



May 01, 2025

Alberto Gutierrez
City of Coachella LLMD 1-40, Project 042623
Public Works Department
53462 Enterprise Way
Coachella, CA 92236

Project Name: Conserve - 2025/2026 Landscape Maintenance

Dear Alberto,

Thank you for the opportunity to submit our proposal for landscape maintenance services at City of Coachella LLMD 1-40, Project 042623. We are experienced, equipped, and insured to perform requested services at your property.

Monthly Payment: \$60,697.00
Annual Amount: \$728,364.00
Start Date: 7/1/2025
End Date: 6/30/2026
Proposal Valid Until: 6/30/2025

Other:	District 1 - \$906.00	District 20 - \$982.00
	District 2 - \$679.00	District 21 - \$1,132.00
	District 3 - \$226.00	District 22 - \$1,283.00
	District 4 - \$340.00	District 23 - \$1,359.00
	District 6 - \$981.00	District 24 - \$14,647.00
	District 7 - \$491.00	District 25 - \$830.00
	District 9 - \$717.00	District 27 - \$1,359.00
	District 10 - \$94.00	District 28 - \$1,774.00
	District 11 - \$226.00	District 29 - \$1,585.00
	District 12 - \$340.00	District 30 - \$1,736.00
	District 13 - \$1,585.00	District 31 - \$1,661.00
	District 14 - \$491.00	District 32 - \$3,020.00
	District 15 - \$566.00	District 33 - \$1,359.00
	District 16 - \$8,305.00	District 34 - \$226.00
	District 17 - \$2,567.00	District 35 - \$453.00
	District 18 - \$1,963.00	District 36 - \$1,359.00
	District 19 - \$1,774.00	District 38 - \$1,283.00

	District 39 - \$1,388.00
	District 40- \$1,010.00

If this constitutes an agreement please sign as indicated, initial each page and return one original copy to our office. Thank you for the opportunity to be of service to you. We look forward to working with you on this project.

Sincerely,

Jeffery Morris
Account Manager - Maintenance
jmorris@conservelandcare.com / +1 760 690 6239

Master Service Agreement

SECTION 1 – GENERAL:

The following terms and conditions (the "Terms") apply to and govern all services ("Services") provided by Conserve LandCare, LLC (collectively, "Contractor") for the benefit of client and its affiliates (collectively, "Customer") pursuant to any accepted statement of work, order, purchase order or proposal or any other agreement between the parties (each, a "SOW"). Any capitalized terms used herein have the same meanings as in the applicable SOW unless separately defined herein. These Terms shall be effective as of the date set forth on the first SOW. Notwithstanding anything to the contrary, Contractor shall have the right to reject any statement of work, order, purchase order, proposal or other document issued by Customer in Contractor's sole and absolute discretion.

SECTION 2 – TERMS OF PAYMENT:

Notwithstanding anything else to the contrary, all payments due hereunder shall be made to Contractor within thirty (30) days from date of invoice from Contractor or as otherwise provided for in each applicable written SOW. If Customer fails to pay any amount due hereunder and such amounts remain due and outstanding for more than fifteen (15) days after such payments are due, Customer shall pay interest at the rate of 1.5% per month (or the maximum allowed by law if less) on such past due amount from the due date thereof until the payment date. If Customer's account is past due, Contractor may, with written notice, suspend its obligation to perform Services until payment has been satisfied. During the period of such suspension, Customer agrees and understands that Contractor will not be liable for any costs or damages incurred by Customer, including but not limited to consequential damages to Customer or any other party that may arise from or be related to such suspension of Services. Customer agrees to pay all reasonable attorney's fees and all other costs incurred by Contractor to collect any past due amounts and related interest.

The contract pricing set forth in any SOW will be adjusted annually in accordance with the CPI for all Urban Consumers for the Region applicable to the SOW (Consumer Price Index) or 3%, whichever is greater.

