CITY OF COSTA MESA
MAINTENANCE SERVICES AGREEMENT
WITH
WEST COAST ARBORISTS, INC.

THIS MAINTENANCE SERVICES AGREEMENT ("Agreement") is made and entered into this 1st day of October, 2019 ("Effective Date"), by and between the CITY OF COSTA MESA, a municipal corporation ("City"), and WEST COAST ARBORISTS, a California corporation ("Contractor").

W I T N E S S E T H :

A. WHEREAS, City proposes to utilize the services of Contractor as an independent contractor to provide tree maintenance services, as more fully described herein; and

B. WHEREAS, Section 2-165 of the Costa Mesa Municipal Code permits the City to purchase services through competitively awarded agreements of other local, state, or federal government agencies, a process known as "piggybacking"; and

C. WHEREAS, the City of Encinitas competitively awarded Contractor a contract effective January 1, 2018 for planting, pruning, trimming, staking, raising, removal, disposal, stump grinding and chipping, inventorying, and documenting (collectively, "tree maintenance services"), attached hereto as Exhibit "A" and incorporated herein by this reference ("Encinitas Contract"); and

D. WHEREAS, the City desires to "piggyback" onto the Encinitas Contract, and Contractor consents to the "piggybacking"; and

E. WHEREAS, City and Contractor desire to contract for the tree maintenance services in accordance with the Encinitas Contract, subject to the modifications set forth herein; and

F. WHEREAS, Contractor represents that it has the experience and expertise to properly perform such services and holds all necessary licenses to practice and perform the services; and

G. WHEREAS, no official or employee of City has a financial interest, within the provisions of Sections 1090-1092 of the California Government Code, in the subject matter of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, the parties hereby agree as follows:

1. Contractor agrees to perform the services set forth in the Encinitas Contract for the City in accordance with the terms of the Encinitas Contract, except as otherwise stated herein.

2. Except as otherwise stated herein, the terms and conditions of the Encinitas Contract shall form the basis of this Agreement, with the City having the rights, duties, and obligations of the City of Encinitas set forth in the Encinitas Contract.

3. If any provision of this Agreement conflicts with any provision of the Encinitas Contract, then the terms, conditions and provisions of this Agreement shall control.

4. The terms and conditions of the Encinitas Contract are modified, amended, or supplemented as follows:

   a. All references in the Encinitas Contract to "City" shall be considered references to the City of Costa Mesa.

   b. Section 4.0 shall be amended to add a subsection 4.4 to read as follows:

      4.4 Contractor's annual compensation shall not exceed Six Hundred Sixteen Thousand Three Hundred Fifty-Two Dollars ($616,352.00).

   c. Section 5.0 shall be deleted in its entirety and replaced as follows:

      5.1 Term. The term of this Agreement is for a period commencing on October 1, 2019, and ending on November 30, 2021, unless terminated earlier as set forth herein, or extended pursuant to Section 5.2 below.

      5.2 Options to Extend. Provided that City is satisfied with Contractor's performance under this Agreement and Contractor is in full compliance with the terms and conditions of this Agreement, City shall, at its sole discretion and without obligation to Contractor, have the option to extend the term of this Agreement for one (1) successive two (2) year period. Any extensions will be memorialized through a written amendment to this Agreement. City and Contractor agree that City's ability to exercise such extensions is contingent upon extensions of the Encinitas Contract.

      5.3 Agreement Price. Contractor agrees not to raise Contractor's prices during the initial term of the Agreement. Thereafter, Contractor may request in writing at least sixty (60) days prior to the expiration of the initial term, or any extension period, a contract extension and price increase based on an increase Consumer Price Index for All Urban Consumers for the Los Angeles–Long Beach–Anaheim area (CPI). The adjustment will be determined using the June index for the current year and the June index for the preceding year. However, in no event shall any increase in Contractor's prices exceed two percent (2%). Contractor's written request for a contract extension and price increase shall include reference to the CPI index, the percentage CPI increase, and Contractor's revised prices based on such CPI increase. The price increases shall be effective on the first day of any extension period and shall not be increased during any extension period.

   d. Section 19.1 shall be amended to read as follows:

      Contractor agrees and hereby stipulates that the proper venue and jurisdiction for resolution of any disputes between the parties arising out of this Agreement is a court of competent jurisdiction in Orange County, California.

e. Section 21.1 shall be amended to provide the following contact information for City:

If to City: City of Costa Mesa
Attn: Bruce Lindemann
77 Fair Drive
Costa Mesa, CA 92626

cc: City of Costa Mesa
Attn: Purchasing
77 Fair Drive
Costa Mesa, CA 92626

5. The certificates of insurance required by Section 12.0 of the Encinitas Contract shall be attached hereto as Exhibit "B."

6. Contractor shall provide a drug-free workplace by complying with all provisions set forth in City's Council Policy 100-5, attached hereto as Exhibit "C" and incorporated herein by reference. Contractor's failure to conform to the requirements set forth in Council Policy 100-5 shall constitute a material breach of this Agreement and shall be cause for immediate termination of this Agreement by City.

7. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by and through their respective authorized officers, as of the date first above written.

CITY OF COSTA MESA,
A municipal corporation

Lori Ann Farrell Harrison
City Manager

Date: 9/23/19

CONTRACTOR

Signature

Date: 9/6/19

Patrick Mahoney, President
Name and Title

[redacted]
Social Security or Taxpayer ID Number

ATTEST:

Brenda Green 9/23/19

Brenda Green
City Clerk

APPROVED AS TO FORM:

Date: 9/19/19

Kimberly Hall Barlow
City Attorney

APPROVED AS TO INSURANCE:

Date: 9/12/19

Ruth Wang
Risk Management

APPROVED AS TO CONTENT:

Date: 9/17/19

Bruce Lindemann
Project Manager

DEPARTMENTAL APPROVAL:

Raja Sethuraman

Date: 9-17-19

Raja Sethuraman
Public Services Director

APPROVED AS TO PURCHASING:

Date: 9/11/19

Kelly Telford
Finance Director

EXHIBIT A

CITY OF ENCINITAS AGREEMENT

AGREEMENT FOR GENERAL SERVICES BETWEEN
THE CITY OF ENCINITAS AND WEST COAST ARBORISTS, INC.

GENERAL SERVICES AND MAINTENANCE CONTRACT ONLY
(Non-Federal/Prevailing Wage)

THIS Contract is made and entered into by and between the City of Encinitas, a municipal corporation, hereinafter referred to as "City", and West Coast Arborists, Inc. hereinafter referred to as "Contractor".

RECITALS

City requires Contractor to perform its scope of work generally described as:

The requirement of this Contract is to provide professional Urban Forestry Maintenance Services as conditioned in RFP No. 2017-06; for planting, pruning, trimming, staking, raising, removal, disposal, stump grinding and chipping, inventorying, documenting and all other services required to maintain the City of Encinitas trees in a safe, attractive and overall healthy condition.

Contractor represents itself as possessing the necessary skills and qualifications to maintain the public works project required by City and possessing all required licenses and certifications;

NOW THEREFORE, in consideration of these recitals and the mutual covenants contained herein, City and Contractor agree as follows:

1.0 Contract Documents

1.1 The Contract Documents shall be deemed to be this Agreement, the Request for Proposal and Contractor's submission, all documents attached and specifically referenced herein.

2.0 Contractor's Obligations (Attachment A)

2.1 Contractor shall perform its scope of work that is described in **Attachment "A"**, which is attached hereto and incorporated herein as though fully set forth at length.

2.2 Contractor shall, at its own cost and expense, in a competent manner consistent with all applicable standards of care, furnish all labor, inspection, technical, administrative, professional and other personnel, all supplies and materials, equipment, tools, printing, vehicles, transportation, office space and facilities, and all tests, testing and analyses, calculations, and all other means and methods whatsoever, except as herein otherwise expressly specified to be furnished by City, necessary or proper to perform and complete the scope of work and provide the services required by this Agreement.

2.3 Contractor is hired to render those services necessary to perform the Scope of Work in a professional manner, and any payments made to Contractor are compensation fully for those services.

2.4 Contractor shall maintain throughout the full term of this Agreement all professional certifications and licenses required in order to comply with all city, state, and federal laws in the performance of this Agreement.

