

LOS ANGELES FIRE DEPARTMENT



MILLAGE PEAKS
FIRE CHIEF

June 8, 2011

BOARD OF FIRE COMMISSIONERS
FILE NO. 11-083

TO: Board of Fire Commissioners

FROM: Millage Peaks, Fire Chief *W.P.*

SUBJECT: APPROVAL OF WEED AND REFUSE ABATEMENT CONTRACTORS
FROM THE REQUEST FOR QUALIFICATIONS NO. LAFD 2011-038-001

FINAL ACTION:	<input type="checkbox"/> Approved	<input type="checkbox"/> Approved w/Corrections	<input type="checkbox"/> Withdrawn
	<input type="checkbox"/> Denied	<input type="checkbox"/> Received & Filed	<input type="checkbox"/> Other

Recommendations:

That the Board:

1. Approve the attached list of Weed and Refuse contractors for Fiscal Year 2011-2012;
2. Direct the Commission Executive Assistant I to transmit the 2011 Agreement to the Mayor and City Council for review and approval in accordance with Executive Directive No. 3.

Summary:

The Los Angeles Fire Department, Brush Clearance Unit, inspects approximately 130,000 properties located in the Very High Fire Hazard Severity Zone in accordance with Los Angeles Municipal Code 57.21.07. The Fire Department traditionally hires between 12 and 14 new contractors to ensure competitive bidding. The current Weed and Refuse Abatement Agreements will expire on June 30, 2011.

The work itself has been deemed to be too hazardous for City employees to perform in accordance with their Memorandum of Understanding. Therefore, other City departments, such as Public Works' Street Services, Department of Water and Power, Los Angeles Zoo, or Recreation and Parks, cannot perform the work.

The new list of contractors, with the approval of the Board of Fire Commissioners, subject to approval of the Mayor, will be established prior to, and effective on, July 1, 2011, and be valid for a one-year period. The Department may, at its sole discretion, with the approval of the Board of Fire Commissioners, extend the term of the agreements for up to two (2) additional years, exercisable in one-year increments.

The approved weed abatement contractors will be invited to participate in weekly bid sessions beginning in August 2011, for privately owned parcels and in May 2012 for City-owned parcels. The contractors work at the discretion of the Fire Department and must abide by the regulations and requirements stated in the contractual agreement and the "Statement of Non-Collusion." The Department requested a waiver from the Minority Business Enterprise/Women Business Enterprise (MBE/WBE) provisions, which has been granted by the Mayor's Office.

Each contractor is required to maintain sufficient crews and equipment to furnish these services in a timely manner and must continue to demonstrate a willingness to perform such services. During the 2010 Brush Clearance season, the Fire Department's Brush Clearance Unit inspected 131,880 parcels, issued 15,592 citations, and sent to contract for weed and refuse abatement 1,161 privately-owned and 391 City-owned parcels at an estimated cost of \$1.5 million.

These contracts are paid from Account No. 3070 – Brush Clearance Contracts, and have been approved each year in the Department's Adopted Annual Budget. The City is reimbursed for brush clearance costs by invoicing the property owners directly, or through the County Assessor's tax rolls.

Conclusion:

The Fire Department has determined that weed abatement contractors are an essential element to a successful Brush Clearance Program. During past brush fire seasons, thousands of acres have been destroyed and numerous homes lost to wildfires. The Los Angeles Fire Department's Brush Clearance Program has proven to be one of the best and most successful programs in the country. The Brush Clearance Unit requires the assistance of private weed and refuse abatement contractors to ensure that adequate clearance and defense against the threat of wildfires is maintained.

Board report prepared by: Robert Knight, Captain II, and Armando Nuñez, Fire Inspector II, Brush Clearance Unit.

Attachments:

- Attachment A: Fiscal Year 2011-12 Contractors List
- Attachment B: Contractual Agreement



ATTACHMENT – A

COMPANY NAME	LEGAL ENTITY	OWNER'S NAME	CITY, STATE
Avalon Landscape, Inc.	Corporation	Luis Cadiz	Sherman Oaks CA
Brian Walsh Brush Clearance	Sole Proprietorship	Brian Walsh	Los Angeles CA
C3	Sole Proprietorship	Albert Smith	Los Angeles CA
Equery, Inc. DBA Econo Tree Care	Corporation	Ori Zairi	Pacific Palisades CA
Green Leaf GTH, Inc.	Corporation	Yosef Shalev	Van Nuys CA
International Environmental Corporation	Corporation	Henry Cespedes	Panorama City CA
Mariposa Landscapes Inc.	Corporation	Terry Noriega	Irwindale CA
Oakridge Landscape, Inc.	Corporation	Richard Dunbar	Valencia CA
Pan American Brush Clearance, Inc.	Corporation	Eddie Martinez	Sherman Oaks CA
Pepo Weed Abatement, Inc.	Corporation	Michael Pepo	Palmadale CA
Ray Byers & Company	Sole Proprietorship	Olin Ray Byers	Lancaster CA
Silent Fire, Inc.	Corporation	Courtney Kite	Pasadena CA
SR Landscape		Steve Rapp	Tujunga CA
Thrifty Tree Service, Inc.	Corporation	Dave Aviram	Reseda CA
Underwood Landscape	Sole Proprietorship	Michael Underwood	Agoura Hills CA
Van Gogh Landscaping LLC.	Limited Liability	Tony Tamayo	Studio City CA
Waste Unlimited, Inc.	Corporation	Shane Fone	Sunland CA

