

Sample

AGREEMENT FOR PROFESSIONAL SERVICES  
FOR  
MEDIAN MAINTENANCE 2017

This Agreement is made and entered into as of the 21st day of November, 2016 by and between the City of Foster City hereinafter called "CITY" and \_\_\_\_\_ hereinafter called "CONTRACTOR".

RECITALS

This Agreement is entered into with reference to the following facts and circumstances:

- A. That CITY desires to engage CONTRACTOR to render certain professional services in the CITY;
- B. That CONTRACTOR is qualified to provide such services to the CITY and;
- C. That the CITY has elected to engage the services of CONTRACTOR upon the terms and conditions as hereinafter set forth.

- 1. Services. The services to be performed by CONTRACTOR under this Agreement shall include those services set forth in Exhibit A, which is, by this reference, incorporated herein and made a part hereof as though it were fully set forth herein.

Performance of the work specified in said Exhibit is hereby made an obligation of CONTRACTOR under this Agreement, subject to any changes that may be made subsequently hereto upon the mutual written agreement of the said parties.

Where in conflict, the terms of this Agreement supersede and prevail over any terms set forth in Exhibit A.

- 2. Term; Termination. (a) The term of this Agreement shall commence upon January 1, 2017 and shall expire on December 31, 2017, or as extended by mutual agreement as enumerated in Exhibit A, delivery of the product or completion of performance of services hereunder by CONTRACTOR, whichever shall first occur.

B) Notwithstanding the provisions of (a) above, either party may terminate this Agreement without cause by giving written notice not less than ten (10) days prior to the effective date of termination, which date shall be included in said notice. In the event of such termination, CITY shall compensate CONTRACTOR for services rendered, and reimburse CONTRACTOR for costs and expenses incurred, to the date of termination, calculated in accordance with the provisions of paragraph 3. In ascertaining the services actually rendered to the date of termination,

consideration shall be given both to completed work and work in process of completion. Nothing herein contained shall be deemed a limitation upon the right of CITY to terminate this Agreement for cause, or otherwise to exercise such rights or pursue such remedies as may accrue to CITY hereunder.

3. Compensation; Expenses; Payment. CITY shall compensate CONTRACTOR for all services performed by CONTRACTOR hereunder as shown in Exhibit B attached hereto and by this reference incorporated herein.

Notwithstanding the foregoing, the combined total of compensation and reimbursement of costs payable hereunder shall not exceed the sum in words \_\_\_\_\_ (\$ \_\_\_\_\_) unless the performance of services and/or reimbursement of costs and expenses in excess of said amounts have been approved in advance of performing such services or incurring such costs and expenses by CITY's City Council evidenced by motion duly made and carried.

Compensation and reimbursement of costs and expenses hereunder shall be payable upon CONTRACTOR meeting contract milestones as defined in Exhibit B. Billing shall include an itemized statement, briefly describing by task and labor category or cost/expense items billed.

4. Additional Services. In the event CITY desires the delivery of additional products or performance of additional services not otherwise included within the services described in Exhibit A, such products or services shall be authorized in advance by CITY's City Manager (for contracts less than \$30,000) or City Council (for contracts \$30,000 or more) by motion duly made and carried. Such amendment to this Agreement shall include a description of the product to be delivered or services to be performed thereunder, the maximum compensation and reimbursement of costs and expenses payable therefor, the time of performance thereof, and such other matters as the parties deem appropriate. Except to the extent modified by written amendment, all other terms and conditions of this Agreement shall be deemed incorporated in each such amendment.
5. Records. CONTRACTOR shall keep and maintain accurate records of all time expended and costs and expenses incurred relating to services to be performed by CONTRACTOR hereunder. Said records shall be available to CITY for review and copying during regular business hours at CONTRACTOR's place of business or as otherwise agreed upon by the parties.
6. Authorization. This Agreement becomes effective when endorsed by both parties in the space provided below.

7. Reliance on Professional Skill of CONTRACTOR. CONTRACTOR represents that it has the necessary professional skills to perform the services required and the CITY shall rely on such skills of the CONTRACTOR to do and perform the work. In performing services hereunder CONTRACTOR shall adhere to the standards generally prevailing for the performance of expert consulting services similar to those to be performed by CONTRACTOR hereunder.
8. Documents. All documents, plans, drawings, renderings, and other papers, or copies thereof, as finally rendered, prepared by CONTRACTOR pursuant to the terms of this Agreement, shall, upon preparation and delivery to CITY, become the property of CITY.
9. Relationship of Parties. It is understood that the relationship of CONTRACTOR to the CITY is that of an independent contractor and all persons working for or under the direction of CONTRACTOR are its agents or employees and not agents or employees of the CITY.
10. Schedule. CONTRACTOR shall adhere to the schedule set forth in Exhibit A; provided, that CITY shall grant reasonable extensions of time for the performance of such services occasioned by governmental reviews of CONTRACTOR's work product or other unavoidable delays; provided, further, that such unavoidable delay shall not include strikes, lockouts, work stoppages, or other labor disturbances conducted by, or on behalf of, CONTRACTOR's officers or employees.

CONTRACTOR acknowledges the importance to CITY of CITY's Project schedule and agrees to put forth its best professional efforts to perform its services under this Agreement in a manner consistent with that schedule.

11. Indemnity. To the fullest extent allowed by law, CONTRACTOR hereby agrees to defend, indemnify, and save harmless CITY and Estero Municipal Improvement District, its Council, boards, commissions, officers, employees and agents, from and against any and all claims, suits, actions liability, loss, damage, expense, cost (including, without limitation, costs and fees of litigation) of every nature, kind or description, which may be brought against, or suffered or sustained by, CITY or Estero Municipal Improvement District, its Council, boards, commissions, officers, employees or agents caused by, or alleged to have been caused by, the negligence, intentional tortuous act or omission, or willful misconduct of CONTRACTOR, its officers, employees, subcontractors or agents in the performance of any services or work pursuant to this Agreement.

The duty of CONTRACTOR to indemnify and save harmless, as set forth herein, shall include the duty to defend as set forth in Section 2778 of the California Civil Code; provided, however, that nothing herein contained shall be construed to require CONTRACTOR to indemnify CITY and Estero Municipal Improvement District, its Council, boards, commissions,

officers, employees and agents against any responsibility or liability in contravention of Section 2782 of the California Civil Code.

CONTRACTOR's responsibility for such defense and indemnity obligations shall survive the termination or completion of this Agreement for the full period of time allowed by law.

The defense and indemnification obligations of this agreement are undertaken in addition to, and shall not in any way be limited by, the insurance obligations contained within this Agreement.

