

ATTACHMENT A

ON-CALL MAINTENANCE/REPAIR SERVICES AGREEMENT WITH MARIPOSA LANDSCAPES, INC. FOR AS-NEEDED SPORTS & RECREATIONAL FIELD LANDSCAPING

THIS ON-CALL MAINTENANCE/REPAIR SERVICES AGREEMENT ("Agreement") is made and entered into as of this 8th day of June, 2021 ("Effective Date"), by and between the CITY OF NEWPORT BEACH, a California municipal corporation and charter city ("City"), and MARIPOSA LANDSCAPES, INC., a California corporation ("Contractor"), whose address is 6232 Santos Diaz Street, Irwindale, CA 91702, and is made with reference to the following:

RECITALS

- A. City is a municipal corporation duly organized and validly existing under the laws of the State of California with the power to carry on its business as it is now being conducted under the statutes of the State of California and the Charter of City.
- B. City desires to engage Contractor to perform on-call maintenance and/or repair services for City ("Project").
- C. Contractor has been determined by City to be the lowest responsible bidder and Contractor's bid, and the compensation set forth in this Contract, is based upon Contractor's careful examination of all Bid documents, line items, and specifications.
- D. Contractor possesses the skill, experience, ability, background, certification and knowledge to provide the maintenance and/or repair services described in this Agreement.
- E. Contractor has examined the location of all proposed work, carefully reviewed and evaluated the specifications set forth by City for the Project, is familiar with all conditions relevant to the performance of services, and has committed to perform all work required for the compensation specified in this Agreement.

NOW, THEREFORE, it is mutually agreed by and between the undersigned parties as follows:

1. TERM

The term of this Agreement shall commence on the Effective Date, and shall terminate on June 7, 2024 ("Original Term") unless terminated earlier as set forth herein. The Original Term shall be for three (3) years with the City's option to automatically renew the Agreement for two (2) additional one (1) year terms (each a "Renewal Term"), unless Notice to Terminate is provided by City to Contractor within seven (7) days of renewal date or further terminated earlier as set forth in the Agreement. In any event, the term of the Agreement, including the Original Term and any Renewal Term(s) shall not extend beyond June 7, 2026.

2. SERVICES TO BE PERFORMED

2.1 Contractor shall diligently perform all the services described in the Scope of Services attached hereto as Exhibit B and incorporated herein by reference ("Services" or "Work"). As a material inducement to City entering into this Agreement, Contractor represents and warrants that Contractor is a provider of first class work and Contractor is experienced in performing the Work contemplated herein and, in light of such status and experience, Contractor covenants that it shall follow community professional standards with the ordinary degree of skill and care that would be used by other reasonably competent practitioners of the same discipline under similar circumstances, in performing the Work required hereunder, and that all materials will be of good quality.

2.2 Contractor shall perform all Work required to be performed, and shall provide and furnish all the labor, materials, necessary tools, expendable equipment and all utility and transportation services necessary for the Project.

2.3 With respect to the on-call Services described in Exhibit B, upon written request from the Project Administrator as defined herein, Contractor shall provide a letter proposal for Services requested by the City (hereinafter referred to as the "Letter Proposal"). The Letter Proposal shall include the following:

2.3.1 A detailed description of the Services to be provided;

2.3.2 The position of each person to be assigned to perform the Services, and the name of the individuals to be assigned, if available;

2.3.3 The estimated number of hours and cost to complete the Services;
and

2.3.4 The time needed to finish the specific project or Services.

2.4 No on-call Services shall be provided until the Project Administrator has provided written acceptance of the Letter Proposal. Once authorized to proceed, Contractor shall diligently perform the duties in the approved Letter Proposal.

3. TIME OF PERFORMANCE

3.1 Time is of the essence in the performance of Services under this Agreement and Contractor shall perform the Services in accordance with the schedule included in Exhibit B and the Letter Proposal. In the absence of a specific schedule, the Services shall be performed to completion in a diligent and timely manner. The failure by Contractor to strictly adhere to the schedule set forth in Exhibit B and the Letter Proposal, if any, or perform the Services in a diligent and timely manner may result in termination of this Agreement by City.

