

**CITY OF COACHELLA  
MAINTENANCE SERVICES AGREEMENT PROJECT NO. 032921**

**1. PARTIES AND DATE.**

This Agreement is made and entered into this 26<sup>th</sup> day of May, 2021 by and between the City of Coachella, a municipal organization organized under the laws of the State of California with its principal place of business at 53-990 Enterprise Way, Coachella, California 92236, (hereinafter referred to as “City”) and Conserve Landcare LLC, a corporation with its principal place of business at 72265 Manufacturing Road, Thousand Palms, CA 92276(hereinafter referred to as “Contractor”). City and Contractor are sometimes individually referred to as “Party” and collectively as “Parties” in this Agreement.

**2. RECITALS.**

**2.1 Contractor.**

Contractor desires to perform and assume responsibility for the provision of certain maintenance services required by the City on the terms and conditions set forth in this Agreement. Contractor represents that it is experienced in providing landscape maintenance services to public clients, that it and its employees or subcontractors have all necessary licenses and permits to perform the Services in the State of California, and that is familiar with the plans of City.

**2.2 Project.**

City desires to engage Contractor to render such services for the Landscape Maintenance Services for Landscape Lighting and Maintenance Districts 1-38 Project No. 032921 (“Project”) as set forth in this Agreement.

**3. TERMS.**

**3.1 Scope of Services and Term.**

3.1.1 Incorporation of Documents. The “Contract Documents” include the following:

Notice Inviting Bids  
Instructions to Bidders  
Contractor's Bid Forms  
Contractor's Certificate Regarding Workers' Compensation  
Bid Bond  
Designation of Subcontractors  
Information Required of Bidders  
Non-Collusion Affidavit form  
Contract  
Performance Bond  
Payment (Labor and Materials) Bond  
General Conditions  
Special Provisions (or Special Conditions)  
Technical Specifications  
Greenbook Standard Specifications (Sections 1-9 Excluded)  
Addenda  
Plans and Contract Drawings  
Approved and fully executed change orders  
Any other documents contained in or incorporated into the Contract

The Contactor shall complete the Work in strict accordance with all of the Contract Documents.

All of the Contract Documents are intended to be complementary. Work required by one of the Contract Documents and not by others shall be done as if required by all. This Contract shall supersede any prior agreement of the parties.

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

3.1.3 Term. The term of this Agreement shall be from June 1, 2021 to May 31, 2023, unless earlier terminated as provided herein. Contractor shall complete the Services within the term of this Agreement, and shall meet any other established schedules and deadlines. The Parties may, by mutual, written consent, extend the term of this Agreement for two additional one-year term as stipulated in the RFP.

## **3.2 Responsibilities of Contractor.**

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

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

3.2.2 Schedule of Services. Contractor shall perform the Services expeditiously, within the term of this Agreement, and in accordance with the Schedule of Services set forth in Exhibit "B" attached hereto and incorporated herein by reference. Contractor represents that it has the professional and technical personnel required to perform the Services in conformance with such conditions. In order to facilitate Contractor's conformance with the Schedule, City shall respond to Contractor's submittals in a timely manner. Upon request of City, Contractor shall provide a more detailed schedule of anticipated performance to meet the Schedule of Services.

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

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

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

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

3.2.7 Standard of Care; Performance of Employees. Contractor shall perform all Services under this Agreement in a skillful and competent manner,

consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Contractor represents and maintains that it is skilled in the professional calling necessary to perform the Services. Contractor warrants that all employees and subcontractors shall have sufficient skill and experience to perform the Services assigned to them. Finally, Contractor represents that it, its employees and subcontractors have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services, including a City Business License, and that such licenses and approvals shall be maintained throughout the term of this Agreement. As provided for in the indemnification provisions of this Agreement, Contractor shall perform, at its own cost and expense and without reimbursement from the City, any services necessary to correct errors or omissions which are caused by the Contractor's failure to comply with the standard of care provided for herein. Any employee of the Contractor or its sub-contractors who is determined by the City to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any employee who fails or refuses to perform the Services in a manner acceptable to the City, shall be promptly removed from the Project by the Contractor and shall not be re-employed to perform any of the Services or to work on the Project.

#### 3.2.7.1 Period of Performance and Liquidated

Damages. Contractor shall perform and complete all Services under this Agreement within the term set forth in Section 3.1.2 above ("Performance Time"). Contractor shall perform the Services in strict accordance with any completion schedule or Project milestones described in Exhibits "A" or "B" attached hereto, or which may be provided separately in writing to the Contractor. Contractor agrees that if the Services specified in Exhibit "D", attached hereto and incorporated herein by this reference, are not completed within the aforementioned Performance Time and/or pursuant to any such completion schedule or Project milestones developed pursuant to provisions of this Agreement, it is understood, acknowledged and agreed that the City will suffer damage. Pursuant to Government Code Section 53069.85, Contractor shall pay to the City as fixed and liquidated damages, and not as a penalty, the sum of **Two Hundred Dollars (\$200.00) per day** for each and every calendar day of delay beyond the Performance Time or beyond any completion schedule or Project milestones established pursuant to this Agreement.

3.2.8 Laws and Regulations. Contractor shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Project or the Services, including all Cal/OSHA requirements, and shall give all notices required by law. Contractor shall be liable for all violations of such laws and regulations in connection with Services. If the Contractor performs any work knowing it to be contrary to such laws, rules and regulations and without giving written notice to the City, Contractor shall be solely responsible for all costs arising therefrom. Contractor shall defend, indemnify and hold City, its officials, directors, officers, employees and agents free and harmless, pursuant to the indemnification

provisions of this Agreement, from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules or regulations.

### 3.2.9 Insurance.

3.2.9.1 Time for Compliance. Contractor shall not commence Work under this Agreement until it has provided evidence satisfactory to the City that it has secured all insurance required under this section. In addition, Contractor shall not allow any subcontractor to commence work on any subcontract until it has provided evidence satisfactory to the City that the subcontractor has secured all insurance required under this section.

3.2.9.2 Minimum Requirements. Contractor shall, at its expense, procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Agreement by the Contractor, its agents, representatives, employees or subcontractors. Contractor shall also require all of its subcontractors to procure and maintain the same insurance for the duration of the Agreement. Such insurance shall meet at least the following minimum levels of coverage:

(A) Minimum Scope of Insurance. Coverage shall be at least as broad as the latest version of the following: (1) *General Liability*: Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001); (2) *Automobile Liability*: Insurance Services Office Business Auto Coverage form number CA 0001, code 1 (any auto); and (3) *Workers' Compensation and Employer's Liability*: Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

(B) Minimum Limits of Insurance. Contractor shall maintain limits no less than: (1) *General Liability*: \$1,000,000; per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with general aggregate limit is used including, but not limited to, form CG 2503, either the general aggregate limit shall apply separately to this Agreement/location or the general aggregate limit shall be twice the required occurrence limit; (2) *Automobile Liability*: \$1,000,000; per accident for bodily injury and property damage; and (3) *Workers' Compensation and Employer's Liability*: Workers' Compensation limits as required by the Labor Code of the State of California. Employer's Liability limits of \$1,000,000; per accident for bodily injury or disease.

