

**AGREEMENT FOR CONTRACT SERVICES
BETWEEN THE CITY OF CARSON AND
SWAYZER CORPORATION**

THIS AGREEMENT FOR CONTRACT SERVICES (herein “Agreement”) is made and entered into this ____ day of _____, 2023 by and between the CITY OF CARSON, a California municipal corporation (“City”) and SWAYZER CORPORATION, a California corporation (“Consultant” or “Contractor”). City and Consultant are sometimes hereinafter individually referred to as “Party” and hereinafter collectively referred to as the “Parties.”

NOW, THEREFORE, the parties hereto agree as follows:

1. SERVICES OF CONSULTANT

1.1 Scope of Services. In compliance with all of the terms and conditions of this Agreement, the Consultant shall perform the work or services set forth in the “Scope of Services” attached hereto as Exhibit “A” and incorporated herein by reference. Consultant warrants that it has the experience and ability to perform all work and services required hereunder and that it shall diligently perform such work and services in a professional and satisfactory manner.

1.2 Compliance With Law. All work and services rendered hereunder shall be provided in accordance with all ordinances, resolutions, statutes, rules, and regulations of the City and any Federal, State or local governmental agency of competent jurisdiction.

1.3 Licenses, Permits, Fees and Assessments. Consultant shall obtain at its sole cost and expense such licenses, permits, and approvals as may be required by law for the performance of the services required by the Agreement.

1.4 Special Requirements. Additional terms and conditions of this Agreement, if any, which are made a part hereof are set forth in the “Special Requirements” attached hereto as Exhibit “B” and incorporated herein by this reference. In the event of a conflict between the provisions of Exhibit “B” and any other provisions of this Agreement, the provisions of Exhibit “B” shall govern.

2. COMPENSATION

2.1 Contract Sum. For the services rendered pursuant to this Agreement, Consultant shall be compensated in accordance with the “Schedule of Compensation” attached hereto as Exhibit “C” and incorporated herein by this reference, but not exceeding the maximum contract amount of **Seven Hundred Sixteen Thousand Seven Hundred Sixty Dollars and Zero Cents (\$716,760.00)** (“Contract Sum”). In the event City elects to exercise its options to extend the Term pursuant to Section 3.4 hereof, the Contract Sum will increase by an annual amount of \$238,920.00 for each Extension Term, consistent with Exhibit “C.”

2.2 Invoices. Each month Consultant shall furnish to City an original invoice for all work performed and expenses incurred during the preceding month in a form approved by City’s

Director of Finance. By submitting an invoice for payment under this Agreement, Consultant is certifying compliance with all provisions of the Agreement. The invoice shall detail charges for all necessary and actual expenses by the following categories: labor (by sub-category), travel, materials, equipment, supplies, and subcontractor contracts. Subcontractor charges shall also be detailed by such categories. Consultant shall not invoice City for any duplicate services performed by more than one person.

City shall independently review each invoice submitted by the Consultant to determine whether the work performed and expenses incurred are in compliance with the provisions of this Agreement. Except as to any charges for work performed or expenses incurred by Consultant which are disputed by City, City will use its best efforts to cause Consultant to be paid within forty five (45) days of receipt of Consultant's correct and undisputed invoice; however, Consultant acknowledges and agrees that due to City warrant run procedures, the City cannot guarantee that payment will occur within this time period. In the event any charges or expenses are disputed by City, the original invoice shall be returned by City to Consultant for correction and resubmission. Review and payment by the City of any invoice provided by the Consultant shall not constitute a waiver of any rights or remedies provided herein or any applicable law.

2.3 Additional Services. City shall have the right at any time during the performance of the services, without invalidating this Agreement, to order extra work beyond that specified in the Scope of Services or make changes by altering, adding to or deducting from said work. No such extra work may be undertaken unless a written order is first given by the Contract Officer to the Consultant, incorporating therein any adjustment in (i) the Contract Sum for the actual cost of the extra work, and/or (ii) the time to perform this Agreement, which said adjustments are subject to the written approval of the Consultant. Any increase in compensation of up to ten percent (10%) of the Contract Sum but not exceeding a total contract amount of Five Thousand Dollars (\$5,000) or in the time to perform of up to ninety (90) days may be approved by the Contract Officer. Any greater increases, taken either separately or cumulatively, must be approved by the City Council. No claim for an increase in the Contract Sum or time for performance shall be valid unless the procedures established in this Section are followed.

3. PERFORMANCE SCHEDULE

3.1 Time of Essence. Time is of the essence in the performance of this Agreement.

3.2 Schedule of Performance. Consultant shall commence the services pursuant to this Agreement upon receipt of a written notice to proceed and shall perform all services within the time period(s) established in the "Schedule of Performance" attached hereto as Exhibit "D" and incorporated herein by this reference. When requested by the Consultant, extensions to the time period(s) specified in the Schedule of Performance may be approved in writing by the Contract Officer but not exceeding thirty (30) days cumulatively.

3.3 Force Majeure. The time period(s) specified in the Schedule of Performance for performance of the services rendered pursuant to this Agreement shall be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of the Consultant, including, but not restricted to, acts of God or of the public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, litigation, and/or acts of any governmental agency, including the City, if the

Consultant shall within ten (10) days of the commencement of such delay notify the Contract Officer in writing of the causes of the delay. The Contract Officer shall ascertain the facts and the extent of delay, and extend the time for performing the services for the period of the enforced delay when and if in the judgment of the Contract Officer such delay is justified. The Contract Officer's determination shall be final and conclusive upon the parties to this Agreement. In no event shall Consultant be entitled to recover damages against the City for any delay in the performance of this Agreement, however caused, Consultant's sole remedy being extension of the Agreement pursuant to this Section.

3.4 Term. Unless earlier terminated in accordance with Article 7 of this Agreement, this Agreement shall continue in full force and effect until completion of the services but not exceeding one (1) year from the date hereof, except as otherwise provided in the Schedule of Performance (Exhibit "D").

4. COORDINATION OF WORK

4.1 Representative of Consultant. Samuel Swayzer, President, and Ezekiel Swayzer, CFO, are hereby designated as being the representative of Consultant authorized to act on its behalf with respect to the work and services specified herein and make all decisions in connection therewith. All personnel of Consultant and any authorized agents shall be under the exclusive direction of the representative of Consultant. Consultant shall utilize only competent personnel to perform services pursuant to this Agreement. Consultant shall make every reasonable effort to maintain the stability and continuity of Consultant's staff and subcontractors, and shall keep City informed of any changes.

4.2 Contract Officer. Freddy Loza, LBM Superintendent, or such person as may be designated by the City Manager is hereby designated as being the representative the City authorized to act in its behalf with respect to the work and services specified herein and to make all decisions in connection therewith ("Contract Officer").

4.3 Prohibition Against Subcontracting or Assignment. Consultant shall not contract with any entity to perform in whole or in part the work or services required hereunder without the express written approval of the City. Neither this Agreement nor any interest herein may be assigned or transferred, voluntarily or by operation of law, without the prior written approval of City. Any such prohibited assignment or transfer shall be void.

4.4 Independent Consultant. Neither the City nor any of its employees shall have any control over the manner, mode or means by which Consultant, its agents or employees, perform the services required herein, except as otherwise set forth. Consultant shall perform all services required herein as an independent contractor of City with only such obligations as are consistent with that role. Consultant shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of City, or that it is a member of a joint enterprise with City.

5. INSURANCE AND INDEMNIFICATION

5.1 Insurance Coverages. The Consultant shall procure and maintain, at its sole cost and expense, in a form and content satisfactory to City, during the entire term of this Agreement including any extension thereof, the following policies of insurance which shall cover all elected and appointed officers, employees and agents of City:

(a) General Liability Insurance (Coverage Form ISO CGL CG 00 01 or equivalent). A policy of comprehensive general liability insurance written on a per occurrence basis for bodily injury, personal injury and property damage. The policy of insurance shall be in an amount not less than \$1,000,000.00 per occurrence or if a general aggregate limit is used, then the general aggregate limit shall be twice the occurrence limit.

(b) Worker's Compensation Insurance. A policy of worker's compensation insurance in such amount as will fully comply with the laws of the State of California and which shall indemnify, insure and provide legal defense for the Consultant against any loss, claim or damage arising from any injuries or occupational diseases occurring to any worker employed by or any persons retained by the Consultant in the course of carrying out the work or services contemplated in this Agreement, with Employer's Liability insurance coverage limits of at least \$1,000,000.00.

