

City of Garden G

INTER-DEPARTMENT MEMORANDUM

To: Matthew J. Fertal  
 From: William E. Murray  
 Dept.: City Manager  
 Dept.: Public Works  
 Subject: AGREEMENT WITH ORANGE COUNTY CONSERVATION CORPS FOR RECYCLING AND MAINTENANCE SERVICES  
 Date: September 11, 2012

OBJECTIVE

To receive City Council approval to enter into an agreement with the Orange County Conservation Corps (OCCC) to provide recycling and maintenance services to be paid for with grant funds.

BACKGROUND/DISCUSSION

For the past eleven years, grant funds awarded by the Department of Conservation (DOC) has allowed the City to form a partnership with the OCCC to provide beverage container recycling and litter abatement in the City's parks. The OCCC is an organization where young men and women receive on-the-job training and leadership skills essential for career development. In addition to recycling and litter abatement, the OCCC uses their own grant funds to expand the scope of work to include a variety of public works related maintenance services, such as tree trimming, mowing, edging, and minor construction projects.

In June 2012, the DOC awarded the City \$46,150 to continue the City's program with the OCCC.

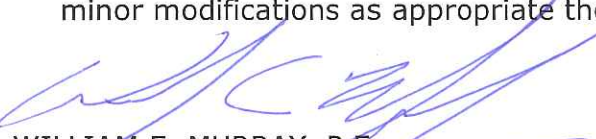
FINANCIAL IMPACT


The cost of this program is \$46,150 and is funded entirely by DOC grant funds. There is no impact to the General Fund.

RECOMMENDATION

It is recommended that City Council:

- Approve the attached agreement with the Orange County Conservation Corp in the amount of \$46,150 for recycling and maintenance services paid for with DOC grant funds.
- Authorize the City Manager to execute the agreement on behalf of the City, and make minor modifications as appropriate thereto.

  
 WILLIAM E. MURRAY, P.E.  
 Public Works Director/City Engineer

  
 By: Raquel Manson  
 Sr. Administrative Analyst

Recommended for Approval

  
 Matthew Fertal  
 City Manager

## PROFESSIONAL SERVICES AGREEMENT

**THIS AGREEMENT** is made this \_\_\_\_\_ day of \_\_\_\_\_, 2012, by the **CITY OF GARDEN GROVE**, a municipal corporation, ("CITY") and **Orange County Conservation Corps.**, a California Non-Profit Corporation, herein after referred to as "CONTRACTOR".

### RECITALS

The following recitals are a substantive part of this Agreement:

1. This Agreement is entered into pursuant to Garden Grove Council authorization dated \_\_\_\_\_.
2. CITY desires to utilize the services of CONTRACTOR to **Provide Park Maintenance, Litter Abatement, and Recycling Services throughout the City of Garden Grove.**
3. CONTRACTOR is qualified by virtue of experience, training, education and expertise to accomplish services.

### AGREEMENT

THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **Term and Termination.** The term of the agreement shall from full execution of the agreement through September 30, 2012 with an option to extend said agreement additional four (4) years, for a total performance period of five (5) years. Option years shall be exercised one (1) year at a time, at the sole option of the CITY. This agreement may be terminated by the CITY without cause. In such event, the CITY will compensate CONTRACTOR for work performed to date in accordance with proposal which is attached as Exhibit A and is hereby incorporated by reference. Contractor is required to present evidence to support performed work.
2. **Services to be Provided.** The services to be performed by CONTRACTOR shall consist of tasks as set forth in the Proposal. The Proposal is attached as Exhibit A and is incorporated herein by reference. The Proposal and this Agreement do not guarantee any specific amount of work.
3. **Compensation.** CONTRACTOR shall be compensated as follows:
  - 3.1 **AMOUNT.** Total Compensation under this agreement shall not exceed (NTE) amount of Forty Six Thousand One Hundred Fifty Dollars (\$46,150.00), in arrears and in accordance with proposal in Exhibit A.

- 3.2 Payment. For work under this Agreement, payment shall be made per invoice for work completed. For extra work not a part of this Agreement, a written authorization by CITY will be required, and payment shall be based on schedule included in Proposal (Exhibit A).
- 3.3 Records of Expenses. CONTRACTOR shall keep complete and accurate records of all costs and expenses incidental to services covered by this Agreement. These records will be made available at reasonable times to CITY.
- 3.4 Termination. CITY and CONTRACTOR shall have the right to terminate this agreement, without cause, by giving thirty (30) days written notice of termination. If the Agreement is terminated by CITY, then the provisions of paragraph 3 would apply to that portion of the work completed.

