

Exhibit 1



CITY OF TEMPLE CITY

REQUEST FOR PROPOSALS

For:

TREE MAINTENANCE SERVICES

Proposal Release Date

November 22, 2023

Mandatory Pre-Bid Meeting

December 5, 2023 at 10:00 a.m.

Proposal Submittal Due Date

December 22, 2023 at 10:00 a.m.

Prepared by:

City of Temple City Parks & Recreation Department

10144 Bogue Street

Temple City, CA 91780

Attn: Adam Matsumoto, Parks & Recreation Director

(626) 285-2171, extension 4505

CITY OF TEMPLE CITY
NOTICE INVITING REQUEST FOR PROPOSALS (RFP)
FOR
TREE MAINTENANCE SERVICES

NOTICE IS HEREBY GIVEN that the City of Temple City is seeking proposals for Tree Maintenance Services for a two and a half year term beginning February 1, 2024 and ending on June 30, 2026.

Interested Contractors are required to attend a MANDATORY PRE-BID MEETING on December 5, 2023, 10:00 a.m. at Live Oak Park – Annex Building, 10144 Bogue Street, Temple City, CA, 91780.

The RFP can be obtained at the Temple City Parks & Recreation Department, Live Oak Park Annex Building, 10144 Bogue Street, Temple City or can be printed from the Temple City website at <http://www.ci.temple-city.ca.us/bids.aspx>. In order for a bid to be considered valid, the proposer must attend the MANDATORY PRE-BID MEETING.

Sealed Proposals:

Contractors will deliver one (1) original and two (2) copies to the following address on or before 10:00 am on December 22, 2023 (POSTMARKS WILL NOT BE ACCEPTED):

Temple City Parks & Recreation Department
Live Oak Park Annex Building
10144 Bogue Street, Temple City, CA 91780
Attn: Adam Matsumoto, Parks & Recreation Director
(Staff will evaluate proposals in private; no public opening is required for this proposal.)

This submission shall include the entire Request for Proposals documentation and any amendments if issued. Proposals received after the above-cited time will be considered a late bid and not accepted.

Please direct all questions, inquiries, and comments regarding this RFP only to Adam Matsumoto, Parks & Recreation Director at (626) 285-2171, extension 4505 or amatsumoto@templecity.us, to ensure responsiveness and consistency with the RFP process.

All questions will be answered in writing via e-mail to all Contractors who attend the MANDATORY PRE-BID MEETING. The final day to submit questions will be December 12, 2023, 5:00 p.m. All answers will be in the form of an addendum and will be dispersed by December 14, 2023.

The City of Temple City hereby notifies all bidders that it will affirmatively insure that in any given agreement entered into pursuant to this advertisement, Disadvantaged Business and Women's Business Enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, creed, color, or national origin in consideration for an award.

Please note the passage of Measure AA by Temple City voters in November 2016 imposed strict restrictions related to campaign contributions and gifts to City Council members by contractors and prospective contractors (see <http://templecity.us/MeasureAA>). All submitting firms should be aware of these restrictions.

Adam Matsumoto
Parks & Recreation Director
(626) 285-2171, Ext. 4505

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SECTION I
PROPOSAL INFORMATION FOR CONTRACTORS

RFP TIMELINE

The schedule of key milestones related to the City of Temple City Tree Maintenance Services is as follows:

- Proposal Release Date: November 22, 2023
- Mandatory Pre-Bid Meeting: December 5, 2023, 10:00 a.m.
- Written Questions Submission Deadline: December 12, 2023, 5:00 p.m.
- City Response to Written Questions: December 14, 2023
- Proposal Submittal Due Date: December 22, 2023, 10:00 a.m.
- Award of Contract (Tentative): January 16, 2024
- First Day of Services: February 1, 2024

1. SCOPE AND LOCATION OF WORK

The Tree Maintenance Services (“Contract”) consists of the maintenance of all city-owned trees within the City of Temple City. The Contractor is responsible to submit a price list as requested in this RFP. The work to be performed under the Contract consists of the furnishing of all labor, insurance, materials, transportation and equipment needed to perform per the Scope of Work within this RFP.

2. EXAMINATION OF CONTRACT DOCUMENTS AND WORK SITES

Before submitting a bid, the bidder must (i) examine the Contract Documents thoroughly; including without limitation the Agreement wherein each of the other Contract Documents is identified; (ii) visit the sites and the locality where the work is to be performed to familiarize themselves with local conditions that may in any manner effect the cost, progress or performance of the work in strict accordance with the Contract Documents; (iii) familiarize themselves with federal, state and local laws, ordinances, rules and regulations that may in any manner affect the cost, progress or performance of the work in strict accordance with the Contract Documents; and (iv) study and carefully correlate bidder's observations with the Contract Documents.

Reports, if any, of investigations of physical conditions at the work sites or otherwise effecting cost, progress or performance of the work, which have been relied upon by staff in preparing the specifications, are identified in the Scope of Work. Before submitting the bid, the bidder shall, at their own expense, make such additional investigations and tests as the bidder may deem necessary to determine their bid for performance of the work in strict accordance with the Contract Documents.

By submitting a bid, the bidder warrants that they have complied with every requirement of this proposal and that the Contract Documents are sufficient in scope and detail to indicate and convey understanding of all terms and conditions for performance of the work.

All questions about the meaning or intent of the Contract Documents shall be submitted to Adam Matsumoto, Parks & Recreation Director no later than 5:00 p.m. on December 12, 2023.

All interpretations shall be issued via written Addendum, which will be posted on the city website and e-mailed to each bidder whom attended the mandatory pre-bid meeting, but it shall be the bidder's responsibility to make inquiry as to the Addendum issued. Failure of the bidder to receive any such Addenda shall not relieve the bidder from any obligation under the Contractors bid as submitted.

Only interpretations issued by written Addendum will be binding: all such Addendums shall become part of the Contract Documents. Interpretations issued orally or by any means other than as specified in this section shall be without legal effect.

3. INTERPRETATION OF CONTRACT DOCUMENTS

No oral representation or interpretations will be made to any Contractor as to the meaning of the Contract Documents. Requests for interpretation shall be made in writing no later than December 12, 2023 at 5:00 pm. Interpretations, where necessary, will be made by the City in the form of an addendum to the Contract Documents and, when issued, will be sent as promptly as is practical to all parties to whom the RFP documents have been issued. All such addenda shall become part of the Contract. Requests for information shall be directed to:

City of Temple City
Adam Matsumoto, Parks & Recreation Director
E-mail – amatsumoto@templecity.us

It shall also be the Contractor's responsibility to call to the attention of the City any missing pages in the Contract Documents, including the addendum. These items shall be brought to the attention of the Project Manager in writing at the above address no later than December 12, 2023 at 5:00 pm.

4. SUBMITTAL REQUIREMENTS

Successful proposals must include:

- Bid Proposal
- Statement of Experience
- Exceptions to Specifications

Proposals must fully address all areas requested, contain complete technical submittals, references, and data to verify qualifications and experience and include a statement that the City contract can be executed, and any exceptions. Proposals without complete submittal data will be considered non-responsive. As part of the technical proposal, Contractors must evaluate the City's proposal terms and conditions. Any exceptions taken to the proposal specifications must be listed as a separate item in the Exceptions to Specifications, which is included in this RFP on page 25.

The City reserves the unilateral right to amend this RFP in writing at any time. The City also reserves the right to cancel or re-issue the RFP at its sole discretion. Proposers shall respond

to the final written RFP and any exhibits, attachments and amendments. All proposers shall verify if any addendum for this project has been issued by the City. It is the proposer's responsibility to ensure that all requirements of contract addendum are included in the proposer's submittal. Once all the proposals are reviewed and a successful bidder is determined, the City Clerk will deliver a written Notice of Award to the successful proposer (Contractor).

The City reserves the unilateral right to decline to award the contract to any of the Contractors submitting proposals. The City reserves the right to reject any and all proposals and the right to waive minor irregularities in any proposals. Waiver of one irregularity does not constitute waiver of any other irregularities. The review of all proposals for completeness is expected to be completed within five (5) business days after bid opening. Overall responsiveness to the RFP is an important factor in the review process.

Contractors will deliver one (1) original and two (2) copies in a sealed envelope with "Temple City Tree Maintenance Services Bid" clearly marked on the outside and must be received by the City no later than 10:00 a.m. on December 22, 2023. Proposals shall be addressed to:

Temple City Parks & Recreation Department
Live Oak Park Annex Building
10144 Bogue Street, Temple City, CA 91780
Attn: Adam Matsumoto, Parks & Recreation Director

Contractors are warned against making erasures or alterations of any kind, without initialing each and every such change. Proposals that contain erasures or irregularities of any kind, without such initialing, or omissions, may be rejected. No oral, telegraphic, or telephone (including facsimile) Proposals or modifications will be considered.

Proposals received after the deadline date will not be accepted. Postmarks will not be accepted.

5. AWARD OF CONTRACT

All bids, once they are opened and declared, are subject to review, acceptance or rejection by the City Council for a period not to exceed 30 calendar days. The City reserves the right to reject any or all bids and waive any irregularities or informalities in any bid.

6. DELIVERABLES REQUIRED OF SUCCESSFUL CONTRACTOR

The successful Contractor(s) shall enter into a Contract Agreement (sample copy in "Exhibit B") with the City of Temple City and submit the following items ***within fifteen (15) days of notice of award:***

1. City of Temple City business license.
2. Copy of Insurance documents which shows compliance with the attached requirements and naming the City of Temple City as an additional insured.
3. Copy of the Current General Contractor License indicating a C61/D49, B or A.

7. COMPLIANCE WITH APPLICABLE LAWS

All services rendered shall be provided in accordance with all ordinances, resolutions, statutes, rules, and regulations of the City, and any Federal, State, or local governmental agency having jurisdiction in effect at the time service is provided. Contractor is responsible for obtaining all permits and licenses required to perform work such as an encroachment permit through Caltrans.

All spray applications are to be done in accordance with all State of California and United States law. The Contractor shall have secured from Los Angeles County, all necessary permits and shall possess a current California State Department of Agriculture license.

8. PERMITS AND CODES

The selected proposer will comply with all laws, codes, rules and regulations of the State, County, and City applicable to the work to be performed at the City's location(s). The City will provide permits at no cost to the Contractor.

9. DISQUALIFICATION OF CONTRACTOR

If there is a reason to believe that collusion exists among any of the Contractors, none of the Proposals of the participants in such collusion will be considered, and Temple City may likewise elect to reject all Proposals received.

10. WORK SCHEDULE

All contract employees are to adhere to basic standards for working attire including; uniform shirts with Contractor's name or logo clearly visible at all times when working at all locations, proper shoes and other gear required by State Safety Regulations. Shirts are to be maintained in a neat and presentable condition. All Contractor vehicles are to have a readable sign with Contractor's name or logo and telephone number. Trucks are to be kept in a clean and presentable condition.

The Contractor will be expected to know the streets within the City of Temple City so that work can be performed independently. Contractor is responsible for (a) having thoroughly investigated and considered the scope of work to be performed, (b) carefully considering how the services should be performed, and (c) fully understanding the facilities, difficulties, and restrictions attending the performance of the services required. Contractor is responsible to investigate each site and be fully acquainted with the conditions of each site. Should the Contractor discover any latent or unforeseeable conditions, which will materially affect the performance of services, Contractor shall immediately inform the City of such fact and shall not proceed except at Contractor's risk until written instructions are received from the City.

11. TERM OF AGREEMENT

The Agreement awarded to the successful bidder under this Request for Bids shall be for the period beginning February 1, 2024 and ending on June 30, 2026. The Agreement may be extended for an additional year up to three (3) years upon the mutual consent of both parties.

TERMINATION

The City of Temple City may terminate this agreement at any time during its term, upon thirty (30) days prior written notice to the other party without further liability of any sort. The Contractor may terminate this agreement at any time during its term, upon forty-five (45) days prior written notice to the other party without further liability of any sort.

12. PRE-CONTRACTUAL EXPENSE

The City of Temple City is not responsible for any pre-contractual expense generated due to the submission of the bid.

13. CITY OF TEMPLE CITY BUSINESS LICENSE

Should the successful bidder *not* have a Temple City business license, one must be obtained prior to the commencement of any work.

14. COMMUNICATION WITH CITY

Contractor shall designate one person as the representative of Contractor authorized to act on its behalf with respect to this specified work. The City of Temple City, through a designated representative, shall make inspections on a weekly basis, or as often as necessary to ensure that complete and continuous maintenance is fulfilled. Contractor shall be required to attend monthly meetings with City staff to review Contractor's performance and the condition of all maintenance areas. Dates and times of meetings shall be set by the City and the Contractor. These monthly meetings are not to substitute for Contractor's responsibility to regularly inspect areas. The Contractor shall submit weekly inspection reports signed by the Contractor's representative that shows that all areas have been inspected that week, which areas are out of conformance with these specifications and the Contractor's plans for bringing the areas into specification compliance.