Lien Rights: Customer understands and acknowledges that persons or companies furnishing labor and materials for the improvement on Customer's real property may have lien rights on Customer's real property (including, for the avoidance of doubt, any buildings located thereon), if such persons or companies are not paid for furnishing such labor and materials (collectively, "Lien Claimants"). Lien Claimants may include Contractor, any other party who contracts directly with Customer, or any party who gives Customer notice within sixty (60) days after such party first furnishes labor or materials for the improvement of Customer's real property. Customer further acknowledges and agrees to provide any notices received from any Lien Claimants to Customer's mortgage lender (the "Lender"). In addition, Contractor agrees to cooperate with Customer and the Lender with respect to the timely payment of all potential Lien Claimants solely resulting from the Services.

SECTION 3 – SOW TERM AND TERMINATION:

The term of each SOW, as specified in such SOW, shall automatically renew for continuous succeeding one (1) month terms, unless terminated in accordance with these Terms or such SOW or if either party provides a written notice of non-renewal of such SOW at least thirty (30) days prior to the expiration of the then current term to the other party.

Contractor shall have the right to terminate any SOW by written notice to Customer at any time if Customer fails to comply with any material provision of these Terms or any SOW and Customer does not cure such breach (i) within fifteen (15) days of written notice from Contractor in the case of any failure to make any payment, or (ii) within sixty (60) days of written notice from Contractor in the case of any other failure to comply. To the extent the sixty (60)-day cure period only applies, Contractor cannot withhold or suspend services scheduled to be performed during such sixty (60) day cure period.

Customer shall have the right to terminate any SOW by written notice to Contractor at any time if Contractor breaches any of its material obligations hereunder and does not cure such breach within sixty (60) days of written notice from Customer of such breach.

In the event of termination of an SOW, Customer shall pay Contractor (i) all amounts related to such SOW due through the effective date of the termination, (ii) any monies due for regular monthly scheduled maintenance related to such SOW, (iii) any monies due for Services related to such SOW performed on or prior to the effective date of the termination, and (iv) any other amounts or fees set forth in such SOW (including, but not limited to, any termination fees). Contractor shall not be entitled to payment for any Services provided pursuant to such SOW that were not performed substantially in accordance with the specifications and provisions of such SOW.

SECTION 4 – RIGHT TO REMEDY:

In the event Customer becomes dissatisfied with the Services, Customer must notify Contractor of such deficiencies in writing. Within sixty (60) days of written notice from Customer of Customer's dissatisfaction, Contractor has the right to remedy all deficient Services to the satisfaction of Customer's reasonable expectations and within the parameters of the SOW deliverables and acceptable industry practices.

SECTION 5 – LIMITATION OF LIABILITY; DISCLAIMER OF WARRANTIES:

Contractor shall not have any liability related to any of the following:

- (i) Death or decline in plant materials (a) due to improper selection, placement, or planting, or (b) not provided by Contractor;
- (ii) Damage or disease due to (a) improper irrigation not under the control of Contractor, (b) lack of water, or (c) irrigation in accordance with irrigation restrictions;

- (iii) Exposed cables/wires or irrigation components/lines normally located below the surface;
- (iv) Flooding, storm, snow, wind, fire, lightning, cold, pandemic or other Act Of God or similar causes;
- (v) Damage caused by or to any item hidden in the landscape and not clearly guarded or marked; and
- (vi) Damage due to vandalism.

In no event shall either party be liable to the other for any special, incidental, indirect, consequential or contingent damages whatsoever, including, without limitation, loss of profits, injuries to property, whether or not such party has been advised of the possibility of such a loss, or whether the claim is for breach of contract, tort, breach of warranty, negligence or otherwise. The essential purpose of this section is to limit the potential liability of the parties arising out of these terms, the SOWs and the services provided thereunder. Customer acknowledges and agrees that its sole and exclusive remedy for any claim or damage arising from or otherwise related to these terms, any SOW or the services, whether in contract or in tort, shall be limited to the recovery of the lesser of: (A) The amount of actual direct monetary loss suffered by customer, or (B) The actual amount paid by customer to contractor for the specific services from which the customer's claim or damages allegedly arose during the shorter of (i) The term of the applicable SOW, or (ii) The three (3) month period prior to the date on which the subject breach allegedly occurred. Except for any warranties set forth in a written SOW, Contractor makes no representations or warranties, whether written, oral, express or implied, with respect to the Services, and each party hereby expressly disclaims any and all implied warranties, including the warranties of merchantability and fitness for a particular purpose. Customer acknowledges and agrees that Contractor would not enter into these Terms or any SOW for the consideration given by Customer but for the limitations of liability and damages contained in these Terms, and that the right to receive the Services in exchange for the limitations in these Terms and the other consideration given by Customer for the Services constitute a bargain that is fair and reasonable.