3.2.9.3 Insurance Endorsements. The insurance policies shall contain the following provisions, or Contractor shall provide endorsements on forms supplied or approved by the City to add the following provisions to the insurance policies:

(A) General Liability. The general liability policy shall be endorsed to state that: (1) the City, its directors, officials, officers, employees, agents, and volunteers shall be covered as additional insured with respect to the Work or operations performed by or on behalf of the Contractor, including materials, parts or equipment

furnished in connection with such work; and (2) the insurance coverage shall be primary insurance as respects the City, its directors, officials, officers, employees, agents, and volunteers, or if excess, shall stand in an unbroken chain of coverage excess of the Contractor's scheduled underlying coverage. Any insurance or self-insurance maintained by the City, its directors, officials, officers, employees, agents, and volunteers shall be excess of the Contractor's insurance and shall not be called upon to contribute with it in any way.

(B) Automobile Liability. The automobile liability policy shall be endorsed to state that: (1) the City, its directors, officials, officers, employees, agents, and volunteers shall be covered as additional insureds with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by the Contractor or for which the Contractor is responsible; and (2) the insurance coverage shall be primary insurance as respects the City, its directors, officials, officers, employees, agents, and volunteers, or if excess, shall stand in an unbroken chain of coverage excess of the Contractor's scheduled underlying coverage. Any insurance or self-insurance maintained by the City, its directors, officials, officers, employees, agents, and volunteers shall be excess of the Contractor's insurance and shall not be called upon to contribute with it in any way.

(C) Workers' Compensation and Employer's Liability Coverage. The insurer shall agree to waive all rights of subrogation against the City, its directors, officials, officers, employees, agents, and volunteers for losses paid under the terms of the insurance policy which arise from work performed by the Contractor.

(D) All Coverages. Each insurance policy required by this Agreement shall be endorsed to state that: (A) coverage shall not be suspended, voided, reduced or canceled except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City; and (B) any failure to comply with reporting or other provisions of the policies, including breaches of warranties, shall not affect coverage provided to the City, its directors, officials, officers, employees, agents, and volunteers.

3.2.9.4 Separation of Insureds; No Special Limitations. All insurance required by this Section shall contain standard separation of insureds provisions. In addition, such insurance shall not contain any special limitations on the scope of protection afforded to the City, its directors, officials, officers, employees, agents, and volunteers.

3.2.9.5 Deductibles and Self-Insurance Retentions. Any deductibles or self-insured retentions must be declared to and approved by the City. Contractor shall guarantee that, at the option of the City, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its directors, officials, officers, employees, agents, and volunteers; or (2) the Contractor shall procure a bond guaranteeing payment of losses and related investigation costs, claims and administrative and defense expenses.

3.2.9.6 Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating no less than A:VIII, licensed to do business in California, and satisfactory to the City.

3.2.9.7 Verification of Coverage. Contractor shall furnish City with original certificates of insurance and endorsements effecting coverage required by this Agreement on forms satisfactory to the City. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf, and shall be on forms provided by the City if requested. All certificates and endorsements must be received and approved by the City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies, at any time.

3.2.9.8 Reporting of Claims. Consultant shall report to the City, in addition to Consultant's insurer, any and all insurance claims submitted by Consultant in connection with the Services under this Agreement.

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

### 3.2.12 Bonds.

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

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

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

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

### **3.3 Fees and Payments.**

3.3.1 Compensation. Contractor shall receive compensation, including authorized reimbursements, for all Services rendered under this Agreement at the rates set forth in Exhibit "C" attached hereto and incorporated herein by reference. The total compensation shall not exceed **One Million One Hundred Eighty-Six Thousand Eight Hundred Dollars and No Cents (\$1,186,800.00)** without written approval of City's City Council. Extra Work may be authorized, as described below, and if authorized, will be compensated at the rates and manner set forth in this Agreement.

3.3.2 Payment of Compensation. Contractor shall submit to City a monthly itemized statement which indicates work completed and hours of Services rendered by Contractor. The statement shall describe the amount of Services and supplies provided since the initial commencement date, or since the start of the subsequent billing periods, as appropriate, through the date of the statement. City shall, within 45 days of receiving such statement, review the statement and pay all approved charges thereon.

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

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

3.3.5 Prevailing Wages. Contractor is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 1600, et seq., (“Prevailing Wage Laws”), which require the payment of prevailing wage rates and the performance of other requirements on “public works” and “maintenance” projects. Since the Services are being performed as part of 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. City shall provide Contractor with a copy of the prevailing rates of per diem wages in effect at the commencement of this Agreement. Contractor shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request, and shall post copies at the Contractor’s principal place of business and at the project site. Contractor shall defend, indemnify and hold the City, its elected officials, officers, employees and agents free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

### **3.4 Accounting Records.**

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

### **3.5 General Provisions.**

#### **3.5.1 Termination of Agreement.**

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

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

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

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

**CONTRACTOR:**

Conserve Landcare  
72265 Manufacturing Road  
Thousand Palms, CA 92276  
Attn: Fran Mullahy

**CITY:**

City of Coachella  
53990 Enterprise Way  
Coachella, CA 92236  
Attn: Public Works Department

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

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

3.5.4 Attorney's Fees. If either party commences an action against the other party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing party in such litigation shall be entitled to have and recover from the losing party reasonable attorney's fees and all other costs of such action.

3.5.5 Indemnification. Contractor shall defend, indemnify and hold the City, its officials, officers, employees, volunteers, and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage, or injury, in law or equity, to property or persons, including wrongful death, in any manner arising out of or incident to any alleged acts, omissions or willful misconduct of

Contractor, its officials, officers, employees, agents, consultants, and contractors arising out of or in connection with the performance of the Services, the Project or this Agreement, including without limitation the payment of all consequential damages and attorneys fees and other related costs and expenses. Contractor shall defend, 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 directors, officials, officers, employees, agents, or volunteers. Contractor shall pay and satisfy any judgment, award or decree that may be rendered against City or its directors, officials, officers, employees, agents, or volunteers, in any such suit, action or other legal proceeding. Contractor shall reimburse City and its directors, officials, officers, employees, agents, and/or volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Contractor's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the City, its directors, officials officers, employees, agents, or volunteers.

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

3.5.7 Governing Law. This Agreement shall be governed by the laws of the State of California. Venue shall be in Riverside County.

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

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

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

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

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

only, and do not define, limit, augment, or describe the scope, content or intent of this Agreement.

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

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

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

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

3.5.17 Prohibited Interests. Contractor maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this Agreement. Further, Contractor warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Contractor, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. Contractor further agrees to file, or shall cause its employees or subcontractors to file, a Statement of Economic Interest with the City's Filing Officer as required under state law in the performance of the Services. For breach or violation of this warranty, City shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer or employee of City, during the term of his or her service with City, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

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

3.5.19 Labor Certification. By its signature hereunder, Contractor certifies that it is aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Workers' Compensation or to

undertake self-insurance in accordance with the provisions of that Code, and agrees to comply with such provisions before commencing the performance of the Services.

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

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

### **3.6 Subcontracting.**

3.6.1 Prior Approval Required. Contractor shall not subcontract any portion of the work required by this Agreement, except as expressly stated herein, without prior written approval of City. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement.

