ALL ACTIONS ARE DRAFT PENDING APPROVAL OF THE FINAL MINUTES

Minute Action Summary
Palm Desert City Council - Regular Meeting

Agenda Number:	9.j.
Title:	AWARD ON-CALL CONTRACTS TO MULTIPLE VENDORS FOR PARKS AND LANDSCAPE ENHANCEMENT (PROJECT NO. CPK00003)
Date:	Thursday, October 24, 2024

Motion by:	Councilmember Trubee
Seconded by:	Mayor Pro Tem Harnik

1. Award contract numbers C48520 A-E for Parks and Landscape Enhancements to multiple vendors, in the amount of $750,000 for a 31-month term with two one-year extension options.
2. Authorize the City Attorney to make necessary non-monetary changes to the contract.
3. Authorize the City Manager to execute the contract and any other documents necessary to effectuate this action, in accordance with Section 3.30.170 of the Palm Desert Municipal Code.
4. Authorize the City Manager to execute the Notice of Completion (NOC) and the City Clerk to file the NOC upon satisfactory completion of the project(s).

YES: 5 NO: 0 ABSTAIN: 0 CONFLICT: 0 ABSENT: 0

Motion Carried

YES: 5

Mayor Pro Tem Harnik	Councilmember Kelly	Councilmember	Councilmember Trubee
Mayor Quintanilla		Nestande	

NO: 0

ABSTAIN: 0

CONFLICT: 0

ABSENT: 0

CITY OF PALM DESERT
STAFF REPORT

MEETING DATE: October 24, 2024

PREPARED BY: Shawn Muir, Community Services Manager
Martin Alvarez, Director of Public Works

SUBJECT: AWARD ON-CALL CONTRACTS TO MULTIPLE VENDORS FOR PARKS AND LANDSCAPE ENHANCEMENT (PROJECT NO. CPK00003)

RECOMMENDATION:

1. Award contracts for Parks and Landscape Enhancements to multiple vendors, in the amount of $750,000 for a 31-month term with two one-year extension options.
2. Authorize the City Attorney to make necessary non-monetary changes to the contract.
3. Authorize the City Manager to execute the contract and any other documents necessary to effectuate this action, in accordance with Section 3.30.170 of the Palm Desert Municipal Code.
4. Authorize the City Manager to execute the Notice of Completion (NOC) and the City Clerk to file the NOC upon satisfactory completion of the project(s).

BACKGROUND/ANALYSIS:

The Parks and Landscape Enhancement project (project) is a long-term program to upgrade landscaped public areas throughout the City to create a cohesive design palette and provide ease of maintenance moving forward. It is a two-part project, the first of which is to develop a 5-year Landscape Master Plan and plant palettes that complement each other. That part of the project has been advertised under a separate Request for Proposals to provide landscape design services. The second part of the project is to utilize on-call landscape agreements to complete the projects outlined in the Landscape Master Plan as well as other, more immediate landscape needs such as infill of plants in medians and parkways. Since these projects must be prioritized to enhance the City's public rights-of-way, the on-call landscape improvements were prioritized.

This second part of the project was advertised for proposals through the City's bid management portal, OpenGov, on August 12, 2024. A mandatory pre-bid meeting took place at City Hall on August 21, 2024, attended by City staff and ten vendors. On September 4, 2024, five proposals were received electronically.

City staff reviewed the qualified proposals and selected all five vendors for contract awards based on the evaluation criteria outlined in the RFP (clarity and conformance, experience, performance, proposal content, fees and references). Staff recommend awarding contracts to the following five vendors to expedite the number or projects needed to be implemented:

Vendor	Location
AK Landscaping	Indio, California
Excel Landscape, Inc.	Corona, California

Horizon Professional Landscape, Inc.	Coachella, California
Mariposa Landscapes, Inc.	Irwindale, California
Vintage Landscape	Bermuda Dunes, California

The total aggregate amount of $750,000 per fiscal year will be distributed among the five contractors for the term of the contract. These funds were included in the Fiscal Year 2024-25 general fund and capital improvement budgets. This approach enables the City to leverage each vendor's expertise for specific task orders, minimizing scheduling delays. This strategy was previously successful in the Facilities Repairs and Improvements Project.

Legal Review:
This report has been reviewed by the City Attorney's Office.

Strategic Plan:
The Parks and Landscape Enhancement project is in alignment with the Parks & Recreation strategic plan to prepare for the financial requirements of maintaining existing parks to the highest level of service.

FINANCIAL IMPACT:

The approved Public Works and Capital Improvement Project (CIP) Budget for Fiscal Year 2024-25 includes $1,075,000 allocated for landscape services across various accounts. Of this allocation, $250,000 has been designated for a five-year landscape master plan focused on updating medians, parks, and open spaces. Of the remaining budget, the aggregate amount of $750,000 will be accessible to the five vendors on a task order basis to carry out landscape projects identified by City staff in FY 2024-25. Subsequent year funding will be included in the annual budget request process and orders will be contingent upon budget approval.

The table below outlines the budget allocation and estimated expenses for each account during FY 2024-25; however, this does not guarantee that the full amounts will be utilized or spent:

Account No.	Location	Budget	Expenses	Balance
1104610-4332001	Civic Center Park	$50,000	$25,000	$25,000
1104610-4337001	Tri-Cities Sports	$25,000	$25,000	
1104611-4332001	Other Parks	$50,000	$25,000	$25,000
1104614-4337001	Medians	$750,000	$500,000	$250,000
2424595-4400100	Palm Desert Aquatic Center	$50,000	$50,000	
4004618-4400100	Park Improvements	$100,000	$100,000	
4004674-4400100	Civic Center Park Improvements	$50,000	$25,000	$25,000
	Total:	**$1,075,000**	**$750,000**	**$ 325,000**
	Less: 5-Year Landscape Master Plan			($250,000)
	Budget Balance			**$ 75,000**

ATTACHMENTS:

1. AK Landscaping Proposal
2. AK Landscaping Agreement, Payment and Performance Bonds
3. Excel Landscape, Inc. Proposal

4. Excel Landscape, Inc. Agreement, Payment and Performance Bonds
5. Horizon Professional Landscape, Inc. Proposal
6. Horizon Professional Landscape, Inc. Agreement, Payment and Performance Bonds
7. Mariposa Landscapes, Inc. Proposal
8. Mariposa Landscapes, Inc. Agreement, Payment and Performance Bonds
9. Vintage Landscape Proposal
10. Vintage Landscape Agreement, Payment and Performance Bonds
11. City Landscaped Areas Map
12. Palm Desert Medians Map

City of Palm Desert
PW - Operations & Maintenance
Randy Chavez, Deputy Director
73-510 Fred Waring Drive, Palm Desert, CA 92260

[AK LANDSCAPING] RESPONSE DOCUMENT REPORT

RFP No. 2024-RFP-132

Parks And Landscape Enhancement Project

RESPONSE DEADLINE: September 4, 2024 at 5:00 pm

Report Generated: Tuesday, September 10, 2024

Ak landscaping Response

CONTACT INFORMATION

Company:
Ak landscaping

Email:
eric.aklandscaping@gmail.com

Contact:
Eric Arechiga

Address:
42929 madio street
Indio, CA 92201

Phone:
N/A

Website:
N/A

Submission Date:
Sep 4, 2024 3:43 PM (Pacific Time)

ADDENDA CONFIRMATION

Addendum #1
Confirmed Sep 4, 2024 7:58 PM by Eric Arechiga

QUESTIONNAIRE

1. Proposal (WITHOUT COST)*

Proposals shall be concise, well organized and demonstrate qualifications and applicable experience. Proposals shall be organized and include page numbers for all pages in the proposal. The proposal shall be uploaded here, in the following order and shall include:

A. Cover Letter

1. This letter should briefly introduce the firm, summarize the firm's general qualifications, include an executive summary of the specific approach which will be used to deliver the work scope; and identify the individual(s) name, address and phone number authorized to negotiate Agreement terms and compensation.

B. Experience and Technical Competence

1. Background: Provide history of the firm's consulting experience which specifically addresses the individual or firm's experience with similar Service as described in this RFP.
2. References: The proposal shall include a list of recently completed projects that are similar in scope and function to this RFP. Provide a description of the project, client name, and the name, title, and telephone number of the primary contact person.

C. Firm Staffing and Key Personnel

1. Staffing: Provide the number of staff to be assigned to perform the Services and the names/discipline/job title of each as well as your firm's capacity to provide additional personnel as needed.

2. Key Personnel: Identify key persons that will be principally responsible for working with the City. Indicate the role and responsibility of each individual.
3. Team Organization: Describe proposed team organization, including identification and responsibilities of key personnel.
4. Subcontractors: The Proposer shall identify functions that are likely to be subcontracted and identify the subcontractor that is anticipated to perform each function.

D. Proposed Method to Accomplish the Work

1. Describe the technical and management approach to providing the Services to the City. Proposer should take into account the scope of the Services, and general functions required. Include a draft first year schedule of tasks, milestones, and deliverables that will provide for timely provision of the Services. In reviewing the scope of Services and goals described herein, the Proposer may identify additional necessary tasks and is invited to bring these to the City's attention within the discussion of its proposed method to accomplish the work.

City_of_Palm_Desert_Parks_and_Landscape_Enhancement_Project_Proposal.pdf

2. Fee Proposal*

The fee proposal shall include hourly rates for all personnel for "Additional Work" (as such term is defined in the proposed Agreement attached herein). Please provide hourly rates for the following positions at a minimum: Irrigator, Foreman, Laborer, Supervisor.

Hourly_rates_Palm_Desert.jpg

3. Non-Collusion Declaration*

The undersigned declares:

I am an authorized representative of my company, the party making the foregoing Bid, to certify the following.

The Bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation. The Bid is genuine and not collusive or sham. The Bidder has not directly or indirectly induced or solicited any other Bidder to put in a false or sham bid. The Bidder has not directly or indirectly colluded, conspired, connived, or agreed with any Bidder or anyone else to put in a sham bid, or to refrain from bidding. The Bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the Bid Price of the Bidder or any other Bidder, or to fix any overhead, profit, or cost

element of the Bid Price, or of that of any other Bidder. All statements contained in the Bid are true. The Bidder has not, directly or indirectly, submitted his or her Bid Price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid, and has not paid, and will not pay, any person or entity for such purpose.

Any person executing this declaration on behalf of a Bidder that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that he or she has full power to execute, and does execute, this declaration on behalf of the Bidder.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Confirmed

4. Enter your valid CA Contractors State License Board (CSLB) number*

Please enter your License Number here. This will be verified against the state database.

754934

Click to Verify *Value will be copied to clipboard*

5. Enter your California Department of Industrial Relations (DIR) Registration number*

Please enter your Public Works Contractor DIR Number. This will be verified against the state database.

DIR number is currently being issued

Click to Verify *Value will be copied to clipboard*

6. Type of Business*

S Corporation (if corporation, two signatures are required)

7. Litigation*

Provide litigation history for any claims filed by your firm or against your firm related to the provision of Services in the last five (5) years (or type "N/A").

N/A

8. Changes to Agreement*

The City standard professional services agreement contract is included as an attachment herein. The Proposer shall identify any objections to and/or request changes to the standard contract language in this section of the proposal (or type "N/A"). If you are identifying changes here ***ALSO*** upload a copy of the redlined Language/Agreement with your Proposal. Changes requested may effect theCity's decision to enter into an Agreement.

N/A

9. No Deviations from the RFP*

In submitting a proposal in response to this RFP, Proposer is certifying that it takes no exceptions to this RFP including, but not limited to, the Agreement. If any exceptions are taken, such exceptions must be clearly noted here, and may be reason for rejection of the proposal. As such, Proposer is directed to carefully review the proposed Agreement and, in particular, the insurance and indemnification provisions therein (or type "N/A").

Maximum response length: 5000 characters

N/A

10. Project Team Resumes*

Submit resumes of all key personnel/support staff that will produce work product for the Services. Describe their qualifications, education, and professional licensing.

Eric_Arechiga_Resume.pdf

11. List the Signatory(s) Authorized to Sign and Bind an Agreement.*

(If two (2) signatures are required, include the following information for both signatories)

A. Full Name

B. Title

C. Physical Business Address
D. Email Address
E. Phone Number
A. Mike Arechiga
B. Owner/CEO
C. 42929 Madio St
D. mm.aklandscaping@verizon.net
E. 760-578-5389

A. Eric Arechiga
B. President
C. 42929 Madio St
D. Eric.Aklandscaping@gmail.com
E. 760-485-6012

12. Certification of Proposal: The undersigned hereby submits its proposal and, by doing so, agrees to furnish services in accordance with the Request for Proposal (RFP), and to be bound by the terms and conditions of the RFP.*

Confirmed

AK Landscape Maintenance Inc.



City of Palm Desert: Landscape Enhancement Proposal

CREATED BY:

Eric Arechiga

September 4th, 2024

PROPOSED TO:

City Of Palm Desert, CA

September 4th, 2024

To: City Of Palm Desert
Address: 73510 Fred Waring Drive
Palm Desert, CA 92260

RE: Proposal For "Parks and Landscape Enhancement Project"

To Whom It May Concern,

AK Landscaping thanks you for the opportunity to present a proposal for the Parks and Landscape Enhancement Project. AK Landscaping has a dedicated team with the knowledge and experience to maintain and enhance the natural beauty of your landscape. AK Landscaping is a local family-owned company since 1977. Offering a thorough set of landscape services to residential, commercial, and municipal property. What separates our team in the industry is our expertise in our valleys climate, soils, and plant material. Operated by our first and second generation natives who oversee every account. Comprised of college graduates and certified professionals in both the horticultural field and turfgrass management. Our team prepared the following proposal for the City of Palm Deserts "Parks and Landscape Enhancement" project.

Following our review of the project, our team at AK Landscaping is confident that we can provide the best quality of service at a competitive cost and is pleased to submit the following proposal based on the RFP for Landscape enhancements issued August 12th, 2024.

- Contact Information: Eric Arechiga
  - AK Landscaping Maintenance inc. Located at 42929 Madio St, Indio, CA 92201
  - 760-485-6012
  - Eric.Aklandscaping@gmail.com

Sincerely,

Eric Arechiga

Eric Arechiga
Project Manger
AK Landscaping Maintenance Inc.

Executive Summary

This proposal presents our services offered for the "Parks and Landscape Enhancement" project. Our team at AK Landscaping offers a comprehensive set of landscape services within the landscape service sector.

AK Landscaping is a first class landscape maintenance and construction company committed to transforming and enhancing outdoor spaces into visually stunning and functional environments. We focus on quality, sustainability, and exceptional customer service, catering to 30+ residential, commercial, and municipal properties. Properties include the La Quinta Resort & Club, Outdoor Resort Indio, Ironwood Country Club, etc.

Mission Statement:

Our mission is to enhance the beauty and functionality of landscape by utilizing innovative design, expert craftsmanship, and the surrounding environment. dedication to client satisfaction. We strive to be the leading choice for landscape services with our commitment to client satisfaction. Our team prides itself in delivering outstanding results and fostering long-term relationships with our clients.

Services include but are not limited to the following:

- Specialized Landscape Maintenance & Construction
- Landscape Enhancements
- Irrigation Modification, Modernization and Conservation
- Landscape 3D rendering design
- Tree/Palm care, Trimming service, and arborist service
- Weed, Pest, and insect control
- Small to Large Landscape Projects

Our team of qualified individuals is committed and dedicated to our accounts throughout the Coachella Valley and hopes to provide you exceptional service with a commitment to excellence.

Experience and Technical Competence

Background:

AK Landscaping was founded in 1977 with the current owner Mike taking operations in 1989. Our office located in Indio, CA. Our current staff include over 100 qualified and experienced members. Our office is open Monday-Friday 8am to 4pm.

Experience:

AK Landscaping has over 35 years of dedicated service in the landscape industry. Standing as a testament of our commitment to excellence. Our extensive experience of working alongside residential, commercial, and municipal property has enabled us to establish a strong reputation as a first class landscape maintenance and construction business. Achieving exceptional results that exceed our clients expectations.

Supervision, Education, & Accountability:

AK Landscaping is committed to a foundation of supervision, education, and accountability to achieve high productivity and quality of work. Our focus on supervision plays an essential role in ensuring that all daily operations are executed to the industries best standards and practices. Maintaining quality and consistency throughout our work. While also allowing us to promptly resolve problems and minimize disruptions.

At AK Landscaping we believe that education is critical in equipping employees with the necessary technical skills and knowledge. Ongoing education ensures that team members are proficient in the latest best practices and standards. Allowing our team to be more responsive when it comes to meeting client expectations and needs.

Our emphasize on accountability ensure that all members of our staff are responsible for their own performance and adhere to our established standards and expectations. Setting clear goals, measuring performance, and addressing any deviation from these expected outcomes. All the while allowing our team to continuously improve by holding team members accountable. Identifying areas for improvement and implementing corrective actions. Fostering a culture of continuous improvement and higher levels of performance and quality.

References

La Quinta Resort and Spa: Pool Conversion #1

- **Description**: The Pool Deck Landscaping Enhancement project aims to revitalize and beautify the areas surrounding the pool deck to create a cohesive, inviting, and functional outdoor space. This project will focus on enhancing both the aesthetic appeal and the usability of the poolside area, integrating design elements that complement the existing pool structure and surrounding environment.
- **Client** Name: La Quinta Resort and Spa
- **Name**: Sergo Buis-Sereth
- **Title**: Director of property Operations/Engineering
- **Telephone Number**: 760-238-7724

La Quinta Resort and Spa: Grove Project

- **Description**: The Date Palm Removal and Event Space Landscaping project is designed to revitalize an event space by removing 30 mature date palms and undertaking a comprehensive redesign of the landscape. This project aims to create a more functional, aesthetically pleasing environment that enhances the versatility and appeal of the event space for various functions and activities.
- **Client Name**: La Quinta Resort and Spa
- **Name**: Sergo Buis-Sereth
- **Title**: Director of property Operations/Engineering
- **Telephone Number**: 760-238-7724

Ironwood Clubhouse Exterior Desert Conversion

- **Description**: The Desert Landscaping Transformation project aims to convert the exterior landscaping of the Ironwood Clubhouse into a beautiful and functional desert-themed landscape. This transformation will embrace the natural beauty of the desert environment, enhancing the clubhouse's exterior with sustainable, low-maintenance design elements that complement the surrounding landscape and create an inviting atmosphere for visitors.
- **Client Name**: IronWood CC Clubhouse
- **Name**: Joshua Tanner
- **Title**: Chief Executive Officer/ General Manager
- **Telephone Number**:760-766-1090

References

Rancho Mirage Racquet Club Desert landscape Conversion

- **Description**: The Turf Removal and Desert Landscape Conversion project at Rancho Mirage Racquet Club aims to transform 30,000 square feet of existing turf into a sustainable and aesthetically pleasing desert landscape. This initiative will enhance the facility's outdoor environment by incorporating drought-tolerant and low-maintenance landscaping that aligns with the desert climate, reduces water consumption, and improves the overall visual appeal and functionality of the space.
- **Client Name**: Rancho mirage Racquet Club
- Name: Mike Ranco
- **Title**: Board president
- **Telephone Number**: 661-810-0469

Firm Staffing and Key Personnel

Staffing

- **Project Manager:** Martin Arechiga
- **Role and Responsibilities:**
    - **Primary contact:** serve as the main liaison between the City of Palm Desert and our team, Ensuring effective communication and coordination of all tasks throughout the project.
    - **Project oversight:** Oversee all aspects of the project, Including planning, implementing, and monitoring all task from start to finish. To ensure that he projects stays on schedule
    - **Problem Resolution:** In the event a problem arise. Address and resolve any issues or challenges that arise during the project, working closely with City Representatives to find solutions.
    - **Reporting:** Provide regular updates and detailed progress reports to the city on completed tasks and upcoming milestones.

- **Site Supervisor:** Jose Luis Martinez
- **Role and Responsibilities:**
    - **Field Management:** Oversee day-to-day operations on-site, ensuring that all tasks are performed according to the project plan and meet specifications.
    - **Team Coordination**: Manage field crews, assign tasks, and ensure that work is completed efficiently and to a high standard.
    - **Quality Control:** Conduct regular inspections of work in progress to ensure adherence to quality standards and address any issues promptly.

Firm Staffing and Key Personnel

Staffing

- **Irrigation Specialist:** Julian Alvarez

  Role and Responsibilities:

  - **System Design and Installation:** Design and oversee the installation of efficient irrigation systems, ensuring proper coverage and water conservation.
  - **Maintenance and Troubleshooting:** Monitor and maintain irrigation systems, addressing any malfunctions or issues to ensure optimal performance.
  - **Water Management**: Provide recommendations for water management strategies to align with sustainable practices and local water regulations.

Each member brings specialized skills and experience to ensure the successful execution of the "Parks and Landscape Enhancement" project. Their roles and responsibilities are designed to provide comprehensive support and ensure that all aspects of the project are managed effectively.

Firm Staffing and Key Personnel

Key Personnel

Mike Arechiga, CEO

Mike is a proud native to the Coachella valley with 40+ years in the landscape maintenance and construction industry. Mike founded AK landscaping in 1989 and later received his C-27 contracting license in 1998. Since then Mike has continued to expand his organization to 100+ employees alongside the second generation sons Eric, Michael, and Martin.

Eric Arechiga, President

Eric oversees the landscape maintenance accounts. Eric has a BA in Business Economics from California state university of Fullerton. Eric has also attended numerous horticultural and turf grass management classes at COD and is set to complete two associates degrees in the spring of 2025. Eric is also receiving the following Certificates from COD:

- Arborists Technician Certificate
- Landscape Irrigation Technician Certificate
- Pest Management Certificate
- Turfgrass management Technician Certificate

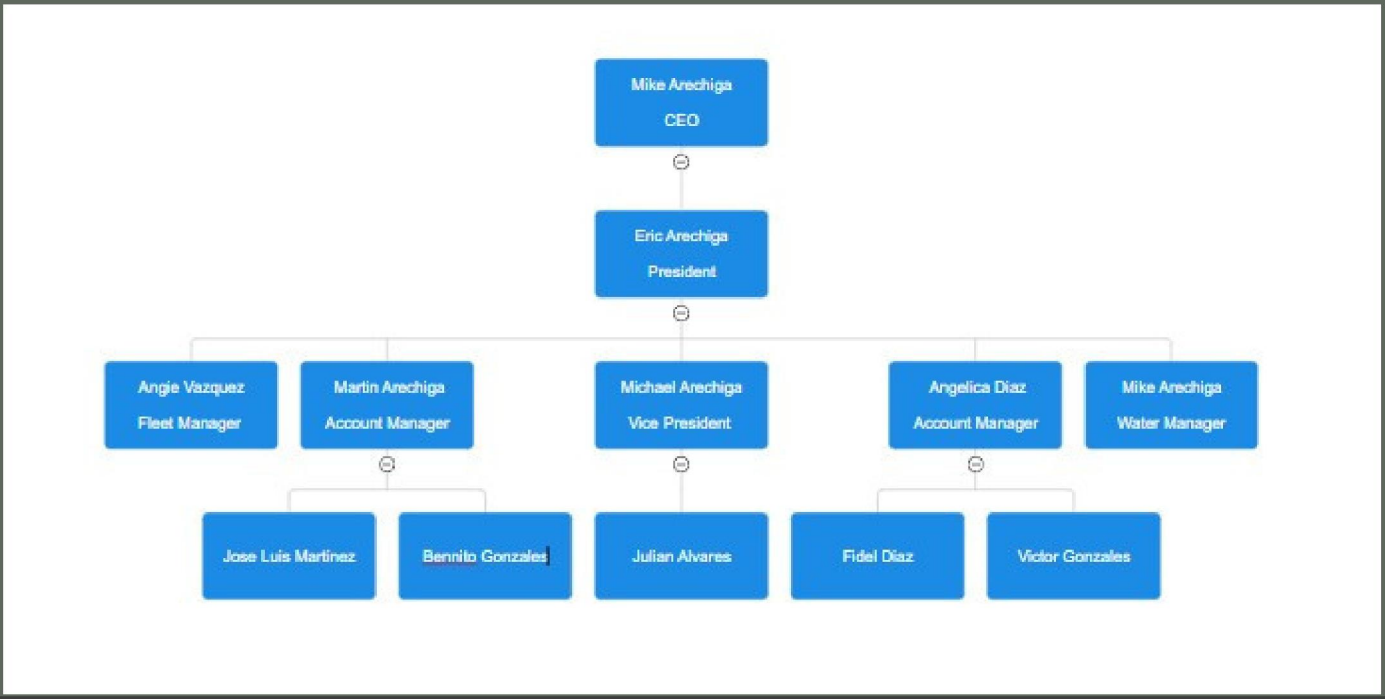
Michael Arechiga, Vice President

Michael oversees landscape construction projects. Michael is a native to the Coachella valley having grown up in Palm Desert. He has over 12 Years of landscape construction experience. Michael is involved in overseeing business development alongside Eric Arechiga. Ensuring a strong future for the organization and clients of AK Landscaping.

Martin Arechiga, Lead Designer

Martin is involved in overseeing the design process of landscape construction Projects. He has worked in landscape design for 10+ years. Working alongside brothers Eric and Michael Arechiga to ensure that all installs are visually pleasing and tolerable of our desert climate. Together they have overseen over 300,000 Square feet of desert landscape conversions since 2022.

Team Organization



Proposed Method to Accomplish the Work

Our approach is designed to meet the City's efforts to expedite task orders while meeting requirements for installation, repairs, maintenance, and enhancements of both parks and/or landscape areas. This approach integrates thorough planning for each individual task ordered. Our team will leverage our expertise and experience in horticulture, landscape design, and project management to deliver high quality results that align with the City's goals and expectations.

It is through the utilization of our diverse and qualified workforce AK landscaping is confident in meeting the performance requirements for the services we offer. Our Full-time account manager will be responsible for coordinating client request to crew leaders. While our experienced foreman's responsibility will be to oversee the scheduling of task to be completed by our work teams. Our work teams are experienced in all areas of landscape and golf maintenance.

Including the following:

- irrigation maintenance, repairs, and installation
- Sod Preparation and installation
- Topdressing
- Median landscape and assessment district Improvements
- Plant material installation
- Mow curb and related concrete improvements
- Small - Large Landscape projects

Position	Hourly Rate
Irrigator	$55.00
Foreman	$60.00
Laborer	$50.00
Supervisor	$75.00

Eric Arechiga

40531 Emerald Cove
Bermuda Dunes, CA 92203
(760) 485-6012
Eric.Aklandscaping@gmail.com

Driven and ambitious recent graduate with a bachelor's Degree in Business Economics. Pursuing additional Associates degrees in TurfGrass Management and Environmental Horticulture. Seeking a career in Landscape Contracting requiring qualities such as leadership, Decision making, Problem solving, management, and Interpersonal Skills.

EXPERIENCE

AK Landscaping, Palm Desert, CA— President

July 2024 - PRESENT

Responsible for steering the company towards its strategic goals and ensuring its long-term success. Tasked with shaping the company's direction, fostering growth, and maintaining high standards of service and operational excellence.

AK Landscaping, Palm Desert, CA— Senior Account Manager/ *Project Manager*

November 2023 - June 2024

Managing and nurturing key client relationships while driving the growth and success of our accounts. Primary point of contact for clients, ensuring their needs are met, expectations are exceeded, and their overall experience with our company is exceptional.

AK Landscaping, Palm Desert, CA— *Account Manager/ Project Manager*

June 2021 - October 2023

Managing client accounts a, ensuring their satisfaction, and driving the success of our projects

AK Landscaping , Palm Desert, CA— *Supervisor*

May 2017- May 2021

EDUCATION

California State University of Fullerton, Fullerton, CA— *Bachelors in Business Economics*

August 2020 - May 2022

College of the Desert, Palm Desert, CA— *Turf Grass Management*

January 2023 - May 2024

College of the Desert, Palm Desert, CA— *Environmental Horticulture*

January 2023 - May 2024

SKILLS

Project Management

Logistics

Problem Solving

Decision Making

Time Management

Interpersonal Communication

Adaptability

Leadership

Achievements

Arborist technician Certification

Landscape & irrigation Technician

Pest Management Technician certificate

Turfgrass management technician certificate

Environmental horticulture certificate

TurfGrass Management Certification

LANGUAGES

English

CITY OF PALM DESERT
MAINTENANCE SERVICES AGREEMENT

1. Parties and Date. This Agreement is made and entered into this **1st** day of **December, 2024**, by and between the City of Palm Desert, a municipal corporation organized under the laws of the State of California with its principal place of business at 73-510 Fred Waring Drive, Palm Desert, California 92260-2578, ("City") and **AK Landscaping**, **a Corporation**, with its principal place of business at **42929 Madio Street, Indio, CA 92201** ("Vendor"). The City and Vendor are sometimes individually referred to herein as "Party" and collectively as "Parties."

2. Recitals.

2.1 Contractor.

Contractor desires to perform and assume responsibility for the provision of certain maintenance services required by the City on the terms and conditions set forth in this Agreement. Contractor represents that it is experienced in providing maintenance services to public clients, that it and its subcontractors have all necessary licenses and permits to perform the services in the State of California, and that it is familiar with the plans of City. Contractor shall not subcontract any portion of the work required by this Agreement, except as expressly stated herein, without prior written approval of City. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement.

2.2 Project.

The City is a public agency of the State of California and is in need of services for the following project:

Parks and Landscape Enhancement Project
Project No. CPK00003
(hereinafter referred to as "the Project").

3. Terms.

3.1 Scope of Services and Term.

3.1.1 General Scope of Services. Contractor promises and agrees to furnish to the City all labor, materials, tools, equipment, services, and incidental and customary work necessary to fully and adequately supply the maintenance services necessary for the Project ("Services"). The Services are more particularly described in Exhibit "A" attached hereto and incorporated herein by reference. All Services shall be subject to, and performed in accordance with, this Agreement, the exhibits attached hereto and incorporated herein by reference, and all applicable local, state, and federal laws, rules and regulations.

3.1.2 Term. The term of this Agreement shall be from December 1, 2024, to June 30, 2027, unless earlier terminated as provided herein. The City shall have the unilateral option, at its sole discretion, to renew this Agreement automatically for no more than 2 additional one-year terms. Contractor shall complete the Services within the term of this Agreement and shall meet any other established schedules and deadlines. The Parties may, by mutual, written consent, extend the term of this Agreement if necessary to complete the Services.

3.2 Responsibilities of Contractor.

3.2.1 Control and Payment of Subordinates; Independent Contractor. The Services shall be performed by Contractor or under its supervision. Contractor will determine the

means, methods, and details of performing the Services subject to the requirements of this Agreement. City retains Contractor on an independent contractor basis and not as an employee. Any personnel performing the Services under this Agreement on behalf of Contractor shall not be employees of City and shall at all times be under Contractor's exclusive direction and control. Contractor shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law. Contractor shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation insurance.

3.2.2 Schedule of Services. Contractor shall perform the Services in a prompt and timely manner in accordance with each Task Order set forth in Exhibit "B" attached hereto and incorporated herein by reference. Contractor represents that it has the professional and technical personnel required to perform the Services in conformance with such conditions. Upon request of City, Contractor shall provide a more detailed schedule of anticipated performance to meet the Schedule of Services.

3.2.3 Conformance to Applicable Requirements. All work prepared by Contractor shall be subject to the approval of City.

3.2.4 City's Representative. The City hereby designates **Brad Chuck, Landscape Supervisor**, or his or her designee, to act as its representative for the performance of this Agreement ("City's Representative"). City's Representative shall have the power to act on behalf of the City for all purposes under this Agreement except for increasing compensation. Contractor shall not accept direction or orders from any person other than the City's Representative or his or her designee.

3.2.5 Contractor's Representative. Contractor hereby designates **Eric Arechiga, President**, or his or her designee, to act as its representative for the performance of this Agreement ("Contractor's Representative"). Contractor's Representative shall have full authority to represent and act on behalf of the Contractor for all purposes under this Agreement. The Contractor's Representative shall supervise and direct the Services, using his best skill and attention, and shall be responsible for all means, methods, techniques, sequences, and procedures and for the satisfactory coordination of all portions of the Services under this Agreement.

3.2.6 Coordination of Services. Contractor agrees to work closely with City staff in the performance of Services and shall be available to City's staff, consultants, and other staff at all reasonable times.

3.2.7 Standard of Care; Performance of Employees. Contractor shall perform all Services under this Agreement in a skillful and competent manner, consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Contractor represents and maintains that it is skilled in the professional calling necessary to perform the Services. Contractor warrants that all employees and subcontractors shall have sufficient skill and experience to perform the Services assigned to them. Finally, Contractor represents that it, its employees, and subcontractors have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services, including a City Business License, and that such licenses and approvals shall be maintained throughout the term of this Agreement. Contractor shall perform, at its own cost and expense and without reimbursement from the City, any services necessary to correct errors or omissions which are caused by the Contractor's failure to comply with the standard of care provided for herein.

Any employee of the Contractor or its sub-contractors who is determined by the City to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any employee who fails or refuses to perform the Services in a manner acceptable to the City, shall be promptly removed from the Project by the Contractor and shall not be re-employed to perform any of the Services or to work on the Project.

3.2.8 Period of Performance and Liquidated Damages. Contractor shall perform and complete all Services under this Agreement within the term set forth in Section 3.1.2 above ("Performance Time"). Contractor shall perform the Services in strict accordance with any completion schedule or Project milestones described in Exhibits "A" or "B" attached hereto, or which may be provided separately in writing to the Contractor. Contractor agrees that if the Services are not completed within the aforementioned Performance Time and/or pursuant to any such completion schedule or Project milestones developed pursuant to provisions of this Agreement, it is understood, acknowledged and agreed that the City will suffer damage. Pursuant to Government Code Section 53069.85, Contractor shall pay to the City as fixed and liquidated damages, and not as a penalty, the sum of Two-Hundred and Fifty Dollars ($250.00) per day for each and every calendar day of delay beyond the Performance Time or beyond any completion schedule or Project milestones established pursuant to this Agreement.

3.2.9 Disputes. Should any dispute arise respecting the true value of any work done, of any work omitted, or of any extra work which Contractor may be required to do or respecting the size of any payment to Contractor during the performance of this Contract, Contractor shall continue to perform the Work while said dispute is decided by the City. If Contractor disputes the City's decision, Contractor shall have such remedies as may be provided by law.

3.2.10 Laws and Regulations; Employee/Labor Certifications. Contractor shall keep itself fully informed of and in compliance with all local, state, and federal laws, rules and regulations in any manner affecting the performance of the Project or the Services, including all Cal/OSHA requirements, and shall give all notices required by law. Contractor shall be liable for all violations of such laws and regulations in connection with the Services and this Agreement. All violations of such laws and regulations shall be grounds for the City to terminate the Agreement for cause. City is a public entity of the State of California subject to certain provisions of the Health & Safety Code, Government Code, Public Contract Code, and Labor Code of the State. It is stipulated and agreed that all provisions of the law applicable to the public contracts of a municipality are a part of this Agreement to the same extent as though set forth herein and will be complied with.

3.2.10.1 Employment Eligibility; Contractor. Contractor certifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time and shall require all subconsultants and sub-subconsultants to comply with the same. Contractor certifies that it has not committed a violation of any such law within the five (5) years immediately preceding the date of execution of this Agreement and shall not violate any such law at any time during the term of the Agreement.

3.2.10.2 Labor Certification. By its signature hereunder, Contractor certifies that it is aware of the provisions of Section 3700 of the California 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 agrees to comply with such provisions before commencing the performance of the Services.

3.2.10.3 Equal Opportunity Employment. Contractor represents that it is an equal opportunity employer, and it shall not discriminate against any subcontractor, employee or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination. Contractor shall comply with all relevant provisions of City's Minority Business Enterprise program, Affirmative Action Plan or other related programs or guidelines currently in effect or hereinafter enacted.

3.2.10.4 Air Quality. Contractor must fully comply with all applicable laws, rules and regulations in furnishing or using equipment and/or providing services, including, but not limited to, emissions limits and permitting requirements imposed by the California Air Resources Board (CARB). Contractor shall specifically be aware of the CARB limits and requirements' application to "portable equipment", which definition is considered by CARB to include any item of equipment with a fuel-powered engine. Contractor shall indemnify City against any fines or penalties imposed by CARB or any other governmental or regulatory agency for violations of applicable laws, rules and/or regulations by Contractor, its subcontractors, or others for whom Contractor is responsible under its indemnity obligations provided for in this Agreement.

3.2.10.5 Water Quality Management and Compliance. To the extent applicable, Contractor's Services must account for, and fully comply with, all local, state and federal laws, rules and regulations that may impact water quality compliance, including, without limitation, all applicable provisions of the Federal Water Pollution Control Act (33 U.S.C. §§ 1300); the California Porter-Cologne Water Quality Control Act (Cal Water Code §§ 13000-14950); laws, rules and regulations of the Environmental Protection Agency and the State Water Resources Control Board; the City's ordinances regulating discharges of storm water; and any and all regulations, policies, or permits issued pursuant to any such authority regulating the discharge of pollutants, as that term is used in the Porter-Cologne Water Quality Control Act, to any ground or surface water in the State. Failure to comply with the laws, regulations and policies described in this Section is a violation of law that may subject Contractor to penalties, fines, or additional regulatory requirements.

3.2.11 Insurance.

3.2.11.1 Minimum Requirements. Without limiting Contractor's indemnification of City, and prior to commencement of the Services, Contractor shall obtain, provide, and maintain at its own expense during the term of this Agreement, policies of insurance of the type and amounts described below and in a form that is satisfactory to City.

(A) General Liability Insurance. Contractor shall maintain commercial general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01, in an amount not less than $1,000,000 per occurrence, $2,000,000 general aggregate, for bodily injury, personal injury, and property damage. The policy must include contractual liability that has not been amended. Any endorsement restricting standard ISO "insured contract" language will not be accepted.

(B) Automobile Liability Insurance. Contractor shall maintain automobile insurance at least as broad as Insurance Services Office form CA 00 01 covering bodily injury and property damage for all activities of the Contractor arising out of or in connection with Work to be performed under this Agreement, including coverage for any owned, hired, non-owned or rented vehicles, in an amount not less than $1,000,000 combined single limit for each

accident. The City's Risk Manager may modify this requirement if it is determined that Consultant will not be utilizing a vehicle in the performance of his/her duties under this Agreement.

(C) Umbrella or Excess Liability Insurance. Contractor may opt to utilize umbrella or excess liability insurance in meeting insurance requirements. In such circumstances, Contractor may obtain and maintain an umbrella or excess liability insurance policy with limits that will provide bodily injury, personal injury, and property damage liability coverage at least as broad as the primary coverages set forth above, including commercial general liability and employer's liability. Such policy or policies shall include the following terms and conditions:

(a) A drop-down feature requiring the policy to respond if any primary insurance that would otherwise have applied proves to be uncollectible in whole or in part for any reason;

(b) Pay on behalf of wording as opposed to reimbursement;

(c) Concurrency of effective dates with primary policies; and

(d) Policies shall "follow form" to the underlying primary policies.

(e) Insureds under primary policies shall also be insureds under the umbrella or excess policies.

(D) Workers' Compensation Insurance. Contractor shall maintain Workers' Compensation Insurance (Statutory Limits) and Employer's Liability Insurance (with limits of at least $1,000,000). Contractor shall submit to City, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of the City, its elected or appointed officers, and their respective agents, officials, employees, volunteers, and representatives.

(E) Fidelity Coverage. Reserved.

(F) Cyber Liability Insurance. Reserved.

a) Liability arising from the theft, dissemination and/or use of confidential or personally identifiable information; including credit monitoring and regulatory fines arising from such theft, dissemination, or use of confidential information.

b) Network security liability arising from the unauthorized use of, access to, or tampering with computer systems.

c) Liability arising from the failure of technology products (software) required under the contract for Vendor to properly perform the services intended.

d) Electronic Media Liability arising from personal injury, plagiarism or misappropriation of ideas, domain name infringement or improper deep-linking or framing, and infringement or violation of intellectual property rights.

e) Liability arising from the failure to render professional services.

If coverage is maintained on a claims-made basis, Contractor shall maintain such coverage for an additional period of three (3) years following termination of the Agreement.

(G) Pollution Liability Insurance. Environmental Impairment Liability Insurance shall be written on a Contractor's Pollution Liability form or other form acceptable to the City providing coverage for liability arising out of sudden, accidental, and gradual pollution and remediation. The policy limit shall be no less than $1,000,000 dollars per claim and in the aggregate. All activities contemplated in this Agreement shall be specifically scheduled on the policy as "covered operations". The policy shall provide coverage for the hauling of waste from the Project site to the final disposal location, including non-owned disposal sites.

3.2.11.2 Other Provisions and Requirements.

(A) Proof of Insurance. Contractor shall provide certificates of insurance to City as evidence of the insurance coverage required herein, along with a waiver of subrogation endorsement for workers' compensation. Insurance certificates and endorsements must be approved by City's Risk Manager prior to commencement of performance. Current certification of insurance shall be kept on file with City at all times during the term of this contract. City reserves the right to require complete, certified copies of all required insurance policies, at any time.

(B) Duration of Coverage. Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the work hereunder by Contractor, his/her agents, representatives, employees, or subconsultants.

(C) Primary/Non-Contributing. Coverage provided by Contractor shall be primary and any insurance or self-insurance procured or maintained by City shall not be required to contribute with it. The limits of insurance required herein may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of City before the City's own insurance or self-insurance shall be called upon to protect it as a named insured.

(D) City's Rights of Enforcement. In the event any policy of insurance required under this Agreement does not comply with these specifications, or is canceled and not replaced, City has the right, but not the duty, to obtain the insurance it deems necessary, and any premium paid by City will be promptly reimbursed by Contractor, or City will withhold amounts sufficient to pay premium from Contractor payments. In the alternative, City may cancel this Agreement.

(E) Acceptable Insurers. All insurance policies shall be issued by an insurance company currently authorized by the Insurance Commissioner to transact business of insurance or is on the List of Approved Surplus Line Insurers in the State of California, with an assigned policyholders' Rating of A- (or higher) and Financial Size Category Class VII (or larger) in accordance with the latest edition of Best's Key Rating Guide, unless otherwise approved by the City's Risk Manager.

(F) Waiver of Subrogation. All insurance coverage maintained or procured pursuant to this agreement shall be endorsed to waive subrogation against the City, its elected or appointed officers, and their respective agents, officials, employees, volunteers, and

representatives, or shall specifically allow Contractor or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. Contractor hereby waives its own right of recovery against the City, its elected or appointed officers, and their respective agents, officials, employees, volunteers, and representatives, and shall require similar written express waivers and insurance clauses from each of its subcontractors.

(G) Enforcement of Contract Provisions (non estoppel). Contractor acknowledges and agrees that any actual or alleged failure on the part of the City to inform Contractor of non-compliance with any requirement imposes no additional obligations on the City nor does it waive any rights hereunder.

(H) Requirements Not Limiting. Requirements of specific coverage features or limits contained in this Section are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be all inclusive, or to the exclusion of other coverage, or a waiver of any type. If the Contractor maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

(I) Notice of Cancellation. Contractor agrees to oblige its insurance agent or broker and insurers to provide City with a thirty (30) day notice of cancellation (except for nonpayment for which a ten (10) day notice is required) or nonrenewal of coverage for each required coverage.

(J) Additional Insured Status. General liability, automobile liability, and if applicable, pollution liability and cyber liability, policies shall provide or be endorsed to provide that the City, its elected or appointed officers, and their respective agents, officials, employees, volunteers, and representatives, shall be additional insureds under such policies. This provision shall also apply to any excess/umbrella liability policies.

(K) Prohibition of Undisclosed Coverage Limitations. None of the coverages required herein will be in compliance with these requirements if they include any limiting endorsement of any kind that has not been first submitted to City and approved of in writing.

(L) Separation of Insureds. A severability of interests provision must apply for all additional insureds ensuring that Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the insurer's limits of liability. The policy(ies) shall not contain any cross-liability exclusions.

(M) Pass Through Clause. Contractor agrees to ensure that its sub-consultants, sub-contractors, and any other party involved with the Project who is brought onto or involved in the project by Contractor, provide the same minimum insurance coverage and endorsements required of Contractor. Contractor agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. Contractor agrees that upon request, all agreements with consultants, subcontractors, and others engaged in the Project will be submitted to City for review.

(N) City's Right to Revise Specifications. The City or its Risk Manager reserves the right at any time during the term of the contract to change the amounts and

types of insurance required by giving the Contractor ninety (90) days advance written notice of such change. If such change results in cost to the Contractor, the City and Contractor may renegotiate Contractor's compensation. If the City reduces the insurance requirements, the change shall go into effect immediately and require no advanced written notice.

(O) Self-Insured Retentions. Any self-insured retentions must be declared to and approved by City. City reserves the right to require that self-insured retentions be eliminated, lowered, or replaced by a deductible. Self-insurance will not be considered to comply with these specifications unless approved by City.

(P) Timely Notice of Claims. Contractor shall give City prompt and timely notice of claims made or suits instituted that arise out of or result from Contractor's performance under this Agreement, and that involve or may involve coverage under any of the required liability policies.

(Q) Additional Insurance. Contractor shall also procure and maintain, at its own cost and expense, any additional kinds of insurance, which in its own judgment may be necessary for its proper protection and prosecution of the work.

3.2.12 Safety. Contractor shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, the Contractor shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be performed. Safety precautions, where applicable, shall include, but shall not be limited to: (A) adequate life protection and lifesaving equipment and procedures; (B) instructions in accident prevention for all employees and subcontractors, such as safe walkways, scaffolds, fall protection ladders, bridges, gang planks, confined space procedures, trenching and shoring, equipment and other safety devices, equipment and wearing apparel as are necessary or lawfully required to prevent accidents or injuries; and (C) adequate facilities for the proper inspection and maintenance of all safety measures.

3.2.13 Bonds.

3.2.13.1 Performance Bond. If required by law or otherwise specifically requested by City in Exhibit "C" attached hereto and incorporated herein by reference, Contractor shall execute and provide to City concurrently with this Agreement a Performance Bond in the amount of the total, not-to-exceed compensation indicated in this Agreement, and in a form provided or approved by the City. If such bond is required, no payment will be made to Contractor until it has been received and approved by the City.

3.2.13.2 Payment Bond. If required by law or otherwise specifically requested by City in Exhibit "C" attached hereto and incorporated herein by reference, Contractor shall execute and provide to City concurrently with this Agreement a Payment Bond in the amount of the total, not-to-exceed compensation indicated in this Agreement, and in a form provided or approved by the City. If such bond is required, no payment will be made to Contractor until it has been received and approved by the City.

3.2.13.3 Bond Provisions. Should, in City's sole opinion, any bond become insufficient, or any surety be found to be unsatisfactory, Contractor shall renew or replace the affected bond within ten (10) days of receiving notice from City. In the event the surety or Contractor intends to reduce or cancel any required bond, at least thirty (30) days prior written

notice shall be given to the City, and Contractor shall post acceptable replacement bonds at least ten (10) days prior to expiration of the original bonds. No further payments shall be deemed due or will be made under this Agreement until any replacement bonds required by this Section are accepted by the City. To the extent, if any, that the total compensation is increased in accordance with the Agreement, the Contractor shall, upon request of the City, cause the amount of the bonds to be increased accordingly and shall promptly deliver satisfactory evidence of such increase to the City. To the extent available, the bonds shall further provide that no change or alteration of the Agreement (including, without limitation, an increase in the total compensation, as referred to above), extensions of time, or modifications of the time, terms, or conditions of payment to the Contractor, will release the surety. If the Contractor fails to furnish any required bond, the City may terminate this Agreement for cause.

3.2.13.4 Surety Qualifications. Only bonds executed by an admitted surety insurer, as defined in Code of Civil Procedure Section 995.120, shall be accepted. The surety must be a California-admitted surety with a current A.M. Best's rating no less than A:VIII and satisfactory to the City. If a California-admitted surety insurer issuing bonds does not meet these requirements, the insurer will be considered qualified if it is in conformance with Section 995.660 of the California Code of Civil Procedure, and proof of such is provided to the City.

3.2.14 Accounting Records. Contractor shall maintain complete and accurate records with respect to all costs and expenses incurred under this Agreement. All such records shall be clearly identifiable. Contractor shall allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement. Contractor shall allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of three (3) years from the date of final payment under this Agreement.

3.2.15 Work Sites.

3.2.15.1 Inspection of Site. Contractor shall visit sites where Services are to be performed and shall become acquainted with all conditions affecting the Services prior to commencing the Services. Contractor shall make such examinations as it deems necessary to determine the condition of the work sites, its accessibility to materials, workmen and equipment, and to determine Contractor's ability to protect existing surface and subsurface improvements. No claim for allowances–time or money–will be allowed as to such matters after commencement of the Services.

3.2.15.2 Field Measurements. Contractor shall make field measurements, verify field conditions, and shall carefully compare such field measurements and conditions and other information known to Contractor with the Contract, including any plans, specifications, or scope of work before commencing Services. Errors, inconsistencies, or omissions discovered shall be reported to the City immediately and prior to performing any Services or altering the condition.

3.2.15.3 Hazardous Materials and Differing Conditions. Should Contractor encounter material reasonably believed to be polychlorinated biphenyl (PCB) or other toxic wastes, hazardous substances and hazardous materials as defined in California state or federal law at the site which have not been rendered harmless, the Contractor shall immediately stop work at the affected area and shall report the condition to the City in writing. The City shall contract for any services required to directly remove and/or abate PCBs, hazardous substances, other toxic wastes, and hazardous materials, and shall not require the Contractor to subcontract for

such services. The Services in the affected area shall not thereafter be resumed except by written agreement of the City and Contractor.

3.2.16 Loss and Damage. Contractor shall be responsible for all loss and damage which may arise out of the nature of the Services agreed to herein, or from the action of the elements, or from any unforeseen difficulties which may arise or be encountered in the prosecution of the Services until the same is fully completed and accepted by City.

