

**MASTER SERVICES CONTRACT
Maintenance & Repair Services
Specification No. S-2024-1447BD**

This MASTER SERVICES CONTRACT (hereinafter referred to as “Contract”), is made and entered into as of the date fully executed below, by and between Orange County Sanitation District (hereinafter referred to as “OC San”) and Tharsos Inc. (hereinafter referred to as “Contractor”), and collectively referred to herein as the “Parties.”

RECITALS

WHEREAS, OC San desires to retain the services of Contractor for Maintenance and Repair Services (“Services”) as described in Exhibit “A” attached hereto and incorporated herein by this reference; and

WHEREAS, Contractor is qualified to perform the Services by virtue of experience, training, education, and expertise; and

WHEREAS, OC San desires to engage Contractor to provide the Services; and

WHEREAS, OC San selected Contractor to provide the Services in accordance with OC San’s current Purchasing Ordinance; and

WHEREAS, on October 23, 2024, OC San’s Board of Directors, by minute order, authorized execution of this Contract.

NOW, THEREFORE, in consideration of the above recitals and the mutual promises and benefits specified below, the Parties agree as follows:

1. General.

1.1 This Contract and all exhibits hereto are made by OC San and the Contractor. The terms and conditions herein exclusively govern the purchase of Services as described in the Scope of Services, attached hereto and incorporated herein by reference as Exhibit “A”.

1.2 All Task Order awarded under this Master Services Contract shall be incorporated by reference and made part hereof, upon issuance of the Notice to Proceed of a Task Order.

1.3 The following exhibits are incorporated by reference and made part of this Contract as though fully set forth at length herein. Exhibits to this Contract are as follows:

- Master Services Contract Exhibit “A” – Scope of Services
- Master Services Contract Exhibit “B” – General Conditions
- Master Services Contract Exhibit “C” – Determined Insurance Requirement Form
- Master Services Contract Exhibit “D” – Contractor Safety Standards
- Master Services Contract Exhibit “E” – Human Resources Policies

1.4 In the event of any conflict or inconsistency between the provisions of this Contract, provisions of the Task Order(s) and any of the provisions of the exhibits hereto, the provisions in the document highest in precedence shall be controlling. The order of precedence of the applicable documents is set forth below:

- a. Master Services Contract Addenda – the last addendum issued will have the highest precedence
 - b. Master Services Contract, and any amendments thereto
 - c. Master Services Contract Exhibit “A” – Scope of Services
 - d. Master Services Contract Exhibit “B” – General Conditions
 - e. Master Services Contract Exhibit “C” – Determined Insurance Requirement Form
 - f. Master Services Contract Exhibit “D” – Contractor Safety Standards
 - g. Master Services Contract Exhibit “E” – Human Resources Policies
 - h. Individual Task Order, inclusive of:
 - Permits and other regulatory requirements
 - Task Order Exhibit A - Scope of Services
- 1.5 The provisions of this Contract and exhibits hereto are applicable at the Task Order level. It is OC San’s intent that all use of the word “Contract” in Exhibit “A” and the Task Order Exhibits thereto shall also mean Task Order.
- 1.6 The provisions of this Contract and provisions of the Task Order(s) may be amended or waived only by an amendment executed by authorized representatives of both Parties.
- 1.7 Except as expressly provided otherwise, OC San accepts no liability for any expenses, losses, or actions incurred or undertaken by Contractor as a result of work performed in anticipation of acquisition of the Services by OC San.
- 1.8 The term “hours”, when used in this Contract, shall be defined in the Request for Task Order Bid, Exhibit “A” Task Order Scope of Services.
- 1.9 Days: Shall mean calendar days, unless otherwise noted.
- 1.10 OC San holidays (non-working days) are as follows: New Year’s Day, Martin Luther King, Jr. Day, Presidents’ Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, Day after Thanksgiving, Christmas Eve, and Christmas Day.
- 1.11 Work: Shall mean all work, labor, and materials necessary to provide the Services.
- 1.12 The various headings in this Contract are inserted for convenience only and shall not affect the meaning or interpretation of this Contract or any paragraph or provision hereof.

2. Scope of Services.

- 2.1 Contractor shall perform the Services according to the Master Services Contract Exhibit “A” – Scope of Services and as identified in the individual Task Order Scope of Services, all in accordance with generally accepted industry and professional standards.
- 2.2 Modifications to Scope of Services. OC San shall have the right to modify the individual Task Order Scope of Services at any time. All modifications must be made by an amendment or change order signed by both Parties. Refer to Master Services Contract Exhibit “B” - General Conditions, including the sections entitled REQUEST FOR CHANGE (CHANGES AT CONTRACTOR’S REQUEST) and OWNER INITIATED CHANGES.
- 2.3 Familiarity with Work. By executing this Contract, Contractor warrants that: (a) it has investigated the Work to be performed; (b) it understands the facilities, difficulties, and

restrictions of the Work under this Contract; and (c) it has examined the site of the work and is aware of all conditions at the site. Should Contractor discover any latent or unknown condition materially differing from those inherent in the Work or as represented by OC San, it shall immediately inform OC San of this and shall not proceed, except at Contractor's risk, until written instructions are received from OC San.

2.4 Performance. Time is of the essence in the performance of this Contract, Task Order(s) and the provisions hereof.

3. Contract Term.

3.1 The term of this Contract shall be for one (1) year commencing on December 1, 2024, and continuing through November 30, 2025.

3.2 The Contract shall remain in effect until all Task Orders have been completed and accepted by OC San. Any Work or Services that is required by a Task Order and is not finished by the date of termination shall be continued and completed by the Contractor and the terms and conditions of this Contract shall continue in effect for that time.

3.3 Renewals. At its sole discretion, OC San may exercise the option to renew this Contract for up to two (2) one-year periods as mutually agreed upon between both Parties. OC San shall have no obligation to renew the Contract nor to give a reason if it elects not to renew it.

3.4 Extensions. The term of this Contract may be extended only by an amendment signed by both Parties.

3.5 Task Order Extensions. The term of Task Order may be extended only by an amendment or change order signed by both Parties. Refer to Master Services Contract Exhibit "B" - General Conditions, including the section entitled EXTENSION OF TIME FOR DELAY

4. Compensation.

4.1 The specific amount of compensation payable to the Contractor for services rendered on an individual Task Order, shall be established for each Task Order and shall not exceed Five Hundred Thousand Dollars (\$500,000) per individual Task Order. The Contractor agrees and acknowledges that the execution of this Contract does not in any way guarantee that a Task Order will be issued to the Contractor. Moreover, execution of this Contract shall not entitle the Contractor to any form of payment or compensation from OC San without OC San first having issued a written Task Order.

4.2 Contractor shall provide OC San with all required premiums and/or overtime work at no charge beyond the price provided under the individual Task Order.

5. Payments and Invoicing.

5.1 Each individual Task Order shall specify the method of payment to be used. Payment may be based on milestones, lump sum or monthly methods.

5.1.1 Milestones: Payments shall be made upon approval by OC San Project Manager or his designee, of invoices submitted for milestones completed as described in the Task Order. OC San, in its sole discretion, shall determine whether tasks and deliverables for each milestone has been satisfactorily completed.

