing all weeds under the soil surface. Disking is the plowing of weeds using reasonable care so as to not disturb under/over ground utilities, destruction to fencing, buildings, equipment, supplies or adjoining land, including fire due to reckless/negligent plowing of land. The requirement for the finished product shall be clearance between the property that has the debris and other adjoining parcels of land.

**a. Cross Disking-** Where the nature of the soil is such that it is not receptive to the cutting edge of the disks the area shall be cross-disked to reduce the magnitude of any exposed combustibles.

**b. Dust Control-** The CONTRACTOR accepts sole responsibility to comply with Federal, State and Local laws, Regulations and Ordinances including but not limited to South Coast Air Quality Management Division (SCAQMD) Rule 403. This standard exempts CONTRACTORS from dust control measures if contracted with the Riverside County Fire Department.

### 3. Standard for Clearing

Clearing of land shall be done in accordance with Riverside County Ordinance No. 695.4 unless superseded by ordinance revision.

1. CONTRACTOR's agree to furnish tractors, disks and mowers in all areas suitable to complete the job of disking property. The CONTRACTOR agrees to provide transportation to and from job sites, for their equipment and all necessary fuel, etc., at his/her expense. Standard for clearing will be as assigned by the Hazard Reduction Office to include disking, mowing, hand labor or a combination thereof. **The mowing height shall be three (3) inches or less. Disk and mow rate include any handwork required to remove hazards along fence lines, around trees, etc. All rates include any hauling or disposal fees.**
2. CONTRACTORS may be used in tumbleweed abatement in all ten areas.
3. CONTRACTORS agree to have equipment and personnel (labor) to work all areas quoted. See maps for location of areas. **ALL EQUIPMENT LISTED WILL BE VISUALLY INSPECTED AND APPROVED BY THE FIRE DEPARTMENT PRIOR TO USE.**
4. CONTRACTORS agree, at his/her own expense submit a **minimum of four (4) 4" x 6" digital photographs**. Two (2) photographs are "before" pictures and two (2) are "after" pictures. The pictures must contain the following: **identify the APN, date/time, the word "before" or "after" written on a white board and CONTRACTOR's business name.** CONTRACTOR's photographs will be given to the inspectors as verification that the job has been completed. **Larger parcels will require more than four (4) 4"x6" photos. . CONTRACTOR(s) shall**

**deliver additional copies of all photographs to the County on formatted compact disk(s), each compact disc will be specific to book or portion thereof completed.** The photographs must be received within two (2) weeks of completion of the job. Photos shall be submitted in a standard 6"x9" Manila Envelope. Envelopes shall be provided at CONTRACTOR's expense. It is required that digital photographs be used to ensure that photographs include digital date and time and are clear enough to use as evidence of completion of work. **CONTRACTORS will not be paid for their services until these photographs have been provided and accepted as satisfactory work by the Fire Department.**

3. County shall provide the CONTRACTOR with a written job assignment sheet of the job site at the time of the job walk for the lot size, cost, type of cleaning and brush size. For parcels requiring payment for hand cleaning a CONTRACTOR signature will be required. The signature is to ensure CONTRACTOR understands the work to be performed and the cost associated. Once the job has been completed, the CONTRACTOR must provide detailed pictures of the job site(s) as specified in section (4).
4. **The successful CONTRACTOR(s) shall not miss more than two (2) consecutive days or not more than five (5) days out of twenty (20) days, when work has been assigned, regardless of the reason (i.e. equipment failure, illness, etc.).** The CONTRACTOR(s) shall work with inspectors on completion of work under certain weather conditions. Each book or portion of shall be completed within 20 working days, excluding weather and fire conditions. Acceptable workday for the CONTRACTOR is a minimum of eight (8) hours.
5. The CONTRACTOR's will be required to provide all services within forty-eight hours of notification of a need for these services. If the CONTRACTOR's cannot provide these services within this time frame due to equipment breakdown, over-scheduling, etc., the COUNTY will contact the next vendor based on a standard rotation method.

**Liquidated Damages (Fine for failure to complete work by specified date)**

Pursuant to Government Code Section 53069.85 ~~95 (Exhibit G)~~, CONTRACTOR agrees that two hundred and fifty dollars (\$250.00) for each working day beyond the specified cleaning period required to complete the work is a fair and reasonable estimate of the damages which the COUNTY will suffer because of the CONTRACTOR's delay; therefore, it is agreed by both parties hereto and said amount shall be charged against the CONTRACTOR's and shall be deducted as liquidated damages from any amount due him/her under this contract if work is not completed on schedule.