12. Insurance. CONTRACTOR shall acquire and maintain Workers' Compensation, employer's liability, commercial general liability, owned and non-owned and hired automobile liability insurance coverage relating to CONTRACTOR's services to be performed hereunder covering CITY's risks in form subject to the approval of the City Attorney and/or CITY's Risk Manager. The minimum amounts of coverage corresponding to the aforesaid categories of insurance per insurable event, shall be as follows:

<u>Insurance Category</u>	<u>Minimum Limits</u>
Workers' Compensation	statutory minimum
Employer's Liability	\$1,000,000 per accident for bodily injury or disease
Commercial General Liability	\$1,000,000 per occurrence and \$2,000,000 aggregate for bodily injury, personal injury and property damage
Automobile Liability	\$1,000,000 per accident for bodily injury and property damage (coverage required to the extent applicable to CONTRACTOR's vehicle usage in performing services hereunder)

It shall be a requirement under this Agreement that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits shall be available to the CITY as an Additional Insured. Furthermore, the requirements for coverage and limits shall be the greater of either (1) the minimum coverage and limits specified in this Agreement or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named Insured.

CONTRACTOR agrees to include with all subcontractors in their subcontracts the same requirements and provisions of this agreement including the indemnity and insurance requirements to the extent they

apply to the scope of the subcontractor's work. Subcontractors hired by CONTRACTOR shall agree to be bound to CONTRACTOR and CITY in the same manner and to the same extent as CONTRACTOR is bound to CITY under this Agreement and its accompanying documents. Subcontractors shall further agree to include these same provisions with any sub-subcontractors. A copy of the indemnity and insurance provisions of this Agreement will be furnished to the Subcontractor upon request. CONTRACTOR shall require all subcontractors to provide a valid certificate of insurance and the required endorsements included in the subcontract agreement and will provide proof of compliance to the CITY prior to commencement of any work by the subcontractor.

Concurrently with the execution of this Agreement, CONTRACTOR shall, on the Insurance Coverage form provided in Exhibit C, furnish CITY with certificates and copies of information or declaration pages of the insurance required hereunder and, with respect to evidence of commercial general liability and automobile liability insurance coverage, original endorsements:

- (a) Precluding cancellation or **reduction in per occurrence limits** before the expiration of thirty (30) days (10 days for nonpayment) after City shall have received written notification of cancellation in coverage or **reduction in per occurrence limits** by first class mail;
- (b) Naming the City of Foster City and Estero Municipal Improvement District, its Council, officers, boards, commissions, employees, and agents, as additional insureds; and
- (c) Providing that CONTRACTOR's insurance coverage shall be primary insurance with respect to CITY and Estero Municipal Improvement District, its Council, officers, boards, commissions, employees, and agents, and any insurance or self-insurance maintained by CITY for itself, its Council, officers, boards, commissions, employees, or agents shall be in excess of CONTRACTOR's insurance and not contributory with it. CONTRACTOR and its insurer may not seek contribution from CITY's insurance or self-insurance.

The limits of insurance required in this agreement 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, to the extent required by this Agreement, before the CITY's insurance or self-insurance may be called upon to protect CITY as a named Insured.

All self-insured retentions (SIR) must be disclosed to CITY for approval and shall not reduce the limits of liability coverage. Policies containing

and SIR provision shall provide or be endorsed to provide that the SIR may be satisfied by either the named CONTRACTOR/Named Insured or CITY.

CITY reserves the right to obtain a full certified copy of any insurance policy and endorsements. Failure to exercise this right shall not constitute a waiver of right to exercise later.

Any and all Subcontractors shall agree to be bound to CONTRACTOR and CITY in the same manner and to the same extent as CONTRACTOR is bound to CITY under this Agreement. Subcontractors shall further agree to include the same requirements and provisions of this Agreement, including the indemnity and insurance requirements, in any agreement with sub-subcontractors to the extent that they apply to the scope of the sub-subcontractor's work. A copy of the indemnity and insurance provisions of this Agreement shall be furnished to any subcontractor upon request.

CONTRACTOR shall maintain insurance as required by this Agreement to the fullest amount allowed by law and shall maintain insurance for a minimum of five (5) years following completion of this project or service. In the event CONTRACTOR fails to obtain or maintain completed operations coverage as required by this Agreement, the CITY at its sole discretion may purchase the coverage required and the cost will be paid by CONTRACTOR.

13. WORKERS' COMPENSATION. CONTRACTOR certifies that he is aware of the provisions of the Labor Code of the State of California 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 CONTRACTOR certifies that he will comply with such provisions before commencing the performance of the work of this agreement.
14. PREVAILING WAGES. The services to be performed include public works within the meaning of Labor Code Sections 1720 through 1861, and Contractor must comply with state laws pertaining to prevailing wage and labor requirements, as more fully described in Exhibit D attached hereto and incorporated in this Agreement by reference.
15. NON-DISCRIMINATION. The CONTRACTOR will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The CONTRACTOR will take affirmative action to insure that applicants are employed and the employees are treated during employment without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, advancement, demotion, transfer, recruitment, or recruitment advertising, layoff or termination, rates of pay or other forms of

compensation, and selection for training, including apprenticeship. The CONTRACTOR shall at all times be in compliance with the requirements of the Federal Americans With Disabilities Act (Public Law 101-336) which prohibits discrimination on the basis of disability by public entities. The CONTRACTOR agrees to post in conspicuous places available to employees and applicants for employment any notices provided by the CITY setting forth the provisions of this non-discrimination clause.

16. Notice. All notices required by this Agreement shall be given to the CITY and CONTRACTOR in writing, by first class mail, postage prepaid, addressed as follows:

CITY: City of Foster City  
610 Foster City Boulevard  
Foster City, CA 94404-2299  
Attention: Peter Chiamos

CONTRACTOR: Name \_\_\_\_\_  
Street \_\_\_\_\_  
City \_\_\_\_\_  
Attention \_\_\_\_\_

17. Non-Assignment. This Agreement is not assignable either in whole or in part.

18. Amendments. This Agreement may be amended or modified only by written agreement signed by both parties.

19. Validity. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

20. Governing Law. This Agreement shall be governed by the laws of the State of California and any suit or action initiated by either party shall be brought in the County of San Mateo, California. In the event of litigation between the parties hereto to enforce any provision of the Agreement, the unsuccessful party will pay the reasonable attorney's fees and expenses of litigation of the successful party.