(c) Automotive Insurance (Coverage Form ISO CA 00 01 including "any auto" and endorsement CA 0025 or equivalent). A policy of comprehensive automobile liability insurance written on a per occurrence for bodily injury and property damage in an amount not less than \$1,000,000. Said policy shall include coverage for owned, non-owned, leased, hired cars and any automobile.

(d) Professional Liability. Professional liability insurance appropriate to the Consultant's profession, as determined by the City's Risk Manager, provided that the limits shall be no less than \$1,000,000 per claim and no less than \$1,000,000 general aggregate. This coverage may be written on a "claims made" basis, and must include coverage for contractual liability. The professional liability insurance required by this Agreement must be endorsed to be applicable to claims based upon, arising out of or related to services performed under this Agreement. The insurance must be maintained for at least 5 consecutive years following the completion of Consultant's services or the termination of this Agreement. During this additional 5-year period, Consultant shall annually and upon request of the City submit written evidence of this continuous coverage.

(e) Subcontractors. Consultant shall include all subcontractors as insureds under its policies or shall furnish separate certificates and certified endorsements for each subcontractor. All coverages for subcontractors shall include all of the requirements stated herein.

(f) Additional Insurance. Policies of such other insurance, as may be required in the Special Requirements in Exhibit "B."

(g) Broader Coverages and Higher Limits. Notwithstanding anything else herein to the contrary, if Consultant maintains broader coverages and/or higher limits than the minimums shown above, the City requires and shall be entitled to the broader coverages and/or higher limits maintained by Consultant.

5.2 General Insurance Requirements.

All of the above policies of insurance shall be primary insurance and shall name the City, its elected and appointed officers, employees and agents as additional insureds and any insurance maintained by City or its officers, employees or agents may apply in excess of, and not contribute with Consultant's insurance. The insurer is deemed hereof to waive all rights of subrogation and

contribution it may have against the City, its officers, employees and agents and their respective insurers. Moreover, the insurance policy must specify that where the primary insured does not satisfy the self-insured retention, any additional insured may satisfy the self-insured retention. All of said policies of insurance shall provide that said insurance may not be amended or cancelled by the insurer or any party hereto without providing thirty (30) days prior written notice by certified mail return receipt requested to the City. In the event any of said policies of insurance are cancelled, the Consultant shall, prior to the cancellation date, submit new evidence of insurance in conformance with this Section 5.1 to the Contract Officer. No work or services under this Agreement shall commence until the Consultant has provided the City with Certificates of Insurance, additional insured endorsement forms or appropriate insurance binders evidencing the above insurance coverages and said Certificates of Insurance or binders are approved by the City. City reserves the right to inspect complete, certified copies of and endorsement to all required insurance policies at any time. Any failure to comply with the reporting or other provisions of the policies including breaches or warranties shall not affect coverage provided to City.

The insurance required by this Agreement shall be satisfactory only if issued by companies qualified to do business in California, rated "A-" or better in the most recent edition of Best Rating Guide, The Key Rating Guide or in the Federal Register, and only if they are of a financial category Class VII or better, unless such requirements are waived by the City's Risk Manager or other designee of the City due to unique circumstances.

5.3 Indemnification. To the full extent permitted by law, Consultant agrees to indemnify, defend and hold harmless the City, its officers, employees and agents ("Indemnified Parties") against, and will hold and save them and each of them harmless from, any and all actions, either judicial, administrative, arbitration or regulatory claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions or liabilities whether actual or threatened (herein "claims or liabilities") that may be asserted or claimed by any person, firm or entity arising out of or in connection with the negligent performance of the work, operations or activities provided herein of Consultant, its officers, employees, agents, subcontractors, invitees, or any individual or entity for which Consultant is legally liable ("indemnitors"), or arising from Consultant's or indemnitors' reckless or willful misconduct, or arising from Consultant's or indemnitors' negligent performance of or failure to perform any term, provision, covenant or condition of this Agreement, except claims or liabilities occurring as a result of City's sole negligence or willful acts or omissions. The indemnity obligation shall be binding on successors and assigns of Consultant and shall survive termination of this Agreement.

6. RECORDS, REPORTS, AND RELEASE OF INFORMATION

6.1 Records. Consultant shall keep, and require subcontractors to keep, such ledgers, books of accounts, invoices, vouchers, canceled checks, reports, studies or other documents relating to the disbursements charged to City and services performed hereunder (the "books and records"), as shall be necessary to perform the services required by this Agreement and enable the Contract Officer to evaluate the performance of such services and shall keep such records for a period of three years following completion of the services hereunder. The Contract Officer shall have full and free access to such books and records at all times during normal business hours of City, including the right to inspect, copy, audit and make records and transcripts from such records.

6.2 Reports. Consultant shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the services required by this Agreement or as the Contract Officer shall require.

6.3 Confidentiality and Release of Information.

(a) All information gained or work product produced by Consultant in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Consultant. Consultant shall not release or disclose any such information or work product to persons or entities other than the City without prior written authorization from the Contract Officer.

(b) Consultant shall not, without prior written authorization from the Contract Officer or unless requested by the City Attorney, voluntarily provide documents, declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement. Response to a subpoena or court order shall not be considered “voluntary” provided Consultant gives the City notice of such court order or subpoena.

(c) If Consultant provides any information or work product in violation of this Agreement, then the City shall have the right to reimbursement and indemnity from Consultant for any damages, costs and fees, including attorney’s fees, caused by or incurred as a result of Consultant’s conduct.

(d) Consultant shall promptly notify the City should Consultant be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed thereunder. The City retains the right, but has no obligation, to represent Consultant or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with the City and to provide the City with the opportunity to review any response to discovery requests provided by Consultant.

6.4 Ownership of Documents. All studies, surveys, data, notes, computer files, reports, records, drawings, specifications, maps, designs, photographs, documents and other materials (the “documents and materials”) prepared by Consultant in the performance of this Agreement shall be the property of the City and shall be delivered to the City upon request of the Contract Officer or upon the termination of this Agreement, and Consultant shall have no claim for further employment or additional compensation as a result of the exercise by the City of its full rights of ownership use, reuse, or assignment of the documents and materials hereunder. Moreover, with respect to any documents and materials that may qualify as “works made for hire” as defined in 17 U.S.C. § 101, such documents and materials are hereby deemed “works made for hire” for the City.

7. ENFORCEMENT OF AGREEMENT AND TERMINATION

7.1 California Law. This Agreement shall be interpreted, construed and governed both as to validity and to performance of the parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Los Angeles,

State of California. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Central District of California, in the County of Los Angeles, State of California.

7.2 Disputes; Default. In the event that Consultant is in default under the terms of this Agreement, the City shall not have any obligation or duty to continue compensating Consultant for any work performed after the date of default. Instead, the City may give notice to Consultant of the default and the reasons for the default. The notice shall include the timeframe in which Consultant may cure the default. This timeframe is presumptively thirty (30) days, but may be extended, if circumstances warrant. During the period of time that Consultant is in default, the City shall hold all invoices and shall, when the default is cured, proceed with payment on the invoices. If Consultant does not cure the default, the City may take necessary steps to terminate this Agreement under this Article.

7.3 Legal Action. In addition to any other rights or remedies, either party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement. Notwithstanding any contrary provision herein, Consultant shall file a statutory claim pursuant to Government Code Sections 905 et. seq. and 910 et. seq., in order to pursue any legal action under this Agreement.

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

7.4 Termination Prior to Expiration of Term. This Section shall govern any termination of this Contract except as specifically provided in the following Section for termination for cause. The City reserves the right to terminate this Contract at any time, with or without cause, upon thirty (30) days' written notice to Consultant, except that where termination is due to the fault of the Consultant, the period of notice may be such shorter time as may be determined by the Contract Officer. In addition, the Consultant reserves the right to terminate this Contract at any time, with or without cause, upon sixty (60) days' written notice to City, except that where termination is due to the fault of the City, the period of notice may be such shorter time as the Consultant may determine. Upon receipt of any notice of termination, Consultant shall immediately cease all services hereunder except such as may be specifically approved by the Contract Officer. Except where the Consultant has initiated termination, the Consultant shall be entitled to compensation for all services rendered prior to the effective date of the notice of termination and for any services authorized by the Contract Officer thereafter in accordance with the Schedule of Compensation or such as may be approved by the Contract Officer. In the event the Consultant has initiated termination, the Consultant shall be entitled to compensation only for the reasonable value of the work product actually produced hereunder, but not exceeding the compensation provided therefore in the Schedule of Compensation Exhibit "C". In the event of termination without cause pursuant to this Section, the terminating party need not provide the non-terminating party with the opportunity to cure pursuant to Section 7.2.