**CITY OF COACHELLA**

**CONSERVE LANDCARE LLC**

By: \_\_\_\_\_  
William B. Pattison, Jr.  
City Manager

By: \_\_\_\_\_  
Randy Mitchell  
Senior Vice President

*Attest:*

\_\_\_\_\_  
Andrea Carranza  
Deputy City Clerk

Approve as to Form:

\_\_\_\_\_  
Carlos Campos  
City Attorney

**EXHIBIT "A"**  
**SCOPE OF MAINTENANCE SERVICES**

These Specific Terms and Conditions (hereinafter referred to as "specifications") establish the City of Coachella's standards for the maintenance of the landscaped areas listed in Contract Agreement Exhibit "A". Please note level of service required for this contract is Level of Service A as these areas are high visibility areas.

1. Scope of Work

- a. The intent of the Agreement is to secure a Contractor which shall provide Landscape Maintenance Services.
- b. Contractors shall furnish all labor, tools, materials and equipment, except where otherwise specified, to provide landscape maintenance services as set forth in this Agreement.
- c. All work shall be done in a thorough and workmanlike manner to the satisfaction of the Director of Public Works, or his/her authorized agent, and comply with all legal construction and landscape maintenance practices. The premises shall be maintained at the level of service provided for in these specifications **at all times**.
- d. Contractors shall have the duty to provide landscape maintenance of City Landscape Lighting and Maintenance District 1-38 work sites according to each site schedule including, but not limited to, the following:
  - i. Prune, shape and trim shrubs, vines and ground cover plants.
  - ii. Control weeds.
  - iii. Mow and edge turf grass and blow hardscape clean.
  - iv. Maintain plant material in a healthy condition with horticultural acceptable growth and color.
  - v. Maintain all parts of irrigation system.
  - vi. Perform general area clean-up, including the removal of leaves, trash, dog feces and other debris **at each site**.
  - vii. Maintain all work sites in a safe, attractive and usable condition.
  - viii. Empty trash cans and remove letter **at each site**.
  - ix. Contractors shall contact the assigned City Representative or designee on a daily basis to discuss the contractor work schedule for the day, existing problems, or other important information.
  - x. Contractors shall perform a maintenance inspection, during daylight hours, of all areas.
  - xi. Contractors shall attend a mandatory inspectors' meeting each week in order to receive important information and resolve any problems.
  - xii. Contractor shall complete and submit a monthly Site Inspection form **per each site**.
  - xiii. Contractor shall examine each playground wood chip surface area and any litter/unwanted material removed. Wood chips are to be raked and care taken to ensure an even dispersion of the chip. Weeds shall be removed immediately.

- xiv. Contractor shall recycle green waste generated from their contract performance and submit a monthly report identifying the weight and /or volume of green waste recycled.
- xv. Contractors 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. (Emergencies that involve maintenance work included in these general conditions shall not be compensated).

Failure to provide the manpower, equipment, tools, materials, services, and special skills necessary to accomplish above Scope of Work to the standard established by these specifications may result in a **Performance Deficiency Deduction and/or a reduction in payment.**

## **CONTRACTOR'S LICENSE REQUIREMENTS**

- City of Coachella Business license (current)
- C-27 Landscape Contractors License (current and active)
- State of California Pesticide License QAL for chemical applications category B (current and active)
- State of California Pest Control Business License (current)
- County of Riverside Pesticide Business License Registration (current)

## **MANDATORY INITIAL INSPECTION & ACCEPTANCE OF DESIGNATED LANDSCAPE AREAS**

The Public Works Director (or Director's designee) and the Contractor shall conduct an inspection of the designated landscape areas covered under this Contract-Agreement as soon as practicable after its execution, and prior to commencement of Contractor's operations. The purpose is to allow the Contractor and the City representative to observe and note any deficiencies or potential problems with landscape area plant materials, decomposed granite/gravel areas, or designated hardscape surfaces and structures.

- A. It is the Contractor's responsibility to identify unacceptable plant material before inception of the contract.
- B. The Public Works Director or his designee and the Contractor will perform an operational irrigation inspection.

Any corrective items that are observed during the initial inspection, and acknowledged by both parties, may be resolved with the current Contractor or with the successful Contractor on a "one time only" extra work basis. After a specified time frame for corrections the landscape area plant materials, and designate hardscape surfaces and structures will be turned over to the Contractor for contract maintenance. Thereafter, failure to maintain designated landscape areas up to this established standard shall result in the City deducting payment of all or part of the Contractor's compensation, as

noted in pertinent sections of these General Terms & Conditions, as well as in the Special Terms & Conditions.

## CONTRACTOR’S WORK SCHEDULES

It is the intent to schedule maintenance in a manner that keeps the designated landscape areas in a state of healthy, vigorous growth.

The Contractor shall submit a Maintenance Schedule provided to the City scheduling the Maintenance Operations, including but not limited to the tasks identified in the below chart. The suggested regularity with which these tasks are to be scheduled are as recommended below or as needed per the direction of the City Representative, whichever achieves the desired service level.

Bi  
 Daily    Weekly    Weekly    Monthly    Quarterly    Annually

		1x &/or 2x				
Mowing and Edging						
Litter Removal	X					
Weed Control			X			
Minor Tree Pruning				X		
Ground Cover Edge/Trim			X			
Shrub Trimming			X			
DG & Wood Chip Raking			X			
Parkway Area Main.			X			
Overseeding (triple blend)						2x
Fertilization Application					X	
Herbicide Application					X	
Irrigation Systems Maintenance/Scheduling		1x &/or 2x				
Pest Control				X		
Hardscape Surfaces		X				

The Contractor shall submit immediately upon issuance of notice to proceed a work schedule for each designated landscape area, which will include as minimum the following:

- A. Crew Size to be determined for the life of the contract
- B. Time and Date for each activity specifying when each work will be completed

At the Mandatory Initial Inspection meeting, the Contractor will present a temporary or base line schedule of work for the upcoming year. It is preferred that a computer-scheduling program compatible with City software be used to generate this schedule. At 30 days from start of contract, a permanent schedule will be given to the City, hereinafter referred to as the FREQUENCY SCHEDULE. Failure to provide this schedule to the City in the appropriate time shall result in termination of the contract; failure to adhere to the Frequency Schedule shall result in **PERFORMANCE DEFICIENCY DEDUCTIONS**.

### Monthly Walk-Through and Reports

The Contractor, as part of this agreement, will submit a monthly report with invoice. Failure to submit reports and schedules in the time specified shall result in a **\$200 Performance Deficiency Deduction** per occurrence, delay in payment, and/or termination of the contract. The Contractor may submit the monthly report and schedule using a computer based program or, the Contractor may submit the report and schedule in writing. It is preferred that a computer-scheduling program compatible with City software be used to generate this schedule. The following information must be included on the monthly schedule:

- A. Schedule of maintenance: At the end of each month, the Contractor's representative and the City representative shall have a walk through of the LLMD Districts. The walk-through will focus on but not be limited to: work just completed, seasonal maintenance tasks, the Frequency Schedule and its pertinent tasks, as well as any Extra Work needed. This will generate a punch list from which the contractor will develop the next month's schedule.
  1. Contractor shall provide a schedule of maintenance at the start of each month identifying areas to be maintained and a time frame of when each function shall be performed. This schedule should include the Frequency Schedule as it pertains to the maintenance for that month.
  2. Monthly schedules shall be adjusted to compensate for all City-recognized holidays.
  3. Monthly schedules shall be adjusted as directed by the City representative.
- B. The Public Works Department or city staff may request to be part of the Walk-Through or at any time the City deems it necessary.
  1. The City will assume that the Contractor will adhere to the schedule. The City must receive notification of changes at least 12 hours in advance of the scheduled time for performance of the work.
  2. Failure to notify the City of a schedule change and/or failure to perform an item of work on the scheduled day may result in a payment adjustment to reflect only the work actually accomplished.
  3. A monthly report, including an irrigation inspection report, based upon the schedule outlined in the Frequency Schedule and will be turned in at the

monthly walk through meeting. Failure to submit this report at the time of the monthly walk through meeting may result in a **\$200 Performance Deficiency Deduction per occurrence.**

- A. A monthly report, based upon the approved monthly schedule, and green waste recycling reports, will be turned in at the monthly walk through meeting. Failure to submit this report at the time of the monthly walk through meeting may result in a **\$200 Performance Deficiency Deduction** per occurrence.