SECTION 6 – INDEMNIFICATION:

Customer shall protect, indemnify, defend and hold Contractor and its owners, members, managers, officers, independent contractors, employees, sub-contractors and agents (collectively, the "Contractor Parties") harmless from and against any and all claims, liabilities, demands, causes of action, losses or damages (including without limitation all liability for personal injury, property damage or commercial loss) and all costs and expenses (including without limitation attorneys' fees) (collectively, "Losses") incurred in connection therewith that may be asserted against or incurred by any of the Contractor Parties in connection with (i) Contractor's provision of the Services, (ii) Customer's breach of any SOW or these Terms, or (iii) any act, omission or misrepresentation of Customer or Customer's employees or agents.

Notwithstanding the foregoing, the parties agree that the Contractor is an independent contractor and that the Customer shall have no liability due to injury to the Contractor or Contractor's agents or employees, unless such injury was caused in whole or in part by the Customer's negligence.

SECTION 7 – PERMITS AND INSURANCE:

Contractor shall have any and all necessary permits, certificates and licenses required by the state and locality in which the property is located to perform the work set forth in each applicable SOW. Contractor shall produce and provide all such permits, certificates and licenses at the request of Customer to Customer or Customer's property manager. Furthermore, Contractor shall have all required Workman's Compensation Insurance coverage and Liability Insurance coverage (see below). Contractor also shall pay all local, state and federal taxes including sales and use taxes for the work set forth in each SOW. The parties agree that, at all times during the term of each SOW, Contractor will keep in force, with an insurance company licensed to do business in the state in which the property is located, the following policies:

Workers' Compensation Insurance: Coverage shall be provided as required by the state in which the property is located, subject to statutory limits, and Employer's Liability insurance with limits of no less than \$100,000 per accident for bodily injury or disease.

Commercial General Liability Insurance: Coverage shall be written on a form at least as broad as the Insurance Services Office (ISO) Form CG 00 01 covering Commercial General Liability on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal and advertising injury with limits no less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate. Customer shall be covered by this policy as an Additional Insured on a primary and non-contributory basis, utilizing endorsements at least as broad as the combination of ISO Form CG 20 10 04 13 for Ongoing Operations and ISO Form CG 20 37 04 13 for Products and Completed Operations.

Commercial Automobile Liability Insurance: Coverage shall be written on a form at least as broad as ISO Form CA 00 01, covering any automobile owned or hired by Contractor as well as non-owned automobiles used in connection with any SOW, subject to combined single limit of no less than \$500,000. Customer shall be covered by this policy as an Additional Insured on a primary and non-contributory basis.

All policies shall include a waiver of subrogation in favor of Customer and shall provide that coverage will not be canceled without thirty (30) days prior written notice to Customer. Coverage may be canceled without thirty (30) days prior written notice to Customer only if such policy is canceled due to Contractor's non-payment of policy premiums.

SECTION 8 – NOTICES:

Any notices or other communications required or permitted hereunder or in connection with any SOW shall be in writing, and shall be deemed effectively given on the date when personally delivered, sent by express courier, sent electronically, or deposited in the mail, registered or certified, postage prepaid, return receipt requested, addressed to the party to be served, to the applicable address set forth on the applicable SOW, unless such party has provided an updated address to the other party pursuant to the provisions of this section.

SECTION 9 – MATERIALS, TOOLS AND CLEAN-UP:

Contractor shall be responsible for the security and welfare of Contractor's tools, construction equipment, vehicles, machinery and materials (collectively, "Equipment") while on Customer's property. All Equipment shall be safely and properly used and stored while on Customer's property.

All debris and waste materials produced by Contractor in the performance of the Services ("Waste") will be removed at the end of each day before Contractor departs from the property, so long as the weather permits. Contractor shall keep Customer's and any adjoining property free from accumulation of any Waste. Additionally, during Contractor's course of engagement and solely with respect to the performance of its Services, Contractor shall maintain free, clear and unobstructed egress and ingress with respect to Customer's property.