21. Mediation. Should any dispute arise out of this Agreement, the parties shall meet in mediation and attempt to reach a resolution with the assistance of a mutually acceptable mediator. Neither party shall be permitted to file legal action without first meeting in mediation and making a good faith attempt to reach a mediated resolution. The costs of the mediator, if any, shall be paid equally by the parties. If a mediated settlement is reached neither party shall be deemed the prevailing party

for purposes of the settlement and each party shall bear its own legal costs.

22. Conflict of Interest. CONTRACTOR may serve other clients, but none who are active within the City of Foster City or who conduct business that would place CONTRACTOR in a "conflict of interest" as that term is defined in State law.

23. Entire Agreement. This Agreement, including Exhibits A, B, C, and D comprises the entire Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the date first above written by their respective officers duly authorized in that behalf.

CITY OF FOSTER CITY

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

\_\_\_\_\_  
Herb Perez, Mayor

ATTEST:

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

\_\_\_\_\_  
Doris L. Palmer, City Clerk

APPROVED AS TO FORM

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

\_\_\_\_\_  
Jean Savaree, City Attorney

CONTRACTOR

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

\_\_\_\_\_  
Title \_\_\_\_\_

## **EXHIBIT A**

### **PART I -- GENERAL PROVISIONS**

#### **DESCRIPTION OF CONTRACT AND INTENT**

These specifications establish standards for the maintenance of landscaped areas for the City of Foster City.

The intent of these Specifications is to provide full and complete contract landscape maintenance at designated sites herein described, and that such sites be kept in a healthy, vigorous and well-kept state at all times.

#### **CITY OF FOSTER CITY BUSINESS LICENSE GUIDELINES:**

A business license shall be obtained as required by the City of Foster City Municipal Code, the amount of which is based on the gross receipts received from doing business in the City of Foster City.

#### **CERTIFICATE OF NON-DISCRIMINATION**

Contractor must have signed the certificate of non-discrimination as part of its proposal form and filed it with the appropriate documentation with the City per the terms of the General Provisions of the Request for Proposals.

#### **PREVAILING WAGE:**

In general, the prevailing wage scale, as determined by the Director of Industrial Relations of the State of California, will be the minimum paid to all craftsmen and laborers working on this project.

It is understood that it is the responsibility of the Contractor to determine the correct scale. The City will keep a copy of the wage scale in the City Clerk's office for the convenience of the Contractor. Any errors or defects in the materials in the City Clerk's office will not excuse a Contractor's failure to comply with the actual scale then in force.

Exhibit D of this Agreement lists Labor Code requirements regarding the payment of prevailing wages. The Contractor is solely responsible for complying with all applicable labor laws, including but not limited to those outlined in Exhibit D.

## **PART II -- SPECIAL PROVISIONS**

**SPECIFICATIONS:** The directions, provisions, and requirements contained herein as supplemented by such special provisions as may be necessary, pertaining to the method and manner of performing the work or to the quantities and qualities of materials to be furnished under the contract.

**DEFINITION OF WORDS:** Wherever, in these specifications, the words directed, required, permitted, ordered, designated, or words of like import are used, they shall be understood to meet the direction, requirement, permission, order or designation of the Parks Manager. Similarly, the words approved, acceptable, satisfactory shall mean approved by, acceptable to, or satisfactory to the Parks Manager.

The words shown, indicated, noted, called for shall mean shown, indicated, noted, or called for in the Specification/Scope of Work Documents for the work referred to.

The word equal shall mean equal in the opinion of, or approved in writing by the Parks Manager as hereinafter provided.

**STANDARD SPECIFICATIONS:** Contractor shall complete work in accordance with all items in the Specification/Scope of Work Documents.

**PARKS MANAGER:** The Parks Manager shall be the City representative throughout the project. All reference to Engineer, Inspector, City or similar designations shall be interpreted to mean Parks Manager or his duly authorized representative.

**SCHEDULE OF OPERATIONS:** The Contractor shall submit to the Parks Manager, within five (5) days after award of contract, a prepared schedule of operations which he shall follow upon approval. The proposed schedule may be revised, subject to the approval of the Parks Manager, to facilitate the Contractor's operations if circumstances require and justify such change.

**EXISTING UTILITIES:** The Contractor's attention is directed to the underground utilities which may or may not be shown on the plans. Precautions shall be taken to preserve and protect such utilities and existing improvements. The Contractor shall be responsible for the cost of repair to any damaged utilities or improvements.

**GUARANTEE:** The Contractor warrants and guarantees that any and all material and equipment used or furnished and all workmanship are of the type and quality specified herein.

In the event of failure to comply with the above-mentioned conditions within a reasonable time after notice, the City is authorized to have the deficiencies rectified and made good at the expense of the Contractor, who will pay the costs and charges therefore immediately upon demand.

The signing of the agreement by the Contractor shall constitute execution of the above guarantees.

OTHER CONTRACTORS: City reserves the right to, at its convenience, obtain other contractors and to force account additional work or supplementary work on or adjacent the same project coincident with the Contractor. Contractor shall cooperate in all ways as may be necessary for the execution of both projects.

TERMINATION: The City may, at its discretion, terminate this agreement with or without cause upon five (5) days written notice to Contractor.

LEGAL PROVISIONS: Contractor shall perform the work as an independent Contractor, and all persons employed by Contractor in connection herewith shall be employees of Contractor, and not employees of City in any respect.

No oral statement shall in any manner modify or otherwise affect the terms and conditions set forth herein and no change shall be made for any extra work, changes, or material unless same has been ordered in writing by City's representative in charge.

PERFORMANCE OF WORK:

Regulations: The work shall comply with all applicable governmental rules, regulations, codes and ordinances. **Contractor shall be a licensed State of California Landscape Contractor (C-27). The Contractor shall also maintain a California State Licensed Pest Control Operator and Pest Control Advisor. The Contractor shall also maintain IPM Training and Certification such as "Bay-Friendly" or approved equal.** The names and Certificate/License numbers shall be supplied to the City at the start of the contract.

Safeguards: Contractor shall plan and conduct the work in a manner that will safeguard all persons from injury. Contractor shall safeguard City's and others' property from damage. Contractor shall take all precautions required by applicable regulations of the State Department of Industrial Relations. When working adjacent to electrically energized lines or equipment, Contractor shall exercise extreme care to avoid injury to himself, his employees, and the public.

PAYMENTS:

Payments: Contractor will be paid monthly 100% (1/12 of yearly amount) of the value of work satisfactorily completed and accepted by the City, including any extras, if any. Each monthly payment will be made within fifteen (15) days after approval by the Parks Department of Contractor's invoice, covering the work performed during the month.