- 5.1.2 Lump Sum: Payment will be made in one lump sum after completion and acceptance of the Services. OC San, at its sole discretion, shall be the determining party as to whether the Services has been satisfactorily completed.
- 5.1.3 Monthly: OC San shall pay monthly for Services rendered. OC San shall be the determining party, in its sole discretion, as to whether the Services have been satisfactorily completed.
- 5.2 OC San shall pay itemized invoices for Work completed in accordance with individual Task Order thirty (30) days from receipt of the invoice and after approval by OC San's Project Manager or designee.
- 5.3 Contractor shall submit its invoices to OC San Accounts Payable by electronic mail to APStaff@OCSan.gov. In the subject line include "INVOICE" and the Purchase Order Number.

6. California Department of Industrial Relations Registration and Record of Wages.

- 6.1 To the extent Contractor's employees and/or its subcontractors perform Work related to this Contract for which Prevailing Wage Determinations have been issued by the California Department of Industrial Relations (DIR) as more specifically defined under Labor Code section 1720 et seq., prevailing wages are required to be paid for applicable Work under this Contract. It is Contractor's responsibility to interpret and implement any prevailing wage requirements and Contractor agrees to pay any penalty or civil damages resulting from a violation of the prevailing wage laws.
- 6.2 Contractor and its subcontractors shall comply with the registration requirements of Labor Code section 1725.5. Pursuant to Labor Code section 1771.4(a)(1), the Work is subject to compliance monitoring and enforcement by the California Department of Industrial Relations (DIR).
- 6.3 Pursuant to Labor Code section 1773.2, a copy of the prevailing rate of per diem wages is available upon request at OC San's principal office. The prevailing rate of per diem wages may also be found at the DIR website for prevailing wage determinations at <http://www.dir.ca.gov/DLSR/PWD>.
- 6.4 Contractor and its subcontractors shall comply with the job site notices posting requirements established by the Labor Commissioner per Title 8, California Code of Regulations section 16461(e). Pursuant to Labor Code sections 1773.2 and 1771.4(a)(2), Contractor shall post a copy of the prevailing rate of per diem wages at the job site.
- 6.5 Contractor and its subcontractors shall maintain accurate payroll records and shall comply with all the provisions of Labor Code section 1776. Contractor and its subcontractors shall submit payroll records to the Labor Commissioner pursuant to Labor Code section 1771.4(a)(3). Pursuant to Labor Code section 1776, the Contractor and its subcontractors shall furnish a copy of all certified payroll records to OC San and/or the general public upon request, provided the public request is made through OC San, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement of the Department of Industrial Relations. Pursuant to Labor Code section 1776(h), penalties for non-compliance with a request for payroll records may be deducted from progress payments.

- 6.5.1 As a condition to receiving payments, Contractor agrees to present to OC San, along with any request for payment, all applicable and necessary certified payrolls and other required documents for the period covering such payment request. Pursuant to Title 8, California Code of Regulations section 16463, OC San shall withhold any portion of a payment, up to and including the entire payment amount, until certified payroll forms and any other required documents are properly submitted. In the event certified payroll forms do not comply with the requirements of Labor Code section 1776, OC San may continue to withhold sufficient funds to cover estimated wages and penalties under the Contract.
- 6.6 The Contractor and its subcontractors shall comply with Labor Code section 1774 and section 1775. Pursuant to Labor Code section 1775, the Contractor and any of its subcontractors shall forfeit to OC San a penalty of not more than two hundred dollars (\$200) for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the DIR for the work or craft in which the worker is employed for any work.
- 6.6.1 In addition to the penalty and pursuant to Labor Code section 1775, the difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the Contractor or its subcontractor.
- 6.7 Contractor and its subcontractors shall comply with Labor Code sections 1810 through 1815. Contractor and its subcontractors shall restrict working hours to eight (8) hours per day and forty (40) hours per week, except that work performed in excess of those limits shall be permitted upon compensation for all excess hours worked at not less than one and one-half (1.5) times the basic rate of pay, as provided in Labor Code section 1815. The Contractor shall forfeit, as a penalty to OC San, twenty-five dollars (\$25) per worker per calendar day during which such worker is required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week in violation of Labor Code sections 1810 through 1815.
- 6.8 Contractor and its subcontractors shall comply with Labor Code sections 1777.5, 1777.6, and 1777.7 concerning the employment of apprentices by Contractor or any subcontractor.
- 6.9 Contractor shall include, at a minimum, a copy of the following provisions in any contract it enters into with any subcontractor: Labor Code sections 1771, 1771.1, 1775, 1776, 1777.5, 1810, 1813, 1815, 1860, and 1861.
- 6.10 Pursuant to Labor Code sections 1860 and 3700, the Contractor and its subcontractors will be required to secure the payment of compensation to employees. Pursuant to Labor Code section 1861, Contractor, by accepting this contract, certifies that:
- “I am aware of the provisions of section 3700 of the Labor Code which require every employer to be insured against liability for workers’ compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the Work of this Contract.”

Contractor shall ensure that all its contracts with its subcontractors provide the provision above.

7. **Damage to OC San's Property.** Any of OC San's property damaged by Contractor, any subcontractor, or by the personnel of either will be subject to repair or replacement by Contractor at no cost to OC San.
8. **Freight (F.O.B. Destination).** Contractor assumes full responsibility for all transportation, transportation scheduling, packing, handling, insurance, and other services associated with delivery of all products deemed necessary under this Contract.
9. **Audit Rights.** Contractor agrees that, during the term of this Contract and for a period of three (3) years after its expiration or termination, OC San shall have access to and the right to examine any directly pertinent books, documents, and records of Contractor relating to the invoices submitted by Contractor pursuant to this Contract.
10. **Contractor Safety Standards and Human Resources Policies.** OC San requires Contractor and its subcontractor(s) to follow and ensure their employees follow all Federal, State, and local regulations as well as the Contractor Safety Standards while working at OC San locations. If, during the course of the Contract, it is discovered that the Contractor Safety Standards do not comply with Federal, State, or local regulations, the Contractor is required to follow the most stringent regulatory requirement at no additional cost to OC San. Contractor, its subcontractors, and all of their employees shall adhere to the safety requirements in Exhibit "A," all applicable Contractor Safety Standards in Exhibit "D," and the Human Resources Policies in Exhibit "E."
11. **Insurance.** Contractor and all its subcontractors shall purchase and maintain, throughout the term of this Contract and any periods of warranty or extensions, insurance in amounts equal to the requirements set forth in the signed Exhibit "C" – Determined Insurance Requirement Form. Contractor shall not commence Work under this Contract until all required insurance is obtained in a form acceptable to OC San, nor shall Contractor allow any subcontractor to commence service pursuant to a subcontract until all insurance required of the subcontractor has been obtained. Failure to obtain and maintain the required insurance coverage shall result in termination of this Contract. Nothing contained in these insurance requirements is to be construed as limiting the liability of the Contractor or the Contractor's Sureties.
12. **Bonds.** Contractor shall, before entering upon the performance of any Task Order awarded under this Contract, furnish bonds, if required as specified in an individual Request for Task Order Bid. The form of each bond shall be provided in the Request for Task Order Bid. The bonds shall be approved by OC San's General Counsel – one in the amount of one hundred percent (100%) of the Task Order amount, to guarantee the faithful performance of the Work, and the other in the amount of one hundred percent (100%) of the Task Order amount, to guarantee payment of all claims for labor and materials furnished. Task Order shall not become effective until such bonds are supplied to and accepted by OC San. Bonds must be issued by a California admitted surety and must be maintained throughout the life of the Task Order and during the warranty period.