## **SAFETY**

Contractor shall conduct all operations performed under this Agreement in a manner that complies with all applicable federal, state, and local safety laws, rules, orders, and regulations, including but not limited to those set forth in the contract's General Terms and Conditions, as well as those set forth in these specifications.

## **REPORTING DAMAGE/MALFUNCTION/VANDALISM**

Any damage to, or malfunction of, any irrigation systems, any facility not specifically stated in this Agreement shall be promptly reported to the Director. Contractors shall be responsible for reporting any vandalism/theft of existing landscaped areas which are maintained under this contract and damaged or altered in any way as a result of theft and/or mysterious damages that do not result from the performance of the Contractors.

## **STORAGE FACILITIES**

The City of Coachella shall not provide any storage facilities for the Contractors.

## **PLANT MAINTENANCE**

- A. All plant material shall be maintained as needed to prevent obstruction as well as possible safety concerns to vehicles, pedestrians and/or the general public. Shrubs shall be maintained to create adequate line-of-sight vision for vehicles where applicable. All vegetation shall be maintained in such a manner as to eliminate over growth beyond its designated parameter and/or encroachment onto sidewalks or curbs. Keep plants located adjacent to sidewalks at a maximum height of three (3) feet and pruned back one (1) foot from edge of sidewalk.
- B. Dead material shall be pruned from plants as they occur. There shall be no dead blossoms, stalks, branches or foliage left on an otherwise healthy plant for more than one week, unless otherwise directed by the City and/or contract.

- C. Plant material is to be pruned in a manner that is described as a two-step, naturalistic pruning procedure. The City may, at its own discretion, alter time lines or techniques, as the City deems necessary.
- D. The Contractor shall be responsible for replacing dead plant material, at no cost to the City, that dies 30 days from commencement of the contract and throughout the term of this contract due to neglect, lack of maintenance or improper care.
- E. It is the Contractor's responsibility to identify unacceptable plant material before inception of the contract. This will be accomplished during the mandatory acceptance walk through with the City representative(s) and the Contractor.

## **TREE MAINTENANCE**

- A. Trees shall be pruned as needed to remove broken or diseased branches, or for traffic and pedestrian safety. Sidewalk clearance will be eight feet and vehicular clearance fourteen feet from grade. Any broken, structurally unsound or detached limb is considered a hazard. Suckers will be removed as they appear.
- B. The Contractor is only responsible for trees under fifteen feet in height for safety and sucker control only. Palm Trees under fifteen (15) feet in height are the responsibility of the contractor. All other tree pruning will be performed under a separate contract, including palm trees. Dead palm fronds and seedpods however, shall be removed from trees less than 15 feet as they appear.
- C. In order to promote proper form, strength, health, and appearance consistent with their intended use, any tree pruning done at the request of the City shall be consistent with: the current and applicable International Society of Arboriculture (ISA) guidelines; American National Standards Institute (ANSI) standards, including but not limited to ANSI 300 (most current revision) and ANSI Z133 (most current revision); Chapters 12.24 (Street Trees) and 12.28 (Palm Trees) of Title 12 of the City of Coachella's Municipal Code.
- D. NO TOPPING OF TREES WILL BE ALLOWED.**
- E. The Contractor shall be responsible for all tree staking. Ties will be monitored to prevent girdling. Remove ties and stakes as directed by the City. Broken stakes are to be removed and if appropriate, replaced. Contractor shall replace tree stakes within twenty-four (24) hours of receiving a corrective action notification from the City; failure to adhere to this specification shall result in a **\$200 Performance Deficiency Deduction** per site for each day Deficiency remains uncorrected beyond deadline. Stakes should not remain on the trees longer than 6 months. If the tree cannot stand upright once stakes are removed, the City will then determine whether or not to replace the tree.

- F. The Contractor shall remove their debris from pruning and tree maintenance the same working day as accumulated. See also **LITTER CONTROL/DEBRIS REMOVAL** Section below.
- G. The Contractor shall be held responsible for any damages done to trees due to poor management procedures. The Contractor shall replace trees, at no cost to the City, that die 30 days after acceptance of the contract due to neglect, lack of maintenance, infestation or improper care. This does not include those trees identified on the mandatory walk with the City and the Contractor.
- H. Any trees broken or damaged as a direct result of storm damage, wind, accident or vandalism shall be pruned and/or removed within 24 hours of notification and may be considered an Extra Work to the Contract. Any debris blocking roadways or parking areas shall be removed within one hour of notification to Contractor. Replacement of trees and plants caused by reasons not related to contractual maintenance shall be reimbursable as an Extra Work item.
- I. An 18" radius tree well will be maintained around the trunks of trees growing in turf or ground cover areas. Shrubs and/or shrub canopies shall not be permitted to encroach within 12" of tree trunks or root crowns. No weed eater shall be used around trees.

## **SHRUB MAINTENANCE**

- A. Pruning
  1. Shrubs shall be pruned as required for safety, removal of broken and diseased branches, general containment, and appearance.
  2. All shrubbery shall be pruned, trimmed, thinned, and suckers removed to properly contain their size with respect to species, size of planters and the best health of the plant and/or as described in the Frequency Schedule; coordinate with City representative.
  3. Pruning shall be done with sharp pruning tools and no weed eaters.
  4. Prune shrubs to retain as much of the natural informal appearances as possible, consistent with intended use. Coordinate with City representative.
  5. Shrubs used as formal hedges or screens shall be pruned as required to present a neat appearance.
  6. All pruning cuts shall be one quarter (1/4) inch above a node (bud). No projections or stubs shall be allowed to remain.
  7. Pruning shall be done to maintain a well-groomed, laced-out appearance, and encourage air movement through the shrub.
  8. Care shall be taken to prevent soil build-up around the crown of shrubs.
  9. Contractor shall remove all clippings the same day shrubbery is pruned and prior to vacating the work site.
  10. Remove any spent blossoms or dead flower stalks as required to present a neat appearance.
  11. Shrubs and mounding shall not exceed 2 feet in height within areas required

for vehicle sight distance depending upon roadway topography.

**B. Shrubbery Replacement**

The Contractor shall be responsible for the complete removal and replacement of shrubbery lost due to the contractor's faulty maintenance or negligence, as determined by the City representative.

**C. Pruning Schedule**

Shrubs shall be pruned and trimmed as needed or as requested by the City's representative. Shrubs shall be pruned and trimmed using sound horticultural techniques. Shrubs shall be maintained within the limits of confined areas (i.e., narrow medians, walkways, etc.) so as not to encroach on same. In addition, all shrubs shall be trimmed to maintain horizontal clearance along all walkways and trails to prevent encroachment onto private property and to remove dead, damaged or diseased plant material.