3.2 Notwithstanding the foregoing, Contractor shall not be responsible for delays due to causes beyond Contractor's reasonable control. However, in the case of any such delay in the Services to be provided for the Project, each party hereby agrees

to provide notice within two (2) calendar days of the occurrence causing the delay to the other party so that all delays can be addressed.

3.3 Contractor shall submit all requests for extensions of time for performance in writing to the Project Administrator as defined herein, not later than two (2) calendar days after the start of the condition that purportedly causes a delay. The Project Administrator shall review all such requests and may grant reasonable time extensions for unforeseeable delays that are beyond Contractor's control.

3.4 For all time periods not specifically set forth herein, Contractor shall respond in the most expedient and appropriate manner under the circumstances, by fax, hand-delivery or mail.

4. COMPENSATION TO CONTRACTOR

4.1 City shall pay Contractor for the Services on a time and expense not-to-exceed basis in accordance with the provisions of this Section and the Letter Proposal and the Schedule of Billing Rates attached hereto as Exhibit C and incorporated herein by reference. Except as otherwise provided herein, no rate changes shall be made during the term of this Agreement without the prior written approval of City. Contractor's compensation for all Services performed in accordance with this Agreement, including all reimbursable items, shall not exceed **One Million Two Hundred Fifty Thousand Dollars and 00/100 (\$1,250,000.00)**, without prior written amendment to the Agreement.

4.2 Upon the first anniversary of the Effective Date and upon each anniversary of the Effective Date thereafter, the billing rates set forth in Exhibit C ("Billing Rates") may be adjusted by an increase not to exceed 2.0% to the Billing Rates. Contractor shall notify City in writing of any requests for adjustment pursuant to this Section at least thirty (30) days prior to the Effective Date of such adjustment, and provide updated billing rates. Adjusted billing rates shall be approved in writing by City prior to use. The maximum adjustment increase to the Billing Rates, for any year where an adjustment is made pursuant to this Section, shall not exceed 2.0% of the Billing Rates in effect immediately preceding such adjustment.

4.3 This compensation includes:

4.3.1 Any loss or damage arising from the nature of the Work;

4.3.2 Any loss or damage arising from any unforeseen difficulties or obstructions in the performance of the Work; and

4.3.3 Any expense incurred as a result of any suspension or discontinuance of the Work, but excludes any loss resulting from earthquakes of a magnitude in excess of 3.5 on the Richter Scale and tidal waves, including tsunamis, and which loss or expense occurs prior to acceptance of the Work by City.

4.4 Contractor shall submit monthly invoices to City describing the Work performed the preceding month. Contractor's bills shall include the name and/or

classification of employee who performed the Work, a brief description of the Services performed and/or the specific task in the Scope of Services to which it relates, the date the Services were performed, the number of hours spent on all Work billed on an hourly basis, and a description of any reimbursable expenditures. City shall pay Contractor no later than thirty (30) calendar days after approval of the monthly invoice by City staff.

4.5 City shall reimburse Contractor only for those costs or expenses specifically identified in Exhibit C to this Agreement, or specifically approved in writing in advance by City.

4.6 Contractor shall not receive any compensation for Extra Work performed without the prior written authorization of City. As used herein, "Extra Work" means any Work that is determined by City to be necessary for the proper completion of the Project, but which is not included within the Scope of Services and which the parties did not reasonably anticipate would be necessary at the execution of this Agreement. Compensation for any authorized Extra Work shall be paid in accordance with Exhibit C.

5. PROJECT MANAGER

5.1 Contractor shall designate a Project Manager, who shall coordinate all phases of the Project. This Project Manager shall be available to City at all reasonable times during the Agreement term. Contractor has designated Michael Williams to be its Project Manager. Contractor shall not remove or reassign the Project Manager or any personnel listed in Exhibit B or assign any new or replacement personnel to the Project without the prior written consent of City. City's approval shall not be unreasonably withheld with respect to the removal or assignment of non-key personnel.