3.2.17 Warranty. Contractor warrants all Services under the Agreement (which for purposes of this Section shall be deemed to include unauthorized work which has not been removed and any non-conforming materials incorporated into the work) to be of good quality and free from any defective or faulty material and workmanship. Contractor agrees that for a period of one year (or the period of time specified elsewhere in the Agreement or in any guarantee or warranty provided by any manufacturer or supplier of equipment or materials incorporated into the work, whichever is later) after the date of final acceptance, Contractor shall within ten (10) days after being notified in writing by the City of any defect in the Services or non-conformance of the Services to the Agreement, commence and prosecute with due diligence all Services necessary to fulfill the terms of the warranty at its sole cost and expense. Contractor shall act sooner as requested by the City in response to an emergency. In addition, Contractor shall, at its sole cost and expense, repair and replace any portions of the work (or work of other contractors) damaged by its defective Services or which becomes damaged in the course of repairing or replacing defective work. For any work so corrected, Contractor's obligation hereunder to correct defective work shall be reinstated for an additional one (1) year period, commencing with the date of acceptance of such corrected work. Contractor shall perform such tests as the City may require to verify that any corrective actions, including, without limitation, redesign, repairs, and replacements comply with the requirements of the Agreement. All costs associated with such corrective actions and testing, including the removal, replacement, and reinstitution of equipment and materials necessary to gain access, shall be the sole responsibility of the Contractor. All warranties and guarantees of subcontractors, suppliers, and manufacturers with respect to any portion of the work, whether express or implied, are deemed to be obtained by Contractor for the benefit of the City, regardless of whether or not such warranties and guarantees have been transferred or assigned to the City by separate agreement and Contractor agrees to enforce such warranties and guarantees, if necessary, on behalf of the City. In the event that Contractor fails to perform its obligations under this Section, or under any other warranty or guaranty under this Agreement, to the reasonable satisfaction of the City, the City shall have the right to correct and replace any defective or non-conforming work and any work damaged by such work or the replacement or correction thereof at Contractor's sole expense. Contractor shall be obligated to fully reimburse the City for any expenses incurred hereunder upon demand.

3.3 Fees and Payments.

3.3.1 Compensation. Contractor shall receive compensation, including authorized reimbursements, for all Services rendered under this Agreement at the rates set forth in Exhibit "C" attached hereto and incorporated herein by reference. The maximum compensation for Services to be provided pursuant to each approved Task Order shall be set forth in the relevant Task Order. The total compensation, in the aggregate, shall not exceed **Seven Hundred Fifty Thousand Dollars ($750,000)** without written approval of the City Council or City Manager, as applicable.

3.3.2 Payment of Compensation. Contractor shall submit to City monthly invoices which provides a detailed description of the Services and hours rendered by Contractor. City shall, within thirty (30) days of receiving such statement, review the statement and pay all non-disputed

and approved charges. Contractor shall submit its final invoice to City within thirty (30) days from the last date of provided Services or termination of this Agreement and failure by the Contractor to submit a timely invoice shall constitute a waiver of its right to final payment. Payment shall not constitute acceptance of any Services completed by Contractor. The making of final payment shall not constitute a waiver of any claims by the City for any reason whatsoever.

3.3.2.1 Retainer. From each approved progress estimate, five percent (5%) will be deducted and retained by the City, and the remainder will be paid to Contractor. All Agreement retainage shall be released and paid to the Contractor and subcontractors pursuant to California Public Contract Code Section 7107. Contractor shall furnish City with labor and material releases from all subcontractors performing work on, or furnishing materials for, the work governed by this Agreement prior to final payment by City.

3.3.3 Deductions. City may deduct or withhold, as applicable, from each progress payment an amount necessary to protect City from loss because of: (1) stop payment notices as allowed by state law; (2) unsatisfactory prosecution of the Services by Contractor; (3) sums representing expenses, losses, or damages as determined by the City, incurred by the City for which Contractor is liable under the Agreement; and (4) any other sums which the City is entitled to recover from Contractor under the terms of the Agreement or pursuant to state law, including Section 1727 of the California Labor Code. The failure by the City to deduct any of these sums from a progress payment shall not constitute a waiver of the City's right to such sums.

3.3.4 Reimbursement for Expenses. Contractor shall not be reimbursed for any expenses unless authorized in writing by City.

3.3.5 Extra Work. At any time during the term of this Agreement, City may request that Contractor perform Extra Work. As used herein, “Extra Work” means any work which is determined by City to be necessary for the proper completion of the Project, but which the parties did not reasonably anticipate would be necessary at the execution of this Agreement. Contractor shall not perform, nor be compensated for, Extra Work without written authorization from City’s Representative.

3.3.6 Prevailing Wages. Contractor is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., (“Prevailing Wage Laws”), which require the payment of prevailing wage rates and the performance of other requirements on “public works” and “maintenance” projects. If the Services are being performed as part of an applicable “public works” or “maintenance” project, as defined by the Prevailing Wage Laws, and if the total compensation is $15,000 or more, Contractor agrees to fully comply with such Prevailing Wage Laws. City shall provide Contractor with a copy of the prevailing rates of per diem wages in effect at the commencement of this Agreement. Contractor shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request and shall post copies at the Contractor’s principal place of business and at the Project site. Contractor shall defend, indemnify, and hold the City, its elected or appointed officers, and their respective agents, officials, employees, volunteers and representatives free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. It shall be mandatory upon the Contractor and all subcontractors to comply with all California Labor Code provisions, which include but are not limited to prevailing wages (Labor Code Sections 1771, 1774 and 1775), employment of apprentices (Labor Code Section 1777.5), certified payroll records (Labor Code Sections 1771.4 and 1776), hours of labor (Labor Code Sections 1813 and 1815) and debarment of contractors and subcontractors (Labor Code Section 1777.1). The requirement to submit certified payroll

records directly to the Labor Commissioner under Labor Code section 1771.4 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Section 1771.4.

3.3.7 Registration/DIR Compliance. If the Services are being performed as part of an applicable "public works" or "maintenance" project, and if the total compensation is $15,000 or more, then pursuant to Labor Code Sections 1725.5 and 1771.1, the Contractor and all subcontractors performing such Services must be registered with the Department of Industrial Relations. Contractor shall maintain registration for the duration of the Project and require the same of any subcontractors, as applicable. This Project may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Contractor's sole responsibility to comply with all applicable registration and labor compliance requirements. Any stop orders issued by the Department of Industrial Relations against Contractor or any subcontractor that affect Contractor's performance of Services, including any delay, shall be Contractor's sole responsibility. Any delay arising out of or resulting from such stop orders shall be considered Contractor caused delay and shall not be compensable by the City. Contractor shall defend, indemnify, and hold the City, its elected or appointed officers, and their respective agents, officials, employees, volunteers, and representatives free and harmless from any claim or liability arising out of stop orders issued by the Department of Industrial Relations against Contractor or any subcontractor.

3.4 Termination of Agreement.

3.4.1 Grounds for Termination. City may, by written notice to Contractor, terminate the whole or any part of this Agreement at any time and without cause by giving written notice to Contractor of such termination, and specifying the effective date thereof, at least seven (7) days before the effective date of such termination. Upon termination, Contractor shall be compensated only for those Services which have been adequately rendered to City, and Contractor shall be entitled to no further compensation. Contractor may not terminate this Agreement except for cause.

3.4.2 Conflict of Interest. The Contractor covenants that any and all relationships with construction firms that may submit bids for projects developed under this agreement will require full disclosure of any direct or indirect conflicts of interest, financial interests, relationships, and the nature of any relationships with any related project bid submitters; and that any violation of this provision may result in the immediate termination of the Agreement

3.4.3 Effect of Termination. If this Agreement is terminated as provided herein, City may require Contractor to provide all finished or unfinished information of any kind prepared by Contractor in connection with the performance of Services under this Agreement. Contractor shall be required to provide such document and other information within fifteen (15) days of the request.

3.4.4 Additional Services. In the event this Agreement is terminated in whole or in part as provided herein, City may procure, upon such terms and in such manner as it may determine appropriate, services similar to those terminated.

3.5 General Provisions.

3.5.1 Delivery of Notices. All notices permitted or required under this Agreement shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

Contractor: AK Landscaping
42929 Madio Street
Indio, CA 92201
ATTN: Eric Arechiga, President

City: City of Palm Desert
73-510 Fred Waring Drive
Palm Desert, CA 92260-2578
ATTN: Brad Chuck, Landscape Supervisor

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

3.5.2 Indemnification.

3.5.2.1 Scope of Indemnity. To the fullest extent permitted by law, Contractor shall defend, indemnify and hold the City, its elected or appointed officers, and their respective agents, officials, employees, volunteers and representatives free and harmless from any and all claims, demands, causes of action, suits, actions, proceedings, costs, expenses, liability, judgments, awards, decrees, settlements, loss, damage or injury of any kind, in law or equity, regardless of whether the allegations are false, fraudulent, or groundless, to property or persons, including wrongful death, (collectively, "Claims") in any manner arising out of, pertaining to, or incident to any acts, errors or omissions, or willful misconduct of Contractor, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Services, the Project or this Agreement, including without limitation the payment of all expert witness fees, attorneys' fees and other related costs and expenses except such Claims caused by the sole or active negligence or willful misconduct of the City.

3.5.2.2 Additional Indemnity Obligations. Contractor shall defend, with counsel of City's choosing and at Contractor's own cost, expense, and risk, any and all Claims covered by this section that may be brought or instituted against the City, its elected or appointed officers, and their respective agents, officials, employees, volunteers and representatives. In addition, Contractor shall pay and satisfy any judgment, award or decree that may be rendered against the City, its elected or appointed officers, and their respective agents, officials, employees, volunteers, and representatives as part of any such claim, suit, action, or other proceeding. Contractor shall also reimburse City for the cost of any settlement paid by the City, its elected or appointed officers, and their respective agents, officials, employees, volunteers, and representatives as part of any such claim, suit, action, or other proceeding. Such reimbursement shall include payment for City's attorney's fees and costs, including expert witness fees. Contractor shall reimburse the City, its elected or appointed officers, and their respective agents, officials, employees, volunteers, and representatives, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Contractor's obligation to indemnify shall survive expiration or termination of this Agreement, and shall not be restricted to insurance proceeds, if any, received by the Contractor, the City, its elected or appointed officers, and their respective agents, officials, employees, volunteers, and representatives.

3.5.3 Governing Law; Government Code Claim Compliance. This Agreement shall be governed by the laws of the State of California. Venue shall be in Riverside County. In addition

to any and all Agreement requirements pertaining to notices of and requests for compensation or payment for extra work, disputed work, claims and/or changed conditions, Contractor must comply with the claim procedures set forth in Government Code sections 900 et seq. prior to filing any lawsuit against the City. Such Government Code claims, and any subsequent lawsuit based upon the Government Code claims shall be limited to those matters that remain unresolved after all procedures pertaining to extra work, disputed work, claims, and/or changed conditions have been followed by Contractor. If no such Government Code claim is submitted, or if any prerequisite contractual requirements are not otherwise satisfied as specified herein, Contractor shall be barred from bringing and maintaining a valid lawsuit against the City.

3.5.4 Time of Essence. Time is of the essence for each and every provision of this Agreement.

3.5.5 City's Right to Employ Other Contractors. City reserves right to employ other contractors in connection with this Project.

3.5.6 Successors and Assigns. This Agreement shall be binding on the successors and assigns of the parties.

3.5.7 Assignment or Transfer. Contractor shall not assign, hypothecate, or transfer, either directly or by operation of law, this Agreement or any interest herein without the prior written consent of the City. Any attempt to do so shall be null and void, and any assignees, hypothecates or transferees shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer.

3.5.8 Construction; References; Captions. Since the Parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party. Any term referencing time, days or period for performance shall be deemed calendar days and not workdays. All references to Contractor include all personnel, employees, agents, and subcontractors of Contractor, except as otherwise specified in this Agreement. All references to the City include its elected or appointed officers, and their respective agents, officials, employees, volunteers, and representatives except as otherwise specified in this Agreement. The captions of the various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, or intent of this Agreement.

3.5.9 Amendment; Modification. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

3.5.10 Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel or otherwise.

3.5.11 No Third-Party Beneficiaries. Except to the extent expressly provided for in Section 3.5.7, there are no intended third-party beneficiaries of any right or obligation assumed by the Parties.

3.5.12 Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

3.5.13 Prohibited Interests. Contractor maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this Agreement. Further, Contractor warrants that it has not paid, nor has it agreed to pay any company or person, other than a bona fide employee working solely for Contractor, any fee, commission, percentage, brokerage fee, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, City shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer, or employee of City, during the term of his or her service with City, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

3.5.14 Cooperation; Further Acts. The Parties shall fully cooperate with one another and shall take any additional acts or sign any additional documents as may be necessary, appropriate or convenient to attain the purposes of this Agreement.

3.5.15 Authority to Enter Agreement. Contractor has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each Party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and bind each respective Party.

3.5.16 Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

3.5.17 Entire Agreement. This Agreement contains the entire Agreement of the parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings, or agreements. This Agreement may only be modified by a writing signed by both parties.

[SIGNATURES ON NEXT PAGE]

Contract No. _____

SIGNATURE PAGE TO MAINTENANCE SERVICES AGREEMENT BY AND BETWEEN THE CITY OF PALM DESERT AND AK LANDSCAPING

IN WITNESS WHEREOF, each of the Parties has caused this Agreement to be executed on the day and year first above written.

CITY OF PALM DESERT

By: _____

L. Todd Hileman
City Manager

Attest:

By: _____

Anthony J. Mejia
City Clerk

Approved as to form:

By: _____

Isra Shah
Best Best & Krieger LLP
City Attorney

AK LANDSCAPING, A CORPORATION

By: _____

Mike Arechiga
CEO

By: _____

Eric Arechiga
President

754934
Contractor's License Number and Classification

_____
DIR Registration Number (*if applicable*)

City Clerk QC: _____

Contracts QC: _____

Insurance:

_____
Initial Review

_____
Final Approval

_____
Bonds

EXHIBIT "A"

SCOPE OF SERVICES

The Proposer to be knowledgeable in the installation, repair, and maintenance of the following park and landscape items:

- Landscape and Irrigation maintenance, repair, and installation
- Sod preparation and installation
- Topdressing of sports turf
- Park amenities material installation (sand volleyball courts, baseball infields, etc.)
- Minor playground repairs
- Park site furnishing repairs and installation
- Medians landscape improvements
- Assessment Districts improvements
- Tree and shrub planting
- Mow curb and related concrete repairs
- Installation of cobble and inorganics
- Proper traffic control as defined in the WATCH handbook
- Small scale landscape projects

The scope of services is not limited to the items listed above. In addition, more detailed work may be required, such as installation and programming of Smart Controllers, troubleshooting faulty irrigation wires, repairing and programming two-wire irrigation systems, leveling and grading, and other specialty work associated with park and landscape maintenance

The City intends to award the contract as a 3-year agreement with an option of (2) one-year extensions, subject to funding availability and City Council approval. The Agreement shall not exceed Seven Hundred Fifty Thousand Dollars ($750,000.00) per fiscal year for performance of said Services.

No Services shall be performed by the Contractor unless authorized by the City and by a fully executed Task Order.

EXHIBIT "B" TASK ORDER FORM SAMPLE

CITY OF PALM DESERT
TASK ORDER

Contract No / P.O. #:		
Change/Task Order No.:		
Task Order Bonds Needed?:	☐ YES	☐ NO
Contingency:	☐ YES	☐ NO
Account No.:		
Project No.:		
Vendor No.:		

Contract Purpose: _____

Contractor Name: _____

Contractor shall construct, furnish all supervision, labor, services, equipment, and materials, and perform all work necessary or required to fully complete the changes to the Contract described hereinto for the amount agreed upon between the Contractor and the City of Palm Desert ("City").

Description of Changes	**Decrease** In Contract Price	**Increase** In Contract Price
Totals:	$ 0.00	$ 0.00
Net Change in Contract Price:		$ 0.00

Justification:

Original Contract Amount:	+	
Contingency:	+	
Total Budget Amount:		$ 0.00
Less: Expend. / Encumb. To Date:	-	$ 0.00
Less: This Change Order Amount:	-	$ 0.00
Remaining for Project:		$ 0.00

Contingency:	+	
Less: Prior Change/Task Order(s):	-	
Less: This Change/Task Order:	-	$ 0.00
Remaining of Contingency:		$ 0.00

This Task Order Totals:

_____ dollars and ___/100 ($ 0.00)

Task Order Total: $ 0.00

EXHIBIT "B" TASK ORDER FORM SAMPLE

Continued from Front

Contract No. _____ Task Order No.:

Estimated Completion Date: _____

Contractor accepts the terms and conditions stated above as full and final settlement of any and all claims arising out of or related to the subject of this Task Order and acknowledges that the compensation (time and cost) set forth herein comprises the total compensation due for the work or change defined in the Task Order, including all impact on any unchanged work. Execution of this Task Order by the Contractor constitutes a binding accord and satisfaction that fully satisfies, waives, and releases the City from all claims, demands, costs, and liabilities, in contract, law or equity, arising out of or related to the subject of the Task Order, whether known or unknown, including but not limited to direct and indirect costs and/or damages for delay, disruption, acceleration, loss of productivity, and stacking of trades, as well as any and all consequential damages. The adjustments to the Contract Price and Contract Time in this Task Order constitute the entire compensation and/or adjustment thereto due to Contractor, including but not limited to all direct, indirect, consequential, profit, labor, equipment, tools, idle time, incidentals, and overhead (field and home office) costs, due to Contractor arising out of or related to the change in the work covered by this Task Order. The Contractor hereby releases and agrees to waive all rights, without exception or reservation of any kind whatsoever, to file any further claim or request for equitable adjustment of any type, for any reasonably foreseeable cause that shall arise out of, or as a result of, this Task Order and/or its impact on the remainder of the work under the Contract. This Task Order will become a supplement to the Contract and all provisions will apply hereto.

1. REQUESTED BY:	_____ Department Director	2. ACCEPTED BY:	_____ Contractor
3. CERTIFIED FUNDS AVAILABLE	_____ Finance Director	4. APPROVED BY:	_____ City Manager

NOTE: No payments will be made prior to City Manager or Council approval

QC: _____

Bonds: _____

EXHIBIT "C"

COMPENSATION

In the event that this Agreement is renewed pursuant to Section 3.1.2, the rates set forth above may be increased or reduced each year at the time of renewal, but any increase shall not exceed the Consumer Price Index, All Urban Consumers, Los Angeles-Riverside-Orange Counties. The City and Contractor may review the CPI on an annual basis and recommend adjustments to the City Manager or City Council for approval. Any increase shall not exceed the Consumer Price Index.

The maximum compensation for Services to be provided pursuant to each Task Order shall be set forth in the relevant Task Order. The total compensation, in the aggregate, shall not exceed **Seven Hundred Fifty Thousand Dollars ($750,000)** without written approval of the City Council or City Manager, as applicable.

Pricing schedule is as follows:

Position	Hourly Rate
Irrigator	$55.00
Foreman	$60.00
Laborer	$50.00
Supervisor	$75.00

PERFORMANCE BOND

KNOW ALL PERSONS BY THESE PRESENTS:

THAT WHEREAS, the City of Palm Desert (hereinafter referred to as "City") has awarded to **AK Landscaping**, (hereinafter referred to as the "Contractor") an agreement for Parks and Landscape Enhancement Project (hereinafter referred to as the "Project").

WHEREAS, the work to be performed by the Contractor is more particularly set forth in the Contract Documents for the Project dated December 1, 2024, (hereinafter referred to as "Contract Documents"), the terms and conditions of which are expressly incorporated herein by reference; and

WHEREAS, the Contractor is required by said Contract Documents to perform the terms thereof and to furnish a bond for the faithful performance of said Contract Documents.

NOW, THEREFORE, we, **AK Landscaping**, the undersigned Contractor and _____ as Surety, a corporation organized and duly authorized to transact business under the laws of the State of California, are held and firmly bound unto the City in the sum of Seven Hundred Fifty Thousand Dollars, ($$750,000), said sum being not less than one hundred percent (100%) of the total amount of the Contract, for which amount well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that, if the Contractor, his or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and agreements in the Contract Documents and any alteration thereof made as therein provided, on its part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their intent and meaning; and shall faithfully fulfill all obligations including the one-year guarantee of all materials and workmanship; and shall indemnify and save harmless the City, its elected or appointed officers, and their respective agents, officials, employees, volunteers and representatives, as stipulated in said Contract Documents, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

As a condition precedent to the satisfactory completion of the Contract Documents, unless otherwise provided for in the Contract Documents, the above obligation shall hold good for a period of one (1) year after the acceptance of the work by City, during which time if Contractor shall fail to make full, complete, and satisfactory repair and replacements and totally protect the City from loss or damage resulting from or caused by defective materials or faulty workmanship, Surety shall undertake and faithfully fulfill all such obligations. The obligations of Surety hereunder shall continue so long as any obligation of Contractor remains. Nothing herein shall limit the City's rights or the Contractor or Surety's obligations under the Contract, law, or equity, including, but not limited to, California Code of Civil Procedure section 337.15.

Whenever Contractor shall be, and is declared by the City to be, in default under the Contract Documents, the Surety shall remedy the default pursuant to the Contract Documents, or shall promptly, at the City's option:

(1) Take over and complete the Project in accordance with all terms and conditions in the Contract Documents; or

(2) Obtain a bid or bids for completing the Project in accordance with all terms and conditions in the Contract Documents and upon determination by Surety of the lowest responsive and responsible bidder, arrange for a Contract between such bidder, the Surety and the City, and make available as work progresses sufficient funds to pay the cost of completion of the Project, less the balance of the contract price, including other costs and damages for which Surety may be liable. The term "balance of the contract price" as used in this paragraph shall mean the total amount payable to Contractor by the City under the Contract and any modification thereto, less any amount previously paid by the City to the Contractor and any other set offs pursuant to the Contract Documents.

(3) Permit the City to complete the Project in any manner consistent with local, California and federal law and make available as work progresses sufficient funds to pay the cost of completion of the Project, less the balance of the contract price, including other costs and damages for which Surety may be liable. The term "balance of the contract price" as used in this paragraph shall mean the total amount payable to Contractor by the City under the Contract and any modification thereto, less any amount previously paid by the City to the Contractor and any other set offs pursuant to the Contract Documents.

Surety expressly agrees that the City may reject any contractor or subcontractor which may be proposed by Surety in fulfillment of its obligations in the event of default by the Contractor.

Surety shall not utilize Contractor in completing the Project nor shall Surety accept a bid from Contractor for completion of the Project if the City, when declaring the Contractor in default, notifies Surety of the City's objection to Contractor's further participation in the completion of the Project.

The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract Documents or to the Project to be performed thereunder shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract Documents or to the Project, including but not limited to the provisions of sections 2819 and 2845 of the California Civil Code.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, we have hereunto set our hands and seals this _____ day of _____, 20____.

(Corporate Seal)

Contractor/ Principal

By_____

Printed name: _____

Title: _____

(Corporate Seal) Surety

By: _____

Printed Name: _____

Attorney-in-Fact

(Attach Attorney-in-Fact Certificate)

Signatures of those signing for the Contractor and Surety must be notarized and evidence of corporate authority attached.

The rate of premium on this bond is _____ per thousand. The total amount of premium charges, $_____.

(The above must be filled in by corporate attorney.)

THIS IS A REQUIRED FORM

Any claims under this bond may be addressed to:

(Name and Address of Surety)

(Name and Address of Agent or Representative for service of process in California, if different from above)

(Telephone number of Surety and Agent or Representative for service of process in California)

NOTE: A copy of the Power-of-Attorney authorizing the person signing on behalf of the Surety to

do so must be attached hereto.

Contract No. _____

Notary Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF _____

On _____, 20___, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

CAPACITY CLAIMED BY SIGNER

- ☐ Individual
- ☐ Corporate Officer

_____
Title(s)

- ☐ Partner(s) ☐ Limited ☐ General
- ☐ Attorney-In-Fact
- ☐ Trustee(s)
- ☐ Guardian/Conservator
- ☐ Other:

Signer is representing:
Name Of Person(s) Or Entity(ies)

_____

_____

DESCRIPTION OF ATTACHED DOCUMENT

_____
Title or Type of Document

_____
Number of Pages

_____
Date of Document

_____
Signer(s) Other Than Named Above

NOTE: This acknowledgment is to be completed for Contractor/Principal.

~~Contract No. _____~~

Notary Acknowledgment

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STATE OF CALIFORNIA

COUNTY OF _____

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I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

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- ☐ Individual
- ☐ Corporate Officer

_____
Title(s)

- ☐ Partner(s) ☐ Limited ☐ General
- ☐ Attorney-In-Fact
- ☐ Trustee(s)
- ☐ Guardian/Conservator
- ☐ Other:

Signer is representing:
Name Of Person(s) Or Entity(ies)

_____
_____

DESCRIPTION OF ATTACHED DOCUMENT

_____
Title or Type of Document

_____
Number of Pages

_____
Date of Document

_____
Signer(s) Other Than Named Above

NOTE: This acknowledgment is to be completed for the Attorney-in-Fact. The Power-of-Attorney to local representatives of the bonding company must also be attached.

Contract No. _____

PAYMENT BOND

KNOW ALL PERSONS BY THESE PRESENTS That

WHEREAS, the City of Palm Desert (hereinafter designated as the "City"), by action taken or a resolution passed October 24, 2024, has awarded to **AK Landscaping**, hereinafter designated as the "Principal," a contract for the work described as follows:

Parks and Landscape Enhancement Project (the "Project").; and

WHEREAS, the work to be performed by the Principal is more particularly set forth in the Contract Documents for the Project dated December 1, 2024, ("Contract Documents"), the terms and conditions of which are expressly incorporated by reference; and

WHEREAS, said Principal is required to furnish a bond in connection with said contract; providing that if said Principal or any of its Subcontractors shall fail to pay for any materials, provisions, provender, equipment, or other supplies used in, upon, for or about the performance of the work contracted to be done, or for any work or labor done thereon of any kind, or for amounts due under the Unemployment Insurance Code or for any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of said Principal and its Subcontractors with respect to such work or labor the Surety on this bond will pay for the same to the extent hereinafter set forth.

NOW THEREFORE, we, the Principal and _____ as Surety, are held and firmly bound unto the City in the penal sum of Seven Hundred Fifty Thousand Dollars, ($750,000) lawful money of the United States of America, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that if said Principal, his or its subcontractors, heirs, executors, administrators, successors or assigns, shall fail to pay any of the persons named in Section 9100 of the Civil Code, fail to pay for any materials, provisions or other supplies, used in, upon, for or about the performance of the work contracted to be done, or for any work or labor thereon of any kind, or amounts due under the Unemployment Insurance Code with respect to work or labor performed under the contract, or for any amounts required to be deducted, withheld, and paid over to the Employment Development Department or Franchise Tax Board from the wages of employees of the contractor and his subcontractors pursuant to Section 18663 of the Revenue and Taxation Code, with respect to such work and labor the Surety or Sureties will pay for the same, in an amount not exceeding the sum herein above specified, and also, in case suit is brought upon this bond, all litigation expenses incurred by City in such suit, including reasonable attorneys' fees, court costs, expert witness fees and investigation expenses.

This bond shall inure to the benefit of any of the persons named in Section 9100 of the Civil Code so as to give a right of action to such persons or their assigns in any suit brought upon this bond.

It is further stipulated and agreed that the Surety on this bond shall not be exonerated or released from the obligation of this bond by any change, extension of time for performance, addition, alteration or modification in, to, or of any contract, plans, specifications, or agreement pertaining or relating to any scheme or work of improvement herein above described, or pertaining or relating to the furnishing of labor, materials, or equipment therefore, nor by any change or modification of any terms of payment or extension of the time for any payment pertaining or

relating to any scheme or work of improvement herein above described, nor by any rescission or attempted rescission of the contract, agreement or bond, nor by any conditions precedent or subsequent in the bond attempting to limit the right of recovery of claimants otherwise entitled to recover under any such contract or agreement or under the bond, nor by any fraud practiced by any person other than the claimant seeking to recover on the bond and that this bond be construed most strongly against the Surety and in favor of all persons for whose benefit such bond is given, and under no circumstances shall Surety be released from liability to those for whose benefit such bond has been given, by reason of any breach of contract between the owner or City and original contractor or on the part of any obligee named in such bond, but the sole conditions of recovery shall be that claimant is a person described in Section 9100 of the Civil Code, and has not been paid the full amount of his claim and that Surety does hereby waive notice of any such change, extension of time, addition, alteration or modification herein mentioned and the provisions of sections 2819 and 2845 of the California Civil Code.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, we have hereunto set our hands and seals this _____ day of _____, 20__.

(Corporate Seal)

Contractor/ Principal

By_____

Printed name: _____

Title: _____

(Corporate Seal) Surety

By: _____

Printed Name: _____

Attorney-in-Fact

(Attach Attorney-in-Fact Certificate)

Signatures of those signing for the Contractor and Surety must be notarized and evidence of corporate authority attached. A Power-of-Attorney authorizing the person signing on behalf of the Surety to do so much be attached hereto.

NOTE: A copy of the Power-of-Attorney authorizing the person signing on behalf of the Surety to do so must be attached hereto.

~~Contract No. _____~~

Notary Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF _____

On _____, 20___, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

CAPACITY CLAIMED BY SIGNER

- ☐ Individual
- ☐ Corporate Officer

_____
Title(s)

- ☐ Partner(s)
  - ☐ Limited
  - ☐ General
- ☐ Attorney-In-Fact
- ☐ Trustee(s)
- ☐ Guardian/Conservator
- ☐ Other:

Signer is representing:
Name Of Person(s) Or Entity(ies)

_____
_____

DESCRIPTION OF ATTACHED DOCUMENT

_____
Title or Type of Document

_____
Number of Pages

_____
Date of Document

_____
Signer(s) Other Than Named Above

NOTE: This acknowledgment is to be completed for Contractor/Principal.

Contract No. _____

Notary Acknowledgment

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STATE OF CALIFORNIA

COUNTY OF _____

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I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

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_____
Title(s)

- ☐ Partner(s) ☐ Limited ☐ General
- ☐ Attorney-In-Fact
- ☐ Trustee(s)
- ☐ Guardian/Conservator
- ☐ Other:

Signer is representing:
Name Of Person(s) Or Entity(ies)

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DESCRIPTION OF ATTACHED DOCUMENT

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Title or Type of Document

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Number of Pages

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Date of Document

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_____
Signer(s) Other Than Named Above

NOTE: This acknowledgment is to be completed for the Attorney-in-Fact. The Power-of-Attorney to local representatives of the bonding company must also be attached.

City of Palm Desert
PW - Operations & Maintenance
Randy Chavez, Deputy Director
73-510 Fred Waring Drive, Palm Desert, CA 92260

[EXCEL LANDSCAPE INC.] RESPONSE DOCUMENT REPORT

RFP No. 2024-RFP-132

Parks And Landscape Enhancement Project

RESPONSE DEADLINE: September 4, 2024 at 5:00 pm

Report Generated: Tuesday, September 10, 2024

Excel Landscape Inc. Response

CONTACT INFORMATION

Company:
Excel Landscape Inc.

Email:
marty@excellandscape.com

Contact:
Marty Fox

Address:
1185 Magnolia Ave. Ste E400
Corona, CA 92879

Phone:
N/A

Website:
N/A

Submission Date:
Sep 3, 2024 2:57 PM (Pacific Time)

ADDENDA CONFIRMATION

Addendum #1
Confirmed Sep 3, 2024 7:25 PM by Marty Fox

QUESTIONNAIRE

1. Proposal (WITHOUT COST)*

Proposals shall be concise, well organized and demonstrate qualifications and applicable experience. Proposals shall be organized and include page numbers for all pages in the proposal. The proposal shall be uploaded here, in the following order and shall include:

A. Cover Letter

1. This letter should briefly introduce the firm, summarize the firm's general qualifications, include an executive summary of the specific approach which will be used to deliver the work scope; and identify the individual(s) name, address and phone number authorized to negotiate Agreement terms and compensation.

B. Experience and Technical Competence

1. Background: Provide history of the firm's consulting experience which specifically addresses the individual or firm's experience with similar Service as described in this RFP.
2. References: The proposal shall include a list of recently completed projects that are similar in scope and function to this RFP. Provide a description of the project, client name, and the name, title, and telephone number of the primary contact person.

C. Firm Staffing and Key Personnel

1. Staffing: Provide the number of staff to be assigned to perform the Services and the names/discipline/job title of each as well as your firm's capacity to provide additional personnel as needed.

2. Key Personnel: Identify key persons that will be principally responsible for working with the City. Indicate the role and responsibility of each individual.
3. Team Organization: Describe proposed team organization, including identification and responsibilities of key personnel.
4. Subcontractors: The Proposer shall identify functions that are likely to be subcontracted and identify the subcontractor that is anticipated to perform each function.

D. Proposed Method to Accomplish the Work

1. Describe the technical and management approach to providing the Services to the City. Proposer should take into account the scope of the Services, and general functions required. Include a draft first year schedule of tasks, milestones, and deliverables that will provide for timely provision of the Services. In reviewing the scope of Services and goals described herein, the Proposer may identify additional necessary tasks and is invited to bring these to the City's attention within the discussion of its proposed method to accomplish the work.

Proposal_Final.pdf

2. Fee Proposal*

The fee proposal shall include hourly rates for all personnel for "Additional Work" (as such term is defined in the proposed Agreement attached herein). Please provide hourly rates for the following positions at a minimum: Irrigator, Foreman, Laborer, Supervisor.

Fee_Proposal.pdf

3. Non-Collusion Declaration*

The undersigned declares:

I am an authorized representative of my company, the party making the foregoing Bid, to certify the following.

The Bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation. The Bid is genuine and not collusive or sham. The Bidder has not directly or indirectly induced or solicited any other Bidder to put in a false or sham bid. The Bidder has not directly or indirectly colluded, conspired, connived, or agreed with any Bidder or anyone else to put in a sham bid, or to refrain from bidding. The Bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the Bid Price of the Bidder or any other Bidder, or to fix any overhead, profit, or cost

element of the Bid Price, or of that of any other Bidder. All statements contained in the Bid are true. The Bidder has not, directly or indirectly, submitted his or her Bid Price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid, and has not paid, and will not pay, any person or entity for such purpose.

Any person executing this declaration on behalf of a Bidder that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that he or she has full power to execute, and does execute, this declaration on behalf of the Bidder.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Confirmed

4. Enter your valid CA Contractors State License Board (CSLB) number*

Please enter your License Number here. This will be verified against the state database.

694553

Click to Verify *Value will be copied to clipboard*

5. Enter your California Department of Industrial Relations (DIR) Registration number*

Please enter your Public Works Contractor DIR Number. This will be verified against the state database.

1000007099

Click to Verify *Value will be copied to clipboard*

6. Type of Business*

S Corporation (if corporation, two signatures are required)

7. Litigation*

Provide litigation history for any claims filed by your firm or against your firm related to the provision of Services in the last five (5) years (or type "N/A").

N/A

8. Changes to Agreement*

The City standard professional services agreement contract is included as an attachment herein. The Proposer shall identify any objections to and/or request changes to the standard contract language in this section of the proposal (or type "N/A"). If you are identifying changes here ***ALSO*** upload a copy of the redlined Language/Agreement with your Proposal. Changes requested may effect theCity's decision to enter into an Agreement.

N/A

9. No Deviations from the RFP*

In submitting a proposal in response to this RFP, Proposer is certifying that it takes no exceptions to this RFP including, but not limited to, the Agreement. If any exceptions are taken, such exceptions must be clearly noted here, and may be reason for rejection of the proposal. As such, Proposer is directed to carefully review the proposed Agreement and, in particular, the insurance and indemnification provisions therein (or type "N/A").

Maximum response length: 5000 characters

N/A

10. Project Team Resumes*

Submit resumes of all key personnel/support staff that will produce work product for the Services. Describe their qualifications, education, and professional licensing.

RESUME_JASON.pdf

11. List the Signatory(s) Authorized to Sign and Bind an Agreement.*

(If two (2) signatures are required, include the following information for both signatories)

A. Full Name

B. Title

C. Physical Business Address

D. Email Address

E. Phone Number

Joe Alfaro

President

710 Rimpau St., Corona CA 92879

joe@excellandscape.com

951-735-9650

12. Certification of Proposal: The undersigned hereby submits its proposal and, by doing so, agrees to furnish services in accordance with the Request for Proposal (RFP), and to be bound by the terms and conditions of the RFP.*

Confirmed

REQUEST FOR PROPOSAL



2024 PARKS AND LANDSCAPE ENHANCEMENT PROJECT

Project No. 2024-RFP-132

Prepared by:

EXCEL LANDSCAPE

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2 EXPERIENCE & TECHNICAL COMPETENCE

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5 BONDING & BANK LETTERS

EXCEL LANDSCAPE
710 Rimpau Ave. Suite 108 • Corona, CA 92879-5724
(951) 735-9650 Fax (951) 735-0469 • Lic # 694553

September 4, 2024

City of Palm Desert

73510 Fred Waring Dr.

Palm Desert, CA 92260-2578

Re: Request for Proposal for Parks and landscape enhancement project.

Dear Evaluation Committee,

I would like to thank you for the opportunity to submit our proposal for the above project. In the following pages please find all the information you requested.

Excel Landscape has been providing quality landscape maintenance for municipal customers for more than 40 years. We have a history of long term relationships with those customers, some for more than 20 years. We pride ourselves on those relationships.

We feel that our experience with the City in other projects and our local pool of resources will be a benefit to the city. We hope you will agree and allow us the opportunity to help with the park and landscape enhancement project.

Upon execution of the contract we will provide certificates of insurance for General Liability, Automotive and Workers Compensation, along with Performance, Labor and Material Bonds.

Respectfully,

Jose Alfaro

Jose Alfaro, President

EXPERIENCE & TECHNICAL COMPETENCE

- QUALIFICATIONS
- PERSONNEL
- EQUIPMENT
- EXPERIENCE
- CURRENT OPERATIONS
- SERVICES
- REFERENCES
- CURRENT PROJECTS

QUALIFICATIONS

Licensed C-27 C-61/D-49 Contractor 694553

DIR Registration 1000007099

Licensed Pest Control Advisor

Licensed Pest Control Operator

Licensed Pest Control Applicator

CLIA Certified Water Auditor

CLCA "Expert" Certified Water Manager

Certified Recycled Water Supervisor

Certified Arborist #496

Insured With Best Rated "A"
First National Insurance Company of America

OSHA Compliant

State & Federal Labor Law Compliant

COMPANY PERSONNEL

Excel Landscape takes pride in our loyal staff and strives to provide a work environment that encourages long-term employment, which is why we continue to provide opportunities for the improvement and advancement of our employees.

This is reflected in the low turnover of our staff in an industry where just the opposite is typical. This is an advantage to our larger customers on projects that have permanent full time crews, as the employees become familiar with specific requirements. Staff are trained in the safety aspect of high traffic areas. Bi-weekly tailgate meetings are held featuring safety as the number one focus.

Following is a list of our key personnel.

OWNER/GENERAL MANGER

Jose Alfaro	**45 Years** PCA, QAL & Auditor

PROJECT MANAGERS

Marty Fox	**37 Years** **Landscape Designer,** QAC, Auditor & *
Hector Lopez	**24 Years** QAC, Auditor & *
Jose Alfaro Jr.	**24 Years** QAL, Water Manager, * Rainmaster & Calsense Certified
Jason Alfaro	**16 Years** QAL, Water Manager, Auditor & *

SUPERVISORS

Luis Silva	**13 Years**
Jorge Gasca*	**14 Years**
Gerardo Cardenas	**23 Years**
Oscar Farias	**26 Years**
Justino Murillo	**25 Years**
Vostok Bernal	**32 Years**
Arturo Serrato	**26 Years**
Jesus Quintero	**13 Years**
Genaro Villalpando*	**25 Years**

* Reclaimed Water Certified

FOREMEN

Jesus Camarillo	26 Years
Jesus Alferez	15 Years
Ceasar Castro	8 Years
Jose Anguiano	7 Years

CERTIFIED ARBORIST

Jim Borer	30 Years #496

IRRIGATION TECHNICIANS

Emiliano Ceballos*	24 Years
Jose Aguilera	4 Years
Rigoberto Chavez	12 Years
Refugio Cruz	11 Years
Ismael Morales	13 Years
Roberto Cruz	24 Years
Juan Aparicio	7 Years
Jose Anguiano	9 Years
Jose Garcia	6 Years
Victor Ortiz	8 Years
Carlos Fernandez	12 Years

224 Drivers, Operators and Laborers

MECHANICS

Antonio Gaona	13 Years
Felipe Martinez	3 Years
Alfredo Hurtado	2 Years

Jorge Gonzalez	6 Years
Juan Vasquez	9 Years
Gaudencio Mejia	7 Years
Juan Franco	6 Years
Jamie Moreno	7 Years
Jesus Jimenez	7 Years
Benjamin Miranda	5 Years
Eliseo Gomez	5 Years
Rigoberto Herrera*	6 Years
Martimiano Santiago	2 Years
Filiberto Agulera	6 Years

EQUIPMENT LIST COMPANY WIDE

Excel Landscape possesses a large variety of equipment. This includes back up equipment at each service yard. If a piece of equipment should fail we have a tow truck to pick up and deliver as soon as called upon. This ensures uninterrupted service to our customers. (4) full time mechanics work under the direction of the fleet manager to ensure maintenance and repairs are done regularly and in a timely manner.

- Managers/Supervisors Trucks **20**
- Irrigation Technicians Trucks **19**
- Crew Trucks **86** Crew Trailers **62**
- Riding and Walk Behind Mowers **72**
- Blowers, Hedge Trimmers, Edgers & Weed Eaters **500+**
- Dump Trucks **12**
- Tractors & Skid Steers **14**
- Tractor Specialty Attachments **21**
  - Aerators
  - Aeravator
  - Augers
  - Bush Hogs
  - Forklifts
  - Power Rakes
  - Rototilers
  - Spreaders
  - Sprayers
  - Top Dressers
  - TR3 Power Rake
  - Turf Vacs
  - Vrisimo Flailmower

Excel Landscape

Has been providing quality landscape services in Southern California for over 45 years, specializing in large scale municipal maintenance.

We currently maintain a variety of parkways, medians, slopes, open space, parks with ball fields, soccer fields and synthetic turf fields for (13) local agencies. This includes many acres of water wise and drought tolerant plant material.



Excel Landscape designed and installed Demonstration Gardens for (2) local water agencies.



Excel Landscape designs, Installs and maintains a large variety of landscape projects.



Excel has designed and installed a new dog park and a passive park for the City of Claremont.

Excel has completed a renovation of a 15 acre sports park with (2) soft ball fields, a walking track, passive turf areas and the conversion of (5) acres of turf to drought tolerant plant material, that we re-designed for the City of Murrieta.

Currently we maintain over 100 acres of drought tolerant landscape for the City of Indio.

Recently we completed a contract with the Inland empire Utilities Agency where we maintained an award winning water wise landscape at their Headquarters in Chino.

CURRENT OPERATIONS

Large Scale Mowing



Irrigation Service Trucks



Ball Field Prep



SERVICES

- Maintenance
- Irrigation Management & Conversions
- Fertilization & Chemical Application
- Pest & Disease Control
- Sports Turf Management
- Synthetic Turf Maintenance
- Ball Field Maintenance
- Blue Line Stream Maintenance
- Equestrian Park Maintenance

- Water Wise Landscape Management
- Design & Installation



New Fuel Efficient Manager & Supervisor Trucks

Synthetic Turf Care



Blue Line Stream



Low Water Use Irrigation



REFERENCES

A COMPANY IS ONLY AS GOOD AS THE RECOMMENDATIONS OF ITS CLIENTS

REFERENCES

CITY OF MURRIETA

Mr. George Moring

1994-Present

951.461.6124

GMoring@murrietaca.gov

CITY OF CLAREMONT

Mr. Richard Hecker

1990-2012, 2017-Present

909.399.5431

rhecker@ci.claremont.ca.us

CITY OF YUCAIPA

Mr. Steve Frenken

2013-Present

909.797.2489

Sfrenken@yucaipa.org

COUNTY OF RIVERSIDE

Mr. Mike Franklin

2001-Present

951.955.6652

MFrqanklin@RIVco.org

CITY OF CHINO HILLS

Mr. Sean O'Conner

1990-Present

909.3642802

Soconnor@chinohills.org

CITY OF ENCINITAS

Ms. Annette Saul

1990-Present

760.633.2755

asaul@encinitasca.gov

CITY OF PALM DESERT

Mr. Randy Chavez

2012-Present

760.346.0611

rchavez@cityofpalmdesert.org

CITY OF INDIO

Mr. Mike Edgar

2008-Present

760.391.4199

Medgar@indio.org

CITY LAKE ELSINORE

Mr. Chris Erickson

1997-Present

951.674.5170

cerickson@lake-elsinore.org

CURRENT PROJECTS

75 Ongoing Maintenance Contracts



38% of work with Public Agencies

Projects similar to the City of Palm Desert

CITY OF MURRIETA

Mr. George Moring

One Town Square

Murrieta CA

951.461.6124

- 46 parks
- 4 sports parks
- Equestrian Center
- All City Facilities
- Totaling over 700 acres







CITY OF CLAREMONT

Mr. Richard Hecker

1616 Monte Vista

Claremont CA

909.309.5431

- 19 Parks
- 5 Ball Fields
- 9 Soccer Fields
- 2 Community Centers
- Down Town Village
- City Hall
- Cemetery
- Totaling Over 200 Acres







CITY OF ENCINETAS

Ms. Annette Saul

505 S. Vulcan Ave.

Encinitas, CA 92024

760.633.2747

- 20 Parks over 100 Acres
- Over 40 miles of Trails
- 10 miles of Streetscapes
- Over 40 Acres of Beaches







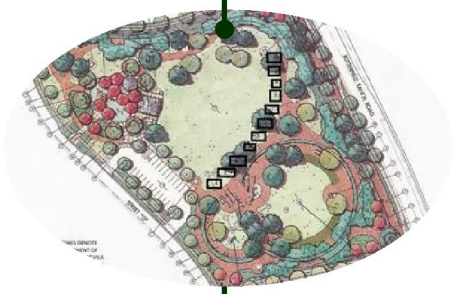
CITY OF CHINO HILLS



Mr. Sean O'Conner

1400 City Center Dr.
Chino Hills CA
909.364.2802

- (27) Neighborhood Parks
- (2) Dog Parks
- Slopes, Medians & Park-ways
- Totaling Over 200 Acres









CITY OF INDIO

Mr. Mike Edgar

100 Civic Center Mall
Indio CA
760.391.4199

- 15 Parks
- 4 Sports Complexes
- 6 Ball Fields
- 10 Soccer Fields
- 18 Basins
- Parkways & Medians Totaling Over 100 Acres









STAFFING & KEY PERSONNEL

STAFFING

STAFFING FOR THIS CONTRACT

STAFFING

Available as needed

GENERAL MANAGER

Jose Alfaro

45 Years Experience
909.208.9901

- CLCA Certified Water Manager
- Licensed PCA
- Licensed QAL
- Water Auditor

PROJECT/QUALITY CONTOL MANAGER

Jason Alfaro

16 Years Experience
909.208.9269

- Licensed C-27, C-61/D49
- Licensed QAL
- CLCA Certified Water Manager
- Certified Irrigation Auditor
- Q.W.E.L
- Reclaimed Water Certified

LANDSCAPE IMPROVEMENT CREW

Jose Padilla

26 Years Experience
+(2) Laborer

- Landscape installation/renovation/conversion
- Irrigation conversions/retro fit
- Sports field renovations

CONSTRUCTION CREW

Miguel Ramos

20 Years Experience
+(1) Laborer

- Hardscape installation/renovations
- Irrigation up-grades

STAFFING FOR THIS CONTRACT

Excel Landscape understands this is a performance based contract. We will add resources when and where necessary to comply with the contract requirements.

SUPERVISOR

Luis Silva — **13 Years Experience**

- Over see all daily and weekly tasks
- Assist with completion of all contractual obligations
- Meet with City inspectors as needed to go over concerns regarding maintenance

FOREMAN

Caesar Castro — **4 Years Experience**

- Over see all daily and weekly tasks
- Assist with completion of all contractual obligations
- Meet with City inspectors as needed to go over concerns regarding maintenance

IRRIGATION TECH

Jose Aguilera — **4 Years Experience**

- Inspect, adjust and repair irrigation

METHOD TO ACCOMPLISH WORK

PROJECT OVERVIEW

MANAGEMENT PLAN

EQUIPMENT FOR THIS CONTRACT

QUALITY CONTROL PLAN

EMERGENCY RESPONSE

SAFTEY PLAN

PROJECT OVERVIEW

Excel Landscape has maintained landscaping at Civic Center and completed work on Tropical Hilary damage. We were recently awarded the maintenance of the (15) Housing Authority properties. Our extensive knowledge and understanding of the current landscape, irrigation, and budget constraints has given us the experience necessary to help with the Park and Landscape Enhancement Project for the City.

MANAGEMENT PLAN

Jason Alfaro, will be the Project Manager. He will coordinate with City Staff, and is in charge of all aspects of the contract. He oversees the area supervisor, on site foreman, irrigation tech, onsite and crewed staff. He will prepare proposals and coordinate all the work.

Luis Sliva will be the supervisor, he is responsible for all onsite and crewed staff, irrigation technician and specialty crews along with all scheduling. He will immediately respond to any City requests.

Caesar Castro, will be the Foreman. He will coordinate with City Staff, and is in charge of all on-site aspects of the contract. He oversees all the on-site and crewed staff.

Jose Aguilera, will be the irrigation technician. He will be in charge of all visual and operational irrigation testing. He will make as needed repairs.

A major advantage Excel Landscape has, is we are already working on a similar contract thus no time is necessary to gear up and prepare for this contract. Please see the following staffing & equipment we will continue and add to this contract.

EQUIPMENT FOR PARKS & LANDSCAPE ENHANCEMENT

Following is a variety of possible equipment we have available

Maintenance Truck



Irrigation Service Truck



TRACK DRIVEN CHIPER 1



- Small portable compact chipper
- Used to turn chippings into mulch



DUMP TRUCK 1

- 1 ton dump truck, to pick up green-waste and litter generated from maintenance operations and renovation.

TURF RENOVATION, if applicable

Top Dresser



Vrisimo Flail



Aeravator



Turf Vac



SPORTS FIELD RENOVATIONS, if applicable

Sports Field Turf







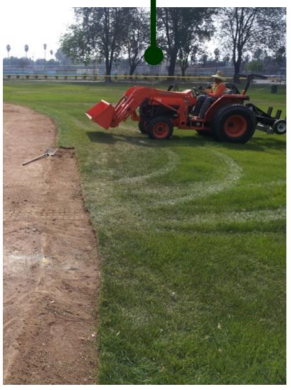


Infield Renovations—if applicable

Annual process:

- Sod cut infield turf to re-establish clean edge
- Re-grade build up of brick dust at outfield edge
- Use the TR3 & Harley Power Rake to break through hard pan
- Eliminate hard and soft spots to achieve a consistent and even depth. The machine auto levels and leaves a consistent smooth surface. This will eliminate the need for costly new brick dust, saving City money for other projects.

Ball Field Renovation



QUALITY CONTROL PLAN

Quality People Produce Quality Results

Excel Landscape
Hires & trains the right people.

COMMUNICATION

- Office staff is available Monday – Friday, 7:00 a.m. to 4:30 p.m.
- The same phone number is used during business and after hours to ensure clients are able to receive assistance 24 hours a day.
- Client needs are communicated through the chain of command to ensure quick and efficient responses.
- All crews carry cell phone communication for rapid response to requests.

TRAINING

Manager

- Is an experienced QAL, Irrigation Auditor and Irrigation Manager.
- Attends outside training sessions to ensure licenses and certifications are current.