Contractor is hereby notified that it is required that the person executing the Bonds either (1) attach a power of attorney authorizing the person who executed the bond to do so for and on behalf of the insurer; or (2) must have on file with the County Clerk, County of Orange, a Power of Attorney and authorization to execute said Bonds for and on behalf of the corporate surety.

The purpose of this requirement is to insure that the provisions of Code of Civil Procedure Section 995.630 requiring such authority to be on file with the Orange County Clerk are satisfied in order for the OC San and its officers to approve the bond.

13. **General Indemnification.** The Contractor shall, with respect to all Work covered by or incidental to these Contract Documents, be responsible for any liability imposed by law and shall indemnify, defend and hold OC San, the ENGINEER, the CONSULTANT and its subconsultants, and each of their directors, officers, agents and employees, and all public entities issuing permits to the Contractor, free and harmless from and against all of the following:

Any claim, suit or action of every name, kind, and description, loss, damage, cost, expenses, including reasonable attorney's fees and expert fees, costs of compliance with administrative orders and directives, litigation, arbitration, awards, fines, and administratively or judicially-imposed penalties or judgments, arising by reason of death or bodily injury to person(s), injury to property, or other loss, damage or expense, resulting from the construction or performance of the Work, design defects (if design originated by the Contractor only), defects in the Work, or by or on account of acts, errors or omissions of the Contractor or Contractor's Subcontractors, Suppliers, employees, invitees, or agents or from any other cause whatsoever arising during the progress of the Work or at any time prior to its completion and Final Acceptance, including any of the same resulting from OC San's alleged or actual acts, errors, or omissions regardless of whether on or off of the worksite. Said responsibility shall extend to claims, demands or liability for loss, damage or injuries occurring or discovered after completion of the Work, as well as during the progress of the Work. However, the Contractor shall not be obligated under this Contract to indemnify OC San, the ENGINEER or its CONSULTANT(s) with respect to the active negligence, sole negligence or willful misconduct of OC San, the ENGINEER, or its CONSULTANT(s). In addition, if any action is brought against the Contractor or any Subcontractor to enforce a stop payment notice or Notice to Withhold, which names OC San as a party to said action, OC San shall be entitled to reasonable attorney's fees, costs and necessary disbursements arising out of the defense of such action by OC San. OC San shall be entitled to deduct its costs for any stop payment notice filed, whether court action is involved or not.

In any and all claims against the indemnified parties by an employee of the Contractor, any Subcontractor, any Supplier, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation as specified herein shall not be limited in any way by the amount or type of damages, compensation, or benefits payable by or for the Contractor, or any Subcontractor, or any Supplier or other person under Workers' Compensation acts, disability benefit acts, or other employee acts.

The obligations of the Contractor as specified herein shall not extend to the liability of the ENGINEER, the CONSULTANT or its subconsultants, and each of their directors, officers, agents and employees, arising out of or resulting from or in connection with the preparation of approval of maps, Drawings, opinions, reports, surveys, designs or Specifications, provided that the foregoing was the sole and exclusive cause of the loss, damage or injury.

The Contractor shall also be responsible for and shall indemnify, defend and hold harmless OC San, the ENGINEER the CONSULTANT and its subconsultants, and each of their directors, officers, employees, and agents from and against all losses, expenses, damages (including damages to the Work itself), attorney's fees, and other costs, including all costs of defense, which any of them may incur with respect to the failure, neglect, or refusal of the

Contractor to faithfully perform the Work and all of the Contractor's obligations under the Contract. Such costs, expenses, and damages shall include all costs, including attorney's fees incurred by the indemnified parties in any lawsuit to which they are a party.

In the event Contractor or its insurer refuses or fails to provide a legal defense to OC San after receiving written notice of the legal action and a tender and demand for defense, OC San shall have the right to select counsel of its own choice to represent all the interests of OC San at Contractor's cost and expense. Contractor agrees that the amount of legal costs and expenses, including attorneys' fees, may be withheld by OC San from any Contract amounts due and owing to Contractor until such time as a final determination is made as to the responsibility for payment of said fees and costs. Contractor further agrees that to the extent OC San incurs such damages and the damages exceed any remaining Contract amounts due and owing to Contractor, Contractor shall reimburse OC San for all such additional damages upon demand by OC San for the same.

Contractor and OC San agree that nothing in this section is intended to be or is a prevailing party clause as it pertains to attorney's fees.

14. **Independent Contractor.** The relationship between the Parties hereto is that of an independent contractor and nothing herein shall be deemed to make Contractor an OC San employee. During the performance of this Contract and any Task Order, Contractor and its officers, employees, and agents shall act in an independent capacity and shall not act as OC San's officers, employees, or agents. Contractor and its officers, employees, and agents shall obtain no rights to any benefits which accrue to OC San's employees.
15. **Subcontracting and Assignment.** Contractor shall not delegate any duties nor assign any rights under this Contract and any Task Order without the prior written consent of OC San. Subcontractors not specifically listed in the Task Order Bid will not be recognized as such and will not be allowed to work on the Task Order/Project unless the value of said Work is less than one-half of one percent (1/2%) of the total Task Order Price. All persons engaged in the Work of the Task Order will be considered as employees of the Contractor, and not as independent contractors. No assignment of any portion of the Work or of any obligation or duty under the Contract or Task Order is permitted without the express prior written consent of OC San, and as otherwise authorized by the Contract Documents. Any such attempted delegation or assignment shall be void.
16. **Disclosure.** Contractor agrees not to disclose, to any third party, data or information generated from this Contract and any Task Order without the prior written consent from OC San.
17. **Non-Liability of OC San Officers and Employees.** No officer or employee of OC San shall be personally liable to Contractor, or any successor-in-interest, in the event of any default or breach by OC San, or for any amount which may become due to Contractor or to its successor, or for breach of any obligation under the terms of this Contract and any Task Order.
18. **Third-Party Rights.** Nothing in this Contract and any Task Order shall be construed to give any rights or benefits to anyone other than OC San and Contractor.
19. **Applicable Laws and Regulations.** Contractor shall comply with all applicable Federal, State, and local laws, rules, and regulations. Contractor also agrees to indemnify and hold OC San harmless from any and all damages and liabilities assessed against OC San as a result of

Contractor's noncompliance therewith. Any provision required by law to be included herein shall be deemed included as a part of this Contract and any Task Order whether or not specifically included or referenced.