Withholding Funds: City will retain from any payments due hereunder sufficient funds to discharge any delinquent accounts of Contractor for which liens on City's property have been or can be filed, and City may at any time pay there from for Contractor's account such amounts as are admittedly due thereon. Funds will be withheld for any work deemed by City's representative in charge as not meeting the requirements of this specification.

## **PART III -- SCOPE OF WORK AND SCHEDULE FOR MEDIAN MAINTENANCE 2017**

### **LANDSCAPE MAINTENANCE SPECIFICATIONS**

#### **1. SCOPE OF WORK**

The Contractor shall furnish all labor, equipment, materials, tools and supervision to perform landscape maintenance as described herein including, but not limited to, the following:

- a) Weed control and cultivation - both mechanically and with chemicals
- b) Fertilization
- c) Shrub trimming, pruning and training
- d) Tree pruning and staking (Trees 15 feet tall and under)
- e) General pest control
- f) General litter control, refuse removal, and grounds policing
- g) Irrigation system monitoring, ***maintenance and repair***
- h) Hardscape cleaning/weeding

#### **2. LEVEL OF MAINTENANCE**

All work shall be performed in accordance with the highest landscape maintenance standard, as stated in the Special Provisions, Technical Maintenance Specifications. Standards and frequencies may be modified from time to time as deemed necessary by the City for the proper maintenance of the sites.

**In the judgment of the City, if the level of maintenance is less than that specified herein, the City shall, at its option, in addition to or in lieu of other remedies provided herein, withhold appropriate payment to the Contractor until services are rendered in accordance with specifications set forth within this document, provided no other arrangements have been made between the Contractor and the City. Failure to give notification of a change and/or failure to perform an item of work on scheduled day may result in a deduction of payment for that date or week. Payment will be retained for work not performed until such time as the work is performed to City standards.**

The Contractor is required to correct deficiencies within the time specified by the City. If noted deficient work has not been completed, payment for subject deficiency shall be withheld during the current billing period, and shall continue to be withheld until deficiency is corrected, without right to retroactive payments.

#### **3. SUPERVISION OF CONTRACT**

All work shall meet with the approval of the City of Foster City Parks Manager or his designee. There shall be periodic meetings with the Contractor and City's

representative to determine progress of the work and to establish items that may require attention.

Any specific problem area which does not meet the conditions of the specifications set forth herein shall be called to the attention of the Contractor in writing and if not corrected, payment to the Contractor will be withheld until condition is corrected in a satisfactory manner as set forth in these specifications.

The City's representative and the Contractor's representative will meet twice a month. The purpose of these meetings will be to discuss project problems; tour sites and determine the Contractor's conformity with these specifications and the adequacy of the work being performed. Less frequent meetings may be scheduled as determined by the City.

#### 4. **SPECIFICATIONS**

These specifications are intended to cover all labor, material, standards of landscaping, and mechanical workmanship to be employed in the work called for in these specifications or reasonably implied by terms of same. Work or materials of a minor nature which may not be specifically mentioned, but which may be reasonably assumed as necessary for the completion of this work, shall be performed by the Contractor as if described in the specifications.

#### 5. **TRAFFIC AND ACCESS**

The Contractor shall be responsible, during all phases of the work, to provide for public safety and convenience by use of traffic cones, signs, lighted barricades, lights, and flaggers as described and specified in the State of California, Department of Transportation MANUAL OF TRAFFIC CONTROLS - For Construction and Maintenance Work Zones, 2014 Edition. (Section 360, California Vehicle Code, defines highways to include streets.) The provisions of this manual will become a part of the requirements of the contract.

Construction and maintenance operations shall be conducted in such a manner as to cause as little inconvenience as possible to the abutting property owners or motoring public. Convenient access to driveways, houses and buildings along the line of work shall be maintained unless otherwise approved by the City in advance. Contractor shall request and obtain approval from City before any lane closures are implemented. Open excavation and ditches across a roadway shall be covered and guarded in such a manner as to permit safe traffic flow during hours when no work is being performed.

#### 6. **DISPOSAL**

The Contractor shall dispose of all cuttings, weeds, leaves, trash and other debris from the operation (including periodic debris build-up and weed abatement along median curbs, median landscape areas, easements, and "hardscape"

areas/including bridge overpasses) as work progresses. Also, the Contractor shall pay all disposal fees. The City shall not be responsible for any disposal by Contractor.

7. **RECORDS**

Contractor shall keep accurate records concerning all of his employees or agents and within fifteen (15) days of the effective date of this Agreement, provide the City with names, addresses, telephone numbers, and pager numbers of employees to be called in case of emergency.

8. **SPECIALTY OPERATIONS**

Written notification of all “specialty type” maintenance operations shall be given to the City 48 hours prior to each of these operations by Contractor. “Specialty type” maintenance operations include but are not limited to fertilization, pre-emergent weed control, all pesticide applications, and any plant replacements.

9. **LANDSCAPE LICENSE**

The Contractor shall hold a valid and current California C27 License and submit copy thereof to the City. The Contractor shall also maintain a California State Licensed Pest Control Advisor or Qualified Applicator License with a Maintenance Gardener Business License. The use of any chemical by the Contractor shall be based on the recommendation of a State Licensed Pest Control Advisor. The names and permit numbers will be supplied to the City at the beginning of Contract, and any changes to this information shall be forwarded within 24 hours of said change.

**Contractor must adhere to City of Foster City’s Integrated Pest Management (IPM) policy or program (see Attached IPM Policy).** Careful precaution must be exercised to avoid any runoff into storm-drains or water-ways at all times. All chemical applications must be performed by properly trained or certified applicators only as required by Department of Pesticide Regulations (DPR) and City policy. Parks Manager or appointed designee shall be notified in writing minimum 48 hours in advance of any chemical application. Notice shall include name and EPA # of chemical(s) to be applied, date and location(s). Posting shall be provided by contractor as required per label, DPR, or as requested by Parks Manager.

Contractor must provide proof of “Bay-Friendly” certification and/or other IPM training documentation.

10. **EXAMINATION OF SITE AND WORK**

City makes no representation about the order or condition of the work area, nor does the City warrant that the work area will be free from defects, either apparent or hidden, at the commencement of or at any time during the term of the Contract. Contractor must examine the location, physical conditions, and surroundings of which these factors will influence the performance of the contract work. By entering

into the Contract, ***Contractor shall be deemed to have agreed to accept the condition of the work area in its "as is" condition with the intent to upgrade or modify existing deficiencies to Contract specifications.***

## 11. **EXTRAORDINARY WORK**

General:

New or unforeseen additional work will be classified as extra work and will be performed only upon approval by the Parks Manager, unless a condition exists wherein it appears that there is danger of injury to persons or damage of property. In seeking extra work approval, Contractor shall delineate costs related to how much of the job shall be labor/supervision and materials/parts, if any.