5.2 Contractor, at the sole discretion of City, shall remove from the Project any of its personnel assigned to the performance of Services upon written request of City. Contractor warrants that it will continuously furnish the necessary personnel to complete the Project on a timely basis as contemplated by this Agreement.

6. ADMINISTRATION

This Agreement will be administered by the Public Works Department. City's Public Works Director or designee shall be the Project Administrator and shall have the authority to act for City under this Agreement. The Project Administrator shall represent City in all matters pertaining to the Services to be rendered pursuant to this Agreement.

7. CITY'S RESPONSIBILITIES

To assist Contractor in the execution of its responsibilities under this Agreement, City agrees to provide access to and upon request of Contractor, one copy of all existing relevant information on file at City. City will provide all such materials in a timely manner so as not to cause delays in Contractor's Work schedule.

8. TYPE AND INSTALLATION OF MATERIALS/STANDARD OF CARE

8.1 Contractor shall use only the standard materials described in Exhibit B in performing Services under this Agreement. Any deviation from the materials described in Exhibit B shall not be installed or utilized unless approved in advance and in writing by the Project Administrator.

8.2 All of the Services shall be performed by Contractor or under Contractor's supervision. Contractor represents that it possesses the personnel required to perform the Services required by this Agreement, and that it will perform all Services in a manner commensurate with community professional standards and with the ordinary degree of skill and care that would be used by other reasonably competent practitioners of the same discipline under similar circumstances. All Services shall be performed by qualified and experienced personnel who are not employed by City. By delivery of completed Work, Contractor certifies that the Work conforms to the requirements of this Agreement, all applicable federal, state and local laws and legally recognized professional standards.

8.3 Contractor represents and warrants to City that it has, shall obtain and shall keep in full force and effect during the term hereof, at its sole cost and expense, all licenses, permits, qualifications, insurance and approvals of whatsoever nature that is legally required of Contractor to practice its profession. Contractor shall maintain a City of Newport Beach business license during the term of this Agreement.

8.4 Contractor shall not be responsible for delay, nor shall Contractor be responsible for damages or be in default or deemed to be in default by reason of strikes, lockouts, accidents, acts of God, or the failure of City to furnish timely information or to approve or disapprove Contractor's Work promptly, or delay or faulty performance by City, contractors, or governmental agencies.

9. RESPONSIBILITY FOR DAMAGES OR INJURY

9.1 City and all officers, employees and representatives thereof and all persons and entities owning or otherwise in legal control of the property upon which Contractor performs the Project and/or Services shall not be responsible in any manner for any loss or damage to any of the materials or other things used or employed in performing the Project or for injury to or death of any person as a result of Contractor's performance of the Services required hereunder; or for damage to property from any cause arising from the performance of the Project and/or Services by Contractor, or its subcontractors, or its workers, or anyone employed by either of them.

9.2 Contractor shall be responsible for any liability imposed by law and for injuries to or death of any person or damage to property resulting from defects, obstructions or from any cause arising from Contractor's Work on the Project and/or Services, or the Work of any subcontractor or supplier selected by Contractor.

9.3 To the fullest extent permitted by law, Contractor shall indemnify, defend and hold harmless City, its City Council, boards and commissions, officers, agents, volunteers, employees, and any person or entity owning or otherwise in legal control of

the property upon which Contractor performs the Project and/or Services contemplated by this Agreement (collectively, the "Indemnified Parties") from and against any and all claims (including, without limitation, claims for bodily injury, death or damage to property), demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including, without limitation, attorneys' fees, disbursements and court costs) of every kind and nature whatsoever (individually, a Claim; collectively, "Claims"), which may arise from or in any manner relate (directly or indirectly) to any breach of the terms and conditions of this Agreement, any Work performed or Services provided under this Agreement including, without limitation, defects in workmanship or materials or Contractor's presence or activities conducted on the Project (including the negligent and/or willful acts, errors and/or omissions of Contractor, its principals, officers, agents, employees, vendors, suppliers, consultants, subcontractors, anyone employed directly or indirectly by any of them or for whose acts they may be liable or any or all of them).