7.5 Termination for Default of Consultant. If termination is due to the failure of the Consultant to fulfill its obligations under this Agreement, City may, after compliance with the provisions of Section 7.2, take over the work and prosecute the same to completion by contract or otherwise, and the Consultant shall be liable to the extent that the total cost for completion of the services required hereunder exceeds the compensation herein stipulated (provided that the City shall use reasonable efforts to mitigate such damages), and City may withhold any payments to the Consultant for the purpose of set-off or partial payment of the amounts owed the City as previously stated.

8. MISCELLANEOUS

8.1 Covenant Against Discrimination. Consultant covenants that, by and for itself, its heirs, executors, assigns and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, gender, sexual orientation, marital status, national origin, ancestry, or other protected class in the performance of this Agreement. Consultant shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, sex, gender, sexual orientation, marital status, national origin, ancestry, or other protected class

8.2 Non-liability of City Officers and Employees. No officer or employee of the City shall be personally liable to the Consultant, or any successor in interest, in the event of any default or breach by the City or for any amount, which may become due to the Consultant or to its successor, or for breach of any obligation of the terms of this Agreement.

8.3 Notice. Any notice, demand, request, document, consent, approval, or communication either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by prepaid, first-class mail, in the case of the City, to the City Manager and to the attention of the Contract Officer (with her/his name and City title), City of Carson, 701 East Carson, Carson, California 90745 and in the case of the Consultant, to the person(s) at the address designated on the execution page of this Agreement. Either party may change its address by notifying the other party of the change of address in writing. Notice shall be deemed communicated at the time personally delivered or in seventy-two (72) hours from the time of mailing if mailed as provided in this Section.

8.4 Integration; Amendment. It is understood that there are no oral agreements between the parties hereto affecting this Agreement and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the parties, and none shall be used to interpret this Agreement. This Agreement may be amended at any time by the mutual consent of the parties by an instrument in writing.

8.5 Severability. In the event that part of this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining portions of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the parties hereunder unless the invalid provision is so material that its invalidity deprives either party of the basic benefit of their bargain or renders this Agreement meaningless.

8.6 Waiver. No delay or omission in the exercise of any right or remedy by non-defaulting party on any default shall impair such right or remedy or be construed as a waiver. A party's consent to or approval of any act by the other party requiring the party's consent or approval shall not be deemed to waive or render unnecessary the other party's consent to or approval of any subsequent act. Any waiver by either party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

8.7 Attorneys' Fees. If either party to this Agreement is required to initiate or defend or made a party to any action or proceeding in any way connected with this Agreement, the prevailing party in such action or proceeding, in addition to any other relief which any be granted, whether legal or equitable, shall be entitled to reasonable attorney's fees, whether or not the matter proceeds to judgment.

8.8 Interpretation.

The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

8.9 Counterparts.

This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original, whether the signatures are originals, electronic, facsimiles or digital. All such counterparts shall together constitute but one and the same Agreement.

8.10 Warranty & Representation of Non-Collusion. No official, officer, or employee of City has any financial interest, direct or indirect, in this Agreement, nor shall any official, officer, or employee of City participate in any decision relating to this Agreement which may affect his/her financial interest or the financial interest of any corporation, partnership, or association in which (s)he is directly or indirectly interested, or in violation of any corporation, partnership, or association in which (s)he is directly or indirectly interested, or in violation of any State or municipal statute or regulation. The determination of "financial interest" shall be consistent with State law and shall not include interests found to be "remote" or "noninterests" pursuant to Government Code Sections 1091 or 1091.5. Consultant warrants and represents that it has not paid or given, and will not pay or give, to any third party including, but not limited to, any City official, officer, or employee, any money, consideration, or other thing of value as a result or consequence of obtaining or being awarded any agreement. Consultant further warrants and represents that (s)he/it has not engaged in any act(s), omission(s), or other conduct or collusion that would result in the payment of any money, consideration, or other thing of value to any third party including, but not limited to, any City official, officer, or employee, as a result of consequence of obtaining or being awarded any agreement. Consultant is aware of and understands that any such act(s), omission(s) or other conduct resulting in such payment of money, consideration, or other thing of value will render this Agreement void and of no force or effect.

Consultant's Authorized Initials _____

8.11 Corporate Authority. The persons executing this Agreement on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized

to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which said party is bound. This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the parties.

[Signatures on the following page.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first-above written.

CITY:

CITY OF CARSON, a municipal corporation

Lula Davis-Holmes, Mayor

ATTEST:

Dr. Khaleah K. Bradshaw, City Clerk

APPROVED AS TO FORM:
ALESHIRE & WYNDER, LLP

Sunny K. Soltani, City Attorney
[rjl]

CONSULTANT:

SWAYZER CORPORATION, a California corporation

By:_____
Name: Samuel Swayzer
Title: President

By:_____
Name: Ezekiel Swayzer
Title: Chief Financial Officer

Address: 1665 E. Del Amo Blvd.
Carson, CA 90746

Two corporate officer signatures required when Consultant is a corporation, with one signature required from each of the following groups: 1) Chairman of the Board, President or any Vice President; and 2) Secretary, any Assistant Secretary, Chief Financial Officer or any Assistant Treasurer. CONSULTANT'S SIGNATURES SHALL BE DULY NOTARIZED, AND APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONSULTANT'S BUSINESS ENTITY.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

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

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

On _____, 2023 before me, _____, personally appeared _____, proved to me on the basis of satisfactory evidence to be the person(s) whose names(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: _____

OPTIONAL

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

CAPACITY CLAIMED BY SIGNER

☐ INDIVIDUAL
☐ CORPORATE OFFICER

TITLE(S)

☐ PARTNER(S) ☐ LIMITED
☐ GENERAL
☐ ATTORNEY-IN-FACT
☐ TRUSTEE(S)
☐ GUARDIAN/CONSERVATOR
☐ OTHER _____

DESCRIPTION OF ATTACHED DOCUMENT

TITLE OR TYPE OF DOCUMENT

NUMBER OF PAGES

DATE OF DOCUMENT

SIGNER IS REPRESENTING:

(NAME OF PERSON(S) OR ENTITY(IES))

SIGNER(S) OTHER THAN NAMED ABOVE

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

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

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

On _____, 2023 before me, _____, personally appeared _____, proved to me on the basis of satisfactory evidence to be the person(s) whose names(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: _____

OPTIONAL

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

CAPACITY CLAIMED BY SIGNER

☐

INDIVIDUAL

☐

CORPORATE OFFICER

TITLE(S)

☐

PARTNER(S)

☐

LIMITED

☐

GENERAL

☐

ATTORNEY-IN-FACT

☐

TRUSTEE(S)

☐

GUARDIAN/CONSERVATOR

☐

OTHER _____

DESCRIPTION OF ATTACHED DOCUMENT

TITLE OR TYPE OF DOCUMENT

NUMBER OF PAGES

DATE OF DOCUMENT

SIGNER IS REPRESENTING:

(NAME OF PERSON(S) OR ENTITY(IES))

SIGNER(S) OTHER THAN NAMED ABOVE

EXHIBIT "A"
SCOPE OF SERVICES

I. Consultant will perform complete median landscaping maintenance and management services north of the 405 Freeway (the "Services") in the manner described herein.

1. GENERAL

The work to be performed by Contractor shall include professional landscape management for City medians with Contractor to furnish all labor, material, and equipment necessary for the provision of the landscape and associated maintenance services as set forth in this Agreement.

1.1 Contractor shall have the duty to mow, edge, trim, irrigate, aerate, overseed, fertilize and dethatch turf areas; prune, trim, and hedge planters and shrub areas designated hereunder; as well as to provide weed control, disease control, rodent pest control, litter, and debris removal, maintain and repair irrigation systems at service medians, center medians and may include adjacent tree wells, including the necessary maintenance of any associated structures and equipment as normal maintenance as specified. Maintenance frequencies shall be those as specified.

1.2 Contractor shall not work or perform any operation, particularly during periods of inclement weather, which may destroy or damage vegetation, ground cover, or turf areas. The City's Director of Public Works or designee shall have the authority to suspend the work, wholly or in part, for such period as may be deemed necessary, due to unsuitable weather or other conditions considered unfavorable for the suitable performance of the work. Any mowing missed due to inclement weather and not rescheduled shall be deducted from the monthly billing statement.