The City, as a result of Acts of God, vandalism, theft, civic disturbances, or accidents, may require extraordinary work.

Extraordinary work may be required by the City in order to add new landscaping or to delete, modify, or renovate existing landscaping.

Extraordinary work may be required for renovation or replacement of irrigation systems or component parts that have worn out in service.

Extraordinary work shall not interfere with the completion of the general maintenance work. For large projects of \$3,000 or more, an "Extra" crew, supervised by the Contractor, shall be used in order to keep the regular maintenance crew doing their scheduled work. This provision will be strictly enforced.

Process:

The Contractor shall provide in writing a cost estimate and timeline for extraordinary work described. The City shall approve all estimates in writing. The Contractor shall perform the necessary work and invoice the City for the work performed according to the City's policies.

Payment:

Payment for extra work may be by written agreement between Contractor and City on a particular unit price stipulated for extra work, or on a lump sum price basis.

The City will pay for fully documented extra work based on an accumulation of costs established as follows:

*Labor:* The costs of labor will be the actual hours multiplied by the rate indicated in the Bid Schedule. The Contractor is required to pay costs for wages prevailing locally for the craft or type of workers at the time the extra work is done, plus

employer payments of payroll taxes, insurance, health and welfare, pension, vacation, apprenticeship funds, and other direct costs resulting from Federal, State and local laws.

*Materials:* The cost of materials shall be at invoice or lowest current price at which same materials are locally available in the quantities involved plus tax, freight, and delivery. A Material Invoice must be attached to the billing.

*Payment - General Invoices:* Contractor, subcontractor, and vendor invoices for materials, labor, and equipment shall be submitted with a request for payment as follows:

Labor. Documentation noting site location and work performed

Material. Substantiating invoices describing and listing the quantities of the materials used.

Equipment. Documentation noting type of equipment, size, hours of operation, and loading and transportation, if applicable.

## 12. **WORKMANSHIP AND SUPERVISION**

The Contractor shall provide a work force sufficient to complete the work as specified.

The Contractor will be expected to have work crews performing routine/necessary work on site at least four days per week on weekdays. (Weather permitting)

If needed, weekend work may be permitted. Work needs to be discussed and prior approval given by Parks Manager or City's representative.

Work shall be performed by competent and experienced workers. Irrigation maintenance and repairs shall be performed by workers skilled specifically in the operation of modern automatic irrigation systems.

The work force shall include a thoroughly skilled, experienced and competent supervisor who shall be responsible for adherence to the specifications. Supervisors and foremen must communicate effectively both in written and oral English, and shall be present at all times during Contract operations. Any order given to these supervisors or foremen shall be deemed as delivered to the Contractor.

All pesticide operations, where required, shall be performed by a California State Licensed Pest Control Applicator through written communication by a California State licensed Pest Control Advisor. **The Contractor shall be responsible for compliance with all Federal, State and local laws and regulations regarding pesticide use and storm water protection.**

Contractor shall provide copies to the City of his/her license and registration of both of his/her Pest Control Advisors and Pest Control Operators licenses. Contractor shall submit a copy of the "Pesticide Use Report" to the City on a monthly basis.

Persons employed by the Contractor who are found unsatisfactory by the City shall be discharged or reassigned by the Contractor upon fifteen (15) days written notice from the City.

### 13. **REPAIRING DAMAGED WORK**

The Contractor will report without delay any damage to City equipment or property and shall be held responsible for the replacement of any such damage caused by the Contractor's act hereunder. **Watering, pesticide spraying, and other maintenance specifications shall not be done at a time when it might damage parked cars or at times when activities in the contract area might be inconvenienced or disrupted.**

Repairs to the irrigation system resulting from damage by other than the Contractor's operation (e.g., vandalism) shall be reported promptly to the Parks Manager together with an estimate of costs for correction of the condition. The Parks Manager may authorize repair by the Contractor and the City will pay the Contractor for this work.

The Contractor shall be responsible for the replacement of all plant materials, including trees, shrubs, ground cover and similar materials. The full cost of such replacement, including the cost of labor, shall be borne by the Contractor if due to the Contractor's negligence.

Replacement of plant materials damaged or destroyed by City forces, or as a result of construction or vandalism, shall be reported promptly to the Parks Manager together with an estimate of costs for replacement. The Parks Manager may authorize replacement by the Contractor, and the City will pay the Contractor for the cost of the replacement including the cost of labor.

### 14. **SAFETY REQUIREMENT**

All work performed under this Contract shall be performed in such a manner as to provide maximum safety to the public and where applicable, comply with all safety standards required by CAL-OSHA. The Parks Manager reserves the right to issue restraining or cease and desist orders to the Contractor when unsafe or harmful acts are observed or reported relative to the performance of the work under this Contract.

The Contractor shall maintain all work sites free of hazards to persons and/or property resulting from Contractor's operations. Any hazardous condition noted by the Contractor, which is not the result of his/her operations, shall be immediately reported to the Parks Manager.

15. **LIABILITY FOR DAMAGES**

The Contractor shall be fully responsible for any and all damage to City property, equipment, or other property on the public premises that result from the Contractor's operations under this Contract. This shall include, but not be limited to, the replacement, at Contractor's expense, of shrubs, trees, vines, turf, groundcover or other landscape items that are *lost due to contractor's negligence*.

16. **SCHEDULES**

**Annual Schedule:**

The Contractor shall provide an Annual Maintenance Schedule indicating the time frames when items of work shall be accomplished per the performance requirements.

The Contractor shall complete the schedule in a manner that shall correspond to the weekly schedules.

The Annual Schedule shall be submitted to the City for approval within fifteen (15) calendar days after the effective date of the Contract.

The Contractor shall submit revised schedules when actual performance differs substantially from planned performance.

City-sponsored special events, recreation classes, etc. may necessitate changes or variations in scheduling. The Contractor shall adapt all schedules to the City's requests.

**Irrigation Controller Schedules:**

The Contractor shall provide irrigation controller schedules for each controller indicating locations, stations, and minutes per each station. These schedules should be updated monthly.

17. **UNDERGROUND EXCAVATIONS**

The Contractor shall be responsible for locating all underground utility lines to insure the safety of his/her work crew and to protect in place existing utility equipment before commencing any excavation. Contractor shall contact the City and Underground Service Alert (USA) at 1-800-422-4133 at least 48 hours prior to commencing any excavation.