Staff

- Are rigorously screened to find the best match for each of our job positions.
- Are trained according to appropriate skill and job level. This ensures that each member of the team can safely and competently complete their assigned tasks.
- Bi-Weekly "tailgate" meetings are provided by "in-house experts" in the areas of Chemical application, irrigation auditing, and irrigation management.
- Topics are scheduled a year in advance and cover areas such as OSHA safety standards, industry techniques, irrigation practices and new technology. Topics are adjusted as needs or regulations change.

NEW PROJECT MANAGEMENT

- Project areas are photographed to document a starting point. Recognize areas of need, record improvement as the project progresses, and provide visual aid for improvement plans and alternatives.
- Staff is trained on issues related to each specific project and the clients expectations are conveyed to crews.
- Each staff member responsible for the project is cross trained in all tasks so ill calls and vacations are covered. This ensures consistency of quality throughout the project.

CURRENT PROJECT MANAGEMENT

- The owner of **Excel Landscape** is involved in the day-to-day operations.
- Each project is managed by a project manager and a supervisor.
- Project sites are routinely inspected and a punch list is generated.
- The punch list is discussed with the appropriate staff, along with a location map and completion date expectation.
- The project manager and supervisor are responsible for ensuring the punch list is completed, quality is consistent, and work is done according to company and City required standards.
- All projects are reviewed by our water auditor to review utility use. This information is used to develop a water budget for all metered areas to ensure efficient use. Staff then read the meters and track the water use on a monthly basis. An improvement plan is developed and discussed with the client for any area that does not meet the calculated budget expectation.
- Excel employs their own mechanics to ensure vehicles and equipment are serviced, maintained, and function appropriately.

EMERGENCY RESPONSE

- Office staff is available Monday through Friday from 7:00 a.m. to 4:30 p.m.
- The same phone is answered 24 hours a day to handle emergency situations.
- Office staff maintains cellular contact with all personnel to provide quick and efficient communication.
- We maintain a service yard very close to the City to expedite response time.
- We have a Project Manager, (1) Supervisors, (1) Foreman and (1) Irrigation Technician all with separate vehicles that are in close proximity to the city that could respond immediately to any emergency or natural disaster during business hours.
- After hours (1) individual is on call to address any emergency 24 hours a day 7 days per week.

SAFETY PLAN

- Excel Landscape considers safety the number one issue.
- We have bi-weekly tailgate meetings in which safety is the focus. All employees are trained in-house by our own "experts in their field". This includes PCA, QAL, QAC, Irrigation Auditors and Irrigation Managers.
- These meetings are scheduled and topics such as OSHA safety standards, Industry techniques, irrigation practices and new technology are discussed.
- Items are decided by our management team at one of their training meetings. Topics are chosen and scheduled for a year at a time, but may be adjusted as needs or regulations arise.
- All managers are required to attend outside training sessions to keep all licenses and certificates current.
- Each employee is trained with the information appropriate to their skill level. Employees are trained on each piece of equipment as to appropriate use, safety precautions and maintenance.
- We employ our own mechanics to assure proper maintenance intervals on all equipment from weed eaters to tractors to trucks and trailers. This level of detail is crucial to insure all equipment is running at peak level.
- Each truck has a yellow beacon on the roof that is in operation each time the truck is stopped.
- They also have signs and cones for use in high traffic areas. The cones are used each time the truck is parked. The signs are used while working in the median at the start of the median and cones placed along the curb at 60' intervals throughout the work area. Each service yard has a sign board for use when a lane closure is needed.

BANK & BONDING LETTERS

CHASE

March 27, 2024

RE: Excel Landscape, Inc.

To Whom It May Concern:

The above referenced company has been a valued customer of Chase bank since 2013.

Both deposit and past credit accounts have been handled as agreed.

Deposit balance currently average in the low seven figure range.

Excel Landscape has conducted their account relationship in an excellent manner.

Should you have any questions, please do not hesitate to contact me at 951-894-4780

Sincerely,

Rachelle Torres

Private Client Banker

Assistant Vice President

Consumer Banking • 40655 California Oaks Rd, Murrieta, CA 92562

Telephone: 951 304 3474 • Facsimile: 855 655 4081

JPMorgan Chase Bank, N.A.

October 26th 2023

Re: Prequalification Letter

To Whom It May Concern:

It is with pleasure that we express our confidence in Excel Landscape, Inc.. We consider Excel Landscape, Inc. to be properly equipped, capably staffed, and well financed. It has been our privilege to write the surety needs of Excel Landscape, Inc. since 2022.

At this time, we have a day to day bond line in place of $5,000,000.00 single job and $10,000,000.00 aggregate. These are not maximum limits; we anticipate we could approve larger bonds if requested. Of course, final determination will depend on our approval of the actual contract documents as well as Excel Landscape, Inc. continuing to satisfy underwriting requirements. We consider them to be an excellent contractor and recommend them highly.

Markel Insurance Company is rated A (Excellent) by AM Best Company and we are on the US Department of Treasury's list of approved sureties for federal work (T-List).

Any arrangement for bonds required by contract is a matter between Markel Insurance Company and our contract client Excel Landscape, Inc., and we assume no liability to you or third parties, if for any reason we do not execute final bonds.

Thank you and please feel free to contact me if I may be of assistance to you.

Regards,

Samantha Orf
Attorney-In-Fact
Markel Insurance Company

Markel Surety
9737 Great Hills Trail, Suite 320, Austin, TX 78759
www.markelsurety.com

FEE PROPOSAL

- Standard Labor: $45.00 /HR
- Foreman Labor: $65.00 /HR
- Irrigation Labor: $75.00 /HR
- Supervisor Labor: $95.00 /HR
- Material Cost + 15%

Jason Alfaro

24155 Adams Ave., Murrieta, CA, (909) 208-9269

OBJECTIVE:

To continue to grow Excel Landscape as a company that our customers can depend on to provide quality landscape service and build long-lasting relationships with all of our customers.

EDUCATION:

September 1995 - June 1998	Murrieta Valley High School
August 1998 - June 1999	Mount San Jacinto Collage
September 2008 - December 2009	UCR Extension Turf Management Certificate Program

EXPERIENCE:

May 2004 - Present	EXCEL LANDSCAPE, Corona, Ca. Project Manager
July 1999 - May 2004	The Image Zone, Murrieta, Ca. Graphic Designer / Printing press operator

PROFESSIONAL CERTIFICATES:

C27, C61/D49	California Contractors License
Q.A.L.	Qualified Applicator License
Q.W.E.L	Qualified Water Efficient Landscaper
C.W.M	CLCA Certified Water Manager
C.I.A.	IA Certified Water Auditor

REFERENCES:

Available upon request.

CITY OF PALM DESERT
MAINTENANCE SERVICES AGREEMENT

1. Parties and Date. This Agreement is made and entered into this **1st** day of **December, 2024**, by and between the City of Palm Desert, a municipal corporation organized under the laws of the State of California with its principal place of business at 73-510 Fred Waring Drive, Palm Desert, California 92260-2578, ("City") and **Excel Landscape, Inc.**, **a Corporation**, with its principal place of business at **1185 Magnolia Avenue, Suite E400, Corona, CA 92879** ("Vendor"). The City and Vendor are sometimes individually referred to herein as "Party" and collectively as "Parties."

2. Recitals.

2.1 Contractor.

Contractor desires to perform and assume responsibility for the provision of certain maintenance services required by the City on the terms and conditions set forth in this Agreement. Contractor represents that it is experienced in providing maintenance services to public clients, that it and its subcontractors have all necessary licenses and permits to perform the services in the State of California, and that it is familiar with the plans of City. Contractor shall not subcontract any portion of the work required by this Agreement, except as expressly stated herein, without prior written approval of City. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement.

2.2 Project.

The City is a public agency of the State of California and is in need of services for the following project:

Parks and Landscape Enhancement Project
Project No. CPK00003
(hereinafter referred to as "the Project").

3. Terms.

3.1 Scope of Services and Term.

3.1.1 General Scope of Services. Contractor promises and agrees to furnish to the City all labor, materials, tools, equipment, services, and incidental and customary work necessary to fully and adequately supply the maintenance services necessary for the Project ("Services"). The Services are more particularly described in Exhibit "A" attached hereto and incorporated herein by reference. All Services shall be subject to, and performed in accordance with, this Agreement, the exhibits attached hereto and incorporated herein by reference, and all applicable local, state, and federal laws, rules and regulations.

3.1.2 Term. The term of this Agreement shall be from December 1, 2024, to June 30, 2027, unless earlier terminated as provided herein. The City shall have the unilateral option, at its sole discretion, to renew this Agreement automatically for no more than 2 additional one-year terms. Contractor shall complete the Services within the term of this Agreement and shall meet any other established schedules and deadlines. The Parties may, by mutual, written consent, extend the term of this Agreement if necessary to complete the Services.

3.2 Responsibilities of Contractor.

3.2.1 Control and Payment of Subordinates; Independent Contractor. The Services shall be performed by Contractor or under its supervision. Contractor will determine the means, methods, and details of performing the Services subject to the requirements of this Agreement. City retains Contractor on an independent contractor basis and not as an employee. Any personnel performing the Services under this Agreement on behalf of Contractor shall not be employees of City and shall at all times be under Contractor's exclusive direction and control. Contractor shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law. Contractor shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation insurance.

3.2.2 Schedule of Services. Contractor shall perform the Services in a prompt and timely manner in accordance with each Task Order set forth in Exhibit "B" attached hereto and incorporated herein by reference. Contractor represents that it has the professional and technical personnel required to perform the Services in conformance with such conditions. Upon request of City, Contractor shall provide a more detailed schedule of anticipated performance to meet the Schedule of Services.

3.2.3 Conformance to Applicable Requirements. All work prepared by Contractor shall be subject to the approval of City.

3.2.4 City's Representative. The City hereby designates **Brad Chuck, Landscape Supervisor**, or his or her designee, to act as its representative for the performance of this Agreement ("City's Representative"). City's Representative shall have the power to act on behalf of the City for all purposes under this Agreement except for increasing compensation. Contractor shall not accept direction or orders from any person other than the City's Representative or his or her designee.

3.2.5 Contractor's Representative. Contractor hereby designates **Jose Alfaro, President**, or his or her designee, to act as its representative for the performance of this Agreement ("Contractor's Representative"). Contractor's Representative shall have full authority to represent and act on behalf of the Contractor for all purposes under this Agreement. The Contractor's Representative shall supervise and direct the Services, using his best skill and attention, and shall be responsible for all means, methods, techniques, sequences, and procedures and for the satisfactory coordination of all portions of the Services under this Agreement.

3.2.6 Coordination of Services. Contractor agrees to work closely with City staff in the performance of Services and shall be available to City's staff, consultants, and other staff at all reasonable times.

3.2.7 Standard of Care; Performance of Employees. Contractor shall perform all Services under this Agreement in a skillful and competent manner, consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Contractor represents and maintains that it is skilled in the professional calling necessary to perform the Services. Contractor warrants that all employees and subcontractors shall have sufficient skill and experience to perform the Services assigned to them. Finally, Contractor represents that it, its employees, and subcontractors have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services, including a City Business License, and that such licenses and approvals shall be maintained

throughout the term of this Agreement. Contractor shall perform, at its own cost and expense and without reimbursement from the City, any services necessary to correct errors or omissions which are caused by the Contractor's failure to comply with the standard of care provided for herein. Any employee of the Contractor or its sub-contractors who is determined by the City to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any employee who fails or refuses to perform the Services in a manner acceptable to the City, shall be promptly removed from the Project by the Contractor and shall not be re-employed to perform any of the Services or to work on the Project.

3.2.8 Period of Performance and Liquidated Damages. Contractor shall perform and complete all Services under this Agreement within the term set forth in Section 3.1.2 above ("Performance Time"). Contractor shall perform the Services in strict accordance with any completion schedule or Project milestones described in Exhibits "A" or "B" attached hereto, or which may be provided separately in writing to the Contractor. Contractor agrees that if the Services are not completed within the aforementioned Performance Time and/or pursuant to any such completion schedule or Project milestones developed pursuant to provisions of this Agreement, it is understood, acknowledged and agreed that the City will suffer damage. Pursuant to Government Code Section 53069.85, Contractor shall pay to the City as fixed and liquidated damages, and not as a penalty, the sum of Two-Hundred and Fifty Dollars ($250.00) per day for each and every calendar day of delay beyond the Performance Time or beyond any completion schedule or Project milestones established pursuant to this Agreement.

3.2.9 Disputes. Should any dispute arise respecting the true value of any work done, of any work omitted, or of any extra work which Contractor may be required to do or respecting the size of any payment to Contractor during the performance of this Contract, Contractor shall continue to perform the Work while said dispute is decided by the City. If Contractor disputes the City's decision, Contractor shall have such remedies as may be provided by law.

3.2.10 Laws and Regulations; Employee/Labor Certifications. Contractor shall keep itself fully informed of and in compliance with all local, state, and federal laws, rules and regulations in any manner affecting the performance of the Project or the Services, including all Cal/OSHA requirements, and shall give all notices required by law. Contractor shall be liable for all violations of such laws and regulations in connection with the Services and this Agreement. All violations of such laws and regulations shall be grounds for the City to terminate the Agreement for cause. City is a public entity of the State of California subject to certain provisions of the Health & Safety Code, Government Code, Public Contract Code, and Labor Code of the State. It is stipulated and agreed that all provisions of the law applicable to the public contracts of a municipality are a part of this Agreement to the same extent as though set forth herein and will be complied with.

3.2.10.1 Employment Eligibility; Contractor. Contractor certifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time and shall require all subconsultants and sub-subconsultants to comply with the same. Contractor certifies that it has not committed a violation of any such law within the five (5) years immediately preceding the date of execution of this Agreement and shall not violate any such law at any time during the term of the Agreement.

3.2.10.2 Labor Certification. By its signature hereunder, Contractor certifies that it is aware of the provisions of Section 3700 of the California 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 agrees to comply with such provisions before commencing the performance of the Services.

3.2.10.3 Equal Opportunity Employment. Contractor represents that it is an equal opportunity employer, and it shall not discriminate against any subcontractor, employee or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination. Contractor shall comply with all relevant provisions of City's Minority Business Enterprise program, Affirmative Action Plan or other related programs or guidelines currently in effect or hereinafter enacted.

3.2.10.4 Air Quality. Contractor must fully comply with all applicable laws, rules and regulations in furnishing or using equipment and/or providing services, including, but not limited to, emissions limits and permitting requirements imposed by the California Air Resources Board (CARB). Contractor shall specifically be aware of the CARB limits and requirements' application to "portable equipment", which definition is considered by CARB to include any item of equipment with a fuel-powered engine. Contractor shall indemnify City against any fines or penalties imposed by CARB or any other governmental or regulatory agency for violations of applicable laws, rules and/or regulations by Contractor, its subcontractors, or others for whom Contractor is responsible under its indemnity obligations provided for in this Agreement.

3.2.10.5 Water Quality Management and Compliance. To the extent applicable, Contractor's Services must account for, and fully comply with, all local, state and federal laws, rules and regulations that may impact water quality compliance, including, without limitation, all applicable provisions of the Federal Water Pollution Control Act (33 U.S.C. §§ 1300); the California Porter-Cologne Water Quality Control Act (Cal Water Code §§ 13000-14950); laws, rules and regulations of the Environmental Protection Agency and the State Water Resources Control Board; the City's ordinances regulating discharges of storm water; and any and all regulations, policies, or permits issued pursuant to any such authority regulating the discharge of pollutants, as that term is used in the Porter-Cologne Water Quality Control Act, to any ground or surface water in the State. Failure to comply with the laws, regulations and policies described in this Section is a violation of law that may subject Contractor to penalties, fines, or additional regulatory requirements.

3.2.11 Insurance.

3.2.11.1 Minimum Requirements. Without limiting Contractor's indemnification of City, and prior to commencement of the Services, Contractor shall obtain, provide, and maintain at its own expense during the term of this Agreement, policies of insurance of the type and amounts described below and in a form that is satisfactory to City.

(A) General Liability Insurance. Contractor shall maintain commercial general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01, in an amount not less than $1,000,000 per occurrence, $2,000,000 general aggregate, for bodily injury, personal injury, and property damage. The policy must include contractual liability that has not been amended. Any endorsement restricting standard ISO "insured contract" language will not be accepted.

(B) Automobile Liability Insurance. Contractor shall maintain automobile insurance at least as broad as Insurance Services Office form CA 00 01 covering bodily injury and property damage for all activities of the Contractor arising out of or in connection

with Work to be performed under this Agreement, including coverage for any owned, hired, non-owned or rented vehicles, in an amount not less than $1,000,000 combined single limit for each accident. The City's Risk Manager may modify this requirement if it is determined that Consultant will not be utilizing a vehicle in the performance of his/her duties under this Agreement.

(C) Umbrella or Excess Liability Insurance. Contractor may opt to utilize umbrella or excess liability insurance in meeting insurance requirements. In such circumstances, Contractor may obtain and maintain an umbrella or excess liability insurance policy with limits that will provide bodily injury, personal injury, and property damage liability coverage at least as broad as the primary coverages set forth above, including commercial general liability and employer's liability. Such policy or policies shall include the following terms and conditions:

(a) A drop-down feature requiring the policy to respond if any primary insurance that would otherwise have applied proves to be uncollectible in whole or in part for any reason;

(b) Pay on behalf of wording as opposed to reimbursement;

(c) Concurrency of effective dates with primary policies; and

(d) Policies shall "follow form" to the underlying primary policies.

(e) Insureds under primary policies shall also be insureds under the umbrella or excess policies.

(D) Workers' Compensation Insurance. Contractor shall maintain Workers' Compensation Insurance (Statutory Limits) and Employer's Liability Insurance (with limits of at least $1,000,000). Contractor shall submit to City, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of the City, its elected or appointed officers, and their respective agents, officials, employees, volunteers, and representatives.

(E) Fidelity Coverage. Reserved.

(F) Cyber Liability Insurance. Reserved.

a) Liability arising from the theft, dissemination and/or use of confidential or personally identifiable information; including credit monitoring and regulatory fines arising from such theft, dissemination, or use of confidential information.

b) Network security liability arising from the unauthorized use of, access to, or tampering with computer systems.

c) Liability arising from the failure of technology products (software) required under the contract for Vendor to properly perform the services intended.

d) Electronic Media Liability arising from personal injury, plagiarism or misappropriation of ideas, domain name infringement or improper deep-linking or framing, and infringement or violation of intellectual property rights.

e) Liability arising from the failure to render professional services.

If coverage is maintained on a claims-made basis, Contractor shall maintain such coverage for an additional period of three (3) years following termination of the Agreement.

(G) Pollution Liability Insurance. Environmental Impairment Liability Insurance shall be written on a Contractor's Pollution Liability form or other form acceptable to the City providing coverage for liability arising out of sudden, accidental, and gradual pollution and remediation. The policy limit shall be no less than $1,000,000 dollars per claim and in the aggregate. All activities contemplated in this Agreement shall be specifically scheduled on the policy as "covered operations". The policy shall provide coverage for the hauling of waste from the Project site to the final disposal location, including non-owned disposal sites.

3.2.11.2 Other Provisions and Requirements.

(A) Proof of Insurance. Contractor shall provide certificates of insurance to City as evidence of the insurance coverage required herein, along with a waiver of subrogation endorsement for workers' compensation. Insurance certificates and endorsements must be approved by City's Risk Manager prior to commencement of performance. Current certification of insurance shall be kept on file with City at all times during the term of this contract. City reserves the right to require complete, certified copies of all required insurance policies, at any time.

(B) Duration of Coverage. Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the work hereunder by Contractor, his/her agents, representatives, employees, or subconsultants.

(C) Primary/Non-Contributing. Coverage provided by Contractor shall be primary and any insurance or self-insurance procured or maintained by City shall not be required to contribute with it. The limits of insurance required herein may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of City before the City's own insurance or self-insurance shall be called upon to protect it as a named insured.

(D) City's Rights of Enforcement. In the event any policy of insurance required under this Agreement does not comply with these specifications, or is canceled and not replaced, City has the right, but not the duty, to obtain the insurance it deems necessary, and any premium paid by City will be promptly reimbursed by Contractor, or City will withhold amounts sufficient to pay premium from Contractor payments. In the alternative, City may cancel this Agreement.

(E) Acceptable Insurers. All insurance policies shall be issued by an insurance company currently authorized by the Insurance Commissioner to transact business of insurance or is on the List of Approved Surplus Line Insurers in the State of California, with an assigned policyholders' Rating of A- (or higher) and Financial Size Category Class VII (or larger) in accordance with the latest edition of Best's Key Rating Guide, unless otherwise approved by the City's Risk Manager.

(F) Waiver of Subrogation. All insurance coverage maintained or procured pursuant to this agreement shall be endorsed to waive subrogation against the City, its elected or appointed officers, and their respective agents, officials, employees, volunteers, and representatives, or shall specifically allow Contractor or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. Contractor hereby waives its own right of recovery against the City, its elected or appointed officers, and their respective agents, officials, employees, volunteers, and representatives, and shall require similar written express waivers and insurance clauses from each of its subcontractors.

(G) Enforcement of Contract Provisions (non estoppel). Contractor acknowledges and agrees that any actual or alleged failure on the part of the City to inform Contractor of non-compliance with any requirement imposes no additional obligations on the City nor does it waive any rights hereunder.

(H) Requirements Not Limiting. Requirements of specific coverage features or limits contained in this Section are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be all inclusive, or to the exclusion of other coverage, or a waiver of any type. If the Contractor maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

(I) Notice of Cancellation. Contractor agrees to oblige its insurance agent or broker and insurers to provide City with a thirty (30) day notice of cancellation (except for nonpayment for which a ten (10) day notice is required) or nonrenewal of coverage for each required coverage.

(J) Additional Insured Status. General liability, automobile liability, and if applicable, pollution liability and cyber liability, policies shall provide or be endorsed to provide that the City, its elected or appointed officers, and their respective agents, officials, employees, volunteers, and representatives, shall be additional insureds under such policies. This provision shall also apply to any excess/umbrella liability policies.

(K) Prohibition of Undisclosed Coverage Limitations. None of the coverages required herein will be in compliance with these requirements if they include any limiting endorsement of any kind that has not been first submitted to City and approved of in writing.

(L) Separation of Insureds. A severability of interests provision must apply for all additional insureds ensuring that Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the insurer's limits of liability. The policy(ies) shall not contain any cross-liability exclusions.

(M) Pass Through Clause. Contractor agrees to ensure that its sub-consultants, sub-contractors, and any other party involved with the Project who is brought onto or involved in the project by Contractor, provide the same minimum insurance coverage and endorsements required of Contractor. Contractor agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. Contractor agrees that upon request, all agreements with consultants, subcontractors, and others engaged in the Project will be submitted to City for review.

(N) City's Right to Revise Specifications. The City or its Risk Manager reserves the right at any time during the term of the contract to change the amounts and types of insurance required by giving the Contractor ninety (90) days advance written notice of such change. If such change results in cost to the Contractor, the City and Contractor may renegotiate Contractor's compensation. If the City reduces the insurance requirements, the change shall go into effect immediately and require no advanced written notice.

(O) Self-Insured Retentions. Any self-insured retentions must be declared to and approved by City. City reserves the right to require that self-insured retentions be eliminated, lowered, or replaced by a deductible. Self-insurance will not be considered to comply with these specifications unless approved by City.

(P) Timely Notice of Claims. Contractor shall give City prompt and timely notice of claims made or suits instituted that arise out of or result from Contractor's performance under this Agreement, and that involve or may involve coverage under any of the required liability policies.

(Q) Additional Insurance. Contractor shall also procure and maintain, at its own cost and expense, any additional kinds of insurance, which in its own judgment may be necessary for its proper protection and prosecution of the work.

3.2.12 Safety. Contractor shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, the Contractor shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be performed. Safety precautions, where applicable, shall include, but shall not be limited to: (A) adequate life protection and lifesaving equipment and procedures; (B) instructions in accident prevention for all employees and subcontractors, such as safe walkways, scaffolds, fall protection ladders, bridges, gang planks, confined space procedures, trenching and shoring, equipment and other safety devices, equipment and wearing apparel as are necessary or lawfully required to prevent accidents or injuries; and (C) adequate facilities for the proper inspection and maintenance of all safety measures.

3.2.13 Bonds.

3.2.13.1 Performance Bond. If required by law or otherwise specifically requested by City in Exhibit "C" attached hereto and incorporated herein by reference, Contractor shall execute and provide to City concurrently with this Agreement a Performance Bond in the amount of the total, not-to-exceed compensation indicated in this Agreement, and in a form provided or approved by the City. If such bond is required, no payment will be made to Contractor until it has been received and approved by the City.

3.2.13.2 Payment Bond. If required by law or otherwise specifically requested by City in Exhibit "C" attached hereto and incorporated herein by reference, Contractor shall execute and provide to City concurrently with this Agreement a Payment Bond in the amount of the total, not-to-exceed compensation indicated in this Agreement, and in a form provided or approved by the City. If such bond is required, no payment will be made to Contractor until it has been received and approved by the City.

3.2.13.3 Bond Provisions. Should, in City's sole opinion, any bond become insufficient, or any surety be found to be unsatisfactory, Contractor shall renew or replace the

affected bond within ten (10) days of receiving notice from City. In the event the surety or Contractor intends to reduce or cancel any required bond, at least thirty (30) days prior written notice shall be given to the City, and Contractor shall post acceptable replacement bonds at least ten (10) days prior to expiration of the original bonds. No further payments shall be deemed due or will be made under this Agreement until any replacement bonds required by this Section are accepted by the City. To the extent, if any, that the total compensation is increased in accordance with the Agreement, the Contractor shall, upon request of the City, cause the amount of the bonds to be increased accordingly and shall promptly deliver satisfactory evidence of such increase to the City. To the extent available, the bonds shall further provide that no change or alteration of the Agreement (including, without limitation, an increase in the total compensation, as referred to above), extensions of time, or modifications of the time, terms, or conditions of payment to the Contractor, will release the surety. If the Contractor fails to furnish any required bond, the City may terminate this Agreement for cause.

3.2.13.4 Surety Qualifications. Only bonds executed by an admitted surety insurer, as defined in Code of Civil Procedure Section 995.120, shall be accepted. The surety must be a California-admitted surety with a current A.M. Best's rating no less than A:VIII and satisfactory to the City. If a California-admitted surety insurer issuing bonds does not meet these requirements, the insurer will be considered qualified if it is in conformance with Section 995.660 of the California Code of Civil Procedure, and proof of such is provided to the City.

3.2.14 Accounting Records. Contractor shall maintain complete and accurate records with respect to all costs and expenses incurred under this Agreement. All such records shall be clearly identifiable. Contractor shall allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement. Contractor shall allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of three (3) years from the date of final payment under this Agreement.

3.2.15 Work Sites.

3.2.15.1 Inspection of Site. Contractor shall visit sites where Services are to be performed and shall become acquainted with all conditions affecting the Services prior to commencing the Services. Contractor shall make such examinations as it deems necessary to determine the condition of the work sites, its accessibility to materials, workmen and equipment, and to determine Contractor's ability to protect existing surface and subsurface improvements. No claim for allowances–time or money–will be allowed as to such matters after commencement of the Services.

3.2.15.2 Field Measurements. Contractor shall make field measurements, verify field conditions, and shall carefully compare such field measurements and conditions and other information known to Contractor with the Contract, including any plans, specifications, or scope of work before commencing Services. Errors, inconsistencies, or omissions discovered shall be reported to the City immediately and prior to performing any Services or altering the condition.

3.2.15.3 Hazardous Materials and Differing Conditions. Should Contractor encounter material reasonably believed to be polychlorinated biphenyl (PCB) or other toxic wastes, hazardous substances and hazardous materials as defined in California state or federal law at the site which have not been rendered harmless, the Contractor shall immediately stop work at the affected area and shall report the condition to the City in writing. The City shall contract for any services required to directly remove and/or abate PCBs, hazardous substances, other

toxic wastes, and hazardous materials, and shall not require the Contractor to subcontract for such services. The Services in the affected area shall not thereafter be resumed except by written agreement of the City and Contractor.

3.2.16 Loss and Damage. Contractor shall be responsible for all loss and damage which may arise out of the nature of the Services agreed to herein, or from the action of the elements, or from any unforeseen difficulties which may arise or be encountered in the prosecution of the Services until the same is fully completed and accepted by City.

3.2.17 Warranty. Contractor warrants all Services under the Agreement (which for purposes of this Section shall be deemed to include unauthorized work which has not been removed and any non-conforming materials incorporated into the work) to be of good quality and free from any defective or faulty material and workmanship. Contractor agrees that for a period of one year (or the period of time specified elsewhere in the Agreement or in any guarantee or warranty provided by any manufacturer or supplier of equipment or materials incorporated into the work, whichever is later) after the date of final acceptance, Contractor shall within ten (10) days after being notified in writing by the City of any defect in the Services or non-conformance of the Services to the Agreement, commence and prosecute with due diligence all Services necessary to fulfill the terms of the warranty at its sole cost and expense. Contractor shall act sooner as requested by the City in response to an emergency. In addition, Contractor shall, at its sole cost and expense, repair and replace any portions of the work (or work of other contractors) damaged by its defective Services or which becomes damaged in the course of repairing or replacing defective work. For any work so corrected, Contractor's obligation hereunder to correct defective work shall be reinstated for an additional one (1) year period, commencing with the date of acceptance of such corrected work. Contractor shall perform such tests as the City may require to verify that any corrective actions, including, without limitation, redesign, repairs, and replacements comply with the requirements of the Agreement. All costs associated with such corrective actions and testing, including the removal, replacement, and reinstitution of equipment and materials necessary to gain access, shall be the sole responsibility of the Contractor. All warranties and guarantees of subcontractors, suppliers, and manufacturers with respect to any portion of the work, whether express or implied, are deemed to be obtained by Contractor for the benefit of the City, regardless of whether or not such warranties and guarantees have been transferred or assigned to the City by separate agreement and Contractor agrees to enforce such warranties and guarantees, if necessary, on behalf of the City. In the event that Contractor fails to perform its obligations under this Section, or under any other warranty or guaranty under this Agreement, to the reasonable satisfaction of the City, the City shall have the right to correct and replace any defective or non-conforming work and any work damaged by such work or the replacement or correction thereof at Contractor's sole expense. Contractor shall be obligated to fully reimburse the City for any expenses incurred hereunder upon demand.

3.3 Fees and Payments.

3.3.1 Compensation. Contractor shall receive compensation, including authorized reimbursements, for all Services rendered under this Agreement at the rates set forth in Exhibit "C" attached hereto and incorporated herein by reference. The maximum compensation for Services to be provided pursuant to each approved Task Order shall be set forth in the relevant Task Order. The total compensation, in the aggregate, shall not exceed **Seven Hundred Fifty Thousand Dollars ($750,000)** without written approval of the City Council or City Manager, as applicable.

3.3.2 Payment of Compensation. Contractor shall submit to City monthly invoices which provides a detailed description of the Services and hours rendered by Contractor. City shall,

within thirty (30) days of receiving such statement, review the statement and pay all non-disputed and approved charges. Contractor shall submit its final invoice to City within thirty (30) days from the last date of provided Services or termination of this Agreement and failure by the Contractor to submit a timely invoice shall constitute a waiver of its right to final payment. Payment shall not constitute acceptance of any Services completed by Contractor. The making of final payment shall not constitute a waiver of any claims by the City for any reason whatsoever.

3.3.2.1 Retainer. From each approved progress estimate, five percent (5%) will be deducted and retained by the City, and the remainder will be paid to Contractor. All Agreement retainage shall be released and paid to the Contractor and subcontractors pursuant to California Public Contract Code Section 7107. Contractor shall furnish City with labor and material releases from all subcontractors performing work on, or furnishing materials for, the work governed by this Agreement prior to final payment by City.

3.3.3 Deductions. City may deduct or withhold, as applicable, from each progress payment an amount necessary to protect City from loss because of: (1) stop payment notices as allowed by state law; (2) unsatisfactory prosecution of the Services by Contractor; (3) sums representing expenses, losses, or damages as determined by the City, incurred by the City for which Contractor is liable under the Agreement; and (4) any other sums which the City is entitled to recover from Contractor under the terms of the Agreement or pursuant to state law, including Section 1727 of the California Labor Code. The failure by the City to deduct any of these sums from a progress payment shall not constitute a waiver of the City's right to such sums.

3.3.4 Reimbursement for Expenses. Contractor shall not be reimbursed for any expenses unless authorized in writing by City.

3.3.5 Extra Work. At any time during the term of this Agreement, City may request that Contractor perform Extra Work. As used herein, “Extra Work” means any work which is determined by City to be necessary for the proper completion of the Project, but which the parties did not reasonably anticipate would be necessary at the execution of this Agreement. Contractor shall not perform, nor be compensated for, Extra Work without written authorization from City’s Representative.

3.3.6 Prevailing Wages. Contractor is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., (“Prevailing Wage Laws”), which require the payment of prevailing wage rates and the performance of other requirements on “public works” and “maintenance” projects. If the Services are being performed as part of an applicable “public works” or “maintenance” project, as defined by the Prevailing Wage Laws, and if the total compensation is $15,000 or more, Contractor agrees to fully comply with such Prevailing Wage Laws. City shall provide Contractor with a copy of the prevailing rates of per diem wages in effect at the commencement of this Agreement. Contractor shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request and shall post copies at the Contractor’s principal place of business and at the Project site. Contractor shall defend, indemnify, and hold the City, its elected or appointed officers, and their respective agents, officials, employees, volunteers and representatives free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. It shall be mandatory upon the Contractor and all subcontractors to comply with all California Labor Code provisions, which include but are not limited to prevailing wages (Labor Code Sections 1771, 1774 and 1775), employment of apprentices (Labor Code Section 1777.5), certified payroll records (Labor Code Sections 1771.4 and 1776), hours of labor (Labor Code Sections 1813 and 1815) and debarment of contractors

and subcontractors (Labor Code Section 1777.1). The requirement to submit certified payroll records directly to the Labor Commissioner under Labor Code section 1771.4 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Section 1771.4.

3.3.7 Registration/DIR Compliance. If the Services are being performed as part of an applicable "public works" or "maintenance" project, and if the total compensation is $15,000 or more, then pursuant to Labor Code Sections 1725.5 and 1771.1, the Contractor and all subcontractors performing such Services must be registered with the Department of Industrial Relations. Contractor shall maintain registration for the duration of the Project and require the same of any subcontractors, as applicable. This Project may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Contractor's sole responsibility to comply with all applicable registration and labor compliance requirements. Any stop orders issued by the Department of Industrial Relations against Contractor or any subcontractor that affect Contractor's performance of Services, including any delay, shall be Contractor's sole responsibility. Any delay arising out of or resulting from such stop orders shall be considered Contractor caused delay and shall not be compensable by the City. Contractor shall defend, indemnify, and hold the City, its elected or appointed officers, and their respective agents, officials, employees, volunteers, and representatives free and harmless from any claim or liability arising out of stop orders issued by the Department of Industrial Relations against Contractor or any subcontractor.

3.4 Termination of Agreement.

3.4.1 Grounds for Termination. City may, by written notice to Contractor, terminate the whole or any part of this Agreement at any time and without cause by giving written notice to Contractor of such termination, and specifying the effective date thereof, at least seven (7) days before the effective date of such termination. Upon termination, Contractor shall be compensated only for those Services which have been adequately rendered to City, and Contractor shall be entitled to no further compensation. Contractor may not terminate this Agreement except for cause.

3.4.2 Conflict of Interest. The Contractor covenants that any and all relationships with construction firms that may submit bids for projects developed under this agreement will require full disclosure of any direct or indirect conflicts of interest, financial interests, relationships, and the nature of any relationships with any related project bid submitters; and that any violation of this provision may result in the immediate termination of the Agreement

3.4.3 Effect of Termination. If this Agreement is terminated as provided herein, City may require Contractor to provide all finished or unfinished information of any kind prepared by Contractor in connection with the performance of Services under this Agreement. Contractor shall be required to provide such document and other information within fifteen (15) days of the request.

3.4.4 Additional Services. In the event this Agreement is terminated in whole or in part as provided herein, City may procure, upon such terms and in such manner as it may determine appropriate, services similar to those terminated.

3.5 General Provisions.

3.5.1 Delivery of Notices. All notices permitted or required under this Agreement shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

Contractor: Excel Landscape, Inc.
1185 Magnolia Avenue, Suite E400
Corona, CA 92879
ATTN: Jose Alfaro, President

City: City of Palm Desert
73-510 Fred Waring Drive
Palm Desert, CA 92260-2578
ATTN: Brad Chuck, Landscape Supervisor

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

3.5.2 Indemnification.

3.5.2.1 Scope of Indemnity. To the fullest extent permitted by law, Contractor shall defend, indemnify and hold the City, its elected or appointed officers, and their respective agents, officials, employees, volunteers and representatives free and harmless from any and all claims, demands, causes of action, suits, actions, proceedings, costs, expenses, liability, judgments, awards, decrees, settlements, loss, damage or injury of any kind, in law or equity, regardless of whether the allegations are false, fraudulent, or groundless, to property or persons, including wrongful death, (collectively, "Claims") in any manner arising out of, pertaining to, or incident to any acts, errors or omissions, or willful misconduct of Contractor, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Services, the Project or this Agreement, including without limitation the payment of all expert witness fees, attorneys' fees and other related costs and expenses except such Claims caused by the sole or active negligence or willful misconduct of the City.

3.5.2.2 Additional Indemnity Obligations. Contractor shall defend, with counsel of City's choosing and at Contractor's own cost, expense, and risk, any and all Claims covered by this section that may be brought or instituted against the City, its elected or appointed officers, and their respective agents, officials, employees, volunteers and representatives. In addition, Contractor shall pay and satisfy any judgment, award or decree that may be rendered against the City, its elected or appointed officers, and their respective agents, officials, employees, volunteers, and representatives as part of any such claim, suit, action, or other proceeding. Contractor shall also reimburse City for the cost of any settlement paid by the City, its elected or appointed officers, and their respective agents, officials, employees, volunteers, and representatives as part of any such claim, suit, action, or other proceeding. Such reimbursement shall include payment for City's attorney's fees and costs, including expert witness fees. Contractor shall reimburse the City, its elected or appointed officers, and their respective agents, officials, employees, volunteers, and representatives, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Contractor's obligation to indemnify shall survive expiration or termination of this Agreement, and shall not be restricted to insurance proceeds, if any, received by the Contractor, the City, its elected or appointed officers, and their respective agents, officials, employees, volunteers, and representatives.

3.5.3 Governing Law; Government Code Claim Compliance. This Agreement shall be governed by the laws of the State of California. Venue shall be in Riverside County. In addition

to any and all Agreement requirements pertaining to notices of and requests for compensation or payment for extra work, disputed work, claims and/or changed conditions, Contractor must comply with the claim procedures set forth in Government Code sections 900 et seq. prior to filing any lawsuit against the City. Such Government Code claims, and any subsequent lawsuit based upon the Government Code claims shall be limited to those matters that remain unresolved after all procedures pertaining to extra work, disputed work, claims, and/or changed conditions have been followed by Contractor. If no such Government Code claim is submitted, or if any prerequisite contractual requirements are not otherwise satisfied as specified herein, Contractor shall be barred from bringing and maintaining a valid lawsuit against the City.

3.5.4 Time of Essence. Time is of the essence for each and every provision of this Agreement.

3.5.5 City's Right to Employ Other Contractors. City reserves right to employ other contractors in connection with this Project.

3.5.6 Successors and Assigns. This Agreement shall be binding on the successors and assigns of the parties.

3.5.7 Assignment or Transfer. Contractor shall not assign, hypothecate, or transfer, either directly or by operation of law, this Agreement or any interest herein without the prior written consent of the City. Any attempt to do so shall be null and void, and any assignees, hypothecates or transferees shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer.

3.5.8 Construction; References; Captions. Since the Parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party. Any term referencing time, days or period for performance shall be deemed calendar days and not workdays. All references to Contractor include all personnel, employees, agents, and subcontractors of Contractor, except as otherwise specified in this Agreement. All references to the City include its elected or appointed officers, and their respective agents, officials, employees, volunteers, and representatives except as otherwise specified in this Agreement. The captions of the various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, or intent of this Agreement.

3.5.9 Amendment; Modification. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

3.5.10 Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel or otherwise.

3.5.11 No Third-Party Beneficiaries. Except to the extent expressly provided for in Section 3.5.7, there are no intended third-party beneficiaries of any right or obligation assumed by the Parties.

3.5.12 Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

3.5.13 Prohibited Interests. Contractor maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this Agreement. Further, Contractor warrants that it has not paid, nor has it agreed to pay any company or person, other than a bona fide employee working solely for Contractor, any fee, commission, percentage, brokerage fee, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, City shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer, or employee of City, during the term of his or her service with City, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

3.5.14 Cooperation; Further Acts. The Parties shall fully cooperate with one another and shall take any additional acts or sign any additional documents as may be necessary, appropriate or convenient to attain the purposes of this Agreement.

3.5.15 Authority to Enter Agreement. Contractor has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each Party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and bind each respective Party.

3.5.16 Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

3.5.17 Entire Agreement. This Agreement contains the entire Agreement of the parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings, or agreements. This Agreement may only be modified by a writing signed by both parties.

[SIGNATURES ON NEXT PAGE]

Contract No. _____

SIGNATURE PAGE TO MAINTENANCE SERVICES AGREEMENT BY AND BETWEEN THE CITY OF PALM DESERT AND EXCEL LANDSCAPE, INC.

IN WITNESS WHEREOF, each of the Parties has caused this Agreement to be executed on the day and year first above written.

CITY OF PALM DESERT

By: _____

L. Todd Hileman
City Manager

Attest:

By: _____

Anthony J. Mejia
City Clerk

Approved as to form:

By: _____

Isra Shah
Best Best & Krieger LLP
City Attorney

EXCEL LANDSCAPE, INC., A CORPORATION

By: _____

Jose Alfaro
President

By: _____

Marty Fox
Secretary

694553
Contractor's License Number and Classification

1000007099
DIR Registration Number (*if applicable*)

City Clerk QC: _____

Contracts QC: _____

Insurance:

_____
Initial Review

_____
Final Approval

_____
Bonds

EXHIBIT "A"

SCOPE OF SERVICES

The Proposer to be knowledgeable in the installation, repair, and maintenance of the following park and landscape items:

- Landscape and Irrigation maintenance, repair, and installation
- Sod preparation and installation
- Topdressing of sports turf
- Park amenities material installation (sand volleyball courts, baseball infields, etc.)
- Minor playground repairs
- Park site furnishing repairs and installation
- Medians landscape improvements
- Assessment Districts improvements
- Tree and shrub planting
- Mow curb and related concrete repairs
- Installation of cobble and inorganics
- Proper traffic control as defined in the WATCH handbook
- Small scale landscape projects

The scope of services is not limited to the items listed above. In addition, more detailed work may be required, such as installation and programming of Smart Controllers, troubleshooting faulty irrigation wires, repairing and programming two-wire irrigation systems, leveling and grading, and other specialty work associated with park and landscape maintenance

The City intends to award the contract as a 3-year agreement with an option of (2) one-year extensions, subject to funding availability and City Council approval. The Agreement shall not exceed Seven Hundred Fifty Thousand Dollars ($750,000.00) per fiscal year for performance of said Services.

No Services shall be performed by the Contractor unless authorized by the City and by a fully executed Task Order.

EXHIBIT "B" TASK ORDER FORM SAMPLE

CITY OF PALM DESERT
TASK ORDER

Contract No / P.O. #:		
Change/Task Order No.:		
Task Order Bonds Needed?:	☐ YES	☐ NO
Contingency:	☐ YES	☐ NO
Account No.:		
Project No.:		
Vendor No.:		

Contract Purpose: _____

Contractor Name: _____

Contractor shall construct, furnish all supervision, labor, services, equipment, and materials, and perform all work necessary or required to fully complete the changes to the Contract described hereinto for the amount agreed upon between the Contractor and the City of Palm Desert ("City").

Description of Changes	**Decrease** In Contract Price	**Increase** In Contract Price
Totals:	$ 0.00	$ 0.00
Net Change in Contract Price:		$ 0.00

Justification:

Original Contract Amount:	+	
Contingency:	+	
Total Budget Amount:		$ 0.00
Less: Expend. / Encumb. To Date:	-	$ 0.00
Less: This Change Order Amount:	-	$ 0.00
Remaining for Project:		$ 0.00

Contingency:	+	
Less: Prior Change/Task Order(s):	-	
Less: This Change/Task Order:	-	$ 0.00
Remaining of Contingency:		$ 0.00

This Task Order Totals:

_____ dollars and ___/100 ($ 0.00)

Task Order Total: $ 0.00

EXHIBIT "B" TASK ORDER FORM SAMPLE

Continued from Front

Contract No. _____ Task Order No.:

Estimated Completion Date: _____

Contractor accepts the terms and conditions stated above as full and final settlement of any and all claims arising out of or related to the subject of this Task Order and acknowledges that the compensation (time and cost) set forth herein comprises the total compensation due for the work or change defined in the Task Order, including all impact on any unchanged work. Execution of this Task Order by the Contractor constitutes a binding accord and satisfaction that fully satisfies, waives, and releases the City from all claims, demands, costs, and liabilities, in contract, law or equity, arising out of or related to the subject of the Task Order, whether known or unknown, including but not limited to direct and indirect costs and/or damages for delay, disruption, acceleration, loss of productivity, and stacking of trades, as well as any and all consequential damages. The adjustments to the Contract Price and Contract Time in this Task Order constitute the entire compensation and/or adjustment thereto due to Contractor, including but not limited to all direct, indirect, consequential, profit, labor, equipment, tools, idle time, incidentals, and overhead (field and home office) costs, due to Contractor arising out of or related to the change in the work covered by this Task Order. The Contractor hereby releases and agrees to waive all rights, without exception or reservation of any kind whatsoever, to file any further claim or request for equitable adjustment of any type, for any reasonably foreseeable cause that shall arise out of, or as a result of, this Task Order and/or its impact on the remainder of the work under the Contract. This Task Order will become a supplement to the Contract and all provisions will apply hereto.

1. REQUESTED BY:	_____ Department Director	2. ACCEPTED BY:	_____ Contractor
3. CERTIFIED FUNDS AVAILABLE	_____ Finance Director	4. APPROVED BY:	_____ City Manager

NOTE: No payments will be made prior to City Manager or Council approval

QC: _____

Bonds: _____

EXHIBIT "C"

COMPENSATION

In the event that this Agreement is renewed pursuant to Section 3.1.2, the rates set forth above may be increased or reduced each year at the time of renewal, but any increase shall not exceed the Consumer Price Index, All Urban Consumers, Los Angeles-Riverside-Orange Counties. The City and Contractor may review the CPI on an annual basis and recommend adjustments to the City Manager or City Council for approval. Any increase shall not exceed the Consumer Price Index.

The maximum compensation for Services to be provided pursuant to each Task Order shall be set forth in the relevant Task Order. The total compensation, in the aggregate, shall not exceed **Seven Hundred Fifty Thousand Dollars ($750,000)** without written approval of the City Council or City Manager, as applicable.

Pricing schedule is as follows:

Position	Hourly Rate
Standard Labor	$45.00
Foreman Labor	$65.00
Irrigation Labor	$75.00
Supervisor Labor	$95.00
Material Cost	+15 %

PERFORMANCE BOND

KNOW ALL PERSONS BY THESE PRESENTS:

THAT WHEREAS, the City of Palm Desert (hereinafter referred to as "City") has awarded to **Excel Landscape, Inc.**, (hereinafter referred to as the "Contractor") an agreement for Parks and Landscape Enhancement Project (hereinafter referred to as the "Project").

WHEREAS, the work to be performed by the Contractor is more particularly set forth in the Contract Documents for the Project dated December 1, 2024, (hereinafter referred to as "Contract Documents"), the terms and conditions of which are expressly incorporated herein by reference; and

WHEREAS, the Contractor is required by said Contract Documents to perform the terms thereof and to furnish a bond for the faithful performance of said Contract Documents.

NOW, THEREFORE, we, **Excel Landscape, Inc.**, the undersigned Contractor and _____ as Surety, a corporation organized and duly authorized to transact business under the laws of the State of California, are held and firmly bound unto the City in the sum of Seven Hundred Fifty Thousand Dollars, ($$750,000), said sum being not less than one hundred percent (100%) of the total amount of the Contract, for which amount well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that, if the Contractor, his or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and agreements in the Contract Documents and any alteration thereof made as therein provided, on its part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their intent and meaning; and shall faithfully fulfill all obligations including the one-year guarantee of all materials and workmanship; and shall indemnify and save harmless the City, its elected or appointed officers, and their respective agents, officials, employees, volunteers and representatives, as stipulated in said Contract Documents, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

As a condition precedent to the satisfactory completion of the Contract Documents, unless otherwise provided for in the Contract Documents, the above obligation shall hold good for a period of one (1) year after the acceptance of the work by City, during which time if Contractor shall fail to make full, complete, and satisfactory repair and replacements and totally protect the City from loss or damage resulting from or caused by defective materials or faulty workmanship, Surety shall undertake and faithfully fulfill all such obligations. The obligations of Surety hereunder shall continue so long as any obligation of Contractor remains. Nothing herein shall limit the City's rights or the Contractor or Surety's obligations under the Contract, law, or equity, including, but not limited to, California Code of Civil Procedure section 337.15.

Whenever Contractor shall be, and is declared by the City to be, in default under the Contract Documents, the Surety shall remedy the default pursuant to the Contract Documents, or shall promptly, at the City's option:

(1) Take over and complete the Project in accordance with all terms and conditions in the Contract Documents; or

(2) Obtain a bid or bids for completing the Project in accordance with all terms and conditions in the Contract Documents and upon determination by Surety of the lowest responsive and responsible bidder, arrange for a Contract between such bidder, the Surety and the City, and make available as work progresses sufficient funds to pay the cost of completion of the Project, less the balance of the contract price, including other costs and damages for which Surety may be liable. The term "balance of the contract price" as used in this paragraph shall mean the total amount payable to Contractor by the City under the Contract and any modification thereto, less any amount previously paid by the City to the Contractor and any other set offs pursuant to the Contract Documents.

(3) Permit the City to complete the Project in any manner consistent with local, California and federal law and make available as work progresses sufficient funds to pay the cost of completion of the Project, less the balance of the contract price, including other costs and damages for which Surety may be liable. The term "balance of the contract price" as used in this paragraph shall mean the total amount payable to Contractor by the City under the Contract and any modification thereto, less any amount previously paid by the City to the Contractor and any other set offs pursuant to the Contract Documents.

Surety expressly agrees that the City may reject any contractor or subcontractor which may be proposed by Surety in fulfillment of its obligations in the event of default by the Contractor.