ATTACHMENT B

AGREEMENT NO. _____
BETWEEN
THE CITY OF LOS ANGELES
AND
«Company»

TO PROVIDE BRUSH CLEARANCE, WEED AND REFUSE ABATEMENT SERVICES

THIS AGREEMENT is made and entered into by and between the City of Los Angeles (hereinafter referred to as the "CITY"), a municipal corporation, acting by and through the Los Angeles Fire Department (hereinafter referred to as the "DEPARTMENT"), and «Company», a «LegalEntity», CITY qualified brush clearance contractor (hereinafter referred to as the "CONTRACTOR").

WHEREAS, the DEPARTMENT has the responsibility to comply with and enforce the Los Angeles Municipal Code (hereinafter referred to as L.A.M.C.) with regard to property under the jurisdiction of the DEPARTMENT and in particular the abatement of certain public nuisances including, but not limited to, brush clearance, weed and refuse abatement, and tree trimming or removal as set forth in L.A.M.C. §57.21.07; and

WHEREAS, in connection with said responsibilities, the DEPARTMENT, from time-to-time, requires the services of qualified brush clearance CONTRACTORS to abate hazards located in the Very High Fire Hazard Severity Zone, on improved and unimproved property within said area; and

WHEREAS, in connection with said effort, the DEPARTMENT has determined it to be necessary to have available qualified CONTRACTORS with sufficient crews and equipment to furnish said abatement services in a timely manner; and

WHEREAS, the DEPARTMENT requires such services every year generally commencing in late-Spring; and

WHEREAS, the CONTRACTOR has responded to the DEPARTMENT'S outreach; and

WHEREAS, it is in the CITY'S best interest to secure said services from the CONTRACTOR. The CONTRACTOR represents, experienced in providing services of this type as required and have indicated willingness to perform such services.

NOW, THEREFORE, in consideration of the above premises and of the terms, covenants and conditions hereinafter contained to be kept and performed by the respective parties hereto, it is mutually agreed as follows:

ARTICLE 1. PARTIES TO THE AGREEMENT, REPRESENTATIVES AND NOTICE

A. Parties

The parties to this AGREEMENT are:

1. CITY - The City of Los Angeles, a municipal corporation, having its principal office at 200 North Spring Street, Los Angeles, California 90012.
2. CONTRACTOR - «Company», a «LegalEntity», having its principal office at: «Address1», «City» «State» «PostalCode»
- 3.

B. Representatives

The representatives of the parties who are authorized to administer this AGREEMENT and to whom formal notices, demands and communications will be given are as follows:

1. The CITY'S Representative will be as follows, unless otherwise stated in the AGREEMENT:

Millage Peaks, Fire Chief
Los Angeles Fire Department
200 North Main Street, 18th Floor
Los Angeles, California 90012

With copies to:

Commander, Brush Clearance Unit
Bureau of Fire Prevention and Public Safety
Los Angeles Fire Department
6262 Van Nuys Boulevard, Suite 451
Van Nuys, California 91401
(818) 374-1111 Telephone Number
(818) 778-4910 Fax Number

2. The CONTRACTOR'S representative will be:

Name: «FirstName» «LastName»
Title: «OwnerTitle»
Company: «Company»
Telephone Number: «Phone»
Cellular Number: «Cellular»
Fax Number: «FAX»
E-mail Address: «Email»

C. Notices

Formal notices, demands and communications to be given hereunder by either party shall be made in writing and shall be effected by personal delivery or by registered or certified mail, postage prepaid, return receipt requested and will be deemed communicated as of the date of receipt.

If the name of the person designated to receive the notices, demands or communications or the address of such person is changed, written notice will be given, in accord with this ARTICLE, within five (5) working days of said change.

ARTICLE 2. TERMS OF AGREEMENT

A. Expiration of AGREEMENT

The terms of this AGREEMENT will commence on the date executed by all parties hereto and will terminate on June 30, 2009, unless otherwise terminated by the DEPARTMENT as hereinafter provided in ARTICLE 12 – DISQUALIFICATION AND SUSPENSION, and ARTICLE 13 – TERMINATION of this AGREEMENT.

B. Amendments

The Board of Fire Commissioners extend the AGREEMENT for two (2) additional years, exercisable in one-year increments, utilizing the amendment process described in PSC 6. Any such amendment will be subject to availability of CITY funds and the CONTRACTOR'S satisfactory performance of all the terms of this AGREEMENT.