**D. Fertilization**

**SEE FERTILIZER APPLICATIONS** Section below.

**E. Cultivation**

Contractor shall cultivate around shrub and tree areas and tree wells sufficiently and often enough to control weed growth and maintain existing irrigation and drainage ditches.

**F. Irrigation (Deep Soaking)**

See **WATER MANAGEMENT** Section below.

## **TURF GRASS MAINTENANCE**

**A. General**

**1. Turf Grass Mowing:**

- a. Contractor shall mow all turf grass with adequately sharpened reel or rotary type mowers as to provide a smooth and even cut without tearing of turf grass blades.
- b. The blade adjustment shall provide a uniform, level cut without ridges, depressions or scalping.
- c. All turf grasses to be cut at a two and one-half (2 1/2) inch height throughout the year.
- d. Turf grass mowing heights may be adjusted by the Public Works Director.
- e. All turf grass clippings shall be picked up and removed to a legal dumping site prior to vacating the work site after each mowing.
- f. Care shall be exercised to avoid depressions in the established grade from mowing when the soil is saturated.

- a. Contractor shall submit, in writing, a mowing schedule within ten (10) days after the start of the maintenance. This mowing schedule shall be approved by the Public Works Director.
- b. All areas shall be mowed once every week. Failure to adhere to this specification shall result in a **\$200 Performance Deficiency Deduction** per acre, per occurrence.
- c. Any alteration of the approved mowing schedule shall be submitted in writing to the Public Works Director for approval prior to implementation.

## 2. Turf Grass Edging and Trimming:

- a. Turf grass edging and trimming shall be performed once every week. Failure to adhere to this specification shall result in a **\$200 Performance Deficiency Deduction** per field/site, per occurrence.
- b. Edging of turf grass shall be performed with a power edger containing a steel blade.
- c. All turf adjacent to sidewalks, curbs, mowing strips, shrub beds, where no improved surface exists, shall be edged in a neat uniform line.
- d. Trimming of turf grass shall be performed along walls, and around valve boxes, water meter boxes, backflow devices, trees shrubs, or any structures located within the turf grass area.
- e. In areas where there is no mow curb, a six (6) inch barren strip shall be provided, and maintained, between turf grass and adjacent ground cover. Edging of turf grass and ground cover shall provide uniform delineation adjacent to this barren strip.
- f. Trimming of plant material may be required around sprinklers to provide maximum irrigation coverage.
- g. All clippings shall be removed from the work site the same day work is performed and prior to a Contractor vacating the work site.
- h. After mowing and edging is completed, all adjacent walkways and gutters shall be swept clean.
- i. See **FERTILIZER APPLICATIONS** Section below.

## 3. Overseeding:

- a. Contractor shall be responsible for scalp and seed for winter, and seed for summer. Contractor shall comply with Section 5.05.010 of the City Coachella's Municipal Code. Contractor to provide seed.

## GROUND COVER MAINTENANCE

### A. General

1. Trim ground cover adjacent to walks, walls and/or fences as required for general containment to present a neat, clean appearance, with neat uniform lines.
2. Remove broad-leafed and grass weeds as required. Weeds shall be controlled and not allowed to reach two-inch (2") height. Remove weeds by chemical or mechanical means as approved by City representative. See also **WEED CONTROL, PEST CONTROL, and HERBICIDES** Sections below.
3. Prevent soil compaction by cultivating regularly all ground cover areas.
4. Remove debris that accumulates on ground fixed lighting fixtures.
5. Any paper or litter that accumulates in ground cover areas shall be picked up on a daily basis. See also **LITTER CONTROL/DEBRIS REMOVAL** Section below.
6. Keep ground cover trimmed back from all drip line irrigations, controller units, valve boxes, quick couplers, or other appurtenances or fixtures. Do not allow ground cover to grow up the trunk of trees, into shrubs, on structures or walls unless directed by the City representative. Keep trimmed back approximately 4 inches from structure or walls and two (2) inches from sidewalks, curbs, mow curbs, and walkways. Coordinate trimming around base of shrubs/trees with City representative.
7. Trimming of ground cover may be required around sprinklers to provide maximum irrigation coverage.
8. Bare soil area shall be cultivated a minimum of once per month and/or mulched as directed by the City representative (mulch will be supplied or paid for by the City).
9. All clippings and trimmings shall be removed from the work site the same day work is performed and prior to the Contractor vacating the work site.
10. After edging or trimming, the Contractors shall sweep clean all adjacent sidewalks or gutters.
11. See **FERTILIZER APPLICATIONS** Section below.

## WEED CONTROL

- A. Planters, gravel areas, sidewalks, curb and gutters, expansion joints, fence lines, drainage areas, bare areas, and around plants and trees shall be kept free of grass and weeds. This will be done on an as-needed basis.
- B. The Contractor shall perform weed removal and shall identify in their schedules approximate time frames for performing this function. Failure to adhere to this specification shall result in a **\$200 Performance Deficiency Deduction** per site for each day Deficiency remains uncorrected. Acceptable methods of control are: Annual weeds, mechanical and/or chemical methods. Perennial weeds such as Bermuda grass, nutsedge (species), bindweed, Pennisetum grass shall be controlled with chemical means only.

- C. After weeds have been sprayed and removed, the Contractor shall rake or sweep the area removing any debris generated as a result of the weed control process.
- D. Chemical herbicide control is the responsibility of the Contractor. The Frequency Schedule outlines the minimum herbicide controls. If weed control has not been maintained as specified, the City may require additional herbicide applications at no additional cost to the City. Preventative weed control, such as pre-emergent herbicides and post-emergent herbicides is the responsibility of the Contractor. See also **PEST CONTROL** and **HERBICIDES** Sections below.

## **PEST CONTROL**

### **General**

The Contractor shall provide complete and continuous control and/or eradication of all plant pests at no extra cost, including: weeds; insects, mites, nematodes, and other invertebrates; gophers, squirrels, rats, mice, and other vertebrates; snails and slugs; pathogens and diseases.

Controls to include necessary use of integrated pest control systems involving the use of life history information and extensive monitoring. Control through prevention, cultural practices, pesticide applications, exclusion, natural enemies and host resistance.

The only exception to this is with regards to bees. The contractor will be responsible for reporting to the City any bee activity (swarms or hives) immediately.

All areas of the landscape shall be inspected for infestations of harmful pests. Leaves that may be blotched, blighted, deformed, mildewed, rusted, scorched, discolored, defoliated, or wilted should be noted. Identify the cause of injury and consult a Pest Control Advisor before application of chemical treatments.

At certain times of the year, and with certain environmental conditions, the presence of certain pests can be anticipated; start preventative cultural methods before a pest is visible. Inspect new growth for the presence of aphids, leaf hoppers, scale, mealy bugs, and mites. Look for ants on soil, along walks, and trunks of shrubs and trees. Control adult beetles before they lay eggs on bark in the spring. Ongoing inspections are necessary to determine if there is a summer brood. Snails shall be controlled before becoming epidemic. They can be anticipated as a menace from spring until the advent of high temperatures, wherever moist soil prevails.