Surety shall not utilize Contractor in completing the Project nor shall Surety accept a bid from Contractor for completion of the Project if the City, when declaring the Contractor in default, notifies Surety of the City's objection to Contractor's further participation in the completion of the Project.

The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract Documents or to the Project to be performed thereunder shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract Documents or to the Project, including but not limited to the provisions of sections 2819 and 2845 of the California Civil Code.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, we have hereunto set our hands and seals this _____ day of _____, 20____.

(Corporate Seal)

Contractor/ Principal

By_____

Printed name: _____

Title: _____

(Corporate Seal) Surety

By: _____

Printed Name: _____

Attorney-in-Fact

(Attach Attorney-in-Fact Certificate)

Signatures of those signing for the Contractor and Surety must be notarized and evidence of corporate authority attached.

The rate of premium on this bond is _____ per thousand. The total amount of premium charges, $_____.

(The above must be filled in by corporate attorney.)

THIS IS A REQUIRED FORM

Any claims under this bond may be addressed to:

(Name and Address of Surety)

(Name and Address of Agent or Representative for service of process in California, if different from above)

(Telephone number of Surety and Agent or Representative for service of process in California)

NOTE: A copy of the Power-of-Attorney authorizing the person signing on behalf of the Surety to do so must be attached hereto.

Contract No. _____

Notary Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF _____

On _____, 20___, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

CAPACITY CLAIMED BY SIGNER

- ☐ Individual
- ☐ Corporate Officer

_____
Title(s)

- ☐ Partner(s) ☐ Limited ☐ General
- ☐ Attorney-In-Fact
- ☐ Trustee(s)
- ☐ Guardian/Conservator
- ☐ Other:

Signer is representing:
Name Of Person(s) Or Entity(ies)

_____

_____

DESCRIPTION OF ATTACHED DOCUMENT

_____
Title or Type of Document

_____
Number of Pages

_____
Date of Document

_____
Signer(s) Other Than Named Above

NOTE: This acknowledgment is to be completed for Contractor/Principal.

~~Contract No. _____~~

Notary Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF _____

On _____, 20___, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

CAPACITY CLAIMED BY SIGNER

- ☐ Individual
- ☐ Corporate Officer

_____
Title(s)

- ☐ Partner(s) ☐ Limited ☐ General
- ☐ Attorney-In-Fact
- ☐ Trustee(s)
- ☐ Guardian/Conservator
- ☐ Other:

Signer is representing:
Name Of Person(s) Or Entity(ies)

_____
_____

DESCRIPTION OF ATTACHED DOCUMENT

_____
Title or Type of Document

_____
Number of Pages

_____
Date of Document

_____
Signer(s) Other Than Named Above

NOTE: This acknowledgment is to be completed for the Attorney-in-Fact. The Power-of-Attorney to local representatives of the bonding company must also be attached.

Contract No. _____

PAYMENT BOND

KNOW ALL PERSONS BY THESE PRESENTS That

WHEREAS, the City of Palm Desert (hereinafter designated as the "City"), by action taken or a resolution passed October 24, 2024, has awarded to **Excel Landscape, Inc.**, hereinafter designated as the "Principal," a contract for the work described as follows:

Parks and Landscape Enhancement Project (the "Project").; and

WHEREAS, the work to be performed by the Principal is more particularly set forth in the Contract Documents for the Project dated December 1, 2024, ("Contract Documents"), the terms and conditions of which are expressly incorporated by reference; and

WHEREAS, said Principal is required to furnish a bond in connection with said contract; providing that if said Principal or any of its Subcontractors shall fail to pay for any materials, provisions, provender, equipment, or other supplies used in, upon, for or about the performance of the work contracted to be done, or for any work or labor done thereon of any kind, or for amounts due under the Unemployment Insurance Code or for any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of said Principal and its Subcontractors with respect to such work or labor the Surety on this bond will pay for the same to the extent hereinafter set forth.

NOW THEREFORE, we, the Principal and _____ as Surety, are held and firmly bound unto the City in the penal sum of Seven Hundred Fifty Thousand Dollars, ($750,000) lawful money of the United States of America, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that if said Principal, his or its subcontractors, heirs, executors, administrators, successors or assigns, shall fail to pay any of the persons named in Section 9100 of the Civil Code, fail to pay for any materials, provisions or other supplies, used in, upon, for or about the performance of the work contracted to be done, or for any work or labor thereon of any kind, or amounts due under the Unemployment Insurance Code with respect to work or labor performed under the contract, or for any amounts required to be deducted, withheld, and paid over to the Employment Development Department or Franchise Tax Board from the wages of employees of the contractor and his subcontractors pursuant to Section 18663 of the Revenue and Taxation Code, with respect to such work and labor the Surety or Sureties will pay for the same, in an amount not exceeding the sum herein above specified, and also, in case suit is brought upon this bond, all litigation expenses incurred by City in such suit, including reasonable attorneys' fees, court costs, expert witness fees and investigation expenses.

This bond shall inure to the benefit of any of the persons named in Section 9100 of the Civil Code so as to give a right of action to such persons or their assigns in any suit brought upon this bond.

It is further stipulated and agreed that the Surety on this bond shall not be exonerated or released from the obligation of this bond by any change, extension of time for performance, addition, alteration or modification in, to, or of any contract, plans, specifications, or agreement pertaining or relating to any scheme or work of improvement herein above described, or pertaining or relating to the furnishing of labor, materials, or equipment therefore, nor by any change or modification of any terms of payment or extension of the time for any payment pertaining or

relating to any scheme or work of improvement herein above described, nor by any rescission or attempted rescission of the contract, agreement or bond, nor by any conditions precedent or subsequent in the bond attempting to limit the right of recovery of claimants otherwise entitled to recover under any such contract or agreement or under the bond, nor by any fraud practiced by any person other than the claimant seeking to recover on the bond and that this bond be construed most strongly against the Surety and in favor of all persons for whose benefit such bond is given, and under no circumstances shall Surety be released from liability to those for whose benefit such bond has been given, by reason of any breach of contract between the owner or City and original contractor or on the part of any obligee named in such bond, but the sole conditions of recovery shall be that claimant is a person described in Section 9100 of the Civil Code, and has not been paid the full amount of his claim and that Surety does hereby waive notice of any such change, extension of time, addition, alteration or modification herein mentioned and the provisions of sections 2819 and 2845 of the California Civil Code.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, we have hereunto set our hands and seals this _____ day of _____, 20__.

(Corporate Seal)

Contractor/ Principal

By_____

Printed name: _____

Title: _____

(Corporate Seal) Surety

By: _____

Printed Name: _____

Attorney-in-Fact

(Attach Attorney-in-Fact Certificate)

Signatures of those signing for the Contractor and Surety must be notarized and evidence of corporate authority attached. A Power-of-Attorney authorizing the person signing on behalf of the Surety to do so much be attached hereto.

NOTE: A copy of the Power-of-Attorney authorizing the person signing on behalf of the Surety to do so must be attached hereto.

~~Contract No. _____~~

Notary Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF _____

On _____, 20___, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

CAPACITY CLAIMED BY SIGNER

- ☐ Individual
- ☐ Corporate Officer

_____
Title(s)

- ☐ Partner(s)
  - ☐ Limited
  - ☐ General
- ☐ Attorney-In-Fact
- ☐ Trustee(s)
- ☐ Guardian/Conservator
- ☐ Other:

Signer is representing:
Name Of Person(s) Or Entity(ies)

_____
_____

DESCRIPTION OF ATTACHED DOCUMENT

_____
Title or Type of Document

_____
Number of Pages

_____
Date of Document

_____
Signer(s) Other Than Named Above

NOTE: This acknowledgment is to be completed for Contractor/Principal.

Contract No. _____

Notary Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF _____

On _____, 20___, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

CAPACITY CLAIMED BY SIGNER

- ☐ Individual
- ☐ Corporate Officer

_____
Title(s)

- ☐ Partner(s) ☐ Limited ☐ General
- ☐ Attorney-In-Fact
- ☐ Trustee(s)
- ☐ Guardian/Conservator
- ☐ Other:

Signer is representing:
Name Of Person(s) Or Entity(ies)

_____
_____

DESCRIPTION OF ATTACHED DOCUMENT

_____
Title or Type of Document

_____
Number of Pages

_____
Date of Document

_____
_____
Signer(s) Other Than Named Above

NOTE: This acknowledgment is to be completed for the Attorney-in-Fact. The Power-of-Attorney to local representatives of the bonding company must also be attached.

City of Palm Desert
PW - Operations & Maintenance
Randy Chavez, Deputy Director
73-510 Fred Waring Drive, Palm Desert, CA 92260

[HORIZON PROFESSIONAL LANDSCAPE INC] RESPONSE DOCUMENT REPORT

RFP No. 2024-RFP-132

Parks And Landscape Enhancement Project

RESPONSE DEADLINE: September 4, 2024 at 5:00 pm

Report Generated: Tuesday, September 10, 2024

HORIZON PROFESSIONAL LANDSCAPE INC Response

CONTACT INFORMATION

Company:
HORIZON PROFESSIONAL LANDSCAPE INC

Email:
horizon4900@msn.com

Contact:
RAFAEL MENDOZA

Address:
48727 CHARLTON PEAK ST
COACHELLA, CA 92236

Phone:
(760) 333-9371

Website:
N/A

Submission Date:
Sep 3, 2024 1:54 PM (Pacific Time)

ADDENDA CONFIRMATION

Addendum #1
Confirmed Aug 27, 2024 7:47 PM by Rafael Mendoza

QUESTIONNAIRE

1. Proposal (WITHOUT COST)*

Proposals shall be concise, well organized and demonstrate qualifications and applicable experience. Proposals shall be organized and include page numbers for all pages in the proposal. The proposal shall be uploaded here, in the following order and shall include:

A. Cover Letter

1. This letter should briefly introduce the firm, summarize the firm's general qualifications, include an executive summary of the specific approach which will be used to deliver the work scope; and identify the individual(s) name, address and phone number authorized to negotiate Agreement terms and compensation.

B. Experience and Technical Competence

1. Background: Provide history of the firm's consulting experience which specifically addresses the individual or firm's experience with similar Service as described in this RFP.
2. References: The proposal shall include a list of recently completed projects that are similar in scope and function to this RFP. Provide a description of the project, client name, and the name, title, and telephone number of the primary contact person.

C. Firm Staffing and Key Personnel

1. Staffing: Provide the number of staff to be assigned to perform the Services and the names/discipline/job title of each as well as your firm's capacity to provide additional personnel as needed.

2. Key Personnel: Identify key persons that will be principally responsible for working with the City. Indicate the role and responsibility of each individual.
3. Team Organization: Describe proposed team organization, including identification and responsibilities of key personnel.
4. Subcontractors: The Proposer shall identify functions that are likely to be subcontracted and identify the subcontractor that is anticipated to perform each function.

D. Proposed Method to Accomplish the Work

1. Describe the technical and management approach to providing the Services to the City. Proposer should take into account the scope of the Services, and general functions required. Include a draft first year schedule of tasks, milestones, and deliverables that will provide for timely provision of the Services. In reviewing the scope of Services and goals described herein, the Proposer may identify additional necessary tasks and is invited to bring these to the City's attention within the discussion of its proposed method to accomplish the work.

Palm_Desert_Proposal_Presentation.docx

2. Fee Proposal*

The fee proposal shall include hourly rates for all personnel for "Additional Work" (as such term is defined in the proposed Agreement attached herein). Please provide hourly rates for the following positions at a minimum: Irrigator, Foreman, Laborer, Supervisor.

Fee_Proposal_2024.docx

3. Non-Collusion Declaration*

The undersigned declares:

I am an authorized representative of my company, the party making the foregoing Bid, to certify the following.

The Bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation. The Bid is genuine and not collusive or sham. The Bidder has not directly or indirectly induced or solicited any other Bidder to put in a false or sham bid. The Bidder has not directly or indirectly colluded, conspired, connived, or agreed with any Bidder or anyone else to put in a sham bid, or to refrain from bidding. The Bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the Bid Price of the Bidder or any other Bidder, or to fix any overhead, profit, or cost

element of the Bid Price, or of that of any other Bidder. All statements contained in the Bid are true. The Bidder has not, directly or indirectly, submitted his or her Bid Price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid, and has not paid, and will not pay, any person or entity for such purpose.

Any person executing this declaration on behalf of a Bidder that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that he or she has full power to execute, and does execute, this declaration on behalf of the Bidder.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Confirmed

4. Enter your valid CA Contractors State License Board (CSLB) number*

Please enter your License Number here. This will be verified against the state database.

799029

Click to Verify *Value will be copied to clipboard*

5. Enter your California Department of Industrial Relations (DIR) Registration number*

Please enter your Public Works Contractor DIR Number. This will be verified against the state database.

1000534321

Click to Verify *Value will be copied to clipboard*

6. Type of Business*

S Corporation (if corporation, two signatures are required)

7. Litigation*

Provide litigation history for any claims filed by your firm or against your firm related to the provision of Services in the last five (5) years (or type "N/A").

N/A

8. Changes to Agreement*

The City standard professional services agreement contract is included as an attachment herein. The Proposer shall identify any objections to and/or request changes to the standard contract language in this section of the proposal (or type "N/A"). If you are identifying changes here ***ALSO*** upload a copy of the redlined Language/Agreement with your Proposal. Changes requested may effect theCity's decision to enter into an Agreement.

N/A

9. No Deviations from the RFP*

In submitting a proposal in response to this RFP, Proposer is certifying that it takes no exceptions to this RFP including, but not limited to, the Agreement. If any exceptions are taken, such exceptions must be clearly noted here, and may be reason for rejection of the proposal. As such, Proposer is directed to carefully review the proposed Agreement and, in particular, the insurance and indemnification provisions therein (or type "N/A").

Maximum response length: 5000 characters

N/A

10. Project Team Resumes*

Submit resumes of all key personnel/support staff that will produce work product for the Services. Describe their qualifications, education, and professional licensing.

Resumes.docx

11. List the Signatory(s) Authorized to Sign and Bind an Agreement.*

(If two (2) signatures are required, include the following information for both signatories)

A. Full Name

B. Title

C. Physical Business Address

D. Email Address

E. Phone Number

Rafael Mendoza

President

48727 Charlton Peak St.

horizon4900@msn.com

(760) 333-9371

Eric Mendoza Lee

Vice-President

48727 Charlton Peak

Eric.HorizonPL@outlook.com

(760) 485-4737

12. Certification of Proposal: The undersigned hereby submits its proposal and, by doing so, agrees to furnish services in accordance with the Request for Proposal (RFP), and to be bound by the terms and conditions of the RFP.*

Confirmed

HORIZON

PROFESSIONAL LANDSCAPE INC.

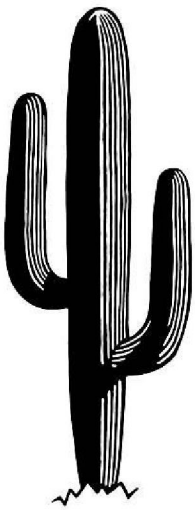
LIC: 799029

COACHELLA. CA

PHONE: (760) 333-8349



"Standing where others aim…"



Cover Letter:

Horizon Professional landscape Inc. is a company dedicated to landscape services, established in 2001. We have been operating for 23 years in the Coachella Valley, performing landscape construction, redesigns, and general maintenance. Our center of operation is the city of Palm Desert, making us available to address any issues or concerns in a brief period.

Horizon has been a part of several projects around the city of Palm Desert and is currently maintaining two of the Landscape Maintenance Areas. We have crews set up at different areas, that we can assign to certain upcoming projects, each consisting of a foreman on site.

Respectfully,

_____

Rafael Mendoza, President

48727 Charlton Peak St

CN: (760) 333-9371

Experience:

We have completed several projects for the city of Palm Desert and are comfortable working with the city inspectors and staff.

Below are examples of jobs completed.

Project	Client	Description of Bidder's Work	Completion Date
DESERT WILLOW, COUNTRY CLUB DR REHABILITATION	CITY OF PALM DESERT	LANDSCAPE UPGRADE	12/2020
WASHINGTON RAMP CALSENSE CONTROLLER	CITY OF PALM DESERT	UPGRADING OF CONTROLLER AND VALVES	07/2021
DESERT WILLOW GOLF CART BRIDGE REPAIR	CITY OF PALM DESERT	REMOVE AND REPLACE ALL WOOD STRUCTURE	01/2021
FREEDOM PARK PICKLE BALL COURT IMPROVEMENTS	CITY OF PALM DESERT	LANDSCAPE IMPROVEMENTS	04/2020
SUNBURST RV STORAGE	GUY EVANS	LANDSCAPE CONSTRUCTON	01/27/2023
Desert Willow Perimeter Landscape and Lighting Rehabilitation Phase 2 Project	CITY OF PALM DESERT	LANDSCAPE UPGRADE	08/2023

Staff:

Rafael Mendoza, President

I am a certified Landscape Technician and received training in tree pruning. I hold a QAL category B for Pesticides, as well as a Pesticide Business License.

Eric Mendoza Lee, Irrigation Technician, Pesticide Applicator

Eric is a Landscape technician in training, assisting in irrigation repairs and concerns. He is our Herbicide applicator and holds a QAL Category B.

Julian Gonzalez, Foreman

Julian is our Foreman, he has over 20 years of experience with Horizon, maintaining our commercial areas and projects.

Vicente Ayala, Foreman Back-up/Crew

Vicente has been working at Horizon Professional Landscape Inc for over 19 years as a Foreman Back-up and crew helper.

Daniel Aguayo, Crew

Daniel has been with the company for 5 years now. He has been maintaining areas of Palm Desert since before joining us, making him very familiar with the jobsites.

Emilio Parada, Foreman

He has over 20 years of experience with Horizon, maintaining our commercial areas and projects.

Proposed Method to accomplish work:

HORIZON PROFESSIONAL LANDSCAPE INC has done work for the City of Palm Desert since 2002. We know and understand the expectations of the city. We have met the standards of the tasks. Our company would like to participate in projects of $20,000.00 or less. Jobs we could do within a month.

Fee Proposal:

Supervisor: $65.00 hr

Irrigator: $65.00 hr

Foreman: $60.00 hr

Laborer: $45.00 hr

Rafael Mendoza, Supervisor/Irrigation Tech/Pesticide Licensed

-Over 30 years in the Landscape industry.

-Worked for large companies as a field supervisor and Project Manager, in charge of six crews, maintaining commercial projects and a tree pruning crew.

-Experience in customer satisfaction, sales, and Landscape Design.

-Certified Landscape Technician

-Trained in tree pruning

-QAL for landscape management.

-Over 30 years of experience in Irrigation.

Eric Mendoza Lee,

Supervisor, Irrigation/Spray Tech

-3 years of experience in landscape management.

-Enrolled in school to become a Certified Landscape Technician.

-Qualified Applicator License Category B for Landscape Management.

Julian Gonzalez, Foreman

-Over 30 years of experience in Landscape Management

Vicente Ayala, Foreman

-19 years of experience as a Foreman
Back-up and crew helper with the company.

Daniel Aguayo, Crew

-Over 6 years of experience in landscape management with our company.

Emilio Parada, Foreman

He has over 20 years of experience with Horizon, maintaining our commercial areas and projects.

Contract No. _____

CITY OF PALM DESERT
MAINTENANCE SERVICES AGREEMENT

1. Parties and Date. This Agreement is made and entered into this **1st** day of **December, 2024**, by and between the City of Palm Desert, a municipal corporation organized under the laws of the State of California with its principal place of business at 73-510 Fred Waring Drive, Palm Desert, California 92260-2578, ("City") and **Horizon Professional Landscape, Inc.**, **a Corporation**, with its principal place of business at **48727 Charlton Peak Street, Coachella, CA 92236** ("Vendor"). The City and Vendor are sometimes individually referred to herein as "Party" and collectively as "Parties."

2. Recitals.

2.1 Contractor.

Contractor desires to perform and assume responsibility for the provision of certain maintenance services required by the City on the terms and conditions set forth in this Agreement. Contractor represents that it is experienced in providing maintenance services to public clients, that it and its subcontractors have all necessary licenses and permits to perform the services in the State of California, and that it is familiar with the plans of City. Contractor shall not subcontract any portion of the work required by this Agreement, except as expressly stated herein, without prior written approval of City. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement.

2.2 Project.

The City is a public agency of the State of California and is in need of services for the following project:

Parks and Landscape Enhancement Project
Project No. CPK00003
(hereinafter referred to as "the Project").

3. Terms.

3.1 Scope of Services and Term.

3.1.1 General Scope of Services. Contractor promises and agrees to furnish to the City all labor, materials, tools, equipment, services, and incidental and customary work necessary to fully and adequately supply the maintenance services necessary for the Project ("Services"). The Services are more particularly described in Exhibit "A" attached hereto and incorporated herein by reference. All Services shall be subject to, and performed in accordance with, this Agreement, the exhibits attached hereto and incorporated herein by reference, and all applicable local, state, and federal laws, rules and regulations.

3.1.2 Term. The term of this Agreement shall be from December 1, 2024, to June 30, 2027, unless earlier terminated as provided herein. The City shall have the unilateral option, at its sole discretion, to renew this Agreement automatically for no more than 2 additional one-year terms. Contractor shall complete the Services within the term of this Agreement and shall meet any other established schedules and deadlines. The Parties may, by mutual, written consent, extend the term of this Agreement if necessary to complete the Services.

3.2 Responsibilities of Contractor.

3.2.1 Control and Payment of Subordinates; Independent Contractor. The Services shall be performed by Contractor or under its supervision. Contractor will determine the means, methods, and details of performing the Services subject to the requirements of this Agreement. City retains Contractor on an independent contractor basis and not as an employee. Any personnel performing the Services under this Agreement on behalf of Contractor shall not be employees of City and shall at all times be under Contractor's exclusive direction and control. Contractor shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law. Contractor shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation insurance.

3.2.2 Schedule of Services. Contractor shall perform the Services in a prompt and timely manner in accordance with each Task Order set forth in Exhibit "B" attached hereto and incorporated herein by reference. Contractor represents that it has the professional and technical personnel required to perform the Services in conformance with such conditions. Upon request of City, Contractor shall provide a more detailed schedule of anticipated performance to meet the Schedule of Services.

3.2.3 Conformance to Applicable Requirements. All work prepared by Contractor shall be subject to the approval of City.

3.2.4 City's Representative. The City hereby designates **Brad Chuck, Landscape Supervisor**, or his or her designee, to act as its representative for the performance of this Agreement ("City's Representative"). City's Representative shall have the power to act on behalf of the City for all purposes under this Agreement except for increasing compensation. Contractor shall not accept direction or orders from any person other than the City's Representative or his or her designee.

3.2.5 Contractor's Representative. Contractor hereby designates **Rafael Mendoza, President**, or his or her designee, to act as its representative for the performance of this Agreement ("Contractor's Representative"). Contractor's Representative shall have full authority to represent and act on behalf of the Contractor for all purposes under this Agreement. The Contractor's Representative shall supervise and direct the Services, using his best skill and attention, and shall be responsible for all means, methods, techniques, sequences, and procedures and for the satisfactory coordination of all portions of the Services under this Agreement.

3.2.6 Coordination of Services. Contractor agrees to work closely with City staff in the performance of Services and shall be available to City's staff, consultants, and other staff at all reasonable times.

3.2.7 Standard of Care; Performance of Employees. Contractor shall perform all Services under this Agreement in a skillful and competent manner, consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Contractor represents and maintains that it is skilled in the professional calling necessary to perform the Services. Contractor warrants that all employees and subcontractors shall have sufficient skill and experience to perform the Services assigned to them. Finally, Contractor represents that it, its employees, and subcontractors have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services, including a City Business License, and that such licenses and approvals shall be maintained

throughout the term of this Agreement. Contractor shall perform, at its own cost and expense and without reimbursement from the City, any services necessary to correct errors or omissions which are caused by the Contractor's failure to comply with the standard of care provided for herein. Any employee of the Contractor or its sub-contractors who is determined by the City to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any employee who fails or refuses to perform the Services in a manner acceptable to the City, shall be promptly removed from the Project by the Contractor and shall not be re-employed to perform any of the Services or to work on the Project.

3.2.8 Period of Performance and Liquidated Damages. Contractor shall perform and complete all Services under this Agreement within the term set forth in Section 3.1.2 above ("Performance Time"). Contractor shall perform the Services in strict accordance with any completion schedule or Project milestones described in Exhibits "A" or "B" attached hereto, or which may be provided separately in writing to the Contractor. Contractor agrees that if the Services are not completed within the aforementioned Performance Time and/or pursuant to any such completion schedule or Project milestones developed pursuant to provisions of this Agreement, it is understood, acknowledged and agreed that the City will suffer damage. Pursuant to Government Code Section 53069.85, Contractor shall pay to the City as fixed and liquidated damages, and not as a penalty, the sum of Two-Hundred and Fifty Dollars ($250.00) per day for each and every calendar day of delay beyond the Performance Time or beyond any completion schedule or Project milestones established pursuant to this Agreement.

3.2.9 Disputes. Should any dispute arise respecting the true value of any work done, of any work omitted, or of any extra work which Contractor may be required to do or respecting the size of any payment to Contractor during the performance of this Contract, Contractor shall continue to perform the Work while said dispute is decided by the City. If Contractor disputes the City's decision, Contractor shall have such remedies as may be provided by law.

3.2.10 Laws and Regulations; Employee/Labor Certifications. Contractor shall keep itself fully informed of and in compliance with all local, state, and federal laws, rules and regulations in any manner affecting the performance of the Project or the Services, including all Cal/OSHA requirements, and shall give all notices required by law. Contractor shall be liable for all violations of such laws and regulations in connection with the Services and this Agreement. All violations of such laws and regulations shall be grounds for the City to terminate the Agreement for cause. City is a public entity of the State of California subject to certain provisions of the Health & Safety Code, Government Code, Public Contract Code, and Labor Code of the State. It is stipulated and agreed that all provisions of the law applicable to the public contracts of a municipality are a part of this Agreement to the same extent as though set forth herein and will be complied with.

3.2.10.1 Employment Eligibility; Contractor. Contractor certifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time and shall require all subconsultants and sub-subconsultants to comply with the same. Contractor certifies that it has not committed a violation of any such law within the five (5) years immediately preceding the date of execution of this Agreement and shall not violate any such law at any time during the term of the Agreement.

3.2.10.2 Labor Certification. By its signature hereunder, Contractor certifies that it is aware of the provisions of Section 3700 of the California 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 agrees to comply with such provisions before commencing the performance of the Services.

3.2.10.3 Equal Opportunity Employment. Contractor represents that it is an equal opportunity employer, and it shall not discriminate against any subcontractor, employee or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination. Contractor shall comply with all relevant provisions of City's Minority Business Enterprise program, Affirmative Action Plan or other related programs or guidelines currently in effect or hereinafter enacted.

3.2.10.4 Air Quality. Contractor must fully comply with all applicable laws, rules and regulations in furnishing or using equipment and/or providing services, including, but not limited to, emissions limits and permitting requirements imposed by the California Air Resources Board (CARB). Contractor shall specifically be aware of the CARB limits and requirements' application to "portable equipment", which definition is considered by CARB to include any item of equipment with a fuel-powered engine. Contractor shall indemnify City against any fines or penalties imposed by CARB or any other governmental or regulatory agency for violations of applicable laws, rules and/or regulations by Contractor, its subcontractors, or others for whom Contractor is responsible under its indemnity obligations provided for in this Agreement.

3.2.10.5 Water Quality Management and Compliance. To the extent applicable, Contractor's Services must account for, and fully comply with, all local, state and federal laws, rules and regulations that may impact water quality compliance, including, without limitation, all applicable provisions of the Federal Water Pollution Control Act (33 U.S.C. §§ 1300); the California Porter-Cologne Water Quality Control Act (Cal Water Code §§ 13000-14950); laws, rules and regulations of the Environmental Protection Agency and the State Water Resources Control Board; the City's ordinances regulating discharges of storm water; and any and all regulations, policies, or permits issued pursuant to any such authority regulating the discharge of pollutants, as that term is used in the Porter-Cologne Water Quality Control Act, to any ground or surface water in the State. Failure to comply with the laws, regulations and policies described in this Section is a violation of law that may subject Contractor to penalties, fines, or additional regulatory requirements.

3.2.11 Insurance.

3.2.11.1 Minimum Requirements. Without limiting Contractor's indemnification of City, and prior to commencement of the Services, Contractor shall obtain, provide, and maintain at its own expense during the term of this Agreement, policies of insurance of the type and amounts described below and in a form that is satisfactory to City.

(A) General Liability Insurance. Contractor shall maintain commercial general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01, in an amount not less than $1,000,000 per occurrence, $2,000,000 general aggregate, for bodily injury, personal injury, and property damage. The policy must include contractual liability that has not been amended. Any endorsement restricting standard ISO "insured contract" language will not be accepted.

(B) Automobile Liability Insurance. Contractor shall maintain automobile insurance at least as broad as Insurance Services Office form CA 00 01 covering bodily injury and property damage for all activities of the Contractor arising out of or in connection

with Work to be performed under this Agreement, including coverage for any owned, hired, non-owned or rented vehicles, in an amount not less than $1,000,000 combined single limit for each accident. The City's Risk Manager may modify this requirement if it is determined that Consultant will not be utilizing a vehicle in the performance of his/her duties under this Agreement.

(C) Umbrella or Excess Liability Insurance. Contractor may opt to utilize umbrella or excess liability insurance in meeting insurance requirements. In such circumstances, Contractor may obtain and maintain an umbrella or excess liability insurance policy with limits that will provide bodily injury, personal injury, and property damage liability coverage at least as broad as the primary coverages set forth above, including commercial general liability and employer's liability. Such policy or policies shall include the following terms and conditions:

(a) A drop-down feature requiring the policy to respond if any primary insurance that would otherwise have applied proves to be uncollectible in whole or in part for any reason;

(b) Pay on behalf of wording as opposed to reimbursement;

(c) Concurrency of effective dates with primary policies; and

(d) Policies shall "follow form" to the underlying primary policies.

(e) Insureds under primary policies shall also be insureds under the umbrella or excess policies.

(D) Workers' Compensation Insurance. Contractor shall maintain Workers' Compensation Insurance (Statutory Limits) and Employer's Liability Insurance (with limits of at least $1,000,000). Contractor shall submit to City, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of the City, its elected or appointed officers, and their respective agents, officials, employees, volunteers, and representatives.

(E) Fidelity Coverage. Reserved.

(F) Cyber Liability Insurance. Reserved.

a) Liability arising from the theft, dissemination and/or use of confidential or personally identifiable information; including credit monitoring and regulatory fines arising from such theft, dissemination, or use of confidential information.

b) Network security liability arising from the unauthorized use of, access to, or tampering with computer systems.

c) Liability arising from the failure of technology products (software) required under the contract for Vendor to properly perform the services intended.

d) Electronic Media Liability arising from personal injury, plagiarism or misappropriation of ideas, domain name infringement or improper deep-linking or framing, and infringement or violation of intellectual property rights.

e) Liability arising from the failure to render professional services.

If coverage is maintained on a claims-made basis, Contractor shall maintain such coverage for an additional period of three (3) years following termination of the Agreement.

(G) Pollution Liability Insurance. Environmental Impairment Liability Insurance shall be written on a Contractor's Pollution Liability form or other form acceptable to the City providing coverage for liability arising out of sudden, accidental, and gradual pollution and remediation. The policy limit shall be no less than $1,000,000 dollars per claim and in the aggregate. All activities contemplated in this Agreement shall be specifically scheduled on the policy as "covered operations". The policy shall provide coverage for the hauling of waste from the Project site to the final disposal location, including non-owned disposal sites.

3.2.11.2 Other Provisions and Requirements.

(A) Proof of Insurance. Contractor shall provide certificates of insurance to City as evidence of the insurance coverage required herein, along with a waiver of subrogation endorsement for workers' compensation. Insurance certificates and endorsements must be approved by City's Risk Manager prior to commencement of performance. Current certification of insurance shall be kept on file with City at all times during the term of this contract. City reserves the right to require complete, certified copies of all required insurance policies, at any time.

(B) Duration of Coverage. Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the work hereunder by Contractor, his/her agents, representatives, employees, or subconsultants.

(C) Primary/Non-Contributing. Coverage provided by Contractor shall be primary and any insurance or self-insurance procured or maintained by City shall not be required to contribute with it. The limits of insurance required herein may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of City before the City's own insurance or self-insurance shall be called upon to protect it as a named insured.

(D) City's Rights of Enforcement. In the event any policy of insurance required under this Agreement does not comply with these specifications, or is canceled and not replaced, City has the right, but not the duty, to obtain the insurance it deems necessary, and any premium paid by City will be promptly reimbursed by Contractor, or City will withhold amounts sufficient to pay premium from Contractor payments. In the alternative, City may cancel this Agreement.

(E) Acceptable Insurers. All insurance policies shall be issued by an insurance company currently authorized by the Insurance Commissioner to transact business of insurance or is on the List of Approved Surplus Line Insurers in the State of California, with an assigned policyholders' Rating of A- (or higher) and Financial Size Category Class VII (or larger) in accordance with the latest edition of Best's Key Rating Guide, unless otherwise approved by the City's Risk Manager.

(F) Waiver of Subrogation. All insurance coverage maintained or procured pursuant to this agreement shall be endorsed to waive subrogation against the City, its elected or appointed officers, and their respective agents, officials, employees, volunteers, and representatives, or shall specifically allow Contractor or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. Contractor hereby waives its own right of recovery against the City, its elected or appointed officers, and their respective agents, officials, employees, volunteers, and representatives, and shall require similar written express waivers and insurance clauses from each of its subcontractors.

(G) Enforcement of Contract Provisions (non estoppel). Contractor acknowledges and agrees that any actual or alleged failure on the part of the City to inform Contractor of non-compliance with any requirement imposes no additional obligations on the City nor does it waive any rights hereunder.

(H) Requirements Not Limiting. Requirements of specific coverage features or limits contained in this Section are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be all inclusive, or to the exclusion of other coverage, or a waiver of any type. If the Contractor maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

(I) Notice of Cancellation. Contractor agrees to oblige its insurance agent or broker and insurers to provide City with a thirty (30) day notice of cancellation (except for nonpayment for which a ten (10) day notice is required) or nonrenewal of coverage for each required coverage.

(J) Additional Insured Status. General liability, automobile liability, and if applicable, pollution liability and cyber liability, policies shall provide or be endorsed to provide that the City, its elected or appointed officers, and their respective agents, officials, employees, volunteers, and representatives, shall be additional insureds under such policies. This provision shall also apply to any excess/umbrella liability policies.

(K) Prohibition of Undisclosed Coverage Limitations. None of the coverages required herein will be in compliance with these requirements if they include any limiting endorsement of any kind that has not been first submitted to City and approved of in writing.

(L) Separation of Insureds. A severability of interests provision must apply for all additional insureds ensuring that Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the insurer's limits of liability. The policy(ies) shall not contain any cross-liability exclusions.

(M) Pass Through Clause. Contractor agrees to ensure that its sub-consultants, sub-contractors, and any other party involved with the Project who is brought onto or involved in the project by Contractor, provide the same minimum insurance coverage and endorsements required of Contractor. Contractor agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. Contractor agrees that upon request, all agreements with consultants, subcontractors, and others engaged in the Project will be submitted to City for review.

(N) City's Right to Revise Specifications. The City or its Risk Manager reserves the right at any time during the term of the contract to change the amounts and types of insurance required by giving the Contractor ninety (90) days advance written notice of such change. If such change results in cost to the Contractor, the City and Contractor may renegotiate Contractor's compensation. If the City reduces the insurance requirements, the change shall go into effect immediately and require no advanced written notice.

(O) Self-Insured Retentions. Any self-insured retentions must be declared to and approved by City. City reserves the right to require that self-insured retentions be eliminated, lowered, or replaced by a deductible. Self-insurance will not be considered to comply with these specifications unless approved by City.

(P) Timely Notice of Claims. Contractor shall give City prompt and timely notice of claims made or suits instituted that arise out of or result from Contractor's performance under this Agreement, and that involve or may involve coverage under any of the required liability policies.

(Q) Additional Insurance. Contractor shall also procure and maintain, at its own cost and expense, any additional kinds of insurance, which in its own judgment may be necessary for its proper protection and prosecution of the work.

3.2.12 Safety. Contractor shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, the Contractor shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be performed. Safety precautions, where applicable, shall include, but shall not be limited to: (A) adequate life protection and lifesaving equipment and procedures; (B) instructions in accident prevention for all employees and subcontractors, such as safe walkways, scaffolds, fall protection ladders, bridges, gang planks, confined space procedures, trenching and shoring, equipment and other safety devices, equipment and wearing apparel as are necessary or lawfully required to prevent accidents or injuries; and (C) adequate facilities for the proper inspection and maintenance of all safety measures.

3.2.13 Bonds.

3.2.13.1 Performance Bond. If required by law or otherwise specifically requested by City in Exhibit "C" attached hereto and incorporated herein by reference, Contractor shall execute and provide to City concurrently with this Agreement a Performance Bond in the amount of the total, not-to-exceed compensation indicated in this Agreement, and in a form provided or approved by the City. If such bond is required, no payment will be made to Contractor until it has been received and approved by the City.

3.2.13.2 Payment Bond. If required by law or otherwise specifically requested by City in Exhibit "C" attached hereto and incorporated herein by reference, Contractor shall execute and provide to City concurrently with this Agreement a Payment Bond in the amount of the total, not-to-exceed compensation indicated in this Agreement, and in a form provided or approved by the City. If such bond is required, no payment will be made to Contractor until it has been received and approved by the City.

3.2.13.3 Bond Provisions. Should, in City's sole opinion, any bond become insufficient, or any surety be found to be unsatisfactory, Contractor shall renew or replace the

affected bond within ten (10) days of receiving notice from City. In the event the surety or Contractor intends to reduce or cancel any required bond, at least thirty (30) days prior written notice shall be given to the City, and Contractor shall post acceptable replacement bonds at least ten (10) days prior to expiration of the original bonds. No further payments shall be deemed due or will be made under this Agreement until any replacement bonds required by this Section are accepted by the City. To the extent, if any, that the total compensation is increased in accordance with the Agreement, the Contractor shall, upon request of the City, cause the amount of the bonds to be increased accordingly and shall promptly deliver satisfactory evidence of such increase to the City. To the extent available, the bonds shall further provide that no change or alteration of the Agreement (including, without limitation, an increase in the total compensation, as referred to above), extensions of time, or modifications of the time, terms, or conditions of payment to the Contractor, will release the surety. If the Contractor fails to furnish any required bond, the City may terminate this Agreement for cause.

3.2.13.4 Surety Qualifications. Only bonds executed by an admitted surety insurer, as defined in Code of Civil Procedure Section 995.120, shall be accepted. The surety must be a California-admitted surety with a current A.M. Best's rating no less than A:VIII and satisfactory to the City. If a California-admitted surety insurer issuing bonds does not meet these requirements, the insurer will be considered qualified if it is in conformance with Section 995.660 of the California Code of Civil Procedure, and proof of such is provided to the City.

3.2.14 Accounting Records. Contractor shall maintain complete and accurate records with respect to all costs and expenses incurred under this Agreement. All such records shall be clearly identifiable. Contractor shall allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement. Contractor shall allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of three (3) years from the date of final payment under this Agreement.

3.2.15 Work Sites.

3.2.15.1 Inspection of Site. Contractor shall visit sites where Services are to be performed and shall become acquainted with all conditions affecting the Services prior to commencing the Services. Contractor shall make such examinations as it deems necessary to determine the condition of the work sites, its accessibility to materials, workmen and equipment, and to determine Contractor's ability to protect existing surface and subsurface improvements. No claim for allowances–time or money–will be allowed as to such matters after commencement of the Services.

3.2.15.2 Field Measurements. Contractor shall make field measurements, verify field conditions, and shall carefully compare such field measurements and conditions and other information known to Contractor with the Contract, including any plans, specifications, or scope of work before commencing Services. Errors, inconsistencies, or omissions discovered shall be reported to the City immediately and prior to performing any Services or altering the condition.

3.2.15.3 Hazardous Materials and Differing Conditions. Should Contractor encounter material reasonably believed to be polychlorinated biphenyl (PCB) or other toxic wastes, hazardous substances and hazardous materials as defined in California state or federal law at the site which have not been rendered harmless, the Contractor shall immediately stop work at the affected area and shall report the condition to the City in writing. The City shall contract for any services required to directly remove and/or abate PCBs, hazardous substances, other

toxic wastes, and hazardous materials, and shall not require the Contractor to subcontract for such services. The Services in the affected area shall not thereafter be resumed except by written agreement of the City and Contractor.

3.2.16 Loss and Damage. Contractor shall be responsible for all loss and damage which may arise out of the nature of the Services agreed to herein, or from the action of the elements, or from any unforeseen difficulties which may arise or be encountered in the prosecution of the Services until the same is fully completed and accepted by City.

3.2.17 Warranty. Contractor warrants all Services under the Agreement (which for purposes of this Section shall be deemed to include unauthorized work which has not been removed and any non-conforming materials incorporated into the work) to be of good quality and free from any defective or faulty material and workmanship. Contractor agrees that for a period of one year (or the period of time specified elsewhere in the Agreement or in any guarantee or warranty provided by any manufacturer or supplier of equipment or materials incorporated into the work, whichever is later) after the date of final acceptance, Contractor shall within ten (10) days after being notified in writing by the City of any defect in the Services or non-conformance of the Services to the Agreement, commence and prosecute with due diligence all Services necessary to fulfill the terms of the warranty at its sole cost and expense. Contractor shall act sooner as requested by the City in response to an emergency. In addition, Contractor shall, at its sole cost and expense, repair and replace any portions of the work (or work of other contractors) damaged by its defective Services or which becomes damaged in the course of repairing or replacing defective work. For any work so corrected, Contractor's obligation hereunder to correct defective work shall be reinstated for an additional one (1) year period, commencing with the date of acceptance of such corrected work. Contractor shall perform such tests as the City may require to verify that any corrective actions, including, without limitation, redesign, repairs, and replacements comply with the requirements of the Agreement. All costs associated with such corrective actions and testing, including the removal, replacement, and reinstitution of equipment and materials necessary to gain access, shall be the sole responsibility of the Contractor. All warranties and guarantees of subcontractors, suppliers, and manufacturers with respect to any portion of the work, whether express or implied, are deemed to be obtained by Contractor for the benefit of the City, regardless of whether or not such warranties and guarantees have been transferred or assigned to the City by separate agreement and Contractor agrees to enforce such warranties and guarantees, if necessary, on behalf of the City. In the event that Contractor fails to perform its obligations under this Section, or under any other warranty or guaranty under this Agreement, to the reasonable satisfaction of the City, the City shall have the right to correct and replace any defective or non-conforming work and any work damaged by such work or the replacement or correction thereof at Contractor's sole expense. Contractor shall be obligated to fully reimburse the City for any expenses incurred hereunder upon demand.

3.3 Fees and Payments.

3.3.1 Compensation. Contractor shall receive compensation, including authorized reimbursements, for all Services rendered under this Agreement at the rates set forth in Exhibit "C" attached hereto and incorporated herein by reference. The maximum compensation for Services to be provided pursuant to each approved Task Order shall be set forth in the relevant Task Order. The total compensation, in the aggregate, shall not exceed **Seven Hundred Fifty Thousand Dollars ($750,000)** without written approval of the City Council or City Manager, as applicable.

3.3.2 Payment of Compensation. Contractor shall submit to City monthly invoices which provides a detailed description of the Services and hours rendered by Contractor. City shall,

within thirty (30) days of receiving such statement, review the statement and pay all non-disputed and approved charges. Contractor shall submit its final invoice to City within thirty (30) days from the last date of provided Services or termination of this Agreement and failure by the Contractor to submit a timely invoice shall constitute a waiver of its right to final payment. Payment shall not constitute acceptance of any Services completed by Contractor. The making of final payment shall not constitute a waiver of any claims by the City for any reason whatsoever.

3.3.2.1 Retainer. From each approved progress estimate, five percent (5%) will be deducted and retained by the City, and the remainder will be paid to Contractor. All Agreement retainage shall be released and paid to the Contractor and subcontractors pursuant to California Public Contract Code Section 7107. Contractor shall furnish City with labor and material releases from all subcontractors performing work on, or furnishing materials for, the work governed by this Agreement prior to final payment by City.

3.3.3 Deductions. City may deduct or withhold, as applicable, from each progress payment an amount necessary to protect City from loss because of: (1) stop payment notices as allowed by state law; (2) unsatisfactory prosecution of the Services by Contractor; (3) sums representing expenses, losses, or damages as determined by the City, incurred by the City for which Contractor is liable under the Agreement; and (4) any other sums which the City is entitled to recover from Contractor under the terms of the Agreement or pursuant to state law, including Section 1727 of the California Labor Code. The failure by the City to deduct any of these sums from a progress payment shall not constitute a waiver of the City's right to such sums.

3.3.4 Reimbursement for Expenses. Contractor shall not be reimbursed for any expenses unless authorized in writing by City.

3.3.5 Extra Work. At any time during the term of this Agreement, City may request that Contractor perform Extra Work. As used herein, “Extra Work” means any work which is determined by City to be necessary for the proper completion of the Project, but which the parties did not reasonably anticipate would be necessary at the execution of this Agreement. Contractor shall not perform, nor be compensated for, Extra Work without written authorization from City’s Representative.

3.3.6 Prevailing Wages. Contractor is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., (“Prevailing Wage Laws”), which require the payment of prevailing wage rates and the performance of other requirements on “public works” and “maintenance” projects. If the Services are being performed as part of an applicable “public works” or “maintenance” project, as defined by the Prevailing Wage Laws, and if the total compensation is $15,000 or more, Contractor agrees to fully comply with such Prevailing Wage Laws. City shall provide Contractor with a copy of the prevailing rates of per diem wages in effect at the commencement of this Agreement. Contractor shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request and shall post copies at the Contractor’s principal place of business and at the Project site. Contractor shall defend, indemnify, and hold the City, its elected or appointed officers, and their respective agents, officials, employees, volunteers and representatives free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. It shall be mandatory upon the Contractor and all subcontractors to comply with all California Labor Code provisions, which include but are not limited to prevailing wages (Labor Code Sections 1771, 1774 and 1775), employment of apprentices (Labor Code Section 1777.5), certified payroll records (Labor Code Sections 1771.4 and 1776), hours of labor (Labor Code Sections 1813 and 1815) and debarment of contractors

and subcontractors (Labor Code Section 1777.1). The requirement to submit certified payroll records directly to the Labor Commissioner under Labor Code section 1771.4 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Section 1771.4.

3.3.7 Registration/DIR Compliance. If the Services are being performed as part of an applicable "public works" or "maintenance" project, and if the total compensation is $15,000 or more, then pursuant to Labor Code Sections 1725.5 and 1771.1, the Contractor and all subcontractors performing such Services must be registered with the Department of Industrial Relations. Contractor shall maintain registration for the duration of the Project and require the same of any subcontractors, as applicable. This Project may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Contractor's sole responsibility to comply with all applicable registration and labor compliance requirements. Any stop orders issued by the Department of Industrial Relations against Contractor or any subcontractor that affect Contractor's performance of Services, including any delay, shall be Contractor's sole responsibility. Any delay arising out of or resulting from such stop orders shall be considered Contractor caused delay and shall not be compensable by the City. Contractor shall defend, indemnify, and hold the City, its elected or appointed officers, and their respective agents, officials, employees, volunteers, and representatives free and harmless from any claim or liability arising out of stop orders issued by the Department of Industrial Relations against Contractor or any subcontractor.

3.4 Termination of Agreement.

3.4.1 Grounds for Termination. City may, by written notice to Contractor, terminate the whole or any part of this Agreement at any time and without cause by giving written notice to Contractor of such termination, and specifying the effective date thereof, at least seven (7) days before the effective date of such termination. Upon termination, Contractor shall be compensated only for those Services which have been adequately rendered to City, and Contractor shall be entitled to no further compensation. Contractor may not terminate this Agreement except for cause.

3.4.2 Conflict of Interest. The Contractor covenants that any and all relationships with construction firms that may submit bids for projects developed under this agreement will require full disclosure of any direct or indirect conflicts of interest, financial interests, relationships, and the nature of any relationships with any related project bid submitters; and that any violation of this provision may result in the immediate termination of the Agreement

3.4.3 Effect of Termination. If this Agreement is terminated as provided herein, City may require Contractor to provide all finished or unfinished information of any kind prepared by Contractor in connection with the performance of Services under this Agreement. Contractor shall be required to provide such document and other information within fifteen (15) days of the request.

3.4.4 Additional Services. In the event this Agreement is terminated in whole or in part as provided herein, City may procure, upon such terms and in such manner as it may determine appropriate, services similar to those terminated.

3.5 General Provisions.

3.5.1 Delivery of Notices. All notices permitted or required under this Agreement shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

Contractor: Horizon Professional Landscape, Inc.
48727 Charlton Peak Street
Coachella, CA 92236
ATTN: Rafael Mendoza, President

City: City of Palm Desert
73-510 Fred Waring Drive
Palm Desert, CA 92260-2578
ATTN: Brad Chuck, Landscape Supervisor

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

3.5.2 Indemnification.

3.5.2.1 Scope of Indemnity. To the fullest extent permitted by law, Contractor shall defend, indemnify and hold the City, its elected or appointed officers, and their respective agents, officials, employees, volunteers and representatives free and harmless from any and all claims, demands, causes of action, suits, actions, proceedings, costs, expenses, liability, judgments, awards, decrees, settlements, loss, damage or injury of any kind, in law or equity, regardless of whether the allegations are false, fraudulent, or groundless, to property or persons, including wrongful death, (collectively, "Claims") in any manner arising out of, pertaining to, or incident to any acts, errors or omissions, or willful misconduct of Contractor, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Services, the Project or this Agreement, including without limitation the payment of all expert witness fees, attorneys' fees and other related costs and expenses except such Claims caused by the sole or active negligence or willful misconduct of the City.

3.5.2.2 Additional Indemnity Obligations. Contractor shall defend, with counsel of City's choosing and at Contractor's own cost, expense, and risk, any and all Claims covered by this section that may be brought or instituted against the City, its elected or appointed officers, and their respective agents, officials, employees, volunteers and representatives. In addition, Contractor shall pay and satisfy any judgment, award or decree that may be rendered against the City, its elected or appointed officers, and their respective agents, officials, employees, volunteers, and representatives as part of any such claim, suit, action, or other proceeding. Contractor shall also reimburse City for the cost of any settlement paid by the City, its elected or appointed officers, and their respective agents, officials, employees, volunteers, and representatives as part of any such claim, suit, action, or other proceeding. Such reimbursement shall include payment for City's attorney's fees and costs, including expert witness fees. Contractor shall reimburse the City, its elected or appointed officers, and their respective agents, officials, employees, volunteers, and representatives, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Contractor's obligation to indemnify shall survive expiration or termination of this Agreement, and shall not be restricted to insurance proceeds, if any, received by the Contractor, the City, its elected or appointed officers, and their respective agents, officials, employees, volunteers, and representatives.