C. Mandatory Orientation

The CONTRACTOR hereby acknowledges having attended the required orientation sessions presented by the DEPARTMENT regarding the Brush Clearance Program (Program), and further acknowledges having received and reviewed all related documents about the Program as distributed by the DEPARTMENT to potential CONTRACTORS. The CONTRACTOR hereby further acknowledges being familiar with the brush clearance, and weed and refuse abatement requirements of the Los Angeles Municipal Code and the policies, procedures and requirements of the Program.

ARTICLE 3. CONTRACT SPECIFICATIONS AND REQUIREMENTS

A. Personal Liability

No member of the Board of Fire Commissioners, or any other elected official, officer or employee of the CITY shall be personally liable for any claim arising under this AGREEMENT.

B. Errors and Omission

The CONTRACTOR will not be allowed to take advantage of any error or omission in the "Contract Specifications and Requirements" section. Such errors or omissions should be brought to the immediate attention of the DEPARTMENT. Full instructions will be given when such error or omission is discovered.

C. Condition of Equipment

The CONTRACTOR shall satisfy the CITY and DEPARTMENT of their ability to perform the work contemplated. The condition of the equipment to be used and the CONTRACTOR'S previous experience, reputation, and financial responsibility, will be considered in awarding the contract.

D. Required License

During the term of this AGREEMENT, the CONTRACTOR will provide brush clearance weed and/or refuse abatement services on property under the jurisdiction of the DEPARTMENT, pursuant to the requirements specified in L.A.M.C. §57.21.07. Tree trimming above fifteen (15) feet will be awarded only to CONTRACTORS holding a C-61 and/or D-49 license from the California State License Board.

E. Re-Awarding a Bid Package

1. If a CONTRACTOR is dismissed, disqualified or resigns from his or her contractual AGREEMENT, or if the contract is terminated for any reason, the DEPARTMENT may award this portion of the contract to the next lowest acceptable bidder in the original bid.
2. The completion date of a package may be extended beyond the stated expiration date at the sole discretion of the DEPARTMENT.

F. Work to Performed by the Contractor

1. Specific work to be performed by the CONTRACTOR will be assigned by the DEPARTMENT to the CONTRACTOR pursuant to Program's Policies and Procedures.

2. The exact nature of the work to be performed by the CONTRACTOR for each bid award will be specifically described in the "Contractor's Worksheet" provided by the DEPARTMENT for each parcel to be cleaned.
3. Cut vegetation must be processed or removed within forty-eight (48) hours of cutting. Unless work is to be performed on Saturday, vegetation cut on Friday must be processed or removed by the end of that same Friday.

G. Timelines

1. Time is of the essence. All work identified in a bid package must be satisfactorily completed no later than 5:00 p.m. Pacific Time, thirteen (13) calendar days after the bid award.
2. Performance days shall not include CITY holidays and rain days only.
3. Weekends shall be included as performance dates.
4. Unexcused delays in completion of work will result in assessment of penalties pursuant to ARTICLE 11 – LIQUIDATED DAMAGES, of this AGREEMENT.

H. Professional Conduct

The CONTRACTOR, and any of its employees, will conduct themselves in a professional manner while conducting business on CITY property, while in contact with CITY employees and other CONTRACTORS, and while performing their obligations in the field as delineated in the terms of this AGREEMENT.

I. Affidavit of Non-Collusion

1. Throughout this AGREEMENT'S term, the CONTRACTOR must abide by the requirements stated in the Affidavit of Non-Collusion, attached hereto as Attachment A and incorporated herein, on each and every bid submitted, and regarding any other action in furtherance of the CONTRACTOR'S participation in the Program.
2. Failure to abide by the requirements of this ARTICLE and Attachment A will be cause for termination of this AGREEMENT and will result in the CONTRACTOR being disqualified from future participation in the Program.

ARTICLE 4. LAWS AND POLICIES TO BE OBSERVED

1. The CONTRACTOR shall keep himself or she fully informed of all existing and future federal, state, county or CITY laws, regulations and municipal ordinances, which may in any manner affect their work.
2. The CONTRACTOR shall at all times observe and comply with, and shall cause their subcontractors to observe and comply with all such existing and future safety requirements, laws, ordinances, regulations, orders and decrees.
3. The CONTRACTOR shall at all times enforce strict discipline and good order among its employees or subcontractors and the CONTRACTOR shall not employ or assign to unfit persons or anyone not skilled in the operation of equipment.

ARTICLE 5. EQUIPMENT REQUIREMENTS, INSPECTION AND DOCUMENTATION

A. Equipment Requirements

All equipment furnished must meet the requirements of the General Specifications. All equipment must have suitable transport and be equipped with an approved spark arrester, fire extinguisher, and wheel chocks where applicable.

B. Equipment Inspection

Any and all equipment offered must be available for inspection by a DEPARTMENT representative prior to awarding. If equipment is to be leased or purchased, the supplier and the specifications must be provided upon request. Any unsatisfactory equipment will be rejected.