The Contractor shall submit a written report each month stating all contract work completed. The report shall show the work completed during each week contract work was accomplished, and shall be submitted with and cover the same work as the Contractor's billing statement for the previous month's work. The report shall include documentation of irrigation checks and chemical applications. Failure to submit reports by the tenth (10th) of each month shall result in the Contractor forfeiting five hundred dollars from any amounts owed by the City.

15. LIABILITY AND INSURANCE

Without limiting Contractor's indemnification of City, and prior to commencement of Work, Contractor shall obtain, provide and maintain at its own expense during the term of this Agreement, policies of insurance of the type and amounts indicated below by check marks, described more fully below, and in a form that is satisfactory to City:

 X **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.

 X **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.

X **Workers' compensation insurance.** Contractor shall maintain Workers' Compensation Insurance (Statutory Limits) and Employer's Liability Insurance (with limits of at least \$1,000,000).

Other provisions or requirements for insurance:

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.

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 agents, representatives, employees or subconsultants.

Primary/noncontributing. 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.

Agency'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.

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.

Waiver of subrogation. All insurance coverage maintained or procured pursuant to this Agreement shall be endorsed to waive subrogation against City, its elected or appointed officers, agents, officials, employees and volunteers 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 City, and shall require similar written express waivers and insurance clauses from each of its subconsultants.

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.

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.

Notice of cancellation. Contractor agrees to oblige its insurance agent or broker and insurers to provide to 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.

Additional insured status. General liability policies shall provide or be endorsed to provide that City and its officers, officials, employees, and agents shall be additional insureds under such policies. This provision shall also apply to any excess/umbrella liability policies.

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.

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.

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.

Agency's right to revise specifications. The City 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 substantial additional cost to the Contractor, the City and Contractor may renegotiate Contractor's compensation.

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.

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.

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.

16. INDEMNIFICATION

Contractor shall indemnify, protect, defend and hold harmless City, and any and all of its employees, officials and agents from and against any liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including attorney's fees and costs, court costs, interest, defense costs, and expert witness fees), where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, the performance of this Agreement by Consultant or by any individual or entity for which Consultant is legally liable, including but not limited to officers, agents, employees or sub-contractors of Consultant.

The Contractor shall, at his own expense and risk, defend any legal proceedings that may be brought against the City of Temple City, its Council, officers, agents or employees therein, within the provision of the above stated insurance.

17. INDEPENDENT CONTRACTOR

While engaged in carrying out and complying with the terms and conditions of the duties outlined in this Request for Bids, the Contractor is an Independent Contractor not an Officer, Agent or Employee of the City of Temple City. The personnel performing services shall at all times be under the Contractor's exclusive direction and control and shall be employees of Contractor and not employees of the City of Temple City. The Contractor shall pay all wages, salaries, and other amounts due its employees in connection with this contract and shall be responsible for all reports and obligations respecting them, including, but not limited to Social Security, income tax withholding, unemployment compensation, worker's compensation insurance, state disability insurance and similar matters.

All services to be rendered by the Contractor shall be subject to the control of the City. Contractor shall advise City of matters of importance and make recommendations when appropriate, however final authority shall rest with the City.

18. PAYMENT

Payment for all services shall be made based on the Monthly Cost Proposal bid price. Contractor shall submit an invoice for services rendered the prior month. Invoices shall be paid by the City within thirty days of receipt. Contractor shall not invoice the City for sites that were not maintained per the agreed upon times per month.

19. COMPLETING AND SIGNING FORMS

The Contractor's attention is directed to the forms included in the Contract Documents, which must be completed and signed. FAILURE TO PROPERLY COMPLETE AND SIGN ANY FORMS MAY BE CAUSE FOR REJECTION OF A PROPOSAL.

SECTION II **SCOPE OF WORK**

I. TREE MAINTENANCE REQUIREMENTS

Successful bidders shall perform any and all services provisioned under the contract in a skillful and competent manner. It is understood that the selected Contractor will furnish all necessary equipment and personnel for the completion of work in a timely and organized manner, and ensure full compliance with applicable local, state and federal requirements.

A. Work Quality and Standards

All work performed under this contract shall be conducted in such a manner so as to provide safety to the public. The Contractor shall comply with safety requirements set forth by California Occupational Safety and Health Act (CAL OSHA) and all applicable American National Standards, published by The American National Standard Institute, Inc. (ANSI), 1430 Broadway, New York, New York 10018.

All work performed by the Contractor shall comply with good arboreal practices within the industry for the particular species of trees being maintained. Work quality must be consistent with standards as specified in the International Society of Arboriculture's (ISA) "Best Management Practices" and ANSI A300.

The Contractor shall be responsible for all damages to people and/or property that occur as a result of the fault or negligence of said contractor or his employees in connection with the performance of this work.

The Contractor will provide all equipment and trained personnel to provide timely tree trimming services as requested by City.

Daily, routine tree trimming operations shall not begin before 7:00 AM and finish no later than 5:00 PM on weekdays.

The City's designated representative shall determine if the Contractor has met all trimming requirements, and payment shall not be made by City for trimming that is not in accordance with standards outlined in this contract. The City may deduct and/or withhold payment to protect the City from loss due to one or more of the following reasons:

- a. Defective or inadequate work not corrected;
- b. Claims filed, or reasonable evidence indicating probable filing claims;
- c. A reasonable doubt that the contract can be completed for the balance unpaid; and/or

d. Damage that resulted from an incident involving property damage.

B. Qualifications and Licenses

The Contractor shall assign a competent and qualified supervisor, who shall be a current ISA-certified Arborist, to be on the job site at all times work is being performed.

The Contractor ensures that they, their employees and subcontractors have all necessary licenses required for the adequate performance of the work outlined by this contract.

C. Inspections

The City's designated representative shall, at all times, have access to inspect work, facilities and equipment. The Contractor shall be required to provide the City with a written schedule of daily tree maintenance operations.

Any work found to be unacceptable will be noted in writing to the Contractor. Defected work shall be fixed, as directed by the City's designated representative, even if the work was not pointed out during the initial inspection and the work was accepted for payment.

D. Invoice

The Contractor will provide invoices on a *monthly* basis. Invoices shall include but not be limited to:

- a. A list of all tree maintenance operations that took place;
- b. The address of each individual tree;
- c. Species;
- d. Height; and
- e. Trunk diameter of each individual tree.

E. Fixed Fee and Pricing

The Contractor shall provide a pricing proposal that is a fixed fee per tree per service. Contractor will also include a cost-per-inch of trunk diameter on complete tree and stump removals. The price given by the Contractor for tree and/or stump removals shall include all staff, materials, and equipment necessary *and backfilling with good-quality topsoil*.

Contractor shall provide general pricings for plantings, grid pruning, complete removals and service hours (off-hours).

F. Emergency Services

The Contractor shall be required to provide emergency on-call response for damaged trees as a result of storms or other reasons. Emergency calls may occur at any time. Emergency work shall begin within two (2) hours of initial call.

Work performed under the emergency provision shall be paid for on an hourly basis. This will include all labor, tools/equipment, disposal fees and necessary materials.

G. Annual Maintenance Program

The Contractor will be required to submit a work schedule based on the City's annual tree pruning requirements, tree removal and replacement program, and planting projects.

Depending on the City's current and future tree trimming and tree maintenance needs, the scheduled work may require multiple crews to perform concurrently within the same time constraints.

H. Traffic Control

The Contractor shall conform to all City traffic safety requirements and operating rules at all times while this contract is in effect. The Contractor will be responsible for supplying and using all safety equipment necessary to close or delineate traffic lanes. The City must approve all traffic safety equipment prior to use. Traffic control plans are required and must be approved by City before implementation.

I. Public Notice of Tree Pruning Operations

The Contractor shall be required to notify residents and/or businesses of scheduled tree pruning operations at least forty-eight (48) hours prior to the work being performed. City-approved "No Parking" signs shall be posted on individual trees scheduled for pruning forty-eight (48) hours prior to the work being performed.

J. Cleanup of Green Waste and Debris

The Contractor shall insure that the work area shall be kept safe at all times during any procedure, be it pruning or removal. All tree material and debris will be cleared and the job site cleaned at the end of each work day before the work crew leaves. Cleaning shall include but not be limited to:

- a. Raking lawn areas;
- b. Sweeping all streets/sidewalks; and
- c. Removing all brush, branches, and other debris.

Under no circumstances will any tree material be allowed to enter any storm drain.

K. Disposal of Green Waste and Debris

The Contractor shall recycle all tree material, of which the amount (in weight recycled) shall be reported to the City in compliance with AB 939.

L. Tool Sanitation

On all trees known or suspected to be diseased, pruning tools and cut surfaces shall be disinfected. Dumping used or old disinfecting solutions on the ground or down the storm drain will result in severe penalties for the Contractor.

M. Tree Inventory Database

The Contractor shall provide a complete citywide database of the City's public tree inventory and continue to be responsible for providing the City with information to keep the system current and accurate. The tree inventory data shall conform to the existing tree inventory database and will include but not be limited to:

a. GPS Tree Inventory

A GPS tree inventory will be created using the City's standardized addressing system for all parks and open space areas. The address information in the inventory shall be linked to a GIS program (Arc GIS or ArcView).

The inventory, when possible, will be capable of showing the location of every existing tree site and vacant tree site on the City's existing GIS base maps (streets, parcels, addresses, right of way and hardscape, etc.).

The Contractor shall update the tree inventory on a daily basis, as conditions require (e.g. tree removed, tree planted, etc.). The City will have access to updated data at all times. The City reserves the right to contact the Contractor for immediate inventory changes on request.

b. Inventory Scope of Work

The Contractor will manage the entire inventory project. The project shall include field data collection, data entry, access to the computer software, and training of City employees on the use of the system and future technical maintenance. Attributes to be collected by field personnel may include, but are not limited to:

1. City District/Grid/LLDs/Parks/R-Areas/Residential;
2. Street;
3. Location by Address;
4. Location by GIS;
5. Species by botanical name & common name;
6. Tree diameter;
7. Tree height;
8. Recommended Maintenance Classification;
9. Existing overhead Utilities;
10. Parkway Size;
11. Parkway Type; and
12. Condition of surrounding hardscape.

N. Pruning

The Contractor shall provide both grid (4 year cycle) and service request pruning as requested by City. Full prune is classified as no more than 25% of foliage at one time.

a. General Specifications

1. Contractor shall provide appropriate notification to property owners and signage per City specifications.
2. The Contractor shall consult with the City's designated representative before making any cuts that could result in permanent disfigurement of tree structure.
3. Trees will be pruned so as to prevent branch and foliage interference with safe public passage. Young trees are exempted.

4. All dead and dying branches/stubs shall be removed.
5. All broken or loose branches shall be removed.
6. Contractor will selectively prune branches that create sight line conflicts with control signs and devices.
7. Trees shall be cleared of sprout and sucker growth. Young trees are exempted.
8. All major pest problems shall be promptly reported to the City.
9. Trees will be pruned to maintain a natural and balanced appearance unless otherwise directed.
10. Tree limbs shall be controlled in such a manner so as to cause no damage to other parts of the tree, other plants or property.
11. Excess debris, trimmings, branches and wood shall be removed from the work site following as closely as possible the pruning operation.

b. Grid Pruning

Contractor shall prune all trees in pre-designated trimming grids (attached to this RFP as "Exhibit A"), regardless of size, on a set schedule, unless otherwise directed by the City. The City currently maintains a four (4)-year trim cycle.

The trimming shall provide a "natural" and aesthetically pleasing appearance that is typical of the species. Trees shall be trimmed to provide a minimum clearance over roadways and walkways and adhere to the General Specifications mentioned above.

c. Service Request Tree Pruning

The City will periodically submit a list of work orders to the Contractor. Contractor shall follow above specifications during service request pruning operations.

O. Tree and Stump Removals

Removal shall consist of the 100% removal of any tree or stump, its root system and backfilling of the hole with good-quality topsoil.

a. General Specifications

1. Tree removals shall be conducted in accordance with the standards of the arboricultural profession.
2. Tree removals shall follow the City's basic criteria as outlined within the City's Municipal Code § 3-4D-9A1 to §3-4D-9A11.
3. The Contractor shall consult with the City's designated representative before any removal operation.
4. The Contractor shall identify the location of all utilities and private property landscape irrigation components prior to any removal operation. Contractor shall take all necessary precautions to ensure all utilities (e.g. water, gas, electric, telephone, etc.) are not damaged.
5. All tree removals shall include removal of the stump and grinding chips, as well as the backfilling of the hole created by the removal with good-quality topsoil suitable for the replanting of a replacement tree.

6. Contractor shall ensure that, with use of proper techniques and equipment, at no time shall branches, limbs or tree trunks be allowed to freefall.
7. Excess debris, trimmings, branches, and wood shall be removed from the work site, following as closely as possible the removal operation.