3.5.3 Governing Law; Government Code Claim Compliance. This Agreement shall be governed by the laws of the State of California. Venue shall be in Riverside County. In addition

to any and all Agreement requirements pertaining to notices of and requests for compensation or payment for extra work, disputed work, claims and/or changed conditions, Contractor must comply with the claim procedures set forth in Government Code sections 900 et seq. prior to filing any lawsuit against the City. Such Government Code claims, and any subsequent lawsuit based upon the Government Code claims shall be limited to those matters that remain unresolved after all procedures pertaining to extra work, disputed work, claims, and/or changed conditions have been followed by Contractor. If no such Government Code claim is submitted, or if any prerequisite contractual requirements are not otherwise satisfied as specified herein, Contractor shall be barred from bringing and maintaining a valid lawsuit against the City.

3.5.4 Time of Essence. Time is of the essence for each and every provision of this Agreement.

3.5.5 City's Right to Employ Other Contractors. City reserves right to employ other contractors in connection with this Project.

3.5.6 Successors and Assigns. This Agreement shall be binding on the successors and assigns of the parties.

3.5.7 Assignment or Transfer. Contractor shall not assign, hypothecate, or transfer, either directly or by operation of law, this Agreement or any interest herein without the prior written consent of the City. Any attempt to do so shall be null and void, and any assignees, hypothecates or transferees shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer.

3.5.8 Construction; References; Captions. Since the Parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party. Any term referencing time, days or period for performance shall be deemed calendar days and not workdays. All references to Contractor include all personnel, employees, agents, and subcontractors of Contractor, except as otherwise specified in this Agreement. All references to the City include its elected or appointed officers, and their respective agents, officials, employees, volunteers, and representatives except as otherwise specified in this Agreement. The captions of the various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, or intent of this Agreement.

3.5.9 Amendment; Modification. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

3.5.10 Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel or otherwise.

3.5.11 No Third-Party Beneficiaries. Except to the extent expressly provided for in Section 3.5.7, there are no intended third-party beneficiaries of any right or obligation assumed by the Parties.

3.5.12 Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

3.5.13 Prohibited Interests. Contractor maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this Agreement. Further, Contractor warrants that it has not paid, nor has it agreed to pay any company or person, other than a bona fide employee working solely for Contractor, any fee, commission, percentage, brokerage fee, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, City shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer, or employee of City, during the term of his or her service with City, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

3.5.14 Cooperation; Further Acts. The Parties shall fully cooperate with one another and shall take any additional acts or sign any additional documents as may be necessary, appropriate or convenient to attain the purposes of this Agreement.

3.5.15 Authority to Enter Agreement. Contractor has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each Party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and bind each respective Party.

3.5.16 Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

3.5.17 Entire Agreement. This Agreement contains the entire Agreement of the parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings, or agreements. This Agreement may only be modified by a writing signed by both parties.

[SIGNATURES ON NEXT PAGE]

Contract No. _____

SIGNATURE PAGE TO MAINTENANCE SERVICES AGREEMENT BY AND BETWEEN THE CITY OF PALM DESERT AND HORIZON PROFESSIONAL LANDSCAPE, INC.

IN WITNESS WHEREOF, each of the Parties has caused this Agreement to be executed on the day and year first above written.

CITY OF PALM DESERT

By: _____

L. Todd Hileman
City Manager

Attest:

By: _____

Anthony J. Mejia
City Clerk

Approved as to form:

By: _____

Isra Shah
Best Best & Krieger LLP
City Attorney

HORIZON PROFESSIONAL LANDSCAPE, INC. A CORPORATION

By: _____

Rafael Mendoza
President

By: _____

Eric Mendoza Lee
Secretary

799029
Contractor's License Number and Classification

1000534321
DIR Registration Number (*if applicable*)

City Clerk QC: _____

Contracts QC: _____

Insurance:

_____
Initial Review

_____
Final Approval

_____
Bonds

EXHIBIT "A"

SCOPE OF SERVICES

The Proposer to be knowledgeable in the installation, repair, and maintenance of the following park and landscape items:

- Landscape and Irrigation maintenance, repair, and installation
- Sod preparation and installation
- Topdressing of sports turf
- Park amenities material installation (sand volleyball courts, baseball infields, etc.)
- Minor playground repairs
- Park site furnishing repairs and installation
- Medians landscape improvements
- Assessment Districts improvements
- Tree and shrub planting
- Mow curb and related concrete repairs
- Installation of cobble and inorganics
- Proper traffic control as defined in the WATCH handbook
- Small scale landscape projects

The scope of services is not limited to the items listed above. In addition, more detailed work may be required, such as installation and programming of Smart Controllers, troubleshooting faulty irrigation wires, repairing and programming two-wire irrigation systems, leveling and grading, and other specialty work associated with park and landscape maintenance

The City intends to award the contract as a 3-year agreement with an option of (2) one-year extensions, subject to funding availability and City Council approval. The Agreement shall not exceed Seven Hundred Fifty Thousand Dollars ($750,000.00) per fiscal year for performance of said Services.

No Services shall be performed by the Contractor unless authorized by the City and by a fully executed Task Order.

EXHIBIT "B" TASK ORDER FORM SAMPLE

CITY OF PALM DESERT
TASK ORDER

Contract No / P.O. #:		
Change/Task Order No.:		
Task Order Bonds Needed?:	☐ YES	☐ NO
Contingency:	☐ YES	☐ NO
Account No.:		
Project No.:		
Vendor No.:		

Contract Purpose: _____

Contractor Name: _____

Contractor shall construct, furnish all supervision, labor, services, equipment, and materials, and perform all work necessary or required to fully complete the changes to the Contract described hereinto for the amount agreed upon between the Contractor and the City of Palm Desert ("City").

Description of Changes	**Decrease** In Contract Price	**Increase** In Contract Price
Totals:	$ 0.00	$ 0.00
Net Change in Contract Price:		$ 0.00

Justification:

Original Contract Amount:	+	
Contingency:	+	
Total Budget Amount:		$ 0.00
Less: Expend. / Encumb. To Date:	-	$ 0.00
Less: This Change Order Amount:	-	$ 0.00
Remaining for Project:		$ 0.00

Contingency:	+	
Less: Prior Change/Task Order(s):	-	
Less: This Change/Task Order:	-	$ 0.00
Remaining of Contingency:		$ 0.00

This Task Order Totals:

_____ dollars and ___/100 ($ 0.00)

Task Order Total: $ 0.00

EXHIBIT "B" TASK ORDER FORM SAMPLE

Continued from Front

Contract No. _____ Task Order No.:

Estimated Completion Date: _____

Contractor accepts the terms and conditions stated above as full and final settlement of any and all claims arising out of or related to the subject of this Task Order and acknowledges that the compensation (time and cost) set forth herein comprises the total compensation due for the work or change defined in the Task Order, including all impact on any unchanged work. Execution of this Task Order by the Contractor constitutes a binding accord and satisfaction that fully satisfies, waives, and releases the City from all claims, demands, costs, and liabilities, in contract, law or equity, arising out of or related to the subject of the Task Order, whether known or unknown, including but not limited to direct and indirect costs and/or damages for delay, disruption, acceleration, loss of productivity, and stacking of trades, as well as any and all consequential damages. The adjustments to the Contract Price and Contract Time in this Task Order constitute the entire compensation and/or adjustment thereto due to Contractor, including but not limited to all direct, indirect, consequential, profit, labor, equipment, tools, idle time, incidentals, and overhead (field and home office) costs, due to Contractor arising out of or related to the change in the work covered by this Task Order. The Contractor hereby releases and agrees to waive all rights, without exception or reservation of any kind whatsoever, to file any further claim or request for equitable adjustment of any type, for any reasonably foreseeable cause that shall arise out of, or as a result of, this Task Order and/or its impact on the remainder of the work under the Contract. This Task Order will become a supplement to the Contract and all provisions will apply hereto.

1. REQUESTED BY:	_____ Department Director	2. ACCEPTED BY:	_____ Contractor
3. CERTIFIED FUNDS AVAILABLE	_____ Finance Director	4. APPROVED BY:	_____ City Manager

NOTE: No payments will be made prior to City Manager or Council approval

QC: _____

Bonds: _____

EXHIBIT "C"

COMPENSATION

In the event that this Agreement is renewed pursuant to Section 3.1.2, the rates set forth above may be increased or reduced each year at the time of renewal, but any increase shall not exceed the Consumer Price Index, All Urban Consumers, Los Angeles-Riverside-Orange Counties. The City and Contractor may review the CPI on an annual basis and recommend adjustments to the City Manager or City Council for approval. Any increase shall not exceed the Consumer Price Index.

The maximum compensation for Services to be provided pursuant to each Task Order shall be set forth in the relevant Task Order. The total compensation, in the aggregate, shall not exceed **Seven Hundred Fifty Thousand Dollars ($750,000)** without written approval of the City Council or City Manager, as applicable.

Pricing schedule is as follows:

Position	Hourly Rate
Irrigator	$65.00
Foreman	$60.00
Laborer	$45.00
Supervisor	$65.00

Contract No. _____

PERFORMANCE BOND

KNOW ALL PERSONS BY THESE PRESENTS:

THAT WHEREAS, the City of Palm Desert (hereinafter referred to as "City") has awarded to **Horizon Professional Landscape, Inc.**, (hereinafter referred to as the "Contractor") an agreement for Parks and Landscape Enhancement Project (hereinafter referred to as the "Project").

WHEREAS, the work to be performed by the Contractor is more particularly set forth in the Contract Documents for the Project dated December 1, 2024, (hereinafter referred to as "Contract Documents"), the terms and conditions of which are expressly incorporated herein by reference; and

WHEREAS, the Contractor is required by said Contract Documents to perform the terms thereof and to furnish a bond for the faithful performance of said Contract Documents.

NOW, THEREFORE, we, **Horizon Professional Landscape, Inc.**, the undersigned Contractor and _____ as Surety, a corporation organized and duly authorized to transact business under the laws of the State of California, are held and firmly bound unto the City in the sum of Seven Hundred Fifty Thousand Dollars, ($$750,000), said sum being not less than one hundred percent (100%) of the total amount of the Contract, for which amount well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that, if the Contractor, his or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and agreements in the Contract Documents and any alteration thereof made as therein provided, on its part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their intent and meaning; and shall faithfully fulfill all obligations including the one-year guarantee of all materials and workmanship; and shall indemnify and save harmless the City, its elected or appointed officers, and their respective agents, officials, employees, volunteers and representatives, as stipulated in said Contract Documents, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

As a condition precedent to the satisfactory completion of the Contract Documents, unless otherwise provided for in the Contract Documents, the above obligation shall hold good for a period of one (1) year after the acceptance of the work by City, during which time if Contractor shall fail to make full, complete, and satisfactory repair and replacements and totally protect the City from loss or damage resulting from or caused by defective materials or faulty workmanship, Surety shall undertake and faithfully fulfill all such obligations. The obligations of Surety hereunder shall continue so long as any obligation of Contractor remains. Nothing herein shall limit the City's rights or the Contractor or Surety's obligations under the Contract, law, or equity, including, but not limited to, California Code of Civil Procedure section 337.15.

Whenever Contractor shall be, and is declared by the City to be, in default under the Contract Documents, the Surety shall remedy the default pursuant to the Contract Documents, or shall promptly, at the City's option:

(1) Take over and complete the Project in accordance with all terms and conditions in the Contract Documents; or

(2) Obtain a bid or bids for completing the Project in accordance with all terms and conditions in the Contract Documents and upon determination by Surety of the lowest responsive and responsible bidder, arrange for a Contract between such bidder, the Surety and the City, and make available as work progresses sufficient funds to pay the cost of completion of the Project, less the balance of the contract price, including other costs and damages for which Surety may be liable. The term "balance of the contract price" as used in this paragraph shall mean the total amount payable to Contractor by the City under the Contract and any modification thereto, less any amount previously paid by the City to the Contractor and any other set offs pursuant to the Contract Documents.

(3) Permit the City to complete the Project in any manner consistent with local, California and federal law and make available as work progresses sufficient funds to pay the cost of completion of the Project, less the balance of the contract price, including other costs and damages for which Surety may be liable. The term "balance of the contract price" as used in this paragraph shall mean the total amount payable to Contractor by the City under the Contract and any modification thereto, less any amount previously paid by the City to the Contractor and any other set offs pursuant to the Contract Documents.

Surety expressly agrees that the City may reject any contractor or subcontractor which may be proposed by Surety in fulfillment of its obligations in the event of default by the Contractor.

Surety shall not utilize Contractor in completing the Project nor shall Surety accept a bid from Contractor for completion of the Project if the City, when declaring the Contractor in default, notifies Surety of the City's objection to Contractor's further participation in the completion of the Project.

The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract Documents or to the Project to be performed thereunder shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract Documents or to the Project, including but not limited to the provisions of sections 2819 and 2845 of the California Civil Code.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, we have hereunto set our hands and seals this _____ day of _____, 20____.

(Corporate Seal)

Contractor/ Principal

By_____

Printed name: _____

Title: _____

(Corporate Seal) Surety

By: _____

Printed Name: _____

Attorney-in-Fact

(Attach Attorney-in-Fact Certificate)

Signatures of those signing for the Contractor and Surety must be notarized and evidence of corporate authority attached.

The rate of premium on this bond is _____ per thousand. The total amount of premium charges, $_____.

(The above must be filled in by corporate attorney.)

THIS IS A REQUIRED FORM

Any claims under this bond may be addressed to:

(Name and Address of Surety)

(Name and Address of Agent or Representative for service of process in California, if different from above)

(Telephone number of Surety and Agent or Representative for service of process in California)

NOTE: A copy of the Power-of-Attorney authorizing the person signing on behalf of the Surety to do so must be attached hereto.

Contract No. _____

Notary Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF _____

On _____, 20___, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

CAPACITY CLAIMED BY SIGNER

- ☐ Individual
- ☐ Corporate Officer

_____
Title(s)

- ☐ Partner(s) ☐ Limited ☐ General
- ☐ Attorney-In-Fact
- ☐ Trustee(s)
- ☐ Guardian/Conservator
- ☐ Other:

Signer is representing:
Name Of Person(s) Or Entity(ies)

_____

_____

DESCRIPTION OF ATTACHED DOCUMENT

_____
Title or Type of Document

_____
Number of Pages

_____
Date of Document

_____
Signer(s) Other Than Named Above

NOTE: This acknowledgment is to be completed for Contractor/Principal.

~~Contract No. _____~~

Notary Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF _____

On _____, 20___, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

CAPACITY CLAIMED BY SIGNER

- ☐ Individual
- ☐ Corporate Officer

_____
Title(s)

- ☐ Partner(s) ☐ Limited ☐ General
- ☐ Attorney-In-Fact
- ☐ Trustee(s)
- ☐ Guardian/Conservator
- ☐ Other:

Signer is representing:
Name Of Person(s) Or Entity(ies)

_____
_____

DESCRIPTION OF ATTACHED DOCUMENT

_____
Title or Type of Document

_____
Number of Pages

_____
Date of Document

_____
Signer(s) Other Than Named Above

NOTE: This acknowledgment is to be completed for the Attorney-in-Fact. The Power-of-Attorney to local representatives of the bonding company must also be attached.

Contract No. _____

PAYMENT BOND

KNOW ALL PERSONS BY THESE PRESENTS That

WHEREAS, the City of Palm Desert (hereinafter designated as the "City"), by action taken or a resolution passed October 24, 2024, has awarded to **Horizon Professional Landscape, Inc.**, hereinafter designated as the "Principal," a contract for the work described as follows:

Parks and Landscape Enhancement Project (the "Project").; and

WHEREAS, the work to be performed by the Principal is more particularly set forth in the Contract Documents for the Project dated December 1, 2024, ("Contract Documents"), the terms and conditions of which are expressly incorporated by reference; and

WHEREAS, said Principal is required to furnish a bond in connection with said contract; providing that if said Principal or any of its Subcontractors shall fail to pay for any materials, provisions, provender, equipment, or other supplies used in, upon, for or about the performance of the work contracted to be done, or for any work or labor done thereon of any kind, or for amounts due under the Unemployment Insurance Code or for any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of said Principal and its Subcontractors with respect to such work or labor the Surety on this bond will pay for the same to the extent hereinafter set forth.

NOW THEREFORE, we, the Principal and _____ as Surety, are held and firmly bound unto the City in the penal sum of Seven Hundred Fifty Thousand Dollars, ($750,000) lawful money of the United States of America, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that if said Principal, his or its subcontractors, heirs, executors, administrators, successors or assigns, shall fail to pay any of the persons named in Section 9100 of the Civil Code, fail to pay for any materials, provisions or other supplies, used in, upon, for or about the performance of the work contracted to be done, or for any work or labor thereon of any kind, or amounts due under the Unemployment Insurance Code with respect to work or labor performed under the contract, or for any amounts required to be deducted, withheld, and paid over to the Employment Development Department or Franchise Tax Board from the wages of employees of the contractor and his subcontractors pursuant to Section 18663 of the Revenue and Taxation Code, with respect to such work and labor the Surety or Sureties will pay for the same, in an amount not exceeding the sum herein above specified, and also, in case suit is brought upon this bond, all litigation expenses incurred by City in such suit, including reasonable attorneys' fees, court costs, expert witness fees and investigation expenses.

This bond shall inure to the benefit of any of the persons named in Section 9100 of the Civil Code so as to give a right of action to such persons or their assigns in any suit brought upon this bond.

It is further stipulated and agreed that the Surety on this bond shall not be exonerated or released from the obligation of this bond by any change, extension of time for performance, addition, alteration or modification in, to, or of any contract, plans, specifications, or agreement pertaining or relating to any scheme or work of improvement herein above described, or pertaining or relating to the furnishing of labor, materials, or equipment therefore, nor by any change or modification of any terms of payment or extension of the time for any payment pertaining or

relating to any scheme or work of improvement herein above described, nor by any rescission or attempted rescission of the contract, agreement or bond, nor by any conditions precedent or subsequent in the bond attempting to limit the right of recovery of claimants otherwise entitled to recover under any such contract or agreement or under the bond, nor by any fraud practiced by any person other than the claimant seeking to recover on the bond and that this bond be construed most strongly against the Surety and in favor of all persons for whose benefit such bond is given, and under no circumstances shall Surety be released from liability to those for whose benefit such bond has been given, by reason of any breach of contract between the owner or City and original contractor or on the part of any obligee named in such bond, but the sole conditions of recovery shall be that claimant is a person described in Section 9100 of the Civil Code, and has not been paid the full amount of his claim and that Surety does hereby waive notice of any such change, extension of time, addition, alteration or modification herein mentioned and the provisions of sections 2819 and 2845 of the California Civil Code.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, we have hereunto set our hands and seals this _____ day of _____, 20__.

(Corporate Seal)

Contractor/ Principal

By_____

Printed name: _____

Title: _____

(Corporate Seal) Surety

By: _____

Printed Name: _____

Attorney-in-Fact

(Attach Attorney-in-Fact Certificate)

Signatures of those signing for the Contractor and Surety must be notarized and evidence of corporate authority attached. A Power-of-Attorney authorizing the person signing on behalf of the Surety to do so much be attached hereto.

NOTE: A copy of the Power-of-Attorney authorizing the person signing on behalf of the Surety to do so must be attached hereto.

~~Contract No. _____~~

Notary Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF _____

On _____, 20___, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

CAPACITY CLAIMED BY SIGNER

- ☐ Individual
- ☐ Corporate Officer

_____
Title(s)

- ☐ Partner(s) ☐ Limited ☐ General
- ☐ Attorney-In-Fact
- ☐ Trustee(s)
- ☐ Guardian/Conservator
- ☐ Other:

Signer is representing:
Name Of Person(s) Or Entity(ies)

_____

_____

DESCRIPTION OF ATTACHED DOCUMENT

_____
Title or Type of Document

_____
Number of Pages

_____
Date of Document

_____
Signer(s) Other Than Named Above

NOTE: This acknowledgment is to be completed for Contractor/Principal.

Contract No. _____

Notary Acknowledgment

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STATE OF CALIFORNIA

COUNTY OF _____

On _____, 20___, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

CAPACITY CLAIMED BY SIGNER

- ☐ Individual
- ☐ Corporate Officer

_____
Title(s)

- ☐ Partner(s) ☐ Limited ☐ General
- ☐ Attorney-In-Fact
- ☐ Trustee(s)
- ☐ Guardian/Conservator
- ☐ Other:

Signer is representing:
Name Of Person(s) Or Entity(ies)

_____
_____

DESCRIPTION OF ATTACHED DOCUMENT

_____
Title or Type of Document

_____
Number of Pages

_____
Date of Document

_____
_____
Signer(s) Other Than Named Above

NOTE: This acknowledgment is to be completed for the Attorney-in-Fact. The Power-of-Attorney to local representatives of the bonding company must also be attached.

[MARIPOSA LANDSCAPES, INC.] RESPONSE DOCUMENT REPORT

RFP No. 2024-RFP-132

Parks And Landscape Enhancement Project

RESPONSE DEADLINE: September 4, 2024 at 5:00 pm

Report Generated: Tuesday, September 10, 2024

Mariposa Landscapes, Inc. Response

CONTACT INFORMATION

Company:
Mariposa Landscapes, Inc.

Email:
estimating@mariposa-ca.com

Contact:
Larry Rudd

Address:
6232 SANTOS DIAZ ST
Irwindale, CA 91702

Phone:
(626) 960-0196 Ext: 2730

Website:
www.mariposa-ca.com

Submission Date:
Sep 4, 2024 8:32 AM (Pacific Time)

ADDENDA CONFIRMATION

Addendum #1
Confirmed Aug 28, 2024 3:54 PM by Larry Rudd

QUESTIONNAIRE

1. Proposal (WITHOUT COST)*

Proposals shall be concise, well organized and demonstrate qualifications and applicable experience. Proposals shall be organized and include page numbers for all pages in the proposal. The proposal shall be uploaded here, in the following order and shall include:

A. Cover Letter

1. This letter should briefly introduce the firm, summarize the firm's general qualifications, include an executive summary of the specific approach which will be used to deliver the work scope; and identify the individual(s) name, address and phone number authorized to negotiate Agreement terms and compensation.

B. Experience and Technical Competence

1. Background: Provide history of the firm's consulting experience which specifically addresses the individual or firm's experience with similar Service as described in this RFP.
2. References: The proposal shall include a list of recently completed projects that are similar in scope and function to this RFP. Provide a description of the project, client name, and the name, title, and telephone number of the primary contact person.

C. Firm Staffing and Key Personnel

1. Staffing: Provide the number of staff to be assigned to perform the Services and the names/discipline/job title of each as well as your firm's capacity to provide additional personnel as needed.

2. Key Personnel: Identify key persons that will be principally responsible for working with the City. Indicate the role and responsibility of each individual.
3. Team Organization: Describe proposed team organization, including identification and responsibilities of key personnel.
4. Subcontractors: The Proposer shall identify functions that are likely to be subcontracted and identify the subcontractor that is anticipated to perform each function.

D. Proposed Method to Accomplish the Work

1. Describe the technical and management approach to providing the Services to the City. Proposer should take into account the scope of the Services, and general functions required. Include a draft first year schedule of tasks, milestones, and deliverables that will provide for timely provision of the Services. In reviewing the scope of Services and goals described herein, the Proposer may identify additional necessary tasks and is invited to bring these to the City's attention within the discussion of its proposed method to accomplish the work.

Proposal_(Without_Cost).pdf

2. Fee Proposal*

The fee proposal shall include hourly rates for all personnel for "Additional Work" (as such term is defined in the proposed Agreement attached herein). Please provide hourly rates for the following positions at a minimum: Irrigator, Foreman, Laborer, Supervisor.

Fee_Proposal.pdf

3. Non-Collusion Declaration*

The undersigned declares:

I am an authorized representative of my company, the party making the foregoing Bid, to certify the following.

The Bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation. The Bid is genuine and not collusive or sham. The Bidder has not directly or indirectly induced or solicited any other Bidder to put in a false or sham bid. The Bidder has not directly or indirectly colluded, conspired, connived, or agreed with any Bidder or anyone else to put in a sham bid, or to refrain from bidding. The Bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the Bid Price of the Bidder or any other Bidder, or to fix any overhead, profit, or cost

element of the Bid Price, or of that of any other Bidder. All statements contained in the Bid are true. The Bidder has not, directly or indirectly, submitted his or her Bid Price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid, and has not paid, and will not pay, any person or entity for such purpose.

Any person executing this declaration on behalf of a Bidder that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that he or she has full power to execute, and does execute, this declaration on behalf of the Bidder.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Confirmed

4. Enter your valid CA Contractors State License Board (CSLB) number*

Please enter your License Number here. This will be verified against the state database.

592268

Click to Verify *Value will be copied to clipboard*

5. Enter your California Department of Industrial Relations (DIR) Registration number*

Please enter your Public Works Contractor DIR Number. This will be verified against the state database.

1000005079

Click to Verify *Value will be copied to clipboard*

6. Type of Business*

S Corporation (if corporation, two signatures are required)

7. Litigation*

Provide litigation history for any claims filed by your firm or against your firm related to the provision of Services in the last five (5) years (or type "N/A").

Mariposa Landscapes Inc.
Pending and Settled Litigation

Name	Claim/Case No.	Date	Court	Status	Type
Flores v. City of Burbank	19STCV02043	January 22, 2019	Superior, Los Angeles	Dismissed	GL
Hansell V City of Rancho Cucamonga	CIVDS1725721	February 21, 2019	Superior, San Bernardino	Dismissed 05-21-20	GL
Aronson v. City of Palm Springs	PSC1902825	April 24, 2019	Superior, Riverside	Dismissed	GL
Garcia v. Hai	20STCV33096	August 28, 2020	Superior, Los Angeles	Dismissed	GL
M. Acosta v Mariposa Landscapes Inc.	56-2021-00549651	January 20, 2021	Superior, Ventura	Pending	Emp
J. Rivera v. Mariposa Landscapes Inc.	56-2021-00549647	January 20, 2021	Superior, Ventura	Pending	Emp
A. Moctezuma v. Mariposa Landscapes Inc.	56-2021-00549650	January 20, 2021	Superior, Ventura	Pending	Emp
J. Farias v. Mariposa Landscapes Inc.	21PSCV00402	May 17, 2021	Superior, Los Angeles	Pending	Emp
Mabus v. City of Newport Beach	30-2021-01221557	September 16, 2021	Superior, Orange	Dismissed	GL
Allen v. Mariposa Landscape	21STCV37080	October 7, 2021	Superior, Los Angeles	Pending	GL
Milliken v. City of Corona	CVR1220046	January 6, 2022	Superior, Riverside	Pending	GL
Okeke v. County of Los Angeles	22STCV10713	May 5, 2022	Superior, Los Angeles	Dismissed	GL
Farmers Ins v Mariposa Landscapes	CIVSB2212231	June 13, 2022	Superior, San Bernardino	Dismissed	GL
Calderon v. Mariposa Landscapes	22STCV19397	June 14, 2022	Superior, Los Angeles	Pending	Emp
Salmeron v. City of Corona	CVR12204878	November 04, 2022	Superior, Riverside	Pending	GL

8. Changes to Agreement*

The City standard professional services agreement contract is included as an attachment herein. The Proposer shall identify any objections to and/or request changes to the standard contract language in this section of the proposal (or type "N/A"). If you are identifying changes here ***ALSO*** upload a copy of the redlined Language/Agreement with your Proposal. Changes requested may effect theCity's decision to enter into an Agreement.

N/A

9. No Deviations from the RFP*

In submitting a proposal in response to this RFP, Proposer is certifying that it takes no exceptions to this RFP including, but not limited to, the Agreement. If any exceptions are taken, such exceptions must be clearly noted here, and may be reason for rejection of the proposal. As such, Proposer is directed to carefully review the proposed Agreement and, in particular, the insurance and indemnification provisions therein (or type "N/A").

Maximum response length: 5000 characters

N/A

10. Project Team Resumes*

Submit resumes of all key personnel/support staff that will produce work product for the Services. Describe their qualifications, education, and professional licensing.

Team_Resume.pdf

11. List the Signatory(s) Authorized to Sign and Bind an Agreement.*

(If two (2) signatures are required, include the following information for both signatories)

A. Full Name
B. Title
C. Physical Business Address
D. Email Address

E. Phone Number

A. Terry Noriega

B. President

C. 6232 Santos Diaz St., Irwindale, CA 91702

D. terry@mariposa-ca.com

E. (626) 960-0196

A. Antonio Valenzuela

B. Secretary

C. 6232 Santos Diaz St., Irwindale, CA 91702

D. antonio@mariposa-ca.com

E. (626) 960-0196

12. Certification of Proposal: The undersigned hereby submits its proposal and, by doing so, agrees to furnish services in accordance with the Request for Proposal (RFP), and to be bound by the terms and conditions of the RFP.*

Confirmed

Landscape Maintenance

Proposal

The City of Palm Desert

Parks and Landscape Enhancement Project 2024-RFP-132

Bid Due: September 4, 2024, at 5:00 pm

MARIPOSA

LANDSCAPES INC

M A R I P O S A

L A N D S C A P E S I N C

September 3, 2024

Cover Letter

City of Palm Desert
73510 Fred Waring
Palm Desert, CA 92260
Attn: Melanie Perry , Senior Management Analyst
(760) 776-6450 mramirez@palmdesert.gov

RE: Request for Proposal, 2024-RFP-132 Parks and Landscape Enhancement Project

Mariposa Landscapes, Inc. has continuously been in business since 1977. Growing from a single truck in Rosemead, California to a fleet of trucks and equipment with 800 employees covering all Southern California and Arizona. With over 95 awards for project excellence, we take pride in the quality of our work and thrive on keeping our company as one of the most recommended in the industry. Our steady record of customer satisfaction has allowed us to maintain positive relationships with our clients.

We bring decades of knowledge and in-depth experience to every landscape entrusted to our care. Building long-lasting relationships with our clients is important to us. We understand and respect your goals and do everything in our power to assure the well-being of your properties.

We value open, honest communication, ongoing staff training, and new methods and technologies that will help us do the best job possible. While we always appreciate the accolades we receive, seeing our customers enjoy a well-executed and thriving landscape is still the most rewarding part of our work.

We would be honored to work for you and beautify your properties to their ultimate potential.

Individual Authorized to negotiate Agreement Terms and Compensation:

Terry Noriega, President
6232 Santos Diaz Street, Irwindale CA 91702
(626) 960-0196

Sincerely,

Terry Noriega - President

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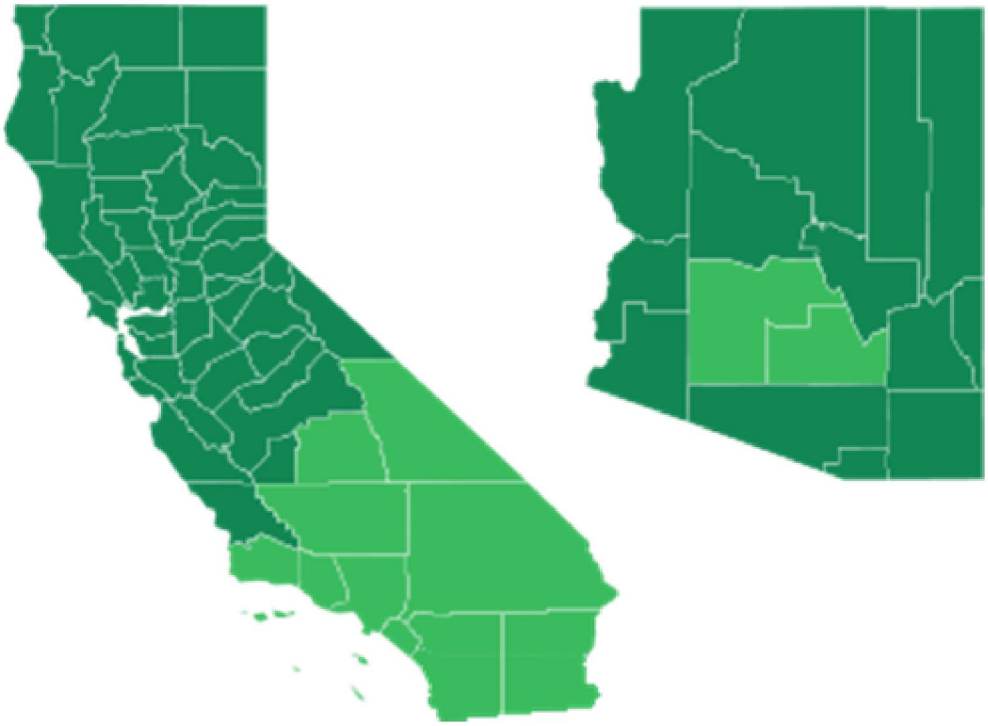
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"We blend Nature and Craftsmanship to create ultimate outdoor settings and extremely satisfied customers"

Experience and Technical Competence

Background/Introduction

Mariposa is a landscape contractor working in both Southern California and Arizona.
With our staff experience and dedicated professionals, we have developed a long history of excellence performing work on hundreds of landscape construction, maintenance and tree care projects. Our presence in the Coachella Valley area has allow us to be an expert in Desert Landscape maintenance. With an additional branch office established in the area, Mariposa is able to showcase our expertise with increase efficiency.



Current areas of operation.

Highlights

- Over 45 years in business
- Contractor's license in two states
- Over 800 employees
- Insured – $1 million workers comp, $2 million in aggregate general liability
- $100 million in bonding capacity
- Over 95 awards for project excellence

Company Values



Safety This is the primary foundation of our company. We emphasize "safety first" on every worksite and in all our training programs. Our employees are taught to be aware of, and responsible for, safety at all times. We strive to prevent injuries and accidents, as well as provide a safe environment for staff and customers alike.

Teamwork We work together, seeking input from all team members to organize our efforts for the greater good. We always remain open to change, embracing new methods and techniques to achieve the highest levels of quality and efficiency. We are considerate of team members, provide support, and encourage their growth, resulting in the ultimate outcome for the team.

Quality We are committed to bringing the best possible quality for our customers and their properties and projects. We provide prompt service, expert workmanship, and superior products. We take pride in meeting or exceeding expectations. Our ultimate goal is to deliver excellent value for our clients' investment.

Integrity We are honest and open in our communications, building deep trust and confidence in all of our relationships. We value the dedication and contribution of each person. The overall well-being of our employees, customers and vendors is important to us.

Proposer Identification

Legal Name: Mariposa Landscapes, Inc.
Street/Mailing Address: 6232 Santos Diaz St., Irwindale, CA 91702
Telephone Number: (626) 960-0196
Fax Number: (626) 960-8477
Email Address: estimating@mariposa-ca.com

President: Terry Noriega
California Corporation: C1469653
California Employer ID: 368-4753-1
Date Incorporated: October 2, 1989

Licenses & Certificates

Contractors State License:	592268	C27, A, C61/D49
Qualified Applicators License:	103864	ABCDEFH
Pest Control Adviser License:	74416	ABCDEG
Pest Control Business License:	30977	
Irwindale Business License:	000538	
Supplier Clearinghouse MBE:	94HS0050	
City of Los Angeles MBE:	561730	
City of Los Angeles LBE:	37858	
LA County MBE:	89126	
LA Co. Agricultural Pest Control	1000279	
Certified Arborist:	*WE-1182A*	

Minority Business Enterprise

MBE Certification, File No. CCA-7150 for the City of Los Angeles, The Women and Minority Business Enterprise Clearing house has audited and verified our eligibility as a MBE pursuant to the California Public Utilities Commission General Order 156.

Financial Resources

Mariposa has been capable of meeting all financial obligations for over 45 years. A strong balance sheet supports $100 Million bonding capacity.

Green Waste Processing Capability

Mariposa Landscapes, Inc. has a recycling program for green waste and paper products. We implement this program at our local offices and at all job sites. Mariposa currently uses hybrid vehicles and electric equipment where required. Mariposa notifies all project managers of the green initiatives prior to the award of contract.

Our Services

Landscape Maintenance

- Private, Commercial, Public Works and Homeowner Associations
- Large Scale Mowing Operations
- Comprehensive Irrigation Planning & Management.
- Environmentally Friendly Integrated Pest Management.
- Year-round Fertilization Application.
- Baseball Field Prep and Athletic Turf Maintenance.
- Porter Services and Color Design.
- Parking Lot Sweeping



Tree Care

- On-site Diagnosis and Tree Work Recommendations
- Consultative Services with Certified Arborists.
- Development of Long-term Tree Care Programs.
- Large-scale Tree Trimming Removal.
- Diagnosis/Treatment of Tree Diseases and Pest Problems.
- Stump Grinding and Disposal of Trimmings.
- GIS Tree mapping and asset management
- Certified Workers & Comprehensive Insurance Coverage.



Landscape Construction

- Site Preparation, Demolition, Grading and Drainage.
- Irrigation Systems Installation, Repairs & Upgrades.
- Computerized Irrigation Central Control Systems.
- Irrigation Pump Installation.
- Native Plant Restoration and Habitat Rehabilitation.
- Park construction and Athletic Field installations.
- Tree, Shrub, & Ground-cover planting.



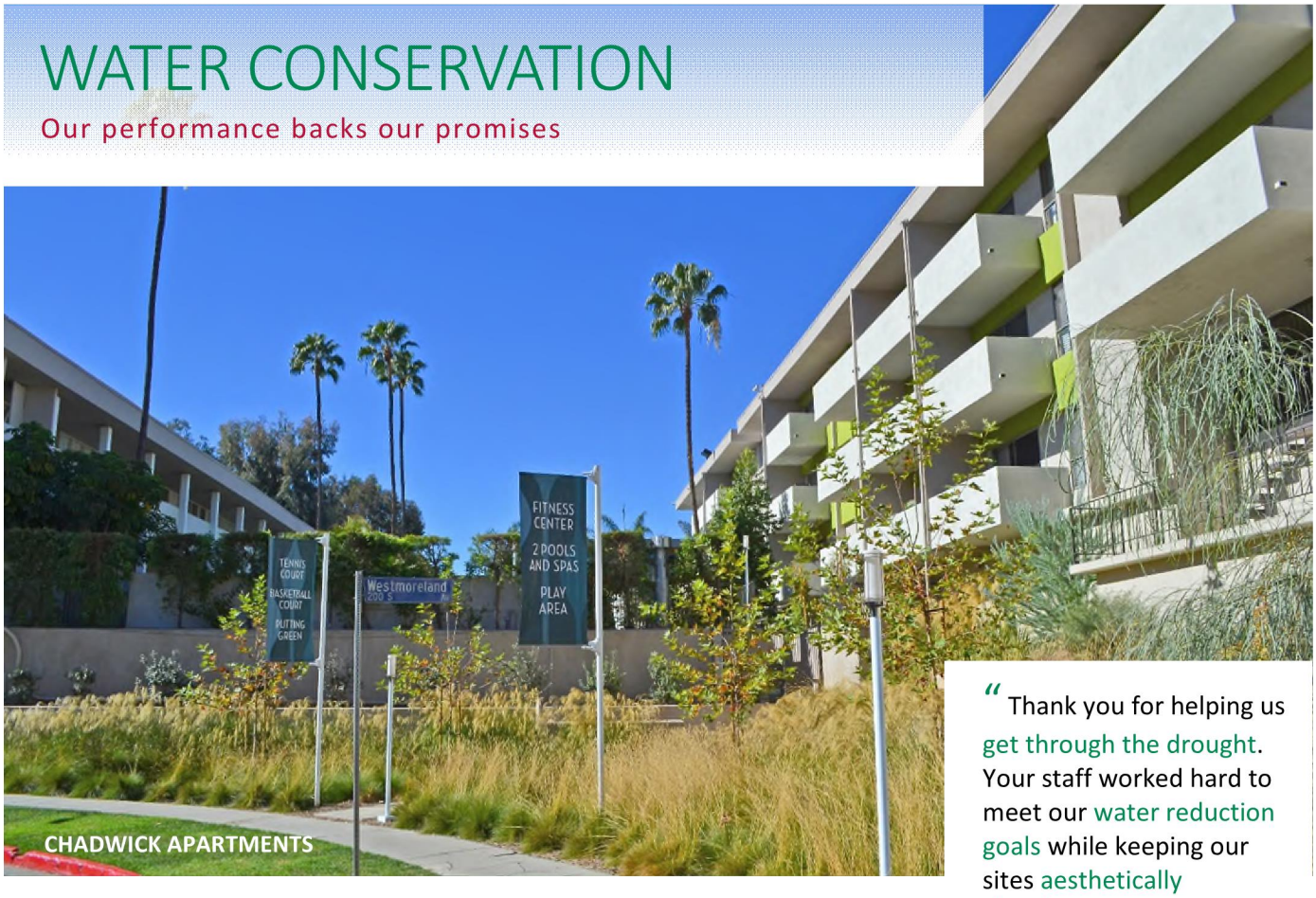
Hardscape Construction

- Concrete Poured-in-Place, Stamped and Seat Walls.
- Flagstone, Tile, Masonry and Block Walls.
- Drainage and Overhead Construction.
- Water Feature Pond Installation & Repair.
- Monuments and Signage.
- Low Voltage Lighting Design and Installation.



WATER CONSERVATION

Our performance backs our promises



CHADWICK APARTMENTS

"Thank you for helping us get through the drought. Your staff worked hard to meet our water reduction goals while keeping our sites aesthetically pleasing."

-CITY OF GLENDALE

Maintain an attractive landscape with less water.
Our Certified technicians can evaluate your irrigation and provide practical recommendations.

We offer weather-driven irrigation controllers and drought-tolerant landscape conversions. Our computerized tracking system allow us to quickly diagnose and fix problems, saving you water and money.

DESIGN IMPLEMENTATION

Bringing your vision to life

We partner with you to achieve a common goal success.

From simple to complex projects, we coordinate our vast array of services to create the project you envision.

Award-winning craftsmanship, in depth knowledge and high standards of professionalism are applied to every level of work.



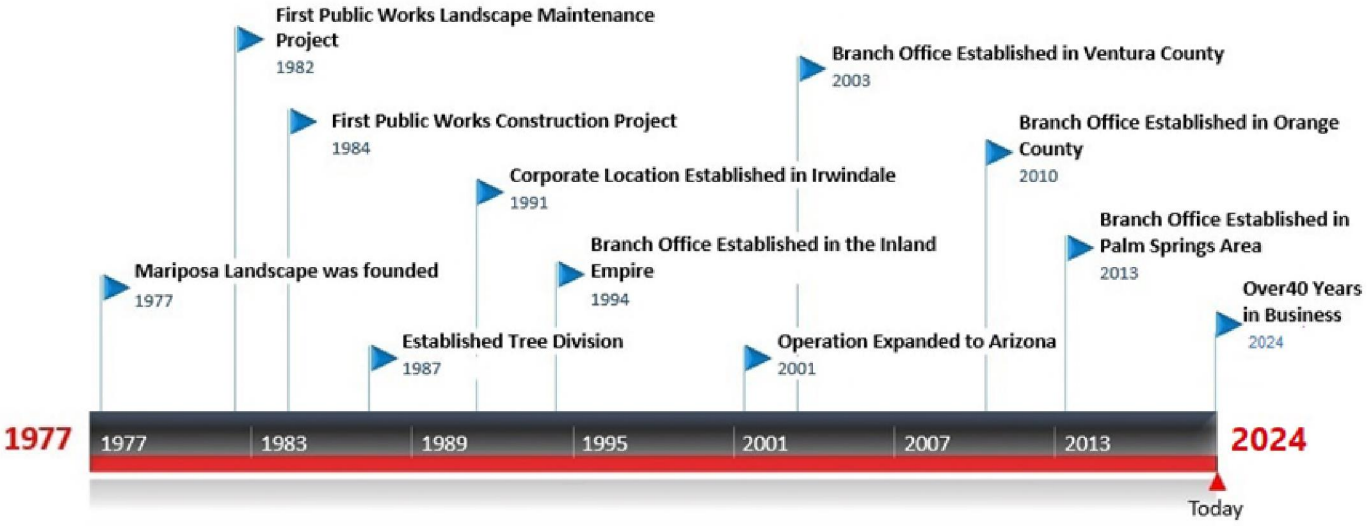
Office Locations

Corporate Headquarters

6232 Santos Diaz Street
Irwindale, CA 91702
Phone 626 960-0196
Fax 626 960-8477
Our crew will be dispatched from a local branch office in Bermuda Dunes. The office location is about 6 miles away from the proposed sites.

Los Angeles County 15529 Arrow Highway Irwindale, CA 91706 Phone 626 960-0397 Fax 626 960-3809	**Orange County** 1107 E. Walnut St Santa Ana, CA 92701 Phone 626 960-0196 Fax 626 960-8477	**San Bernardino County** 11093 Almond Avenue Fontana, CA 92335 Phone 909 429-2546 Fax 909 429-2749
Riverside County 13333 S. Central Ave Chino, CA 91710 Phone 626 960-0196 Fax 626 960-8477	**L.A. – South Bay** 1650 W 130th St Gardena, CA 90248 Phone 626 960-0196 Fax 626 960-8477	**North L.A. & Ventura** 4790 E. Los Angeles Ave. Somis, CA 93066 Phone (800) 794-9458 Fax 805-386-4140
Palm Springs 78355 Darby Rd Bermuda Dunes, CA 92203 Phone 626 960-0196 Fax 626 960-8477	**San Diego County** 1833 Oceanside Blvd. Oceanside, CA 92054 Phone 626 960-0196 Fax 626 960-8477	**Arizona** 7677 N. 67th Avenue Glendale, AZ 85301 Phone 623 463-2200 Fax 623 463-2223

Mariposa Landscapes, Inc. – Over 40 years of Excellence!



Organization Memberships & Staff Certifications

We are dedicated to having the best-trained workforce in the industry. As members of the California Landscape Contractors Association, we participate in the training programs offered by this industry organization. The CLCA sponsors a rigorous "hands-on" test administered under actual field conditions. With only a 20% first time pass rate, only the best workers are able to obtain the designation of CLT or Certified Landscape Technician. Many of the managers and supervisors in our company have the CLT designation. No other contractor of our size and diversity in Southern California has achieved this many certifications.

We are members of the following organizations:

- CACM (California Association of Community Managers)
- CAI Orange County (Community Association Institute)
- CAI Los Angeles (Community Associations Institute)
- CAI Greater Inland Empire (Community Association Institute)
- CAI Coachella Valley (Community Association Institute)
- ASA (American Subcontractors Association)
- BIA Southern California (Building Industry Association)
- BIA Orange County (Building Industry Association)
- BOMA IE (Building Owners and Managers Association)
- CLCA (California Landscape Contractors Association)
- ISA (International Society of Arboriculture)
- CAPCA (California Association of Pest Control Advisors)

Licensing and Certifications

- California Contractor License 592268 C27-Landscaping, Class A-Engineering
- Certified Arborists on staff
- Certified Tree Workers on staff
- Tree Work – Line Clearance Certified
- Tree Work – Line Clearance Certified Instructor
- Certified Playground Equipment Inspectors
- Certified Water Auditor
- Certified Backflow Inspectors
- Licensed Pest Control Company/Pest Control Advisor
- Certified Pest Control Applicators on staff

Corporate Tax I.D. Number: 95-4245898 California Corporate Tax I.D.: C1469653
California State Contractor's License Number: 592268 A, C-27 DIR Number: 1000005079
Pest Control Advisor's License: 74416 MBE Clearinghouse #: 20000326
Pest Control Business License: 30977 LA County LBE (LABAVN): 106243

References

Here at Mariposa Landscapes, Inc. we take pride in our work and thrive on keeping our company as one of the most recommended in the industry. Our steady record of customer satisfaction has allowed us to maintain positive relationships with our clients.

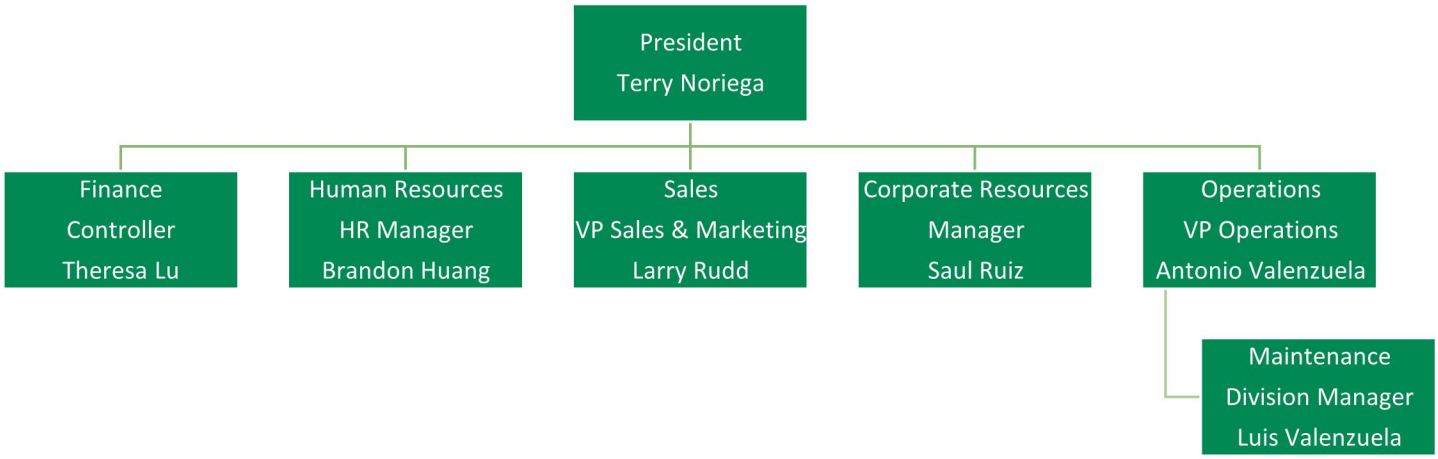
City of Banning	Term:	2022 - 2024	
Landscape Maintenance Services for City Properties and Medians			
Scope includes turf management, shrub bed maint., tree care, pruning, fertilization, weed and pest control, irrigation repair and maintenance, mowing, and edging. Carl,		$140,807	Per Yr.

City of Desert Hot Springs	Term:	2019-Current	
Landscape Maintenance and Operation for LMD and DD for Zone 1 & Zone 2			
Landscape Maintenance: Weed removal, chemical weed control, plant replacement, fertilization, hedge pruning/trimming, irrigation maintenance, irrigation repair, irrigation system testing, trash/debris pick-up, clearing walk ways. Nicholas Haecker, Public Works Director (661) 902-9987 nhaecker@cityofdhs.org		$188,136	Per Yr.

Coachella Valley Water District	Term:	2019-Current	
Landscaping Maintenance Services			
Landscape Maintenance: Plant litter and trash control, weed/pest control, plant maintenance, tree maintenance, hardscape and decomposed granite planter areas, and irrigation system maintenance. Mike Munoz, Landscape Supervisor (760) 578-6471 mmunoz@cvwd.org		$476,160	Per Yr.