9.4 Notwithstanding the foregoing, nothing herein shall be construed to require Contractor to indemnify the Indemnified Parties from any Claim arising from the sole negligence or willful misconduct of the Indemnified Parties. Nothing in this indemnity shall be construed as authorizing any award of attorneys' fees in any action on or to enforce the terms of this Agreement. This indemnity shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by Contractor.

9.5 Contractor shall perform all Work in a manner to minimize public inconvenience and possible hazard, to restore other work areas to their original condition and former usefulness as soon as possible, and to protect public and private property. Contractor shall be liable for any private or public property damaged during the performance of the Work by Contractor or its agents.

9.6 To the extent authorized by law, as much of the money due Contractor under and by virtue of the Agreement as shall be considered necessary by City may be retained by it until disposition has been made of such suits or claims for damages as aforesaid.

9.7 The rights and obligations set forth in this Section shall survive the termination of this Agreement.

10. INDEPENDENT CONTRACTOR

It is understood that City retains Contractor on an independent contractor basis and Contractor is not an agent or employee of City. The manner and means of conducting the Work are under the control of Contractor, except to the extent they are limited by statute, rule or regulation and the expressed terms of this Agreement. No civil service status or other right of employment shall accrue to Contractor or its employees. Nothing in this Agreement shall be deemed to constitute approval for Contractor or any of Contractor's employees or agents, to be the agents or employees of City. Contractor shall have the responsibility for and control over the means of performing the Work,

provided that Contractor is in compliance with the terms of this Agreement. Anything in this Agreement that may appear to give City the right to direct Contractor as to the details of the performance of the Work or to exercise a measure of control over Contractor shall mean only that Contractor shall follow the desires of City with respect to the results of the Services.

11. COOPERATION

Contractor agrees to work closely and cooperate fully with City's designated Project Administrator and any other agencies that may have jurisdiction or interest in the Work to be performed. City agrees to cooperate with Contractor on the Project.

12. CITY POLICY

Contractor shall discuss and review all matters relating to policy and Project direction with City's Project Administrator in advance of all critical decision points in order to ensure the Project proceeds in a manner consistent with City goals and policies.

13. PROGRESS

Contractor is responsible for keeping the Project Administrator informed on a regular basis regarding the status and progress of the Project, activities performed and planned, and any meetings that have been scheduled or are desired.

14. INSURANCE

Without limiting Contractor's indemnification of City, and prior to commencement of Work, Contractor shall obtain, provide and maintain at its own expense during the term of this Agreement or for other periods as specified in this Agreement, policies of insurance of the type, amounts, terms and conditions described in the Insurance Requirements attached hereto as Exhibit F, and incorporated herein by reference.

15. BONDING – ON-CALL SERVICES

15.1 For any Letter Proposal accepted by City of over Twenty Five Thousand Dollars and 00/100 (\$25,000.00), Contractor shall obtain, provide and maintain at its own expense during the term of this Agreement: (1) a Labor and Materials Payment Bond in the amount of one hundred percent (100%) of the total amount to be paid Contractor as set forth in any Letter Proposal accepted by City of over Twenty Five Thousand Dollars and 00/100 (\$25,000.00), and in the form attached hereto as Exhibit D which is incorporated herein by this reference; and (2) a Faithful Performance Bond in the amount of one hundred percent (100%) of the total amount to be paid Contractor as set forth in any Letter Proposal accepted by City of over Twenty Five Thousand Dollars and 00/100 (\$25,000.00), and in the form attached hereto as Exhibit E which is incorporated herein by this reference.