20. **Licenses, Permits, Ordinances, and Regulations.** Contractor represents and warrants to OC San that it has obtained all licenses, permits, qualifications, and approvals of whatever nature that are legally required to provide the Services. Any and all fees required by Federal, State, County, City, and/or municipal laws, codes, and/or tariffs that pertain to the Work performed under this Contract and any Task Order will be paid by Contractor.
21. **Regulatory Requirements.** Contractor shall perform all Work under this Contract and any Task Order in strict conformance with applicable Federal, State, and local regulatory requirements including, but not limited to, 40 CFR 122, 123, 124, 257, 258, 260, 261, and 503, Title 22, 23, and Water Codes Division 2.
22. **Environmental Compliance.** Contractor shall, at its own cost and expense, comply with all Federal, State, and local environmental laws, regulations, and policies which apply to the Contractor, its subcontractors, and the Services, including, but not limited to, all applicable Federal, State, and local air pollution control laws and regulations.
23. **South Coast Air Quality Management District's Requirements.** It is Contractor's responsibility to ensure that all equipment furnished and installed comply with the latest rules and regulations of the South Coast Air Quality Management District (SCAQMD). All Contract Work practices, which may have associated emissions such as sandblasting, open field spray painting, or demolition of asbestos containing components or structures shall comply with the appropriate rules and regulations of SCAQMD.
24. **Dispute Resolution.**
 - 24.1 In the event of a dispute as to the construction or interpretation of this Contract, or any rights or obligations hereunder, the Parties shall first attempt, in good faith, to resolve the dispute by mediation. The Parties shall mutually select a mediator to facilitate the resolution of the dispute. If the Parties are unable to agree on a mediator, the mediation shall be conducted in accordance with the Commercial Mediation Rules of the American Arbitration Agreement, through the alternate dispute resolution procedures of Judicial Arbitration through Mediation Services of Orange County ("JAMS"), or any similar organization or entity conducting an alternate dispute resolution process.
 - 24.2 In the event the Parties are unable to timely resolve the dispute through mediation, the issues in dispute shall be submitted to arbitration pursuant to Code of Civil Procedure, Part 3, Title 9, sections 1280 et seq. For such purpose, an agreed arbitrator shall be selected, or in the absence of agreement, each party shall select an arbitrator, and those two (2) arbitrators shall select a third. Discovery may be conducted in connection with the arbitration proceeding pursuant to Code of Civil Procedure section 1283.05. The arbitrator, or three (3) arbitrators acting as a board, shall take such evidence and make such investigation as deemed appropriate and shall render a written decision on the matter in question. The arbitrator shall decide each and every dispute in accordance with the laws of the State of California. The arbitrator's decision and award shall be subject to review for errors of fact or law in the Superior Court for the County of Orange, with a right of appeal from any judgment issued therein.

- 25. Liquidated Damages.** Liquidated damages (Liquidated Damages), if any, shall be specified in Task Order. In the event the Contractor fails to achieve Final Completion of the Task Order within the required period of performance or fails to meet any other time requirements set forth in the Task Order, including the timely submittal or update of the Task Order Schedule or achievement of any designated milestones or deadline as required in the approved Task Order Bid Price Form, after due allowance for extensions of time made in accordance with the Contract Documents, if any, OC San will sustain damage which would be extremely difficult and impracticable to ascertain. The Parties therefore agree that in each such event, Contractor will pay to OC San a determined sum per day, as Liquidated Damages, and not as a penalty, for each and every calendar day during which Final Completion of the Task Order is so delayed, or timely submittal or update of the Task Order Schedule is so delayed. If deadlines for milestones are identified in the approved Task Order, Contractor shall pay OC San the Liquidated Damage amount corresponding to that milestone for each and every day during which the achievement of the milestone is delayed. Contractor agrees to pay such Liquidated Damages and further agrees that OC San may offset the amount of Liquidated Damages from any monies due or that may become due to the Contractor under the Task Order. Contractor also agrees that to the extent the amount of Liquidated Damages exceeds any monies due to the Contractor under the Task Order, Contractor shall pay all such amounts to OC San upon demand. Liquidated Damages due to delays in achieving a milestone or deadline will not be credited toward Liquidated Damages due to delays in achieving subsequent milestones, deadlines or Final Completion of the Task Order. If this provision is found for any reason to be void, invalid, or otherwise inoperative so as to disentitle OC San from claiming Liquidated Damages, OC San is entitled to claim against the Contractor damages at law for the Contractor's failure to complete the Work of the Task Order by the Final Completion date.
- 26. Remedies.** In addition to other remedies available in law or equity, if the Contractor fails to make delivery of the goods and Services or repudiates its obligations under this Contract, or if OC San rejects the goods or Services or revokes acceptance of the goods and Services, OC San may (a) cancel the Contract; (b) recover whatever amount of the purchase price OC San has paid, and/or (c) "cover" by purchasing, or contracting to purchase, substitute goods and Services for those due from Contractor. In the event OC San elects to "cover" as described in (c), OC San shall be entitled to recover from Contractor as damages the difference between the cost of the substitute goods and Services and the Contract price, together with any incidental or consequential damages.
- 27. Force Majeure.** Neither party shall be liable for delays caused by acts of a public enemy; fires; floods; explosions; epidemics; quarantine restrictions; blockades; freight embargoes; strikes; boycotts; labor disputes; demonstrations; earthquakes; tidal waves; hurricanes; landslides; tornados; pandemics; epidemics; shortage of, or inability to obtain materials or reasonably acceptable substitute materials; acts of terror or terrorism; unreasonable delays in issuing necessary Permits or approvals or conducting inspections not caused by Contractor; the inability to obtain easements, licenses, dedications, approvals or title required for utilities not caused by Contractor; power outages; war and related causes; nuclear perils; explosion or nuclear, radioactive, chemical or biological contamination not caused by Contractor; any adverse or inclement weather conditions, including thunderstorms, lightning, tornadoes and other windstorms; or other actions outside of the control of Contractor, including acts of god. Work affected by a force majeure condition may be rescheduled by mutual consent of the Parties provided that Contractor shall have given OC San written notice of the force majeure condition within fifteen (15) days thereof.

28. Termination.

28.1 **Termination for Convenience.** OC San reserves the right to terminate this Contract for its convenience, with or without cause, in whole or in part, at any time, at its own discretion or when conditions encountered during the Work make it impossible or impracticable to proceed, or when OC San is prevented from proceeding with the Contract by act of God, by law, or by official action of a public authority, or upon a determination that such termination is in the best interest and convenience of OC San, or whenever OC San is prohibited from completing the Work for any reason, by written notice from OC San of intent to terminate.

Upon receipt of such written notice of termination, Contractor shall:

1. Immediately stop all Work under this Contract and the Task Order (unless the notice directs otherwise);
2. Terminate all orders and Subcontractors except as necessary to complete Work which is not terminated;
3. If directed in writing by OC San to do so, assign all right, title and interest in subcontracts and materials in progress, in which case OC San will have the right at its discretion to settle, or pay any or all claims arising out of the termination of such Subcontractors, but in no event shall recovery by any Contractor include lost profits for uncompleted portions of Work;
4. Deliver or otherwise make available to OC San all data, Drawings, Specifications, reports, estimates, summaries and such other information and material as may have been accumulated by the Contractor in performing this Contract and the Task Order whether completed or in process;
5. Settle outstanding liabilities and claims with the approval of OC San;
6. Complete performance of such part of the Work as has not been terminated; and
7. Take such other actions as may be necessary, or as may be directed by OC San for the protection and preservation of the Project and/or property related to the Contract and Task Order.