2.5 For the services to be performed, Contractor shall pay wages to Contractor's employees according to the current "General Prevailing Wage Rates" issued by the Director of the Department of Industrial Relations of the State of California and pursuant to California Labor Code Part 7, Chapter 1, Article 2, Sections 1770, 1771, 1773, 1773.1. Contractor shall follow all prevailing wage reporting required by law and the State Department of Industrial Relations (DIR).

3.0 Extra Work

3.1 Contractor, in providing the services as set forth herein, shall not perform work and will not be paid for work in excess of the Agreement amount without first obtaining a fully executed written Change Order from City or its authorized designated representative. All requests for extra work shall be made in writing and submitted to City.

4.0 Payment For Services (Attachment B)

4.1 Contractor's payment for services, including fee schedule or other terms of compensation, is attached hereto as **Attachment "B"** and incorporated herein by this reference.

4.2 City agrees to compensate Contractor for the services provided under this Agreement, and Contractor agrees to accept in full satisfaction for such services, payment in accordance with Attachment "B".

4.3 Contractor shall submit to City an invoice, on a monthly basis or as otherwise agreed, for the services performed pursuant to this Agreement. Each invoice shall itemize the services rendered during the billing period and the amount due. City shall pay all undisputed amounts included on the invoice. City shall not withhold applicable taxes or other authorized deductions from payments made to Contractor.

5.0 Term of Agreement

5.1 This Agreement shall be effective on and from the day, month and year of the execution of this document by City.

5.2 Term. The term of the Agreement is for a period of four (4) years commencing on the Execution Date by City, and terminating four (4) years from the execution date ("Termination Date") unless terminated earlier as set forth herein, or extended pursuant to Section 5.3 below.

5.3 Options to Extend. Provided that City is satisfied with Contractor's performance under this Agreement and Contractor is in full compliance with the terms and conditions of this Agreement, City shall, at its sole discretion and without obligation to Contractor, have the option to extend the terms of this Agreement for no more than two (2), three (3) year options. The City Manager and Contractor shall execute the extension(s) within sixty (60) days prior to the expiration of the Agreement. The total Agreement term may not exceed (10) ten years.

5.4 Agreement Price. Contractor agrees not to raise prices for the original four (4) year term of the agreement. Thereafter, Contractor may request in writing no later than ninety (90) days from the option date to request a contract extension and price increase not to exceed the prior year annual Bureau of Labor Statistics Consumer Price Index, San Diego or 2%, whichever is greater. All price increases shall take effect upon the effective date of the renewal.

6.0 Termination of Agreement

6.1 In the event of Contractor's failure to prosecute, deliver, or perform the described services, the City may terminate this Contract by notifying Contactor by certified mail of said termination. Thereupon, Contractor shall cease work and within five (5) working days: (1) assemble all materials and records prepared or obtained in the performance of this Agreement and deliver said documents to the City and (2) place all work in progress in a safe and protected condition. The City Manager shall make a determination of the percentage of work which Contractor has performed which is usable and of worth to the City. Based upon that finding, the City shall determine any final payment due to Contractor.

6.2 This Contract may be terminated by the City, without cause, upon the giving written notice to the Contractor. Contractor shall: (1) assemble all materials and records prepared or obtained in the performance of this Contract and deliver said documents and materials to the City and (2) place all work in progress in a safe and protected condition. The City Manager shall make a determination of the percentage of work which Contractor has performed which is usable and of worth to the City. Based upon that finding, the City shall determine any final payment due to Contractor.

7.0 Independent Contractor

7.1 Contractor shall perform the services provided for herein in a manner of Contractor's own choice, as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of City. Contractor shall be under control of City only as to the result to be accomplished and the personnel assigned to the Project. However, Contractor shall confer with City as required to perform this Agreement.

7.2 If Contractor is approved by the City to subcontract for extenuating circumstances any work to be performed under this Agreement, Contractor shall be as fully responsible to City or the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in the Agreement shall create any contractual relationship between any subcontractor of Contractor and City. Contractor shall bind every subcontractor by the terms of the Agreement applicable to Contractor's work, including indemnity and insurance requirements.

8.0 No Assignment of Agreement

8.1 Contractor has no authority or right to assign this Agreement or any part thereof or any monies due thereunder without first obtaining the prior written consent of City.

9.0 No Verbal Agreement or Conversation

9.1 No verbal agreement or conversation with any officers, elected officials, appointed officials, volunteers, agent or employee of City, either before, during or after the execution of this Agreement, shall effect or modify any of the terms or obligations herein contained nor such verbal agreement or conversation entitle Contractor to any additional payment whatsoever under the terms of this Agreement.

10.0 Disputes

10.1 If a dispute should arise regarding the performance of this Agreement, the following

initial dispute resolution procedures shall be used:

A. Within twenty (30) City working days after a dispute regarding the performance of this Agreement arises, it shall be reduced to writing at staff level by the complaining party setting forth the nature of the dispute in detail, along with all pertinent back-up documentation in support. The writing shall be delivered to the receiving party by first class mail or personal delivery directly to the party's project manager, along with recommended methods of resolution.

B. The party receiving the letter shall reply to the letter with a detailed response, along with a recommended method of resolution, if any, within ten (10) City working days of receipt of the letter.

10.2 If the dispute is not resolved at staff level in accordance with Section 10.1, within five (5) City working days of the receiving party response (or longer if agreed between the parties), the aggrieved party, through its respective project manager shall deliver to the City Manager's office a letter outlining the dispute for the City Manager's review. The receiving party may submit further response, if required, to the City Manager within five (5) city working days thereafter. The City Manager, at his/her sole discretion may respond as he/she deems appropriate, including recommendations for resolution, discussion or rejection of the dispute within fifteen (15) working days of receipt of the complaint.

10.3 If the dispute remains unresolved and the parties have exhausted the procedures outlined in this section, the parties may then seek remedies available to them under this Agreement and at law, including, but not limited to, under the termination procedures. This provision does not relieve Contractor of its obligation and Contractor is required to timely comply with all applicable provisions of the Government Claims Act before initiating any legal proceeding against City.

11.0 Hold Harmless

11.1 To the greatest extent allowed by law, Contractor shall defend and indemnify and hold City, its officials, officers, agents, employees, and representatives free and harmless from any and all claims, demands, negligence (including the active or passive negligence of City as allowed by law), causes of action, costs, expenses, liabilities, losses, damages or injuries, in law or equity, regardless of whether the allegations are false, fraudulent, or groundless, to property or persons, including wrongful death, to the extent arising out of or incident to any acts, omissions, negligence or willful misconduct of Contractor, its officials, officers, employees, agents, consultants, subcontractors and contractors arising out of or in connection with the performance of the scope of work or this Agreement, including without limitation the payment of all damages and attorney's fees, fines, penalties and other related costs and expenses. The only limitations on this provision shall be those imposed by Civil Code Section 2782 or other applicable provisions of law.

11.2 Contractor's defense obligation (with counsel approved by City), shall arise immediately upon City's tender, at Contractor's own cost, expense and risk, any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against City, its officials, officers, agents, employees and representatives, notwithstanding whether liability is or can be established against City. Contractor shall pay and satisfy any judgment, award or decree that may be rendered against City, its officials, officers, employees, agents, employees and representatives, in any such suit, action or other legal proceeding. Contractor shall reimburse City, its officials, officers, agents, employees and representatives for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. The only limitations on this provision shall be those imposed by Civil Code Section 2782 or other applicable provisions of law.

11.3 Contractor's defense and indemnity obligations herein include, but are not limited to

damages, fines, penalties, attorney's fees and costs arising from claims under the Americans With Disabilities Act (ADA) or other federal or state disability access or discrimination laws arising from Contractor's Work during the scope of work or after the Project is complete, as the result of defects or negligence in Contractor's services.

11.4 Contractor's obligation herein includes, but is not limited to, alleged defects in the services performed; alleged defects in the materials or services furnished under the Agreement; alleged injury to persons or property; alleged inverse condemnation of property as a consequence of the performance of the work or the improvement; any regulatory violations (including but not limited to Stormwater Pollution Control BMP/Erosion Control and regulatory requirements); and any accident, loss or damage to City property or third party liability prior to the acceptance of same by City.