Firm Staffing and Key Personnel

Management Organizational Chart



Management Staff Experience

Terry Noriega – President



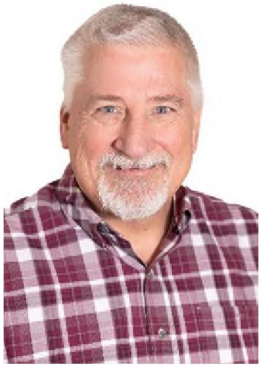
- 45+ years of experience in landscape installation and maintenance
- B.S. in Ornamental Horticulture: California State Polytechnic University, Pomona
- California Contractors Licenses: C-27, A, C61/D49 and C-31
- Pest Control Advisor in 6 Categories
- Qualified Pest Control Applicator in 7 Categories
- **Certified Landscape Technician** in Ornamental and Turf Maintenance
- ISA Certified Arborist WE-1182A
- Arizona Contractor's License: ROC178088 K-21
- Arizona Qualifying Party License: 8263
- Arizona Pest Control Business License: 8246

Antonio Valenzuela – VP Operations



- Over 30 years of experience in landscape maintenance and irrigation troubleshooting
- Pest Control Qualified Applicator in 3 Categories
- **Certified Landscape Technician** in Ornamental and Turf Maintenance
- Certified Landscape Professional
- Backflow Certification in Los Angeles County
- Landscape Water Auditor: Cal Poly SLO
- Past affiliation – Certified Playground Inspector

Larry Rudd – V.P. of Sales and Marketing



- 46 years in landscape installation and maintenance
- B.S. in Business Management, University of Phoenix
- **Certified Landscape Technician**: All Categories
- WaterSense Certified
- Arizona Certified Landscape Professional
- American Green Zone Alliance – Electric Equipment
- CPR Safety Trained
- Associate instructor Cal Poly Pomona, Cal State Fullerton

Alex Del Valle – Risk Control Manager



- Over 13 years of experience working in the safety industry
- Certified OSHA 30
- Certified AHA CPR and First Aid
- Certified Forklift Instructor

Roberto Del Valle – Safety Coordinator



- Over 16 years of experience working in the safety industry
- Certified OSHA 8, 10, 16, and 30
- Certified AHA CPR and First Aid Instructor
- Certified Forklift Instructor
- Certified Claims Adjuster

Dennis Jones – Tree Care Regional Division Manager



- Over 20 years of experience in Arbor Care
- BS Degree in Urban Forestry, Cal Poly San Luis Obispo
- International Society of Arboriculture Certified Arborist WE-5700A
- ISA Qualified Tree Risk Assessment
- TCIA Certified Tree Safety Professional 843
- Qualified Applicator License – 108771, Categories B, C & F
- Wildlife Protector Certification
- Notary Public

Luis Valenzuela – Landscape Maintenance Division Manager



- Over 25 years of experience in landscape and construction operations
- Qualified Applicator License, Category B
- **Certified Landscape Technician**, Irrigation
- ISA Certified Arborist WE-8713A
- Certification – Effective Business Leadership & Development – PDC/GCC

Andres Perez – Bermuda Dunes Area Manager



- Over 25 years of experience in the landscape industry
- Qualified Applicator License, Category B
- **Certified Landscape Technician**, Irrigation
- Certificate – Irrigation Design
- Certificate – Irrigation Troubleshooting
- CVAG Overseeding Certificate

Maintenance Division Organization & Experience



Key Personnel for Palm Desert

Andres Perez

Bermuda Dunes Area Manager

P. (760) 321-2107

C. (626) 392-3050

E. Andres@mariposa-ca.com



Andres will be the person in-charge responsible for project management, communication with account managers and primary contact with the City of Palm Desert.

Andres has been working for Mariposa Landscapes since 1996. He has over 25 years of work experience conducting and overseeing Public Works, Commercial and Residential landscape maintenance work. With a vast experience in all aspects of irrigation: maintaining, repairing and diagnosis in Palm Desert region.

Andres is responsible for all aspects of project management, emphasizing safety, high quality work, operational efficiency, and exemplary customer service. He also conducts walk-throughs to ensure that punch lists are completed and institutes improvements to enhance the quality of work.

Certifications:

- Over 25 years of experience in the landscape industry
- Qualified Applicator License: Category B
- Certified Landscape Technician: Irrigation
- Certificate – Irrigation Design
- Certificate – Irrigation Troubleshooting
- CVAG Overseeding Certificate

Team Organization

Here's our preliminary team setup for the Parks and Landscape Enhancement Project. Andres will be taking the lead on our management team, ensuring everything runs smoothly. He'll be supported by several specialized crews, each with expertise in different tasks and responsibilities assigned to various aspects of the project.

Number	***Personnel/ Category***	***Tasks***	***Personnel***
1	*Area Manager*	*Management*	Andres Perez
1	*Account Manager*	*Field Management*	TBD
1	*Maintenance Crew*	*Assigned Project*	TBD
1	*Construction Crew*	*Assigned Project*	TBD

Subcontractor

Mariposa Landscapes will not be utilizing any subcontractor.

Our company consist of numerous experts that qualify to provide specialties work without the introduction of subcontractor. With this, Mariposa is able to provide highest quality work for the City of Palm Desert.

Proposed Method to Accomplish the Work

We intend to execute this contract in accordance with the City of Palm Desert's requirements as outlined in the proposal documents. All projects listed in the scope of services are well within our professional capabilities.

Our standard work hours are Monday to Friday, from 6 am to 2:30 pm. However, we are flexible and will adjust our crew's schedule as approved by the City's representative. Our crew will begin their day from our nearest yard in Bermuda Dunes, located approximately 6 miles away.

Our account managers will meet with the city representative to inspect and discuss the assigned tasks for the projects. During these meetings, we will submit a brief report and schedule for the city representative to review and approve.

Each morning, our crew will commence the assigned tasks for the day. They will be particularly mindful of safety measures and noise levels, especially when working in residential neighborhoods. Mariposa will create a schedule aimed at providing services during periods of low foot traffic when necessary.

Our crew foreperson will be an English-speaking gardener, ensuring clear communication on-site for these assigned projects. All communications will be directed to our account managers and discussed with the city representative.

Project sites will be visited according to the schedule outlined in the provided RFP. All tasks will be completed as per the specified frequency and scheduled times.

Quality Control Program

We perform internal quality control on our work to free up our contract monitor or client representative (be it a Public Works Inspector or Property Manager) so that he or she will have a reduced work load. This creates a positive environment for everyone involved and enhances our client relationships. Our main philosophy behind quality control is summed up in one statement "Plan your work and work your plan." Therefore, the work is to be planned and monitored in the following ways:

Monthly Work Schedules

The Mariposa Account Manager will submit Monthly Work Schedules describing maintenance operations of all areas contained within this contract and when the work, including trimming, pruning and applications of chemicals/fertilizers will be accomplished. Other work will include the removing and/or replacing of landscape materials within the scope of this Contract. The work may include landscape renovations of planted areas and/or turf areas. The Account Manager will develop the Monthly Work Plans and submit them to the client representative by the agreed date of the previous month prior to the regular monthly meeting. The Monthly Work Plan will correlate with the Annual Work Schedule in a more detailed form. After the plan is approved at the regular monthly meeting the Monthly Schedule Evaluation Form will be completed with the client representative to evaluate the performance of the current month. The Mariposa Supervisor is responsible for creating and submitting these reports.

Account Manager/Client Meeting Work Quality Evaluations

A critical aspect of the work is communication. Timely and accurate schedules address a lot of this; however, there is another important aspect that is sometimes overlooked: interpretations of quality. What is beautiful to some is not to others, this is why specifications are written. However, there is always some level of interpretation that can vary from person to person. The goal is to have the Mariposa Account Manager and the client representative both interpreting the expectations of the specifications in the same way. The way we accomplish this is through a graded evaluation of every aspect of the landscape on a site by the Mariposa Supervisor and the client representative. This evaluation is performed prior to the regular client representative meeting by the Mariposa Supervisor. When the regular meeting takes place, this same form is given to the client representative to evaluate the exact same items as the Mariposa Account Manager previously graded. Any differences in evaluation that the client representative has of the same work item or area that were graded by the Mariposa Supervisor are addressed immediately and clarified. The frequency of these evaluations and number of work items evaluated can vary based on the work scope. Please see the sample form provided.

Action Item Lists

Even with jobs that go perfectly there are always items that come up during walk-through inspections. These items may have nothing to do with work quality but may be requests for improvement, additional work or notations of concern, etc. One of the key aspects of an action item list is a target completion date. This is included for every item on our form. The Mariposa Account Manager is committed to completion of a requested activity at an agreed upon date. This is in writing; it's quick and easy to fill out. The client representative will have confidence that we will keep our promises because they are documented. **Our goal is *"Promises made are promises kept."*** Please see the sample form provided.

Mariposa Landscapes, Inc.

SITE INSPECTION EVALUATION FORM

Inspection Date: | Job:

Mariposa Account Manager | Job Number:

Client Representative:

Please give a rating of 1-10 on the following items (1 = unacceptable and 10 being perfect)

		ML	CR
1.	**TURF**		
A	Color of turf acceptable		
B	Turf texture, no thin/bare areas		
C	Free of trash/debris		
D	Irrigation leaks visible		
E	Over or under watering		
F	Dry spots		
2.	**GROUND COVER/SHRUB AREAS**		
A	Free of trash/debris		
B	Free of weeds		
C	Mulch evenly distributed		
D	Irrigation leaks visible		
E	Groundcover trimming		
3.	**TREES/SHRUBS**		
A	Health/vigor		
B	Trimmed per scheduled cycle		
C	Pruned correctly for species		
D	Walkway shrub clearance		
E	Walkway tree clearance		
F	Disease & insects controlled		
G	Irrigation leaks visible		
H	Over or under watering		
I	Trees staked properly		
4.	**ANNUAL COLOR/POTS**		
A	Annual flowers healthy		
B	Bed/Pots free of trash/debris		
C	No missing annual color plants		
D	Disease & insects controlled		
E	Irrigation leaks visible		
F	Over or under watering		
5.	**D.G. PATHS & OPEN AREAS**		
A	Free of trash/debris		
B	Weeds managed/controlled		
C	Erosion areas repaired		

		ML	CR
6.	**HARDSCAPE AREAS**		
A	Free of trash/debris		
B	Free of weeds in cracks		
C	Standing water		
D	Safety issues reported		
7.	**IRRIGATION**		
A	Controllers working		
B	Controllers programmed properly		
C	Schedules submitted/updated		
D	Valves working properly		
E	Valves leaking		
F	Backflow(s) on		
G	Backflow(s) Leaking		
H	Meter readings (if in scope) up-to-date		
I	Water usage analysis up-to-date		
8.	**L.V. LIGHTING (if applies)**		
A	System has power		
B	Timer/photocell working		
C	Bulbs working		
D	Fixtures clean		
E	Fixtures broken		
F	Fixtures aimed properly		
9.	**WATER FEATURES (if applies)**		
A	Power/working properly		
B	Leaks		
C	Cleaned of debris at inlets		
10.	**OTHER (if applies)**		
A	Dog mess cleaned up		
B	Dog stations replenished		
C	Trash cans dumped & new liners		
D	Play equipment clean		
E	Ramadas/picnic tables/BBQs clean		
F	Response time on call-outs		
G	General safety issues reported		

Only enter ratings for items that are applicable to this project (blank = Not Applicable at this time)

	ML	CR
OVERALL RATING: Per the above individual ratings, pleas provide an overall rating from 1 to 10		

Mariposa Account Manager Signature/Date (**ML**)

Client Representative Signature/Date (**CL**)

Mariposa Landscapes, Inc.

ACCOUNT MANAGER INSPECTION ACTION ITEMS

Job:

Today's Date: Job Number:

	ACTION ITEMS	Resolution Date
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		

Mariposa Account Manager Signature/Date

Client Representative Signature/Date

Proposer's Green Initiative and Environmental Sensitivity

Mariposa Landscapes, Inc. uses every effort to implement "green" environment and energy conservation measures.



Our company has a recycling program for green waste and paper products. We implement this program at our local offices and at all job sites.

Mariposa currently uses hybrid vehicles and is researching and looking forward to obtaining hybrid equipment to be used on our contracts. We strive to be as environmentally conscientious as possible and are expanding our operations to achieve this goal.

We have been certified by the American Green Zone Alliance – Sustainable Land Care Certification (Electric Equipment). This puts us at the cutting edge of industry knowledge in selecting cost effective options related to the latest in commercial grade electric small equipment as well as mowers.

Mariposa works with all clients to assure optimum water usage where possible. With hundreds of ET "Smart" Controller installations over the years, we can assess a property for water savings, create a solution and correctly program these newer irrigation control devices for optimum savings.

In addition to these and other Green Initiatives, we are also committed to leading the industry in minimizing any potential negative impact on the environment.

The key points of its strategy to achieve this are:

- Minimize waste by evaluating operations and ensuring they are as efficient as possible.
- Minimize toxic emissions through the selection and use of its fleet and equipment.
- Actively promote recycling both internally and amongst its customers and suppliers.
- Meet or exceed all the environmental legislation that relates to the Company.
- Adhere to all local codes and ordinances regarding water conservation.

Integrated Pest Management

Integrated pest management (IPM) is an ecosystem-based strategy that focuses on long-term prevention of pests or their damage through a combination of techniques such as biological control, habitat manipulation, modification of cultural practices, and use of resistant varieties. Pesticides are used only after monitoring indicates they are needed according to established guidelines, and treatments are made with the goal of removing only the target organism. Pest control materials are selected and applied in a manner that minimizes risks to human health, beneficial and non-target organisms, and the environment.



Biological control

Biological control is the use of natural enemies—predators, parasites, pathogens, and competitors—to control pests and their damage. Though Mariposa does not introduce any beneficial organisms into the environment, we do identify and encourage their presence.

Cultural controls

Cultural controls are practices that reduce pest establishment, reproduction, dispersal, and survival. For example, changing irrigation practices can reduce pest problems, since too much water can increase root disease and weeds.

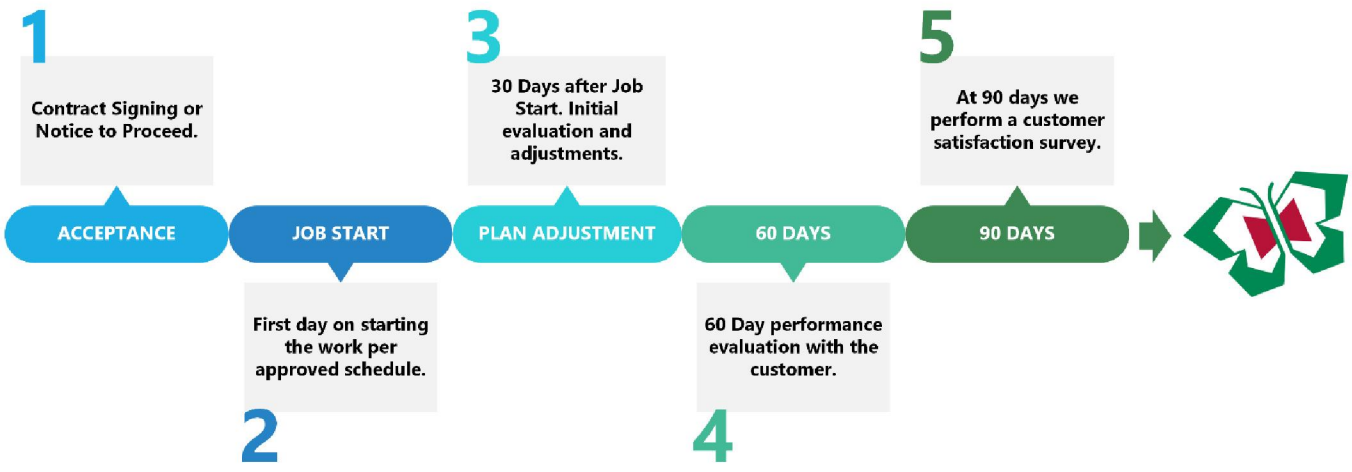
Mechanical and physical controls

Mechanical and physical controls kill a pest directly or make the environment unsuitable for it. Traps for rodents are examples of mechanical control. Physical controls include mulches for weed management, steam sterilization of the soil for disease management, or barriers such as screens to keep birds or insects out.

Chemical control

Chemical control is the use of pesticides. Mariposa Landscapes uses pesticides only when needed and in combination with other approaches for more effective, long-term control. Also, pesticides are selected and applied in a way that minimizes their possible harm to people and the environment. With IPM we use the most selective pesticide that will do the job and be the safest for other organisms and for air, soil, and water quality.

Job Startup and Transition Schedule



Contract Executed or an Official Notice to Proceed

On new contracts we typically purchase trucks and equipment, so we cannot initiate purchases until we have a signed commitment. Quicker startups that are 30 days or less may be an issue with supply chain delays. We prefer a 60 to 90 day start for our procurement. During this period, before the Job Start, we may have one or more meetings with the client to meet the management staff and go over a preliminary schedule of work. We also use this interim time to prepare more detailed maps of the areas with measurements so we can pre-order the materials we will need (fertilizer, IPM material for weed control and other consumables.)

Job Start

On day 1 our crews will have detailed maps of the areas along with task lists and the initial schedule. Our management is heavily involved in logistics during this time. We also go through the irrigation systems with our technicians to perform our initial evaluation. If we find anything that is broken, inoperative or neglected, we create a detailed list with repair pricing and a completion schedule for the customer.

30 Day Evaluation

At 30 days we have a special evaluation meeting with the customer. There are always aspects of every job that cannot be completely spelled out in the work scope and specifications like, custom timelines, work sequences and specific area needs. We go over the experience so far and identify what is working well and what needs adjustment. The customer gets an action plan for any adjustments with timeline commitments from us along with the initial irrigation system inspection.

60 Day Evaluation

At 60 days we anticipate operations to be going smoothly and meeting expectations. We perform a customer survey to assess the customer's perception of the experience related to the proposal process, transition to operations and the actual performance on the job. Our goal is to receive the highest score possible from our clients and provide complete customer satisfaction.

90 Day Evaluation

At 90 days the customer receives a survey with one question on it "Would you recommend Mariposa Landscapes to other customers right now?" Our goal is to receive an enthusiastic "Yes" to this question.

Fee Proposal

Please provide hourly rates for the following positions at a minimum: Irrigator, Foreman, Laborer, Supervisor.

Maintenance Rates:

Laborer: $44.55

Irrigator: $68.60

Foreman: $61.06

Supervisor: 76.80

Construction Rates:

Laborer $109.73

Tender $43.71

Operator $129.17

Cement Mason $115.70

We are providing both Maintenance and Landscape rates because there is construction in the scope of work.

Key Personnel for Palm Desert

Andres Perez

Bermuda Dunes Area Manager

P. (760) 321-2107

C. (626) 392-3050

E. Andres@mariposa-ca.com



Andres will be the person in-charge responsible for project management, communication with account managers and primary contact with the City of Palm Desert.

Andres has been working for Mariposa Landscapes since 1996. He has over 25 years of work experience conducting and overseeing Public Works, Commercial and Residential landscape maintenance work. With a vast experience in all aspects of irrigation: maintaining, repairing and diagnosis in Palm Desert region.

Andres is responsible for all aspects of project management, emphasizing safety, high quality work, operational efficiency, and exemplary customer service. He also conducts walk-throughs to ensure that punch lists are completed and institutes improvements to enhance the quality of work.

Certifications:

- Over 25 years of experience in the landscape industry
- Qualified Applicator License: Category B
- Certified Landscape Technician: Irrigation
- Certificate – Irrigation Design
- Certificate – Irrigation Troubleshooting
- CVAG Overseeding Certificate

Contract No. _____

CITY OF PALM DESERT
MAINTENANCE SERVICES AGREEMENT

1. Parties and Date. This Agreement is made and entered into this **1st** day of **December, 2024**, by and between the City of Palm Desert, a municipal corporation organized under the laws of the State of California with its principal place of business at 73-510 Fred Waring Drive, Palm Desert, California 92260-2578, ("City") and **Mariposa Landscapes, Inc.**, **a Corporation**, with its principal place of business at **6232 Santos Diaz Street, Irwindale, CA 91702** ("Vendor"). The City and Vendor are sometimes individually referred to herein as "Party" and collectively as "Parties."

2. Recitals.

2.1 Contractor.

Contractor desires to perform and assume responsibility for the provision of certain maintenance services required by the City on the terms and conditions set forth in this Agreement. Contractor represents that it is experienced in providing maintenance services to public clients, that it and its subcontractors have all necessary licenses and permits to perform the services in the State of California, and that it is familiar with the plans of City. Contractor shall not subcontract any portion of the work required by this Agreement, except as expressly stated herein, without prior written approval of City. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement.

2.2 Project.

The City is a public agency of the State of California and is in need of services for the following project:

Parks and Landscape Enhancement Project
Project No. CPK00003
(hereinafter referred to as "the Project").

3. Terms.

3.1 Scope of Services and Term.

3.1.1 General Scope of Services. Contractor promises and agrees to furnish to the City all labor, materials, tools, equipment, services, and incidental and customary work necessary to fully and adequately supply the maintenance services necessary for the Project ("Services"). The Services are more particularly described in Exhibit "A" attached hereto and incorporated herein by reference. All Services shall be subject to, and performed in accordance with, this Agreement, the exhibits attached hereto and incorporated herein by reference, and all applicable local, state, and federal laws, rules and regulations.

3.1.2 Term. The term of this Agreement shall be from December 1, 2024, to June 30, 2027, unless earlier terminated as provided herein. The City shall have the unilateral option, at its sole discretion, to renew this Agreement automatically for no more than 2 additional one-year terms. Contractor shall complete the Services within the term of this Agreement and shall meet any other established schedules and deadlines. The Parties may, by mutual, written consent, extend the term of this Agreement if necessary to complete the Services.

3.2 Responsibilities of Contractor.

3.2.1 Control and Payment of Subordinates; Independent Contractor. The Services shall be performed by Contractor or under its supervision. Contractor will determine the means, methods, and details of performing the Services subject to the requirements of this Agreement. City retains Contractor on an independent contractor basis and not as an employee. Any personnel performing the Services under this Agreement on behalf of Contractor shall not be employees of City and shall at all times be under Contractor's exclusive direction and control. Contractor shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law. Contractor shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation insurance.

3.2.2 Schedule of Services. Contractor shall perform the Services in a prompt and timely manner in accordance with each Task Order set forth in Exhibit "B" attached hereto and incorporated herein by reference. Contractor represents that it has the professional and technical personnel required to perform the Services in conformance with such conditions. Upon request of City, Contractor shall provide a more detailed schedule of anticipated performance to meet the Schedule of Services.

3.2.3 Conformance to Applicable Requirements. All work prepared by Contractor shall be subject to the approval of City.

3.2.4 City's Representative. The City hereby designates **Brad Chuck, Landscape Supervisor**, or his or her designee, to act as its representative for the performance of this Agreement ("City's Representative"). City's Representative shall have the power to act on behalf of the City for all purposes under this Agreement except for increasing compensation. Contractor shall not accept direction or orders from any person other than the City's Representative or his or her designee.

3.2.5 Contractor's Representative. Contractor hereby designates **Terry Noriega, President**, or his or her designee, to act as its representative for the performance of this Agreement ("Contractor's Representative"). Contractor's Representative shall have full authority to represent and act on behalf of the Contractor for all purposes under this Agreement. The Contractor's Representative shall supervise and direct the Services, using his best skill and attention, and shall be responsible for all means, methods, techniques, sequences, and procedures and for the satisfactory coordination of all portions of the Services under this Agreement.

3.2.6 Coordination of Services. Contractor agrees to work closely with City staff in the performance of Services and shall be available to City's staff, consultants, and other staff at all reasonable times.

3.2.7 Standard of Care; Performance of Employees. Contractor shall perform all Services under this Agreement in a skillful and competent manner, consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Contractor represents and maintains that it is skilled in the professional calling necessary to perform the Services. Contractor warrants that all employees and subcontractors shall have sufficient skill and experience to perform the Services assigned to them. Finally, Contractor represents that it, its employees, and subcontractors have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services, including a City Business License, and that such licenses and approvals shall be maintained

throughout the term of this Agreement. Contractor shall perform, at its own cost and expense and without reimbursement from the City, any services necessary to correct errors or omissions which are caused by the Contractor's failure to comply with the standard of care provided for herein. Any employee of the Contractor or its sub-contractors who is determined by the City to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any employee who fails or refuses to perform the Services in a manner acceptable to the City, shall be promptly removed from the Project by the Contractor and shall not be re-employed to perform any of the Services or to work on the Project.

3.2.8 Period of Performance and Liquidated Damages. Contractor shall perform and complete all Services under this Agreement within the term set forth in Section 3.1.2 above ("Performance Time"). Contractor shall perform the Services in strict accordance with any completion schedule or Project milestones described in Exhibits "A" or "B" attached hereto, or which may be provided separately in writing to the Contractor. Contractor agrees that if the Services are not completed within the aforementioned Performance Time and/or pursuant to any such completion schedule or Project milestones developed pursuant to provisions of this Agreement, it is understood, acknowledged and agreed that the City will suffer damage. Pursuant to Government Code Section 53069.85, Contractor shall pay to the City as fixed and liquidated damages, and not as a penalty, the sum of Two-Hundred and Fifty Dollars ($250.00) per day for each and every calendar day of delay beyond the Performance Time or beyond any completion schedule or Project milestones established pursuant to this Agreement.

3.2.9 Disputes. Should any dispute arise respecting the true value of any work done, of any work omitted, or of any extra work which Contractor may be required to do or respecting the size of any payment to Contractor during the performance of this Contract, Contractor shall continue to perform the Work while said dispute is decided by the City. If Contractor disputes the City's decision, Contractor shall have such remedies as may be provided by law.

3.2.10 Laws and Regulations; Employee/Labor Certifications. Contractor shall keep itself fully informed of and in compliance with all local, state, and federal laws, rules and regulations in any manner affecting the performance of the Project or the Services, including all Cal/OSHA requirements, and shall give all notices required by law. Contractor shall be liable for all violations of such laws and regulations in connection with the Services and this Agreement. All violations of such laws and regulations shall be grounds for the City to terminate the Agreement for cause. City is a public entity of the State of California subject to certain provisions of the Health & Safety Code, Government Code, Public Contract Code, and Labor Code of the State. It is stipulated and agreed that all provisions of the law applicable to the public contracts of a municipality are a part of this Agreement to the same extent as though set forth herein and will be complied with.

3.2.10.1 Employment Eligibility; Contractor. Contractor certifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time and shall require all subconsultants and sub-subconsultants to comply with the same. Contractor certifies that it has not committed a violation of any such law within the five (5) years immediately preceding the date of execution of this Agreement and shall not violate any such law at any time during the term of the Agreement.

3.2.10.2 Labor Certification. By its signature hereunder, Contractor certifies that it is aware of the provisions of Section 3700 of the California 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 agrees to comply with such provisions before commencing the performance of the Services.

3.2.10.3 Equal Opportunity Employment. Contractor represents that it is an equal opportunity employer, and it shall not discriminate against any subcontractor, employee or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination. Contractor shall comply with all relevant provisions of City's Minority Business Enterprise program, Affirmative Action Plan or other related programs or guidelines currently in effect or hereinafter enacted.

3.2.10.4 Air Quality. Contractor must fully comply with all applicable laws, rules and regulations in furnishing or using equipment and/or providing services, including, but not limited to, emissions limits and permitting requirements imposed by the California Air Resources Board (CARB). Contractor shall specifically be aware of the CARB limits and requirements' application to "portable equipment", which definition is considered by CARB to include any item of equipment with a fuel-powered engine. Contractor shall indemnify City against any fines or penalties imposed by CARB or any other governmental or regulatory agency for violations of applicable laws, rules and/or regulations by Contractor, its subcontractors, or others for whom Contractor is responsible under its indemnity obligations provided for in this Agreement.

3.2.10.5 Water Quality Management and Compliance. To the extent applicable, Contractor's Services must account for, and fully comply with, all local, state and federal laws, rules and regulations that may impact water quality compliance, including, without limitation, all applicable provisions of the Federal Water Pollution Control Act (33 U.S.C. §§ 1300); the California Porter-Cologne Water Quality Control Act (Cal Water Code §§ 13000-14950); laws, rules and regulations of the Environmental Protection Agency and the State Water Resources Control Board; the City's ordinances regulating discharges of storm water; and any and all regulations, policies, or permits issued pursuant to any such authority regulating the discharge of pollutants, as that term is used in the Porter-Cologne Water Quality Control Act, to any ground or surface water in the State. Failure to comply with the laws, regulations and policies described in this Section is a violation of law that may subject Contractor to penalties, fines, or additional regulatory requirements.

3.2.11 Insurance.

3.2.11.1 Minimum Requirements. Without limiting Contractor's indemnification of City, and prior to commencement of the Services, Contractor shall obtain, provide, and maintain at its own expense during the term of this Agreement, policies of insurance of the type and amounts described below and in a form that is satisfactory to City.

(A) General Liability Insurance. Contractor shall maintain commercial general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01, in an amount not less than $1,000,000 per occurrence, $2,000,000 general aggregate, for bodily injury, personal injury, and property damage. The policy must include contractual liability that has not been amended. Any endorsement restricting standard ISO "insured contract" language will not be accepted.

(B) Automobile Liability Insurance. Contractor shall maintain automobile insurance at least as broad as Insurance Services Office form CA 00 01 covering bodily injury and property damage for all activities of the Contractor arising out of or in connection

with Work to be performed under this Agreement, including coverage for any owned, hired, non-owned or rented vehicles, in an amount not less than $1,000,000 combined single limit for each accident. The City's Risk Manager may modify this requirement if it is determined that Consultant will not be utilizing a vehicle in the performance of his/her duties under this Agreement.

(C) Umbrella or Excess Liability Insurance. Contractor may opt to utilize umbrella or excess liability insurance in meeting insurance requirements. In such circumstances, Contractor may obtain and maintain an umbrella or excess liability insurance policy with limits that will provide bodily injury, personal injury, and property damage liability coverage at least as broad as the primary coverages set forth above, including commercial general liability and employer's liability. Such policy or policies shall include the following terms and conditions:

(a) A drop-down feature requiring the policy to respond if any primary insurance that would otherwise have applied proves to be uncollectible in whole or in part for any reason;

(b) Pay on behalf of wording as opposed to reimbursement;

(c) Concurrency of effective dates with primary policies; and

(d) Policies shall "follow form" to the underlying primary policies.

(e) Insureds under primary policies shall also be insureds under the umbrella or excess policies.

(D) Workers' Compensation Insurance. Contractor shall maintain Workers' Compensation Insurance (Statutory Limits) and Employer's Liability Insurance (with limits of at least $1,000,000). Contractor shall submit to City, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of the City, its elected or appointed officers, and their respective agents, officials, employees, volunteers, and representatives.

(E) Fidelity Coverage. Reserved.

(F) Cyber Liability Insurance. Reserved.

a) Liability arising from the theft, dissemination and/or use of confidential or personally identifiable information; including credit monitoring and regulatory fines arising from such theft, dissemination, or use of confidential information.

b) Network security liability arising from the unauthorized use of, access to, or tampering with computer systems.

c) Liability arising from the failure of technology products (software) required under the contract for Vendor to properly perform the services intended.

d) Electronic Media Liability arising from personal injury, plagiarism or misappropriation of ideas, domain name infringement or improper deep-linking or framing, and infringement or violation of intellectual property rights.

e) Liability arising from the failure to render professional services.

If coverage is maintained on a claims-made basis, Contractor shall maintain such coverage for an additional period of three (3) years following termination of the Agreement.

(G) Pollution Liability Insurance. Environmental Impairment Liability Insurance shall be written on a Contractor's Pollution Liability form or other form acceptable to the City providing coverage for liability arising out of sudden, accidental, and gradual pollution and remediation. The policy limit shall be no less than $1,000,000 dollars per claim and in the aggregate. All activities contemplated in this Agreement shall be specifically scheduled on the policy as "covered operations". The policy shall provide coverage for the hauling of waste from the Project site to the final disposal location, including non-owned disposal sites.

3.2.11.2 Other Provisions and Requirements.

(A) Proof of Insurance. Contractor shall provide certificates of insurance to City as evidence of the insurance coverage required herein, along with a waiver of subrogation endorsement for workers' compensation. Insurance certificates and endorsements must be approved by City's Risk Manager prior to commencement of performance. Current certification of insurance shall be kept on file with City at all times during the term of this contract. City reserves the right to require complete, certified copies of all required insurance policies, at any time.

(B) Duration of Coverage. Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the work hereunder by Contractor, his/her agents, representatives, employees, or subconsultants.

(C) Primary/Non-Contributing. Coverage provided by Contractor shall be primary and any insurance or self-insurance procured or maintained by City shall not be required to contribute with it. The limits of insurance required herein may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of City before the City's own insurance or self-insurance shall be called upon to protect it as a named insured.

(D) City's Rights of Enforcement. In the event any policy of insurance required under this Agreement does not comply with these specifications, or is canceled and not replaced, City has the right, but not the duty, to obtain the insurance it deems necessary, and any premium paid by City will be promptly reimbursed by Contractor, or City will withhold amounts sufficient to pay premium from Contractor payments. In the alternative, City may cancel this Agreement.

(E) Acceptable Insurers. All insurance policies shall be issued by an insurance company currently authorized by the Insurance Commissioner to transact business of insurance or is on the List of Approved Surplus Line Insurers in the State of California, with an assigned policyholders' Rating of A- (or higher) and Financial Size Category Class VII (or larger) in accordance with the latest edition of Best's Key Rating Guide, unless otherwise approved by the City's Risk Manager.

(F) Waiver of Subrogation. All insurance coverage maintained or procured pursuant to this agreement shall be endorsed to waive subrogation against the City, its elected or appointed officers, and their respective agents, officials, employees, volunteers, and representatives, or shall specifically allow Contractor or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. Contractor hereby waives its own right of recovery against the City, its elected or appointed officers, and their respective agents, officials, employees, volunteers, and representatives, and shall require similar written express waivers and insurance clauses from each of its subcontractors.

(G) Enforcement of Contract Provisions (non estoppel). Contractor acknowledges and agrees that any actual or alleged failure on the part of the City to inform Contractor of non-compliance with any requirement imposes no additional obligations on the City nor does it waive any rights hereunder.

(H) Requirements Not Limiting. Requirements of specific coverage features or limits contained in this Section are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be all inclusive, or to the exclusion of other coverage, or a waiver of any type. If the Contractor maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

(I) Notice of Cancellation. Contractor agrees to oblige its insurance agent or broker and insurers to provide City with a thirty (30) day notice of cancellation (except for nonpayment for which a ten (10) day notice is required) or nonrenewal of coverage for each required coverage.

(J) Additional Insured Status. General liability, automobile liability, and if applicable, pollution liability and cyber liability, policies shall provide or be endorsed to provide that the City, its elected or appointed officers, and their respective agents, officials, employees, volunteers, and representatives, shall be additional insureds under such policies. This provision shall also apply to any excess/umbrella liability policies.

(K) Prohibition of Undisclosed Coverage Limitations. None of the coverages required herein will be in compliance with these requirements if they include any limiting endorsement of any kind that has not been first submitted to City and approved of in writing.

(L) Separation of Insureds. A severability of interests provision must apply for all additional insureds ensuring that Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the insurer's limits of liability. The policy(ies) shall not contain any cross-liability exclusions.

(M) Pass Through Clause. Contractor agrees to ensure that its sub-consultants, sub-contractors, and any other party involved with the Project who is brought onto or involved in the project by Contractor, provide the same minimum insurance coverage and endorsements required of Contractor. Contractor agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. Contractor agrees that upon request, all agreements with consultants, subcontractors, and others engaged in the Project will be submitted to City for review.

(N) City's Right to Revise Specifications. The City or its Risk Manager reserves the right at any time during the term of the contract to change the amounts and types of insurance required by giving the Contractor ninety (90) days advance written notice of such change. If such change results in cost to the Contractor, the City and Contractor may renegotiate Contractor's compensation. If the City reduces the insurance requirements, the change shall go into effect immediately and require no advanced written notice.

(O) Self-Insured Retentions. Any self-insured retentions must be declared to and approved by City. City reserves the right to require that self-insured retentions be eliminated, lowered, or replaced by a deductible. Self-insurance will not be considered to comply with these specifications unless approved by City.

(P) Timely Notice of Claims. Contractor shall give City prompt and timely notice of claims made or suits instituted that arise out of or result from Contractor's performance under this Agreement, and that involve or may involve coverage under any of the required liability policies.

(Q) Additional Insurance. Contractor shall also procure and maintain, at its own cost and expense, any additional kinds of insurance, which in its own judgment may be necessary for its proper protection and prosecution of the work.

3.2.12 Safety. Contractor shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, the Contractor shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be performed. Safety precautions, where applicable, shall include, but shall not be limited to: (A) adequate life protection and lifesaving equipment and procedures; (B) instructions in accident prevention for all employees and subcontractors, such as safe walkways, scaffolds, fall protection ladders, bridges, gang planks, confined space procedures, trenching and shoring, equipment and other safety devices, equipment and wearing apparel as are necessary or lawfully required to prevent accidents or injuries; and (C) adequate facilities for the proper inspection and maintenance of all safety measures.

3.2.13 Bonds.

3.2.13.1 Performance Bond. If required by law or otherwise specifically requested by City in Exhibit "C" attached hereto and incorporated herein by reference, Contractor shall execute and provide to City concurrently with this Agreement a Performance Bond in the amount of the total, not-to-exceed compensation indicated in this Agreement, and in a form provided or approved by the City. If such bond is required, no payment will be made to Contractor until it has been received and approved by the City.

3.2.13.2 Payment Bond. If required by law or otherwise specifically requested by City in Exhibit "C" attached hereto and incorporated herein by reference, Contractor shall execute and provide to City concurrently with this Agreement a Payment Bond in the amount of the total, not-to-exceed compensation indicated in this Agreement, and in a form provided or approved by the City. If such bond is required, no payment will be made to Contractor until it has been received and approved by the City.

3.2.13.3 Bond Provisions. Should, in City's sole opinion, any bond become insufficient, or any surety be found to be unsatisfactory, Contractor shall renew or replace the

affected bond within ten (10) days of receiving notice from City. In the event the surety or Contractor intends to reduce or cancel any required bond, at least thirty (30) days prior written notice shall be given to the City, and Contractor shall post acceptable replacement bonds at least ten (10) days prior to expiration of the original bonds. No further payments shall be deemed due or will be made under this Agreement until any replacement bonds required by this Section are accepted by the City. To the extent, if any, that the total compensation is increased in accordance with the Agreement, the Contractor shall, upon request of the City, cause the amount of the bonds to be increased accordingly and shall promptly deliver satisfactory evidence of such increase to the City. To the extent available, the bonds shall further provide that no change or alteration of the Agreement (including, without limitation, an increase in the total compensation, as referred to above), extensions of time, or modifications of the time, terms, or conditions of payment to the Contractor, will release the surety. If the Contractor fails to furnish any required bond, the City may terminate this Agreement for cause.

3.2.13.4 Surety Qualifications. Only bonds executed by an admitted surety insurer, as defined in Code of Civil Procedure Section 995.120, shall be accepted. The surety must be a California-admitted surety with a current A.M. Best's rating no less than A:VIII and satisfactory to the City. If a California-admitted surety insurer issuing bonds does not meet these requirements, the insurer will be considered qualified if it is in conformance with Section 995.660 of the California Code of Civil Procedure, and proof of such is provided to the City.

3.2.14 Accounting Records. Contractor shall maintain complete and accurate records with respect to all costs and expenses incurred under this Agreement. All such records shall be clearly identifiable. Contractor shall allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement. Contractor shall allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of three (3) years from the date of final payment under this Agreement.

3.2.15 Work Sites.

3.2.15.1 Inspection of Site. Contractor shall visit sites where Services are to be performed and shall become acquainted with all conditions affecting the Services prior to commencing the Services. Contractor shall make such examinations as it deems necessary to determine the condition of the work sites, its accessibility to materials, workmen and equipment, and to determine Contractor's ability to protect existing surface and subsurface improvements. No claim for allowances–time or money–will be allowed as to such matters after commencement of the Services.

3.2.15.2 Field Measurements. Contractor shall make field measurements, verify field conditions, and shall carefully compare such field measurements and conditions and other information known to Contractor with the Contract, including any plans, specifications, or scope of work before commencing Services. Errors, inconsistencies, or omissions discovered shall be reported to the City immediately and prior to performing any Services or altering the condition.

3.2.15.3 Hazardous Materials and Differing Conditions. Should Contractor encounter material reasonably believed to be polychlorinated biphenyl (PCB) or other toxic wastes, hazardous substances and hazardous materials as defined in California state or federal law at the site which have not been rendered harmless, the Contractor shall immediately stop work at the affected area and shall report the condition to the City in writing. The City shall contract for any services required to directly remove and/or abate PCBs, hazardous substances, other

toxic wastes, and hazardous materials, and shall not require the Contractor to subcontract for such services. The Services in the affected area shall not thereafter be resumed except by written agreement of the City and Contractor.

3.2.16 Loss and Damage. Contractor shall be responsible for all loss and damage which may arise out of the nature of the Services agreed to herein, or from the action of the elements, or from any unforeseen difficulties which may arise or be encountered in the prosecution of the Services until the same is fully completed and accepted by City.

3.2.17 Warranty. Contractor warrants all Services under the Agreement (which for purposes of this Section shall be deemed to include unauthorized work which has not been removed and any non-conforming materials incorporated into the work) to be of good quality and free from any defective or faulty material and workmanship. Contractor agrees that for a period of one year (or the period of time specified elsewhere in the Agreement or in any guarantee or warranty provided by any manufacturer or supplier of equipment or materials incorporated into the work, whichever is later) after the date of final acceptance, Contractor shall within ten (10) days after being notified in writing by the City of any defect in the Services or non-conformance of the Services to the Agreement, commence and prosecute with due diligence all Services necessary to fulfill the terms of the warranty at its sole cost and expense. Contractor shall act sooner as requested by the City in response to an emergency. In addition, Contractor shall, at its sole cost and expense, repair and replace any portions of the work (or work of other contractors) damaged by its defective Services or which becomes damaged in the course of repairing or replacing defective work. For any work so corrected, Contractor's obligation hereunder to correct defective work shall be reinstated for an additional one (1) year period, commencing with the date of acceptance of such corrected work. Contractor shall perform such tests as the City may require to verify that any corrective actions, including, without limitation, redesign, repairs, and replacements comply with the requirements of the Agreement. All costs associated with such corrective actions and testing, including the removal, replacement, and reinstitution of equipment and materials necessary to gain access, shall be the sole responsibility of the Contractor. All warranties and guarantees of subcontractors, suppliers, and manufacturers with respect to any portion of the work, whether express or implied, are deemed to be obtained by Contractor for the benefit of the City, regardless of whether or not such warranties and guarantees have been transferred or assigned to the City by separate agreement and Contractor agrees to enforce such warranties and guarantees, if necessary, on behalf of the City. In the event that Contractor fails to perform its obligations under this Section, or under any other warranty or guaranty under this Agreement, to the reasonable satisfaction of the City, the City shall have the right to correct and replace any defective or non-conforming work and any work damaged by such work or the replacement or correction thereof at Contractor's sole expense. Contractor shall be obligated to fully reimburse the City for any expenses incurred hereunder upon demand.

3.3 Fees and Payments.

3.3.1 Compensation. Contractor shall receive compensation, including authorized reimbursements, for all Services rendered under this Agreement at the rates set forth in Exhibit "C" attached hereto and incorporated herein by reference. The maximum compensation for Services to be provided pursuant to each approved Task Order shall be set forth in the relevant Task Order. The total compensation, in the aggregate, shall not exceed **Seven Hundred Fifty Thousand Dollars ($750,000)** without written approval of the City Council or City Manager, as applicable.

3.3.2 Payment of Compensation. Contractor shall submit to City monthly invoices which provides a detailed description of the Services and hours rendered by Contractor. City shall,

within thirty (30) days of receiving such statement, review the statement and pay all non-disputed and approved charges. Contractor shall submit its final invoice to City within thirty (30) days from the last date of provided Services or termination of this Agreement and failure by the Contractor to submit a timely invoice shall constitute a waiver of its right to final payment. Payment shall not constitute acceptance of any Services completed by Contractor. The making of final payment shall not constitute a waiver of any claims by the City for any reason whatsoever.

3.3.2.1 Retainer. From each approved progress estimate, five percent (5%) will be deducted and retained by the City, and the remainder will be paid to Contractor. All Agreement retainage shall be released and paid to the Contractor and subcontractors pursuant to California Public Contract Code Section 7107. Contractor shall furnish City with labor and material releases from all subcontractors performing work on, or furnishing materials for, the work governed by this Agreement prior to final payment by City.

3.3.3 Deductions. City may deduct or withhold, as applicable, from each progress payment an amount necessary to protect City from loss because of: (1) stop payment notices as allowed by state law; (2) unsatisfactory prosecution of the Services by Contractor; (3) sums representing expenses, losses, or damages as determined by the City, incurred by the City for which Contractor is liable under the Agreement; and (4) any other sums which the City is entitled to recover from Contractor under the terms of the Agreement or pursuant to state law, including Section 1727 of the California Labor Code. The failure by the City to deduct any of these sums from a progress payment shall not constitute a waiver of the City's right to such sums.

3.3.4 Reimbursement for Expenses. Contractor shall not be reimbursed for any expenses unless authorized in writing by City.

3.3.5 Extra Work. At any time during the term of this Agreement, City may request that Contractor perform Extra Work. As used herein, “Extra Work” means any work which is determined by City to be necessary for the proper completion of the Project, but which the parties did not reasonably anticipate would be necessary at the execution of this Agreement. Contractor shall not perform, nor be compensated for, Extra Work without written authorization from City’s Representative.

3.3.6 Prevailing Wages. Contractor is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., (“Prevailing Wage Laws”), which require the payment of prevailing wage rates and the performance of other requirements on “public works” and “maintenance” projects. If the Services are being performed as part of an applicable “public works” or “maintenance” project, as defined by the Prevailing Wage Laws, and if the total compensation is $15,000 or more, Contractor agrees to fully comply with such Prevailing Wage Laws. City shall provide Contractor with a copy of the prevailing rates of per diem wages in effect at the commencement of this Agreement. Contractor shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request and shall post copies at the Contractor’s principal place of business and at the Project site. Contractor shall defend, indemnify, and hold the City, its elected or appointed officers, and their respective agents, officials, employees, volunteers and representatives free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. It shall be mandatory upon the Contractor and all subcontractors to comply with all California Labor Code provisions, which include but are not limited to prevailing wages (Labor Code Sections 1771, 1774 and 1775), employment of apprentices (Labor Code Section 1777.5), certified payroll records (Labor Code Sections 1771.4 and 1776), hours of labor (Labor Code Sections 1813 and 1815) and debarment of contractors

and subcontractors (Labor Code Section 1777.1). The requirement to submit certified payroll records directly to the Labor Commissioner under Labor Code section 1771.4 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Section 1771.4.

3.3.7 Registration/DIR Compliance. If the Services are being performed as part of an applicable "public works" or "maintenance" project, and if the total compensation is $15,000 or more, then pursuant to Labor Code Sections 1725.5 and 1771.1, the Contractor and all subcontractors performing such Services must be registered with the Department of Industrial Relations. Contractor shall maintain registration for the duration of the Project and require the same of any subcontractors, as applicable. This Project may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Contractor's sole responsibility to comply with all applicable registration and labor compliance requirements. Any stop orders issued by the Department of Industrial Relations against Contractor or any subcontractor that affect Contractor's performance of Services, including any delay, shall be Contractor's sole responsibility. Any delay arising out of or resulting from such stop orders shall be considered Contractor caused delay and shall not be compensable by the City. Contractor shall defend, indemnify, and hold the City, its elected or appointed officers, and their respective agents, officials, employees, volunteers, and representatives free and harmless from any claim or liability arising out of stop orders issued by the Department of Industrial Relations against Contractor or any subcontractor.

3.4 Termination of Agreement.

3.4.1 Grounds for Termination. City may, by written notice to Contractor, terminate the whole or any part of this Agreement at any time and without cause by giving written notice to Contractor of such termination, and specifying the effective date thereof, at least seven (7) days before the effective date of such termination. Upon termination, Contractor shall be compensated only for those Services which have been adequately rendered to City, and Contractor shall be entitled to no further compensation. Contractor may not terminate this Agreement except for cause.

3.4.2 Conflict of Interest. The Contractor covenants that any and all relationships with construction firms that may submit bids for projects developed under this agreement will require full disclosure of any direct or indirect conflicts of interest, financial interests, relationships, and the nature of any relationships with any related project bid submitters; and that any violation of this provision may result in the immediate termination of the Agreement

3.4.3 Effect of Termination. If this Agreement is terminated as provided herein, City may require Contractor to provide all finished or unfinished information of any kind prepared by Contractor in connection with the performance of Services under this Agreement. Contractor shall be required to provide such document and other information within fifteen (15) days of the request.

3.4.4 Additional Services. In the event this Agreement is terminated in whole or in part as provided herein, City may procure, upon such terms and in such manner as it may determine appropriate, services similar to those terminated.

3.5 General Provisions.

3.5.1 Delivery of Notices. All notices permitted or required under this Agreement shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

Contractor: Mariposa Landscapes, Inc.
6232 Santos Diaz Street
Irwindale, CA 91702
ATTN: Terry Noriega, President

City: City of Palm Desert
73-510 Fred Waring Drive
Palm Desert, CA 92260-2578
ATTN: Brad Chuck, Landscape Supervisor

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

3.5.2 Indemnification.

3.5.2.1 Scope of Indemnity. To the fullest extent permitted by law, Contractor shall defend, indemnify and hold the City, its elected or appointed officers, and their respective agents, officials, employees, volunteers and representatives free and harmless from any and all claims, demands, causes of action, suits, actions, proceedings, costs, expenses, liability, judgments, awards, decrees, settlements, loss, damage or injury of any kind, in law or equity, regardless of whether the allegations are false, fraudulent, or groundless, to property or persons, including wrongful death, (collectively, "Claims") in any manner arising out of, pertaining to, or incident to any acts, errors or omissions, or willful misconduct of Contractor, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Services, the Project or this Agreement, including without limitation the payment of all expert witness fees, attorneys' fees and other related costs and expenses except such Claims caused by the sole or active negligence or willful misconduct of the City.