Upon receipt of OC San's written notice of termination for convenience, and within a period of 15 to 30 days, as determined by the ENGINEER at the time of termination, the Contractor shall submit to the ENGINEER a termination proposal which shall include, but is not limited to, the Contractor's estimated costs to be incurred by the Contractor as a result of the termination for convenience, and as allowed by the Contract Documents, including all documentation to support such costs; the status of the Work at time of termination; the status of termination of the Contractor's Subcontractor(s) and Supplier(s) agreement(s) including the amount of each said agreement, amount paid under each agreement up to the date of termination, and the amount that currently remains due and owing under each agreement for Work completed as of the date of termination, if any; a list, certified as to quantity and quality, of termination inventory not previously disposed of, excluding items authorized for disposition by the ENGINEER; and any other information and/or documentation as required by OC San.

Upon receipt of OC San's written notice of termination for convenience, the Contractor shall submit to the ENGINEER, within thirty (30) days, a request for final payment. The

final payment to the Contractor after termination for convenience shall be limited to amounts due and owing under the Contract at time of termination, including the following:

1. Any actual costs incurred by the Contractor for restocking charges;
2. The agreed upon price of protecting the Work in any manner, if any, as directed by OC San;
3. The cost of settling and paying claims arising out of the termination of the Work under subcontract agreements or orders with OC San's approval, as specified above, exclusive of the of the amounts paid or payable on account of goods delivered or Work furnished by Subcontractor prior to the effective date of the termination; and
4. The actual costs incurred by the Contractor allocable to the portion of the Work properly performed or goods supplied by the Contractor as of the date of termination, reduced by any sums previously paid to the Contractor.

Contractor expressly waives any claim to receive anticipated profits to be earned during the uncompleted portion of this Contract and the Task Order. Such notice of termination shall terminate this Contract and the Task Order, and release OC San from any further fee, cost, or claim hereunder by Contractor other than for Work performed through the date of termination.

OC San shall have the right to withhold any portion or the whole of the final payment under this provision in the event there are any outstanding claims for compensation asserted by OC San against the Contractor, or by any third party against OC San which arises out of the Contractor's Work.

All OC San's property in the possession or control of the Contractor shall be returned by the Contractor to OC San on demand, or at the termination of this Contract, whichever occurs first.

28.2 Termination for Default. OC San reserves the right to terminate this Contract immediately upon OC San's determination that Contractor is not complying with the Scope of Services requirements, if the level of service is inadequate, or for any other default of this Contract and any Task Order. If the Contractor refuses or fails to prosecute the Work in any awarded Task Order or any separable part thereof with such diligence as will ensure its completion within the time specified herein, or any authorized extension thereof, or fails to perform the Work in a manner required by the Contract Documents and/or industry standards, or fails to complete such Work within such time as required under the Task Order and the Contract Documents or, if the Contractor should be adjudged as bankrupt, or is otherwise deemed insolvent by OC San based on good cause and is unable to proceed with the Work, or if the Contractor should make a general assignment for the benefit of creditors, or if a receiver should be appointed on account of insolvency, or if the Contractor files a petition to take advantage of any debtor's act, or should any Subcontractor violate any of the provisions of the Contract and the Task Order, or if the Contractor should persistently or repeatedly refuse or fail, except in cases for which an authorized extension of time is provided, to supply enough properly skilled workers or proper materials to complete the Work in the time specified, or if the Contractor should fail to make prompt payment to Subcontractors for material or labor, or if the Contractor should persistently disregard laws, or instructions given by OC San, or if the

Contractor otherwise substantially fails to fulfill its obligations under the Contract Documents and the Task Order, OC San may, without prejudice to any other right or remedy, serve written notice upon the Contractor and Sureties of OC San's intention to terminate the Contract and the Contractor's performance under the Task Order. Said notice shall contain the reasons for such intention to terminate the Contract and the Contractor's performance under the Task Order, and unless, within ten (10) days after the service of such notice, such violations cease and/or satisfactory arrangements for the corrections thereof have been made, the OC San may terminate the Contract and Contractor's performance under the Task Order and the Contractor shall not be entitled to receive any further payment until the Work is finished.

In the event of any such termination, OC San shall serve written notice thereof upon the Surety and Contractor, and the Surety shall have the right to take over and perform the Work under the Task Order. However, if the Surety, within five (5) days after the service of a notice of termination, does not give OC San written notice of its intention to take over and perform the Task Order, and if it serves such notice of its intent to take over and perform the Work under the Task Order and does not begin performance thereof within fifteen (15) days from the date of serving said notice, OC San may take over the Work and prosecute the same to completion by contract or by any other method it may deem advisable for the account and at the expense of the Contractor, and the Sureties and/or Contractor shall be liable to OC San for any excess cost or other damage incurred by OC San thereby. In such an event OC San may without liability for so doing, take possession of and utilize such materials, tools, equipment, supplies and other property belonging to the Contractor and/or assume assignment of any and all subcontracts for Subcontractors and/or Suppliers that may be on the worksite and be necessary to complete the Work. For any portion of such Work that OC San elects to complete by furnishing its own employees, materials, tools, and equipment, OC San shall be compensated in accordance with the schedule of compensation for force account Work as stated in the General Conditions section entitled Task Order Price Adjustments and Payments.

If the Surety assumes the Contractor's terminated Work, it shall take the Contractor's place in all respects for that part and shall be paid by OC San for all Work performed by it in accordance with the terms of the Contract Documents and the Task Order. If the Surety assumes the entire Task Order, all money due the Contractor at the time of its default shall be payable to the Surety as the Work progresses, subject to the terms of the Contract Documents and the Task Order. Contractor hereby consents to assigning to OC San and/or OC San's replacement contractor all subcontracts and other agreements of any and all Subcontractors and/or Suppliers that may be on the worksite and/or may be necessary to complete the Work in the event of Termination for Default or Termination for Convenience, as set forth below. Contractor agrees to obtain, by way of a subcontract provision, the consent of each and every Subcontractor and/or Supplier for such assignment prior to the commencement of each such Subcontractor's and/or Supplier's Work on the Task Order.

In the event of such termination, the Contractor will be paid the actual amount due based on unit prices or lump sums in any awarded Task Order and the quantity of Work completed at the time of termination, less damages caused to OC San by acts of the Contractor causing the termination, including but not limited to, all costs to OC San arising from professional services and attorneys' fees and all costs generated to insure or bond the Work of substituted Contractors or Subcontractors utilized to complete the Work, such excess shall be paid to the Contractor. If such costs exceed the unpaid balance, the

Contractor shall pay the difference to OC San promptly upon demand. On failure of the Contractor to pay, the Surety shall pay on demand by OC San. Any portion of such difference not paid by the Contractor or Surety within thirty (30) days following the mailing of a demand for such costs shall earn interest at the maximum rate authorized by California law.

The Contractor and OC San agree that nothing in this section is intended to be or is a prevailing party clause as it pertains to attorney's fees.

The foregoing provisions are in addition to and not in limitation of any other rights or remedies under law or in equity available to OC San.