11.5 By inspecting, approving or accepting the services performed by Contractor, City shall not have waived the protections afforded herein to City and City's officers, elected officials, appointed officials, volunteers, employees and agents or diminished the obligation of Contractor who shall remain obligated in the same degree to indemnify and hold City and City's officers, elected officials, appointed officials, volunteers, employees and agents, harmless as provided above.

12.0 **Insurance**

12.1 Commercial General Liability Insurance. Contractor shall obtain and maintain for the full term of this Agreement, comprehensive general liability and property damage insurance, or commercial general liability insurance, from an insurance company approved by City having a Best Rating of A-: VII or better and authorized by the Insurance Commissioner of the State of California Department of Insurance to be transacting business in the State of California, in the following minimum limits:

General liability (Including operations, Products and completed operations)

Combined Single Limit Per Occurrence	$5,000,000.00
General Annual Aggregate	$10,000,000.00

The limits of insurance shall not relieve Contractor from liability in excess of such coverage, nor shall it limit Contractor's indemnification obligations to City, and shall not preclude City from taking such other actions available to City under other provisions of the Agreement, Contract Documents, or law.

Contractor shall make certain that if any and all subcontractors hired by Contractor are insured in accordance with this Agreement. If any subcontractor's coverage does not comply with the foregoing provisions, Contractor shall indemnify and hold City harmless from any damage, loss, cost, or expense, including attorney's fees, incurred by City as a result thereof.

All general liability policies shall be written to apply to all bodily injury, including death, property damage, personal injury, owned and non-owned equipment, blanket contractual liability, completed operations liability, explosion, collapse, under-ground excavation, removal of lateral support, and other covered loss, occurring during the policy term, and shall specifically insure the performance by Contractor. Contractor may combine primary, umbrella, and as broad as possible excess liability coverage to achieve the total limits indicated above. Any umbrella or excess liability policy shall include the additional insured endorsement described in this Agreement.

12.2 Automobile Liability Insurance. Such insurance shall provide coverage for bodily injury and property damage including coverage for non-owned and hired vehicles, in a form and with insurance companies acceptable to City for bodily injury and property damage in an amount, at least, one million dollars ($1,000,000) per person per accident.

12.3 Workers' Compensation Insurance. Contractor shall provide, during the term of this Agreement, workers' compensation insurance for all of the employees engaged in Work under this Agreement, on or at any work site, and, in case of any sublet Work, Contractor shall require each subcontractor similarly to provide workers' compensation insurance for all of the latter's employees as proscribed by State law. Any class of employee or employees not covered by a subcontractor's insurance shall be covered by Contractor's insurance. Contractor is required to secure payment of compensation to its employees in accordance with the provisions of Section 3700 of the Labor Code in an amount of, at least, one million dollars ($1,000,000) per person per accident and shall contain a Waiver of Subrogation in favor of City.

Contractor shall assume the immediate defense of and indemnify and save harmless City and its officers and employees, agents, and consultants from all claims, loss, damage, injury, and liability of every kind, nature, and description brought by any person employed or used by Contractor, or any subcontractors, to perform the scope of work under this Agreement regardless of responsibility or negligence.

12.4 Employer's Liability Insurance. Contractor shall provide during the life of this Agreement, Employer's Liability Insurance, including Occupational Disease, in the amount of, at least, one million dollars ($1,000,000.00) per person per accident. Contractor shall provide City with a certificate of Employer's Liability Insurance. Such insurance shall comply with the provisions of the Agreement and Contract Documents. The policy shall be endorsed, if applicable, to provide a Borrowed Servant/Alternate Employer Endorsement and contain a Waiver of Subrogation in favor of City.

12.5 Form Proof of Insurance. Any insurance carrier providing insurance coverage required by the Agreement and Contract Documents shall be admitted to and authorized to do business in the State of California unless waived, in writing, by City's Risk Manager. Carrier(s) shall have an A.M. Best rating of not less than an A : VII or better. Insurance deductibles or self-insured retentions must be declared by Contractor, and such deductibles and retentions shall have the prior written consent from City.

12.6 Additional Insured Requirement. City, its officers, elected officials, employees, contractors, construction managers, architect and volunteers are to be covered as additional insureds by endorsement under the General Liability, Automobile Liability, Employers Liability and Workers Compensation Liability Insurance policies. The General Liability policy shall be evidenced by an additional insured endorsement, using form ISO CG 20-10-10-01 and GC 20-37-10-01 or the exact equivalent.

12.7 Other Insurance Requirements. The Certificate(s) and policy(s) of insurance shall provide no less than thirty (30) days written notice be given to City prior to any material modification or cancellation of such insurance. In the event of a material modification or cancellation of coverage, City may terminate or Stop Work pursuant to this Agreement and Contract Documents, unless City receives, prior to such effective date, another properly executed original Certificate of Insurance and original copies of endorsements or certified original policies, including all endorsements and attachments evidencing coverages and the insurance as required is in full force and effect.

Contractor shall not take possession of any work site, or commence its scope of work under this Agreement until City has been furnished original Certificate(s) of Insurance and certified original copies of Endorsements and any and all other attachments as required in this Agreement. The original Endorsements for each policy and the Certificate(s) of Insurance shall be signed by an individual authorized by the insurance carrier to do so on its behalf.

It is understood and agreed to by the parties and the insurance company(s) that the Certificate(s) of Insurance and policies shall be construed as primary, and City's insurance and/or deductibles and/or self-insured retentions or self-insured programs shall not be construed as contributory.

13.0 Payroll Records

13.1 Consistent with Labor Code Section 1776, Contractor and each subcontractor shall maintain accurate weekly certified payroll records showing the name, address, social security number, work classification, straight time and overtime hours paid each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker or other employee employed in connection with the work. Contractor shall certify under penalty of perjury that records maintained and submitted by Contractor are true and accurate. Contractor shall also require subcontractor(s) to certify weekly payroll records under penalty of perjury.

13.2 The payroll records described herein shall be certified and submitted by Contractor at a time designated by City. Contractor shall also provide the following:

A certified copy of the employee's payroll records shall be made available for inspection or furnished to such employee or his or her authorized representative on request.

A certified copy of all payroll records described herein shall be made available for inspection or furnished upon request of the Department of Industrial Relations ("DIR").

The certified payroll records shall be on forms provided by the Division of Labor Standards Enforcement ("DLSE") of the DIR or shall contain the same information as the forms provided by the DLSE.

Any copy of records made available for inspection and furnished upon request to the public shall be marked or obliterated in such a manner as to prevent disclosure of an individual's name, address, and social security number. The name and address of Contractor or any subcontractor shall not be marked or obliterated.

13.3 Pursuant to Labor Code Section 1775, Contractor and any subcontractor under the Agreement shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit not more than two hundred dollars ($200) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rates as determined by the DIR for the work or craft in which the worker is employed for any public work done under the Agreement by Contractor or, except as provided by statute, by any subcontract under the Agreement. Upon the request of the DIR, such penalties shall be withheld from Agreement payments.

14.0 Prevailing Wage and Enforcement Compliance

14.1 This is a prevailing wage contract and prevailing wage rates for this locality and project as determined by the Director of the DIR apply, pursuant to labor code section 1770, et. Seq. A copy of the prevailing wage rates shall be posted on the job site by Contractor. A schedule of prevailing wage rates is available for review at City's offices or may be found on the internet at http://www.dir.ca.gov/Public-Works/Prevailing-Wage.html. Contractor shall be required to pay at least the wage rates set forth in that schedule. Certified Payroll records shall be maintained by Contractor and copies of the certified payroll shall be electronically sent to the DIR and be delivered to City at the end of each month during the entire duration of the project.

Contractor is subject to compliance monitoring and enforcement by the DIR. Subject to exceptions as set forth in Labor Code section 1771.1, Contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or

engage in the performance of any contract for public work, as defined by statute, unless it is currently registered and qualified to perform public work pursuant to Labor Code Section 1725.5. City may not accept a bid nor any contract or subcontract entered into without proof of Contractor or subcontractor's current registration to perform public work pursuant to Section 1725.5. For more information, go to http://www.dir.ca.gov/Public-Works/Certified-Payroll-Reporting.html.