Pruning may be an effective prevention of an epidemic of insects and diseases. Removing infected parts and disposing of them off site separates the pest or pathogen from the host. Examples are Pine tree tip moth, Juniper twig girdler, Verticillium wilt, and some other fungal caused blights of foliage. Proper thinning of

tree foliage, to provide light and aeration for groundcover may aid in disease prevention. Use care when pruning not to spread disease by keeping all cutting edges sterile by dipping in an alcohol or bleach solution after each cut

### **Application of Pesticides**

- A. Notification: City shall be notified prior to the application of pesticides and other chemicals. **THERE SHALL BE NO APPLICATION OF A PESTICIDE WITHOUT WRITTEN PERMISSION FROM THE CITY.**
- B. Timing: Pesticides shall be applied at times which limit the possibility of contamination from climatic or other factors and at the proper life cycle of the pests. Early morning application shall be used when possible to avoid contamination from drift. Applicator shall monitor forecast weather conditions to avoid making application prior to inclement weather to eliminate potential runoff of treated areas.
- C. Irrigation: Irrigation water applied after treatment shall be reduced to eliminate runoff. When water is required to increase pesticide efficiency, it shall be applied only in quantities of which area is capable of receiving without excessive runoff. Coordinate with City representative.
- D. Handling of Pesticides: The Contractor shall be responsible for the safe and proper application of all chemicals. Care shall be taken in transferring and mixing pesticides to prevent contaminating areas outside the target area. Application methods shall be used which ensure that materials are confined to the target area. Spray tanks containing leftover materials shall not be drained on the site to prevent any contamination. Disposal of pesticides and tank rinsing materials shall be within the guidelines established in the State of California Food and Agricultural Code or EPA regulations.
- E. Equipment and Methods: Spray equipment shall be in good operating condition, quality, and design to efficiently apply materials to the target area. Drift will be minimizing by avoiding high pressure applications and using water soluble drift agents.
- F. Selection of Materials: Pesticides shall be selected from those materials which characteristically shall be used when possible to limit windblown particles. The use of adjuvant will be to increase pesticide efficiency thereby reducing the total amount of technical material required to gain control.
- G. Substitutions: Wherever a specific type of material is specified, no substitutions shall be allowed without the written consent of the City representative. Certification of Materials: All materials shall be delivered to the site in original unopened containers. Materials shall be subject to inspection by the City representative.
- H. Licenses and Permits: The contractor shall obtain necessary permits and licenses to comply with the City, County, State or Federal laws for using pest control chemicals. All material use shall be in strict accordance and applied within the most current EPA regulations and the California Food and Agricultural Code.

1. The State of California Agricultural Code requires that ALL pesticides and/or chemicals may be used only after a written recommendation by a State of California Licensed Pest Control Advisor is obtained, with a copy forwarded to the City Public Works Department prior to chemical use. A recommendation consists of all the applicator should know for an accurate and safe usage. The recommendation must be time and site specific.
  2. Application of all pesticides shall be made by or under the supervision of a person holding a valid license, permit, or certificate issued pursuant to Sections 11701 and following, and Sections 14151 and following, of the California Food and Agriculture Code. Said person or company shall be registered to conduct a pest control business in the State of California and the County of Riverside during the entire term of this Agreement and any extension(s) thereof.
  3. In case a Restricted Use Pesticide is recommended, the City must have a use permit issued by the County of Riverside Agricultural Commissioner.
- I. Use Reports: Contractor shall complete and furnish a pesticide application log to be submitted to the City at the monthly walk through. The log shall have the following information included:
1. The pest to be controlled
  2. Method of control
  3. Copies of the product labels
  4. MSDS Sheets
  5. A frequency schedule
  6. A copy of the PCA recommendation
- J. Material Use Reports: Pesticide applications shall be recorded on the maintenance schedule and coordinated with the City's representative. Material use reports for all pesticides shall be filed with the City no later than the 10<sup>th</sup> of every month for the preceding month.
- K. Plant Material Replacement: The Contractor will assume responsibility and liability of use of chemical controls, and shall be responsible for the replacement of any plants, turf, and trees killed or damaged by improper chemical applications.

## **Herbicides**

**Weeds must be removed upon appearance.** Selective post emergence herbicides shall be used to kill weeds without permanent injury to other plants. Do not proceed with a treatment except as recommended by a Pest Control Advisor in writing with a copy forwarded to the City's representative prior to treatment.

- A. All creeping grasses shall be kept out of shrubs and groundcovers.
- B. The Contractor shall be especially careful if applying chemicals to control weeds because of possible damage to the lawn. Before such applications are made the turf should be well established and in a vigorous growth condition. All chemicals applied will be recorded and coordinated with the City's representative.
- C. Broadleaf weeds in turf shall be removed selectively, without injury to the lawn grass other than slight, temporary discoloration.
- D. Grass weeds in lawns shall be controlled with selective post-emergence herbicides. Pre-emergent herbicide application shall be required to control crabgrass in all turf area. Scheduling for pre-emergence herbicide controls of weedy grass seeds shall be set forth in the FREQUENCY SCHEDULE.
- E. Weeds not killed with herbicides shall be removed manually. Turf and other desirable plants killed by weeds, chemicals, etc., shall be replaced at the Contractor's expense. All replacements must be made within 7 calendar days after receiving notice from the City.
- F. See also **WEED CONTROL** and **PEST CONTROL** Sections above.

### **Insecticides/Fungicides**

- A. The Contractor shall be responsible for the application of the appropriate chemical.
- B. The Contractor shall be responsible for the replacement of any plant, tree or turf area, at no cost to the City, if appropriate measures or actions were not taken to control and/or eradicate the problem.
- C. The City shall notify the Contractor in writing if the City has knowledge of any insect, fungus or disease problems. Preventive fungicides shall be applied as necessary.
- D. Insecticide and/or fungicide applications shall be recorded on the maintenance schedule and coordinated with the City's representative. See also **Application of Pesticides** above.

### **FERTILIZER APPLICATIONS**

All landscape areas shall be fertilized at rates and intervals designated in the Frequency Schedule. This includes shrubs, ground covers, and turf. Equipment and labor to apply any fertilizer shall be included in the contract. The City is to supply the fertilizer materials. Compliance with fertilization specifications will be enforced by application inspections and periodic soil analysis. See also **LITTER CONTROL/DEBRIS REMOVAL** Section below.

- A. **SHRUBS & GROUND COVERS:** Contractor shall use a balanced fertilizer in shrub and ground cover areas as requested in the Frequency Schedule or as directed by the City's Representative. The Contractor is to provide the equipment and labor to apply the fertilizer as part of this contract.

- B. **TURF:** Apply fertilizers so as to provide sufficient nitrogen and other basic nutrients on a regular basis to keep turf in healthy looking condition or as directed by the City's representative. **Fertilizer will be applied as often as required to maintain deep green color at all times.** Type of turf and time of year will determine type of fertilizer used. The frequency of application will greatly depend on amount of leaching caused by excess use of water; this must be coordinated with City's representative. The type of fertilizer used and frequency applied will be recorded. Coordinate with City's representative.