C. Equipment Documentation

1. The Board of Fire Commissioners requires the Weed and Refuse Abatement Contractors to provide the DEPARTMENT with the following documentations or protective equipment:
2. A California Highway Patrol SafetyNet Driver/Vehicle Inspection Report (CHP 407) for all vehicles used to do weed and refuse abatement. CONTRACTOR will be required to renew their CHP 407 annually.

D. Fire Extinguishers

1. A Class "A portable 2.5 gallon water fire extinguisher" and a Class 4A 60B: C dry chemical fire extinguisher" for each vehicle used to do weed and refuse abatement.

2. The following fire extinguishers will be required on each vehicle used to perform weed abatement or refuse abatement. They must be Underwriters Laboratory approved.
3. The fire extinguishers must display current inspection tags at the beginning of this AGREEMENT

E. Safety Clothing

The CONTRACTOR shall ensure its employees are equipped with and will wear or maintain the following items while working on this AGREEMENT'S properties:

1. Reflective vest,
2. Hard hat,
3. Safety glasses,
4. Protective gloves and clothing,
5. Ear protection, and
6. Landscaper First Aid Kit.

F. Equipment General Specifications

1. If the CONTRACTOR'S performance of any requirement under this AGREEMENT is due on a CITY holiday or during the weekend, such performance will be due on the next regular CITY business day.
2. The period for performance of any requirement set forth in this AGREEMENT will be determined based on calendar days, excluding CITY holidays and rain days, but not excluding weekends.

G. Operation and Maintenance

1. The CONTRACTOR shall have the necessary tools, and spare parts and equipment to allow the operator or worker to make minor repairs in the field and to keep all contracted equipment operating and serviceable throughout the day.
2. The CONTRACTOR is responsible for performing all routine maintenance, and to make repairs of any and all equipment on its own time.

ARTICLE 6. BIDS

A. Bids

1. The DEPARTMENT will compile numbered bid packages for the work required, usually consisting of thirty (30) to fifty (50) hours or more of brush clearance, weed and refuse abatement, and tree trimming and removal work for a typical five (5) person crew. The bid package may include more than one parcel to be abated. The bid package will include:
 - Copies of the Department's brush clearance worksheet indicating specific items to be considered for each parcel,
 - A copy of the applicable Los Angeles County Assessor's map,
 - The start date, the Affidavit of Non-Collusion (an exemplar of such Affidavit is attached to this AGREEMENT as Attachment A), and
 - The bid sheet on which the CONTRACTOR'S bid must be submitted, the work required on each parcel will be only that which is described on the worksheet.
2. The CONTRACTOR will respond within seven (7) calendar days following the release of the bid package (unless otherwise specified in the bid package) by submitting a sealed bid on the bid sheet provided by the DEPARTMENT, pursuant to ARTICLE 7 – AWARD OF BIDS, of this AGREEMENT.
3. Bids are due in the DEPARTMENT'S Brush Clearance Unit Office at 6262 Van Nuys Boulevard, Suite 451, Van Nuys, California, 91401 before 2:45 p.m., Pacific Time, each Thursday following the release of a bid package.
4. The DEPARTMENT reserves the right to reject all bids or a bid from a bidder whose past performance has been determined to be unsatisfactory.

B. Deletion of Certain Parcels from Final Bid Package to Be Awarded

1. The DEPARTMENT will endeavor to inspect each parcel that has been included in a bid package on the date that bids are due to be submitted for bidding. This "last-minute" inspection is intended to ensure that work is not assigned to a CITY brush clearance CONTRACTOR if the property owner began abatement work during the period between issuance of the original bid package and the deadline for submitting the bid.
2. Therefore, it is possible that one or more parcels that were included in the originally issued bid package would be pulled and deleted by the

DEPARTMENT from the final bid package to be awarded. In such event, the DEPARTMENT will post, at the Brush Clearance Unit Office by 2:00 p.m., Pacific Time, on the date the bids are due, the list of parcels included in the originally issued bid package and will note on that list any pulled parcels that are deleted from the final bid package to be awarded.

3. On the day bids are to be submitted and prior to submittal of a bid, the CONTRACTOR will have the sole responsibility to confirm what parcels are included in the final bid package to be awarded, based on the final posted list of parcels.
4. It will be the CONTRACTOR'S sole responsibility to revise and adjust the bid to be submitted to reflect whether the DEPARTMENT has pulled and deleted any parcel from the final bid package to be awarded.
5. Any bid submitted by the CONTRACTOR that does not conform to the final list of parcels as posted by the DEPARTMENT will be rejected, as non-responsive and such bid will not be considered for an award.
6. A CONTRACTOR may withdraw its bids at anytime during the bid session.
7. Should a controversy arise as to the reported number of parcels, the amount of work done, or the size of the parcels cleared by the CONTRACTOR the DEPARTMENT shall investigate any discrepancies and it will make the final determination.