3.5.2.2 Additional Indemnity Obligations. Contractor shall defend, with counsel of City's choosing and at Contractor's own cost, expense, and risk, any and all Claims covered by this section that may be brought or instituted against the City, its elected or appointed officers, and their respective agents, officials, employees, volunteers and representatives. In addition, Contractor shall pay and satisfy any judgment, award or decree that may be rendered against the City, its elected or appointed officers, and their respective agents, officials, employees, volunteers, and representatives as part of any such claim, suit, action, or other proceeding. Contractor shall also reimburse City for the cost of any settlement paid by the City, its elected or appointed officers, and their respective agents, officials, employees, volunteers, and representatives as part of any such claim, suit, action, or other proceeding. Such reimbursement shall include payment for City's attorney's fees and costs, including expert witness fees. Contractor shall reimburse the City, its elected or appointed officers, and their respective agents, officials, employees, volunteers, and representatives, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Contractor's obligation to indemnify shall survive expiration or termination of this Agreement, and shall not be restricted to insurance proceeds, if any, received by the Contractor, the City, its elected or appointed officers, and their respective agents, officials, employees, volunteers, and representatives.

3.5.3 Governing Law; Government Code Claim Compliance. This Agreement shall be governed by the laws of the State of California. Venue shall be in Riverside County. In addition

to any and all Agreement requirements pertaining to notices of and requests for compensation or payment for extra work, disputed work, claims and/or changed conditions, Contractor must comply with the claim procedures set forth in Government Code sections 900 et seq. prior to filing any lawsuit against the City. Such Government Code claims, and any subsequent lawsuit based upon the Government Code claims shall be limited to those matters that remain unresolved after all procedures pertaining to extra work, disputed work, claims, and/or changed conditions have been followed by Contractor. If no such Government Code claim is submitted, or if any prerequisite contractual requirements are not otherwise satisfied as specified herein, Contractor shall be barred from bringing and maintaining a valid lawsuit against the City.

3.5.4 Time of Essence. Time is of the essence for each and every provision of this Agreement.

3.5.5 City's Right to Employ Other Contractors. City reserves right to employ other contractors in connection with this Project.

3.5.6 Successors and Assigns. This Agreement shall be binding on the successors and assigns of the parties.

3.5.7 Assignment or Transfer. Contractor shall not assign, hypothecate, or transfer, either directly or by operation of law, this Agreement or any interest herein without the prior written consent of the City. Any attempt to do so shall be null and void, and any assignees, hypothecates or transferees shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer.

3.5.8 Construction; References; Captions. Since the Parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party. Any term referencing time, days or period for performance shall be deemed calendar days and not workdays. All references to Contractor include all personnel, employees, agents, and subcontractors of Contractor, except as otherwise specified in this Agreement. All references to the City include its elected or appointed officers, and their respective agents, officials, employees, volunteers, and representatives except as otherwise specified in this Agreement. The captions of the various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, or intent of this Agreement.

3.5.9 Amendment; Modification. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

3.5.10 Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel or otherwise.

3.5.11 No Third-Party Beneficiaries. Except to the extent expressly provided for in Section 3.5.7, there are no intended third-party beneficiaries of any right or obligation assumed by the Parties.

3.5.12 Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

3.5.13 Prohibited Interests. Contractor maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this Agreement. Further, Contractor warrants that it has not paid, nor has it agreed to pay any company or person, other than a bona fide employee working solely for Contractor, any fee, commission, percentage, brokerage fee, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, City shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer, or employee of City, during the term of his or her service with City, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

3.5.14 Cooperation; Further Acts. The Parties shall fully cooperate with one another and shall take any additional acts or sign any additional documents as may be necessary, appropriate or convenient to attain the purposes of this Agreement.

3.5.15 Authority to Enter Agreement. Contractor has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each Party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and bind each respective Party.

3.5.16 Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

3.5.17 Entire Agreement. This Agreement contains the entire Agreement of the parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings, or agreements. This Agreement may only be modified by a writing signed by both parties.

[SIGNATURES ON NEXT PAGE]

Contract No. _____

SIGNATURE PAGE TO MAINTENANCE SERVICES AGREEMENT BY AND BETWEEN THE CITY OF PALM DESERT AND MARIPOSA LANDSCAPES, INC.

IN WITNESS WHEREOF, each of the Parties has caused this Agreement to be executed on the day and year first above written.

CITY OF PALM DESERT

By: _____

L. Todd Hileman
City Manager

Attest:

By: _____

Anthony J. Mejia
City Clerk

Approved as to form:

By: _____

Isra Shah
Best Best & Krieger LLP
City Attorney

MARIPOSA LANDSCAPES, INC., A CORPORATION

By: _____

Terry Noriega
President

By: _____

Antonio Valenzuela
Secretary

592268
Contractor's License Number and Classification

1000005079
DIR Registration Number (*if applicable*)

City Clerk QC: _____

Contracts QC: _____

Insurance:

_____
Initial Review

_____
Final Approval

_____
Bonds

EXHIBIT "A"

SCOPE OF SERVICES

The Proposer to be knowledgeable in the installation, repair, and maintenance of the following park and landscape items:

- Landscape and Irrigation maintenance, repair, and installation
- Sod preparation and installation
- Topdressing of sports turf
- Park amenities material installation (sand volleyball courts, baseball infields, etc.)
- Minor playground repairs
- Park site furnishing repairs and installation
- Medians landscape improvements
- Assessment Districts improvements
- Tree and shrub planting
- Mow curb and related concrete repairs
- Installation of cobble and inorganics
- Proper traffic control as defined in the WATCH handbook
- Small scale landscape projects

The scope of services is not limited to the items listed above. In addition, more detailed work may be required, such as installation and programming of Smart Controllers, troubleshooting faulty irrigation wires, repairing and programming two-wire irrigation systems, leveling and grading, and other specialty work associated with park and landscape maintenance

The City intends to award the contract as a 3-year agreement with an option of (2) one-year extensions, subject to funding availability and City Council approval. The Agreement shall not exceed Seven Hundred Fifty Thousand Dollars ($750,000.00) per fiscal year for performance of said Services.

No Services shall be performed by the Contractor unless authorized by the City and by a fully executed Task Order.

EXHIBIT "B" TASK ORDER FORM SAMPLE

CITY OF PALM DESERT
TASK ORDER

Contract No / P.O. #:		
Change/Task Order No.:		
Task Order Bonds Needed?:	☐ YES	☐ NO
Contingency:	☐ YES	☐ NO
Account No.:		
Project No.:		
Vendor No.:		

Contract Purpose: _____

Contractor Name: _____

Contractor shall construct, furnish all supervision, labor, services, equipment, and materials, and perform all work necessary or required to fully complete the changes to the Contract described hereinto for the amount agreed upon between the Contractor and the City of Palm Desert ("City").

Description of Changes	**Decrease** In Contract Price	**Increase** In Contract Price
Totals:	$ 0.00	$ 0.00
Net Change in Contract Price:		$ 0.00

Justification:

Original Contract Amount:	+	
Contingency:	+	
Total Budget Amount:		$ 0.00
Less: Expend. / Encumb. To Date:	-	$ 0.00
Less: This Change Order Amount:	-	$ 0.00
Remaining for Project:		$ 0.00

Contingency:	+	
Less: Prior Change/Task Order(s):	-	
Less: This Change/Task Order:	-	$ 0.00
Remaining of Contingency:		$ 0.00

This Task Order Totals:

_____ dollars and ___/100 ($ 0.00)

Task Order Total: $ 0.00

EXHIBIT "B" TASK ORDER FORM SAMPLE

Continued from Front

Contract No. _____ Task Order No.:

Estimated Completion Date: _____

Contractor accepts the terms and conditions stated above as full and final settlement of any and all claims arising out of or related to the subject of this Task Order and acknowledges that the compensation (time and cost) set forth herein comprises the total compensation due for the work or change defined in the Task Order, including all impact on any unchanged work. Execution of this Task Order by the Contractor constitutes a binding accord and satisfaction that fully satisfies, waives, and releases the City from all claims, demands, costs, and liabilities, in contract, law or equity, arising out of or related to the subject of the Task Order, whether known or unknown, including but not limited to direct and indirect costs and/or damages for delay, disruption, acceleration, loss of productivity, and stacking of trades, as well as any and all consequential damages. The adjustments to the Contract Price and Contract Time in this Task Order constitute the entire compensation and/or adjustment thereto due to Contractor, including but not limited to all direct, indirect, consequential, profit, labor, equipment, tools, idle time, incidentals, and overhead (field and home office) costs, due to Contractor arising out of or related to the change in the work covered by this Task Order. The Contractor hereby releases and agrees to waive all rights, without exception or reservation of any kind whatsoever, to file any further claim or request for equitable adjustment of any type, for any reasonably foreseeable cause that shall arise out of, or as a result of, this Task Order and/or its impact on the remainder of the work under the Contract. This Task Order will become a supplement to the Contract and all provisions will apply hereto.

1. REQUESTED BY:	_____ Department Director	2. ACCEPTED BY:	_____ Contractor
3. CERTIFIED FUNDS AVAILABLE	_____ Finance Director	4. APPROVED BY:	_____ City Manager

NOTE: No payments will be made prior to City Manager or Council approval

QC: _____

Bonds: _____

EXHIBIT "C"

COMPENSATION

In the event that this Agreement is renewed pursuant to Section 3.1.2, the rates set forth above may be increased or reduced each year at the time of renewal, but any increase shall not exceed the Consumer Price Index, All Urban Consumers, Los Angeles-Riverside-Orange Counties. The City and Contractor may review the CPI on an annual basis and recommend adjustments to the City Manager or City Council for approval. Any increase shall not exceed the Consumer Price Index.

The maximum compensation for Services to be provided pursuant to each Task Order shall be set forth in the relevant Task Order. The total compensation, in the aggregate, shall not exceed **Seven Hundred Fifty Thousand Dollars ($750,000)** without written approval of the City Council or City Manager, as applicable.

Pricing schedule is as follows:

Maintenance Rates	
Position	**Hourly Rate**
Irrigator	$68.60
Foreman	$61.06
Laborer	$44.55
Supervisor	$76.80

Construction Rates	
Position	**Hourly Rate**
Laborer	$109.73
Tender	$43.71
Operator	$129.17
Cement Mason	$115.70

PERFORMANCE BOND

KNOW ALL PERSONS BY THESE PRESENTS:

THAT WHEREAS, the City of Palm Desert (hereinafter referred to as "City") has awarded to **Mariposa Landscapes, Inc.**, (hereinafter referred to as the "Contractor") an agreement for Parks and Landscape Enhancement Project (hereinafter referred to as the "Project").

WHEREAS, the work to be performed by the Contractor is more particularly set forth in the Contract Documents for the Project dated December 1, 2024, (hereinafter referred to as "Contract Documents"), the terms and conditions of which are expressly incorporated herein by reference; and

WHEREAS, the Contractor is required by said Contract Documents to perform the terms thereof and to furnish a bond for the faithful performance of said Contract Documents.

NOW, THEREFORE, we, **Mariposa Landscapes, Inc.**, the undersigned Contractor and _____ as Surety, a corporation organized and duly authorized to transact business under the laws of the State of California, are held and firmly bound unto the City in the sum of Seven Hundred Fifty Thousand Dollars, ($$750,000), said sum being not less than one hundred percent (100%) of the total amount of the Contract, for which amount well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that, if the Contractor, his or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and agreements in the Contract Documents and any alteration thereof made as therein provided, on its part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their intent and meaning; and shall faithfully fulfill all obligations including the one-year guarantee of all materials and workmanship; and shall indemnify and save harmless the City, its elected or appointed officers, and their respective agents, officials, employees, volunteers and representatives, as stipulated in said Contract Documents, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

As a condition precedent to the satisfactory completion of the Contract Documents, unless otherwise provided for in the Contract Documents, the above obligation shall hold good for a period of one (1) year after the acceptance of the work by City, during which time if Contractor shall fail to make full, complete, and satisfactory repair and replacements and totally protect the City from loss or damage resulting from or caused by defective materials or faulty workmanship, Surety shall undertake and faithfully fulfill all such obligations. The obligations of Surety hereunder shall continue so long as any obligation of Contractor remains. Nothing herein shall limit the City's

rights or the Contractor or Surety's obligations under the Contract, law, or equity, including, but not limited to, California Code of Civil Procedure section 337.15.

Whenever Contractor shall be, and is declared by the City to be, in default under the Contract Documents, the Surety shall remedy the default pursuant to the Contract Documents, or shall promptly, at the City's option:

(1) Take over and complete the Project in accordance with all terms and conditions in the Contract Documents; or

(2) Obtain a bid or bids for completing the Project in accordance with all terms and conditions in the Contract Documents and upon determination by Surety of the lowest responsive and responsible bidder, arrange for a Contract between such bidder, the Surety and the City, and make available as work progresses sufficient funds to pay the cost of completion of the Project, less the balance of the contract price, including other costs and damages for which Surety may be liable. The term "balance of the contract price" as used in this paragraph shall mean the total amount payable to Contractor by the City under the Contract and any modification thereto, less any amount previously paid by the City to the Contractor and any other set offs pursuant to the Contract Documents.

(3) Permit the City to complete the Project in any manner consistent with local, California and federal law and make available as work progresses sufficient funds to pay the cost of completion of the Project, less the balance of the contract price, including other costs and damages for which Surety may be liable. The term "balance of the contract price" as used in this paragraph shall mean the total amount payable to Contractor by the City under the Contract and any modification thereto, less any amount previously paid by the City to the Contractor and any other set offs pursuant to the Contract Documents.

Surety expressly agrees that the City may reject any contractor or subcontractor which may be proposed by Surety in fulfillment of its obligations in the event of default by the Contractor.

Surety shall not utilize Contractor in completing the Project nor shall Surety accept a bid from Contractor for completion of the Project if the City, when declaring the Contractor in default, notifies Surety of the City's objection to Contractor's further participation in the completion of the Project.

The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract Documents or to the Project to be performed thereunder shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract Documents or to the Project, including but not limited to the provisions of sections 2819 and 2845 of the California Civil Code.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, we have hereunto set our hands and seals this _____ day of _____, 20____.

(Corporate Seal)

Contractor/ Principal

By_____

Printed name: _____

Title: _____

(Corporate Seal) Surety

By: _____

Printed Name: _____

Attorney-in-Fact

(Attach Attorney-in-Fact Certificate)

Signatures of those signing for the Contractor and Surety must be notarized and evidence of corporate authority attached.

The rate of premium on this bond is _____ per thousand. The total amount of premium charges, $_____.

(The above must be filled in by corporate attorney.)

THIS IS A REQUIRED FORM

Any claims under this bond may be addressed to:

(Name and Address of Surety)

(Name and Address of Agent or Representative for service of process in California, if different from above)

(Telephone number of Surety and Agent or Representative for service of process in California)

NOTE: A copy of the Power-of-Attorney authorizing the person signing on behalf of the Surety to do so must be attached hereto.

Contract No. _____

Notary Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF _____

On _____, 20___, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

CAPACITY CLAIMED BY SIGNER

- ☐ Individual
- ☐ Corporate Officer

_____
Title(s)

- ☐ Partner(s)
  - ☐ Limited
  - ☐ General
- ☐ Attorney-In-Fact
- ☐ Trustee(s)
- ☐ Guardian/Conservator
- ☐ Other:

Signer is representing:
Name Of Person(s) Or Entity(ies)

_____

_____

DESCRIPTION OF ATTACHED DOCUMENT

_____
Title or Type of Document

_____
Number of Pages

_____
Date of Document

_____
Signer(s) Other Than Named Above

NOTE: This acknowledgment is to be completed for Contractor/Principal.

~~Contract No. _____~~

Notary Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF _____

On _____, 20___, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

CAPACITY CLAIMED BY SIGNER

- ☐ Individual
- ☐ Corporate Officer

_____
Title(s)

- ☐ Partner(s) ☐ Limited ☐ General
- ☐ Attorney-In-Fact
- ☐ Trustee(s)
- ☐ Guardian/Conservator
- ☐ Other:

Signer is representing:
Name Of Person(s) Or Entity(ies)

_____
_____

DESCRIPTION OF ATTACHED DOCUMENT

_____
Title or Type of Document

_____
Number of Pages

_____
Date of Document

_____
Signer(s) Other Than Named Above

NOTE: This acknowledgment is to be completed for the Attorney-in-Fact. The Power-of-Attorney to local representatives of the bonding company must also be attached.

Contract No. _____

PAYMENT BOND

KNOW ALL PERSONS BY THESE PRESENTS That

WHEREAS, the City of Palm Desert (hereinafter designated as the "City"), by action taken or a resolution passed October 24, 2024, has awarded to **Mariposa Landscapes, Inc.**, hereinafter designated as the "Principal," a contract for the work described as follows:

Parks and Landscape Enhancement Project (the "Project").; and

WHEREAS, the work to be performed by the Principal is more particularly set forth in the Contract Documents for the Project dated December 1, 2024, ("Contract Documents"), the terms and conditions of which are expressly incorporated by reference; and

WHEREAS, said Principal is required to furnish a bond in connection with said contract; providing that if said Principal or any of its Subcontractors shall fail to pay for any materials, provisions, provender, equipment, or other supplies used in, upon, for or about the performance of the work contracted to be done, or for any work or labor done thereon of any kind, or for amounts due under the Unemployment Insurance Code or for any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of said Principal and its Subcontractors with respect to such work or labor the Surety on this bond will pay for the same to the extent hereinafter set forth.

NOW THEREFORE, we, the Principal and _____ as Surety, are held and firmly bound unto the City in the penal sum of Seven Hundred Fifty Thousand Dollars, ($750,000) lawful money of the United States of America, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that if said Principal, his or its subcontractors, heirs, executors, administrators, successors or assigns, shall fail to pay any of the persons named in Section 9100 of the Civil Code, fail to pay for any materials, provisions or other supplies, used in, upon, for or about the performance of the work contracted to be done, or for any work or labor thereon of any kind, or amounts due under the Unemployment Insurance Code with respect to work or labor performed under the contract, or for any amounts required to be deducted, withheld, and paid over to the Employment Development Department or Franchise Tax Board from the wages of employees of the contractor and his subcontractors pursuant to Section 18663 of the Revenue and Taxation Code, with respect to such work and labor the Surety or Sureties will pay for the same, in an amount not exceeding the sum herein above specified, and also, in case suit is brought upon this bond, all litigation expenses incurred by City in such suit, including reasonable attorneys' fees, court costs, expert witness fees and investigation expenses.

This bond shall inure to the benefit of any of the persons named in Section 9100 of the Civil Code so as to give a right of action to such persons or their assigns in any suit brought upon this bond.

It is further stipulated and agreed that the Surety on this bond shall not be exonerated or released from the obligation of this bond by any change, extension of time for performance, addition, alteration or modification in, to, or of any contract, plans, specifications, or agreement pertaining or relating to any scheme or work of improvement herein above described, or pertaining or relating to the furnishing of labor, materials, or equipment therefore, nor by any change or modification of any terms of payment or extension of the time for any payment pertaining or

relating to any scheme or work of improvement herein above described, nor by any rescission or attempted rescission of the contract, agreement or bond, nor by any conditions precedent or subsequent in the bond attempting to limit the right of recovery of claimants otherwise entitled to recover under any such contract or agreement or under the bond, nor by any fraud practiced by any person other than the claimant seeking to recover on the bond and that this bond be construed most strongly against the Surety and in favor of all persons for whose benefit such bond is given, and under no circumstances shall Surety be released from liability to those for whose benefit such bond has been given, by reason of any breach of contract between the owner or City and original contractor or on the part of any obligee named in such bond, but the sole conditions of recovery shall be that claimant is a person described in Section 9100 of the Civil Code, and has not been paid the full amount of his claim and that Surety does hereby waive notice of any such change, extension of time, addition, alteration or modification herein mentioned and the provisions of sections 2819 and 2845 of the California Civil Code.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, we have hereunto set our hands and seals this _____ day of _____, 20__.

(Corporate Seal)

Contractor/ Principal

By_____

Printed name: _____

Title: _____

(Corporate Seal) Surety

By: _____

Printed Name: _____

Attorney-in-Fact

(Attach Attorney-in-Fact Certificate)

Signatures of those signing for the Contractor and Surety must be notarized and evidence of corporate authority attached. A Power-of-Attorney authorizing the person signing on behalf of the Surety to do so much be attached hereto.

NOTE: A copy of the Power-of-Attorney authorizing the person signing on behalf of the Surety to do so must be attached hereto.

~~Contract No. _____~~

Notary Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF _____

On _____, 20___, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

CAPACITY CLAIMED BY SIGNER

- ☐ Individual
- ☐ Corporate Officer

_____
Title(s)

- ☐ Partner(s) ☐ Limited ☐ General
- ☐ Attorney-In-Fact
- ☐ Trustee(s)
- ☐ Guardian/Conservator
- ☐ Other:

Signer is representing:
Name Of Person(s) Or Entity(ies)

_____

_____

DESCRIPTION OF ATTACHED DOCUMENT

_____
Title or Type of Document

_____
Number of Pages

_____
Date of Document

_____
Signer(s) Other Than Named Above

NOTE: This acknowledgment is to be completed for Contractor/Principal.

Contract No. _____

Notary Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF _____

On _____, 20___, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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CAPACITY CLAIMED BY SIGNER

- ☐ Individual
- ☐ Corporate Officer

_____
Title(s)

- ☐ Partner(s) ☐ Limited ☐ General
- ☐ Attorney-In-Fact
- ☐ Trustee(s)
- ☐ Guardian/Conservator
- ☐ Other:

Signer is representing:
Name Of Person(s) Or Entity(ies)

_____
_____

DESCRIPTION OF ATTACHED DOCUMENT

_____
Title or Type of Document

_____
Number of Pages

_____
Date of Document

_____
Signer(s) Other Than Named Above

NOTE: This acknowledgment is to be completed for the Attorney-in-Fact. The Power-of-Attorney to local representatives of the bonding company must also be attached.

City of Palm Desert
PW - Operations & Maintenance
Randy Chavez, Deputy Director
73-510 Fred Waring Drive, Palm Desert, CA 92260

[VINTAGE LANDSCAPE] RESPONSE DOCUMENT REPORT

RFP No. 2024-RFP-132

Parks And Landscape Enhancement Project

RESPONSE DEADLINE: September 4, 2024 at 5:00 pm

Report Generated: Tuesday, September 10, 2024

Vintage Landscape Response

CONTACT INFORMATION

Company:
Vintage Landscape

Email:
brentf@thevintageco.com

Contact:
Brent Fries

Address:
78755 Darby Road
Bermuda Dunes, CA 92203

Phone:
(760) 289-9222

Website:
www.vintagelandscape.com

Submission Date:
Sep 1, 2024 7:50 PM (Pacific Time)

ADDENDA CONFIRMATION

Addendum #1
Confirmed Aug 30, 2024 7:26 PM by Brent Fries

QUESTIONNAIRE

1. Proposal (WITHOUT COST)*

Proposals shall be concise, well organized and demonstrate qualifications and applicable experience. Proposals shall be organized and include page numbers for all pages in the proposal. The proposal shall be uploaded here, in the following order and shall include:

A. Cover Letter

1. This letter should briefly introduce the firm, summarize the firm's general qualifications, include an executive summary of the specific approach which will be used to deliver the work scope; and identify the individual(s) name, address and phone number authorized to negotiate Agreement terms and compensation.

B. Experience and Technical Competence

1. Background: Provide history of the firm's consulting experience which specifically addresses the individual or firm's experience with similar Service as described in this RFP.
2. References: The proposal shall include a list of recently completed projects that are similar in scope and function to this RFP. Provide a description of the project, client name, and the name, title, and telephone number of the primary contact person.

C. Firm Staffing and Key Personnel

1. Staffing: Provide the number of staff to be assigned to perform the Services and the names/discipline/job title of each as well as your firm's capacity to provide additional personnel as needed.

2. Key Personnel: Identify key persons that will be principally responsible for working with the City. Indicate the role and responsibility of each individual.
3. Team Organization: Describe proposed team organization, including identification and responsibilities of key personnel.
4. Subcontractors: The Proposer shall identify functions that are likely to be subcontracted and identify the subcontractor that is anticipated to perform each function.

D. Proposed Method to Accomplish the Work

1. Describe the technical and management approach to providing the Services to the City. Proposer should take into account the scope of the Services, and general functions required. Include a draft first year schedule of tasks, milestones, and deliverables that will provide for timely provision of the Services. In reviewing the scope of Services and goals described herein, the Proposer may identify additional necessary tasks and is invited to bring these to the City's attention within the discussion of its proposed method to accomplish the work.

City_of_Palm_Desert_-_Parks_and_Landscape_Enhancement_Services.pdf

2. Fee Proposal*

The fee proposal shall include hourly rates for all personnel for "Additional Work" (as such term is defined in the proposed Agreement attached herein). Please provide hourly rates for the following positions at a minimum: Irrigator, Foreman, Laborer, Supervisor.

City_of_PD_Enhancement_Contract_-_Labor_Costs.pdf

3. Non-Collusion Declaration*

The undersigned declares:

I am an authorized representative of my company, the party making the foregoing Bid, to certify the following.

The Bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation. The Bid is genuine and not collusive or sham. The Bidder has not directly or indirectly induced or solicited any other Bidder to put in a false or sham bid. The Bidder has not directly or indirectly colluded, conspired, connived, or agreed with any Bidder or anyone else to put in a sham bid, or to refrain from bidding. The Bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the Bid Price of the Bidder or any other Bidder, or to fix any overhead, profit, or cost

element of the Bid Price, or of that of any other Bidder. All statements contained in the Bid are true. The Bidder has not, directly or indirectly, submitted his or her Bid Price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid, and has not paid, and will not pay, any person or entity for such purpose.

Any person executing this declaration on behalf of a Bidder that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that he or she has full power to execute, and does execute, this declaration on behalf of the Bidder.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Confirmed

4. Enter your valid CA Contractors State License Board (CSLB) number*

Please enter your License Number here. This will be verified against the state database.

647984

Click to Verify *Value will be copied to clipboard*

5. Enter your California Department of Industrial Relations (DIR) Registration number*

Please enter your Public Works Contractor DIR Number. This will be verified against the state database.

1000001926

Click to Verify *Value will be copied to clipboard*

6. Type of Business*

S Corporation (if corporation, two signatures are required)

7. Litigation*

Provide litigation history for any claims filed by your firm or against your firm related to the provision of Services in the last five (5) years (or type "N/A").

N/A

8. Changes to Agreement*

The City standard professional services agreement contract is included as an attachment herein. The Proposer shall identify any objections to and/or request changes to the standard contract language in this section of the proposal (or type "N/A"). If you are identifying changes here ***ALSO*** upload a copy of the redlined Language/Agreement with your Proposal. Changes requested may effect theCity's decision to enter into an Agreement.

N/A

9. No Deviations from the RFP*

In submitting a proposal in response to this RFP, Proposer is certifying that it takes no exceptions to this RFP including, but not limited to, the Agreement. If any exceptions are taken, such exceptions must be clearly noted here, and may be reason for rejection of the proposal. As such, Proposer is directed to carefully review the proposed Agreement and, in particular, the insurance and indemnification provisions therein (or type "N/A").

Maximum response length: 5000 characters

N/A

10. Project Team Resumes*

Submit resumes of all key personnel/support staff that will produce work product for the Services. Describe their qualifications, education, and professional licensing.

City_of_Palm_Desert_-_Team_Resume_and_Qualifications.pdf

11. List the Signatory(s) Authorized to Sign and Bind an Agreement.*

(If two (2) signatures are required, include the following information for both signatories)

A. Full Name

B. Title

C. Physical Business Address

D. Email Address

E. Phone Number

A. Kyle Gritters

B. CEO

C. 78755 Darby Rd, Bermuda Dunes, CA 92203

D. kyleg@thevintageco.com

E. (805) 720-7269

A. David Smith

B. President

C. 78755 Darby Rd, Bermuda Dunes, CA 92203

D. davids@thevintageco.com

E. (760) 772-3673

12. Certification of Proposal: The undersigned hereby submits its proposal and, by doing so, agrees to furnish services in accordance with the Request for Proposal (RFP), and to be bound by the terms and conditions of the RFP.*

Confirmed



VINTAGE LANDSCAPE

City of Palm Desert

Parks and Landscape Enhancement Services

Company Profile & Qualifications for Landscape Services

August 30th, 2024

Brad Chuck
City of Palm Desert

RE: Parks and Landscape Enhancement Services

Thank you for the opportunity to submit our proposal for landscape enhancement projects for City of Palm Desert. Vintage is incredibly appreciative to be part of this process. As shown during the tenure of our Landscape Maintenance Contract, Vintage has the knowledge, expertise and experience to maintain your landscape environment and would appreciate the opportunity to provide services to further enhance the beauty, functionality and value of the City of Palm Desert.

Vintage Associates is a local family-owned company currently operated by the second generation who is personally involved in every account. Vintage is unique in the landscape industry because of the complete range of services offered to our customers. Subsidiary branches of Vintage Associates include:

- Vintage Landscape with Tree Division and Water Management
- Vintage Nursery
- Vintage Outdoors (Landscape Design, Enhancements & Construction)

The company profile attached includes detailed information about Vintage Associates, key personnel, and service practices.

Sincerely,

Kyle Gritters
CEO
C.C. David Smith

Table of Contents

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4. Company's Organization & Qualifications . . . . . [Pg. 10-16]
5. Firm Staffing and Key Personnel. . . . . [Pg. 11, 12 & 15]
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8. Proposed Method to Accomplish Work. . . . . .[Pg. 20-21]

History of Vintage Associates

Vintage Associates is the Coachella Valley's only full-service landscape resource company. Vintage started business in the Coachella Valley as Steven Burt and Associates in 1992. The company's first maintenance contract began in 1992 with the addition of Silver Sands Racquet Club in Palm Desert, where we worked for over twenty years. Additionally, the partners purchased Vintage Nursery on Darby Road in Bermuda Dunes in 1992. With the addition of the nursery, the company could provide desert acclimated shrubs and trees to their customers and other contractors.

In 1994, Al Hollinger joined Steve Burt and in 1995 started TreeRite – Certified Arborists. Al emphasized following ISA standards with TreeRite.

In 2001, Vintage Associates created a construction division which has morphed into Vintage Outdoors, to help customers enhance their landscape through beautification projects, irrigation upgrades, and more.

In 2002, Steve Burt invited Greg Gritters to work with him to help him grow his company and lend his corporate experience. Greg came with almost 25 years of experience in energy development and operations as an engineer working for the Unocal oil company.

In 2009, in response to the serious water issues facing the Coachella Valley, Greg achieved certification by the Irrigation Association and became a registered EPA WaterSense Partner. The WaterRite division was created to help homeowner associations, commercial accounts and homeowners optimize their irrigation systems and reduce their water bills following the implementation of tiered water rates by the Coachella Valley Water District. In 2022 the company achieved Expert Water Management status through CLCA.

In 2015, Kyle Gritters relocated his family to the Coachella Valley to start the succession plan of his father Greg. With more design experience than operations, Kyle spent the first three years working in every field position of the company.

At the end of 2018 David Smith, the nephew of the founding partners of the company, joined Kyle as a partner to further strengthen the Nursery and Construction divisions of the company.

Experience and Technical Competence

Vintage Associates' experience in the Coachella Valley is unrivaled. Vintage team members comprise of certified landscape professionals in the horticultural field with over 100 years of combined experience, with dedication to our customers within the Coachella Valley. The experience held by Vintage Associates includes the following:

- 30 years of experience providing Landscape Maintenance to HOAs
- 20 years of experience providing Landscape Maintenance to Municipalities
- 30 years of experience providing Landscape Construction & Enhancement Services
- Expert Level Water Managers from CLCA in the Inland Empire
- Emphasis on natural pruning of shrubs and professional tree care to enhance the beauty and ensure the landscape looks like the architect designed
- History of maintaining long-term relationships with customers (over 20 years) and our employees (30 years)



Certified Personnel

- BS Ornamental Horticulturist – **1**
- AA Turfgrass Management – **2**
- Certified Arborists – **6**
- ISA Tree Risk Assessor – **2**
- State Licensed Qualified Pesticide Applicators – **11**
- Water Management – CLCA Expert Manager Status
- Certified Landscape Irrigation Auditors – **1**
- Certified Water Managers – **2**
- Certified Irrigation Technician – **1**
- Certified Equipment Operator – **4**
- Maxicom and Site control operators – **5**
- College of the Desert – Certificate of Achievement (Turfgrass, Pesticide Management, Arborist, Landscape & Irrigation) – **4**



References

Maintenance

Desert Horizons Country Club – 23 years
P.O. Box 12710 Palm Desert, CA 92210
Association General Manager: Victor Santos Cisneros
(760) 340-5501 ext. 103

Indian Wells Tennis Gardens – 23 years
78200 Miles Avenue Indian Wells, CA 92210
Director of Facilities – Dave Sahl
(760) 200-8461

PGA West Fairways – 21 years
The Management Trust
80265 Signature Way La Quinta, CA 92253
(760) 862-6334

Andalusia – 17 years
The Management Trust
81570 Carboneras La Quinta, CA 92253
Association Manager: Kari Martin
(760) 777-1009

City of Indian Wells – 16 years
44-950 Eldorado Dr. Indian Wells, CA 92210
Field Manager: Mihai Dan
(760) 777-7621

Santa Rosa Cove – 23 years
49-991 Eisenhower La Quinta, CA 92253
Association Manager: Dave Scott
(760) 777-7621



References

Construction and Enhancements

Sensei Porcupine Creek (Current)

Stephen Sampson | (530) 304-9788

- Installation of all Plant & Tree material, Irrigation, Palms and Boulders

Coachella Lakes (Current)

Jeff Coulter | (480) 703-0631

- Landscape Refresh and Irrigation Retrofit

Chaparral Country Club (Current)

Dave Capra |

- Berm Reduction and Irrigation Retrofit

The Garden Fellowship Church (Current)

Christian Sly | (760) 470-0472

- New Landscape Installation


VINTAGE
LANDSCAPE

Vintage Corporate Organization



Greg Gritters
CFO



David Smith
President



Kyle Gritters
CEO



Heather Kambe
Employee Investment



Octavio Garcia Employee/Business Development



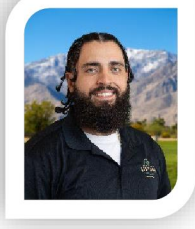
Joe Elkins
Finance & BS



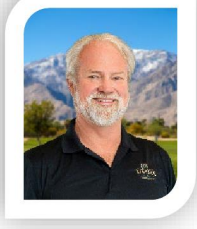
Jasmine Meza
HR Manager



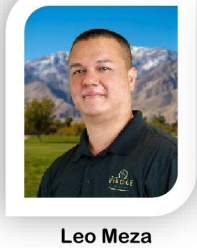
Rick Valdez
Outdoors Manager



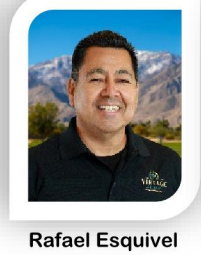
Cesar Tejeda
Nursery Supervisor



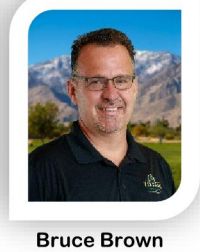
Al Hollinger
Vintage Chief



Leo Meza
Branch Manager



Rafael Esquivel
Branch Manager



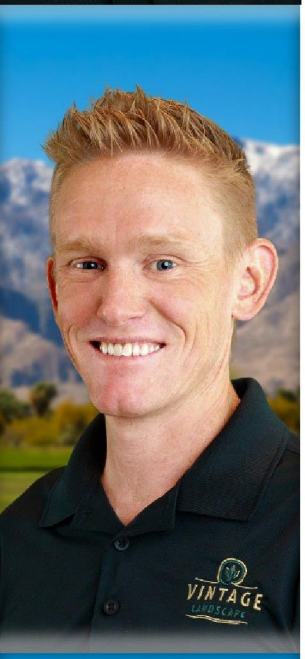
Bruce Brown
Branch Manager



Greg Gritters

CFO

- BS Chemical Engineering, USC
- MBA, Thunderbird School of Management
- QAL, Certified Water Manager
- 25 years International Asset and Project Management
- 22 years Experience in Landscape Industry



Kyle Gritters

CEO/PARTNER

- BA Applied Design
- 9 years Experience in the Landscape Industry, QAL



David Smith

PRESIDENT/PARTNER

- BS Business Administration
- 26 Years experience in the landscape industry
- ISA Certified Arborist, ISA Tree Risk Assessment Qualified



Alan Hollinger

Chief Horticulturalist

- BS Ornamental Horticulture, Cal Poly Pomona
- QAL, Certified Arborist, Instructor College of the Desert
- 36 years experience

Rafael Esquivel

Account Manager

- COD Certified Landscape & Irrigation
- QAL
- ISA Certified Arborist
- 31 years of experience

Bruce Brown

Account Manager

- AS in Turf Grass Management
- QAL
- ISA Certified Arborist
- 31 years of experience

Leo Meza

Account Manager

- AA Turfgrass Management
- QAL
- ISA Certified Arborist
- ISA Tree Risk Assessment Qualification
- IQ4 Expert
- 21 years of experience



TreeRite

Recognized Leaders in Arboriculture:

- Big Horn Country Club
- PGA West Fairways
- Indian Wells Tennis Gardens
- Sensei Porcupine Creek

Arborists on Staff:

Al Hollinger, ISA Certified Arborist

Leo Meza, ISA Certified Arborist, Tree Risk Assessor

David Smith, ISA Certified Arborist, Tree Risk Assessor

Bruce Brown, ISA Certified Arborist

Rob Downing, ISA Certified Arborist

Rafael Esquivel, ISA Certified Arborist

Equipment:

- 4 Boom trucks (2@70’ and 1@60’)
- 5 Vermeer chippers
- Stump Grinder


VINTAGE
OUTDOORS



Vintage Outdoors

Rick Valdez

Construction Manager

- 30 years of Landscape Construction and Installation Services

Brent Fries

Enhancement Manager

- Landscape Design and Enhancement Services

Luis Manzo

Project Manager

Daniel Lara

Project Manager



Vintage Outdoors

30 Full-Time Employees

Services Provided:

- Landscape Irrigation Audits, Repairs and Installation
- Tree and Shrub Planting
- Turf Conversions
- Turf Preparation and Installation
- Landscape Improvements & Beautification
- Landscape Design & Renderings
- Artificial Turf Installation
- Concrete Mow Curb Installation
- Tree and Palm Removal, Relocation and Installation
- Large Construction Installation Projects

Operating Equipment:

- Sod Cutter
- Trencher
- Mini Excavator
- Compact Track Loader (Skid Steer)x2
- Kubota Utility Tractor

Vintage Landscape Equipment



Supervisor Truck



Irrigator Truck



Boom Truck



Chipper truck



Dump Truck



Greenwaste Truck

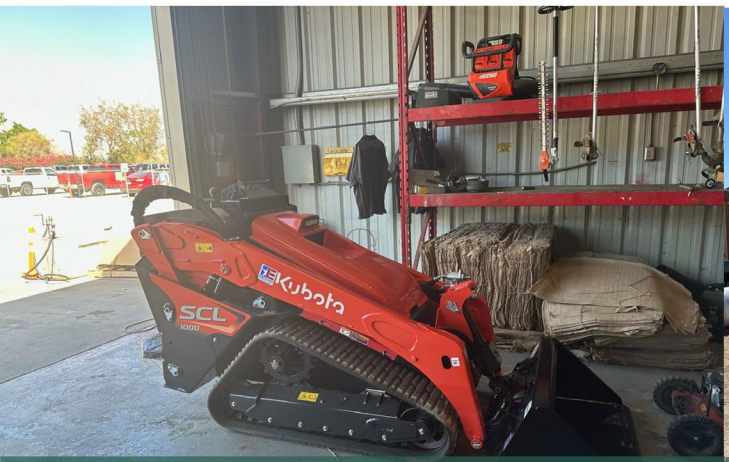
Vintage Landscape Equipment



Sod Cutter



Trencher



Kubota Mini Track Loader



CAT Skid Steer



Kubota Mini Excavator



Kubota Utility Tractor



Labor Costs for Extra Work

Supervisor	$55.00/hr
Irrigator	$45.00/hr
Foreman	$45.00/hr
Laborer	$35.00/hr
Equipment Operator	$50.00/hr

Proposed Methods to Accomplish Work

When it comes to Project Management, our Landscape Professionals possess the knowledge and organization to meet the schedule of tasks and deadlines. Vintage Associates' main goal is to conduct our work in a, **safe, professional** and **efficient** manner.

Below are some aspects of how we manage our projects:

- Assess the Project with the team. Identify the right Supervisor / Project Manager
- Identification of Risks or Challenges
- Create Project Blueprint (Scope, Budget, Timeline, etc.)
- Job walks before and after Project
- Open and honest communication internally and with customer
- Documentation from Start to Finish
- Daily Check-ins with Supervisor performing the Project
- Encourage employees to be Innovative and voice New Ideas
- Use of Project Management applications to stay Organized and on Schedule

Example of Project Management Tool

Civic Center Park Turf Conversion

Set status

Overview | List | Board | Timeline | Dashboard | Calendar | Workflow | Messages | Files

+ Add task

Task name	Due date	Status	Equipment	Notes
To do				
Submit CVWD Turf Rebate Application with Plans	Sep 2 – 6	On track		
Meet with City Inspector and Current Maintenance Contractor Before Starting V	Sep 30 – Oct 4	On track		
Remove Turf	Oct 9 – 11	On track	Sod Cutter	
Spray Turf	Oct 7 – 8	On track	50 gal Spray Tank	
Retrofit Irrigation from Pop-up Sprinklers to Drip Emitters	Oct 14 – 18	On track		
Install Boulders and Larger Cobble	Oct 21 – 22	At risk	5k Telehandler	5k in use at other Project. Might need to Rent. Follow up
Install Trees with new stakes	Oct 23	On track		
Install all Plant Material, Bleed Valve While Installing Plants	Oct 24 – 25	On track		
Install Decomposed Granite, Compact and Roll	Oct 28 – 29	On track	5k Telehandler	
Meet with City Inspector and Current Maintenance Contractor for Turnover	Nov 4			
Meet with Rene with CVWD for Final Rebate Approval	Nov 6			
Add task...				
Project Contacts				
Brad Chuck (760) 423-3392				
Manuel Langarcia (442) 400-9606				



VINTAGE
LANDSCAPE

Labor Costs for Extra Work

Supervisor	$55.00/hr
Irrigator	$45.00/hr
Foreman	$45.00/hr
Laborer	$35.00/hr
Equipment Operator	$50.00/hr


VINTAGE
LANDSCAPE



Certified Personnel

- BS Ornamental Horticulturist – **1**
- AA Turfgrass Management – **2**
- Certified Arborists – **6**
- ISA Tree Risk Assessor – **2**
- State Licensed Qualified Pesticide Applicators – **11**
- Water Management – CLCA Expert Manager Status
- Certified Landscape Irrigation Auditors – **1**
- Certified Water Managers – **2**
- Certified Irrigation Technician – **1**
- Certified Equipment Operator – **4**
- Maxicom and Site control operators – **5**
- College of the Desert – Certificate of Achievement (Turfgrass, Pesticide Management, Arborist, Landscape & Irrigation) – **4**

Vintage Corporate Organization



Greg Gritters
CFO



David Smith
President



Kyle Gritters
CEO



Heather Kambe
Employee Investment



Octavio Garcia Employee/Business Development



Joe Elkins
Finance & BS



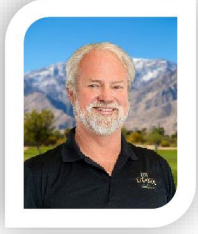
Jasmine Meza
HR Manager



Rick Valdez
Outdoors Manager



Cesar Tejeda
Nursery Supervisor



Al Hollinger
Vintage Chief



Leo Meza
Branch Manager



Rafael Esquivel
Branch Manager



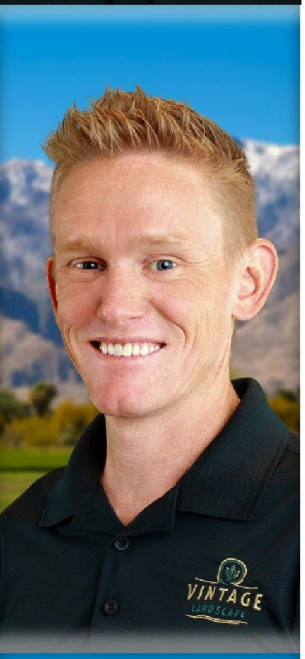
Bruce Brown
Branch Manager



Greg Gritters

CFO

- BS Chemical Engineering, USC
- MBA, Thunderbird School of Management
- QAL, Certified Water Manager
- 25 years International Asset and Project Management
- 22 years Experience in Landscape Industry



Kyle Gritters

CEO/PARTNER

- BA Applied Design
- 9 years Experience in the Landscape Industry, QAL



David Smith

PRESIDENT/PARTNER

- BS Business Administration
- 26 Years experience in the landscape industry
- ISA Certified Arborist, ISA Tree Risk Assessment Qualified



Alan Hollinger

Chief Horticulturalist

- BS Ornamental Horticulture, Cal Poly Pomona
- QAL, Certified Arborist, Instructor College of the Desert
- 36 years experience

Rafael Esquivel

Account Manager

- COD Certified Landscape & Irrigation
- QAL
- ISA Certified Arborist
- 31 years of experience

Bruce Brown

Account Manager

- AS in Turf Grass Management
- QAL
- ISA Certified Arborist
- 31 years of experience

Leo Meza

Account Manager

- AA Turfgrass Management
- QAL
- ISA Certified Arborist
- ISA Tree Risk Assessment Qualification
- IQ4 Expert
- 21 years of experience



TreeRite

Recognized Leaders in Arboriculture:

- Big Horn Country Club
- PGA West Fairways
- Indian Wells Tennis Gardens
- Sensei Porcupine Creek

Arborists on Staff:

Al Hollinger, ISA Certified Arborist

Leo Meza, ISA Certified Arborist, Tree Risk Assessor

David Smith, ISA Certified Arborist, Tree Risk Assessor

Bruce Brown, ISA Certified Arborist

Rob Downing, ISA Certified Arborist

Rafael Esquivel, ISA Certified Arborist

Equipment:

- 4 Boom trucks (2@70’ and 1@60’)
- 5 Vermeer chippers
- Stump Grinder


VINTAGE
OUTDOORS



Vintage Outdoors

Rick Valdez

Construction Manager

- 30 years of Landscape Construction and Installation Services

Brent Fries

Enhancement Manager

- Landscape Design and Enhancement Services

Luis Manzo

Project Manager

Daniel Lara

Project Manager

CITY OF PALM DESERT
MAINTENANCE SERVICES AGREEMENT

1. Parties and Date. This Agreement is made and entered into this **1st** day of **December, 2024**, by and between the City of Palm Desert, a municipal corporation organized under the laws of the State of California with its principal place of business at 73-510 Fred Waring Drive, Palm Desert, California 92260-2578, ("City") and **Vintage Landscape, a Corporation**, with its principal place of business at **78755 Darby Road, Bermuda Dunes, CA 92203** ("Vendor"). The City and Vendor are sometimes individually referred to herein as "Party" and collectively as "Parties."

2. Recitals.

2.1 Contractor.

Contractor desires to perform and assume responsibility for the provision of certain maintenance services required by the City on the terms and conditions set forth in this Agreement. Contractor represents that it is experienced in providing maintenance services to public clients, that it and its subcontractors have all necessary licenses and permits to perform the services in the State of California, and that it is familiar with the plans of City. Contractor shall not subcontract any portion of the work required by this Agreement, except as expressly stated herein, without prior written approval of City. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement.

2.2 Project.

The City is a public agency of the State of California and is in need of services for the following project:

Parks and Landscape Enhancement Project
Project No. CPK00003
(hereinafter referred to as "the Project").

3. Terms.

3.1 Scope of Services and Term.

3.1.1 General Scope of Services. Contractor promises and agrees to furnish to the City all labor, materials, tools, equipment, services, and incidental and customary work necessary to fully and adequately supply the maintenance services necessary for the Project ("Services"). The Services are more particularly described in Exhibit "A" attached hereto and incorporated herein by reference. All Services shall be subject to, and performed in accordance with, this Agreement, the exhibits attached hereto and incorporated herein by reference, and all applicable local, state, and federal laws, rules and regulations.

3.1.2 Term. The term of this Agreement shall be from December 1, 2024, to June 30, 2027, unless earlier terminated as provided herein. The City shall have the unilateral option, at its sole discretion, to renew this Agreement automatically for no more than 2 additional one-year terms. Contractor shall complete the Services within the term of this Agreement and shall meet any other established schedules and deadlines. The Parties may, by mutual, written consent, extend the term of this Agreement if necessary to complete the Services.

3.2 Responsibilities of Contractor.

3.2.1 Control and Payment of Subordinates; Independent Contractor. The Services shall be performed by Contractor or under its supervision. Contractor will determine the

means, methods, and details of performing the Services subject to the requirements of this Agreement. City retains Contractor on an independent contractor basis and not as an employee. Any personnel performing the Services under this Agreement on behalf of Contractor shall not be employees of City and shall at all times be under Contractor's exclusive direction and control. Contractor shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law. Contractor shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation insurance.

3.2.2 Schedule of Services. Contractor shall perform the Services in a prompt and timely manner in accordance with each Task Order set forth in Exhibit "B" attached hereto and incorporated herein by reference. Contractor represents that it has the professional and technical personnel required to perform the Services in conformance with such conditions. Upon request of City, Contractor shall provide a more detailed schedule of anticipated performance to meet the Schedule of Services.

3.2.3 Conformance to Applicable Requirements. All work prepared by Contractor shall be subject to the approval of City.

3.2.4 City's Representative. The City hereby designates **Brad Chuck, Landscape Supervisor**, or his or her designee, to act as its representative for the performance of this Agreement ("City's Representative"). City's Representative shall have the power to act on behalf of the City for all purposes under this Agreement except for increasing compensation. Contractor shall not accept direction or orders from any person other than the City's Representative or his or her designee.

3.2.5 Contractor's Representative. Contractor hereby designates **Kyle Gritters, CEO**, or his or her designee, to act as its representative for the performance of this Agreement ("Contractor's Representative"). Contractor's Representative shall have full authority to represent and act on behalf of the Contractor for all purposes under this Agreement. The Contractor's Representative shall supervise and direct the Services, using his best skill and attention, and shall be responsible for all means, methods, techniques, sequences, and procedures and for the satisfactory coordination of all portions of the Services under this Agreement.

3.2.6 Coordination of Services. Contractor agrees to work closely with City staff in the performance of Services and shall be available to City's staff, consultants, and other staff at all reasonable times.

3.2.7 Standard of Care; Performance of Employees. Contractor shall perform all Services under this Agreement in a skillful and competent manner, consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Contractor represents and maintains that it is skilled in the professional calling necessary to perform the Services. Contractor warrants that all employees and subcontractors shall have sufficient skill and experience to perform the Services assigned to them. Finally, Contractor represents that it, its employees, and subcontractors have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services, including a City Business License, and that such licenses and approvals shall be maintained throughout the term of this Agreement. Contractor shall perform, at its own cost and expense and without reimbursement from the City, any services necessary to correct errors or omissions which are caused by the Contractor's failure to comply with the standard of care provided for herein. Any employee of the Contractor or its sub-contractors who is determined by the City to be

uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any employee who fails or refuses to perform the Services in a manner acceptable to the City, shall be promptly removed from the Project by the Contractor and shall not be re-employed to perform any of the Services or to work on the Project.