## LITTER CONTROL / DEBRIS REMOVAL

- A. Daily services, seven days a week; all litter will be picked up by 10 a.m. everyday at all sites.
- This includes all debris discarded by the public during the use of the facility.
  - Pick up all areas including areas around trash enclosures, benches, in medians/planter bed areas. Remove all trash, litter and empty all trash cans.
  - Trash should be taken and deposited hauled away by Contractor or trash must be hauled off to an approved site. Trash in trash cans throughout parks must be emptied. If cans are overflowing, contractors shall empty debris into dumpsters (this includes debris on the ground and in the can). If trash and debris is dumped next to dumpster and enclosure, contractor shall try to put it into the dumpster, if there is no room, it shall be hauled off the site.
- B. The Contractor shall provide a general clean-up operation throughout the contracted areas on a daily basis seven (7) days per week including holidays for the purpose of picking up papers, trash such as paper, cans, bottle, broken glass, dog droppings and any out-of-place or discarded items, hanging or broken tree branches, or other debris which may accumulate in the landscape areas, caused by winds or normal conditions. Failure to remove and dispose of debris deposited by winds or under normal conditions within twenty-four (24) hours shall result in a **\$200 Performance Deficiency Deduction** per acre for each day Deficiency remains uncorrected beyond deadline.
- C. The Contractor shall also regularly remove dried plant material, such as: fallen leaves, twigs, flowers, and seed pods, and; dried up and/or dead portions of trees, shrubs, vines, and ground cover at intervals set forth in the Frequency Schedule. Every effort shall be made to remove litter from all areas as early in the morning as possible, and no later than 10:00a.m.
- D. Contractor shall remove all debris resulting from Contractor's maintenance operations and dispose of it off-site in a legal manner, at Contractor's sole

expense. Disposal of debris shall not be allowed in any City trashcan, bin or City facility (corporate yard or satellite yards) nor in any park refuse container unless other arrangements have been authorized by the City. Failure to remove and dispose of debris generated by Contractor's maintenance operations within twenty-four (24) hours shall result in a **\$200 Performance Deficiency Deduction** per acre impacted for each day that Deficiency remains uncorrected beyond deadline.

1. No debris will be all allowed to remain at the end of the workday.
  2. All surfaces will be raked or swept after litter and/or weeds are removed.
  3. All grass clippings shall be picked up after each mowing or trimming operation. If mulching mowers are used, all visible clippings must be removed in accordance with this specification. Failure to remove and dispose of debris shall result in **\$200.00 Performance Deficiency Deduction** per acre impacted for each day that Deficiency remains uncorrected beyond deadline.
  4. All debris must be separated into green waste, recyclables, and other waste to minimize contamination and be disposed of in the appropriate locations. Failure to separate and dispose of debris appropriately shall result in **\$200.00 Performance Deficiency Deduction** per occurrence. See also **GREEN WASTE** Section below.
  5. All walkways will be kept clean/clear of debris and plant growth. Care shall be taken not to create unnecessary hazards to foot or wheelchair traffic during maintenance operations.
  6. All shrub areas not interplanted with ground cover will be raked clean a minimum of once a week or as directed by City representative.
- E. Contractor's operations shall comply with Chapter 13.16 (Stormwater Management) of the City's Municipal Code, including but not limited to Section 13.16.120 – *Compliance with General Permits*, and Section 13.16.130 – *Compliance with Best Management Practices (BMP's)*
1. Blowing of grass cuttings, debris, plant litter, fertilizers or other chemical granules, pellets, or dusts into public streets, gutters, or storm drain inlets is a violation of City's NPDES Permit, and shall result in a **\$200.00 Performance Deficiency Deduction** per site, per occurrence.
  2. Contractor shall be solely responsible for payment of any fines, or costs of any cleanup or enforcement action that may result from Contractor's failure to adhere to this specification.
- F. The contractor shall provide National Pollutant Discharge Elimination System (NPDES) Permit training for Urban Runoff management to Contractor's employees and subcontractors if any. Failure to provide Urban Runoff management training is a violation of Order No. R7-2008-0001, NPDES No. CAS 617002 (Municipal Separate Storm Sewer System NPDES Permit), Section f.- *Public Education and Outreach viii, Permittees' Employees*, for each day of which such failure occurs, and shall in addition, be a breach of the contract with the City of Coachella (City). Contractor understands and agrees that NPDES Permit violations are grounds for enforcement action by the Environmental Protection Agency, the State/Regional Water Resources

Control Board and the City and may result in permit termination (stop work order), civil and criminal fines, and termination of contract. **By submitting a proposal, the Contractor certifies to the City that he has trained his employees and subcontractors, if any, for Urban Runoff Management,** and included sufficient sums in his base compensation proposal amount to cover such costs of said training.

## **SIDEWALK / HARDSCAPE AREA CLEANING**

Contractor shall maintain and clean any accumulated sand, gravel, grass and plant clippings or debris on all sidewalk and hardscape areas within the Landscape Area boundaries. All surfaces will be raked or swept after litter and/or weeds are removed. All hardscape surfaces will be maintained clean and free of debris by power-washing when needed. This shall be performed on a continuous basis as needed. See Frequency Schedule.

## **RESURFACING AND RAKING OF DECOMPOSED GRANITE (DG)**

- A. All work associated with the maintenance and repair of decomposed granite and gravel surfaces including: trails and planter areas.
- B. Rake, clean, repair or resurface DG/gravel surfaces using manual or machine assisted methods to achieve a smooth, level and uniform surface.
- C. DG/gravel areas will be uniformly covered and smooth, free of ruts, ridges, plant growth, and potholes.

## **RESURFACING AND RAKING OF WOOD CHIPS**

- A. All work associated with the maintenance and repair of wood chip surfaces include playground areas.
- B. Rake, clean, evenly disperse wood chips using manual methods to achieve a smooth, level and uniform surface.
- C. All wood chip surfaces will be maintained free from weeds, debris or moisture.
- D. In the event of flooding that displaces wood chips, the displaced chips shall be gathered, cleaned of any unwanted material and redistributed to the playground area.

## **DRAINAGE FACILITIES**

The Contractor shall be responsible for continual inspection of surface drains, V-ditches, located within the landscaped areas. Surface drains shall be checked and maintained free of obstruction and debris at all times to assure proper drainage.

Remove any debris or vegetation that might accumulate at the inlet to prevent proper flow of water. See also **LITTER CONTROL/DEBRIS REMOVAL** Section above.

## **IRRIGATION MAINTENANCE**

The controlling factor in the performance of water management within the City landscape maintenance area is the application of water to landscape plants at a rate that closely matches the demands of plants with little or no runoff. Plant health, roadway safety and water conservation are the primary reasons for proper irrigation maintenance. Contractor shall maintain strict adherence to specification requirements. The format for inspection and repairs are as follows:

A. The entire irrigation system, including all components beginning at the meter shall be maintained in an operational state at all times. This coverage shall include, but not be limited to: all City-owned valves, backflow devices, piping, electrical wiring, heads, emitters, filters, and pumps.

B. All irrigation systems shall be tested based upon the following schedule: October 1 to March 31 – every two weeks, and weekly from April 1 to September 30. Contractor shall include irrigation testing in the monthly and yearly schedule. All irrigation checks will include irrigation controller operation.

C. All systems shall be kept in adjustment to ensure proper coverage, and prevention of excessive run-off or erosion. Adjustments shall include, but not be limited to: actual head adjustment, cleaning and flushing of lines, heads, tubing repairs, and filter screens as well as obstructions within these components. Costs for adjustments shall be included in the contractual costs for operation and maintenance of the irrigation system.

D. All damage resulting from the Contractor's maintenance operations including but not limited to: Contractor's failure to properly maintain the system, shall be repaired or replaced prior to the end of the work day or as directed by Public Works Director or his/her designee at the Contractor's expense.