ARTICLE 7. AWARD OF BIDS

- A. All issues, questions or clarifications regarding a bid package, or the policies and the procedures of the Program, must be directed to the Brush Clearance Unit Commander or the attending Inspector II, prior to the submittal of bids:
 1. After the deadline for submittal of bids and continuing until the bid award, the CONTRACTOR will not communicate in any manner with the DEPARTMENT'S personnel regarding any bid package or bid.
 2. After the deadline for submittal of bids, the CONTRACTOR will wait outside of the Brush Clearance Unit office until summoned.
 3. Bids will be submitted in sealed envelopes. Only one (1) bid sheet is to be submitted per envelope and an Affidavit of Non-Collusion, fully executed by the CONTRACTOR, must accompany each bid sheet. Bids must be complete, legible, and in black ink.
 4. The price for each parcel must be specified and the package's total amount.

5. When bidding, it is mandatory that bidders, or their qualified representatives, be present at bid openings and during the awarding of bids. NO BIDS WILL BE ACCEPTED AFTER 2:45 P.M.
 6. After the deadline for the submittal of bids, bids will be opened, sorted, and read promptly by the DEPARTMENT'S personnel. Beginning at 3:00 p.m., or as soon as possible thereafter, the bid will be awarded to the lowest responsible bidder for each package.
 7. Each package will be awarded to one CONTRACTOR only. The DEPARTMENT reserves the right to reject all bids and not make an award on any bid package that was issued. If parcels have been pulled during the bid session, the winning CONTRACTOR will have the option of not accepting the bid award, at which time it will be awarded to the next lowest bidder.
- B. After the deadline for the submittal of bids, bids will be opened, sorted, and read promptly by the DEPARTMENT'S personnel. Beginning at 3:00 p.m., or as soon as possible thereafter, the bid will be awarded to the lowest responsible bidder for each package.
1. Each package will be awarded to one CONTRACTOR only. The DEPARTMENT reserves the right to reject all bids and to not make an award on any bid package that was issued.
 2. If parcels have been pulled during the bid session, the winning CONTRACTOR will have the option of not accepting the bid award, at which time it will be awarded to the next lowest bidder.
 3. If no parcels were pulled during bid session, the winning CONTRACTOR must accept the package in total.
 4. Once the CONTRACTOR has accepted the bid award, the bid and the related bid package, become a contract and the CONTRACTOR will be held responsible for completing the work by 5:00 p.m., Pacific Time, thirteen (13) calendar days after the awarding of the bid.
 5. Any and all problems, complaints and questions regarding policies and procedures must be directed to the Brush Clearance Unit Commander or the attending Inspector II, prior to the submittal of the bid.
- C. Contractor's Representative
1. If someone, other than the CONTRACTOR'S representative, specified in ARTICLE 1, Section B (2), will be participating in a particular bid session, written documentation from the CONTRACTOR identifying and authorizing the representative to participate must be submitted to the DEPARTMENT along with the bid, prior to the deadline for submittal of the bid.

2. It is the CONTRACTOR'S sole responsibility to insure that its representative is thoroughly familiar with Brush Clearance bidding policies and is thereby qualified to participate in the bid process on behalf of the CONTRACTOR.
3. Any lost bids on the part of the CONTRACTOR due to the inability or unfamiliarity of the CONTRACTOR'S representative with Brush Clearance bidding policies and procedures will not be the responsibility of the DEPARTMENT.

ARTICLE 8. HOURLY LABOR RATE

Pursuant to Section 1776 of the California Labor Code:

1. Each CONTRACTOR shall keep an accurate payroll record, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each worker or other employee employed by the CONTRACTOR.
2. All payroll records shall be available for inspection at all reasonable hours at the principal office of the CONTRACTOR upon request by the CITY.
3. The hourly labor rate for a five (5)-person crew for the Year 2008 is \$ «FirstName». This is the rate to be used by the CONTRACTOR to prepare a bid.

ARTICLE 9: SUBCONTRACTING

A. Subcontractor Approval Requirements

1. CONTRACTORS shall ensure that their subcontractors meet the criteria for responsibility set forth in the Contractor Responsibility Ordinance (CRO) and these Rules and Regulations unless the subcontractor is not subject to the CRO.
2. CONTRACTORS may not use any subcontractor that has been determined or found to be a non-responsible contractor by the CITY.
3. Subject to approval by the DEPARTMENT, CONTRACTORS may substitute a non-responsible subcontractor with another subcontractor with no changes in bid amounts.
4. CONTRACTORS shall submit to the DEPARTMENT a "Pledge of Compliance" for each subcontractor listed by the CONTRACTOR as performing work on the CITY contract within 30 calendar days of execution of the contract.

5. Any CONTRACTOR making a bid on a package shall set forth the name and the location of the office of such subcontractors who will be working on package. The subcontractor shall be approved in writing by the DEPARTMENT prior to beginning work, regardless of the dollar amount of work to be performed.