1.3 Contractor shall be required to assign a designated English-speaking foreman. This individual will be the contact person for this project and must be available to respond to inquiries, walkthroughs, and inspections of the project as required. The Contractor's designated foreman shall be on site for a minimum of fifteen (15) hours per week. At least one member of any maintenance crew at each maintenance area shall be able to read and speak English fluently. All Contractors' personnel shall wear and maintain presentable company uniform complete with a nametag and high visibility safety vest. Contractor shall require employees to wear the appropriate shoes, uniform, and other personal protective equipment required by OSHA and CAL OSHA regulations.

1.4 Contractor shall be available twenty-four (24) hours a day, seven (7) days a week to respond to all emergencies within two (2) hours of notification or attempted notification. If the Contractor cannot be notified or does not respond promptly, the City will respond and all costs will be charged to the Contractor. If the Contractor fails to respond on three (3)

separate occasions, the Contractor will be subject to a \$250.00 deduction from monthly invoice in addition to any City charges.

1.5 During daylight hours, Contractor's designated foreman shall perform a weekly maintenance inspection of all areas within the maintenance areas. Such inspection shall be both visual and operational, and shall include the operation of all irrigation or other mechanical systems to check for proper condition and reliability.

1.6 Contractor's designated foreman shall prepare and submit to the City's Public Works Director, or assigned designee(s), both a daily project report, and a weekly project report. The daily project report shall include work performed for the day, and staff name performing the work. The weekly report shall indicate the overall condition of the maintenance areas and shall list specifically any unusual or problem areas/situations. The report shall also include action to be taken by the contractor to rectify the said situation and indicate the anticipated time frame for compliance.

1.7 Contractor shall schedule its operations so as not to interfere with the public's use of the maintenance areas. Contractor shall conduct its operations to provide the maximum safety for the public and to offer the least possible obstruction and inconvenience to the public, or disruption to the peace and quiet of the area around which the services are performed.

2. AREA TO BE MANAGED

2.1 Contractor shall maintain irrigation systems at service medians, center medians, and adjacent tree wells, only.

2.2 Contractor hereby acknowledges that before submitting a proposal, Contractor has visited all existing areas to be maintained, verified the approximate size of the medians, noted for each location the proposed work, and is fully informed as to all conditions that may affect the work specified. Contractor shall not be relieved of liability under this Agreement, nor the City be held liable, for any loss sustained by the Contractor, as a result of any variance between conditions as referred to in this Scope of Services and the actual conditions revealed during the examination of the locations of the proposed work.

3. TURF CARE

The Contractor shall perform, at its sole expense, the following services:

(a) Mowing – Turf to be mowed with an adequately sharpened power mower to ensure a smooth surface appearance without scalping. The contractor shall comply with all state, county, and/or local regulations regarding powered mowers, alternative fuel mowers, and equipment. All turf grasses are to be cut so that no more than one-third of the height of the grass blade is removed during any one mowing operation. Recycling mowers may

only be used upon approval of the City's Public Works Director, or assigned designee(s). The mowing heights will be adjusted according to the needs of the City or during periods of renovation. A mowing schedule will be established and maintained. This schedule will provide that all areas will, at a minimum, be mowed once a week. All mowing missed and not completed within three (3) working days, shall be deducted from the monthly billing statement. Costs will be calculated at a rate of 25% of the total monthly maintenance costs as listed in the Proposal Schedule for subject medians. Clippings are to be removed concurrently with each mowing.

(b) Edging – The edge of the grass along sidewalks, curbs, shrubs, flowerbeds, and walls shall be trimmed to a neat and uniform line. Where trees exist in turf areas, all grass shall be removed six (6) inches from the tree trunks by approved chemicals or by hand as required. Mulch may be applied to the base of tree trunks to reduce weed growth (mulch will be supplied by the City). Weedeaters/string trimmers may not be used to clear turf around tree trunks. The Contractor shall trim around all sprinkler heads as necessary in order to provide maximum water coverage. Edging shall be done concurrently with each mowing. The edge of the turf shall be trimmed around valve boxes, meter boxes, backflow devices, or any structures located within the turf areas using mechanical methods. Turf edges are to be maintained to prevent grass invasion into adjacent shrub, flower, and ground cover bed areas. After mowing and edging is completed, all adjacent walkways are to be cleaned.

(c) Fertilization – A fertilization schedule will be established and maintained. This schedule will provide that fertilization of turf areas occurs as often as necessary to maintain the turf in vigorous healthy condition. The minimum frequency of fertilization is included in the "Minimum Frequency Schedule,". The schedule along with specific nutrient recommendations will be submitted to the City for approval prior to application. Fertilization to be provided for all medians.

(d) Aeration – An aeration schedule will be established and maintained. This schedule will provide that aeration of turf areas occur annually by removing ½-inch diameter by 4-inch deep cores of sod, with an aerator at not more than 6-inch spacing. The schedule will be submitted to the City for approval prior to application

(e) Dethatch –Dethatching of turf areas shall be performed on annual basis. All thatching debris shall be removed offsite or pulverized, at the end of the Contractor's operation or at the end of the workday, whichever occurs first. The City shall determine and approve the extent of thatch removal.

(f) Seasonal Overseeding – All turf areas shall be annually reseeded to re-establish turf to an acceptable condition as specified in the Minimum Frequency Schedule. At the City's request, all bare and/or sparse turf areas shall be overseeded throughout the term of the

contract. All areas to be reseeded shall be verticut to remove all thatch and to provide a rough seedbed suitable for seeding. Once the seed has been applied, the seed will be covered with finish mulch to prevent erosion. Mulch for seed topping shall be nitrolized wood shavings such as Kellogg's Topper or equivalent. All mulch must be approved by City prior to application.

(g) Weed Control – Turf areas shall be maintained in a weed-free condition. Chemical control for broadleaf weeds shall be applied on an as-needed basis to maintain weed-free conditions. All personnel applying these chemicals shall be properly licensed, certified, and trained in accordance with the California Department of Pesticide Regulations (DPR) and any other applicable Federal, State, and County regulations in effect at the time of application. All personnel applying these chemicals must hold an active Qualified Applicator License issued by DPR.

(h) Insect/Pest Control – Turf shall be maintained free of diseases, insects, rodents, and pests. Infested areas shall be treated when needed as detailed in this Scope of Services. All personnel applying these chemicals shall be properly licensed, certified, and trained in accordance with the California Department of Pesticide Regulations (DPR) and any other applicable Federal, State, and County regulations in effect at the time of application. All personnel applying these chemicals must hold an active Qualified Applicator License issued by DPR.

(i) Irrigation – The Contractor shall irrigate all landscaped areas at City medians as required to maintain adequate growth rate and appearance and in accordance with the schedule most conducive to maintaining a lush green appearance. Note: All irrigating shall be accomplished in accordance with any and all water conservation mandates imposed on the City by governing agencies and coordinated with the City's Director of Public Works or designee.

(j) Consideration shall be given to the soil conditions, seasonal temperatures, wind conditions, humidity, minimizing of runoff, and the relationship of conditions, which affect day and night watering. This may include daytime watering during winter weather to prevent icy conditions and manual operation of the irrigation system during periods of prolonged heat. During freezing, rain, and/or windy conditions, automatic irrigation will be discontinued at the direction of the City's Director of Public Works or designee.

(k) In areas where wind creates problems of spraying water onto private property or road rights-of-way, the controllers shall be set to operate during the period of lowest wind velocity which would normally occur between the hours of 10:00 p.m. and 6:00 a.m.

(l) Contractor shall monitor all systems within the scope and for the correction of coverage, sprinkler adjustment, sprinkler height adjustment, clogging of lines and sprinkler valves, and removal of obstacles, including plant materials, which obstruct the spray pattern.

(m) Complete irrigation system checks as outlined in the Minimum Frequency Schedule or more often if necessary and adjust and repair any sprinkler heads causing excessive runoff, or which throw directly onto paving or walks.

(n) Adjust all controllers on a weekly basis considering the water requirements of each remote control valve.

(o) Control the irrigation system in such a way as not to cause an excessively wet area which may interfere with the Contractor's ability to maintain all the flora, or excess water crossing over sidewalks or flooding into the public right-of-way.

(p) Observe and note any deficiencies occurring from the original system design and review these findings with the City so necessary improvements may be considered.