#### IV. TECHNICAL MAINTENANCE SPECIFICATIONS

##### **GENERAL LANDSCAPE MAINTENANCE REQUIREMENTS**

All maintenance functions shall be performed in accordance with the following specifications and at the frequencies indicated. The City shall have the right to determine schedule days and the extent and frequency of additional “as needed” services. Standards and frequencies may be modified from time to time as deemed necessary by the City for the proper maintenance of the facilities. It is expected that each site be inspected a minimum of once per week.

All operations will be conducted so as to provide maximum safety for the public and minimize disruption to the public.

Leaves, glass, paper, weeds, and any other debris will be removed from landscaped areas and disposed of off-site.

Contractor will clean sidewalks, roadways, and any other areas littered or soiled by his maintenance operations.

Contractor shall maintain all street medians and easements clean of weeds, litter and debris at all times.

Plant materials on or adjacent to street medians, easements or roadway intersections shall be pruned to provide adequate sight distance for vehicles entering the intersection.

Plant materials shall be pruned so that all traffic control signs are clearly visible to approaching vehicles.

City shall be notified immediately of any unusual, hazardous or vandalized conditions at the work site, including but not limited to broken street lights, fallen tree branches, or any item that creates a potential hazard.

Contractor shall control all insects, diseases, rodents, snails, ants, slugs and other like pests *in conformance with the City’s IPM policy* and without the use of any Pyrethroids. The Parks Manager or City's representative should be made aware of any control measures to be used, showing evidence of written recommendations from the Contractor’s Pest Control Advisor.

Rodent control is considered a part of this Contract. All rodent activity should be controlled as soon as possible. Rodents include gophers, ground squirrels, moles, voles and rats. Rodent control must be carried out in a manner as to prevent any possible danger to non-targeted animals.

Hardscape maintenance shall include maintaining all concrete, brick paver, and asphalt surfaces free of debris, dirt and weeds. These are typically the concrete

areas located within the median islands (inclusive of median "fingers" and adjacent concrete traffic dividers) and bridge overpasses.

## **SPECIFIC LANDSCAPE MAINTENANCE REQUIREMENTS**

### **Irrigation System Maintenance**

1. Contractor shall maintain all irrigation systems in a professional, operable condition at all times. This includes but is not limited to controllers, back-flow devices, moisture sensors, manual and remote control valves, wiring, pipes, vaults, sprinkler heads, drip irrigation equipment, and quick couplers. All work of this kind shall be performed by the Contractor at no cost to the City. Any irrigation work that is required in hard to access areas such as under paved surfaces, streets, or sidewalks is not included in this contract.

Contractor shall not be responsible for the water meter assembly except if Contractor's operations cause damage to these items.

Contractor shall repair and adjust all sprinkler heads to maintain proper and uniform water application.

Contractor shall maintain all irrigation canisters, heads and risers in proper working condition. Irrigation heads will be flush and level with the top of the canister when not activated.

Contractor shall adhere to all State and local regulations.

Water penalty charges are to be the responsibility of the Contractor. Only those water penalties accrued due to over-water-use behavior (i.e. water management, not leaks, vandalism or malfunctioning irrigation equipment) will count toward Contractor responsibilities. With 100% ET water budgeting allocation, it is assumed that the site landscape can maintain health and meet water use goals.

Penalties are assessed monthly with no cumulative allowance.

To avoid under irrigating, usage is expected to be at a minimum 80% of budget.

The Contractor shall turn off irrigation system controllers during periods of rain and scheduled City Events. Water runoff onto roadways or sidewalks shall be limited to minimal amounts and any excessive watering will not be permitted. Excessive watering shall be immediately reported to the Parks Manager.

All sprinkler part replacements are to be made with original type material or better; the Parks Manager will approve all substitutes.

Repair or replacement of equipment damaged as a result of Contractor's negligence shall be replaced at the Contractor's expense.

Necessary irrigation repairs shall be made prior to the next irrigation cycle.

Irrigation programming charts will be updated each month.

Areas that require irrigation will have such accomplished no later than 6:00 a.m.

2. Irrigation systems shall be thoroughly inspected by operating all control valves and checking for proper coverage, leaks, valve actuation, proper timing, and other operational conditions. Such inspection shall be made at least once per month; however, the Contractor shall be responsible for the proper operation of the system at all times and shall provide for obvious repairs as they occur. The City will provide backflow testing at no cost to the Contractor.
3. Repairs - ***A comprehensive testing and check of all irrigation systems shall be made approximately thirty (30) days prior to the end of the Contract and any repairs deemed the responsibility of the Contractor shall be made by the Contractor prior to the end of the Contract.*** If the Contractor does not make repairs to the satisfaction of the City, deductions shall be made from the Contract payment in the amount to cover the cost to eliminate the discrepancies, as determined by the Parks Manager.

**NOTE:**

Due to the high visibility and scrutiny of irrigation of City property (with the Parks Department being the City's highest water user) contractor must maintain all active irrigation in working order, operating without any breaks or leaks, and program clocks in close coordination with Parks Manager. If in the judgment of the City, the contractor is performing irresponsibly with irrigation, the contractor will be responsible for any penalty fees put upon the City's Parks Department in accordance with monthly Water Use Reports and payment to the Contractor will be withheld accordingly.

Contractor is to adhere to all current **Water Conservation Measures** and adapt as measures change.

**Ground Cover Maintenance**

**All ground cover areas shall be maintained in a trimmed and weed-free condition.**

- A. **Weeds** - Contractor must adhere to City of Foster City's IPM Protocols that *"requires that the City departments and City contractors who*

*apply pesticides to City property, eliminate or reduce pesticide applications to the maximum extent feasible". I.e.:*

- 1) Weeds on bare ground or hard-scape shall be mowed or line-trimmed. Any visible weeds must be kept at 1" or less above ground.
- 2) Noxious weeds, such as Mallow, Fennel, "Wild Garlic", and "Thistle" shall first be pulled or mechanically removed, then controlled with chemical applications as necessary (category III "Caution" only).
  - Careful precaution must be exercised to avoid any runoff into storm-drains at all times.
  - All chemical applications must be performed by properly trained/certified applicators only, as required by DPR and City IPM policy.
  - Parks Manager or appointed designee shall be notified in writing a minimum 48 hours in advance of any chemical application. Notice shall include name and EPA # of chemical(s) to be applied, date(s) and location(s).
  - Posting shall be provided by contractor as required per label, DPR, or as requested by Parks Manager.