15.2 The Labor and Materials Payment Bond and Faithful Performance Bond shall be issued by an insurance organization or surety (1) currently authorized by the

Insurance Commissioner to transact business of insurance in the State of California, (2) listed as an acceptable surety in the latest revision of the Federal Register Circular 570, and (3) assigned a Policyholders' Rating A (or higher) and Financial Size Category Class VII (or larger) in accordance with the latest edition of Best's Key Rating Guide: Property-Casualty.

15.3 Contractor shall deliver, concurrently with City's approval of any Letter Proposal over Twenty Five Thousand Dollars and 00/100 (\$25,000.00), the Labor and Materials Payment Bond and Faithful Performance Bond, a certified copy of the "Certificate of Authority" of the Insurer or Surety issued by the Insurance Commissioner, which authorizes the Insurer or Surety to transact surety insurance in the State of California.

16. LABOR AND PREVAILING WAGE REQUIREMENT

16.1 Contractor shall comply with all applicable provisions of State and Federal law including, applicable provisions of California Labor Code, and the Federal Fair Labor Standards Act.

16.2 Whenever Contractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this Agreement, Contractor shall immediately give notice to City, including all relevant information.

16.3 This agreement shall be paid in accordance with Section 1770 of the California State Labor Code and in accordance with the tenus of the Southern California Master Labor Agreement, which has established a prevailing rate of per diem wages to be paid in the performance of this agreement. The Director of Industrial Relations has ascertained the general prevailing rate of per diem wages in the locality in which the work is to be performed for each craft, classification, or type of workman or mechanic needed to execute the agreement. A copy of said determination is available by calling the prevailing wage hotline number **(415) 703-4774**, and requesting one from the Department of Industrial Relations. All parties to the agreement shall be governed by all provisions of the California Labor Code Relating to prevailing wage rates (Sections 1770-7981, inclusive).

17. PROHIBITION AGAINST ASSIGNMENTS AND TRANSFERS

Except as specifically authorized under this Agreement, the Services to be provided under this Agreement shall not be assigned, transferred contracted or subcontracted out without the prior written approval of City. Any of the following shall be construed as an assignment: The sale, assignment, transfer or other disposition of any of the issued and outstanding capital stock of Contractor, or of the interest of any general partner or joint venturer or syndicate member or cotenant if Contractor is a partnership or joint-venture or syndicate or cotenancy, which shall result in changing the control of Contractor. Control means fifty percent (50%) or more of the voting power or twenty-five percent (25%) or more of the assets of the corporation, partnership or joint-venture.

18. SUBCONTRACTING

The subcontractors authorized by City, if any, to perform Work on this Project are identified in Exhibit B and the Letter Proposal. Contractor shall be fully responsible to City for all acts and omissions of any subcontractor. Nothing in this Agreement shall create any contractual relationship between City and any subcontractor nor shall it create any obligation on the part of City to pay or to see to the payment of any monies due to any such subcontractor other than as otherwise required by law. City is an intended beneficiary of any Work performed by the subcontractor for purposes of establishing a duty of care between the subcontractor and City. Except as specifically authorized herein, the Services to be provided under this Agreement shall not be otherwise assigned, transferred, contracted or subcontracted out without the prior written approval of City.

19. OWNERSHIP OF DOCUMENTS

Each and every report, draft, map, record, plan, document and other writing produced (hereinafter "Documents"), prepared or caused to be prepared by Contractor, its officers, employees, agents and subcontractors, in the course of implementing this Agreement, shall become the exclusive property of City, and City shall have the sole right to use such materials in its discretion without further compensation to Contractor or any other party. Contractor shall, at Contractor's expense, provide such Documents to City upon prior written request.

20. CONFIDENTIALITY

All Documents, including drafts, preliminary drawings or plans, notes and communications that result from the Services in this Agreement, shall be kept confidential unless City expressly authorizes in writing the release of information.