At the completion of the applicable Services under each SOW, Contractor shall remove from Customer's property all Waste and Equipment, and return all affected areas of the property to a "broom clean" condition. If Contractor fails to diligently proceed with the clean-up set forth in the preceding sentence within three (3) business days after receipt of a properly delivered notice from Customer described such failure, Customer may proceed with such clean-up and Contractor shall be responsible for the reasonable fees paid by Customer for such clean-up.

SECTION 10 – OTHER SERVICES:

Any Services not stated in a written SOW can be accomplished by Contractor at an additional charge to be negotiated by the parties before such Services are performed. Contractor shall obtain Customer's prior written approval before commencing any Services not stated in a written SOW or any Services which will result in any additional charge to Customer not contemplated in a written SOW.

SECTION 11 – PROFESSIONAL DEMEANOR:

All of Contractor's employees shall each wear identifying shirts, jackets or vests while on Customer's property. A foreman will be on the job supervising Contractor's employees at all times. No employee of Contractor shall directly or indirectly accept payment or compensation for any Services from any homeowner that is not a customer covered under any SOW from Customer.

SECTION 12 – CERTAIN COMMUNICATIONS:

The Terms of this section shall only apply when Customer is a property manager. Customer shall set up a procedure for comments by the residents which will then be promptly transmitted to Contractor. All related communications from Contractor shall be submitted to the property manager.

SECTION 13 – EMERGENCIES:

Contractor agrees to respond to all emergency situations within twenty-four (24) hours, and all other situations within two (2) business days after notification thereof. Contractor will respond with either written or verbal acknowledgement of the situation and provide Contractor's "plan of action". In order to proceed with any "plan of action," Contractor must receive Customer's written approval to proceed on such basis.

SECTION 14 – NON-SOLICITATION:

Customer acknowledges that Contractor provides a valuable service by identifying and assigning personnel to perform the services hereunder. Customer further acknowledges that Contractor would be deprived of the benefits of its work force, and would experience substantial cost, if Customer were to hire, or contract with Contractor's personnel after they have been introduced to Customer by Contractor. Accordingly, Customer agrees that during the term of this Agreement and for twenty-four (24) months thereafter, neither Customer, nor any of its affiliates, successors, or assigns, shall recruit, solicit, hire, or otherwise contract directly, or indirectly with any personnel of Contractor who have been introduced to Customer by Contractor, or who are, or have been assigned to perform work for Customer hereunder. Notwithstanding the foregoing, Customer may contract with any of Contractor's personnel who: (i) had no previous direct contact with Customer; or (ii) have responded to a general, publicly-available advertisement for employment.

To the extent Customer fails to comply with this obligation, Customer shall pay to Contractor an amount equal to two years compensation of such personnel, based on the current rate of compensation paid to such personnel by Contractor as of the last date services were performed for Contractor.

SECTION 15 – MISCELLANEOUS:

- A. **Governing Law.** These Terms and each SOW shall be governed by, and construed and enforced in accordance with, the laws of the state and locality in which the property is located, without regard to the conflict-of-laws provisions of such state.
- B. **Dispute Resolution/Arbitration.** If a controversy, claim or dispute arises out of or relates to this Agreement or the breach thereof, and if the dispute cannot be settled through direct discussions, the parties agree to endeavor first to settle the dispute by mediation administered by the American Arbitration Association under its Commercial Mediation Procedures before reporting to arbitration. Each of the parties shall pay one half of the American Arbitration Association mediation fees including the fees charged by the mediator. Each of the parties shall bear their own attorney's fees in the mediation. **THE PARTIES FURTHER AGREE THAT ANY CONTROVERSY, CLAIM OR DISPUTE ARISING OUT OF OR RELATING TO THIS AGREEMENT, OR BREACH THEREOF, THAT IS NOT RESOLVED THROUGH THE MEDIATION AS PROVIDED FOR THE IMMEDIATELY PRECEDING PARAGRAPH SHALL BE SETTLED BY BINDING ARBITRATION IN THE COUNTY AND STATE IN WHICH THE PROJECT IS LOCATED, IN ACCORDANCE WITH THE COMMERCIAL ARBITRATION RULES OF THE AMERICAN ARBITRATION ASSOCIATION THEN IN EFFECT. THE ARBITRATOR SHALL BE AN ATTORNEY ADMITTED TO PRACTICE LAW IN THE SPECIFIC STATE IN WHICH SERVICES ARE PROVIDED, WITH**

