

**MAINTENANCE AND TRADE SERVICES AGREEMENT  
FOR STREET MEDIAN MULCH REPLENISHMENT  
RFB #PWD 24-304**

THIS AGREEMENT is made and entered into this \_\_\_\_\_ day of October 2024 between XXX ("Contractor"), a California Corporation, whose address is XXX, XXX and the CITY OF PLEASANTON, a municipal corporation ("City").

**RECITALS**

- A. Contractor has submitted a proposal in response to the City of Pleasanton's Request for Bids (**RFB #PWD 24-304**) and is qualified and experienced in providing Landscape Maintenance Services as set forth in **Exhibit A** of this Agreement.
- B. City finds it necessary and advisable to obtain work or services from Contractor on both a scheduled basis as set forth in RFB #PWD 24-304, as well as on an as-needed basis for potential unscheduled work also described therein.

**NOW THEREFORE**, in consideration of the mutual covenants and conditions in this Agreement, City and Contractor agree as follows:

- 1. **Term.** The term of this Agreement commences on the date written above and will expire on October 31, 2027, unless the parties agree to extend the Agreement for an additional two (2) one-year terms, not to exceed five (5) year's total for this Agreement.
- 2. **Services to be performed.** Contractor shall perform, or cause to be performed, the work or services described in **Exhibit A and Exhibit B**.
- 3. **Compensation.** Total compensation under this Agreement for all work of this Agreement shall not exceed \$xxx, of which, the total for each year shall not exceed \$xxx for the first year, \$xxx for the second year, and \$xxx for the third year. City shall pay Contractor for all work performed based on the bid proposal **RFB PWD 24.304, in Exhibit B**. Each year includes a 15% contingency for unforeseen circumstances and related extra services as determined to be necessary by the City. Payment of such contingency funds is not guaranteed to Contractor unless the City requests in writing of such extra services. For the fourth or subsequent year of the Agreement, the cost of each one-year term may increase only by the change in the consumer price index for the San Francisco-Oakland-San Jose Metropolitan Area (all items index; all urban consumers) for the twelve-month period ending in August each year as published by the Bureau of Labor Statistics, U.S. Department of Labor.
  - a. Payment shall be made within thirty (30) days of receipt of Contractor's invoice and approval by City. Contractor must include a monthly report of curb miles or parking lots swept, categorized by zones. This report should accompany each invoice submitted for payment. It is essential that this report is complete and approved to facilitate the timely processing and remittance of payment

4. **Indemnification.** Contractor shall hold harmless, defend, and indemnify the City, its officers, agents and employees (“Indemnities”), against any and all claims, costs, demands, causes of action, suits, losses, expenses, attorney’s fees, or liability, arising from or in any manner related to Contractor’s (includes Contractor’s employees, agents, or subcontractors) negligent act or omission, whether alleged or actual, regarding the work or services performed or caused to be performed pursuant to this Agreement and any amendments thereto. Contractor shall not, however, be obligated to indemnify Indemnities from claims arising from the sole negligence or willful misconduct of Indemnities. This indemnification includes any claim that the materials or equipment provided under this Agreement, or any tool, article or process used, constitutes an infringement of any patent issued by the United States. This indemnification provision shall survive termination or cancellation of the Agreement.
  
5. **Insurance.** During the term of this Agreement, Contractor shall maintain at its own cost and expense the following insurance coverage with insurers with an A.M. Best’s rating of no less than A:VII. Contractor shall have the obligation to furnish City, as additional insured, the minimum coverages identified below, or such greater or broader coverage for City, if available in the Contractor’s policies
  - a. **General Liability and Bodily Injury Insurance.** Commercial general liability insurance with limits of at least \$2,000,000 combined limit for bodily injury and property damage that provides that the City, its officers, employees and agents are named additional insured’s under the policy as evidenced by an additional insured endorsement satisfactory to the City Attorney. The policy shall further state in writing either on the Certificate of Insurance or attached rider that this insurance will operate as primary insurance for work performed by Contractor and its subcontractors, and that no other insurance effected by City or other named insured will be called on to cover a loss.
  
  - b. **Automobile Liability Insurance.** Automobile liability insurance with limits not less than \$2,000,000 per person/per occurrence.
  
  - c. **Workers' Compensation Insurance.** Workers' Compensation Insurance for all of Contractor's employees shall be in strict compliance with State laws, including a waiver of subrogation and Employer’s Liability Insurance with limits of at least \$1,000,000.