P. Planting

Planting shall include the tree, stakes, ties and weed-eater guards along with complete installation, watering and care. Planting lists will be compiled by the City's designated representative and submitted to Contractor monthly or as needed. Contractor will guarantee the quality of the tree stock and workmanship.

a. General Specifications

1. The Contractor shall identify the location of all utilities and private property landscape irrigation components prior to any planting operation. Contractor shall take all necessary precautions to ensure all utilities (water, gas, electric, telephone, etc.) are not damaged.
2. All trees shall be a minimum fifteen (15)-gallon container or as specified by the City. City has right to reject any tree planted by Contractor and Contractor shall replace at his expense.
3. The Contractor shall consult with the City's designated representative before any planting operation.
4. The Contractor will be responsible for the stability of planted trees, including the stakes, ties and weed-eater guards as appropriate.
5. Using hoses, equipment or water from private properties is prohibited.

b. New Tree Care

While watering, the Contractor shall maintain the tree watering basin by removing weeds and debris, and retaining the basin to appropriate size and grade standards.

The Contractor will care for and guarantee the life of the tree for ninety (90) calendar days. After ninety (90) day period the tree is determined to be healthy and the Contractor is no longer required to provide specific new tree care.

Q. Additional Work

The City may add to these specifications with the joint approval of the Contractor and the City. All modifications shall be in writing.

- a. In the event that the City requires additional work outside of these specifications, the Contractor shall perform all work at a competitive industry price.
- b. Additional work may be added to the contract as the need arises. The Contractor shall perform all specified and approved additional work.
- c. The Contractor must be willing to provide a competitive price for additional work that may be added to the contract. Contractor will be required to demonstrate the ability to properly execute the expanded workload with the necessary increase in labor, materials and equipment.

SECTION III
SUBMITTALS

I. Bid Proposal

PROJECT NAME: **TREE MAINTENANCE SERVICES**

COMPANY NAME / CONTRACTOR'S LICENSE # / Class / Termination Date			
COMPANY ADDRESS	CITY	STATE	ZIP
NAME OF AUTHORIZED REPRESENTATIVE		TITLE	
REP. E-MAIL	TELEPHONE #	FAX #	

1. Proposal

(a) Bidder has examined copies of all the Contract Documents, including without limitation the Agreement wherein each of the other Contract Documents is identified, and accepts all the terms and conditions thereof.

(b) Bidder proposes and agrees, if this bid is accepted, to enter into an agreement with City in the form included in the Contract Documents to complete all work as specified in the Agreement for the contract price and within the contract time indicated in this bid and in accordance with the Contract Documents.

(c) This bid will remain open and not be withdrawn for the period specified in the Instructions to Bidders. If awarded the bid, bidder will sign the Agreement and submit the documents required by the Contract Documents within fifteen (15) days after the date of the award of the contract by the City Council.

(d) Bidder has examined the site and locality where the work is to be performed and the legal requirements and conditions affecting the cost, progress and performance of the work in strict accordance with the Contract Documents.

(e) The cost proposal must include a firm unit price for each tree maintenance service for Year 1 (February 1, 2024 – June 30, 2024), Year 2 (July 1, 2024 – June 30, 2025), and Year 3 (July 1, 2025 – June 30, 2026) that incorporates all aspects of the work plan and covers all tasks identified in the Scope of Work.

(f) It is expected that general, overhead, and administrative costs are included in the monthly fee. It will be assumed that all contingencies and/or anticipated escalations are included.

2. Price List

Complete the following list of tree maintenance needs:

Description	Unit	Price
Clearance Prune > 16 DSH	Each	
Clearance Prune 0-6 DSH	Each	
Clearance Prune 7-16 DSH	Each	
Emergency Response	Man Hour	
Full Prune > 16 DSH	Each	
Full Prune 0-6 DSH	Each	
Full Prune 7-16 DSH	Each	
GPS Tree Inventory	Each	
Grid Prune	Each	
Palm Prune	Each	
Plant 15 Gal w/o RB	Each	
Plant 15 Gal w/ RB	Each	
Plant 24" Box w/o RB	Each	
Plant 24" Box w/ RB	Each	
Specialty Equipment Rental	Hour	
Stump Only Removal	Inch	
Tree & Stump Removal > 36 DSH	Inch	
Tree & Stump Removal 0-36 DSH	Inch	

Other Services

Attach additional pages, if necessary, for other services not listed above.

Are there any other additional or incidental costs that will be required by your company in order to meet the requirements of the Scope of Work? YES NO

If you answered "YES," please provide detail of said additional costs:

Please indicate any elements of the Scope of Work that cannot be met by your company.

Have you included in your proposal all informational items and forms as requested? YES NO

If you answered "NO," please explain:

3. Addenda

Bidder acknowledges receipt of Addenda identified as:

4. Bidder Information

(a) Bidder has _____ years of experience as a contractor in tree maintenance.

(b) Please list at least 5 references of current or past contracts that are similar in scope or scale and provide Company/City name, contact and additional information. Attach additional pages if necessary.

COMPANY NAME
COMPANY ADDRESS

NAME OF AUTHORIZED REPRESENTATIVE		REP. E-MAIL	
TYPE(S) OF SERVICE PERFORMED	YEARS OF SERVICE	TELEPHONE #	

COMPANY NAME			
COMPANY ADDRESS			
NAME OF AUTHORIZED REPRESENTATIVE		REP. E-MAIL	
TYPE(S) OF SERVICE PERFORMED	YEARS OF SERVICE	TELEPHONE #	

COMPANY NAME			
COMPANY ADDRESS			
NAME OF AUTHORIZED REPRESENTATIVE		REP. E-MAIL	
TYPE(S) OF SERVICE PERFORMED	YEARS OF SERVICE	TELEPHONE #	

COMPANY NAME			
COMPANY ADDRESS			
NAME OF AUTHORIZED REPRESENTATIVE		REP. E-MAIL	
TYPE(S) OF SERVICE PERFORMED	YEARS OF SERVICE	TELEPHONE #	

COMPANY NAME		
COMPANY ADDRESS		
NAME OF AUTHORIZED REPRESENTATIVE		REP. E-MAIL
TYPE(S) OF SERVICE PERFORMED	YEARS OF SERVICE	TELEPHONE #

5. Designation of Subcontractors

Listed below is the portion of the work which will be done by any subcontractor.

Portion	<u>Subcontractor</u>	<u>Location of work</u>	<u>of work</u>
<hr/>			
<hr/>			
<hr/>			

6. Rejection or Acceptance of Bids

This offer shall remain firm for **90** days from RFP Response Due Date. Terms and conditions set forth in this RFP apply to this quote. My signature below indicated I have inspected and am familiar with the locations and areas specified in this RFP and the quote provided is a firm fee for all work.

The undersigned agrees that the City of Temple City reserves the right to reject any or all bids and reserves the right to waive informalities in a bid or bids not affected by law, if to do so seems to best serve the public interest.

Print Name

Signature of Representative

Company Name

Date

End of Bid Proposal

II. STATEMENT OF EXPERIENCE

The signatory of the Statement guarantees the truth and accuracy of all statements and of answers to all questions hereinafter made. Failure to accurately complete this Statement, or the making of any false statement therein, may render a Proposal non-responsive at the sole discretion of the Parks & Recreation Director. All portions must be completed. Contractors who do not thoroughly complete and return this form will be deemed nonresponsive and will be excluded from submitting a Proposal.

1. How many years has your firm been in business under its present business name?

2. Please list all other or former names under which your firm has operated.

3. How many years of similar tree maintenance services experience does your firm have?

4. Have you, your firm, or any officer or partner thereof, ever failed to complete a tree maintenance services contract?

If yes, give details, including dates: (Use another sheet of paper, if necessary)

5. Has your business ever been assessed damages or penalties for failing to perform tree maintenance services contract in a satisfactory manner or for failing to complete a contract within the scope of work specified in the Contract Documents?

If yes, give details, including dates: (Use another sheet of paper, if necessary)

6. In what other lines of business do you, your firm, or any partner thereof have a financial interest?

7. Does your business have any ongoing investigations by any agency regarding violations of the State Labor Code, California Business and Professions Code, or other laws?

If yes, give details, including dates: (Use another sheet of paper, if necessary)

8. Does your business have any outstanding judgments, demands or liens resulting from violations of the Business and Professions Code, the State Labor Code, Civil or Criminal decisions?

If yes, give details, including dates: (Use another sheet of paper, if necessary)

9. Has your firm been cited for violations of OSHA Standards and Requirements within the past five (5) years?

If yes, give details, including dates: (Use another sheet of paper, if necessary)

End of Statement of Experience

SECTION IV **EVALUATION**

EVALUATION CRITERIA

The City will review and evaluate all proposals based on the following criteria:

- 1. Qualifications of Business - 30%**
Strength and stability of the business; strength, stability, experience and of subcontractors; adequacy of labor commitment.
- 2. Qualifications of Personnel - 20%**
Qualifications, education and experience of staff; key personnel's level of involvement in performing related work.
- 3. Related Experience - 30%**
Experience in providing services similar to those requested herein; experience working with public agencies; assessment by client references.
- 4. Completeness of Response - 10%**
Completeness of response in accordance with RFP instructions; exceptions to or deviations from the RFP requirements; inclusion of required licenses and certifications.
- 5. Reasonableness of Cost and Price - 10%**
Reasonableness of the individual firm-fixed prices and/or hourly rates, and competitiveness of quoted firm-fixed prices with other proposals received; adequacy of the data in support of figures quoted; basis on which prices are quoted.

SECTION V
EXHIBITS

Exhibit A – City of Temple City Grid Pruning Map

City of Temple City 4-year Tree Trimming Cycle

Grids 6, 9 12 - 2026/2027

Grids 1, 2, 3 - 2023/2024

Grids 4, 8, 10 - 2024/2025

Grids 5, 7, 11 - 2025/2026

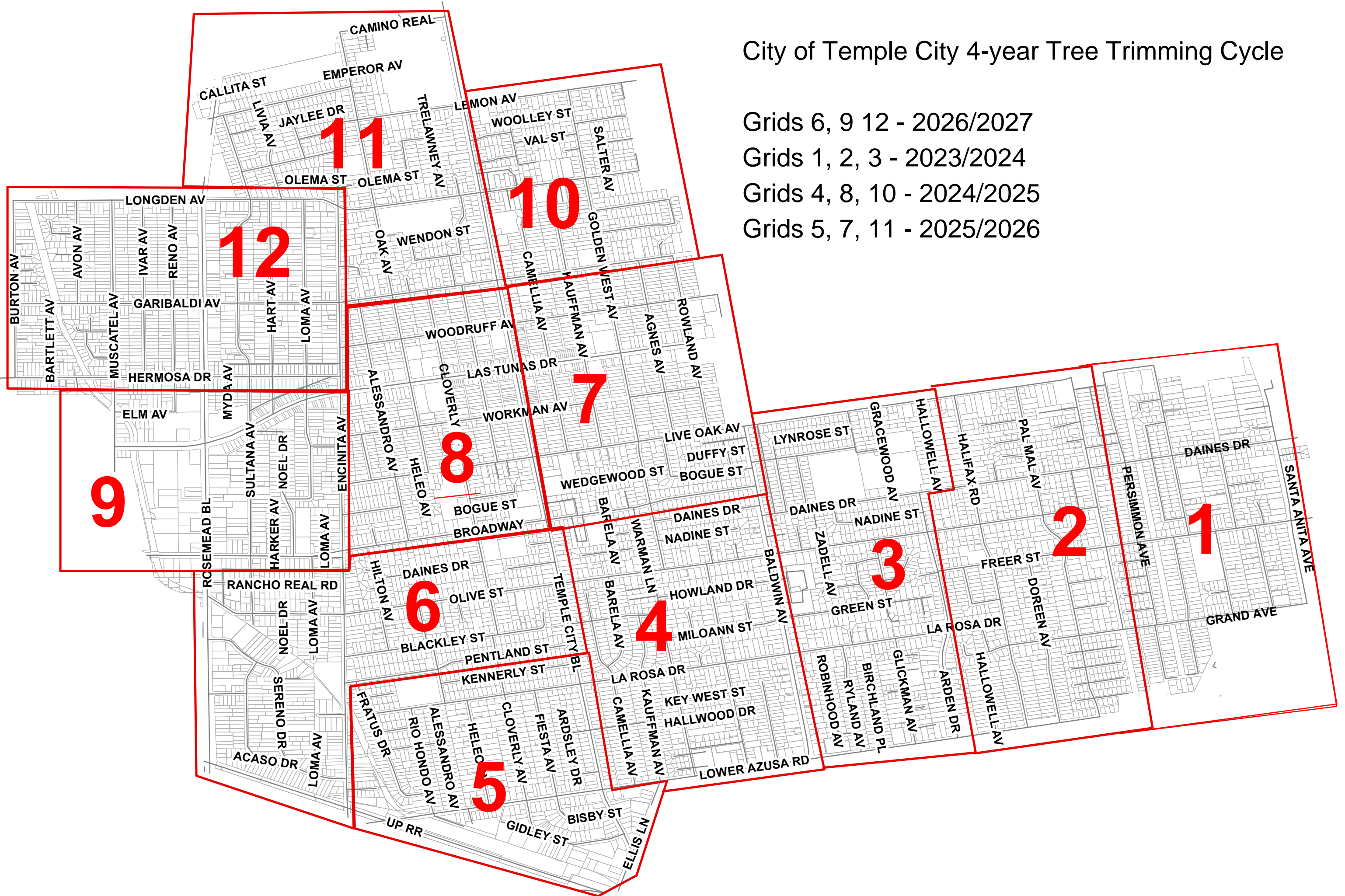


Exhibit B – Grid Tree Inventory

<u>Grid Number</u>	<u>Approximate # of Trees*</u>
1	357
2	409
3	540
4	562
5	210
6	548
7	618
8	458
9	236
10	317
11	470
12	594