Contractor shall be aware of the requirements of Labor Code Sections 1720 et seq. and 1770 et seq., as well as California Code of Regulations, Title 8, Section 16000 et seq. ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects. Since this Project involves an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and since the total compensation is $1,000 or more, Contractor agrees to fully comply with such Prevailing Wage Laws. Contractor shall obtain a copy of the prevailing rates of per diem wages at the commencement of this Agreement from the website of the Division of Labor Statistics and Research of the DIR located at www.dir.ca.gov/dlsr/. In the alternative, Contractor may view a copy of the prevailing rates of per diem wages at City's offices. Contractor shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to perform work on the Project available to interested parties upon request, and shall post copies at Contractor's principal place of business and at the Project site. Contractor shall defend, indemnify and hold City, its elected officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or allege failure to comply with the Prevailing Wage Laws.

14.2 Contractor and each subcontractor shall forfeit as a penalty to City not more than two hundred dollars ($200) for each calendar day, or portion thereof, for each worker paid less than the stipulated prevailing wage rate for any work done by him, or by any subcontractor under him, in violation of the provisions of the Labor Code. The difference between such stipulated prevailing wage rate and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the stipulated prevailing wage rate shall be paid to each worker by Contractor.

Contractor shall post, at appropriate conspicuous points on the Project site, a schedule showing all determined general prevailing wage rates and all authorized deductions, if any, from unpaid wages actually earned.

15.0 Employment of Apprentices

15.1 Contractor's attention is directed to the provisions of Sections 1777.5, 1777.6, and 1777.7 of the Labor Code concerning employment of apprentices by Contractor or any subcontractor. Contractor shall obtain a certificate of apprenticeship before employing any apprentice pursuant to Section 1777.5, 1777.6, and 1777.7 of the Labor Code. Information relative to apprenticeship standards, wage schedules, and other requirements may be obtained from the Director of the DIR, the Administrator of Apprenticeships, San Francisco, California, or from the Division of Apprenticeship Standards and its branch offices.

16.0 Nondiscrimination/Equal Employment Opportunity

16.1 Pursuant to Labor Code Section 1735 and other applicable provisions of law, Contractor and its subcontractors shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, age, political affiliation, marital status, or handicap on this Project. Contractor will take affirmative action to ensure that employees are treated during employment or training without regard to their race, color, religion, sex, national origin, age, political affiliation, marital status, or handicap.

17.0 Labor/Employment Safety

17.1 Contractor shall maintain emergency first aid treatment for its employees which complies with the Federal Occupational Safety and Health Act of 1970 (29 U.S.C. § 651 et seq.), and California Code of Regulations, Title 8, Industrial Relations Division 1, Department of Industrial Relations, Chapter 4. Contractor shall further comply with all other federal, state or local safety regulations, as they may apply to its scope of work. City shall not be responsible for inspection of Contractor's safety practices or for safety violations caused by Contractor.

18.0 Conflict of Interest

18.1 Contractor warrants and covenants that it presently has no interest in, nor shall any interest be hereinafter acquired in, any matter which will render the services required under the provisions of this Agreement a violation of any applicable state, local, or federal law, including, but not limited to, Government Code section 1090. If any principal provider of services is a "consultant" for the purposes of the Fair Political Practices Act (Gov. Code § 81000 et seq.), each such person shall comply with Form 721 Statement of Economic Interests filing requirements in accordance with state or City local Conflict of Interest Code. In addition, if any other conflict of interest should nevertheless hereinafter arise, Contractor shall promptly notify City of the existence of such conflict of interest so that City may determine whether to terminate this Agreement.

19.0 General Provisions

19.1 Contractor agrees and hereby stipulates that the proper venue and jurisdiction for resolution of any disputes between the parties arising out of this Agreement is San Diego County, North County Judicial Branch, California.

19.2 Waiver of a breach or default under this Agreement shall not constitute a continuing waiver of a subsequent breach of the same or any other provision under this Agreement.

19.3 If any term or portion of this Agreement is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall continue in full force and effect.

19.4 Precedence of Agreement Documents. If there is a conflict between any of the contract documents, including attachments or incorporated documents such as the Request for Proposal (RFP) and Contractor's RFP response, the documents in the highest of precedence shall control. If no direct conflict exists, then Contractor is required to meet all requirements of this Agreement and all incorporated documents and references. The order of precedence, from highest to lowest, shall be as follows:

a) This Agreement, including Attachments A and B.
b) The City RFP.
c) Contractor's RFP response.
d) Standard Specifications.
e) Reference Specifications.
f) Industry Standards.

20.0 Contractor's Books and Records/Audit Right

20.1 Contractor shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services, or expenditures and disbursements charged to City for a minimum period of three (3) years, or for any

longer period required by law, from the date of final payment to Contractor.

20.2 Contractor shall maintain all documents and records which demonstrate performance under this Agreement for a minimum period of three (3) years, or for any longer period required by law, from the date of termination or completion of this Agreement.

20.3 Any records or documents required to be maintained pursuant to this Agreement shall be made available for inspection or audit, at any time during regular business hours, upon written request by the City Attorney, City Council, City Auditor, City Manager, or a designated representative of any of these officers. Copies of such documents shall be provided to City for inspection when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records shall be available for review and copying at Contractor's address indicated for receipt of notices in this Agreement.

20.4 City may, by written request by any of the above-named officers, require that custody of the records be given to City and that the records and documents be maintained in the City Manager's office. Access to such records and documents shall be granted to any party authorized by Contractor's representatives, or Contractor's successor in interest.

21.0 Written Notification

21.1 Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other party shall be in writing and either served personally or sent by prepaid, first class mail. Any such notice, demand, etc. shall be addressed to the other party at the address set forth below. Either party may change its address by notifying the other party of the change of address. Notice shall be deemed communicated within 48 hours from the time of mailing if mailed as provided in this section.

If to City:
City of Encinitas
505 N. Vulcan Ave Encinitas, Ca 92024

If to Contractor:
West Coast Arborists, Inc.
2200 E. Via Burton Street Anaheim, Ca 92806

22.0 Contractor's Awareness And Compliance With The Americans With Disabilities Act Of 1990

22.1 Contractor certifies that Contractor is aware of the requirements of the Americans with Disabilities Act of 1990 (42 U. S. Code §12101) and has complied with and will comply with these requirements, including but not limited to verifying compliance of their contractors, consultants, agents and employees.

West Coast Arborists, Inc.
Contractor

By: _____ 1-8-2018
(Signature) Date)

PRESIDENT.
(Title)

Attest: _____
City Clerk

Dated: _____

APPROVED AS TO FORM

Glenn Sabine
Glenn Sabine, City Attorney by Erin Chapman

Dated: 1/8/18

CITY OF ENCINITAS

By: _____ 1/8/18
(Signature) Date)

Asst. City Manager
(Title)

ATTACHMENT "A" CONTRACTOR'S SCOPE OF WORK

Contractor: West Coast Arborists, Inc.

The requirement of this Contract is to provide professional Urban Forestry Maintenance Services for planting, pruning, trimming, staking, raising, removal, disposal, stump grinding and chipping, inventorying, documenting and all other services required to maintain the City of Encinitas trees in a safe, attractive and overall healthy condition.

The City proposes to enter into a Contract with a qualified Contractor who is proactive in their work and can meet the requirements set forth in this proposal package. The Contractor will be required to perform and complete the proposed Urban Forestry Maintenance Services in a thorough and professional manner, and to provide all labor, tools, equipment, materials and supplies necessary to complete the work according to generally accepted International Society of Arboriculture (ISA) practices and standards, and in a timely manner that will meet the City's requirements. The successful proposer will be required to comply with all current prevailing wage requirements as set forth in the Labor Code administered by the Department of Industrial Relations.

There are two main program goals. First, the City requires an update to the current tree inventory and database, which includes updating and maintaining records throughout the term of the Contract. Second, the City requires an annual tree maintenance program to support and develop its Urban Forest. The following requirements are meant to meet these goals.