(q) Repair all leaking or defective valves or irrigation system parts immediately upon occurrence, or within twenty-four (24) hours following notification from the City of such a deficiency. The Contractor shall be responsible for maintaining or repairing backflow prevention devices.

(r) File a monthly executive summary with the City certifying that all irrigation system components at City medians are functioning properly.

4. SHRUB, GROUND COVER, AND TREE WELL CARE

The Contractor shall perform the following services:

(a) Pruning – Prune shrubbery during the term of the contract to encourage healthy growth habits and for shape and appearance. All shrubs shall, at all times, be free of dead wood, weak, diseased, insect-infested, and damaged limbs, and shall remove all clippings the same day shrubbery is pruned to the green waste disposal site. Pruning shall be done to maintain a well-groomed, laced-out appearance appropriate for plant size, species, and surroundings. Under no circumstances shall any shrubs be poodled or balled.

(b) Trimming –Restrict the growth of shrubbery and ground cover plants to areas behind curbs and walkways and within planter beds by trimming as necessary, or as requested by the City.

(c) Hedging –Hedge vines on block walls adjacent to service and center medians. Vines shall not be allowed to grow into private lots and topped eight inches (8”) or one (1) cylinder block from the top.

(d) Renovation –Renovate ground cover plants according to prescribed practices in the industry, as needed to maintain a healthy, vigorous appearance and growth rate. This includes, but is not limited to, thinning and trimming to encourage growth or to achieve a more manicured appearance.

(e) Disease and Insect Control –Maintain all areas free of diseases and insects and treat infested areas when needed.

(f) Weed Control – All ground cover, shrub beds, side panels, and tree wells shall be kept weed free at all times. Methods for control may incorporate one or more of the following: (1) Hand removal, (2) Cultivation, (3) Chemical eradication (except in areas that rely on reseeding to maintain appearance). Weed whipping is not an acceptable alternative for weed control. Debris generated by weed control must be removed from the site each day to the green waste disposal site and disposed of in a proper, legal manner.

(g) Irrigation – Irrigate, including hand watering, to maintain adequate growth rate and appearance, and bleeding of valves in emergency situations where automatic systems are not functioning.

(h) Shrub and Ground Cover Replacement –Replace all damaged, untreated, diseased, or dead shrubs and ground cover plants with the same plant species of similar size. Substitutions for any plants must have prior approval in writing by the City. Original plans and specifications should be consulted to determine the correct identification of species. All shrubs shall be guaranteed to live and remain in healthy condition for no less than six (6) months from the date of acceptance by the City.

(i) The ground cover shall be maintained and replaced as needed so as to form a solid mat over the surface of the ground. Height shall not to exceed one-foot (1'). Weed eaters/string trimmers are appropriate to accomplish this task. Undesirable plant material or weeds shall be removed, as well as removal of desirable annual flora growth, after it has flowered and seeded (such as but not limited to, Lupine), if necessary. All shrubs shall have a one-foot (1') clear area maintained around the plant edge at all times.

(j) Annual color beds and freestanding pots shall be maintained with appropriate seasonal flowers. The Contractor shall provide flowers and labor to both the annual color beds and freestanding pots. Flowers and labor will be considered regular maintenance and are not billable extras.

5. USE OF CHEMICALS

5.1 The Contractor shall perform the following services:

(a) Chemical Application - All personnel applying chemicals shall be properly licensed in the State of California, certified, and trained in accordance with applicable regulations in effect at the time of application.

(b) Permits – Permits, Recommendations, and Documentation –Provide the City with a copy of a Pest Control Recommendation written by a State of California licensed Pest Control Advisor. The Pest Control Recommendation shall include the specific areas,

pests to be treated, and the pesticide to be used. All pesticides must be approved by the City prior to application. Also, a Pesticide Use Report shall be provided to the City within ten (10) calendar days of the end of each month that an application has taken place. The Pesticide Report shall include, but is not limited to the dates, specific location of application, pesticide used, pest treated, and amount of concentrate material used. The Contractor shall give the City notification on time, date, and location of where pesticide use is scheduled.

(c) Pest Control - The Contractor will be responsible for the eradication of all pests, including but not limited to gophers, ground squirrels, snails, earwigs, and other destructive insects to provide a healthy environment for plants and the public. Any eradication and/or disposal of pests must be performed in accordance with Federal, State, and County regulations in place at the time of eradication.

(d) Rodent Control - Whenever rodent holes are visible upon the surface, the Contractor shall fill and securely tamp said holes to avoid moisture runoff entering the holes.

6. GENERAL CLEAN-UP

6.1 The Contractor shall also perform the following services:

(a) Trash Removal –Remove all trash and litter from all maintained areas, as indicated and specified in the "Minimum Frequency Schedule." All trash generated, including green waste, shall be removed immediately by the Contractor at the Contractor's expense and offloaded to the proper disposal/recycling facility.

(b) Curb and Gutter Maintenance – The Contractor shall remove all weeds and grass growing in and around curb and gutter areas.

(c) Drain Maintenance – All drains, culverts, and catch basins shall be free of siltation and debris at all times.

(d) Removal of Leaves – Accumulation of leaves shall be removed from all areas not less than once per week to the green waste disposal/recycling site.

(e) All organic waste must be disposed/recycled at a facility in compliance with State and County organic waste diversion guidelines and mandates.

7. IRRIGATION SYSTEM SERVICE OR REPAIR

All irrigation systems designated in this contract shall be repaired and maintained by the Contractor in the following manner:

(a) Scope of Responsibility – The Contractor shall maintain, troubleshoot, repair, replace, and keep operable all irrigation equipment components including but not limited to,

sprinkler heads, drip irrigation parts, valve repairs, backflow devices, lateral line repair, quick couplers, risers, and automatic controller batteries. This paragraph does not require the Contractor to make a complete piping replacement of the system or to make major renovations/repairs to the existing irrigation systems.

(b) Replacement Requirements – Replacement will be with original materials or substitutes approved in writing prior to installation by the City.

(c) Extent of Responsibility – Perform minor maintenance and repairs to the irrigation system. Major repairs and replacements shall be handled as extra work. Major repairs shall include mainline breaks, controller replacement, backflow device replacement and certification, and valve replacement. Contractor must provide copies of certifications for newly installed or replaced backflow devices to the City's Director of Public Works or designee. Minor repairs include but are not limited to: head adjustment and replacement; lateral line breaks and leaks; wire tracking; clock adjustment; diagnosis of irrigation system problems; and valve and solenoid repair. Verified by the supplier's invoice, contractor shall be reimbursed for all parts used in the repair of the irrigation systems at cost. The Contractor shall be responsible at all times for hand watering and bleeding of valves in emergency situations as required to sustain and prevent loss of turf, trees, plants, and ground cover when automatic systems are not functioning. The Contractor shall repair and replace automatic irrigation systems when they are not functioning. The replacement required by the Contractor shall be due to normal deterioration, wear and tear, or negligence upon the part of the Contractor. The Contractor may make necessary repairs and/or replacements to irrigation systems, which malfunction due to incidents of vandalism, acts of God, and third-party negligence.

8. MANAGEMENT OF SIDEWALKS, BARRICADES, SOUND WALLS, CENTER MEDIANS, SERVICE MEDIANS, BLOCK WALLS AND DRAINS

8.1 Sidewalks, and block walls– In maintained areas, the Contractor shall notify the City of any conditions that may affect the health and safety of the public.

(a) Contractor shall replace all sidewalks and roadways damaged by Contractor's negligence.

(b) Contractor shall not be responsible for the replacement of roadways or sidewalks worn due to normal deterioration.

(c) Contractor shall thoroughly clean all hard surface areas a minimum of once per week or more often, if necessary, to maintain in a clean, safe, condition.

9. EXTRAORDINARY REPAIRS

9.1 Any extraordinary incident such as vandalism, acts of God, and third-party negligence which has or will affect any maintenance area and is within the scope of Contractor's responsibilities, shall be documented by the Contractor by a phone call, photographs, and/or written statement, and documentation shall be given to the City within eight (8) hours of learning of same. The Contractor is not responsible for graffiti abatement but shall report graffiti to the City within two (2) hours of learning of same. The Contractor shall perform the above documentation upon discovery of extraordinary incidents.