For work or services deemed public works, by signing this Agreement, Contractor is certifying, pursuant to Section 1861 of the California Labor Code, that: "I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance of the work of this Contract."

- d. **Certificate of Insurance.** Contractor shall file a certificate of insurance with the City prior to the City’s execution of this Agreement, and prior to engaging in any operation or activity set forth in this Agreement. The Certificate of Insurance shall provide in writing that the insurance afforded by this Certificate shall not be suspended, voided, canceled, reduced in coverage or in limits without providing notice to the City in accordance with California Insurance Code

section 677.2 which requires the notice of cancellation to: 1) include the effective date of the cancellation; 2) include the reasons for the cancellation; and 3) be given at least 30 days prior to the effective date of the cancellation, except that in the case of cancellation for nonpayment of premiums or for fraud, the notice shall be given no less than 10 days prior to the effective date of the cancellation. Notice shall be sent by certified mail, return receipt requested. In addition, the insured shall provide thirty (30) days prior written notice to the City of any cancellation, suspension, reduction of coverage or in limits, or voiding of the insurance coverage required by this agreement. The City reserves the right to require complete certified copies of policies.

- e. Subcontractors. Contractor shall include all subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage's for subcontractors shall be subject to all of the requirements stated in this Agreement, including but not limited to naming additional insureds.
  - f. Waiver of Subrogation. The insurer agrees to waive all rights of subrogation against the City, its officers, employees and agents.
  - g. Defense Costs. Coverage shall be provided on a "pay on behalf of" basis, with defense costs payable in addition to policy limits. There shall be no cross-liability exclusions.
6. **Independent Contractor**. The Contractor is an independent contractor retained by the City. All personnel employed by the Contractor, including subcontractors, and personnel of subcontractors, are not and shall not be employees of the City.
7. **Contractor's Warranty**. Contractor shall bear the risk of loss or damage to any goods associated with the services until delivered to and accepted by City. Contractor further warrants that all work done and goods provided under this Agreement shall: a) meet all conditions of the Agreement; b) shall be free from all defects in design, material and workmanship; and 3) shall be fit for the purposes intended. If any defects occur within the 12 months following acceptance, Contractor shall be solely responsible for the correction of those defects.
8. **Labor Code/Prevailing Wages**. The work performed under this Agreement is a "public work" and prevailing wage laws shall apply. No less than the general prevailing rate of per diem wages, and not less than the general prevailing rate of per diem wages for holidays and overtime work, for each craft, classification or type of worker needed to execute the work under this Agreement shall be paid to all workers, laborers and mechanics, electricians, employed in the execution of the work by the Contractor or any subcontractor doing or contracting to do any part of the work. The appropriate determination of the Director of the California Department of Industrial Relations shall be filed at the City Clerk's Office and available for inspection. Contractor shall post, at each job site, a copy of the prevailing rate of per diem wages.

To the extent applicable, Contractor shall comply with all requirements of the California Labor Code, including but not limited to, Labor Code sections: 1773.2 (regarding posting wage determinations at each job site); section 1776 (regarding the certification, maintenance, and availability for inspection of payroll records); section 1777.5 (regarding employment of

apprentices); section 1810 (regarding a legal day's work as 8 hours of labor); and section 1775 (regarding penalties for violations). The Contractor shall forfeit fifty dollars (\$50.00) for each calendar day or portion thereof for each worker paid less than the stipulated prevailing rates for any public work done under the Agreement by it or by any subcontractor under Contractor

9. **Notices.** All notices, demands, requests or approvals to be given under this Agreement shall be given in writing and conclusively shall be deemed served when delivered personally or on the second business day after the deposit thereof in the United States Mail, postage prepaid, registered or certified, addressed as hereinafter provided.