** - Number is just an approximation. It is the contractors duty to determine exact number of trees within each grid and have the City of Temple City approve prior to commencing each grid.*

Exhibit C - Contract Agreement Template

Agreement FOR

_____ [NAME TYPE OF RECURRING OR NON-PROFESSIONAL SERVICE] _____

Between

THE CITY OF TEMPLE CITY

and

Dated

Agreement FOR

[name type of service]

This Agreement for [name type of service] (**Agreement**) is entered into as of the date referenced on the cover page (**Effective Date**) between the City of Temple City, a charter city and municipal corporation (**City**), and [redacted], a [redacted] (**Contractor**) (collectively the **Parties**). In consideration of the mutual promises and covenants made by the Parties and contained here and other consideration, the value and adequacy of which are hereby acknowledged, the Parties agree as follows:

SECTION 1. SCOPE OF SERVICES

1.1 **Term.** Subject to the provisions of Section 9 [Termination] of this Agreement, the term of this Agreement is for [redacted] year(s) commencing on [redacted] (**Term**). The Agreement may be renewed for up to an additional three (3) years upon mutual consent of the Parties.

1.2 **Contractor Services.** Subject to the terms and conditions of this Agreement, Contractor agrees to perform for City those tree maintenance services specified in the Scope of Services attached hereto and incorporated herein by reference as Exhibit "A" [Scope of Services] (**Services**). Contractor agrees to furnish, for the compensation provided for herein, all labor, materials, tools, equipment, services, and incidental and customary work necessary to fully and adequately perform and complete the Services. The Services shall be subject to inspection and approval by City. Contractor agrees to work closely with City staff in the performance of the Services and shall be available to City's staff and consultants at all reasonable times.

1.3 **Extra Work.** Contractor shall not be compensated for any work or services rendered in connection with its performance of this Agreement, which are in addition to or outside of the Services (**Extra Work**), except as expressly provided for herein. It shall be Contractor's responsibility to ensure that the scope and price of any Extra Work to be performed by Contractor is approved by City in writing in advance of Contractor's commencement of the Extra Work in accordance with Section 10.10 [Amendments] and Section 10.19 [Administration and Implementation]. City shall not be obligated to pay for or otherwise be liable for unauthorized Extra Work performed by Contractor.

1.4 **Schedule of Performance.** Contractor agrees to diligently perform and complete the Services in accordance with the schedule of performance attached hereto and incorporated herein by reference as Exhibit "B" [Schedule of Performance] (**Schedule of Performance**). Modifications to the Schedule of Performance must be agreed upon in writing in advance by the City Manager pursuant to Section 9.19 [Administration and Implementation] and Contractor.

1.5 **General Warranty.** Contractor warrants all Services under this Agreement (which for purposes of this Section shall be deemed to include unauthorized

Extra Work which has not been removed and any non-conforming materials incorporated into the Services) to be of good quality and free from any defective or faulty material and workmanship. All warranties and guarantees of subcontractors, suppliers and manufacturers with respect to any portion of the Services, whether express or implied, are deemed to be obtained by Contractor for the benefit of City, regardless of whether or not such warranties and guarantees have been transferred or assigned to City by separate agreement and Contractor agrees to enforce such warranties and guarantees, if necessary, on behalf of City.

1.6 Repair of Defects. Contractor agrees that for a period of one (1) year from and after final acceptance of the Services, or in any guarantee or warranty provided by any manufacturer or supplier of equipment or materials incorporated into the Services, whichever is later, Contractor shall within ten (10) days after being notified in writing by City of any defect in the Services or non-conformance of the Services, commence and prosecute with due diligence all work and services necessary to fulfill the terms of the warranty at its sole cost and expense. In addition, Contractor shall, at its sole cost and expense, repair and replace any portions of the work, facilities, fixtures, or materials damaged by its defective Services or which becomes damaged in the course of repairing or replacing defective Services. For any Services so corrected, Contractor's obligation hereunder to correct defective Services shall be reinstated for an additional one year period, commencing with the date of acceptance of such corrected Services. Contractor shall perform such tests as City may require to verify that any corrective actions are adequate to remedy the defective condition. In the event that Contractor fails to perform its obligations under this Section to the reasonable satisfaction of City, then City shall have the right to correct and replace any defective, non-conforming, or damaged Services at Contractor's sole expense. Contractor shall be obligated to fully reimburse City for any expenses incurred hereunder upon demand.

1.7 Contractor's Representative. Contractor hereby designates the representative named in Exhibit "D" [Representatives], 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. Contractor's Representative shall supervise and direct the Services, using his or her 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.

SECTION 2. COMPENSATION AND METHOD OF PAYMENT

2.1 Compensation. City shall pay to Contractor for non-disputed Services rendered, the compensation set forth in Exhibit "C" [Compensation] attached hereto and incorporated herein by reference. Total compensation to Contractor for the Services shall not exceed the total price or "not to exceed" amount set forth in Exhibit "C," without the prior written approval of City in accordance with Section 9.10 [Amendments] and Section 9.19 [Administration and Implementation].

2.2 Payment of Compensation. Contractor shall submit periodic (monthly or quarterly as specified in Exhibit "C") invoices together with an itemized statement of Services provided. The statement shall describe the Services provided together with such other reasonable detail and supporting documentation as may be required by the City Manager, or his/her designee. City will review the statement and pay, with the exception of any charges for work performed or expenses incurred by Contractor which are disputed by City, within 30 days of receiving such statement, all approved charges thereon. Payment to Contractor for work performed pursuant to this Agreement shall not be deemed to waive any defect in work performed by Contractor.

SECTION 3. RESPONSIBILITIES OF CONTRACTOR

3.1 Control and Payment of Subordinates; Independent Contractor. Contractor agrees that all Services shall be performed by Contractor or under its supervision. The personnel performing the Services under this Agreement on behalf of Contractor shall at all times be under the Contractor's exclusive direction and control. Contractor will determine the means, methods and details of performing the Services subject to the requirements of this Agreement. Contractor is and shall at all times remain a wholly independent contractor and not an officer, employee or agent of City. Contractor shall have no authority to bind City in any manner, nor to incur any obligation, debt or liability of any kind on behalf of or against City, whether by contract or otherwise, unless such authority is expressly conferred under this Agreement or is otherwise expressly conferred in writing by City. Neither Contractor, nor any of Contractor's officers, employees or agents, shall obtain any rights to retirement, healthcare or any other benefits which may otherwise accrue to City's employees. Contractor expressly waives any claim Contractor may have to any such rights.

3.2 Standard of Care and Licenses. Contractor agrees that all Services shall be performed 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 warrants that it, its employees and subcontractors shall have sufficient skill and experience to perform the Services and 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 in good standing throughout the term of this Agreement.

3.3 Required Corrections. Contractor shall perform, at its own expense and without reimbursement from the City, any work necessary to correct errors or omissions that are caused by the Contractor's failure to comply with the standard of care provided for herein.

3.4 Law and Regulations. 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 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 Services.

3.5 **Safety.** Contractor shall perform the Services, and maintain its work area, so as to avoid injury or damage to any person or property and shall otherwise 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.

3.6 **Labor Code and Prevailing Wage Requirements.**

3.6.1 Apprenticeable Crafts. To the extent applicable, Contractor shall comply with the provisions of Section 1777.5 of the Labor Code with respect to the employment of properly registered apprentices upon public works.

3.6.2 Hours of Work. Contractor shall comply with the legal days work and overtime requirements of Section 1813 of the Labor Code.

3.6.3 Payroll Records. In accordance with the requirements of Labor Code Section 1776, Contractor shall keep accurate payroll records which are either on forms provided by the Division of Labor Standards Enforcement or which contain the same information required by such forms. Contractor shall make all such records available for inspection at all reasonable hours.

3.6.4 Prevailing Wage Laws. Contractor represents and warrants that it 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 1600, 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 \$1,000 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 and Contractor shall provide City with proof that it and all of its subcontractors (if any) are registered with the Department of Industrial Relations as required by Labor Code Section 1725.5. 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 any location where the Services are performed.

3.7 **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, sexual orientation, 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.

3.8 **Unauthorized Aliens.** Contractor hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act, 8 U.S.C. §§

1101, et seq., as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein.

SECTION 4. INDEMNIFICATION

4.1 **Indemnity.** Except as to the sole negligence, active negligence, gross negligence or willful misconduct of City, Contractor shall indemnify, defend, and hold harmless the City, and its officers, employees and agents, from and against any and all causes of action, claims, liabilities, obligations, judgments, or damages, including reasonable legal counsels' fees and costs of litigation ("claims"), arising out of the Contractor's performance of its obligations under this Agreement or out of the operations conducted by Contractor, including the City's active or passive negligence, except for such loss or damage arising from the sole negligence or willful misconduct of the City. In the event the City indemnitees are made a party to any Action arising from Contractor's performance of this Agreement, the Contractor shall provide a defense to the City indemnitees or at the City's option, reimburse the City indemnities their costs of defense, including reasonable legal fees, incurred in defense of such claims. This Section shall apply to any acts or omissions, willful misconduct or negligent conduct, whether active or passive, on the part of Contractor's officers, directors, employees, agents and contractors, including but not limited to acts or omissions in any way related to, the release, treatment, use, generation, transportation, storage, or disposal in, on, under, to, or from the location at which work under this Agreement is performed of any Hazardous Substances by Contractor or its officers, directors, employees, agents, and subcontractors. The Parties expressly agree that any payment, or Costs and Expenses City incurs or makes to, or on behalf of, an injured employee under City's workers' compensation or other insurance, is included as a loss or Costs and Expenses for the purpose of this Section. City shall not be responsible for any acts, errors or omissions of any person or entity except City and its officers, agents, servants, employees or contractors. The Parties expressly agree that the obligations of Contractor under this Section shall survive the expiration or early termination of the Agreement and that payment by City is not a condition precedent to enforcement of this indemnity.

4.2 **Action.** For purposes of this Agreement, "Action" shall mean any suit (whether legal, equitable, or declaratory in nature), proceeding or hearing (whether administrative or judicial), arbitration or mediation (whether voluntary, court-ordered, binding, or non-binding), or other alternative dispute resolution process, and the filing, recording, or service of any process, notice, claim, demand, lien, or other instrument which is a prerequisite or prelude to commencement of the Action.

4.3 **Costs and Expenses.** For purposes of this Agreement, "Costs and Expenses" shall mean all costs and expenses, to the extent reasonable in amount, actually and necessarily incurred by a Party in good faith in the investigation, prosecution or defense of an Action, including, but not limited to, court costs, filing, recording, and service fees, copying costs, exhibit production costs, special media rental costs, attorneys fees, consultant fees, fees for investigators, witness fees (both lay and expert), travel expenses, deposition and transcript costs, and any other costs or

expenses, the award of which a court of competent jurisdiction may determine to be just and reasonable.