A. Tree Inventory

1. Upon Contract award, the successful Proposer shall be required to provide a complete update of the City's tree inventory at no additional cost to the City and submit the completed inventory to the City within ninety (90) days of the Contract award. The new inventory shall capture all trees within the Public Rights of Way, new tree sites ,as well as, trees in parks, open space areas and city facilities. The Contractor shall provide, at no additional cost to the City, software support to the City for the entire term of the Contract. The Contractor shall provide the City with recommendations for tree maintenance, tree health care, recommended planting locations, and recommended removals. Failure to meet and maintain the requirements for the computerized tree inventory system shall be grounds for immediate termination of the Contract.

2. Tree Software Program - The Contractor shall operate and maintain, at no additional cost to the City, a computerized internet based urban forestry management program that includes, but is not limited to, municipal tree inventory, ability to send online work requests for services, work order tracking, work histories and the ability to update site specific tree data and work records, invoices tracking and job balances, reports, value of the urban forest, GPS accessibility, and various other computer information management system tools.

3. Record Keeping - The Contractor will provide, at no additional cost to the City, access to a record keeping system consisting of a password protected Internet-driven tracking program and Internet- based software program that allows the City to maintain information about its tree population, including the description of each tree by species, height, diameter, work history, and tree and planting site location. The program shall have the capability to produce

detailed listings of trees and site information, work histories, service requests, summary reports and pictures of City tree species.

4. GPS - Since the City of Encinitas already has a tree inventory in GIS, the City's GIS Division will provide the current tree inventory feature class (SQL table) to the contractor as a starting point. This includes but is not limited to all publicly owned trees on street rights-of-way, parks and open spaces such as medians, streetscapes, etc.

   The contractor shall then track the maintenance and characteristic information of the trees in the City of Encinitas' tree inventory feature class in ArcGIS version 10. Or, the contractor shall incorporate the City's tree inventory FacilityID field into their own database, and include x and y (lat/long) fields necessary to map the trees in GIS.

   For on-going data maintenance, when a new tree is planted, the new tree site will be added as a record to the tree inventory, and will include the latitude/longitude coordinates (collected by the contractor using a Global Positioning System (GPS) device with minimum sub-meter accuracy). Lat/long coordinates shall be included at the time a new record is added, and will not be input at a later date through a bulk update process. Trees that are removed will not be deleted from the tree inventory, but will be coded as 'vacant'.

   At required intervals, the contractor shall provide an ArcGIS version 10 file or personal geodatabase containing the updated tree feature class, which will be reconciled with the City GIS tree inventory. Or, the contractor may provide an Excel spreadsheet or Access database table containing updated information that can be joined to the City's GIS tree inventory based on FacilityID. If the contractor provides their own updated tree inventory database to the City, there will be a one-time requirement to provide a data dictionary of fields containing tree maintenance and tree characteristic information that corresponds to similar fields in the City's GIS tree inventory, so that the City is confident that accurate data synchronization/updating can occur.

5. Tree Inventories and Developing Inventory Databases - The program should have specialized reports designed specifically for City representatives' needs. The program should be developed based on the needs of the City and allow the City to modify and structure the program to address its specific needs. The user-friendly program should allow customers to generate a variety of reports quickly.

6. Training and Support - The Contractor shall provide, at no additional cost to the City, training and support on the software system they provide for the entire term of the contract. Contractor shall provide training to designated City staff during the hours of 7:00 A.M. to 4:30 P.M. Monday through Friday. The Contractor shall be readily available by telephone or e-mail and shall respond to the City's inquiries in a timely manner.

B. Annual Maintenance Program

1. Public Relations - The Contractor shall endeavor to maintain good public relations at all times with the public. All work shall be conducted in a manner which will cause the least possible interference with or annoyance to, the public.

2. Work Schedule - Upon Contract award, the successful proposer shall be required to submit a work schedule based on the City's annual pruning requirements which is a systematic tree pruning program composed of existing grid or per-designed districts that are pruned in their entirety on a set schedule; removal & replacement programs which consist of removing trees designated by the City and replanting appropriate trees as replacements; and planting new appropriate trees in areas where trees do not currently exist. The proposal shall include a recommended annual work plan, daily work schedules, and personnel and vehicles that would be required to complete the annual maintenance program. Depending on the City's current and future program needs the scheduled work may require multiple crews to perform concurrently within the same time constraints.

   The Contractor is also required to provide service for trees prior to their regular and scheduled trim cycle in order to correct an immediate problem or concern as determined by the City's Designated Representative. Such request(s) shall be addressed and work completed within one (1) week of notice by the City.

3. Work Hours and City Notification - The Contractor's working hours, for normal work, shall be limited to the hours between 7:00 AM and 4:30 PM Monday through Friday, excluding recognized holidays. Deviation from normal working hours will not be allowed without prior authorization from the City's designated representative. The Contractor shall notify the City's Designated Representative 24hrs before beginning work. The notification shall include what work is being done and where, the name of the onsite supervisor and his or her direct phone number.

4. Emergency Response - The Contractor shall be responsible for responding to tree related emergency situations during normal business hours, after-hours, weekends and holidays. The Contractor shall have the capacity to deal with any tree related emergency situation ranging from limbs down on single trees to storm related damage that involves a large number of trees requiring the commitment and focus of significant resources and staffing levels for several days. Response time and protocol during emergencies is critical to the City of Encinitas.

   As part of this Contract, the Contractor shall be required to make the City of Encinitas their priority client for responses during emergencies that cover the San Diego area.
   - Telephone responses by the Contractor to tree related emergency calls during normal business hours and after-hours shall be made within (30) fifteen minutes of the initial call.
   - The response time for a crew to arrive on-site for tree related emergencies during normal business hours of operation is sixty (60) minutes.
   - The response time for a crew to arrive on-site for tree related emergencies outside of normal business hours of operation is ninety (90) minutes.

   Failure to meet these requirements may be cause for termination of the Contract.

5. Competent Supervisor and Project Manager - The Contractor shall have competent working supervisors at each jobsite at all times when work is being performed. Each supervisor must be capable of communicating effectively both in written and oral English, and holding the necessary certifications or credentials as described for that position. All supervisors must

possess adequate technical background to ensure that all work is accomplished per provisions of this Contract.

Contractor is required to have a competent Project Manager available by telephone on a twenty-four (24) hour basis that is assigned to provide direct and prompt attention to requests from the City for emergency and after-hours tree service requests.

6. Qualified Staff - Contractor shall employ sufficient personnel qualified by reason of education, training and experience to discharge the services agreed to be performed by Contractor. Contractor shall provide service of the highest quality at all times, and personnel retained to perform this service shall be temperate, competent and otherwise fully qualified to fulfill the Contractor's obligations under the Contract.

7. Uniforms - All employees of Contractor performing services shall appear neat and well-groomed at all times and shall be dressed in clean, unaltered uniforms at no additional cost to the City, with suitable company identification. No portion of the uniform may be removed while working. Employees not in uniform shall be immediately removed from the work area. The Contractor shall provide a standard uniform consisting of at least a collared shirt with buttons, complimenting pants, a belt and boots appropriate to the work. All shirts, jackets or safety vests shall be clearly marked with company identification and the name of the employee wearing the uniform in the field. Contractor employees shall wear orange safety vests when operating machinery and/or while working near moving traffic as required by any applicable laws.

8. Knowledge, Skills and Abilities - The Contractor's employees shall be subject to the following minimum knowledge, skills, abilities and requirements:
   - The proper license to operate equipment;
   - Ability to operate and maintain equipment in accordance with the manufacturer's recommendations;
   - Mechanical ability to make required operator adjustments to the equipment being used;
   - Knowledgeable of safety regulations as they relate to tree care and traffic control;
   - First Aid Certification from a nationally recognized organization (minimum of one member of each crew);
   - Ability to communicate orally and in writing in English; and,
   - Demonstrated knowledge of tree care and related operations.

9. ISA Standards - The Contractor shall deliver a level of quality that is compatible with Current International Society of Arboriculture (ISA) standards, and standards and requirements described herein in providing tree services compatible with standard practice that results in a neat, clean and attractive appearance to trees and associated sites serviced under the terms of the Contract.

10. Clean Worksite - Upon completion of work on individual street segments that are under the Contract, Contractor shall clean the work site and all grounds adjacent to the work area of all rubbish, excess materials and equipment. All sections of the work area shall be left in a neat and presentable condition. Care should be taken to prevent spillage on streets over

which work or hauling is done, and any such spillage or debris deposited on street due to Contractor operation shall be cleaned up immediately.