9.2 The City may, at its discretion, when it learns of the need for extraordinary repairs, authorize the Contractor to perform necessary repairs and replacements in accordance with the following: Contractor shall submit a written estimate for the cost of performing such work to the City. The city may, upon review and approval of such estimate, authorize the Contractor to perform said work by the issuance of a written work order. Upon completion of the work, the Contractor shall submit a bill to City, and City shall reimburse the Contractor, but only up to the amount of the agreed-upon cost estimate. In the event Contractor's written estimate is not approved, the City reserves the right to contract with a third party to perform such work or to make the repairs using City staff. All parts used by the Contractor shall be reimbursed at the Contractor's direct cost. Notwithstanding the above, when a condition exists wherein there is imminent danger of injury to the public or damage to property, the City may verbally authorize work to be performed upon receiving a verbal estimate from the Contractor. However, within twenty-four (24) hours after receiving a verbal authorization, the Contractor shall submit a written estimate to the City. The provisions of Paragraph 1.4 of this Scope of Work shall prevail under these circumstances.

10. **INSPECTION**

10.1 The Contractor shall:

(a) Perform a weekly maintenance inspection during daylight hours of all medians within the maintenance areas.

(b) Meet on-site with an authorized representative of the City on a monthly basis for a walk-through inspection. Said meeting shall be at the convenience of the City. The Contractor and City representative shall collectively agree and document the observations and findings as a result of the weekly walk-through inspection. The Contractor shall provide to the City a summary of the weekly walk-through prior to the next meeting date. Any corrective work required as a result of an inspection or any interim inspection by the City shall be accomplished to the satisfaction of the City as follows:

The City will provide written notice ("punch list") to the Contractor to correct the deficiencies within specified time frames. Said specified time frames shall be reasonable, as determined by the City, in order to correct the specified deficiencies. Should the

Contractor fail to correct deficiencies within said time frames, the City may contract the work or may perform the work utilizing City employees and contract labor. The cost for corrective measures will be deducted and forfeited from the payments to the Contractor by the City. This action shall not be construed as a penalty but as an adjustment of payment to the Contractor for the purpose of recovering the costs incurred by the City due to the failure of the Contractor to comply with the provision of this contract. Should it become necessary for the City to provide personnel to assist or complete a task as per this maintenance contract, the Contractor will be billed for all costs, plus a 30% administrative fee.

Reasonable time frames are defined as follows:

- (a) Emergency service notification or attempted notification must be responded to within two (2) hours. No further notification will be given.
- (b) Mainline and valve repairs must be completed within twelve (12) hours of notification.
- (c) Broken or improperly operating irrigation heads shall be repaired or adjusted within one (1) working day of notification. No further notification will be given.
- (d) Areas impacted and affected by health and safety issues shall immediately be barricaded to inform the public and City personnel of potential dangers in that area. Repairs must be completed within three (3) working days of notification. No further notification will be given.
- (e) All other issues will receive written notification ("punch list") giving five (5) working days for completion. If the deficiency is not corrected within the required five (5) day period, any item which has not been corrected by the end of the five (5) day period may be completed by the City or by other contractual services and actual costs will be charged to the Contractor without further notification.

10.2 Inspection/Administration Cost Limitation

The inspection and administration costs shall require a maximum time of City staff of 23 hours per week. The cost of all time in excess of the 23-hour maximum incurred due to inadequate level of landscape maintenance and poor administrative preparation on the part of the Contractor shall be deducted from the monthly payment. The cost of the City labor shall be \$40 per hour plus the cost of needed equipment. The City shall maintain an accurate log of inspection and administrative time, which will be available for review by the Contractor.

11. GENERAL CONDITIONS

11.1 Notification Reports – The Contractor shall give the City notice seven (7) calendar days prior to any and all use of commercial and organic fertilizer(s), grass seed, soil amendment, pesticides, or other chemicals. The contractor shall submit a report indicating, for those specialty type maintenance operations to be completed, the quantity and a complete description of any and all commercial and organic fertilizer, and soil amendments to be used.

11.2 Contractor's Liability – All damages that, in the City's opinion, are due to the Contractor's operation, shall be repaired at the Contractor's expense and completed in accordance with the following maintenance practices:

(a) Trees – Minor damage such as bark lost from the impact of mowing equipment or string trimmer shall be remedied by an arborist. If damage results in the loss of a tree, the damaged tree shall be removed and replaced according to the specific instructions of the City.

(b) Shrubs – Minor damage may be corrected by appropriate pruning. Major damage shall be corrected by the removal and replacement of the damaged shrub.

(c) Chemicals – All damage resulting from chemical operations, either spray-drift or lateral leaching, shall be corrected in accordance with the aforementioned maintenance practices, and the soil shall be conditioned to ensure its ability to support plant life. The Contractor shall comply with all state and federal labeling and application requirements applicable to pesticides, fungicides, pest control chemicals, or any other types of hazardous chemicals used by the contractor, and shall defend and hold the City harmless from any damages, fines, or penalties arising from such use or misuse.

11.3 Contractor is required to maintain an office and provide the telephone service so that all calls from the City have no toll charge. If a telephone answering service is utilized, the answering service shall be capable of contacting the contractor by radio or pager. The contractor is further required to provide the City with a 24-hour emergency number for contact outside normal working hours. The response to an emergency call-out by the contractor shall not be more than two (2) hours.

11.4 Safety – The contractor agrees to perform all work outlined in these specifications in such a manner as to meet all accepted standards for safe practices during maintenance operations and to safely maintain and operate all equipment, machines, and materials related to the work; and is solely responsible for complying at all times with all local, County, State, Federal, or other legal requirements including, but not limited to California Department of Food and Agriculture, O.S.H.A. Orders, Department of Transportation Drug and Alcohol testing provisions, Caltrans Traffic Control Manuals, and APWA Traffic

Control Handbook, so as to protect all persons, including Contractor's employees, agents of the City, vendors, members of the public and others from foreseeable injury to themselves or damage to their property. Furthermore, as necessary, the contractor must contact Underground Service Alert (Dig Alert) before excavating a location, as necessary. The contractor shall inspect all hazards and potential hazards in maintained areas and keep a log indicating the date inspected and action taken. All employees working within the roadway right-of-way shall wear reflective safety vests.

11.5 It shall be the Contractor's responsibility to inspect and identify any practices and conditions that render any portion of the maintained areas unsafe. The City shall be notified immediately of any unsafe condition that requires major correction. The contractor shall be responsible for making minor corrections including, but not limited to filling holes in turf areas, replacing valve box covers, and repairing irrigation systems so as to protect members of the public or others from injury. The contractor shall cooperate fully with City in the investigation of any accidental injury or death occurring in any of the maintained areas, including a complete written report thereof to the City within five calendar (5) days of the injury or death.

11.6 Pursuant to the work scheduled approved in advance by the City, hours of maintenance service may be conducted between 7:00 a.m. and 3:00 p.m. on those days maintenance is to be. The Contractor shall not impede traffic on major thoroughfares before 8:30 a.m. or after 2:30 p.m. without authorization from the City's Public Works Director, or assigned designee(s).

11.7 Eight (8) hours of labor shall constitute a legal day's work for all workers employed in the execution of this agreement and the contractor and any subcontractor shall comply with and be governed by the laws of the State of California having to do with working hours as set forth in Division 2, Part 7, Chapter 1, Article 3 of the Labor Code of the State of California as amended.

11.8 Maintenance Schedules – Within ten (10) business days after the effective date of the agreement, the Contractor shall submit a work schedule to the City for approval. When actual performance differs substantially from previously scheduled work, the contractor shall submit for approval, revised schedules within five (5) working days.

11.9 Contractor's Staff – The contractor shall provide sufficient personnel to perform all work in accordance with the specifications set forth herein. At no time shall the Contractor allow its crew, including subcontractors, to be diminished in size or labor hours so as to not effectively complete the assigned maintenance tasks. A qualified, English-speaking foreman in the employ of the contractor shall supervise all of the contractor's maintenance personnel. At least one (1) member of each crew working at each site shall be fluent in English.

11.10 If any person employed by the contractor or any subcontractor shall fail or refuse to carry out the directions of the City's Director of Public Works or designee, or is in the opinion of the City's Director of Public Works or designee, incompetent, intemperate, or disorderly; or uses threatening or abusive language to any person on the work site; or is otherwise unsatisfactory, he shall be discharged from the project immediately, and shall not again be employed on the work except with the written consent of the City's Director of Public Works or designee. The Contractor shall transfer or discharge any such person within a reasonable time following notice therefor from the City's Director of Public Works or designee and such person shall not be employed at any other area maintained by the Contractor for the City except with the written consent of the City's Director of Public Works or designee.

11.11 Contractor shall require employees to wear appropriate clothing while working in the City. This shall include proper work shoes and other clothing and gear required by Federal and/or State Safety Regulations.