4.4 Hazardous Substances. For purposes of this Agreement, "Hazardous Substances" shall mean any and all of the following:

a. any substance, product, waste or other material of any nature whatsoever which is or becomes listed, regulated, or for which liability arises for misuse, pursuant to the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA"), 42 U.S.C. §9601, *et seq.*; the Hazardous Materials Transportation Act, 49 U.S.C. §1801, *et seq.*; the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. §6901, *et seq.*; the Toxic Substances Control Act, 15 U.S.C.S. §2601, *et seq.*; the Clean Water Act, 33 U.S.C. §1251, *et seq.*; the Insecticide, Fungicide, Rodenticide Act, 7 U.S.C. §136, *et seq.*; the Superfund Amendments and Reauthorization Act, 42 U.S.C. §6901, *et seq.*; the Clean Air Act, 42 U.S.C. §7401, *et seq.*; the Safe Drinking Water Act, 42 U.S.C. §300f, *et seq.*; the Solid Waste Disposal Act, 42 U.S.C. §6901, *et seq.*; the Surface Mining Control and Reclamation Act, 30 U.S.C. §1201, *et seq.*; the Emergency Planning and Community Right to Know Act, 42 U.S.C. §11001, *et seq.*; the Occupational Safety and Health Act, 29 U.S.C. §§655 and 657; the Hazardous Waste Control Act, California Health and Safety Code ("H.&S.C.") §25100, *et seq.*; the Hazardous Substance Account Act, H.&S.C. §25330, *et seq.*; the California Safe Drinking Water and Toxic Enforcement Act, H.&S.C. §25249.5, *et seq.*; the Underground Storage of Hazardous Substances, H.&S.C. §25280, *et seq.*; the Carpenter-Presley-Tanner Hazardous Substance Account Act, H.&S.C. §25300, *et seq.*; the Hazardous Waste Management Act, H.&S.C. §25170.1, *et seq.*; the Hazardous Materials Response Plans and Inventory, H.&S.C. §25001, *et seq.*; the Porter-Cologne Water Quality Control Act, Water Code §13000, *et seq.*, all as they may from time to time be amended; and

b. any substance, product, waste or other material of any nature whatsoever which is or becomes listed, regulated, or for which liability for misuse arises pursuant to any other federal, state or local statute, law, ordinance, resolution, code, rule, regulation, order or decree due to its hazardous, toxic or dangerous nature.

SECTION 5. RECORDS AND DOCUMENTS

5.1 Accounting Records.

5.1.1 Maintenance and Inspection. Contractor shall maintain complete and accurate records with respect to all expenses incurred under this Agreement. Any and all such documents or records shall be maintained in accordance with generally accepted accounting principles and shall be sufficiently complete and detailed so as to permit an accurate evaluation of the Services provided by Contractor pursuant to this Agreement. All such records shall be clearly identifiable.

5.1.2 Inspection and Copying. 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. At no cost to City, Contractor shall provide copies of such documents or records directly to the City for inspection, audit and copying when it is practical to do so; otherwise, unless an alternative is mutually agreed upon, such documents and records shall be made available at Contractor's address indicated for receipt of notices in this Agreement.

5.2 Ownership of Documents. All original maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files and other documents prepared, developed or discovered by Contractor in the course of providing the Services shall become the sole property of City and may be used, reused or otherwise disposed of by the City without the permission of the Contractor. Upon completion, expiration or termination of this Agreement, Contractor shall turn over to City all such original maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files and other documents

SECTION 6. [intentionally removed]

[intentionally removed].

SECTION 7. NON-LIABILITY OF CITY OFFICERS AND EMPLOYEES

No officer or employee of City will be personally liable to Contractor in the event of any default or breach by the City or for any amount that may become due to Contractor.

SECTION 8. BONDS

8.1 Performance and Payment Bonds. If required by law or specifically required by City as set forth in Exhibit "E" [Bonds Required], attached hereto and incorporated herein by reference, Contractor shall execute and provide to City concurrently with Contractor's execution of this Agreement, but in no event later than the Effective Date of this Agreement, a Performance Bond and/or a Payment Bond in the amount of the total, not-to-exceed compensation indicated in Exhibit C, and in a form provided or approved by the City.

8.2 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 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, without further notice from 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.

8.3 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.

SECTION 9. TERMINATION.

9.1 Termination by City. City may, by written notice to Contractor, terminate with or without cause, and without any prior notice of default or right to cure by Contractor, the whole or any part of this Agreement at any time and by giving written notice to Contractor of such termination, and specifying the effective date thereof, at least thirty (30) days before the effective date of such termination. Upon termination, Contractor shall be compensated only for those non-disputed Services that have been adequately rendered to City, and Contractor shall be entitled to no further compensation.

9.2 Termination by Contractor. Contractor may, by written notice to City, terminate this Agreement based upon City's failure to timely cure a default under this Agreement as provided herein. At least forty-five (45) days prior to termination, Contractor shall provide City with a written notice specifying City's alleged default and providing City with a forty-five (45) day period to cure the default. Should City timely cure such default, the Agreement shall continue. Should City fail to timely or adequately cure such default, Contractor may terminate this Agreement by issuance of written notice to City.

SECTION 10. GENERAL PROVISIONS

10.1 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.

10.2 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.

10.3 Liquidated Damages. The Parties agree that City has a legitimate interest in ensuring that Contractor provides the Services (including performance of all duties and responsibilities) required under this Agreement in a consistent and reliable manner, and that Contractor's failure to timely provide such Services or to provide them in an inadequate manner will cause City to suffer damages and that it is, and will be, impractical and extremely difficult to ascertain and determine the exact amount of damages or to calculate actual damages. Therefore, in addition to City's right to treat such non-performance as a material breach of, and to terminate, this Agreement, the Parties agree that liquidated damages, as provided herein, represent a reasonable estimate of the monetary damages that reasonably could be anticipated and that proof of actual damages would be costly or impractical. The Parties specifically confirm the accuracy of the statements made above and the fact that each Party has had ample opportunity to consult with legal counsel and obtain an explanation of the liquidated damage provisions at the time that the Agreement was made. Therefore, in lieu of actual damages, Contractor is subject to payment of \$500 per failure to perform, per day. City may, at its election, deduct any assessed liquidated damages from payment due, or that will become due, to Contractor from City.

10.4 Excusable Delays. Contractor shall not be liable for damages, including liquidated damages, if any, caused by delay in performance of failure to perform due to causes beyond the control of Contractor. Such causes include, but are not limited to, acts of God, acts of the public enemy, acts of federal, state or local governments, acts of City, court orders, fires, floods, epidemics, strikes, embargoes, and unusually severe weather. The term and price of this Agreement shall be equitably adjusted for any delays due to such causes.

10.5 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 the Agreement.

10.6 Governing Law. This Agreement shall be interpreted, construed and governed according to the laws of the State of California. In the event of litigation between the Parties, venue in state trial courts shall lie exclusively in the County of Los Angeles. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Central District of California, located in Los Angeles, California.

10.7 Integration. This Agreement, including the attached Exhibits "A" through "F", is the entire, complete, final and exclusive expression of the Parties with respect to the matters addressed therein and supersedes all other agreements or understandings, whether oral or written, or entered into between Contractor and City prior to the execution of this Agreement. No statements, representations or other agreements, whether oral or written, made by any party which are not embodied herein shall be valid and binding.

10.8 **Severability.** If a term, condition or covenant of this Agreement is declared or determined by any court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Agreement shall not be affected thereby and the Agreement shall be read and construed without the invalid, void or unenforceable provision(s).

10.9 **Prohibited Interests.** Contractor represents 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.

10.10 **Amendments.** No amendment to or modification of this Agreement shall be valid unless made in writing and approved by Contractor and City. The City Manager shall have the authority to approve any amendment to this Agreement if the total compensation under this Agreement, as amended, would not exceed the City Manager's contracting authority under the Temple City Municipal Code. All other amendments shall be approved by the City Council. The Parties agree that the requirement for amendments or modifications to be in writing cannot be waived and that any attempted waiver shall be void.

10.11 **No Third Party Beneficiaries.** There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

10.12 **Delivery of Notices.** All notices required or permitted to be given under this Agreement shall be in writing and shall be given to the respective Parties at the addresses listed in Exhibit "D", or at such other address as the respective Parties may provide in writing for this purpose. 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.

10.13 **Binding Effect.** This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the Parties.

10.14 **Waiver.** Waiver by any Party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any Party or any breach of the provisions of this Agreement shall not constitute a waiver of any other provision, nor a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any Services by Contractor shall not constitute a waiver of any of the provisions of this Agreement.

10.15 **Attorneys Fees, Costs and Expenses.** In the event litigation or other proceeding is required to enforce or interpret any provision of this Agreement, the

prevailing party in such litigation or other proceeding shall be entitled to an award of reasonable attorney's fees and Costs and Expenses, in addition to any other relief to which it may be entitled.

10.16 **Subcontracting.** Contractor shall not subcontract any portion of the Services, except as expressly stated herein, without prior written approval of City. Subcontracts, if any, shall contain a provision making them subject to all provisions of this Agreement.

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

10.18 **Authority to Execute.** The person or persons executing this Agreement on behalf of Contractor represents and warrants that he/she/they has/have the authority to so execute this Agreement and to bind Contractor to the performance of its obligations hereunder.

10.19 **Administration and Implementation.** This Agreement shall be administered and executed by the City Manager or his or her designated representative. The City Manager shall have the authority to issue interpretations and to make amendments to this Agreement, including amendments that commit additional funds, consistent with Section 9.10 [Amendment] and the City Manager's contracting authority under the Temple City Municipal Code.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed the day and year first above written.

CITY OF TEMPLE CITY

Bryan Cook, City Manager

ATTEST:

Peggy Kuo, City Clerk

APPROVED AS TO FORM:

Gregory Murphy, City Attorney

CONTRACTOR:

By: _____
(Authorized Officer)

Name: _____

Title: _____

(2nd signature required if Corporation, Incorporation or Limited Liability Corporation)

By: _____
(Authorized Officer)

Name: _____

Title: _____

EXHIBIT "A" SCOPE OF SERVICES

Contractor will furnish all necessary equipment, materials and personnel for the completion of the work in a timely and organized manner.

[set out services]

EXHIBIT "B" SCHEDULE OF PERFORMANCE

Contractor shall provide services identified in Exhibit "A" on a **daily, weekly, monthly** basis as requested by City.

[provide specifics]

EXHIBIT "C" COMPENSATION

EXHIBIT "D" REPRESENTATIVES

City of Temple City
Attn: **Name of Department**
9701 Las Tunas Drive
Temple City, California 91780

Contractor:

EXHIBIT "E" BONDS REQUIRED

EXHIBIT “F” INSURANCE REQUIREMENTS FOR CITY OF TEMPLE CITY

Without limiting Contractor’s indemnification of City, and prior to commencement of Work, Contractor shall obtain, provide and maintain at its own expense during the term of this Agreement, policies of insurance of the type and amounts indicated below by check marks, described more fully below, and in a form that is satisfactory to City.

 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.

 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.

 Umbrella or excess liability insurance. [Optional depending on limits required] Contractor shall 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 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;
- Pay on behalf of wording as opposed to reimbursement;
- Concurrency of effective dates with primary policies;
- Policies shall “follow form” to the underlying primary policies; and
- Insureds under primary policies shall also be insureds under the umbrella or excess policies.

 Workers’ compensation insurance. Contractor shall maintain Workers’ Compensation Insurance (Statutory Limits) and Employer’s Liability Insurance (with limits of at least \$1,000,000).

Other provisions or requirements for insurance:

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.

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 agents, representatives, employees or subconsultants.

Primary/noncontributing. 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.

Agency'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.

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.

Waiver of subrogation. All insurance coverage maintained or procured pursuant to this Agreement shall be endorsed to waive subrogation against City, its elected or appointed officers, agents, officials, employees and volunteers 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 City, and shall

require similar written express waivers and insurance clauses from each of its subconsultants.

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.

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.

Notice of cancellation. Contractor agrees to oblige its insurance agent or broker and insurers to provide to 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.

Additional insured status. General liability policies shall provide or be endorsed to provide that City and its officers, officials, employees, and agents shall be additional insureds under such policies. This provision shall also apply to any excess/umbrella liability policies.

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.

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.

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.

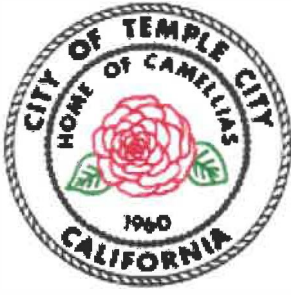
Contractor agrees that upon request, all AgreementS with consultants, subcontractors, and others engaged in the project will be submitted to City for review.

Agency's right to revise specifications. The City 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 substantial additional cost to the Contractor, the City and Contractor may renegotiate Contractor's compensation.

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.

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.

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.



9701 Las Tunas Drive • Temple City • California 91780 • 626-285-2171

February 7, 2024

West Coast Arborist, Inc.
2200 Via Burton
Anaheim, CA 92806
c/o Mr. Victor Gonzalez, M.A.
Vice President, Business Development

Re: Agreement with City of Temple City

Mr. Gonzalez,

The City Council at their regular meeting on January 16, 2024, approved the services agreement between City of Temple City and West Coast Arborist.

Enclosed please find a fully executed agreement for your record.

Should you have any questions, please do not hesitate to contact Mr. Adam Matsumoto, Parks and Recreation Director at (626) 579-0461.

Sincerely,

A handwritten signature in blue ink, appearing to read "Peggy Kuo".

Peggy Kuo
City Clerk

Enclosures

**Agreement FOR
TREE MAINTENANCE SERVICES**

Between

THE CITY OF TEMPLE CITY

And

WEST COAST ARBORISTS, INC.