To Contractor: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

To City: City Manager  
City of Pleasanton  
P.O. Box 520  
Pleasanton, CA 94566

10. **Miscellaneous Provisions.**

- a. City may terminate this Agreement at any time by mailing a notice to Contractor. Contractor shall be paid for that portion of work or services already completed by Contractor as approved by City.
- b. Contractor acknowledges that time is of the essence regarding the performance of this Agreement.
- c. Contractor shall not assign or transfer this Agreement.
- d. If either City or Contractor waives a breach of this Agreement, such waiver shall not constitute a waiver of other or succeeding breaches of this Agreement.
- e. This Agreement constitutes the entire understanding of the parties.
- f. This Agreement may only be modified by a writing signed by the authorized representative of both parties.
- g. Contractor covenants that it has obtained and will keep in effect during the term of the Agreement all certificates, licenses, including a City Business License, permits or the like required by any federal, state or local regulatory agency in order to perform the work under this Agreement.
- h. Contractor shall comply with all federal, state and local laws, regulations and rules, including but not limited to applicable safety and environmental laws. Contractor shall bear full and exclusive responsibility for any release of hazardous or non-hazardous substances and disposal of hazardous wastes.
- i. The Contractor will permit the City to audit, examine and make copies of all contracts, invoices, payrolls and other documents or data relating to this Agreement. Such records shall be maintained for three years from the date of final payment under this Agreement.
- j. This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement. Counterparts may be delivered via facsimile, electronic mail (including pdf or any electronic signature complying with U.S. federal E-Sign Act of 2000 (15 U.S. Code §7001 et seq.), California Uniform Electronic Transactions Act (Cal. Civil Code §1633.1 et seq.), or other applicable law) or other

transmission method, and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes.

- k. This Agreement shall be governed by the laws of the State of California, with venue for any action under this Agreement in Alameda County, California.

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

**CITY OF PLEASANTON**

**CONTRACTOR – SCA of CA, LLC**

\_\_\_\_\_  
Gerry Beaudin, City Manager

By:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print name

ATTEST:

Title: \_\_\_\_\_

\_\_\_\_\_  
Jocelyn Kwong, City Clerk

*[If Contractor is a corporation, signatures must comply with California Corporations Code §313]*

APPROVED AS TO FORM:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Daniel Sodergren, City Attorney

\_\_\_\_\_  
Print name

Title: \_\_\_\_\_

## **EXHIBIT A – STREET MULCH REPLENISHMENT SCOPE OF SERVICES – RFB 25.304**

Contractor to provide street median mulching replenishment in various landscape median planters throughout the City.

**City Project Manager** - Project Manager will be the Parks Division Manager or their Designee.

**Supervision and Management** - Respond to questions and resolve problems as they arise.

**Intent** - The City of Pleasanton is seeking bid proposals for street median mulching replenishment in various landscape median planters throughout the City. All work to be performed shall be in accordance with the City of Pleasanton *Standard Specifications and Details*, July 2024, and shall be overseen by the Parks Division Manager or their designee (all reference hereafter to the Parks Division Manager shall include his designee). The selected Contractor will provide the following services:

1. Supervision and management of services;
2. Obtaining mulch from City's Operation Services Center;
3. Progress updates;
4. Traffic control;
5. Mulch loading, transportation and installation;
6. Site clean-up

**Scope and Schedule** - Scope of Work consists of providing street median wood mulch replenishment services for the areas and sites outlined in the attached Route 1, Route 2 and Route 3 maps. Street Medians included are also described in the attached maps. The size and conditions of each median site varies in volume of mulch required and difficulty of installation.

Mulch replenishment for all the street medians shown in the Route 1 map is to be completed from the period of the Notice to Proceed to November 1, 2024 to March 1, 2025; mulch replenishment for all the street medians shown in the Route 2 map is to be completed between September 1, 2025 to March 1, 2026; and mulch replenishment for all the street medians shown in the Route 3 map is to be completed between September 1, 2026 to March 1, 2027; at a general schedule for each route determined annually by the Parks Division Manager.

Additional mulch locations may be added in addition to the specified areas. Any additional mulch locations will be identified by the Parks Division Manager with a map or on site meeting. Additional mulch locations will be billed on a per 1,000 square foot basis.

### **1. Mulching Work**

- a. **Supervision and Management:** Provide on-site supervision of crew and management of sites. Respond to questions and resolve problems as they arise.