B. All requests for subcontractor approval are to be forwarded to:

Unit Commander
Brush Clearance Unit
6262 Van Nuys Boulevard, Suite 451
Van Nuys, California 91401

Information may be faxed to (818) 778-4910 or 778-4911.

C. All requests for subcontractor approval must contain the following information:

1. Package Number
2. Assessors Parcel Number (APN)
3. Subcontractor's Name
4. Subcontractor's Address
5. Subcontractor's Phone Number
6. Subcontractor's State of California Contractor License Number if required by the work order
7. Subcontractor's Los Angeles City Business Tax Registration Certificate Number (BTRC)

Failure to provide any of the information listed will result in denial of approval until such time as the information is provided.

Failure to obtain prior approval from the DEPARTMENT of each subcontractor performing work on the package, it may result in suspension of work by the subcontractor, removal of work performed by an unapproved subcontractor(s), assessment of penalties, and possible sanctions against the CONTRACTOR.

D. Subcontractor Substitutions

A contractor whose bid is accepted and a package has been awarded may not:

1. Substitute any person as a subcontractor in place of a subcontractor listed in the original bid package. Exception, the DEPARTMENT may consent to the substitution of another subcontractor for one of the following reasons:

- When the listed subcontractor fails or refuses to perform his or her subcontract.
 - When the DEPARTMENT determines that the work performed by the listed subcontractor is substantially unsatisfactory and not in substantial accordance with the plans and specifications, or that the subcontractor is substantially delaying or disrupting the progress of the work.
 - When the listed subcontractor is determined not to be a responsible contractor by the DEPARTMENT.
2. Failure to complete awarded package in a timely manner, may result in assessment of liquidated damages in accordance with ARTICLE 11 – LIQUIDATED DAMAGES, of the AGREEMENT.

ARTICLE 10. REQUIREMENTS FOR PAYMENT

A. Invoice

1. The CONTRACTOR must submit five (3) copies of the invoice and the required photographs (as further described below in this ARTICLE) for each completed bid package. The invoice will specify the bid package number, Assessor's Parcel Number (APN) for each parcel in the package, and amount of payment being requested.
2. Invoices and photographs, related to each bid package, must be submitted by 2:00 p.m., Pacific Time, fourteen (14) calendar days after the awarding of the bid.
3. The period for performance of any requirement set forth in this AGREEMENT will be determined based on calendar days, excluding CITY holidays and rain days, but not excluding weekends.
4. Failure to comply fully will result in assessment of liquidated damages pursuant to ARTICLE 11 – LIQUIDATED DAMAGES of this AGREEMENT.
5. The CONTRACTOR is required to submit invoices that conform to CITY standards. All invoices will be submitted on the company's letterhead, contain the company's official logo, or contain other unique and identifying information.
6. In addition, all invoices must include the following:

- Complete name and address of the company's firm.
 - Complete name and address of the City Department being billed.
 - Date of the invoice.
 - CITY issued contract number.
 - Complete package number.
 - Brief description of work performed including the APN and the amount due
7. The CITY will not compensate the CONTRACTOR for any costs incurred for invoice preparation.

The FIRE DEPARTMENT may request, in writing, changes to the content and format of the invoices and supporting documentation to substantiate costs at any time.

8. If any discrepancies exist between the invoice and the DEPARTMENT'S records, the DEPARTMENT'S determination will be final.

B. Photographs

1. For each parcel included in an invoice, the CONTRACTOR will also submit with the invoice a minimum:
 - Three (3) photographs taken before work commenced,
 - Two (2) photographs taken while work is being done, and
 - Three (3) photographs taken after the work is finished.
2. In all cases, enough photographs must be taken to identify the entire work area.
3. The "before, during and after" photographs must be taken from the same vantage point. At least two (2) photographs must show the CONTRACTOR'S crew(s) working on the property. In addition, the date and time taken, the APN, and the CONTRACTOR'S name must appear legibly somewhere on every photograph, and the CONTRACTOR must initial each photograph.
4. Failure to provide the adequate photographs is a material breach and relieves the DEPARTMENT from any obligation to make any payments on invoices submitted without said photographs. Failure to provide adequate

photographs, and failure to submit timely invoices, may also result in assessment of penalties liquidated damages to ARTICLE 11 – LIQUIDATED DAMAGES of this AGREEMENT.

ARTICLE 11. LIQUIDATED DAMAGES

A. Seasonal Work

Time is of the essence in the performance of each bid package. Due to the seasonal nature of the work, and the extreme fire hazard posed by the material to be removed from each parcel, it would be extremely burdensome for the parties to ascertain the actual damage incurred by the CITY and the general public due to late performance by the CONTRACTOR.

B Liquidated Damage Amount

Therefore, the parties agree that liquidated damages for late performance, or failure to perform satisfactorily, will be assessed against the CONTRACTOR at the rate of:

1. A minimum of \$200 per day for any package awarded under \$2,000, or
2. Any package awarded an amount above \$2,001 will be assessed at a rate of ten percent penalty per day; which ever is the greater amount.