Dated:

January 16, 2024

Agreement FOR TREE MAINTENANCE SERVICES

This Agreement for tree maintenance services ("**Agreement**") is entered into as of the date referenced on the cover page ("**Effective Date**") between the City of Temple City, a charter city and municipal corporation ("**City**"), and West Coast Arborists, Inc., a ("**Contractor**") (collectively the "**Parties**"). In consideration of the mutual promises and covenants made by the Parties and contained here and other consideration, the value and adequacy of which are hereby acknowledged, the Parties agree as follows:

SECTION 1. SCOPE OF SERVICES

1.1 **Term.** Subject to the provisions of Section 9 [Termination] of this Agreement, the term of this Agreement is for two (2) years and five (5) months commencing on February 1, 2024 ("**Term**"). The Agreement may be renewed for up to an additional three (3) years upon mutual consent of the Parties.

1.2 **Contractor Services.** Subject to the terms and conditions of this Agreement, Contractor agrees to perform for City those tree maintenance services specified in the Scope of Services attached hereto and incorporated herein by reference as Exhibit "A" [Scope of Services] ("**Services**"). Contractor agrees to furnish, for the compensation provided for herein, all labor, materials, tools, equipment, services, and incidental and customary work necessary to fully and adequately perform and complete the Services. The Services shall be subject to inspection and approval by City. Contractor agrees to work closely with City staff in the performance of the Services and shall be available to City's staff and consultants at all reasonable times.

1.3 **Extra Work.** Contractor shall not be compensated for any work or services rendered in connection with its performance of this Agreement, which are in addition to or outside of the Services ("**Extra Work**"), except as expressly provided for herein. It shall be Contractor's responsibility to ensure that the scope and price of any Extra Work to be performed by Contractor is approved by City in writing in advance of Contractor's commencement of the Extra Work in accordance with Section 10.10 [Amendments] and Section 10.19 [Administration and Implementation]. City shall not be obligated to pay for or otherwise be liable for unauthorized Extra Work performed by Contractor.

1.4 **Schedule of Performance.** Contractor agrees to diligently perform and complete the Services in accordance with the schedule of performance attached hereto and incorporated herein by reference as Exhibit "B" [Schedule of Performance] ("**Schedule of Performance**"). Modifications to the Schedule of Performance must be agreed upon in writing in advance by the City Manager pursuant to Section 9.19 [Administration and Implementation] and Contractor.

1.5 **General Warranty.** Contractor warrants all Services under this Agreement (which for purposes of this Section shall be deemed to include unauthorized

Extra Work which has not been removed and any non-conforming materials incorporated into the Services) to be of good quality and free from any defective or faulty material and workmanship. All warranties and guarantees of subcontractors, suppliers and manufacturers with respect to any portion of the Services, whether express or implied, are deemed to be obtained by Contractor for the benefit of City, regardless of whether or not such warranties and guarantees have been transferred or assigned to City by separate agreement and Contractor agrees to enforce such warranties and guarantees, if necessary, on behalf of City.

1.6 Repair of Defects. Contractor agrees that for a period of one (1) year from and after final acceptance of the Services, or in any guarantee or warranty provided by any manufacturer or supplier of equipment or materials incorporated into the Services, whichever is later, Contractor shall within ten (10) days after being notified in writing by City of any defect in the Services or non-conformance of the Services, commence and prosecute with due diligence all work and services necessary to fulfill the terms of the warranty at its sole cost and expense. In addition, Contractor shall, at its sole cost and expense, repair and replace any portions of the work, facilities, fixtures, or materials damaged by its defective Services or which becomes damaged in the course of repairing or replacing defective Services. For any Services so corrected, Contractor's obligation hereunder to correct defective Services shall be reinstated for an additional one year period, commencing with the date of acceptance of such corrected Services. Contractor shall perform such tests as City may require to verify that any corrective actions are adequate to remedy the defective condition. In the event that Contractor fails to perform its obligations under this Section to the reasonable satisfaction of City, then City shall have the right to correct and replace any defective, non-conforming, or damaged Services at Contractor's sole expense. Contractor shall be obligated to fully reimburse City for any expenses incurred hereunder upon demand.

1.7 Contractor's Representative. Contractor hereby designates the representative named in Exhibit "D" [Representatives], 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. Contractor's Representative shall supervise and direct the Services, using his or her 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.

SECTION 2. COMPENSATION AND METHOD OF PAYMENT

2.1 Compensation. City shall pay to Contractor for non-disputed Services rendered, the compensation set forth in Exhibit "C" [Compensation] attached hereto and incorporated herein by reference. Total compensation to Contractor for the Services shall not exceed the total price or "not to exceed" amount set forth in Exhibit "C," without the prior written approval of City in accordance with Section 9.10 [Amendments] and Section 9.19 [Administration and Implementation].

2.2 Payment of Compensation. Contractor shall submit periodic (monthly or quarterly as specified in Exhibit "C") invoices together with an itemized statement of Services provided. The statement shall describe the Services provided together with such other reasonable detail and supporting documentation as may be required by the City Manager, or his/her designee. City will review the statement and pay, with the exception of any charges for work performed or expenses incurred by Contractor which are disputed by City, within 30 days of receiving such statement, all approved charges thereon. Payment to Contractor for work performed pursuant to this Agreement shall not be deemed to waive any defect in work performed by Contractor.

SECTION 3. RESPONSIBILITIES OF CONTRACTOR

3.1 Control and Payment of Subordinates; Independent Contractor. Contractor agrees that all Services shall be performed by Contractor or under its supervision. The personnel performing the Services under this Agreement on behalf of Contractor shall at all times be under the Contractor's exclusive direction and control. Contractor will determine the means, methods and details of performing the Services subject to the requirements of this Agreement. Contractor is and shall at all times remain a wholly independent contractor and not an officer, employee or agent of City. Contractor shall have no authority to bind City in any manner, nor to incur any obligation, debt or liability of any kind on behalf of or against City, whether by contract or otherwise, unless such authority is expressly conferred under this Agreement or is otherwise expressly conferred in writing by City. Neither Contractor, nor any of Contractor's officers, employees or agents, shall obtain any rights to retirement, healthcare or any other benefits which may otherwise accrue to City's employees. Contractor expressly waives any claim Contractor may have to any such rights.

3.2 Standard of Care and Licenses. Contractor agrees that all Services shall be performed 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 warrants that it, its employees and subcontractors shall have sufficient skill and experience to perform the Services and 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 in good standing throughout the term of this Agreement.

3.3 Required Corrections. Contractor shall perform, at its own expense and without reimbursement from the City, any work necessary to correct errors or omissions that are caused by the Contractor's failure to comply with the standard of care provided for herein.

3.4 Law and Regulations. 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 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 Services.

3.5 **Safety.** Contractor shall perform the Services, and maintain its work area, so as to avoid injury or damage to any person or property and shall otherwise 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.

3.6 **Labor Code and Prevailing Wage Requirements.**

3.6.1 Apprenticeable Crafts. To the extent applicable, Contractor shall comply with the provisions of Section 1777.5 of the Labor Code with respect to the employment of properly registered apprentices upon public works.

3.6.2 Hours of Work. Contractor shall comply with the legal days work and overtime requirements of Section 1813 of the Labor Code.

3.6.3 Payroll Records. In accordance with the requirements of Labor Code Section 1776, Contractor shall keep accurate payroll records which are either on forms provided by the Division of Labor Standards Enforcement or which contain the same information required by such forms. Contractor shall make all such records available for inspection at all reasonable hours.

3.6.4 Prevailing Wage Laws. Contractor represents and warrants that it 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 1600, 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 \$1,000 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 and Contractor shall provide City with proof that it and all of its subcontractors (if any) are registered with the Department of Industrial Relations as required by Labor Code Section 1725.5. 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 any location where the Services are performed.

3.7 **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, sexual orientation, 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.

3.8 **Unauthorized Aliens.** Contractor hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act, 8 U.S.C. §§

1101, et seq., as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein.

SECTION 4. INDEMNIFICATION

4.1 Indemnity. Except as to the sole negligence, active negligence, gross negligence or willful misconduct of City, Contractor shall indemnify, defend, and hold harmless the City, and its officers, employees and agents, from and against any and all causes of action, claims, liabilities, obligations, judgments, or damages, including reasonable legal counsels' fees and costs of litigation ("claims"), arising out of the Contractor's performance of its obligations under this Agreement or out of the operations conducted by Contractor, including the City's active or passive negligence, except for such loss or damage arising from the sole negligence or willful misconduct of the City. In the event the City indemnitees are made a party to any Action arising from Contractor's performance of this Agreement, the Contractor shall provide a defense to the City indemnitees or at the City's option, reimburse the City indemnities their costs of defense, including reasonable legal fees, incurred in defense of such claims. This Section shall apply to any acts or omissions, willful misconduct or negligent conduct, whether active or passive, on the part of Contractor's officers, directors, employees, agents and contractors, including but not limited to acts or omissions in any way related to, the release, treatment, use, generation, transportation, storage, or disposal in, on, under, to, or from the location at which work under this Agreement is performed of any Hazardous Substances by Contractor or its officers, directors, employees, agents, and subcontractors. The Parties expressly agree that any payment, or Costs and Expenses City incurs or makes to, or on behalf of, an injured employee under City's workers' compensation or other insurance, is included as a loss or Costs and Expenses for the purpose of this Section. City shall not be responsible for any acts, errors or omissions of any person or entity except City and its officers, agents, servants, employees or contractors. The Parties expressly agree that the obligations of Contractor under this Section shall survive the expiration or early termination of the Agreement and that payment by City is not a condition precedent to enforcement of this indemnity.

4.2 Action. For purposes of this Agreement, "Action" shall mean any suit (whether legal, equitable, or declaratory in nature), proceeding or hearing (whether administrative or judicial), arbitration or mediation (whether voluntary, court-ordered, binding, or non-binding), or other alternative dispute resolution process, and the filing, recording, or service of any process, notice, claim, demand, lien, or other instrument which is a prerequisite or prelude to commencement of the Action.

4.3 Costs and Expenses. For purposes of this Agreement, "Costs and Expenses" shall mean all costs and expenses, to the extent reasonable in amount, actually and necessarily incurred by a Party in good faith in the investigation, prosecution or defense of an Action, including, but not limited to, court costs, filing, recording, and service fees, copying costs, exhibit production costs, special media rental costs, attorneys fees, consultant fees, fees for investigators, witness fees (both lay and expert), travel expenses, deposition and transcript costs, and any other costs or

expenses, the award of which a court of competent jurisdiction may determine to be just and reasonable.

4.4 Hazardous Substances. For purposes of this Agreement, "Hazardous Substances" shall mean any and all of the following:

a. any substance, product, waste or other material of any nature whatsoever which is or becomes listed, regulated, or for which liability arises for misuse, pursuant to the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA"), 42 U.S.C. §9601, *et seq.*; the Hazardous Materials Transportation Act, 49 U.S.C. §1801, *et seq.*; the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. §6901, *et seq.*; the Toxic Substances Control Act, 15 U.S.C.S. §2601, *et seq.*; the Clean Water Act, 33 U.S.C. §1251, *et seq.*; the Insecticide, Fungicide, Rodenticide Act, 7 U.S.C. §136, *et seq.*; the Superfund Amendments and Reauthorization Act, 42 U.S.C. §6901, *et seq.*; the Clean Air Act, 42 U.S.C. §7401, *et seq.*; the Safe Drinking Water Act, 42 U.S.C. §300f, *et seq.*; the Solid Waste Disposal Act, 42 U.S.C. §6901, *et seq.*; the Surface Mining Control and Reclamation Act, 30 U.S.C. §1201, *et seq.*; the Emergency Planning and Community Right to Know Act, 42 U.S.C. §11001, *et seq.*; the Occupational Safety and Health Act, 29 U.S.C. §§655 and 657; the Hazardous Waste Control Act, California Health and Safety Code ("H.&S.C.") §25100, *et seq.*; the Hazardous Substance Account Act, H.&S.C. §25330, *et seq.*; the California Safe Drinking Water and Toxic Enforcement Act, H.&S.C. §25249.5, *et seq.*; the Underground Storage of Hazardous Substances, H.&S.C. §25280, *et seq.*; the Carpenter-Presley-Tanner Hazardous Substance Account Act, H.&S.C. §25300, *et seq.*; the Hazardous Waste Management Act, H.&S.C. §25170.1, *et seq.*; the Hazardous Materials Response Plans and Inventory, H.&S.C. §25001, *et seq.*; the Porter-Cologne Water Quality Control Act, Water Code §13000, *et seq.*, all as they may from time to time be amended; and

b. any substance, product, waste or other material of any nature whatsoever which is or becomes listed, regulated, or for which liability for misuse arises pursuant to any other federal, state or local statute, law, ordinance, resolution, code, rule, regulation, order or decree due to its hazardous, toxic or dangerous nature.