#### **4. Insurance Requirements.**

- 4.1 COMMENCEMENT OF WORK. CONTRACTOR shall not commence work under this Agreement until all certificates and endorsements have been received and approved by the CITY. All insurance required by this Agreement shall contain a Statement of Obligation on the part of the carrier to notify the CITY of any material change, cancellation, or termination at least thirty (30) days in advance.
- 4.2 WORKERS COMPENSATION INSURANCE. For the duration of this Agreement, CONTRACTOR and all subcontractors shall maintain Workers Compensation Insurance in the amount and type required by law, if applicable. The insurer shall waive its rights of subrogation against the CITY, its officers, officials, agents, employees, and volunteers.
- 4.3 INSURANCE AMOUNTS. CONTRACTOR shall maintain the following insurance for the duration of this Agreement:
- (a) Commercial general liability, including sexual misconduct, in an amount not less than \$1,000,000 per occurrence; (**claims made and modified occurrence policies are not acceptable**); Insurance companies must be acceptable to CITY and have an AM Best's Guide Rating of A-, Class VII or better, as approved by the CITY.
  - (b) Automobile liability, including mobile equipment, if mobile equipment is used by contractor, in an amount not less than \$1,000,000 combined single limit; (**claims made and modified occurrence policies are not acceptable**); Insurance companies must be acceptable to CITY and have an

AM Best's Guide Rating of A-, Class VII or better, as approved by the CITY.

An Additional Insured Endorsement, **ongoing and completed operations**, for the policy under section 4.3 (a) shall designate CITY, its officers, officials, employees, agents, and volunteers as additional insureds for liability arising out of work or operations performed by or on behalf of the CONTRACTOR. CONTRACTOR shall provide to CITY proof of insurance and endorsement forms that conform to city's requirements, as approved by the CITY.

An Additional Insured Endorsement for the policy under section 4.3 (b) shall designate CITY, its officers, officials, employees, agents, and volunteers as additional insureds for automobiles owned, leased, hired, or borrowed by the CONTRACTOR. CONTRACTOR shall provide to CITY proof of insurance and endorsement forms that conform to CITY's requirements, as approved by the CITY.

For any claims related to this Agreement, CONTRACTOR's insurance coverage shall be primary insurance as respects CITY, its officers, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by the CITY, its officers, officials, employees, agents, or volunteers shall be in excess of the CONTRACTOR's insurance and shall not contribute with it.

5. **Non-Liability of Officials and Employees of the CITY.** No official or employee of CITY shall be personally liable to CONTRACTOR in the event of any default or breach by CITY, or for any amount which may become due to CONTRACTOR.
6. **Non-Discrimination.** CONTRACTOR covenants there shall be no discrimination against any person or group due to race, color, creed, religion, sex, marital status, age, handicap, national origin, or ancestry, in any activity pursuant to this Agreement.
7. **Independent Contractor.** It is agreed to that CONTRACTOR shall act and be an independent contractor and not an agent or employee of the CITY, and shall obtain no rights to any benefits which accrue to CITY'S employees.
8. **Compliance with Law.** CONTRACTOR shall comply with all applicable laws, ordinances, codes, and regulations of the federal, state, and local government.
9. **Notices.** All notices shall be personally delivered or mailed to the below listed address, or to such other addresses as may be designated by written notice. These addresses shall be used for delivery of service of process.
  - a. (Contractor)

Orange County Conservation Corps.  
Attention: Josh Volp, Director of Operations  
1853 N. Raymond Avenue  
Anaheim, CA 92801

b.	(Address of CITY)	(with a copy to):
	City of Garden Grove	Garden Grove City Attorney
	11222 Acacia Parkway	11222 Acacia Parkway
	Garden Grove, CA 92840	Garden Grove, CA 92840

10. **CONTRACTOR'S PROPOSAL.** This Agreement shall include CONTRACTOR'S proposal or bid which shall be incorporated herein by reference. In the event of any inconsistency between the terms of the proposal and this Agreement, this Agreement shall govern.
11. **Licenses, Permits, and Fees.** At its sole expense, CONTRACTOR shall obtain a Garden Grove Business License, all permits, and licenses as may be required by this Agreement.
12. **Familiarity with Work.** By executing this Agreement, CONTRACTOR warrants that: (1) it has investigated the work to be performed; (2) it has investigated the site of the work and is aware of all conditions there; and (3) it understands the facilities, difficulties, and restrictions of the work under this Agreement. Should Contractor discover any latent or unknown conditions materially differing from those inherent in the work or as represented by CITY, it shall immediately inform CITY of this and shall not proceed, except at CONTRACTOR'S risk, until written instructions are received from CITY.
13. **Time of Essence.** Time is of the essence in the performance of this Agreement.
14. **Limitations Upon Subcontracting and Assignment.** The experience, knowledge, capability, and reputation of CONTRACTOR, its principals and employees were a substantial inducement for CITY to enter into this Agreement. CONTRACTOR shall not contract with any other entity to perform the services required without written approval of the CITY. This Agreement may not be assigned voluntarily or by operation of law, without the prior written approval of CITY. If CONTRACTOR is permitted to subcontract any part of this Agreement, CONTRACTOR shall be responsible to CITY for the acts and omissions of its subcontractor as it is for persons directly employed. Nothing contained in this Agreement shall create any contractual relationship between any subcontractor and CITY. All persons engaged in the work will be considered employees of CONTRACTOR. CITY will deal directly with and will make all payments to CONTRACTOR.