AT LEAST FIFTEEN (15) YEARS OF BUSINESS LAW EXPERIENCE. THE AWARD RENDERED BY THE ARBITRATOR SHALL BE FINAL AND NON-APPEALABLE AND MAY BE ENTERED AS A FINAL JUDGMENT IN ANY COURT HAVING JURISDICTION THEREOF. THE AWARD OF THE ARBITRATOR SHALL BE IN THE FORM OF FINDINGS OF FACT AND CONCLUSIONS OF LAW AND SHALL SET FORTH IN DETAIL THE LEGAL AND FACTUAL BASIS OF THE DECISION.

- C. **Attorneys Fees and Costs.** The prevailing party in any arbitration or legal action (except for mediation as provided for in the immediately preceding) shall be entitled to an award of its attorney's fees and costs including the fees charged by the American Arbitration Association and the arbitrator. Each of the parties acknowledges and agrees that by entering into this Agreement and this arbitration provision that it is giving up its rights to trial by judge and jury and giving up its right to appeal.
- D. **Relationship of Parties/Independent Contractor.** Contractor is an independent contractor of Customer, and these Terms and the SOW(s) shall not be deemed to create a partnership, joint venture or employment relationship.
- E. **Force Majeure.** Contractor will not be liable or responsible to Customer for any delay, damage, loss, failure, or inability to perform caused by "Force Majeure". The term "Force Majeure" as used in this Agreement means the following: an act of God, strike, war, public rioting, lightning, fire, storm, flood, explosions, inability to obtain materials, supplies, epidemics, landslides, lightning storms, earthquakes, floods, storms, washouts, civil disturbances, explosions, acts of terrorism, breakage or accident to machinery or lines of equipment, temporary failure of equipment, freezing of equipment and any other cause whether of the kinds specifically enumerated above or otherwise which is not reasonably within the control of the party whose performance is to be excused and which by the exercise of due diligence could not be reasonably prevented or overcome..
- F. **Non-Waiver/Modification of Agreement.** Failure by a party to require performance by the other party or to claim a breach shall not be construed as a waiver of any right. These Terms shall be binding upon, inure to the benefit of, and be enforceable by Customer, Contractor and Contractor's respective legal representatives, successors and permitted assigns. Unless otherwise provided by these Terms, Customer and Contractor may not change or modify these Terms except by a writing making specific reference to these Terms signed by both parties.
- G. **Assignment.** Customer shall not assign these Terms and/or any SOW without the prior written consent of Contractor which shall not be unreasonably withheld or delayed.
- H. **Integration.** The SOW(s) and these Terms represent the entire agreement between Customer and Contractor with regard to the subject matter therein and hereof, and supersede and terminate all prior oral or written agreements, understandings and/or representations between the parties. If there is a conflict between the terms of these Terms and any SOW, these Terms shall control. Each party to this Agreement acknowledges that no representations, inducements, promises, or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not contained in this Agreement, and that no other agreement, statement or promise not contained in this Agreement will be valid and binding.
- I. **Survival of Terms.** The provisions of these Terms shall survive any termination of any SOW.
- J. **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original copy of this Agreement, and all of which, when taken together, shall be deemed to constitute but one and the same agreement.
- K. **Severability.** If any term or provision of this Agreement shall be held invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and every other term and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law

IN WITNESS WHEREOF, the parties hereto have signed this Agreement as of the date first above written. THIS AGREEMENT CONTAINS A BINDING ARBITRATION PROVISION WHICH MAY BE ENFORCED BY THE PARTIES.

Accepted for Conserve LandCare, LLC by:

Accepted for City of Coachella LLMD 1-40, Project 042623 by:

Signature

Signature

Name / Title

Name / Title

Date

Date