E. Repairs to the irrigation system shall be divided into two categories:

i. 1/2" diameter, all lateral lines regardless of size, risers, exposed electrical connections, washers, seals, adjusting pins, and repair or replacement of emitters or sprinkler heads of 1/2 " inlet size or less. The cost for minor repair labor and materials shall be included in the contractual costs for operation and maintenance of the irrigation system. In the case of minor repairs due to acts of vandalism or third parties, Contractor may charge for necessary materials at Contractor's cost plus 15%, per SPECIFIC TERMS & CONDITIONS – EXTRA WORK, Subsection 1.E; all labor for these repairs shall be included in the contractual costs for operation

and maintenance of the irrigation system.

ii. Major repairs shall include all mainline pipe regardless of size, controllers, backflow and pressure regulators, mainline control wires, valves, solenoids and diaphragms, all sprinkler heads of 3/4 " inlet size and bigger. The cost for labor and materials for major repairs shall be considered Extra Work above and beyond the contract.

F. Contractor shall make minor repairs to the irrigation system within twenty-four (24) hours of noticing, or receiving notification of, conditions in need of correction. When Contractor discovers, or is notified of major irrigation damage during normal business hours, the Contractor will submit an estimate form showing approximate material costs and not-to-

exceed costs for labor. This form shall be signed by the Public Works Director or his/her designee and shall serve as written approval. Repairs to damage discovered or reported outside of normal business hours/days, shall be repaired within eight (8) hours of discovery/notification, and a written estimate submitted at the start of the next business day. Failure to repair irrigation systems within time frames specified above shall result in a \$200 Performance Deficiency Deduction per site for each day that Deficiency remains uncorrected beyond deadline.

G. Repairs or replacements to the irrigation system shall be made with like parts. No substitutions shall be allowed without written approval of the City.

H. The City will perform routine inspections of the irrigation system to ensure accuracy of the Contractor's inspection reports. If discrepancies are found, the City shall construe this as a performance deficiency and implement payment reduction as specified in the section pertaining to Performance Deficiencies Deductions from payment.

I. The City reserves the right to supply any and all parts for irrigation repairs.

J. The Contractor shall return irrigation parts that have been replaced due to damage or malfunction to the Public Works Director or his/her designee.

K. The Contractor is responsible for adjusting sprinkler heads and valve boxes to a level that will prevent damage by maintenance equipment or pedestrian traffic. Damage caused by improper height adjustment will be repaired by the Contractor at no cost to the City. The Contractor shall be responsible for all damage done to irrigation components as well as any plant material affected by Contractors personnel or equipment during maintenance operations.

L. The Contractor shall provide personnel fully trained in all phases of irrigation operation, adjustments and repairs for irrigation systems used in the City landscape maintenance area. The Contractor shall provide personnel capable of communicating with City representative at a proficient level of English.

M. All controller scheduling and operations are the responsibility of the Contractor, including but not limited to seasonal adjustment of run day and run time schedules.

## **WATER MANAGEMENT**

All designated landscape areas shall at all times receive irrigation in amounts adequate to promote normal, healthy growth of plant material. Contractor shall be responsible for delivery of water by means of automatic or manually operated irrigation sprinkler systems, quick couplers, hose bibs, or water tank, as specified site and/or weather conditions require.

Water Management Requirements are as follows:

A. All systems shall be adjusted weekly and as needed to maintain healthy plant material and water conservation.

B. All program changes shall be recorded on the irrigation schedule.

C. Contractor shall submit a report of irrigation system maintenance and management monthly for each of the landscape areas under this contract. Said report shall be included with Contractor's monthly maintenance report.

D. Controller program is to be sufficient to maintain a healthy landscape without excessive water use.

E. Contractor shall manually operate automatic irrigation systems rendered inoperable for any reason in a manner that supports normal, healthy growth of plant material. Costs for

such extraordinary operation shall be included in the contractual costs for operation and maintenance of the irrigation system.

- F. Controller programs shall incorporate the following conditions:
- a. Meet City water management requirement per Municipal Code Chapter 13.
  - b. Avoid weekend water when possible and avoid watering between 8am-10pm where possible.
  - c. Maximize repeat operations (when and where possible).
  - d. Minimize station run times.
  - e. Reflect actual evapotranspiration (E.T.) requirements.
  - f. Reflect actual requirements of soil and plants.
  - g. Eliminate runoff onto streets, sidewalks, and other non-target areas.
  - h. Deep Soaking shall be defined as the application of sufficient quantities of water to maintain reasonable health vigor of plants. Quantities of water shall be sufficient to allow for deep water penetration and encouragement of deep rooting of the plants.
  - i. Provide sufficient time for soil to dry out between irrigations.
  - j. Maximize community use of City property.

## **GREEN WASTE**

The Contractor shall compost all appropriate green waste removed from City landscape areas at an approved facility where green waste is converted to a usable soil amendment. If any compost is used in the execution of the landscape maintenance contract, it must be from a facility that receives and composts City of Coachella green waste. Said products shall be approved by the Public Works Director or his designee before use. The Contractor shall submit verification of recycling City of Coachella green waste as part of the Contractor's monthly report.

## **EXTRA WORK**

During the course of the contract period, additional services, labor and materials, beyond those specified in the contract may be required and performed on a time and material or unit price basis. Such work will be billed according to the Extra Work pricing schedule provided as part of this contract. The Contractor may notify the City of the need for Extra Work and/or the City may request Extra Work. The City will issue a Work Request form upon which the Contractor will provide estimated labor, material and/or unit price costs. The Contractor must have a signed work order from the Public Works Director or his designee before beginning work.

The Contractor shall provide twenty-four- (24) hour emergency service, with prompt correction or mitigation of emergency damage when notified of an occurrence. An emergency that is causing a hazard to the public or property must be responded to within one (1) hour. Failure to do so may result in monetary deductions from the monthly billing. Response to emergency service shall be paid at a rate of \$25.00 per hour. Work should be limited to the level required to mitigate an emergency and further repairs shall be completed during normal working hours. Extra work will be a separate item from normal

contractual duties. The Contractor is expected to complete the contractual duties as specified on schedule and extra work shall not interfere with or delay these duties.

1. In the event the Contractor is required by the City and agrees to perform extra work, the following procedure shall govern such work:
  - A. Work will be executed under the direction of the Contractor's maintenance supervisor on a time and materials basis or an agreed lump sum price depending on the nature of the work.
  - B. When required by the City Representative, a written estimate of cost will be submitted for approval and issuance of a purchase order prior to work being done. The Contractor shall maintain records sufficient to distinguish the direct cost of said extra work from cost of other operations. The Contractor shall furnish reports of extra work on forms furnished by the contractor, itemizing all costs for labor, materials, and equipment. The report shall include hours worked.
  - C. City will issue work request for such extra work to be performed.
  - E. Repairs due to vandalism
  - F. Material cost shall be actual cost not to exceed 15% for the handling of materials purchased by the Contractor and used for the extra work.

**Extra work must be approved by the City Representative in writing.**

### **GUARANTEE AND / OR REPLACEMENT POLICY**

All new plant material and irrigation installation shall be guaranteed for a period of one calendar year except due to "Acts of God, "i.e., damage or death of plant material due to wind or storm, or vandalism, theft, or other willful acts over which the maintenance contractor has no control. Existing plants shall be replaced by Contractor if they die due to Contractor's negligence.