3.2.8 Period of Performance and Liquidated Damages. Contractor shall perform and complete all Services under this Agreement within the term set forth in Section 3.1.2 above ("Performance Time"). Contractor shall perform the Services in strict accordance with any completion schedule or Project milestones described in Exhibits "A" or "B" attached hereto, or which may be provided separately in writing to the Contractor. Contractor agrees that if the Services are not completed within the aforementioned Performance Time and/or pursuant to any such completion schedule or Project milestones developed pursuant to provisions of this Agreement, it is understood, acknowledged and agreed that the City will suffer damage. Pursuant to Government Code Section 53069.85, Contractor shall pay to the City as fixed and liquidated damages, and not as a penalty, the sum of Two-Hundred and Fifty Dollars ($250.00) per day for each and every calendar day of delay beyond the Performance Time or beyond any completion schedule or Project milestones established pursuant to this Agreement.

3.2.9 Disputes. Should any dispute arise respecting the true value of any work done, of any work omitted, or of any extra work which Contractor may be required to do or respecting the size of any payment to Contractor during the performance of this Contract, Contractor shall continue to perform the Work while said dispute is decided by the City. If Contractor disputes the City's decision, Contractor shall have such remedies as may be provided by law.

3.2.10 Laws and Regulations; Employee/Labor Certifications. Contractor shall keep itself fully informed of and in compliance with all local, state, and federal laws, rules and regulations in any manner affecting the performance of the Project or the Services, including all Cal/OSHA requirements, and shall give all notices required by law. Contractor shall be liable for all violations of such laws and regulations in connection with the Services and this Agreement. All violations of such laws and regulations shall be grounds for the City to terminate the Agreement for cause. City is a public entity of the State of California subject to certain provisions of the Health & Safety Code, Government Code, Public Contract Code, and Labor Code of the State. It is stipulated and agreed that all provisions of the law applicable to the public contracts of a municipality are a part of this Agreement to the same extent as though set forth herein and will be complied with.

3.2.10.1 Employment Eligibility; Contractor. Contractor certifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time and shall require all subconsultants and sub-subconsultants to comply with the same. Contractor certifies that it has not committed a violation of any such law within the five (5) years immediately preceding the date of execution of this Agreement and shall not violate any such law at any time during the term of the Agreement.

3.2.10.2 Labor Certification. By its signature hereunder, Contractor certifies that it is aware of the provisions of Section 3700 of the California 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 agrees to comply with such provisions before commencing the performance of the Services.

3.2.10.3 Equal Opportunity Employment. Contractor represents that it is an equal opportunity employer, and it shall not discriminate against any subcontractor, employee or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination. Contractor shall comply with all relevant provisions of City's Minority Business Enterprise program, Affirmative Action Plan or other related programs or guidelines currently in effect or hereinafter enacted.

3.2.10.4 Air Quality. Contractor must fully comply with all applicable laws, rules and regulations in furnishing or using equipment and/or providing services, including, but not limited to, emissions limits and permitting requirements imposed by the California Air Resources Board (CARB). Contractor shall specifically be aware of the CARB limits and requirements' application to "portable equipment", which definition is considered by CARB to include any item of equipment with a fuel-powered engine. Contractor shall indemnify City against any fines or penalties imposed by CARB or any other governmental or regulatory agency for violations of applicable laws, rules and/or regulations by Contractor, its subcontractors, or others for whom Contractor is responsible under its indemnity obligations provided for in this Agreement.

3.2.10.5 Water Quality Management and Compliance. To the extent applicable, Contractor's Services must account for, and fully comply with, all local, state and federal laws, rules and regulations that may impact water quality compliance, including, without limitation, all applicable provisions of the Federal Water Pollution Control Act (33 U.S.C. §§ 1300); the California Porter-Cologne Water Quality Control Act (Cal Water Code §§ 13000-14950); laws, rules and regulations of the Environmental Protection Agency and the State Water Resources Control Board; the City's ordinances regulating discharges of storm water; and any and all regulations, policies, or permits issued pursuant to any such authority regulating the discharge of pollutants, as that term is used in the Porter-Cologne Water Quality Control Act, to any ground or surface water in the State. Failure to comply with the laws, regulations and policies described in this Section is a violation of law that may subject Contractor to penalties, fines, or additional regulatory requirements.

3.2.11 Insurance.

3.2.11.1 Minimum Requirements. Without limiting Contractor's indemnification of City, and prior to commencement of the Services, Contractor shall obtain, provide, and maintain at its own expense during the term of this Agreement, policies of insurance of the type and amounts described below and in a form that is satisfactory to City.

(A) General Liability Insurance. Contractor shall maintain commercial general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01, in an amount not less than $1,000,000 per occurrence, $2,000,000 general aggregate, for bodily injury, personal injury, and property damage. The policy must include contractual liability that has not been amended. Any endorsement restricting standard ISO "insured contract" language will not be accepted.

(B) Automobile Liability Insurance. Contractor shall maintain automobile insurance at least as broad as Insurance Services Office form CA 00 01 covering bodily injury and property damage for all activities of the Contractor arising out of or in connection with Work to be performed under this Agreement, including coverage for any owned, hired, non-owned or rented vehicles, in an amount not less than $1,000,000 combined single limit for each

accident. The City's Risk Manager may modify this requirement if it is determined that Consultant will not be utilizing a vehicle in the performance of his/her duties under this Agreement.

(C) Umbrella or Excess Liability Insurance. Contractor may opt to utilize umbrella or excess liability insurance in meeting insurance requirements. In such circumstances, Contractor may obtain and maintain an umbrella or excess liability insurance policy with limits that will provide bodily injury, personal injury, and property damage liability coverage at least as broad as the primary coverages set forth above, including commercial general liability and employer's liability. Such policy or policies shall include the following terms and conditions:

(a) A drop-down feature requiring the policy to respond if any primary insurance that would otherwise have applied proves to be uncollectible in whole or in part for any reason;

(b) Pay on behalf of wording as opposed to reimbursement;

(c) Concurrency of effective dates with primary policies; and

(d) Policies shall "follow form" to the underlying primary policies.

(e) Insureds under primary policies shall also be insureds under the umbrella or excess policies.

(D) Workers' Compensation Insurance. Contractor shall maintain Workers' Compensation Insurance (Statutory Limits) and Employer's Liability Insurance (with limits of at least $1,000,000). Contractor shall submit to City, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of the City, its elected or appointed officers, and their respective agents, officials, employees, volunteers, and representatives.

(E) Fidelity Coverage. Reserved.

(F) Cyber Liability Insurance. Reserved.

a) Liability arising from the theft, dissemination and/or use of confidential or personally identifiable information; including credit monitoring and regulatory fines arising from such theft, dissemination, or use of confidential information.

b) Network security liability arising from the unauthorized use of, access to, or tampering with computer systems.

c) Liability arising from the failure of technology products (software) required under the contract for Vendor to properly perform the services intended.

d) Electronic Media Liability arising from personal injury, plagiarism or misappropriation of ideas, domain name infringement or improper deep-linking or framing, and infringement or violation of intellectual property rights.

e) Liability arising from the failure to render professional services.

If coverage is maintained on a claims-made basis, Contractor shall maintain such coverage for an additional period of three (3) years following termination of the Agreement.

(G) Pollution Liability Insurance. Environmental Impairment Liability Insurance shall be written on a Contractor's Pollution Liability form or other form acceptable to the City providing coverage for liability arising out of sudden, accidental, and gradual pollution and remediation. The policy limit shall be no less than $1,000,000 dollars per claim and in the aggregate. All activities contemplated in this Agreement shall be specifically scheduled on the policy as "covered operations". The policy shall provide coverage for the hauling of waste from the Project site to the final disposal location, including non-owned disposal sites.

3.2.11.2 Other Provisions and Requirements.

(A) Proof of Insurance. Contractor shall provide certificates of insurance to City as evidence of the insurance coverage required herein, along with a waiver of subrogation endorsement for workers' compensation. Insurance certificates and endorsements must be approved by City's Risk Manager prior to commencement of performance. Current certification of insurance shall be kept on file with City at all times during the term of this contract. City reserves the right to require complete, certified copies of all required insurance policies, at any time.

(B) Duration of Coverage. Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the work hereunder by Contractor, his/her agents, representatives, employees, or subconsultants.

(C) Primary/Non-Contributing. Coverage provided by Contractor shall be primary and any insurance or self-insurance procured or maintained by City shall not be required to contribute with it. The limits of insurance required herein may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of City before the City's own insurance or self-insurance shall be called upon to protect it as a named insured.

(D) City's Rights of Enforcement. In the event any policy of insurance required under this Agreement does not comply with these specifications, or is canceled and not replaced, City has the right, but not the duty, to obtain the insurance it deems necessary, and any premium paid by City will be promptly reimbursed by Contractor, or City will withhold amounts sufficient to pay premium from Contractor payments. In the alternative, City may cancel this Agreement.

(E) Acceptable Insurers. All insurance policies shall be issued by an insurance company currently authorized by the Insurance Commissioner to transact business of insurance or is on the List of Approved Surplus Line Insurers in the State of California, with an assigned policyholders' Rating of A- (or higher) and Financial Size Category Class VII (or larger) in accordance with the latest edition of Best's Key Rating Guide, unless otherwise approved by the City's Risk Manager.

(F) Waiver of Subrogation. All insurance coverage maintained or procured pursuant to this agreement shall be endorsed to waive subrogation against the City, its elected or appointed officers, and their respective agents, officials, employees, volunteers, and

representatives, or shall specifically allow Contractor or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. Contractor hereby waives its own right of recovery against the City, its elected or appointed officers, and their respective agents, officials, employees, volunteers, and representatives, and shall require similar written express waivers and insurance clauses from each of its subcontractors.

(G) Enforcement of Contract Provisions (non estoppel). Contractor acknowledges and agrees that any actual or alleged failure on the part of the City to inform Contractor of non-compliance with any requirement imposes no additional obligations on the City nor does it waive any rights hereunder.

(H) Requirements Not Limiting. Requirements of specific coverage features or limits contained in this Section are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be all inclusive, or to the exclusion of other coverage, or a waiver of any type. If the Contractor maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

(I) Notice of Cancellation. Contractor agrees to oblige its insurance agent or broker and insurers to provide City with a thirty (30) day notice of cancellation (except for nonpayment for which a ten (10) day notice is required) or nonrenewal of coverage for each required coverage.

(J) Additional Insured Status. General liability, automobile liability, and if applicable, pollution liability and cyber liability, policies shall provide or be endorsed to provide that the City, its elected or appointed officers, and their respective agents, officials, employees, volunteers, and representatives, shall be additional insureds under such policies. This provision shall also apply to any excess/umbrella liability policies.

(K) Prohibition of Undisclosed Coverage Limitations. None of the coverages required herein will be in compliance with these requirements if they include any limiting endorsement of any kind that has not been first submitted to City and approved of in writing.

(L) Separation of Insureds. A severability of interests provision must apply for all additional insureds ensuring that Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the insurer's limits of liability. The policy(ies) shall not contain any cross-liability exclusions.

(M) Pass Through Clause. Contractor agrees to ensure that its sub-consultants, sub-contractors, and any other party involved with the Project who is brought onto or involved in the project by Contractor, provide the same minimum insurance coverage and endorsements required of Contractor. Contractor agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. Contractor agrees that upon request, all agreements with consultants, subcontractors, and others engaged in the Project will be submitted to City for review.

(N) City's Right to Revise Specifications. The City or its Risk Manager reserves the right at any time during the term of the contract to change the amounts and

types of insurance required by giving the Contractor ninety (90) days advance written notice of such change. If such change results in cost to the Contractor, the City and Contractor may renegotiate Contractor's compensation. If the City reduces the insurance requirements, the change shall go into effect immediately and require no advanced written notice.

(O) Self-Insured Retentions. Any self-insured retentions must be declared to and approved by City. City reserves the right to require that self-insured retentions be eliminated, lowered, or replaced by a deductible. Self-insurance will not be considered to comply with these specifications unless approved by City.

(P) Timely Notice of Claims. Contractor shall give City prompt and timely notice of claims made or suits instituted that arise out of or result from Contractor's performance under this Agreement, and that involve or may involve coverage under any of the required liability policies.

(Q) Additional Insurance. Contractor shall also procure and maintain, at its own cost and expense, any additional kinds of insurance, which in its own judgment may be necessary for its proper protection and prosecution of the work.

3.2.12 Safety. Contractor shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, the Contractor shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be performed. Safety precautions, where applicable, shall include, but shall not be limited to: (A) adequate life protection and lifesaving equipment and procedures; (B) instructions in accident prevention for all employees and subcontractors, such as safe walkways, scaffolds, fall protection ladders, bridges, gang planks, confined space procedures, trenching and shoring, equipment and other safety devices, equipment and wearing apparel as are necessary or lawfully required to prevent accidents or injuries; and (C) adequate facilities for the proper inspection and maintenance of all safety measures.

3.2.13 Bonds.

3.2.13.1 Performance Bond. If required by law or otherwise specifically requested by City in Exhibit "C" attached hereto and incorporated herein by reference, Contractor shall execute and provide to City concurrently with this Agreement a Performance Bond in the amount of the total, not-to-exceed compensation indicated in this Agreement, and in a form provided or approved by the City. If such bond is required, no payment will be made to Contractor until it has been received and approved by the City.

3.2.13.2 Payment Bond. If required by law or otherwise specifically requested by City in Exhibit "C" attached hereto and incorporated herein by reference, Contractor shall execute and provide to City concurrently with this Agreement a Payment Bond in the amount of the total, not-to-exceed compensation indicated in this Agreement, and in a form provided or approved by the City. If such bond is required, no payment will be made to Contractor until it has been received and approved by the City.

3.2.13.3 Bond Provisions. Should, in City's sole opinion, any bond become insufficient, or any surety be found to be unsatisfactory, Contractor shall renew or replace the affected bond within ten (10) days of receiving notice from City. In the event the surety or Contractor intends to reduce or cancel any required bond, at least thirty (30) days prior written

notice shall be given to the City, and Contractor shall post acceptable replacement bonds at least ten (10) days prior to expiration of the original bonds. No further payments shall be deemed due or will be made under this Agreement until any replacement bonds required by this Section are accepted by the City. To the extent, if any, that the total compensation is increased in accordance with the Agreement, the Contractor shall, upon request of the City, cause the amount of the bonds to be increased accordingly and shall promptly deliver satisfactory evidence of such increase to the City. To the extent available, the bonds shall further provide that no change or alteration of the Agreement (including, without limitation, an increase in the total compensation, as referred to above), extensions of time, or modifications of the time, terms, or conditions of payment to the Contractor, will release the surety. If the Contractor fails to furnish any required bond, the City may terminate this Agreement for cause.

3.2.13.4 Surety Qualifications. Only bonds executed by an admitted surety insurer, as defined in Code of Civil Procedure Section 995.120, shall be accepted. The surety must be a California-admitted surety with a current A.M. Best's rating no less than A:VIII and satisfactory to the City. If a California-admitted surety insurer issuing bonds does not meet these requirements, the insurer will be considered qualified if it is in conformance with Section 995.660 of the California Code of Civil Procedure, and proof of such is provided to the City.

3.2.14 Accounting Records. Contractor shall maintain complete and accurate records with respect to all costs and expenses incurred under this Agreement. All such records shall be clearly identifiable. Contractor shall allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement. Contractor shall allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of three (3) years from the date of final payment under this Agreement.

3.2.15 Work Sites.

3.2.15.1 Inspection of Site. Contractor shall visit sites where Services are to be performed and shall become acquainted with all conditions affecting the Services prior to commencing the Services. Contractor shall make such examinations as it deems necessary to determine the condition of the work sites, its accessibility to materials, workmen and equipment, and to determine Contractor's ability to protect existing surface and subsurface improvements. No claim for allowances–time or money–will be allowed as to such matters after commencement of the Services.

3.2.15.2 Field Measurements. Contractor shall make field measurements, verify field conditions, and shall carefully compare such field measurements and conditions and other information known to Contractor with the Contract, including any plans, specifications, or scope of work before commencing Services. Errors, inconsistencies, or omissions discovered shall be reported to the City immediately and prior to performing any Services or altering the condition.

3.2.15.3 Hazardous Materials and Differing Conditions. Should Contractor encounter material reasonably believed to be polychlorinated biphenyl (PCB) or other toxic wastes, hazardous substances and hazardous materials as defined in California state or federal law at the site which have not been rendered harmless, the Contractor shall immediately stop work at the affected area and shall report the condition to the City in writing. The City shall contract for any services required to directly remove and/or abate PCBs, hazardous substances, other toxic wastes, and hazardous materials, and shall not require the Contractor to subcontract for

such services. The Services in the affected area shall not thereafter be resumed except by written agreement of the City and Contractor.

3.2.16 Loss and Damage. Contractor shall be responsible for all loss and damage which may arise out of the nature of the Services agreed to herein, or from the action of the elements, or from any unforeseen difficulties which may arise or be encountered in the prosecution of the Services until the same is fully completed and accepted by City.

3.2.17 Warranty. Contractor warrants all Services under the Agreement (which for purposes of this Section shall be deemed to include unauthorized work which has not been removed and any non-conforming materials incorporated into the work) to be of good quality and free from any defective or faulty material and workmanship. Contractor agrees that for a period of one year (or the period of time specified elsewhere in the Agreement or in any guarantee or warranty provided by any manufacturer or supplier of equipment or materials incorporated into the work, whichever is later) after the date of final acceptance, Contractor shall within ten (10) days after being notified in writing by the City of any defect in the Services or non-conformance of the Services to the Agreement, commence and prosecute with due diligence all Services necessary to fulfill the terms of the warranty at its sole cost and expense. Contractor shall act sooner as requested by the City in response to an emergency. In addition, Contractor shall, at its sole cost and expense, repair and replace any portions of the work (or work of other contractors) damaged by its defective Services or which becomes damaged in the course of repairing or replacing defective work. For any work so corrected, Contractor's obligation hereunder to correct defective work shall be reinstated for an additional one (1) year period, commencing with the date of acceptance of such corrected work. Contractor shall perform such tests as the City may require to verify that any corrective actions, including, without limitation, redesign, repairs, and replacements comply with the requirements of the Agreement. All costs associated with such corrective actions and testing, including the removal, replacement, and reinstitution of equipment and materials necessary to gain access, shall be the sole responsibility of the Contractor. All warranties and guarantees of subcontractors, suppliers, and manufacturers with respect to any portion of the work, whether express or implied, are deemed to be obtained by Contractor for the benefit of the City, regardless of whether or not such warranties and guarantees have been transferred or assigned to the City by separate agreement and Contractor agrees to enforce such warranties and guarantees, if necessary, on behalf of the City. In the event that Contractor fails to perform its obligations under this Section, or under any other warranty or guaranty under this Agreement, to the reasonable satisfaction of the City, the City shall have the right to correct and replace any defective or non-conforming work and any work damaged by such work or the replacement or correction thereof at Contractor's sole expense. Contractor shall be obligated to fully reimburse the City for any expenses incurred hereunder upon demand.

3.3 Fees and Payments.

3.3.1 Compensation. Contractor shall receive compensation, including authorized reimbursements, for all Services rendered under this Agreement at the rates set forth in Exhibit "C" attached hereto and incorporated herein by reference. The maximum compensation for Services to be provided pursuant to each approved Task Order shall be set forth in the relevant Task Order. The total compensation, in the aggregate, shall not exceed **Seven Hundred Fifty Thousand Dollars ($750,000)** without written approval of the City Council or City Manager, as applicable.

3.3.2 Payment of Compensation. Contractor shall submit to City monthly invoices which provides a detailed description of the Services and hours rendered by Contractor. City shall, within thirty (30) days of receiving such statement, review the statement and pay all non-disputed

and approved charges. Contractor shall submit its final invoice to City within thirty (30) days from the last date of provided Services or termination of this Agreement and failure by the Contractor to submit a timely invoice shall constitute a waiver of its right to final payment. Payment shall not constitute acceptance of any Services completed by Contractor. The making of final payment shall not constitute a waiver of any claims by the City for any reason whatsoever.

3.3.2.1 Retainer. From each approved progress estimate, five percent (5%) will be deducted and retained by the City, and the remainder will be paid to Contractor. All Agreement retainage shall be released and paid to the Contractor and subcontractors pursuant to California Public Contract Code Section 7107. Contractor shall furnish City with labor and material releases from all subcontractors performing work on, or furnishing materials for, the work governed by this Agreement prior to final payment by City.

3.3.3 Deductions. City may deduct or withhold, as applicable, from each progress payment an amount necessary to protect City from loss because of: (1) stop payment notices as allowed by state law; (2) unsatisfactory prosecution of the Services by Contractor; (3) sums representing expenses, losses, or damages as determined by the City, incurred by the City for which Contractor is liable under the Agreement; and (4) any other sums which the City is entitled to recover from Contractor under the terms of the Agreement or pursuant to state law, including Section 1727 of the California Labor Code. The failure by the City to deduct any of these sums from a progress payment shall not constitute a waiver of the City's right to such sums.

3.3.4 Reimbursement for Expenses. Contractor shall not be reimbursed for any expenses unless authorized in writing by City.

3.3.5 Extra Work. At any time during the term of this Agreement, City may request that Contractor perform Extra Work. As used herein, “Extra Work” means any work which is determined by City to be necessary for the proper completion of the Project, but which the parties did not reasonably anticipate would be necessary at the execution of this Agreement. Contractor shall not perform, nor be compensated for, Extra Work without written authorization from City’s Representative.

3.3.6 Prevailing Wages. Contractor is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., (“Prevailing Wage Laws”), which require the payment of prevailing wage rates and the performance of other requirements on “public works” and “maintenance” projects. If the Services are being performed as part of an applicable “public works” or “maintenance” project, as defined by the Prevailing Wage Laws, and if the total compensation is $15,000 or more, Contractor agrees to fully comply with such Prevailing Wage Laws. City shall provide Contractor with a copy of the prevailing rates of per diem wages in effect at the commencement of this Agreement. Contractor shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request and shall post copies at the Contractor’s principal place of business and at the Project site. Contractor shall defend, indemnify, and hold the City, its elected or appointed officers, and their respective agents, officials, employees, volunteers and representatives free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. It shall be mandatory upon the Contractor and all subcontractors to comply with all California Labor Code provisions, which include but are not limited to prevailing wages (Labor Code Sections 1771, 1774 and 1775), employment of apprentices (Labor Code Section 1777.5), certified payroll records (Labor Code Sections 1771.4 and 1776), hours of labor (Labor Code Sections 1813 and 1815) and debarment of contractors and subcontractors (Labor Code Section 1777.1). The requirement to submit certified payroll

records directly to the Labor Commissioner under Labor Code section 1771.4 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Section 1771.4.

3.3.7 Registration/DIR Compliance. If the Services are being performed as part of an applicable "public works" or "maintenance" project, and if the total compensation is $15,000 or more, then pursuant to Labor Code Sections 1725.5 and 1771.1, the Contractor and all subcontractors performing such Services must be registered with the Department of Industrial Relations. Contractor shall maintain registration for the duration of the Project and require the same of any subcontractors, as applicable. This Project may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Contractor's sole responsibility to comply with all applicable registration and labor compliance requirements. Any stop orders issued by the Department of Industrial Relations against Contractor or any subcontractor that affect Contractor's performance of Services, including any delay, shall be Contractor's sole responsibility. Any delay arising out of or resulting from such stop orders shall be considered Contractor caused delay and shall not be compensable by the City. Contractor shall defend, indemnify, and hold the City, its elected or appointed officers, and their respective agents, officials, employees, volunteers, and representatives free and harmless from any claim or liability arising out of stop orders issued by the Department of Industrial Relations against Contractor or any subcontractor.

3.4 Termination of Agreement.

3.4.1 Grounds for Termination. City may, by written notice to Contractor, terminate the whole or any part of this Agreement at any time and without cause by giving written notice to Contractor of such termination, and specifying the effective date thereof, at least seven (7) days before the effective date of such termination. Upon termination, Contractor shall be compensated only for those Services which have been adequately rendered to City, and Contractor shall be entitled to no further compensation. Contractor may not terminate this Agreement except for cause.

3.4.2 Conflict of Interest. The Contractor covenants that any and all relationships with construction firms that may submit bids for projects developed under this agreement will require full disclosure of any direct or indirect conflicts of interest, financial interests, relationships, and the nature of any relationships with any related project bid submitters; and that any violation of this provision may result in the immediate termination of the Agreement

3.4.3 Effect of Termination. If this Agreement is terminated as provided herein, City may require Contractor to provide all finished or unfinished information of any kind prepared by Contractor in connection with the performance of Services under this Agreement. Contractor shall be required to provide such document and other information within fifteen (15) days of the request.

3.4.4 Additional Services. In the event this Agreement is terminated in whole or in part as provided herein, City may procure, upon such terms and in such manner as it may determine appropriate, services similar to those terminated.

3.5 General Provisions.

3.5.1 Delivery of Notices. All notices permitted or required under this Agreement shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

Contractor: Vintage Landscape
78755 Darby Road
Bermuda Dunes, CA 92203
ATTN: Kyle Gritters, CEO

City: City of Palm Desert
73-510 Fred Waring Drive
Palm Desert, CA 92260-2578
ATTN: Brad Chuck, Landscape Supervisor

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

3.5.2 Indemnification.

3.5.2.1 Scope of Indemnity. To the fullest extent permitted by law, Contractor shall defend, indemnify and hold the City, its elected or appointed officers, and their respective agents, officials, employees, volunteers and representatives free and harmless from any and all claims, demands, causes of action, suits, actions, proceedings, costs, expenses, liability, judgments, awards, decrees, settlements, loss, damage or injury of any kind, in law or equity, regardless of whether the allegations are false, fraudulent, or groundless, to property or persons, including wrongful death, (collectively, "Claims") in any manner arising out of, pertaining to, or incident to any acts, errors or omissions, or willful misconduct of Contractor, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Services, the Project or this Agreement, including without limitation the payment of all expert witness fees, attorneys' fees and other related costs and expenses except such Claims caused by the sole or active negligence or willful misconduct of the City.

3.5.2.2 Additional Indemnity Obligations. Contractor shall defend, with counsel of City's choosing and at Contractor's own cost, expense, and risk, any and all Claims covered by this section that may be brought or instituted against the City, its elected or appointed officers, and their respective agents, officials, employees, volunteers and representatives. In addition, Contractor shall pay and satisfy any judgment, award or decree that may be rendered against the City, its elected or appointed officers, and their respective agents, officials, employees, volunteers, and representatives as part of any such claim, suit, action, or other proceeding. Contractor shall also reimburse City for the cost of any settlement paid by the City, its elected or appointed officers, and their respective agents, officials, employees, volunteers, and representatives as part of any such claim, suit, action, or other proceeding. Such reimbursement shall include payment for City's attorney's fees and costs, including expert witness fees. Contractor shall reimburse the City, its elected or appointed officers, and their respective agents, officials, employees, volunteers, and representatives, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Contractor's obligation to indemnify shall survive expiration or termination of this Agreement, and shall not be restricted to insurance proceeds, if any, received by the Contractor, the City, its elected or appointed officers, and their respective agents, officials, employees, volunteers, and representatives.

3.5.3 Governing Law; Government Code Claim Compliance. This Agreement shall be governed by the laws of the State of California. Venue shall be in Riverside County. In addition

to any and all Agreement requirements pertaining to notices of and requests for compensation or payment for extra work, disputed work, claims and/or changed conditions, Contractor must comply with the claim procedures set forth in Government Code sections 900 et seq. prior to filing any lawsuit against the City. Such Government Code claims, and any subsequent lawsuit based upon the Government Code claims shall be limited to those matters that remain unresolved after all procedures pertaining to extra work, disputed work, claims, and/or changed conditions have been followed by Contractor. If no such Government Code claim is submitted, or if any prerequisite contractual requirements are not otherwise satisfied as specified herein, Contractor shall be barred from bringing and maintaining a valid lawsuit against the City.

3.5.4 Time of Essence. Time is of the essence for each and every provision of this Agreement.

3.5.5 City's Right to Employ Other Contractors. City reserves right to employ other contractors in connection with this Project.

3.5.6 Successors and Assigns. This Agreement shall be binding on the successors and assigns of the parties.

3.5.7 Assignment or Transfer. Contractor shall not assign, hypothecate, or transfer, either directly or by operation of law, this Agreement or any interest herein without the prior written consent of the City. Any attempt to do so shall be null and void, and any assignees, hypothecates or transferees shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer.

3.5.8 Construction; References; Captions. Since the Parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party. Any term referencing time, days or period for performance shall be deemed calendar days and not workdays. All references to Contractor include all personnel, employees, agents, and subcontractors of Contractor, except as otherwise specified in this Agreement. All references to the City include its elected or appointed officers, and their respective agents, officials, employees, volunteers, and representatives except as otherwise specified in this Agreement. The captions of the various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, or intent of this Agreement.

3.5.9 Amendment; Modification. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

3.5.10 Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel or otherwise.

3.5.11 No Third-Party Beneficiaries. Except to the extent expressly provided for in Section 3.5.7, there are no intended third-party beneficiaries of any right or obligation assumed by the Parties.

3.5.12 Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

3.5.13 Prohibited Interests. Contractor maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this Agreement. Further, Contractor warrants that it has not paid, nor has it agreed to pay any company or person, other than a bona fide employee working solely for Contractor, any fee, commission, percentage, brokerage fee, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, City shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer, or employee of City, during the term of his or her service with City, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

3.5.14 Cooperation; Further Acts. The Parties shall fully cooperate with one another and shall take any additional acts or sign any additional documents as may be necessary, appropriate or convenient to attain the purposes of this Agreement.

3.5.15 Authority to Enter Agreement. Contractor has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each Party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and bind each respective Party.

3.5.16 Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

3.5.17 Entire Agreement. This Agreement contains the entire Agreement of the parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings, or agreements. This Agreement may only be modified by a writing signed by both parties.

[SIGNATURES ON NEXT PAGE]

Contract No. _____

SIGNATURE PAGE TO MAINTENANCE SERVICES AGREEMENT BY AND BETWEEN THE CITY OF PALM DESERT AND VINTAGE LANDSCAPE

IN WITNESS WHEREOF, each of the Parties has caused this Agreement to be executed on the day and year first above written.

CITY OF PALM DESERT

By: _____

L. Todd Hileman
City Manager

Attest:

By: _____

Anthony J. Mejia
City Clerk

Approved as to form:

By: _____

Isra Shah
Best Best & Krieger LLP
City Attorney

VINTAGE LANDSCAPE, A CORPORATION

By: _____

Kyle Gritters
CEO

By: _____

David Smith
Secretary

647984
Contractor's License Number and Classification

1000001926
DIR Registration Number (*if applicable*)

City Clerk QC: _____

Contracts QC: _____

Insurance:

_____
Initial Review

_____
Final Approval

_____
Bonds

EXHIBIT "A"

SCOPE OF SERVICES

The Proposer to be knowledgeable in the installation, repair, and maintenance of the following park and landscape items:

- Landscape and Irrigation maintenance, repair, and installation
- Sod preparation and installation
- Topdressing of sports turf
- Park amenities material installation (sand volleyball courts, baseball infields, etc.)
- Minor playground repairs
- Park site furnishing repairs and installation
- Medians landscape improvements
- Assessment Districts improvements
- Tree and shrub planting
- Mow curb and related concrete repairs
- Installation of cobble and inorganics
- Proper traffic control as defined in the WATCH handbook
- Small scale landscape projects

The scope of services is not limited to the items listed above. In addition, more detailed work may be required, such as installation and programming of Smart Controllers, troubleshooting faulty irrigation wires, repairing and programming two-wire irrigation systems, leveling and grading, and other specialty work associated with park and landscape maintenance

The City intends to award the contract as a 3-year agreement with an option of (2) one-year extensions, subject to funding availability and City Council approval. The Agreement shall not exceed Seven Hundred Fifty Thousand Dollars ($750,000.00) per fiscal year for performance of said Services.

No Services shall be performed by the Contractor unless authorized by the City and by a fully executed Task Order.

Contract No. _____

EXHIBIT "B" TASK ORDER FORM SAMPLE

CITY OF PALM DESERT
TASK ORDER

Contract No / P.O. #:		
Change/Task Order No.:		
Task Order Bonds Needed?:	☐ YES	☐ NO
Contingency:	☐ YES	☐ NO
Account No.:		
Project No.:		
Vendor No.:		

Contract Purpose: _____

Contractor Name: _____

Contractor shall construct, furnish all supervision, labor, services, equipment, and materials, and perform all work necessary or required to fully complete the changes to the Contract described hereinto for the amount agreed upon between the Contractor and the City of Palm Desert ("City").

Description of Changes	**Decrease** In Contract Price	**Increase** In Contract Price
Totals:	$ 0.00	$ 0.00
Net Change in Contract Price:		$ 0.00

Justification:

Original Contract Amount:	+	
Contingency:	+	
Total Budget Amount:		$ 0.00
Less: Expend. / Encumb. To Date:	-	$ 0.00
Less: This Change Order Amount:	-	$ 0.00
Remaining for Project:		$ 0.00

Contingency:	+	
Less: Prior Change/Task Order(s):	-	
Less: This Change/Task Order:	-	$ 0.00
Remaining of Contingency:		$ 0.00

This Task Order Totals:

_____ dollars and ___/100 ($ 0.00)

Task Order Total: $ 0.00

EXHIBIT "B" TASK ORDER FORM SAMPLE

Continued from Front

Contract No. _____ Task Order No.:

Estimated Completion Date: _____

Contractor accepts the terms and conditions stated above as full and final settlement of any and all claims arising out of or related to the subject of this Task Order and acknowledges that the compensation (time and cost) set forth herein comprises the total compensation due for the work or change defined in the Task Order, including all impact on any unchanged work. Execution of this Task Order by the Contractor constitutes a binding accord and satisfaction that fully satisfies, waives, and releases the City from all claims, demands, costs, and liabilities, in contract, law or equity, arising out of or related to the subject of the Task Order, whether known or unknown, including but not limited to direct and indirect costs and/or damages for delay, disruption, acceleration, loss of productivity, and stacking of trades, as well as any and all consequential damages. The adjustments to the Contract Price and Contract Time in this Task Order constitute the entire compensation and/or adjustment thereto due to Contractor, including but not limited to all direct, indirect, consequential, profit, labor, equipment, tools, idle time, incidentals, and overhead (field and home office) costs, due to Contractor arising out of or related to the change in the work covered by this Task Order. The Contractor hereby releases and agrees to waive all rights, without exception or reservation of any kind whatsoever, to file any further claim or request for equitable adjustment of any type, for any reasonably foreseeable cause that shall arise out of, or as a result of, this Task Order and/or its impact on the remainder of the work under the Contract. This Task Order will become a supplement to the Contract and all provisions will apply hereto.

1. REQUESTED BY:	_____ Department Director	2. ACCEPTED BY:	_____ Contractor
3. CERTIFIED FUNDS AVAILABLE	_____ Finance Director	4. APPROVED BY:	_____ City Manager

NOTE: No payments will be made prior to City Manager or Council approval

QC: _____

Bonds: _____

EXHIBIT "C"

COMPENSATION

In the event that this Agreement is renewed pursuant to Section 3.1.2, the rates set forth above may be increased or reduced each year at the time of renewal, but any increase shall not exceed the Consumer Price Index, All Urban Consumers, Los Angeles-Riverside-Orange Counties. The City and Contractor may review the CPI on an annual basis and recommend adjustments to the City Manager or City Council for approval. Any increase shall not exceed the Consumer Price Index.

The maximum compensation for Services to be provided pursuant to each Task Order shall be set forth in the relevant Task Order. The total compensation, in the aggregate, shall not exceed **Seven Hundred Fifty Thousand Dollars ($750,000)** without written approval of the City Council or City Manager, as applicable.

Pricing schedule is as follows:

Position	Hourly Rate
Irrigator	$45.00
Foreman	$45.00
Laborer	$35.00
Equipment Operator	$50.00
Supervisor	$55.00

Contract No. _____

PERFORMANCE BOND

KNOW ALL PERSONS BY THESE PRESENTS:

THAT WHEREAS, the City of Palm Desert (hereinafter referred to as "City") has awarded to **Vintage Landscape**, (hereinafter referred to as the "Contractor") an agreement for Parks and Landscape Enhancement Project (hereinafter referred to as the "Project").

WHEREAS, the work to be performed by the Contractor is more particularly set forth in the Contract Documents for the Project dated December 1, 2024, (hereinafter referred to as "Contract Documents"), the terms and conditions of which are expressly incorporated herein by reference; and

WHEREAS, the Contractor is required by said Contract Documents to perform the terms thereof and to furnish a bond for the faithful performance of said Contract Documents.

NOW, THEREFORE, we, **Vintage Landscape**, the undersigned Contractor and _____ as Surety, a corporation organized and duly authorized to transact business under the laws of the State of California, are held and firmly bound unto the City in the sum of Seven Hundred Fifty Thousand Dollars, ($$750,000), said sum being not less than one hundred percent (100%) of the total amount of the Contract, for which amount well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that, if the Contractor, his or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and agreements in the Contract Documents and any alteration thereof made as therein provided, on its part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their intent and meaning; and shall faithfully fulfill all obligations including the one-year guarantee of all materials and workmanship; and shall indemnify and save harmless the City, its elected or appointed officers, and their respective agents, officials, employees, volunteers and representatives, as stipulated in said Contract Documents, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

As a condition precedent to the satisfactory completion of the Contract Documents, unless otherwise provided for in the Contract Documents, the above obligation shall hold good for a period of one (1) year after the acceptance of the work by City, during which time if Contractor shall fail to make full, complete, and satisfactory repair and replacements and totally protect the City from loss or damage resulting from or caused by defective materials or faulty workmanship, Surety shall undertake and faithfully fulfill all such obligations. The obligations of Surety hereunder shall continue so long as any obligation of Contractor remains. Nothing herein shall limit the City's rights or the Contractor or Surety's obligations under the Contract, law, or equity, including, but not limited to, California Code of Civil Procedure section 337.15.

Whenever Contractor shall be, and is declared by the City to be, in default under the Contract Documents, the Surety shall remedy the default pursuant to the Contract Documents, or shall promptly, at the City's option:

(1) Take over and complete the Project in accordance with all terms and conditions in the Contract Documents; or

(2) Obtain a bid or bids for completing the Project in accordance with all terms and conditions in the Contract Documents and upon determination by Surety of the

lowest responsive and responsible bidder, arrange for a Contract between such bidder, the Surety and the City, and make available as work progresses sufficient funds to pay the cost of completion of the Project, less the balance of the contract price, including other costs and damages for which Surety may be liable. The term "balance of the contract price" as used in this paragraph shall mean the total amount payable to Contractor by the City under the Contract and any modification thereto, less any amount previously paid by the City to the Contractor and any other set offs pursuant to the Contract Documents.

(3) Permit the City to complete the Project in any manner consistent with local, California and federal law and make available as work progresses sufficient funds to pay the cost of completion of the Project, less the balance of the contract price, including other costs and damages for which Surety may be liable. The term "balance of the contract price" as used in this paragraph shall mean the total amount payable to Contractor by the City under the Contract and any modification thereto, less any amount previously paid by the City to the Contractor and any other set offs pursuant to the Contract Documents.

Surety expressly agrees that the City may reject any contractor or subcontractor which may be proposed by Surety in fulfillment of its obligations in the event of default by the Contractor.

Surety shall not utilize Contractor in completing the Project nor shall Surety accept a bid from Contractor for completion of the Project if the City, when declaring the Contractor in default, notifies Surety of the City's objection to Contractor's further participation in the completion of the Project.

The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract Documents or to the Project to be performed thereunder shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract Documents or to the Project, including but not limited to the provisions of sections 2819 and 2845 of the California Civil Code.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, we have hereunto set our hands and seals this _____ day of _____, 20____.

(Corporate Seal)

Contractor/ Principal

By_____

Printed name: _____

Title: _____

(Corporate Seal) Surety

By: _____

Printed Name: _____

Attorney-in-Fact

(Attach Attorney-in-Fact Certificate)

Signatures of those signing for the Contractor and Surety must be notarized and evidence of corporate authority attached.

The rate of premium on this bond is _____ per thousand. The total amount of premium charges, $_____.

(The above must be filled in by corporate attorney.)

THIS IS A REQUIRED FORM

Any claims under this bond may be addressed to:

(Name and Address of Surety)

(Name and Address of Agent or Representative for service of process in California, if different from above)

(Telephone number of Surety and Agent or Representative for service of process in California)

NOTE: A copy of the Power-of-Attorney authorizing the person signing on behalf of the Surety to do so must be attached hereto.

Contract No. _____

Notary Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF _____

On _____, 20___, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

CAPACITY CLAIMED BY SIGNER

- ☐ Individual
- ☐ Corporate Officer

_____
Title(s)

- ☐ Partner(s)
  - ☐ Limited
  - ☐ General
- ☐ Attorney-In-Fact
- ☐ Trustee(s)
- ☐ Guardian/Conservator
- ☐ Other:

Signer is representing:
Name Of Person(s) Or Entity(ies)

_____

_____

DESCRIPTION OF ATTACHED DOCUMENT

_____
Title or Type of Document

_____
Number of Pages

_____
Date of Document

_____
Signer(s) Other Than Named Above

NOTE: This acknowledgment is to be completed for Contractor/Principal.

~~Contract No. _____~~

Notary Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF _____

On _____, 20___, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

CAPACITY CLAIMED BY SIGNER

- ☐ Individual
- ☐ Corporate Officer

_____
Title(s)

- ☐ Partner(s) ☐ Limited ☐ General
- ☐ Attorney-In-Fact
- ☐ Trustee(s)
- ☐ Guardian/Conservator
- ☐ Other:

Signer is representing:
Name Of Person(s) Or Entity(ies)

_____
_____

DESCRIPTION OF ATTACHED DOCUMENT

_____
Title or Type of Document

_____
Number of Pages

_____
Date of Document

_____
Signer(s) Other Than Named Above

NOTE: This acknowledgment is to be completed for the Attorney-in-Fact. The Power-of-Attorney to local representatives of the bonding company must also be attached.

Contract No. _____

PAYMENT BOND

KNOW ALL PERSONS BY THESE PRESENTS That

WHEREAS, the City of Palm Desert (hereinafter designated as the "City"), by action taken or a resolution passed October 24, 2024, has awarded to **Vintage Landscape**, hereinafter designated as the "Principal," a contract for the work described as follows:

Parks and Landscape Enhancement Project (the "Project").; and

WHEREAS, the work to be performed by the Principal is more particularly set forth in the Contract Documents for the Project dated December 1, 2024, ("Contract Documents"), the terms and conditions of which are expressly incorporated by reference; and

WHEREAS, said Principal is required to furnish a bond in connection with said contract; providing that if said Principal or any of its Subcontractors shall fail to pay for any materials, provisions, provender, equipment, or other supplies used in, upon, for or about the performance of the work contracted to be done, or for any work or labor done thereon of any kind, or for amounts due under the Unemployment Insurance Code or for any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of said Principal and its Subcontractors with respect to such work or labor the Surety on this bond will pay for the same to the extent hereinafter set forth.

NOW THEREFORE, we, the Principal and _____ as Surety, are held and firmly bound unto the City in the penal sum of Seven Hundred Fifty Thousand Dollars, ($750,000) lawful money of the United States of America, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that if said Principal, his or its subcontractors, heirs, executors, administrators, successors or assigns, shall fail to pay any of the persons named in Section 9100 of the Civil Code, fail to pay for any materials, provisions or other supplies, used in, upon, for or about the performance of the work contracted to be done, or for any work or labor thereon of any kind, or amounts due under the Unemployment Insurance Code with respect to work or labor performed under the contract, or for any amounts required to be deducted, withheld, and paid over to the Employment Development Department or Franchise Tax Board from the wages of employees of the contractor and his subcontractors pursuant to Section 18663 of the Revenue and Taxation Code, with respect to such work and labor the Surety or Sureties will pay for the same, in an amount not exceeding the sum herein above specified, and also, in case suit is brought upon this bond, all litigation expenses incurred by City in such suit, including reasonable attorneys' fees, court costs, expert witness fees and investigation expenses.

This bond shall inure to the benefit of any of the persons named in Section 9100 of the Civil Code so as to give a right of action to such persons or their assigns in any suit brought upon this bond.

It is further stipulated and agreed that the Surety on this bond shall not be exonerated or released from the obligation of this bond by any change, extension of time for performance, addition, alteration or modification in, to, or of any contract, plans, specifications, or agreement pertaining or relating to any scheme or work of improvement herein above described, or pertaining or relating to the furnishing of labor, materials, or equipment therefore, nor by any change or modification of any terms of payment or extension of the time for any payment pertaining or

relating to any scheme or work of improvement herein above described, nor by any rescission or attempted rescission of the contract, agreement or bond, nor by any conditions precedent or subsequent in the bond attempting to limit the right of recovery of claimants otherwise entitled to recover under any such contract or agreement or under the bond, nor by any fraud practiced by any person other than the claimant seeking to recover on the bond and that this bond be construed most strongly against the Surety and in favor of all persons for whose benefit such bond is given, and under no circumstances shall Surety be released from liability to those for whose benefit such bond has been given, by reason of any breach of contract between the owner or City and original contractor or on the part of any obligee named in such bond, but the sole conditions of recovery shall be that claimant is a person described in Section 9100 of the Civil Code, and has not been paid the full amount of his claim and that Surety does hereby waive notice of any such change, extension of time, addition, alteration or modification herein mentioned and the provisions of sections 2819 and 2845 of the California Civil Code.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, we have hereunto set our hands and seals this _____ day of _____, 20__.

(Corporate Seal)

Contractor/ Principal

By_____

Printed name: _____

Title: _____

(Corporate Seal) Surety

By: _____

Printed Name: _____

Attorney-in-Fact

(Attach Attorney-in-Fact Certificate)

Signatures of those signing for the Contractor and Surety must be notarized and evidence of corporate authority attached. A Power-of-Attorney authorizing the person signing on behalf of the Surety to do so much be attached hereto.

NOTE: A copy of the Power-of-Attorney authorizing the person signing on behalf of the Surety to do so must be attached hereto.

Contract No. _____

Notary Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF _____

On _____, 20___, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

OPTIONAL

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- ☐ Corporate Officer

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Signer is representing:
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Contract No. _____

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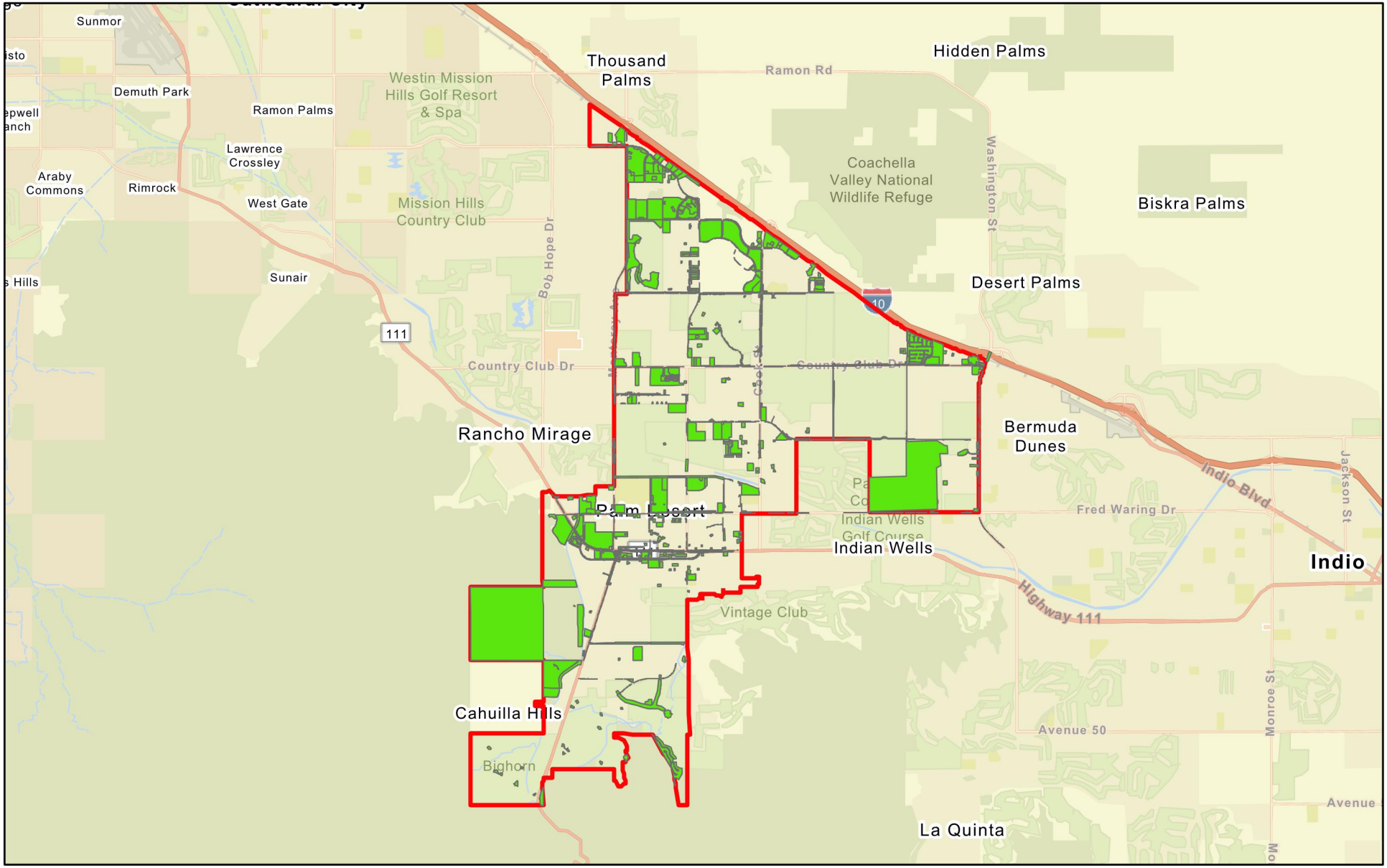
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City of Palm Desert - Landscaped Areas



7/30/2024

Landscape

Palm Desert City Boundary

1:144,448

0 1 2 4 mi

0 1.5 3 6 km

City of Palm Desert, County of Riverside, California State Parks, Esri, TomTom, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS,

Chris Gray

Palm Desert Medians

CITY MAINTAINED

PRIVATELY MAINTAINED

RANCHO MIRAGE

CITY OF PALM DESERT

Sources: Esri, DeLorme,