**Unsatisfactory Performance Provision**

The Riverside County fire Chief or his designee shall inspect the work and judge the performance of the CONTRACTOR(s) pursuant to all Weed/Vegetation Abatement Work. If the contract work is incomplete and/or unsatisfactory; the CONTRACTOR fails to provide the services specified in the schedule supplied by the Riverside County Fire Inspector; or if a lesser number of hours of service than eight (8) hours per day and forty hours per week is provided by the CONTRACTOR, the amount payable under the contract shall be reduced by \$19.00 per hour, per each County Inspector involved to correct the problem or major fraction of an hour that service is provided. This provision shall apply to any down-time on the part of the CONTRACTOR(s), when performance deficiencies exceed 15% of the work scheduled in any given day, based on an eight (8) hour work day, regardless of its origin (including, but not limited to, lack of sufficient manpower, machinery or parts, equipment failure, absence of supervisory personnel or inadequate replace for equipment or manpower, unless the deficiency is the direct result of an act of God, i.e., rain, fire, flood, and determined by the Riverside County Fire Captain.

6. CONTRACTOR(s) shall not work outside the scope of this RFP, without the written authorization from the Fire Department. The only equipment allowed would be the exception of those areas, which require a mower (see block A). The Fire Department will advise the successful CONTRACTOR(s) where the mowing will be allowed. **Use of non-authorized equipment and /or methods will result in nonpayment by the County** and the CONTRACTOR may be held liable for any damages incurred.
7. Where there are locked gates to the property, the CONTRACTOR(s) will be given instructions on how to enter the property. **The CONTRACTOR(s) will be responsible for any damage done not in accordance to given instructions. All services must be coordinated through the Fire Prevention Inspector and performed during the hours of 7:00 a.m. to 4:00 p.m. Monday through Friday, excluding holidays/weekends unless otherwise authorized by the County.**
8. CONTRACTOR shall be paid rounded to the nearest 1 acre. Handwork shall be a minimum per parcel price using sq. footage cost for brush category type. If the sq. footage exceeds the cost per sq ft cost for brush category type will be used. .
9. **SCAQMD RULE 403 Exemptions**  
The provisions of the Rule (403) shall not apply to:  
(H) Weed abatement operations ordered by a County agricultural commissioner or State, County, or Municipal Fire Department, provided that:

- a. Mowing, cutting, or other similar process is used which maintains weed stubble at three (3) inches above soil; and
- b. Any disking or similar operation which cuts into and disturbs the soil, where watering is used prior to initiation of these activities and a determination is made by the agency issuing the weed abatement order that due to fire hazard conditions, rocks, or other physical obstruction it is not practical to meet the conditions specified in SCAQMD rule 403 clause (g), (H), (i). the provisions of this clause shall not exempt the owner of any property from stabilizing, in accordance with paragraph (d) (2), disturbed surface areas, which have been created as a result of weed abatement actions.

#### **4. Hand Cleaning and Hauling**

Whenever it is impractical by reason of topography, location of trees, sprinkler systems, shrubbery, buildings, fences or type of vegetation cover to disk and when authorized by the County Fire Chief or his representatives as set forth in Ordinance 695.4 unless superseded by ordinance revision the vegetation shall be removed or thinned **by hand labor**. The Inspector will specify the degree of hand labor to be accomplished on any parcel based upon square footage. The minimum requirement is clearing between the property line that has the debris and the improved parcel(s) of land. Dirt or mowed down materials shall have stubble no greater than 3 inches in height per the Public Resources and Health and Safety Code. Handwork classes include: 1) light grass, 2) medium brush (four (4) feet and under) and 3) heavy brush (more than four (4) feet).

#### **5. Standard for Cleaning**

A contract for hand cleaning with the Riverside County will be for the sole purpose of weed abatement. The inspections and notification of the property owners will be done by the Fire Department.

1. A minimum of a two (2) person hand-crew with CONTRACTORs supervision or designee, transportation and tools shall be available at all times. Additional crewmembers may be necessary to complete the work. CONTRACTOR must have sufficient additional resources available for

additional work requirements as requested by the COUNTY.