11.12 Contractor vehicles must be white and shall display a sign indicating Contractor's name and license number on both sides of all maintenance vehicles. The City shall approve signs. Contractor vehicles must be equipped with all proper warning lights, signage, and other equipment necessary to safely work in the City right-of-way.

11.13 Signs/Improvements – The Contractor shall not post advertising signs and banners within the maintenance areas. All contractor-owned traffic control and public safety signs used by the Contractor shall be kept “graffiti free” at all times.

11.14 Contractor shall remove and dispose all unauthorized signs and advertising within the maintenance areas.

11.15 Utilities – City shall pay for the maintenance-related water and electrical utilities.

11.16 Storage Facilities – City shall not provide any storage facilities for the Contractor.

Project Locations

Service Area B: Medians North of the 405 Freeway					
No.	Location	From	To	Approx. Length (Miles)	Total Area (Sq Ft)
1B	Alameda St. Medians	Del Amo Blvd.	Sepulveda Blvd.	1.9	112,250.59
2B	Albertoni Median	Figuerroa St	Broadway	0.116	6,147.84
3B	Avalon Blvd. North Medians	Del Amo Blvd	Alondra Blvd	2.63	292,032.05
4B	Avalon Blvd. South Medians	Sepulveda Blvd	Del Amo Blvd	2.7	100,083.44
5B	Bitterlake Service Medians	Lysander Dr	Scudder CT	0.4218	58,048.91
6B	Carson St. Medians	405 South	Wilmington Ave	0.75	33,665.69
7B	Central Ave. Medians	91 Fwy	Del Amo Blvd	1.7	59,740.50
8B	Del Amo Blvd. Medians	Wilmington Ave	Figuerroa St	2.75	135,211.99
9B	Dominguez St. Medians	Avalon Blvd	Leapwood Ave	0.0527	5,855.95
10B	Figuerroa St. North Medians	Victoria St	Carson St	2.03	79,623.50
11B	Main St. North Medians	Alondra Blvd	223 rd St	2.28	101,365.89
12B	Santa Fe Ave. Medians	Carson St.	218 th Pl	0.0764	4,259.06

13B	University Dr. Medians	Avalon Blvd	Wilmington Ave	0.8174	39,681.85
14B	Victoria St. Medians	Figueroa St	Central Ave	1.224	55,482.67
15B	Walnut St. Medians	Avalon Blvd	Billings Dr	0.34	18,030.47
16B	Wilmington Ave. Medians	Victoria St	Lomita Blvd	3.82	186,576.08

Service Area B: Special Locations North of the 405 Freeway					
No.	Location	From	To	Approx. Length (Miles)	Total Area (Sq Ft)
17B	Embankment slope area (runs parallel to Carson St at North side of bridge)			To be accessed by contractor	To be accessed by contractor
18B	Embankment slope area just off Carson St & before bridge			To be accessed by contractor	To be accessed by contractor
19B	Embankment slope area on transition road	Carson St	Alameda St	To be accessed by contractor	To be accessed by contractor
20B	Embankment slope area on transition road	Del Amo Blvd	Alameda St	To be accessed by contractor	To be accessed by contractor

21B	Parkways on Del Amo Blvd (North side of St.)	Tilman	East side of Del Amo Park (where Park begins)	To be accessed by contractor	To be accessed by contractor
22B	Parkways on Victoria St	Mettler Ave	Cairo Ave	To be accessed by contractor	To be accessed by contractor

Minimum Frequency Schedule

Center Medians, Service Medians, and Adjacent Treewells		
Service	Description of Service	Frequency
Litter Control	litter pickup	weekly
	hardscape cleaning	weekly
Turf	mowing	weekly
	edging, blowing off hardscape, string trimming, hand blowing	weekly, following mowing on the same day
Aeration	aeration	annual
Reseeding	reseeding	as requested
Dethatch	dethatch	annual
Ground Cover	renovation/trimming/edging	weekly
	cultivation	weekly
	hand watering	as required
	weeding	weekly
Fertilization	ground cover, shrubs, and turf	bi-annual
Shrubs/Plants	pruning	as needed
	cultivation/rmulching	weekly
Tree Maintenance	removal of suckers	weekly
	raise for clearance	as needed
Weed, Disease and Pest Control	weed and pest removal/control	weekly
	weeds - sidewalks, curbs, gutters and tree wells	weekly
	broad leaf weed spraying	bi-annual
	hard surface areas	weekly
Irrigation	irrigation - check schedule and inspect time clocks including sprinkler heads	weekly
	inspect coverage and valves, backflows/meters	following mowing
	hand watering	as required
	irrigation repairs	as required, to be completed with 24 hours

II. In addition to the requirements of Section 6.2, during performance of the Services, Consultant will keep the City apprised of the status of performance by delivering the following status reports:

- A. Weekly detailed landscaping maintenance report to the Contract Officer.**

III. All work product is subject to review and acceptance by the City, and must be revised by the Consultant without additional charge to the City until found satisfactory and accepted by City.

IV. Consultant will utilize the following personnel to accomplish the Services:

- A. Ezekiel Swayzer, Project Manager**
- B. Elijah Swayzer III, Operations Manager**
- C. Luellen Swayzer, Director of Horticulture**
- D. Daniel Vengoechea, Health & Safety Manager**
- E. Manuel Santillan, Landscape Supervisor**
- F. Gabriel Ramos, Irrigation Systems Specialist**
- G. Julio Monchaca Orozco, Landscape Supervisor**
- H. Glenn Washington, Landscape Supervisor**
- I. Beachamp Lokeni, Crew Lead**
- J. Willie Habbery, Crew Lead**

EXHIBIT “B”

SPECIAL REQUIREMENTS

(Superseding Contract Boilerplate)

(new text shown in ***bold italics***, deleted text in ~~striketrough~~)

I. A new Section 1.5 (Compliance with Labor and Wage Laws) is hereby added to the Agreement to read in its entirety as follows:

“1.5 Compliance with Labor and Wage Laws.

Certain portions of the Services may be subject to prevailing wages under the Labor Code and to the extent such is true, the below provisions will apply.

(a) **Public Work.** The Parties acknowledge that the work to be performed under this Agreement is a “public work” as defined in Labor Code Section 1720 and that this Agreement is therefore subject to the requirements of Division 2, Part 7, Chapter 1 (commencing with Section 1720) of the California Labor Code relating to public works contracts and the rules and regulations established by the Department of Industrial Relations (“**DIR**”) implementing such statutes. The work performed under this Agreement is subject to compliance monitoring and enforcement by the DIR. Consultant shall post job site notices, as prescribed by regulation.

(b) **Registration with DIR.** Pursuant to Labor Code section 1771.1, Consultant and all subcontractors must be registered with, and pay an annual fee to, the DIR prior to and during the performance of any work under this Agreement.

(c) **Prevailing Wages.** Consultant shall pay prevailing wages to the extent required by Labor Code Section 1771. Pursuant to Labor Code Section 1773.2, copies of the prevailing rate of per diem wages are on file at City Hall and will be made available to any interested party on request. By initiating any work under this Agreement, Consultant acknowledges receipt of a copy of the DIR determination of the prevailing rate of per diem wages, and Consultant shall post a copy of the same at each job site where work is performed under this Agreement. If this Agreement is subject to the payment of federal prevailing wages under the Davis-Bacon Act (40 U.S.C. § 3141 *et seq.*), then Consultant shall pay the higher of either the state or federal prevailing wage applicable to each laborer.

(d) **Penalty for Failure to Pay Prevailing Wages.** Consultant shall comply with and be bound by the provisions of Labor Code Sections 1774 and 1775 concerning the payment of prevailing rates of wages to workers and the penalties for failure to pay prevailing wages. The Consultant shall, as a penalty to the City, forfeit two hundred dollars (\$200) for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the DIR for the work or craft in which the worker is employed for any public work done pursuant to this Agreement by Consultant or by any subcontractor.

(e) Payroll Records. Consultant shall comply with and be bound by the provisions of Labor Code Section 1776, which requires Consultant and each subcontractor to: keep accurate payroll records and verify such records in writing under penalty of perjury, as specified in Section 1776; certify and make such payroll records available for inspection as provided by Section 1776; and inform the City of the location of the records.