If it is later determined by OC San that the Contractor had an excusable reason for not performing, such as a fire, flood, or other event which was not the fault of or was beyond the control of the Contractor, OC San, after setting up a new performance schedule, may allow the Contractor to continue Work, or treat the termination as a termination for convenience, and the rights and obligations of the Parties shall be the same as if the termination had been issued for the convenience of OC San.

All OC San's property in the possession or control of Contractor shall be returned by Contractor to OC San on demand or at the termination of this Contract, whichever occurs first.

29. **Attorney's Fees.** If any action at law or in equity or if any proceeding in the form of an Alternative Dispute Resolution (ADR) is necessary to enforce or interpret the terms of this Contract, each Party shall bear their own attorney's fees, costs, and other dispute resolution costs.
30. **Waiver.** The waiver by either party of any breach or violation of, or default under, any provision of this Contract shall not be deemed a continuing waiver by such party of any other provision or of any subsequent breach or violation of this Contract or default thereunder. Any breach by Contractor to which OC San does not object shall not operate as a waiver of OC San's rights to seek remedies available to it for any subsequent breach.
31. **Severability.** If any section, subsection, or provision of this Contract; or any agreement or instrument contemplated hereby; or the application of such section, subsection, or provision is held invalid, the remainder of this Contract or instrument in the application of such section, subsection, or provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, unless the effect of such invalidity shall be to substantially frustrate the expectations of the Parties.
32. **Survival.** The provisions of this Contract dealing with payment, warranty, indemnity, and forum for enforcement shall survive expiration or early termination of this Contract.
33. **Governing Law.** This Contract shall be governed by and interpreted under the laws of the State of California and the Parties submit to jurisdiction in the County of Orange in the event any action is brought in connection with this Contract or the performance thereof.
34. **Task Orders.** OC San does not guarantee that Contractor will receive any individual Task Order, nor that the Contractor will receive an equal number of Task Orders as compared to any other qualified Contractors.

- 34.1 Each Task Order shall not exceed Five Hundred Thousand Dollars (\$500,000).
- 34.2 OC San will order the Services through a Request for Task Order Bid. Each Request for Task Order Bid will contain a detailed Scope of Services and may require attendance at a job walk (including Subcontractors, as needed) prior to the submission of a Task Order Bid.
- 34.3 Task Order will be awarded on the basis of the lowest responsive Bid.
- 34.4 The Request for Task Order Bid will identify the project description, location of the Work, and other general and special requirements.
- 34.5 All Task Order Bids will be lump sum.
- 34.6 Contractors will be required to list Subcontractors in accordance with California Public Contract Code section, 4100 et seq.
- 34.7 Payment terms and method will be specified in each Request for Task Order Bid.
- 34.8 Payment & Performance Bond requirements, if applicable, will be specified in each Request for Task Order Bid. Notice to Proceed on a Task Order shall not be issued until the bonds are accepted by OC San.
- 34.9 OC San does not guarantee that any qualified Contractor will be awarded any individual Task Order.
- 34.10 The Contractor shall submit its Task Order Bid within the date and time specified in the Request for Task Order Bid. Task Order Bids and/or revisions to Task Order Bids submitted after the date and time indicated in the Request for Task Order Bid will not be accepted.
- 34.11 Changes to the Task Order Scope of Services and other requirements shall be made in accordance with Master Services Contract Exhibit "B" General Conditions.

35. Task Order Bid – Filing of Protests and Protest Procedures.

This section sets forth the procedure and remedies concerning submittal and consideration of all protests received by OC San with respect to the Request for Task Order Bid (RFTOB) issued under this Master Services Contract. All communications to OC San relating to a Protest shall be in writing and submitted by email to Purchasing@ocsan.gov. By submitting a Task Order Bid (TOB), each Contractor hereby agrees and understands that the Contractor must comply with these protest procedures and exhaust all administrative remedies set forth herein prior to the initiation of any type of related legal action. Upon the express written agreement of the parties, this protest procedure can also be used to resolve issues surrounding OC San's determination of a Contractor as not responsible. This procedure is not intended to address issues concerning TOB responsiveness. The following terms as used in this Section shall have the following meanings:

- Affected Parties shall mean bidders on a procurement, whose direct economic interest would be affected by a submitted protest.

- Protest shall mean a written objection by an Interested Party or Affected Party to
 - (i) the requirements or specifications contained in the RFTOB (solicitation protest); or
 - (ii) a proposed award recommendation (award protest).
- Days shall mean calendar days, unless otherwise specified.
- Interested Party shall mean (1) on solicitation, all Contractors or prospective Contractors; (2) on award, the unsuccessful Contractor(s) with a direct economic interest in the outcome of their protest.
- Solicitation Protest Statement shall mean a written objection during the solicitation phase of the procurement, which shall be submitted prior to the Task Order Bid due date as specified herein.
- Award Protest Statement shall mean a written objection to the award recommendation prior to final action to award the Task Order Bid, which shall be submitted after receipt of Task Order Bids, but before award of a Task Order Bid, as specified herein.
- File or Submit shall refer to the date of receipt by OC San.

Specific procedures and requirements are as follows:

A. Solicitation Phase Protest

The purpose of this RFTOB is to obtain competitive TOBs from qualified Contractors. Any Interested Party who has reason to believe that a free and open competition has not taken place or that a particular specification or requirement is impractical, unduly restrictive, or ambiguous may advise OC San of its concerns by submitting a detailed Solicitation Protest Statement in accordance with the requirements set forth below in this Section A.

1. Contents and Requirements

A Solicitation Protest Statement must be submitted to OC San's Buyer identified in the RFTOB by email at Purchasing@ocsan.gov by 4:00 p.m. (Pacific Time zone) no less than three (3) days prior to the TOB due date, and must contain all of the following to be considered:

- a. The name, address, and telephone number of the protestor;
- b. The title, TOB description, and the specification number/project number or RFTOB being protested;
- c. A detailed statement setting forth the grounds for protest, which shall include, in sufficient detail to establish the merits of the protest, all the factual and legal documentation in support of the protest; and
- d. The desired resolution to the protest.

If the submitted Solicitation Protest Statement does not comply with the requirements set forth herein, then it will not be considered for evaluation and will be returned to the protestor. The Solicitation Protest Statement shall not be amended after filing, and OC San will not consider any unsolicited information provided after filing. Any argument not raised in the Solicitation Protest Statement shall be deemed waived, including as a part of the award protest. Failure to file the Solicitation Protest Statement within the

time period specified herein shall constitute a waiver of the right to protest the specifications or requirements of the RFTOB.

Solicitation Protest Statements are public documents. OC San will provide copies of the Solicitation Protest Statements upon written request.

2. Evaluation and Determination

No hearing will be held on the protest. OC San's Contracts, Purchasing and Materials Management Division Manager (Purchasing Manager), or designee, will review all material submitted, conduct an investigation of the facts, and may, but need not, request other Contractors to submit statements or arguments regarding the protest. OC San's Purchasing Manager, or designee, may in his/her sole discretion, discuss the protest with the protestor.