2. Payments for hand-labor shall be based on measurements, to the actual square feet, taken by the Inspector and the CONTRACTOR. The unit price for hand cleaning shall include full compensation for furnishing all labor, materials, tools and equipments for cutting the weeds, loading the materials into trucks and hauling them to a COUNTY disposal site.
3. 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, and all disposal fees. All materials hauled to the approved site shall be covered according to local codes.
4. Some parcels will may require **partial cleaning**. That area which is cleaned will be measured and applicable unit rate will apply. The Inspector may assign partial cleaning projects.
5. If it were determined by the Fire Department that a **second cleaning** or partial cleaning is necessary, the work would occur at any time. The existing rates would apply and the CONTRACTOR(s) shall be prepared to start work upon 48 hours notice.
6. The CONTRACTOR(s) shall furnish all hand tools, power equipment and safety equipment necessary to accomplish the specified work. The Hand-crew Supervisor will stock spare replacement parts that commonly fail or are lost. All supervisors will have portable water readily available at all times for each crewmember.
7. Gas Weed eaters with adequate supplies and parts for repairs must be supplied for hand crews. Each hand- crew must have minimum of one (1) gas powered weed eater for every two men: for example: a four (4) man crew must be supplied with a minimum of two (2) weed eaters, etc. A sufficient reserve of weed eaters shall be available to eliminate down time.
8. The material cut down by hand labor **shall be hauled away to a lawful dumpsite and lawfully disposed of at CONTRACTOR's expense.** The loading of debris removed from the lot is to be accomplished as cleaning is completed. **No materials will be left on the lot for later pick up,** as this would not remove the fire hazard. Under certain circumstances with prior approval by the Fire Department cut down material may disposed of by disking under.
9. Suitable flatbed hydraulic dump trucks or trailers with high sides for hauling are to be provided throughout the handwork operation and is to be operated and maintained at the expense of the CONTRACTOR. All trimmings and rubbish shall be hauled to a lawful dumpsite and lawfully disposed of at the CONTRACTOR's expense.

**ALL EQUIPMENT WILL BE SUBJECT TO VISUAL INSPECTION BY THE FIRE DEPARTMENT PRIOR TO WEED ABATEMENT.**



## 6. Additional Terms and Conditions

It will be the responsibility of the CONTRACTOR(s) to keep an accurate account of the names of his/her employees as well as the dates, locations, and the type of work they perform. This information must be submitted to the Riverside County Fire Department upon request.

1. All personnel (labor) will be furnished by the CONTRACTOR(s). Each worker will be able to perform his/her duties in a manner that will not endanger the employees' health or safety or the health and safety of others and be attired with appropriate protective clothing and footwear. The CONTRACTOR(s) will furnish gloves, safety glasses, hearing protection, and any other safety equipment that is necessary for this type of work. The CONTRACTOR(s) shall provide safe and healthful working conditions and transport equipment and shall at all times comply with OSHA requirements. All trucks shall be equipped with rear flashing amber warning lights and traffic control cones.
2. All handwork will be completed within a time frame specified by the inspector. This time frame will be based on the amount of work to be accomplished.
3. Proof of insurance will be provided (including but not limited to General liability, Auto, Workers' Compensation, Waiver of Subrogation and Endorsements, all naming the County of Riverside as "additional insured") by the CONTRACTOR prior to any work being started and shall remain in effect through the term of this contract.
4. No employee drinking alcohol or under the influence of alcohol and/or drugs shall be allowed to participate in the performance of this contract, nor shall any employee bring alcohol and/or drugs onto the work location covered in this contract. The CONTRACTOR(s) agree to remove immediately and replace any employee whose conduct and/or workmanship are in any way unsatisfactory to the County.
5. The CONTRACTOR(s) at his/her own expense will furnish supervision of hand-crews. All supervisors and lead personnel must be able to communicate (speak, read, and write) with the inspector in the English language.
6. The work, labor and/or materials which the bidder proposed to furnish to the COUNTY must comply in all respects with the appropriate equipment and safety regulations of all Federal, State and Local regulatory commissions whether such equipment and/or safety features have been specifically outlined/required this RFP or not.
7. All cleaning must meet the specification of the Riverside County Fire Department and must be approved in writing by the Fire Department Inspector.
8. The CONTRACTOR(s) shall accept sole responsibility for compliance with Federal, State and Local laws, regulations and ordinances including but not limited to South Coast Air Quality Management (SCAQMD) Division Rule 403/ See exemptions outlined on Page 7 of this RFP.

The amount of work and type of work to be performed shall be under the direction of and only with the authorization of the Riverside County Fire Department, contact information to be provided after award.

**EXHIBIT B  
PAYMENT PROVISIONS**

**Mowing and Disking – flat rate of \$130.00 per acre rounded to the nearest acre**

**Hand Cleaning based on Actual Square Feet of Work Completed**

Minimum \$130.00 per parcel using sq. ft. cost for fuel class if exceeds: \$0.03 sq. ft (Light=grass)

Minimum \$130.00 per parcel using sq. ft cost for fuel class if exceeds: \$0.05 sq/ ft. (Medium=brush 4ft. & under)

Minimum \$130.00 per parcel using sq. ft. cost for fuel class if exceeds: \$0.07 sq. ft. (Heavy=brush over 4ft.)

Minimum \$130.00 per parcel using sq. ft. cost for fuel class if exceeds: \$0.12 sq. ft, (Extremely Heavy Brush that is due to size, type, density, terrain is impossible to mow, disc, string trim, or other hand labor methods are impractical for clearance)