SECTION 5. RECORDS AND DOCUMENTS

5.1 Accounting Records.

5.1.1 Maintenance and Inspection. Contractor shall maintain complete and accurate records with respect to all expenses incurred under this Agreement. Any and all such documents or records shall be maintained in accordance with generally accepted accounting principles and shall be sufficiently complete and detailed so as to permit an accurate evaluation of the Services provided by Contractor pursuant to this Agreement. All such records shall be clearly identifiable.

5.1.2 Inspection and Copying. 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. At no cost to City, Contractor shall provide copies of such documents or records directly to the City for inspection, audit and copying when it is practical to do so; otherwise, unless an alternative is mutually agreed upon, such documents and records shall be made available at Contractor's address indicated for receipt of notices in this Agreement.

5.2 Ownership of Documents. All original maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files and other documents prepared, developed or discovered by Contractor in the course of providing the Services shall become the sole property of City and may be used, reused or otherwise disposed of by the City without the permission of the Contractor. Upon completion, expiration or termination of this Agreement, Contractor shall turn over to City all such original maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files and other documents

SECTION 6. [intentionally removed]

[intentionally removed].

SECTION 7. NON-LIABILITY OF CITY OFFICERS AND EMPLOYEES

No officer or employee of City will be personally liable to Contractor in the event of any default or breach by the City or for any amount that may become due to Contractor.

SECTION 8. BONDS

8.1 Performance and Payment Bonds. If required by law or specifically required by City as set forth in Exhibit "E" [Bonds Required], attached hereto and incorporated herein by reference, Contractor shall execute and provide to City concurrently with Contractor's execution of this Agreement, but in no event later than the Effective Date of this Agreement, a Performance Bond and/or a Payment Bond in the amount of the total, not-to-exceed compensation indicated in Exhibit C, and in a form provided or approved by the City.

8.2 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 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, without further notice from 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.

8.3 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.

SECTION 9. TERMINATION.

9.1 Termination by City. City may, by written notice to Contractor, terminate with or without cause, and without any prior notice of default or right to cure by Contractor, the whole or any part of this Agreement at any time and by giving written notice to Contractor of such termination, and specifying the effective date thereof, at least thirty (30) days before the effective date of such termination. Upon termination, Contractor shall be compensated only for those non-disputed Services that have been adequately rendered to City, and Contractor shall be entitled to no further compensation.

9.2 Termination by Contractor. Contractor may, by written notice to City, terminate this Agreement based upon City's failure to timely cure a default under this Agreement as provided herein. At least forty-five (45) days prior to termination, Contractor shall provide City with a written notice specifying City's alleged default and providing City with a forty-five (45) day period to cure the default. Should City timely cure such default, the Agreement shall continue. Should City fail to timely or adequately cure such default, Contractor may terminate this Agreement by issuance of written notice to City.

SECTION 10. GENERAL PROVISIONS

10.1 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.

10.2 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.

10.3 Liquidated Damages. The Parties agree that City has a legitimate interest in ensuring that Contractor provides the Services (including performance of all duties and responsibilities) required under this Agreement in a consistent and reliable manner, and that Contractor's failure to timely provide such Services or to provide them in an inadequate manner will cause City to suffer damages and that it is, and will be, impractical and extremely difficult to ascertain and determine the exact amount of damages or to calculate actual damages. Therefore, in addition to City's right to treat such non-performance as a material breach of, and to terminate, this Agreement, the Parties agree that liquidated damages, as provided herein, represent a reasonable estimate of the monetary damages that reasonably could be anticipated and that proof of actual damages would be costly or impractical. The Parties specifically confirm the accuracy of the statements made above and the fact that each Party has had ample opportunity to consult with legal counsel and obtain an explanation of the liquidated damage provisions at the time that the Agreement was made. Therefore, in lieu of actual damages, Contractor is subject to payment of \$500 per failure to perform, per day. City may, at its election, deduct any assessed liquidated damages from payment due, or that will become due, to Contractor from City.

10.4 Excusable Delays. Contractor shall not be liable for damages, including liquidated damages, if any, caused by delay in performance or failure to perform due to causes beyond the control of Contractor. Such causes include, but are not limited to, acts of God, acts of the public enemy, acts of federal, state or local governments, acts of City, court orders, fires, floods, epidemics, strikes, embargoes, and unusually severe weather. The term and price of this Agreement shall be equitably adjusted for any delays due to such causes.

10.5 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 the Agreement.

10.6 Governing Law. This Agreement shall be interpreted, construed and governed according to the laws of the State of California. In the event of litigation between the Parties, venue in state trial courts shall lie exclusively in the County of Los Angeles. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Central District of California, located in Los Angeles, California.

10.7 Integration. This Agreement, including the attached Exhibits "A" through "F", is the entire, complete, final and exclusive expression of the Parties with respect to the matters addressed therein and supersedes all other agreements or understandings, whether oral or written, or entered into between Contractor and City prior to the execution of this Agreement. No statements, representations or other agreements, whether oral or written, made by any party which are not embodied herein shall be valid and binding.

10.8 **Severability.** If a term, condition or covenant of this Agreement is declared or determined by any court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Agreement shall not be affected thereby and the Agreement shall be read and construed without the invalid, void or unenforceable provision(s).

10.9 **Prohibited Interests.** Contractor represents 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.

10.10 **Amendments.** No amendment to or modification of this Agreement shall be valid unless made in writing and approved by Contractor and City. The City Manager shall have the authority to approve any amendment to this Agreement if the total compensation under this Agreement, as amended, would not exceed the City Manager's contracting authority under the Temple City Municipal Code. All other amendments shall be approved by the City Council. The Parties agree that the requirement for amendments or modifications to be in writing cannot be waived and that any attempted waiver shall be void.

10.11 **No Third Party Beneficiaries.** There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

10.12 **Delivery of Notices.** All notices required or permitted to be given under this Agreement shall be in writing and shall be given to the respective Parties at the addresses listed in Exhibit "D", or at such other address as the respective Parties may provide in writing for this purpose. 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.

10.13 **Binding Effect.** This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the Parties.

10.14 **Waiver.** Waiver by any Party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any Party or any breach of the provisions of this Agreement shall not constitute a waiver of any other provision, nor a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any Services by Contractor shall not constitute a waiver of any of the provisions of this Agreement.

10.15 **Attorneys Fees, Costs and Expenses.** In the event litigation or other proceeding is required to enforce or interpret any provision of this Agreement, the

prevailing party in such litigation or other proceeding shall be entitled to an award of reasonable attorney's fees and Costs and Expenses, in addition to any other relief to which it may be entitled.

10.16 **Subcontracting.** Contractor shall not subcontract any portion of the Services, except as expressly stated herein, without prior written approval of City. Subcontracts, if any, shall contain a provision making them subject to all provisions of this Agreement.

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

10.18 **Authority to Execute.** The person or persons executing this Agreement on behalf of Contractor represents and warrants that he/she/they has/have the authority to so execute this Agreement and to bind Contractor to the performance of its obligations hereunder.

10.19 **Administration and Implementation.** This Agreement shall be administered and executed by the City Manager or his or her designated representative. The City Manager shall have the authority to issue interpretations and to make amendments to this Agreement, including amendments that commit additional funds, consistent with Section 9.10 [Amendment] and the City Manager's contracting authority under the Temple City Municipal Code.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed the day and year first above written.

CITY OF TEMPLE CITY



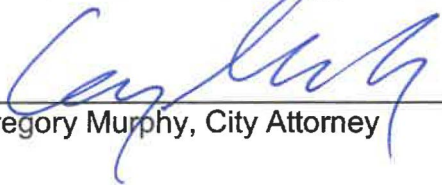
Bryan Cook, City Manager

ATTEST:




Peggy Kuo, City Clerk

APPROVED AS TO FORM:




Gregory Murphy, City Attorney

CONTRACTOR:

By: 

(Authorized Officer)
Name: Patrick Mahoney
Title: President

(2nd signature required if Corporation, Incorporation or Limited Liability Corporation)

By: 

(Authorized Officer)
Name: Richard Mahoney
Title: Secretary

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

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 Orange)
On 1/17/24 before me, Amelia Menzel, Notary Public,
Date Here Insert Name and Title of the Officer
personally appeared Patrick Mahoney and Richard Mahoney
Name(s) of Signer(s)

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 *Amelia Menzel*
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Temple City Agreement
Document Date: _____ Number of Pages: _____
Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: Patrick Mahoney
 Corporate Officer — Title(s): President
 Partner — Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____
Signer Is Representing: WCA, Inc.

Signer's Name: Richard Mahoney
 Corporate Officer — Title(s): Secretary
 Partner — Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____
Signer Is Representing: WCA, Inc.

EXHIBIT "A" SCOPE OF SERVICES

Contractor will furnish all necessary equipment, materials and personnel for the completion of the work in a timely and organized manner.

I. TREE MAINTENANCE REQUIREMENTS

Contractor shall perform any and all services provisioned under the contract in a skillful and competent manner. It is understood that the selected Contractor will furnish all necessary equipment and personnel for the completion of work in a timely and organized manner, and ensure full compliance with applicable local, state and federal requirements.

A. Work Quality and Standards

All work performed under this contract shall be conducted in such a manner so as to provide safety to the public. The Contractor shall comply with safety requirements set forth by California Occupational Safety and Health Act (CAL OSHA) and all applicable American National Standards, published by The American National Standard Institute, Inc. (ANSI), 1430 Broadway, New York, New York 10018.

All work performed by the Contractor shall comply with good arboreal practices within the industry for the particular species of trees being maintained. Work quality must be consistent with standards as specified in the International Society of Arboriculture's (ISA) "Best Management Practices" and ANSI A300.

The Contractor shall be responsible for all damages to people and/or property that occur as a result of the fault or negligence of said contractor or his employees in connection with the performance of this work.

The Contractor will provide all equipment and trained personnel to provide timely tree trimming services as requested by City.

Daily, routine tree trimming operations shall not begin before 7:00 AM and finish no later than 5:00 PM on weekdays.

The City's designated representative shall determine if the Contractor has met all trimming requirements, and payment shall not be made by City for trimming that is not in accordance with standards outlined in this contract. The City may deduct and/or withhold payment to protect the City from loss due to one or more of the following reasons:

- a. Defective or inadequate work not corrected;
- b. Claims filed, or reasonable evidence indicating probable filing claims;
- c. A reasonable doubt that the contract can be completed for the balance unpaid; and/or
- d. Damage that resulted from an incident involving property damage.

B. Qualifications and Licenses

The Contractor shall assign a competent and qualified supervisor, who shall be a current ISA-certified Arborist, to be on the job site at all times work is being performed.

The Contractor ensures that they, their employees and subcontractors have all

necessary licenses required for the adequate performance of the work outlined by this contract.

C. Inspections

The City's designated representative shall, at all times, have access to inspect work, facilities and equipment. The Contractor shall be required to provide the City with a written schedule of daily tree maintenance operations.

Any work found to be unacceptable will be noted in writing to the Contractor. Defected work shall be fixed, as directed by the City's designated representative, even if the work was not pointed out during the initial inspection and the work was accepted for payment.

D. Invoice

The Contractor will provide invoices on a *monthly* basis. Invoices shall include but not be limited to:

- a. A list of all tree maintenance operations that took place;
- b. The address of each individual tree;
- c. Species;
- d. Height; and
- e. Trunk diameter of each individual tree.

E. Fixed Fee and Pricing

The Contractor shall provide a pricing proposal that is a fixed fee per tree per service. Contractor will also include a cost-per-inch of trunk diameter on complete tree and stump removals. The price given by the Contractor for tree and/or stump removals shall include all staff, materials, and equipment necessary *and backfilling with good-quality topsoil*.

Contractor shall provide general pricings for plantings, grid pruning, complete removals and service hours (off-hours).

F. Emergency Services

The Contractor shall be required to provide emergency on-call response for damaged trees as a result of storms or other reasons. Emergency calls may occur at any time. Emergency work shall begin within two (2) hours of initial call.

Work performed under the emergency provision shall be paid for on an hourly basis. This will include all labor, tools/equipment, disposal fees and necessary materials.

G. Annual Maintenance Program

The Contractor will be required to submit a work schedule based on the City's annual tree pruning requirements, tree removal and replacement program, and planting projects.

Depending on the City's current and future tree trimming and tree maintenance needs, the scheduled work may require multiple crews to perform concurrently within the same time constraints.

H. Traffic Control

The Contractor shall conform to all City traffic safety requirements and operating rules at all times while this contract is in effect. The Contractor will be responsible for

supplying and using all safety equipment necessary to close or delineate traffic lanes. The City must approve all traffic safety equipment prior to use. Traffic control plans are required and must be approved by City before implementation.

I. Public Notice of Tree Pruning Operations

The Contractor shall be required to notify residents and/or businesses of scheduled tree pruning operations at least forty-eight (48) hours prior to the work being performed. City-approved "No Parking" signs shall be posted on individual trees scheduled for pruning forty-eight (48) hours prior to the work being performed.