15. **Authority to Execute.** The persons executing this Agreement on behalf of the parties warrant that they are duly authorized to execute this Agreement and that by executing this Agreement, the parties are formally bound.
  
16. **Indemnification.** CONTRACTOR agrees to protect, defend, and hold harmless CITY and its elective or appointive boards, officers, agents, and employees from any and all claims, liabilities, expenses, or damages of any nature, including attorneys' fees, for injury or death of any person, or damage to property, or interference with use of property, arising out of, or in any way connected with performance of the Agreement by CONTRACTOR, CONTRACTOR'S agents, officers, employees, subcontractors, or independent contractors hired by CONTRACTOR. The only exception to CONTRACTOR'S responsibility to protect, defend, and hold harmless CITY, is due to the sole negligence of CITY, or any of its elective or appointive boards, officers, agents, or employees.

This hold harmless agreement shall apply to all liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by CONTRACTOR.

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(Agreement Signature Block On Next Page)

**IN WITNESS THEREOF**, these parties have executed this Agreement on the day and year shown below.

Date: \_\_\_\_\_

**"CITY"**  
**CITY OF GARDEN GROVE**

By: \_\_\_\_\_  
**City Manager**

**ATTESTED:**

\_\_\_\_\_  
**City Clerk**

Date: \_\_\_\_\_

**"CONTRACTOR"**  
**ORANGE COUNTY CONSERVATION CORPS**

By: *Katharyn M. Bandoni*

Name: KATHARYN M. BANDONI

Title: CEO

Date: 8/6/2012

Tax ID No. 33-0563781

If CONTRACTOR is a corporation, a Corporate Resolution and/or Corporate Seal is required. If a partnership, Statement of Partnership must be submitted to CITY.

**APPROVED AS TO FORM:**

*Jana H. Egan*  
Garden Grove City Attorney

8-20-12  
Date

## **EXHIBIT A**

### **SCOPE OF WORK**

The purpose of this job-training program is to provide park recycling and maintenance services to the City while providing OCCC members with on-the-job experience and training needed to qualify as entry-level maintenance personnel. The Orange County Conservation Corps (OCCC) will use grant funds from the Department of Conservation (DOC) awarded to the City in the amount of \$46,150.

#### **The OCCC agrees to the following:**

1. Park recycling and litter abatement services: City DOC grant funds will be used to establish and maintain beverage container recycling and litter abatement programs. With City approval, the OCCC will assist in placing recycling containers at designated parks to collect recyclable beverage containers. The OCCC will service these containers as needed. Service will include collecting the beverage containers, maintaining the container, and the immediate area surrounding the container for trash and litter. Other recycling services may include collecting beverage containers and removing trash and debris from city facilities, flood control channels, alleyways, or community events. All beverage containers collected will become the property of the OCCC and all recycling revenue generated through this program will be donated to the OCCC to help offset costs of the recycling program provided by the OCCC. The OCCC will report on a monthly basis amounts in pounds of beverage containers collected and recycled by the OCCC when such reporting systems become available to the OCCC.
2. Maintenance Services may include but are not limited to the following: irrigation and landscaping, tree planting, removal of non-native vegetation, weed abatement, flood control, storm damage, painting, and/or general maintenance and repair of park structures and equipment.
3. Selected, qualified individual OCCC members may with the approval of the OCCC be assigned to work alongside and with City personnel to perform a variety of projects that will provide a higher level of training and work/learn experiences. All OCCC crews will have an OCCC supervisor present at all times at the job site to assure proper conduct and the use of safe work practices.
4. Funds will be used for corps member labor, training, transportation, supervision, tools, and safety equipment.
5. OCCC will maintain the same work crew throughout each project whenever possible.

The City agrees to the following:



1. The City will provide all project materials needed to complete projects. This may include but not be limited to the following: paint and painting supplies, wood, landscape and irrigation supplies, dumpsters, special project equipment, trees and plants.
2. City personnel will provide instruction and training as needed so that OCCC members acquire the work/learn experiences needed to qualify as entry-level maintenance personnel.

### **COMPENSATION**

The City of Garden Grove agrees to pay for work performed under this Agreement up to an amount no greater than \$46,150 from DOC grant funds, paid by the City of Garden Grove at an hourly rate, per worker, equal to \$21.00 per hour.

The OCCC will invoice the City on a monthly basis for services performed during the previous month. The OCCC invoice will include the time period of the invoice, number of corps member hours, and total amount to be paid by the City of Garden Grove. Hours contributed by the OCCC and paid for through OCCC grant funding will be provided on a monthly basis via electronic mail to **rmanson@ci.garden-grove.ca.us**.