- b. **Obtain mulch from Operations Services Center:** Recycled wood mulch for this work will be made available to Contractor at no cost at the City's Operations Services Department at 3333 Busch Road, Pleasanton. Contractor will be issued two (2) entry cards for Contractor to enter 3333 Busch Road between the hours of 6:30 a.m. to 3:30 p.m. weekdays (except City holidays) to load Contractor's trucks with mulch.
- i) Contractor shall immediately advise the Parks Division Manager if an entry card is lost or stolen.
  - ii) Contractor shall not store any vehicles or equipment at the 3333 Busch Road other than equipment needed to load mulch.
- c. **Updates:** On a schedule to be determined by the Parks Division Manager, provide updates on all current and future work to the Parks Division Manager.
- d. **Traffic Control:** Provide traffic control at median work sites. Written traffic control plans shall meet Section 2 of the City's *Standard Specifications and Details* and must be submitted to the Parks Division Manager for approval at least two (2) business days before work commences. No traffic control shall be performed without the approval of the Parks Division Manager. A written traffic control plan shall be submitted to the Parks Division Manager prior to any work. Traffic control on major streets, or near schools, may be restricted to between the hours of 10:00 a.m. to 2:00 p.m. The Contractor is required to provide all safety cones, sign boards, arrow boards and other appropriate measures and equipment as prescribed by the Department of Transportation Manual on Uniform Traffic Control Devices (MUTCD) for traffic control at no additional cost to the City.
- e. **Mulch Installation:** Load, transport and install wood mulch in City owned street medians at various locations within the City. The City shall provide recycled wood chip mulch at its 3333 Busch Road facility. It shall be the Contractor's responsibility to load, transport and install mulch. Where mulch already exists in median planters, Contractor shall only add additional mulch to bring the existing level to a uniform 5" thickness across the open planter area. Wood mulch depth shall be tapered near curb edges to match curb height. All mulch installation work is to be performed between the hours of 8 a.m. to 4 p.m., Monday through Friday (except City holidays), unless subject to additional limits as a major street or near a school as described in Subsection d., Traffic Control, above.

**NOTE: Heavy equipment is prohibited from entering street median planters and is limited to use on hardscapes only.**

**All existing irrigation valve boxes and utility boxes must not be covered with mulch.**

**Measures must be taken to avoid damaging landscaping, sprinklers, irrigation systems, hardscape, plants, or other median components.**

- f. **Cleanup:** Before work crews leave each site, mulch and wood dust shall not be left on curb lines, sidewalks, streets, or on top of existing plant material. All

work is performed in accordance with City Specifications and requirements, and to the reasonable satisfaction of the Parks Division Manager.

## 2. Control, Supervision and Approval Authority

- a. Unless otherwise provided by specific provisions, Contractor's operations and activities pursuant to any contract shall be under the control and supervision of the Parks Division Manager.
- b. Whenever the Contractor is prohibited from conducting work unless Contractor first obtains the approval or consent of the City, such approval and consent must be obtained from the Parks Division Manager.
- c. **Supervision, Inspection, and Contract Compliance:** Contractor must provide for adequate supervision and inspection of all work performed to ensure that each requirement of these specifications is consistently met.

A fully qualified supervisor representing the Contractor shall be readily available to meet with the Parks Division Manager as needed for the purposes of correcting problems, conflicts, and coordinating work schedules.

Inspection by Parks Division Manager shall be made during normal City operating hours, unless otherwise arranged.

The progress and standard of quality of work to be accomplished shall be to the degree reasonably acceptable to the Parks Division Manager. In the event the Parks Division Manager determines Contractor's work is unsatisfactory, Contractor will be required to perform the additional corrective work at no cost to the City.

- d. The City will periodically inspect the work to assist in ensuring the work meets City's standards and the Parks Division Manager will be available during regularly schedule hours to discuss and resolve any concerns of the Contractor.
- e. **General:** The Contractor shall furnish supervision of its crew and inspection of conditions daily. The City reserves the right to request the removal of any employee of the Contractor for good cause.

All Contractors' work will be in City-specified areas only.

- f. **Supervisor:** Landscape Supervisor will have a minimum of five (5) continuous years as supervisor of complete landscape maintenance service, at least two (2) years performing duties of a foreperson.
- g. **Crew Leader:** Crew Foreperson shall have two (2) continuous years of on-the-job experience.



- h. **Uniforms:** All employees on site which are employed by the Contractor are to wear clothing which clearly identifies the Contractor.
- i. **Vehicles:** All vehicles utilized by the Contractor shall have wording which clearly identifies the Contractor.
- j. Transportation of equipment on public streets shall comply with the California Vehicle Code.

### 3. **Damages**

All damages to landscaping, sprinklers, irrigation systems, hardscape, plants, or other median components shall be reported by Contractor to the City and will be repaired by the City and billed to the Contractor.