J. Cleanup of Green Waste and Debris

The Contractor shall insure that the work area shall be kept safe at all times during any procedure, be it pruning or removal. All tree material and debris will be cleared and the job site cleaned at the end of each work day before the work crew leaves. Cleaning shall include but not be limited to:

- a. Raking lawn areas;
- b. Sweeping all streets/sidewalks; and
- c. Removing all brush, branches, and other debris.

Under no circumstances will any tree material be allowed to enter any storm drain.

K. Disposal of Green Waste and Debris

The Contractor shall recycle all tree material, of which the amount (in weight recycled) shall be reported to the City in compliance with AB 939.

L. Tool Sanitation

On all trees known or suspected to be diseased, pruning tools and cut surfaces shall be disinfected. Dumping used or old disinfecting solutions on the ground or down the storm drain will result in severe penalties for the Contractor.

M. Tree Inventory Database

The Contractor shall provide a complete citywide database of the City's public tree inventory and continue to be responsible for providing the City with information to keep the system current and accurate. The tree inventory data shall conform to the existing tree inventory database and will include but not be limited to:

a. GPS Tree Inventory

A GPS tree inventory will be created using the City's standardized addressing system for all parks and open space areas. The address information in the inventory shall be linked to a GIS program (Arc GIS or ArcView).

The inventory, when possible, will be capable of showing the location of every existing tree site and vacant tree site on the City's existing GIS base maps (streets, parcels, addresses, right of way and hardscape, etc.).

The Contractor shall update the tree inventory on a daily basis, as conditions require (e.g. tree removed, tree planted, etc.). The City will have access to updated data at all times. The City reserves the right to contact the Contractor for immediate inventory changes on request.

b. Inventory Scope of Work

The Contractor will manage the entire inventory project. The project shall include field data collection, data entry, access to the computer software, and training of City employees on the use of the system and future technical maintenance. Attributes to be collected by field personnel may include, but are not limited to:

1. City District/Grid/LLDs/Parks/R-Areas/Residential;
2. Street;
3. Location by Address;
4. Location by GIS;
5. Species by botanical name & common name;
6. Tree diameter;
7. Tree height;
8. Recommended Maintenance Classification;
9. Existing overhead Utilities;
10. Parkway Size;
11. Parkway Type; and
12. Condition of surrounding hardscape.

N. Pruning

The Contractor shall provide both grid (4 year cycle) and service request pruning as requested by City. Full prune is classified as no more than 25% of foliage at one time.

a. General Specifications

1. Contractor shall provide appropriate notification to property owners and signage per City specifications.
2. The Contractor shall consult with the City's designated representative before making any cuts that could result in permanent disfigurement of tree structure.
3. Trees will be pruned so as to prevent branch and foliage interference with safe public passage. Young trees are exempted.
4. All dead and dying branches/stubs shall be removed.
5. All broken or loose branches shall be removed.
6. Contractor will selectively prune branches that create sight line conflicts with control signs and devices.
7. Trees shall be cleared of sprout and sucker growth. Young trees are exempted.
8. All major pest problems shall be promptly reported to the City.
9. Trees will be pruned to maintain a natural and balanced appearance unless otherwise directed.
10. Tree limbs shall be controlled in such a manner so as to cause no damage to other parts of the tree, other plants or property.
11. Excess debris, trimmings, branches and wood shall be removed from the work site following as closely as possible the pruning operation.

b. Grid Pruning

Contractor shall prune all trees in pre-designated trimming grids (attached to this RFP as "Exhibit A"), regardless of size, on a set schedule, unless otherwise directed by the City. The City currently maintains a four (4)-year trim cycle.

The trimming shall provide a “natural” and aesthetically pleasing appearance that is typical of the species. Trees shall be trimmed to provide a minimum clearance over roadways and walkways and adhere to the General Specifications mentioned above.

c. Service Request Tree Pruning

The City will periodically submit a list of work orders to the Contractor. Contractor shall follow above specifications during service request pruning operations.

O. Tree and Stump Removals

Removal shall consist of the 100% removal of any tree or stump, its root system and backfilling of the hole with good-quality topsoil.

a. General Specifications

1. Tree removals shall be conducted in accordance with the standards of the arboricultural profession.
2. Tree removals shall follow the City's basic criteria as outlined within the City's Municipal Code § 3-4D-9A1 to §3-4D-9A11.
3. The Contractor shall consult with the City's designated representative before any removal operation.
4. The Contractor shall identify the location of all utilities and private property landscape irrigation components prior to any removal operation. Contractor shall take all necessary precautions to ensure all utilities (e.g. water, gas, electric, telephone, etc.) are not damaged.
5. All tree removals shall include removal of the stump and grinding chips, as well as the backfilling of the hole created by the removal with good-quality topsoil suitable for the replanting of a replacement tree.
6. Contractor shall ensure that, with use of proper techniques and equipment, at no time shall branches, limbs or tree trunks be allowed to freefall.
7. Excess debris, trimmings, branches, and wood shall be removed from the work site, following as closely as possible the removal operation.

P. Planting

Planting shall include the tree, stakes, ties and weed-eater guards along with complete installation, watering and care. Planting lists will be compiled by the City's designated representative and submitted to Contractor monthly or as needed. Contractor will guarantee the quality of the tree stock and workmanship.

a. General Specifications

1. The Contractor shall identify the location of all utilities and private property landscape irrigation components prior to any planting operation. Contractor shall take all necessary precautions to ensure all utilities (water, gas, electric, telephone, etc.) are not damaged.
2. All trees shall be a minimum fifteen (15)-gallon container or as specified by the City. City has right to reject any tree planted by Contractor and Contractor shall replace at his expense.
3. The Contractor shall consult with the City's designated representative before any planting operation.
4. The Contractor will be responsible for the stability of planted trees, including the stakes, ties and weed-eater guards as appropriate.

5. Using hoses, equipment or water from private properties is prohibited.

b. New Tree Care

While watering, the Contractor shall maintain the tree watering basin by removing weeds and debris, and retaining the basin to appropriate size and grade standards.

The Contractor will care for and guarantee the life of the tree for ninety (90) calendar days. After ninety (90) day period the tree is determined to be healthy and the Contractor is no longer required to provide specific new tree care.

Q. Additional Work

The City may add to these specifications with the joint approval of the Contractor and the City. All modifications shall be in writing.

- a. In the event that the City requires additional work outside of these specifications, the Contractor shall perform all work at a competitive industry price.
- b. Additional work may be added to the contract as the need arises. The Contractor shall perform all specified and approved additional work.
- c. The Contractor must be willing to provide a competitive price for additional work that may be added to the contract. Contractor will be required to demonstrate the ability to properly execute the expanded workload with the necessary increase in labor, materials and equipment.

EXHIBIT "B" SCHEDULE OF PERFORMANCE

Contractor shall provide services identified in Exhibit "A" as specified therein.

EXHIBIT "C" COMPENSATION

Description	Unit	Price
Clearance Prune > 16 DSH	Each	\$45.00
Clearance Prune 0-6 DSH	Each	\$25.00
Clearance Prune 7-16 DSH	Each	\$35.00
Emergency Response	Man Hour	\$120.00
Full Prune > 16 DSH	Each	\$295.00
Full Prune 0-6 DSH	Each	\$65.00
Full Prune 7-16 DSH	Each	\$135.00
GPS Tree Inventory	Each	\$4.00
Grid Prune	Each	\$86.00
Palm Prune	Each	\$120.00
Plant 15 Gal w/o RB	Each	\$175.00
Plant 15 Gal w/ RB	Each	\$200.00
Plant 24" Box w/o RB	Each	\$375.00
Plant 24" Box w/ RB	Each	\$400.00
Specialty Equipment Rental	Hour	\$145.00
Stump Only Removal	Inch	\$20.00
Tree & Stump Removal > 36 DSH	Inch	\$45.00
Tree & Stump Removal 0-36 DSH	Inch	\$45.00

COOPERATIVE PURCHASING

It is intended that other public agencies (i.e., city, county, school district, special district, public authority, public agency, and other political sub-division of the State of California) and/or other City departments shall have the option to participate in any agreement created because of this Request for Proposal with the same terms and conditions as to the price of the product and/or service. The City shall incur no financial responsibility in connection with a purchase order from another public agency. Any public agency that "piggy-backs" on any negotiated contract between the City and Contractor shall accept sole responsibility for negotiating, placing orders, and making payment to Contractor. The Contractor may or may not agree to the cooperative purchasing clause. It is understood that not all terms, conditions, or scope of work from one agency contract for tree maintenance may not be fully acceptable to another agency. Agencies may modify specific items for the purpose of making the agreement acceptable and agreeable.

WCA, INC. - PRICE SCHEDULE FOR "OTHER SERVICES"

**CITY OF TEMPLE CITY
RFP FOR TREE MAINTENANCE SERVICES**

Description	<u>Unit</u>	<u>Unit Cost</u>
Crew Rental Services	per man hour	\$105.00
<p>The crew and equipment can be modified to complete any type of miscellaneous tasks including special projects that may consist of extraordinary work including tree care. When directed by City staff, trees requiring service before their regularly scheduled grid or annual trim, or to rectify a specific problem such as blocked street lighting or signs, providing right-of-way clearance for utility lines, or removing broken limbs may be performed under the Crew Rental rate. The use of crew rental may also be warranted due to inaccessibility, in park or slope locations, or non-linear tree pruning. <i>Typical work hours are from 7am - 4pm, Monday- Friday.</i></p>		
Ficus Tree Pruning	per man hour	\$105.00
<p>The crew and equipment can be modified to complete Ficus tree pruning. Costs include fuel, insurance, labor, and disposal.</p>		
Pruning for Crown Reduction	per man hour	\$105.00
<p>Should the City require crown reduction-type pruning, we will provide a crew to perform this work. The size of the crew and equipment will be determined based on the scope of work.</p>		
Tree Planting Services (includes, labor, tree, stakes, ties and initial watering)		
36-inch box tree	Each	\$1,500.00
48-inch box tree	Each	\$2,800.00
ISA Arborist Services		
Consulting Services including Report Writing (2-hour min.) Travel included	Per hour	\$175.00
Construction Project Inspection (2-hour min.)	Per hour	\$175.00
Presentation to City Council, etc. (2-hour min.)	Per Hour	\$175.00
Laboratory testing (i.e., Soil, limb, etc.)	Each	Cost + 15%
Plant Health Care	Per hour	\$105.00
<p>Rate excludes materials which may vary due to the diagnosis and prescription.</p>		

EXHIBIT "D" REPRESENTATIVES

City of Temple City
Attn: Parks and Recreation Department
9701 Las Tunas Drive
Temple City, California 91780

Contractor:
West Coast Arborists, Inc.
2200 E. Via Burton Street
Anaheim, CA 92806
Attn: Victor Gonzalez, Vice President
(714)991-1900
vgonzalez@wcainc.com

EXHIBIT "E" BONDS REQUIRED

N/A

EXHIBIT "F" INSURANCE REQUIREMENTS FOR CITY OF TEMPLE CITY

Without limiting Contractor's indemnification of City, and prior to commencement of Work, Contractor shall obtain, provide and maintain at its own expense during the term of this Agreement, policies of insurance of the type and amounts indicated below by check marks, described more fully below, and in a form that is satisfactory to City.

_____ **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 \$5,000,000 per occurrence, \$10,000,000 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.

_____ **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 \$2,000,000 combined single limit for each accident.

_____ **Umbrella or excess liability insurance.** [Optional depending on limits required] Contractor shall 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 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;
- Pay on behalf of wording as opposed to reimbursement;
- Concurrency of effective dates with primary policies;
- Policies shall "follow form" to the underlying primary policies; and
- Insureds under primary policies shall also be insureds under the umbrella or excess policies.

_____ **Workers' compensation insurance.** Contractor shall maintain Workers' Compensation Insurance (Statutory Limits) and Employer's Liability Insurance (with limits of at least \$1,000,000).

Other provisions or requirements for insurance:

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.

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 agents, representatives, employees or subconsultants.

Primary/noncontributing. 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.

Agency'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.

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.

Waiver of subrogation. All insurance coverage maintained or procured pursuant to this Agreement shall be endorsed to waive subrogation against City, its elected or appointed officers, agents, officials, employees and volunteers 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 City, and shall

require similar written express waivers and insurance clauses from each of its subconsultants.

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.

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.

Notice of cancellation. Contractor agrees to oblige its insurance agent or broker and insurers to provide to 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.

Additional insured status. General liability policies shall provide or be endorsed to provide that City and its officers, officials, employees, and agents shall be additional insureds under such policies. This provision shall also apply to any excess/umbrella liability policies.

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.

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.

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.

Agency's right to revise specifications. The City 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 substantial additional cost to the Contractor, the City and Contractor may renegotiate Contractor's compensation.

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.

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.

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.