11. Equipment

    a. Overnight parking of equipment, leaving unattended debris and staging of materials on City streets will not be permitted. Waste bins shall be removed from individual street segments once the work has been completed.

    b. All equipment used and all maintenance practices employed shall be subject to the inspection of the City's designated representative and shall meet safety and functional requirements described herein. All vehicles and equipment operating under this Contract shall be properly marked with company identification and comply with all state and federal regulations. All equipment must be maintained in a good state of repair. All safety guards shall be in place. No equipment shall leak oil or fluids. Equipment drive belts and hoses shall be covered and in good repair and show no sign of fraying. No equipment shall present any potential danger to the operator, co-workers, passing motorists or pedestrians. Failure to comply with this provision will be cause to have the equipment removed from the job site.

    c. It is the Contractor's responsibility to maintain a sufficient inventory of equipment so as to complete work as specified. An inventory of equipment shall be provided with proposal. This inventory shall include the brand name, model number, weight and capacities of all equipment to be used in the performance of the Contract. All equipment is to be approved by the City prior to the start of the Contract. It is the Contractor's responsibility to notify the City's designated representative of any change in the equipment inventory during the performance of the Contract. This notification shall come in the form of an updated equipment inventory list, presented in the form of a memo on dated company letterhead. Failure to comply with this provision will be grounds to remove the Contractor from the job site until such time as equipment inventory discrepancies are addressed and may be grounds to terminate the Contract.

12. Disposal of Refuse and Debris/Landfill Diversion Requirement - All vegetation and debris generated by the Contractor in the performance of the work shall become the property of the Contractor and shall be removed from the work site promptly. The Contractor shall dispose of all generated debris at no additional cost to City and shall, at minimum, dispose of the material as is consistent with the requirements of AB 939. The Contractor is encouraged to divert as much material as possible from the landfill, meeting or exceeding the City's goal of seventy-five (75) percent diversion rate. It is anticipated that one-hundred (100) percent of the material from the work could be diverted, unless a particular tree is diseased or not suitable for reuse.

13. Protecting the Urban Forest - If, at any time, the Contractor is unclear, on what course of action to follow in the field, the Contractor shall consult with the City's designated representative. The Contractor should never proceed with an action that will result in the permanent disfigurement of the structure or value of a tree. Contractors responsible for the disfigurement of trees shall be penalized in an amount equal to the appraised value of the subject tree as determined by an independent Consulting Arborist.

14. Safety Requirements - The Contractor shall conduct all work outlined in the Contract in such a manner as to meet all currently accepted standards for safe practices during the operation and to safely maintain stored equipment, machines and materials or other hazards consequential or related to the work; and agrees additionally to accept the sole responsibility for complying with all current City, County, State or other legal requirements including, but limited to, full compliance with the terms of the applicable OSHA, CAL EPA Safety Orders and ANSI Z133.1 Safety Requirements for Arboricultural Operations at all times so as to protect all person, including Contractor employees, agents of the City, vendors, members of the public or others from foreseeable injury or damage to their property.

15. Traffic Control - The Contractor shall be responsible for traffic control and safety regulations as related to any City, State or County requirements while working in the public right-of-way or on any City project. The design and operation of work zone traffic controls must comply with US Department of Transportation/Federal highway Administrative guidelines and any City, County or State supplements guidelines and/or regulations and laws. All operations will be conducted by the Contractor to provide maximum safety for the public according to the most recent edition of the MUTCD (Manual on Uniform Traffic Control Devices) and any California supplements to the MUTCD and any local regulations.

    Where work is in progress, each street shall be open to local traffic at all times unless prior arrangements have been made and approved by the City's designated representative.

    The Contractor shall display standardized warning signage when controlling traffic around any area used for staging or working in any area that is subject to pedestrian or vehicular traffic. At no time shall traffic be permitted to enter, or operations allowed to continue, in any work zone that presents a dangerous conditions to pedestrian and/or vehicular traffic.

    The Contractor may be required to submit a traffic control plan to the Engineering Department as directed by the City's designated representative.

16. Utility Coordination - The Contractor shall recognize the rights of utility companies within the public right-of- way or on any City project and their need to maintain and repair their facilities. The Contractor shall exercise due and proper care to prevent damage to utility facilities and to adjust schedules when utility operations prevent the Contractor from maintenance during a specified time frame. No additional compensation will be allowed for complying with these requirements. Contractor shall notify the City's designated representative of any utility that is disturbed or damaged and shall contact the appropriate utility to arrange for repair.

17. Authority and Inspections

    a. The City's designated representatives shall, at all times, have access to the work and shall be furnished with every reasonable facility for acquiring full knowledge with respect to the progress, workmanship and characters of materials and equipment used and employed in the work. Whenever the Contractor varies the period during which work is carried out, they shall give due notice to the City's designated representative so

that property access for inspection may be provided. Any inspection of work shall not relive the Contractor of any obligations to fulfill the Contract as prescribed. Any and all questions regarding the performance of the work shall be directed to the City's designated representative.

b. If it appears that the work to be done or any matter relative thereto is not sufficiently detailed or explained by the specifications, the Contractor shall apply to the City's designated representative for such further explanation as may be necessary and shall conform to such explanation or interpretation as part of the Contract so far as may be consistent with the intent of the original requirements.

c. All work shall be completed to the satisfaction of and under the supervision of the City's designated representative. Failure to comply with any requirement contained herein may result in suspension of work without time extension or termination of Contract. Inspection of work will be done by the City's designated representative, during the performance of work or when deemed necessary.

d. If any portion of the work done under the Contract proves defective or not in accordance with the requirements, and if the imperfection in the same is not of sufficient magnitude or importance to make the work dangerous or undesirable, the City's designated representative shall have the right and authority to retain the work, but he/she may make such deductions in the payment due the Contractor as may be just and reasonable.

e. Any work which is defective or deficient in any of the requirements or specifications shall be remedied or removed and replaced by the Contractor in an acceptable manner and within a reasonable amount of time as determined by the City, at the Contractor's own expense.

f. In any other case, a letter will be sent to Contractor noting deficiencies, and the Contractor shall make a reasonable and good faith effort to correct the deficiencies within a reasonable period of time not to exceed three (3) days from notification. After this time period, if unacceptable conditions still exist, the City has the right to terminate the Contract or deduct payment as is proportionately appropriate for non-compliance with the requirements and specifications of the Contract.

18. Quantities/ Minor Modifications and/or Additional Work - The City reserves the right to increase or decrease the quantity of any item(s) or portion(s) of the work described in the requirements or specifications or the proposal form or to omit portions of the work so described as may be deemed necessary or expedient by the City's designated representative and the Contractor shall agree not to claim or bring suit for damages, whether for loss of profits or otherwise, on account of any decrease or omission of any kind of work to be done. The City shall reduce the price accordingly. Alterations, modifications or deviations from the work described in this document shall be subject to prior written approval of the City. Any price adjustments shall be made by mutual consent of the City and Contractor.

Should a change or extra work be found necessary by the City, all changes and extra work shall be performed at the same unit price of any proposal item listed. If the work is not

listed as a proposal item, the Contractor shall submit a fair cost for the work to be performed. A change order authorization, in writing, will be issued by the City.

19. Invoicing - Contractor shall be required to submit invoices on a monthly basis. Invoice format shall include but not be limited to the date the work took place, a list of each street or location that work took place, the address of each individual work site and the activity, the species and its current condition, height, trunk diameter and canopy spread of each individual tree. Each invoice shall include an exact copy in electronic format that is compatible with the City's Tree Inventory program. Failure to submit invoices in this format may result in non-payment until these requirements are met.

20. Withholding Payment - The City may withhold payment to such extent as may be necessary to protect the City from loss due to one or more of the following reasons:

    - Defective, unsatisfactory or inadequate work not corrected; if notified by the City
    - Claims filed, or reasonable evidence indicating probable filing of claims;
    - Failure of the Contractor to make proper payments to subcontractors or for materials or labor;
    - A reasonable doubt that the contract can be completed for the balance unpaid; and,
    - Damage that resulted from an incident involving property damage.