C. Late Performances

1. Late performance is the CONTRACTOR'S failure to complete the awarded package or submit the required number of "before, during and after" pictures and invoices in a timely manner as required in ARTICLE 10 – REQUIREMENT FOR PAYMENT.
2. The DEPARTMENT shall notify each CONTRACTOR via electronic mail, the number of extra days the CONTRACTOR will be given due to rain days or holidays.

ARTICLE 12. SUSPENSION

A. If the CONTRACTOR fails to comply with all the terms and performance standards of the AGREEMENT, the CONTRACTOR shall be suspended from participating on future bids sessions for the following reasons:

1. If the CONTRACTOR has unexcused reasons for not completing assigned abatement by the established due date as required, the CONTRACTOR shall be suspended from future bidding in the event of unexcused late performance or unsatisfactory performance. This includes participation in and or observation in or the presence at the bid session.

2. If the CONTRACTOR is unable to meet all or a portion of his or her obligation and the DEPARTMENT must assign another CONTRACTOR to complete the required work, the original CONTRACTOR will be suspended from future bid sessions.
 3. If the CONTRACTOR fails to notify the DEPARTMENT of said parcels have been partially or completely cleared by property owner, the CONTRACTOR will be suspended from future bid sessions.
 4. If the CONTRACTOR, while performing abatement on said parcel, fails to notify the DEPARTMENT of damages, such as but not limited to: starting a fire, damage to ornamental shrubbery or trees, damage to any structure, damage to subsurface waterlines or sewer lines after the structure's meter, or damages to electrical lines, the CONTRACTOR will be suspended from future bid sessions.
 5. If the CONTRACTOR'S fails to properly dispose of dead trees or other debris and fails to properly spread cut vegetation or properly machine chip, the CONTRACTOR will be suspended from future bid sessions.
 6. If the CONTRACTOR should become disruptive or argumentative during a bid session, the CONTRACTOR will be suspended from future bid sessions.
 7. If the CONTRACTOR fails to obtain and maintain proper insurance coverage as required in the *Standards and Provision*, the CONTRACTOR will be suspended from future bid sessions.
 8. If the CONTRACTOR fails to properly maintain its equipment and safety clothing, the CONTRACTOR will be suspended from future bid sessions.
- B. The duration of the suspension shall be determined by the DEPARTMENT based on the offense or reasons given by the CONTRACTOR.

ARTICLE 13. TERMINATION

- A. The DEPARTMENT may terminate this AGREEMENT, in whole or in part, for its convenience at any time, as set forth in this ARTICLE.
- B. The DEPARTMENT will give the CONTRACTOR notice of such termination pursuant to ARTICLE 1 – PARTIES TO AGREEMENT, REPRESENTATIVES AND NOTICES, of this AGREEMENT. The letter will indicate the reason(s) for termination of the AGREEMENT and the effective date of such termination.
- C. The DEPARTMENT will compensate the CONTRACTOR for work satisfactorily completed prior to the effective date of such termination, but will not be liable for cost of services performed subsequent to such termination.

- D. If a CONTRACTOR is found charging a monetary fee for any reason to any property owners based on information the CONTRACTOR has obtained from the DEPARTMENT'S bid packages, it shall be terminated from the program.
- E. If the CONTRACTOR has been suspended from participating in bid sessions and attempt to view parcels or work shall be terminated from the program.
- F. If the CONTRACTOR is found in violation of the CITY'S Policy on Workplace Violence as stated in ARTICLE 14, the CONTRACTOR shall be terminated from the program.

ARTICLE 14. WORKPLACE VIOLENCE POLICY

A. CITY'S Policy on Workplace Violence

The CONTRACTOR shall refrain from violence or the threat of violence during the course, scope and performance of this contract. The CITY shall not tolerate violence or threat of violence, whether actual or reasonable perceived. Any form of violent behavior or threat of violence by CONTRACTOR shall be deemed a breach of this AGREEMENT.

B. The types of behavior covered by this Article include, but are not limited to:

- Violent physical actions.
- Direct or implied threats to do harm to another or to property (including intimidating use of one's body or physical objects).
- Verbally abusive or intimidating language or gestures.
- Threatening, abusive, or harassing communication (e.g., phone calls, letters, memoranda, faxes or e-mails).
- Engaging in a pattern or unwanted or intrusive behavior against another (e.g., stalking, spying, following).

ARTICLE 15. NON-EXCLUSIVE AGREEMENT

1. CONTRACTOR understands and agrees that this is a non-exclusive AGREEMENT to provide brush clearance contracts to the CITY and that the CITY may enter into other contracts for the provision of brush clearance services.
2. Executive of this AGREEMENT does not guarantee that the CITY will request CONTRACTOR to provide any services.