(f) Apprentices. Consultant shall comply with and be bound by the provisions of Labor Code Sections 1777.5, 1777.6, and 1777.7 and California Code of Regulations Title 8, Section 200 et seq. concerning the employment of apprentices on public works projects. Consultant shall be responsible for compliance with these aforementioned Sections for all apprenticeable occupations. Prior to commencing work under this Agreement, Consultant shall provide City with a copy of the information submitted to any applicable apprenticeship program. Within sixty (60) days after concluding work pursuant to this Agreement, Consultant and each of its subcontractors shall submit to the City a verified statement of the journeyman and apprentice hours performed under this Agreement.

(g) Eight-Hour Work Day. Consultant acknowledges that eight (8) hours labor constitutes a legal day's work. Consultant shall comply with and be bound by Labor Code Section 1810.

(h) Penalties for Excess Hours. Consultant shall comply with and be bound by the provisions of Labor Code Section 1813 concerning penalties for workers who work excess hours. Consultant shall, as a penalty to the City, forfeit twenty-five dollars (\$25) for each worker employed in the performance of this Agreement by Consultant or by any subcontractor for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week in violation of the provisions of Division 2, Part 7, Chapter 1, Article 3 of the Labor Code. Pursuant to Labor Code section 1815, work performed by employees of Consultant in excess of eight (8) hours per day, and forty (40) hours during any one week shall be permitted upon public work upon compensation for all hours worked in excess of 8 hours per day at not less than one and one-half (1½) times the basic rate of pay.

(i) Workers' Compensation. California Labor Code Sections 1860 and 3700 provide that every employer will be required to secure the payment of compensation to its employees if it has employees. In accordance with the provisions of California Labor Code Section 1861, Consultant certifies as follows:

"I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract."

(j) Consultant's Responsibility for Subcontractors. For every subcontractor who will perform work under this Agreement, Consultant shall be responsible for such subcontractor's compliance with Division 2, Part 7, Chapter 1 (commencing with Section 1720) of the California Labor Code, and shall make such compliance a requirement in any contract with any subcontractor for work under this Agreement. Consultant shall be

required to take all actions necessary to enforce such contractual provisions and ensure subcontractor's compliance, including without limitation, conducting a review of the certified payroll records of the subcontractor on a periodic basis or upon becoming aware of the failure of the subcontractor to pay his or her workers the specified prevailing rate of wages. Consultant shall diligently take corrective action to halt or rectify any such failure by any subcontractor."

II. Section 3.4 (Term) of the Agreement is hereby amended to read in its entirety as follows:

"3.4 Term. Unless earlier terminated in accordance with Article 7 of this Agreement, this Agreement shall continue in full force and effect until completion of the services but not exceeding ~~three-one~~(31) years from the date hereof, except as otherwise provided in the Schedule of Performance (Exhibit "D"). *The City may, at its sole discretion, elect to extend the Term by two (2) additional one-year terms (each, an "Extension Term"). The not to exceed compensation for Services performed during each Extension Term shall be consistent with the annual prices listed in Exhibit "C."*"

EXHIBIT “C”

SCHEDULE OF COMPENSATION

I. Consultant shall perform the Services at the following locations and rates:

Service Area B: Medians North of the 405 Freeway					
No.	Location	From	To	Monthly Price	Annual Price
1B	Alameda St. Medians	Del Amo Blvd.	Sepulveda Blvd.	\$905.00	\$10,860.00
2B	Albertoni Median	Figueroa St	Broadway	\$905.00	\$10,860.00
3B	Avalon Blvd. North Medians	Del Amo Blvd	Alondra Blvd	\$905.00	\$10,860.00
4B	Avalon Blvd. South Medians	Sepulveda Blvd	Del Amo Blvd	\$905.00	\$10,860.00
5B	Bitterlake Service Medians	Lysander Dr	Scudder CT	\$905.00	\$10,860.00
6B	Carson St. Medians	405 South	Wilmington Ave	\$905.00	\$10,860.00
7B	Central Ave. Medians	91 Fwy	Del Amo Blvd	\$905.00	\$10,860.00
8B	Del Amo Blvd. Medians	Wilmington Ave	Figueroa St	\$905.00	\$10,860.00
9B	Dominguez St. Medians	Avalon Blvd	Leapwood Ave	\$905.00	\$10,860.00
10B	Figueroa St. North Medians	Victoria St	Carson St	\$905.00	\$10,860.00
11B	Main St. North Medians	Alondra Blvd	223 rd St	\$905.00	\$10,860.00
12B	Santa Fe Ave. Medians	Carson St.	218 th Pl	\$905.00	\$10,860.00
13B	University Dr. Medians	Avalon Blvd	Wilmington Ave	\$905.00	\$10,860.00

14B	Victoria St. Medians	Figueroa St	Central Ave	\$905.00	\$10,860.00
15B	Walnut St. Medians	Avalon Blvd	Billings Dr	\$905.00	\$10,860.00
16B	Wilmington Ave. Medians	Victoria St	Lomita Blvd	\$905.00	\$10,860.00
Totals for lines 1B through 16B				\$14,480.00	\$173,760.00

Service Area B: Special Locations North of the 405 Freeway					
No.	Location	From	To	Monthly Price	Annual Price
17B	Embankment slope area (runs parallel to Carson St at North side of bridge)			\$905.00	\$10,860. 00
18B	Embankment slope area just off Carson St & before bridge			\$905.00	\$10,860. 00
19B	Embankment slope area on transition road	Carson St	Alameda St	\$905.00	\$10,860. 00
20B	Embankment slope area on transition road	Del Amo Blvd	Alameda St	\$905.00	\$10,860. 00
21B	Parkways on Del Amo Blvd (North side of St.)	Tilman	East side of Del Amo Park (where Park begins)	\$905.00	\$10,860. 00
22B	Parkways on Victoria St	Mettler Ave	Cairo Ave	\$905.00	\$10,860. 00
Totals for lines 17B through 22B				\$5,430.00	\$65,160. 00

EXTRA WORK PRICING SCHEDULE

To be paid on a time and materials basis

LABOR:		COST PER HOUR
Foreman/Crew Leader		\$ 55.00
Holidays and Weekends		\$ 82.50
Worker/Labor		\$ 41.00
Holidays and Weekends		\$ 61.50
Irrigation Specialist		\$ 62.00
Holidays and Weekends		\$ 93.00
Additional employee classification	Pest Control Operator	\$ 65.00
Holidays and Weekends		\$ 97.50
LABOR – PLANTING PER CONTAINER:		COST PER UNIT
Flat		\$ 40.00
1-Gallon		\$ 28.00
5-Gallon		\$ 95.00
15-Gallon		\$ 145.00
24" Box		\$ 375.00
EQUIPMENT:		COST PER HOUR
Pickup Truck		\$ 71.00
Flatbed Truck		\$ 180.00
5 Yard Dump Truck		\$ 235.00
Trencher		\$ 110.00
Mini Excavator		\$ 160.00

PRICE SCHEDULE – INSTALLATION OF NEW IRRIGATION

Drip irrigation (per ln. ft)	\$ 0.75
Sch 40 ¾" PVC (per ln. ft)	\$ 2.25
Sch 40 1" PVC (per ln. ft)	\$ 2.95
Sch 80 ¾" PVC (per ln. ft)	\$ 3.50
Sch 80 1" PVC (per ln. ft)	\$ 4.50

PRICE SCHEDULE - NEWLY DEVELOPED AREAS

Maintenance of additional landscape in medians (per sq. ft.)	\$ 0.045
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- II.** A retention of ten percent (10%) shall be held from each payment as a contract retention to be paid as part of the final payment upon satisfactory completion of services.

Not applicable.

- III.** The City will compensate Consultant for the Services performed upon submission of a valid invoice, in accordance with Section 2.2. Each invoice is to include:

- A.** Line items for all the work performed, the number of hours worked, and the hourly rate.
- B.** Line items for all materials and equipment properly charged to the Services.
- C.** Line items for all other approved reimbursable expenses claimed, with supporting documentation.
- D.** Line items for all approved subcontractor labor, supplies, equipment, materials, and travel properly charged to the Services.

- IV.** The total compensation for the Services shall not exceed \$716,760.00, as provided in Section 2.1 of this Agreement.

EXHIBIT “D”

SCHEDULE OF PERFORMANCE

I. Consultant shall perform all Services timely in accordance with the Minimum Frequency Schedule set out in Exhibit “A” Section I.

III. Consultant shall deliver the following tangible work products to the City by the following dates.

Weekly detailed landscaping maintenance report to the Contract Officer.

III. The Contract Officer may approve extensions for performance of the Services in accordance with Section 3.2.