21. Stop Work

    a. If the Contractor, after having officially commenced work on said Contract, should discontinue work for any cause, he/she shall notify the City's Designated Representative of the intent to do so, and shall further notify of the date for restarting operations.

    b. The City, at the discretion of the City's Designated Representative, may require the Contractor to Stop Work if any condition presents an unreasonable liability to the City, until such time as the condition is corrected to the satisfaction of the City.

22. Risk Management - Tree work is a controlled task. At no time should work be performed so as to result in a loss of control incident (e.g. free-falling large limbs or trunk sections, hinge cutting to avoid use of ropes/hoisting equipment, lack of safety apparatus/equipment guards, improper use/loading of equipment). Failure to maintain control at all times is dangerous and can result in serious injury. A loss control incident will not be tolerated and may result in termination of this Contract. The Contractor shall be responsible for mitigating any damage related to a loss of control incident.

23. Investigation - Contractor shall cooperate fully with the City in the investigation of any accident, injury or death occurring on City property or while in the performance of work based on the contract, including a complete written report submitted to the City's Designated Representative within twenty-four (24) hours following the occurrence.

    Should any structure or property be damaged during permitted or contracted tree operation, the persons conducting the work shall immediately notify the proper owners or authorities. Repairs to property damaged by the responsible party shall be made within forty-eight (48) hours, except utility lines, which shall be repaired the same working day.

Repairs on private property shall be made in accordance with the appropriate building code under permits issued by the City of Encinitas. Any damage caused by the permitted or contracted persons shall be repaired or restored by them at their expense to a condition similar or equal to that existing before such damage or injury, or they shall repair such damage in a manner acceptable to the City.

Special attention is drawn to existing irrigation systems, plant material, landscape features, lights and utility boxes in City parkways, parks and public landscape areas and the need to avoid damage and to repair any damage that occurs within a reasonable amount of time as determined by the City's Designated Representative.

The Contractor's responsibility shall be continuous and not be limited to working hours or days.

Contractor's Initials: _____

Date: _____

ATTACHMENT "B" PAYMENT OF SERVICES

Contractor: West Coast Arborists, Inc.

The undersigned proposes to furnish all materials, supplies, equipment and/or services set forth herein, subject to all conditions outlined in the RFP, at prices indicated below. All applicable services include cleanup and disposal.

Tree Planting (per tree). Tree planting includes tree, materials and planting costs	Unit Price in Figures
15 Gallon (double staked per specs)	$145.00
24 inch Box (double staked per specs)	$240.00
36 inch Box (double staked per specs)	$825.00
48 inch Box	$1,450.00
60 inch Box	$2,450.00
Tree Watering (per hour). Watering of young trees, water truck/operator-per hour	$70.00
Tree Pruning (by Grid). Price per tree to Prune by Grid	$62.00
Tree Pruning (per Service Requests). Full prune tree or by Species	
0"-6" Diameter Standard Height	$62.00
7"-12" Diameter Standard Height	$82.00
13"-18" Diameter Standard Height	$102.00
19"-24" Diameter Standard Height	$142.00
25"-30" Diameter Standard Height	$232.00
31"-36" Diameter Standard Height	$302.00
36"+ Diameter Standard Height	$402.00
Crown Raise/Clearance Prune Hardwood tree	
0"-6" Diameter Standard Height	$25.00
7"-12" Diameter Standard Height	$25.00
13"-18" Diameter Standard Height	$25.00
19"-24" Diameter Standard Height	$25.00
25"-30" Diameter Standard Height	$25.00
31"-36" Diameter Standard Height	$25.00
36"+ Diameter Standard Height	$25.00
Palm Tree Trimming	
Prune Date Palm (Phoenix spp.)	$150.00
Clean Trunk for Date Palm (Phoenix spp.)	$20.00
Prune Fan Palm (Washingtonia spp.)	$62.00
Clean Trunk for Fan Palm (Washingtonia spp.)	$12.00
Prune all other Palm Species	$62.00

Tree Removal (per inch). Tree and Stump removal per inch measured trunk diameter at 4'6" (Diameter Standard Height)	
0"-6" Diameter Standard Height	$20.00
7"-12" Diameter Standard Height	$30.00
13"-18" Diameter Standard Height	$30.00
19"-24" Diameter Standard Height	$30.00
25"-30" Diameter Standard Height	$30.00
31"-36" Diameter Standard Height	$40.00
36"+ Diameter Standard Height	$40.00
Stump grinding per stump diameter inch at grade	$15.00
Milling Cost (per board foot). Milling Lumber per Board Foot	$8.00
Root Pruning (per linear foot). Per foot of roots pruned	$15.00
Root Barrier Installation (per linear foot). Per foot of root barrier installed	$20.00
General Labor Rates (by hour)	
Hourly rate for 1 Ground-person	$70.00
Hourly rate for 1 Equipment Operator	$70.00
Hourly rate for 1 Trimmer	$70.00
Day Rate Service Crew (per day). Boom truck per eight (8) hour day to include a chip body, low decibel chipper, 1 trimmer, 2 ground persons	$1,680.00
Specialty Equipment Day Rate (per day). Per eight (8) hour day	$1,200.00
Emergency Services (per hour). Fully equipped 3 person crew called in for emergency service	
During normal business hours	$210.00
After hours, weekends &/or holidays	$300.00
General Arborist Services (per hour).	
Arborist Reports	$140.00
Resistograph Testing	$140.00
Ground Penetrating Radar	$800.00
Air Spade Services	$140.00
Fumigation	$140.00
Fertilization	$140.00
Level 1,2,3 Risk Assessments	$140.00
Soil Testing / Tree Well Enhancements	$140.00
GPS Tree Inventory (per tree site). Cost per tree site	$3.00

Plant Health Care Services

Tree Spraying from Ground Level (per diameter inch)	$2.00
Tree Spraying from Aerial Tower (per diameter inch)	$4.00
Insecticide Trunk Banding (per diameter inch)	$5.00
Plant Growth Regulator (PGR) Trunk Banding (per diameter inch)	$2.00
Plant Growth Regulator (PGR) Soil Application (per diameter inch)	$4.00
Insecticide or Fungicide Soil Application (per diameter inch)	$2.00
Fertilizer Drenching (per diameter inch)	$2.00
Trunk Injection - Insecticide/Miticide (per diameter inch)	$4.50
Trunk Injections – Fungicide (per diameter inch)	$3.50
Trunk Injection – Insecticide and Fungicide (per diameter inch)	$8.00

Contractor's Initials: _____

Date: _____

Y. MINOR MODIFICATIONS AND/OR ADDITIONAL WORK

1. The City may modify these specifications with the joint approval of the Contractor and the City Purchasing Agent. All modifications shall be in writing.

2. In the event that the City should require additional work beyond the requirements of these specifications, the Contractor shall perform all work at a competitive price.

3. Additional work may be added to the contract work as the need arises. The Contractor shall perform all specified and approved additional work at the unit prices submitted with this bid proposal.

4. 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 needed to complete the additional work in a timely manner.

5. The Contractor must have the ability to receive and respond to emergency situations and must respond to emergency call outs within sixty (60) minutes of receipt of the call.

Z. 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 as a result 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 vendor shall accept sole responsibility for negotiating, placing orders and making payment to vendor. The vendor may or may not agree to the cooperative purchasing clause.

AA. CLARIFICATION OF SPECIFICATIONS. If any bidder, prior to submitting their bid should find any discrepancies and/or omissions from the specifications or other contract documents, or if they should be in doubt as to the true meaning of any part thereof, they shall at once make a written request to the City Purchasing Agent for corrections, clarification, or interpretation of the points in question. The person submitting such request shall be responsible for its prompt delivery.

In the event that the City Purchasing Agent receives a request and it should be found that certain essential information is not clearly and fully set forth, or if the City discovers errors, omissions, or points requiring clarification in these documents, a written addendum will be mailed to each person to whom a set of bid documents has been delivered. The City will not be responsible for any instructions, explanations, or interpretations of the documents presented to bidders in any manner other than written addendum.