OC San's Purchasing Manager, or designee, shall issue a final written decision regarding any solicitation protest to each Contractors prior to TOB submittal due date. The written decision will cite any actions that will or will not be taken in response to the Solicitation Protest Statement. The decision of the Purchasing Manager concerning the Solicitation Protest Statement shall be final, and there shall be no further administrative recourse.

B. Award Protest

1. Award Recommendation

Following opening and evaluation of the TOBs, OC San will issue an award Recommendation to each Contractors who submitted TOB through any one of the following methods:

- a. Delivery via overnight carrier; or
- b. Posting the Award Recommendation on OC San's online bidding system as identified within the RFTOB.

On the date OC San issues an award recommendation, OC San shall make copies of all submitted TOBs available upon request. Requests shall be made to Purchasing@ocsan.gov and shall contain the following in the subject line of the e-mail: "[Identify: Project/TOB name and Specification No.] – Request for Copies."

2. Contents and Requirements

Any Interested Party, who has reason to believe that a free and open competition has not taken place in the TOB submittal, evaluation of the TOBs, and award recommendation, is permitted to protest OC San's award recommendation by submitting an Award Protest Statement to OC San identified in the RFTOB, via electronic mail (e-mail) at Purchasing@ocsan.gov no later than 4:00 p.m. (Pacific Time zone) on the third (3rd) day after OC San issues the Award Recommendation or some similar announcement. OC San will not accept an Award Protest Statement, or similar document, prior to the date OC San issues its award recommendation to the Contractors. Award Protest Statements, or similar document, received prior to the

issuance of OC San's award recommendation will be considered premature and will be immediately returned to the party filing the Protest without consideration.

The Award Protest Statement must be submitted timely and contain all of the following to be considered:

- a. The name, address and telephone number of the protestor;
- b. The title and number of the specification being protested;
- c. The OC San action or recommendation that is being protested;
- d. The name(s) of all Affected Parties;
- e. A detailed statement setting forth the grounds, legal authority and facts in support of the protest, including all documents and evidence;
- f. Each and every ground on which the protestor bases the protest by specific references to parts of the RFTOB, which shall be attached as exhibits;
- g. Each and every reason that all other Affected Parties who may be in line for the purchase or contract award should not be awarded the purchase or contract;
- h. A clear statement of the relief requested and the statutory or case law basis for such relief; and
- i. Signed and sworn by a principal of the protestor.

If the submitted Award Protest Statement does not comply with the requirements set forth herein, then it will not be considered for evaluation, and will be returned to the protestor. The Award Protest Statement shall not be amended after filing, and OC San will not consider any unsolicited information provided after filing. Any argument not raised in the Award Protest Statement shall be deemed waived.

Award Protest Statements are public documents. OC San will notify the Affected Parties when a protest has been submitted and will provide copies of the Protest Statements to the Interested Parties as soon as is reasonably practical.

3. Evaluation and Determination

The Affected Parties may file responsive statements in support of or in opposition to the protest no later than 4:00 p.m. on the third business day after the receipt of the Award Protest Statement from OC San. The Purchasing Manager, or designee, shall review the facts and all submittals relative to the Award Protest Statement and shall issue a written decision setting forth the basis for such decision. The written decision will be issued to the protestor and to all Affected Parties.

Unless otherwise required by law, no evidentiary hearing or oral argument shall be provided, except in the sole discretion of the Purchasing Manager, or designee.

In the event a hearing is conducted, the Purchasing Manager, or designee, shall issue written notice to the protestor and Affected Parties identifying the date and time for the hearing, along with rules concerning the hearing.

4. Appeal Process

In the event of an adverse decision by the Purchasing Manager, or designee, the protestor may submit a written appeal to the Director of Finance and the Director of the Department requesting the Procurement, and immediately send copies to all Affected

Parties. The appeal must be submitted via email to Purchasing@ocsan.gov no later than 4:00 p.m. (Pacific Time zone) within three (3) days after the date the Purchasing Manager, or designee, rendered a decision. The protestor shall only submit: (1) information and documentation previously submitted to the Purchasing Manager, or designee; (2) a copy of the final decision of the Purchasing Manager, or designee; and (3) a brief statement setting forth all factual and legal bases for the appeal. The Director of Finance, together with the Director of the Department requesting the Procurement shall evaluate each Award Protest Statement and determine whether to uphold or reject the Purchasing Manager's determination. For Task Orders to be awarded by the General Manager, the decision of the Director of Finance and the Director of the Department requesting the Procurement shall be final.

C. Delay in Award

Execution of any proposed contract shall be delayed pending the resolution of the protest unless one or more of the following conditions is present:

1. The items or services being procured are urgently required;
2. Delivery or performance will be unduly delayed by failure to make award promptly; or
3. Failure to make prompt award will otherwise cause undue harm to OC San.

D. No Limitation on Remedies

Nothing contained herein shall be construed to act as a limitation on OC San's choice of remedies or confer any right upon any Interested Party or Affected Party to a remedy.

E. Basis for Choice of Remedy

In determining the appropriate remedy, OC San shall consider all the circumstances surrounding the RFTOB and/or award, including, but not limited to:

1. Seriousness of any deficiency found to exist in the contracting process;
2. The effect of the action on the competitive process;
3. Any urgency surrounding the contract requirement; and
4. The effect that implementing the remedy will have on OC San.

F. Remedies

If OC San determines that the award or proposed award was not made in accordance with applicable statutes, regulations, policies and/or procedure, OC San, in its sole discretion, may grant any of the following remedies or any other remedy it deems appropriate:

1. Prior to award, OC San may issue a new solicitation, make a new selection/award recommendation, or award a contract consistent with applicable statutes, regulations, policies and procedures.
2. In its sole discretion, take no further action; or
3. Take any other action that is permitted by law to promote compliance.

G. Legal Action

Any legal action to set aside the final determination of OC San must be filed no later than the 90th day following the date of the final determination consistent with Code of Civil Procedure section 1094.6. In the event a protestor files a legal action related to the protest, if OC San prevails, OC San reserves the right to seek reimbursement of its costs, including attorneys' fees, to the fullest extent permitted by law.

36. Notices.

36.1 All notices under this Contract and any Task Orders must be in writing. Written notice shall be delivered by personal service, by electronic telecommunication, or sent by registered or certified mail, postage prepaid, return receipt requested, or by any other overnight delivery service which delivers to the noticed destination and provides proof of delivery to the sender. Rejection or other refusal to accept or the inability to deliver because of changed address for which no notice was given as provided hereunder shall be deemed to be receipt of the notice, demand, or request sent. All notices shall be effective when first received at the following addresses:

OC San: Jackie Lagade
Purchasing Supervisor
Orange County Sanitation District
18480 Bandilier Circle
Fountain Valley, CA 92708
jlagade@ocsan.gov

Contractor: Michael Lopez
President
Tharsos Inc.
7839 University Ave., Suite 210
La Mesa, CA 91942
mlopez@tharsosinc.com

36.2 Each party shall provide the other party written notice of any change in address as soon as practicable.

37. **Read and Understood.** By signing this Contract, Contractor represents that it has read and understood the terms and conditions of the Contract.

38. **Authority to Execute.** The persons executing this Contract, inclusive of Task Orders on behalf of the Parties warrant that they are duly authorized to execute this Contract and any Task Orders, and that by executing this Contract, the Parties are formally bound.