All ground cover areas shall be maintained in a trimmed and weed-free condition.

- A. Weeds - Weeds shall be removed upon appearance. Weed removal will be done on a weekly basis. A pre-emergent herbicide may be used where appropriate in shrub and ground cover beds to inhibit weed growth. Weeds not killed with herbicides shall be removed manually.

Contractor at his expense shall replace plants killed by weeds and chemicals, etc. Weeds shall be controlled and not allowed to become an "eyesore" or reach an objectionable height, as determined by the City's representative or Parks Manager.

- B. Ground Cover - Ground cover areas shall be fertilized once per year in April with 15-15-15 commercial fertilizer or equal, at a rate of 6 pounds per 1,000 square feet. In addition, the contractor shall follow fertilizer recommendations made in the soils report. Fertilizer shall be a complete fertilizer furnishing the required percentage of nitrogen, phosphoric acid and potash to keep groundcover, trees, shrubs and other plants in a healthy and vigorous growing condition. Applications shall be made at recommended rates. If the application of iron, zinc or other trace minerals is required to correct a specific soil deficiency, it shall also be applied as specified by the Inspector at the Contractor's expense.

- 1) Trim and edge as necessary to restrict growth from encroaching on sidewalks, curbs, turf areas, shrubs, roadways or other adjacent areas.
- 2) Irrigate as required to maintain adequate growth and reasonable appearance.
- 3) Control pests, including insects and diseases, as necessary to maintain a healthy environment for plant growth. This includes rodents, snails and slugs.
- 4) Bare ground cover (furrow) areas shall be kept cultivated and raked of all debris and free of weeds.

C. Shrubs - Shrub, Vine, Flower and Tree Maintenance

- 1) Shrubs shall be maintained in a safe and reasonably trimmed appearance by proper shaping and pruning to promote the plant's natural character.
- 2) Quarterly trim shrubs to maintain the size and shape specified by the City's representative or Parks Manager. Pruning shall be accomplished to maintain a "natural" appearance.
- 3) Remove all dead, diseased or damaged branches back to a side branch. Do not leave branch stubs.
- 4) Application of an iron chelate fertilizer or other micronutrients shall be made as needed throughout the year to maintain a healthy, vigorous growth and foliage.
- 5) Irrigate as required to maintain adequate growth and appearance.
- 6) All bare shrub bed areas shall be weeded and raked weekly to remove all litter and other debris.
- 7) Growth of woody plants shall be encouraged except where it interferes with maintenance activities, pedestrian circulation or roadways. Dead branches of plants shall be removed regularly.
- 8) Plant material adjacent to curbs, sidewalks and roadways shall be trimmed regularly to provide for proper, unobstructed circulation.
- 9) Any paper, weeds, cans or other litter found in groundcover/ shrub beds shall be removed on a weekly basis

## **Tree Maintenance**

Trees shall be trimmed as necessary to maintain adequate pedestrian and vehicle traffic, and to provide clearance from buildings, signs and other similar structures. Trees shall be trimmed in accordance with the City of Foster City's Tree Maintenance Manual and recognized International Society of Arboriculture (ISA) pruning standards. Contract responsibility covers all trees up to fifteen (15 feet) in height.

- 1) Remove all suckers from base of trees as they develop throughout the year. Remove all dead, broken or damaged branches in all trees.
- 2) Stake and support trees as necessary. Staking and guying shall be done in accordance with City standards.
- 3) All tree guys, ties and stakes shall be checked regularly to avoid girdling and damage.
- 4) Contractor shall stake or otherwise support trees during inclement weather, and remove branches and other debris generated by such weather.
- 5) Each site shall be inspected for dead or dying trees; broken, cracked or hanging branches; or other hazards. Immediately notify City's representative or Parks Manager if any of the above conditions exist.
- 6) Except for emergency removal, no tree or shrub shall be removed without prior direction or approval of the City. Trees and shrubs badly damaged and in need of replacement shall be brought to the attention of the City's representative or Parks Manager.
- 7) Water as required to maintain proper and vigorous growth according to variety.
- 8) Tree wells shall be kept as bare soil unless groundcover is present. Weeds around trees shall be removed before they reach 3-inches in height.
- 9) Chemically control plant growth around trees for a one (1) foot distance from the base of the tree. Damage to the tree trunk by string trimmers (weed whips/line trimmers) is to be avoided.
- 10) Complete pruning, heading back, lacing out or removal will be done by other tree-trimming contractors hired by the City, or by City forces.
- 11) Complete pruning of trees fifteen feet and under is included in this contract.

All pruning shall be done with clean, sharp tools appropriate for the intended work. Cuts shall be made sufficiently close to the parent limb, without cutting into the branch collar or leaving a stub, so that closure can readily start under normal conditions.

**State and local regulations:**

1. Water penalty charges are to be the responsibilities of the Contractor. Only those water penalties accrued due to over-water-use behavior (i.e. water management, not leaks, vandalism or malfunctioning irrigation equipment) will count toward Contractor responsibilities. With 100% ET water budgeting allocation, it is assumed that the site landscape can maintain health and meet water use goals.

Penalties are assessed monthly with no cumulative allowance.

To avoid under irrigating usage is expected to be at a minimum 80% of budget.

The Contractor shall turn off irrigation system controllers during periods of rain and scheduled City Events. Water runoff onto roadways or sidewalks shall be limited to minimal amounts and any excessive watering will not be permitted. Excessive watering shall be immediately reported to the Parks Manager.

All sprinkler part replacements are to be made with original type material or better; the Parks Manager will approve all substitutes.

## **DURATION**

The initial term of the contract shall be from January 1, 2017 through December 31, 2017.

The contract may be renewed subsequently in one-year (12 month) Increments as follows:

- The second contract term will be from January 1, 2018 through December 31, 2018.
- The third contract term will be from January 1, 2019 through December 31, 2019.
- The fourth contract term will be from January 1, 2020 through December 31, 2020.

Renewal shall be by mutual consent of vendor and City. The amount of the contract shall be negotiated at the end of each contract period but shall not increase by more than 2% per year. Either vendor or the City may notify of either party's intention to extend the contract at least 60 calendar days prior to the expiration date of the contract.