EXHIBIT B

CERTIFICATES OF INSURANCE

Certificate of Insurance

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON YOU THE CERTIFICATE HOLDER. THIS CERTIFICATE IS NOT AN INSURANCE POLICY AND DOES NOT AMEND, EXTEND, OR ALTER THE COVERAGE AFFORDED BY THE POLICIES LISTED BELOW. POLICY LIMITS ARE NO LESS THAN THOSE LISTED, ALTHOUGH POLICIES MAY INCLUDE ADDITIONAL SUBLIMIT/LIMITS NOT LISTED BELOW.

This is to Certify that

WEST COAST ARBORISTS, INC
2200 EAST VIA BURTON
ANAHEIM CA 92806

NAME AND ADDRESS OF INSURED

Liberty Mutual. INSURANCE

is, at the issue date of this certificate, insured by the Company under the policy(ies) listed below. The insurance afforded by the listed policy(ies) is subject to all their terms, exclusions and Conditions and is not altered by any requirement, term or condition of any contract or other document with respect to which this certificate may be issued.

TYPE OF POLICY	EXP DATE ☐ CONTINUOUS ☐ EXTENDED ☑ POLICY TERM	POLICY NUMBER	LIMIT OF LIABILITY	
WORKERS COMPENSATION Statutory Limits	7/1/2020	WA7-66D-039499-079	COVERAGE AFFORDED UNDER WC LAW OF THE FOLLOWING STATES: All States Except: ND, OH, WA, WY	**EMPLOYERS LIABILITY** Bodily Injury by Accident $1,000,000 Each Accident Bodily Injury By Disease $1,000,000 Policy Limit Bodily Injury By Disease $1,000,000 Each Person
COMMERCIAL GENERAL LIABILITY ☑ OCCURRENCE ☐ CLAIMS MADE	7/1/2020 RETRO DATE	TB2-661-039499-019	General Aggregate $2,000,000 Products / Completed Operations Aggregate $2,000,000 Each Occurrence $2,000,000 Personal & Advertising Injury $2,000,000 Per Person / Organization Other: Damage to premises rented to you $300,000	Other
AUTOMOBILE LIABILITY ☑ OWNED ☑ NON-OWNED ☑ HIRED	7/1/2020	AS7-661-039499-039	$2,000,000 Each Accident—Single Limit B.I. And P.D. Combined Each Person Each Accident or Occurrence Each Accident or Occurrence	
OTHER				

ADDITIONAL COMMENTS

RE: All jobs performed by the named insured during the policy term.
City of Costa Mesa, its elected and appointed boards, officers, agents and employees are included as Additional Insured(s) with regards to general liability and as their interest may appear where required by written contract. The insurance afforded by the GL policy for the benefit of the additional insured shall be primary and non-contributory.

* If the certificate expiration date is continuous or extended term, you will be notified if coverage is terminated or reduced before the certificate expiration date.

NOTICE OF CANCELLATION: (NOT APPLICABLE UNLESS A NUMBER OF DAYS IS ENTERED BELOW.) BEFORE THE STATED EXPIRATION DATE THE COMPANY WILL NOT CANCEL OR REDUCE THE INSURANCE AFFORDED UNDER THE ABOVE POLICIES UNTIL AT LEAST 30 DAYS NOTICE OF SUCH CANCELLATION HAS BEEN MAILED TO:

Liberty Mutual Insurance Group

Certificate Holder

City of Costa Mesa
Fourth Floor, Public Services
77 Fair Drive
Costa Mesa CA 92626

Elaine Ulan

Elaine Ulan
AUTHORIZED REPRESENTATIVE
0564408

Los Angeles / 0603
818 W 7th Street, Suite 850
Los Angeles CA 90017 — OFFICE
213-443-0782 — PHONE
6/18/2019 — DATE ISSUED

This certificate is executed by LIBERTY MUTUAL INSURANCE GROUP as respects such insurance as is afforded by those Companies NM 772 07-10

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – SCHEDULED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. **Section II – Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

C. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable Limits of Insurance shown in the Declarations;

whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):	Location(s) Of Covered Operations
Any owner, lessee, or contractor for whom you have agreed in writing prior to a loss to provide liability insurance	Any location work is performed

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

© Insurance Services Office, Inc., 2012

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PRIMARY AND NONCONTRIBUTORY – OTHER INSURANCE CONDITION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

The following is added to the **Other Insurance** Condition and supersedes any provision to the contrary:

Primary And Noncontributory Insurance

This insurance is primary to and will not seek contribution from any other insurance available to an additional insured under your policy provided that:

(1) The additional insured is a Named Insured under such other insurance; and

(2) You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.

© Insurance Services Office, Inc., 2012

EXHIBIT C

CITY COUNCIL POLICY 100-5

BACKGROUND

Under the Federal Drug-Free Workplace Act of 1988, passed as part of omnibus drug legislation enacted November 18, 1988, contractors and grantees of Federal funds must certify that they will provide drug-free workplaces. At the present time, the City of Costa Mesa, as a sub-grantee of Federal funds under a variety of programs, is required to abide by this Act. The City Council has expressed its support of the national effort to eradicate drug abuse through the creation of a Substance Abuse Committee, institution of a City-wide D.A.R.E. program in all local schools and other activities in support of a drug-free community. This policy is intended to extend that effort to contractors and grantees of the City of Costa Mesa in the elimination of dangerous drugs in the workplace.

PURPOSE

It is the purpose of this Policy to:

1. Clearly state the City of Costa Mesa's commitment to a drug-free society.

2. Set forth guidelines to ensure that public, private, and nonprofit organizations receiving funds from the City of Costa Mesa share the commitment to a drug-free workplace.

POLICY

The City Manager, under direction by the City Council, shall take the necessary steps to see that the following provisions are included in all contracts and agreements entered into by the City of Costa Mesa involving the disbursement of funds.

1. Contractor or Sub-grantee hereby certifies that it will provide a drug-free workplace by:

    a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in Contractor's and/or sub-grantee's workplace, specifically the job site or location included in this contract, and specifying the actions that will be taken against the employees for violation of such prohibition;

b. Establishing a Drug-Free Awareness Program to inform employees about:

1. The dangers of drug abuse in the workplace;

2. Contractor's and/or sub-grantee's policy of maintaining a drug-free workplace;

3. Any available drug counseling, rehabilitation and employee assistance programs; and

4. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

c. Making it a requirement that each employee to be engaged in the performance of the contract be given a copy of the statement required by subparagraph A;

d. Notifying the employee in the statement required by subparagraph 1 A that, as a condition of employment under the contract, the employee will:

1. Abide by the terms of the statement; and

2. Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;

e. Notifying the City of Costa Mesa within ten (10) days after receiving notice under subparagraph 1 D 2 from an employee or otherwise receiving the actual notice of such conviction;

f. Taking one of the following actions within thirty (30) days of receiving notice under subparagraph 1 D 2 with respect to an employee who is so convicted:

1. Taking appropriate personnel action against such an employee, up to and including termination; or

2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health agency, law enforcement, or other appropriate agency;

g. Making a good faith effort to maintain a drug-free workplace through implementation of subparagraphs 1 A through 1 F, inclusive.

2. Contractor and/or sub-grantee shall be deemed to be in violation of this Policy if the City of Costa Mesa determines that:

   a. Contractor and/or sub-grantee has made a false certification under paragraph 1 above;

   b. Contractor and/or sub-grantee has violated the certification by failing to carry out the requirements of subparagraphs 1 A through 1 G above;

   c. Such number of employees of Contractor and/or sub-grantee have been convicted of violations of criminal drug statutes for violations occurring in the workplace as to indicate that the contractor and/or sub-grantee has failed to make a good faith effort to provide a drug-free workplace.

3. Should any contractor and/or sub-grantee be deemed to be in violation of this Policy pursuant to the provisions of 2 A, B, and C, a suspension, termination or debarment proceeding subject to applicable Federal, State, and local laws shall be conducted. Upon issuance of any final decision under this section requiring debarment of a contractor and/or sub-grantee, the contractor and/or sub-grantee shall be ineligible for award of any contract, agreement or grant from the City of Costa Mesa for a period specified in the decision, not to exceed five (5) years. Upon issuance of any final decision recommending against debarment of the contractor and/or sub-grantee, the contractor and/or sub-grantee shall be eligible for compensation as provided by law.