39. **Entire Agreement.** This Contract constitutes the entire agreement of the Parties and supersedes all prior written or oral communications and all contemporaneous oral agreements, understandings, and negotiations between the Parties with respect to the subject matter hereof.

IN WITNESS WHEREOF, intending to be legally bound, the Parties hereto have caused this Contract to be signed by their duly authorized representatives.

ORANGE COUNTY SANITATION DISTRICT

Dated: _____

By: _____
Ryan P. Gallagher
Chair, Board of Directors

Dated: _____

By: _____
Kelly A. Lore
Clerk of the Board

Dated: _____

By: _____
Kevin Work
Purchasing & Contracts Manager

THARSOS INC.

Dated: _____

By: _____

Print Name and Title of Officer

LL

EXHIBIT A
SCOPE OF SERVICES
For
Maintenance & Repair Services

EXHIBIT A
SCOPE OF SERVICES
Maintenance and Repair Services
SPECIFICATION NO. S-2024-1447BD

The Contractor shall be prepared and required to provide ethical, professional, and quality work in the best interests of the public and OC San (personnel and property) in conformance with current regulatory standards. The Contractor will be expected to perform Work as described below. All Work shall be performed in accordance with OC San design guidelines, standard specifications, engineering (project) drawings and specifications.

I. GENERAL MAINTENANCE SERVICES – Requires California Contractors License “A”

- A. **Mechanical Systems:** Installation, demolition, replacement, testing, and repair work associated with mechanical systems. This Work generally includes replacing, repairing, removing, testing, and installing, among other work items, mechanical equipment, and associated systems. This Work generally includes, but is not limited to, Work associated with pumping systems, air handling systems, fans, , clarifier components, digester components, blowers, engines, valves, boilers, pulley systems, shop-cranes, scissor-lifts, line-stops, lab equipment, and other mechanical-type systems. Work includes replacing, repairing, or modifying associated piping and appurtenant equipment required to install functioning systems.
- B. **Piping Systems:** Installation, demolition, replacement, testing, and repair of buried and above-ground piping systems. This Work generally includes replacing, repairing, removing, testing, and installing, underground and above ground piping systems of all types. This Work generally includes, but is not limited to, installing piping, trenching and backfilling of buried pipe systems, valves, corrosion, coating, lining, bypass piping, bypass pumping, sewage drainage, paving, related appurtenances and other items of Work needed to construct, repair, or replace a fully functioning piping system. Typical OC San piping systems include, but are not limited to, sewer piping (lateral, trunk, force-main, etc.), water piping, storm-water piping, gas piping, air conveyance piping, chemical piping, etc.
- C. **Structural Repairs and Replacements:** Installation, demolition, replacement, and repair of OC San structural systems. This Work generally includes replacing, repairing, removing, and installing, among other work items, concrete, wood, steel systems, beam systems, roofing systems, supports and associated systems. This Work consists of, but is not limited to, vertical and horizontal concrete flatwork, structural steel, timber and wood structures, brickwork, masonry, platforms, scaffolding, decks, and associated systems. Work also consists of structural analysis of said systems, general reinforcement, seismic reinforcement, and other items not listed.
- D. **Yard/Site Work Repairs and Replacements:** Installation, demolition, replacement, and repair of site-systems. This Work generally includes replacing, repairing, removing, and installing, among other Work items, site soil, pavement, and associated systems. This Work generally includes, but is not limited to, asphaltic concrete, walkways, railings, base course, sub-base, pavement patching, concrete curb and gutter, irrigation systems, sidewalk, driveway, garden walls, sprinkler systems, retaining walls, drainage systems, parking areas, street lighting and other typical yard or site items and systems.
- E. **Architectural and Building Systems:** Installation, demolition, replacement, and repair of architectural and building systems. This type of Work generally includes, but is not limited to, walls, stair-ways, ladders, leisure areas, office areas, plumbing systems, bathroom repairs, ceiling tiles, railings, hand-rails, roofing systems and other typical office or building items and systems.

- F. **Contaminated Soil Remediation Services:** Work associated with the remediation of contaminated soil or groundwater. This Work generally includes performing preliminary risk analysis, creation of a remediation plan, and the implementation of the plan.
- G. **Remediation Services: Work associated with the removal and disposal of** hazardous materials, that include but is not limited to lead-based paint and asbestos containing materials (such as floor tiles or roofing materials). This Work includes compliance with all local, state, and federal regulations.
- H. **Chemical Systems:** Installation, demolition, replacement, and repair of chemical handling systems. This Work generally includes addition/injection systems, removal systems, analyzer systems and storage systems. This Work generally includes but is not limited to chemical analyzer systems, chemical control systems, chemical storage tanks, chemical delivery piping and equipment, system maintenance, redundancy analysis/implementation, chemical dosing, field testing and other items typically found or associated with chemical systems.
- I. **Landscaping:** Installation, demolition, and replacement of landscaping. This Work generally includes, but is not limited to, replacing, repairing, removing, and installing hard and soft items associated with landscapes, such as, plants, irrigation, concrete, paving, grass, rocks, gravel, soil and other associated items.
- J. **Signs and Related Systems:** Installation, demolition, replacement, and repair of signage and related systems. This Work generally includes, but is not limited to, signage associated with traffic regulation, confined-space entry, global harmonization, warning and precautionary systems, construction signage and other associated items.
- K. **Miscellaneous Services:** This Work generally includes, but is not limited to sandblasting/pressure washing, surface preparation, protective coating system application, debris removal, trash removal, graffiti removal, potholing, shoring/trench protection systems, fiberglass, traffic control, traffic control plans, backhoe/excavator services, bypass piping/pumping and other services not listed. Miscellaneous services also include related Work activities necessary to properly complete required tasks. These Work activities generally include, but are not limited to, labor, equipment transportation, site-staging, supervision, management, material acquisition/transport, dewatering, and provision of tools.

II. ELECTRICAL SERVICES – Requires California Contractor’s License “C-10”

A. **Electrical Systems:** This Work generally includes replacing, repairing, removing, testing, installing, refurbish, calibrating, balancing and demolition of electrical power distribution systems, control systems, instrumentation systems, measurement acquisition systems, other systems, circuits, fiberoptics, communication systems, analyzer systems, programming. Include conduit, cable trays, conductors, cables, motors, generators, transformers, power monitors, lighting, transducers, uninterrupter power supply, switchgear, circuit panel boards, digital programable relays, microprocessor protective relays, breakers, electro-mechanical & solid-state relays, transient voltage surge suppressors, variable frequency drives, transducers, monitors, probes, programming, and associated systems.

III. HEATING, VENTILATION AND AIR CONDITIONING (HVAC) SERVICES - Requires California Contractors License “C-20”

A. **HVAC Systems:** This Work generally includes replacing, repairing, removing, testing, installing, refurbish, calibrating, balancing and demolition of Heating, ventilation, and air conditioning systems. This includes split -air, packaged, ductless, hybrid heat, Chillers, dryers, heat pumps, furnaces, thermostats, building controls, condensers, evaporators heat exchangers, refrigerant, recovery, and air handling components.