**EXHIBIT B**

**CONTRACTOR'S FEES AND PAYMENT MILESTONES**

**Summary**

**Total Contract Services: As described in the Median Maintenance Specifications**

**Itemizes Fees: None**

**Project Payment Schedule:**

**Milestone**

**Amount of Payment**

**Monthly**

**\$\_\_\_\_\_**

**After month's end upon satisfactory completion of work as outlined in the Median Maintenance Specifications.**

## **EXHIBIT C**

### **INSURANCE FORMS**

CONTRACTOR shall provide, in addition to the Certificates of Insurance, original Endorsement affecting the coverages specified in Section 12 - INSURANCE of the Agreement on the attached form. No substitute form will be accepted.

#### **ATTACHED**

1. Insurance Coverage Form

**This INSURANCE COVERAGE FORM modifies or documents insurance provided under the following:**

Named Insured: \_\_\_\_\_

Effective Work Date(s): \_\_\_\_\_

Description of Work/Locations/Vehicles: \_\_\_\_\_

**ADDITIONAL INSURED:** **City of Foster City/Estero Municipal Improvement District**  
**610 Foster City Boulevard, Foster City, CA 94404**  
**Attention:** \_\_\_\_\_  
**Contract Administrator**

<b>Endorsement and Certificates of Insurance Required</b> The Additional Insured, its elected or appointed officers, officials, employees and volunteers are included as insureds with regard to damages and defense of claims arising from: (Check all that apply)	<b>Insurer</b>	<b>Policy No.</b>
<input type="checkbox"/> <b>General Liability:</b> (a) activities performed by or on behalf of the Named Insured, (b) products and completed operations of the Named Insured, (c) premises owned, leased occupied or used by the Named Insured, and/or (d) permits issued for operations performed by the Named Insured. {Note: MEETS OR EXCEEDS ISO Form # CG 20 10 11 85}		
<input type="checkbox"/> <b>Auto Liability:</b> the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by the Named Insured, regardless of whether liability is attributable to the Named Insured or a combination of the Named Insured and the Additional Insured, its elected or appointed officers, officials, employees or volunteers.		
<input type="checkbox"/> <b>Other:</b>		
<b>Certificates of Insurance Required (no endorsement needed) (Check all that apply)</b>	<b>Insurer</b>	<b>Policy No.</b>
<input type="checkbox"/> <b>Workers Compensation:</b> work performed by employees of the Named Insured while those employees are engaged in work under the simultaneous directions and control of the Named Insured and the Additional Insured.		

**PRIMARY/NON-CONTRIBUTORY:** This insurance is primary and is not additional to or contributing with any other insurance carried by or for the benefit of Additional Insureds.

**SEVERABILITY OF INTEREST:** The insurance afforded by this policy applies separately to each insured who is seeking coverage or against whom a claim is made or a suit is brought, except with respect to the insurer's limit of liability.

**PROVISIONS REGARDING THE INSURED'S DUTIES AFTER ACCIDENT OR LOSS:** Any failure to comply with reporting provisions of the policy shall not affect coverage provided to the Additional Insured, its elected or appointed officers, officials, employees, or volunteers.

**CANCELLATION NOTICE.** The insurance afforded by this policy shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days' prior written notice (ten (10) days if canceled due to non-payment) by regular mail return receipt requested has been given to the Additional Insured. Such notice shall be addressed as shown above.

**WAIVER OF SUBROGATION:** The insurer(s) named above agree to waive all rights of subrogation against the CITY/District, its elected or appointed officers, officials, agents, volunteers and employees for losses paid under the terms of this policy which arise from work performed by the Named Insured for the CITY/District.  
 Nothing herein contained shall vary, alter or extend any provision or condition of the Policy other than as above stated.

**SIGNATURE OF INSURER OR AUTHORIZED REPRESENTATIVE OF THE INSURER**

I, \_\_\_\_\_ (print/type name), warrant that I have authority to bind the above-named insurance company and by my signature hereon do so bind this company.

\_\_\_\_\_  
 SIGNATURE OF AUTHORIZED REPRESENTATIVE (original signature required)

\_\_\_\_\_  
**ORGANIZATION:**

\_\_\_\_\_  
**TITLE:**

ADDRESS: \_\_\_\_\_

TELEPHONE: (\_\_\_\_) \_\_\_\_\_ DATE ISSUED \_\_\_\_\_

**EXHIBIT D**  
**LABOR CODE REQUIREMENTS**  
**FOR**  
**PUBLIC WORKS PROJECTS**

**Public Works Project/ Prevailing Wage.** The work to be performed under this Agreement is for “Public Works” within the meaning of Labor Code Sections 1720 to 1861. Contractor must therefore comply with state prevailing wage and labor law (California Labor Code Sections 1720 to 1780, California Code of Regulations, Chapter 8, Subchapter 3, commencing with Section 16000) for work performed under this Agreement. Contractor’s obligations under prevailing wage and labor compliance laws include, among other things, to: pay at least the applicable prevailing wage and travel and subsistence payments for public works activities performed under this Agreement; comply with overtime and working hour requirements; comply with apprenticeship obligations; comply with payroll recordkeeping requirements; and comply with other obligations as required by law. Copies of the applicable prevailing wage rates are on file with the City Project Manager, and shall be made available to any interested party upon request. Contractor shall ensure that the above requirements are included in all its contracts and any lower tier subcontracts for activities for the Project.

**Registration with Department of Industrial Relations.** This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. Contractor must be registered with the Department of Industrial Relations under Labor Code section 1725.5 when bidding and throughout performance of this agreement.

**Wage Rates.**

**3(A).** It shall be mandatory upon Contractor and upon any subcontractor to pay not less than the specified rates to all laborers, workers, and mechanics employed in the execution of the Contract. It is further expressly stipulated that Contractor shall, as a penalty to City, forfeit two hundred dollars (\$200.00) for each calendar day, or portion thereof, for each laborer, worker, or mechanic paid less than the stipulated prevailing rates for any work done under this Agreement by Contractor or by any subcontractor; and Contractor agrees to comply with all provisions of Section 1775 of the Labor Code.

**3(B).** The City will not recognize any claim for additional compensation because of the payment by the Contractor of any wage rate in excess of the prevailing wage rate set forth in the Agreement. The possibility of wage increases is one of the elements to be considered by the Contractor in determining its bid, and will not under any circumstances be considered as the basis of a claim against the City on the Agreement.

**Payroll Records.** The Contractor and each subcontractor must comply with Labor Code Section 1776 and all requirements of contractors stated therein for the maintenance, inspection and certification of payroll records. The Contractor and each subcontractor who fails to timely furnish payroll records or make the records available for inspection will forfeit to the City the penalty for non-compliance set forth in Labor Code Section 1776 for their respective failure.

**Discrimination.** The contractor and each subcontractor must comply with the anti-discrimination requirements of Labor Code Section 1777.6.