ARTICLE 16. INDEPENDENT CONTRACTOR

1. The CONTRACTOR shall perform such services in its own way and as an independent CONTRACTOR in the pursuit of its own calling and not as an employee of the DEPARTMENT or CITY, and CONTRACTOR shall be under the control of the department or city only as to the results to be accomplished and not as to the means or manner by which said results are to be accomplished.
2. Neither CONTRACTOR nor its personnel may do or omit to do anything that may be construed that they are agents, officials, or employees of the department or the CITY or any of its department or agencies.
3. In the event of actions by CONTRACTOR or its personnel that would impart color of authority or use any of the CITY Marks ("Acts"), CONTRACTOR hereby agrees that the Acts would cause irreparable harm to the CITY of Los Angeles and its residents, and that the Acts may not be remedied by monetary damages, and that CONTRACTOR will not oppose any injunctive relief sought by CITY of Los Angeles to stop the Acts.

ARTICLE 17. AMENDMENTS

1. The CITY has designated the Fire Chief of the DEPARTMENT to represent the CITY with respect to amendments or other matters related to this AGREEMENT.
2. The CITY'S Representative is authorized to approve and execute amendments to this AGREEMENT to extend the term of the AGREEMENT pursuant to ARTICLE 2 – TERM OF AGREEMENT with the concurrence of the Board of Fire Commissioners.
3. Any amendments authorized by the CITY'S Representative to extend the term of this AGREEMENT or to increase the maximum amount of compensation allowable will be contingent on availability of funds and the CONTRACTOR having provided satisfactory services under this AGREEMENT.

ARTICLE 18. FIRST SOURCE HIRING ORDINANCE

Unless otherwise exempt in accordance with the provisions of this Ordinance, this AGREEMENT is subject to the applicable provisions of the First Source Hiring Ordinance (FSHO), Section 10.44 et seq. of the Los Angeles Administrative Code, as amended from time to time.

- A. The CONTRACTOR shall, prior to the execution of the AGREEMENT, provide to the DAA a list of anticipated employment opportunities that the CONTRACTOR/CONSULTANT estimate they will need to fill in order to perform the services under the AGREEMENT.
- B. The CONTRACTOR further pledges that it will, during the term of the AGREEMENT:
 - 1. Wait seven business days prior to making an announcement of a specific employment opportunity and to provide notifications of that employment opportunity to the Community Development Department (CDD), which will refer individuals for interview.
 - 2. Interview qualified individuals referred by the CDD.
 - 3. Prior to filling any employment opportunity, the CONTRACTOR shall inform the DAA of the names of the referral resources used, the names of the individuals they referred, the names of the referred individuals who the CONTRACTOR interviewed and the reasons why the referred individuals were not hired.
- C. Any subcontract entered into by the CONTRACTOR relating to this AGREEMENT, to the extent allowed hereunder, shall be subject to the provisions of the FSHO, and shall incorporate the FSHO.
- D. The CONTRACTOR shall comply with all rules, regulations and policies promulgated by the designated administrative agency, which may be amended from time to time.

Where under the provisions of Section 10.44.13 of the Los Angeles Administrative Code the designated administrative agency has determined that the CONTRACTOR intentionally violated or used hiring practices for the purpose of avoiding the article, the determination must be documented in the Awarding Authority's Contractor Evaluation, required under the Los Angeles Administrative Code Section 10.39 et seq., and must be documented in each of the Contractor's subsequent Contractor Responsibility Questionnaires submitted under Los Angeles Administrative Code Section 10.40 et seq. This measure does not limit the City's authority to act under this article.

Under the provisions of the Los Angeles Administrative Code Section 10.44.8, the Awarding Authority shall, under appropriate circumstances, terminate this AGREEMENT and otherwise pursue legal remedies that may be available if the designated administrative agency determines that the subject CONTRACTOR has violated provisions of the FSHO.

ARTICLE 19. STANDARD PROVISIONS

CONTRACTOR will comply with the *Standard Provisions for City Contracts (Rev 03/09)*, attached hereto as Attachment B and hereby incorporated into and made a part of this AGREEMENT.

ARTICLE 20. ENTIRE AGREEMENT

This AGREEMENT contains the full and complete AGREEMENT between the parties. No verbal AGREEMENT or conversation between the CONTRACTOR and any officer or employee of the CITY will affect or modify any of the terms and conditions of this AGREEMENT.

[Signature page follows.]

IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT on the date indicated.

«Company»

DATE: _____

BY: «FirstName» «LastName»

NAME: _____
(Owner's Signature)

TITLE: _____

DATE: _____

BY: _____

NAME: _____

TITLE: _____

THE CITY OF LOS ANGELES

DATE: _____

BY: _____
MILLAGE PEAKS
Fire Chief
Los Angeles Fire Department

APPROVED AS TO FORM:

CARMEN A. TRUTANICH, City Attorney

BY: _____
ANTHONY PAUL DIAZ
Assistant City Attorney

ATTEST:

JUNE LAGMAY, City Clerk

BY: _____
Deputy City Clerk

DATE: _____

DATE: _____

City Business License Number: «CityBusinessLic»

Federal Taxpayer ID Number: «W9»

AGREEMENT Number: _____