21. RECORDS

Contractor shall keep records and invoices in connection with the Services to be performed under this Agreement. Contractor shall maintain complete and accurate records with respect to the costs incurred under this Agreement and any Services, expenditures and disbursements charged to City, for a minimum period of three (3) years, or for any longer period required by law, from the date of final payment to Contractor under this Agreement. All such records and invoices shall be clearly identifiable. Contractor shall allow a representative of City to examine, audit and make transcripts or copies of such records and invoices during regular business hours. 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 to Contractor under this Agreement.

22. WITHHOLDINGS

City may withhold payment to Contractor of any disputed sums until satisfaction of the dispute with respect to such payment. Such withholding shall not be deemed to constitute a failure to pay according to the terms of this Agreement. Contractor shall not

discontinue Work as a result of such withholding. Contractor shall have an immediate right to appeal to the City Manager or his/her designee with respect to such disputed sums. Contractor shall be entitled to receive interest on any withheld sums at the rate of return that City earned on its investments during the time period, from the date of withholding of any amounts found to have been improperly withheld.

23. CITY'S RIGHT TO EMPLOY OTHER CONTRACTORS

City reserves the right to employ other contractors in connection with the Project.

24. CONFLICTS OF INTEREST

24.1 Contractor or its employees may be subject to the provisions of the California Political Reform Act of 1974 (the "Act") and/or Government Code §§ 1090 et seq., which (1) require such persons to disclose any financial interest that may foreseeably be materially affected by the Work performed under this Agreement, and (2) prohibit such persons from making, or participating in making, decisions that will foreseeably financially affect such interest.

24.2 If subject to the Act and/or Government Code §§ 1090 et seq., Contractor shall conform to all requirements therein. Failure to do so constitutes a material breach and is grounds for immediate termination of this Agreement by City. Contractor shall indemnify and hold harmless City for any and all claims for damages resulting from Contractor's violation of this Section.

25. NOTICES

25.1 All notices, demands, requests or approvals, including any change in mailing address, to be given under the terms of this Agreement shall be given in writing, and conclusively shall be deemed served when delivered personally, or on the third business day after the deposit thereof in the United States mail, postage prepaid, first-class mail, addressed as hereinafter provided.

25.2 All notices, demands, requests or approvals from Contractor to City shall be addressed to City at:

Attn: Public Works Director
Public Works Department
City of Newport Beach
100 Civic Center Drive
PO Box 1768
Newport Beach, CA 92658

25.3 All notices, demands, requests or approvals from City to Contractor shall be addressed to Contractor at:

Attn: Terry Noriega
Mariposa Landscapes, Inc.

6232 Santos Diaz Street
Irwindale, CA 91702

26. CLAIMS

26.1 Unless a shorter time is specified elsewhere in this Agreement, before making its final request for payment under this Agreement, Contractor shall submit to City, in writing, all claims for compensation under or arising out of this Agreement. Contractor's acceptance of the final payment shall constitute a waiver of all claims for compensation under or arising out of this Agreement except those previously made in writing and identified by Contractor in writing as unsettled at the time of its final request for payment. Contractor and City expressly agree that in addition to any claims filing requirements set forth in the Agreement, Contractor shall be required to file any claim Contractor may have against City in strict conformance with the Government Claims Act (Government Code sections 900 et seq.).

26.2 To the extent that Contractor's claim is a "Claim" as defined in Public Contract Code section 9204 or any successor statute thereto, the Parties agree to follow the dispute resolution process set forth therein. Any part of such "Claim" remaining in dispute after completion of the dispute resolution process provided for in Public Contract Code section 9204 or any successor statute thereto shall be subject to the Government Claims Act requirements requiring Contractor/Consultant to file a claim in strict conformance with the Government Claims Act. To the extent that Contractor's claim is not a "Claim" as defined in Public Contract Code section 9204 or any successor statute thereto, Contractor shall be required to file such claim with the City in strict conformance with the Government Claims Act (Government Code sections 900 et seq.).

27. TERMINATION

27.1 In the event that either party fails or refuses to perform any of the provisions of this Agreement at the time and in the manner required, that party shall be deemed in default in the performance of this Agreement. If such default is not cured within a period of two (2) calendar days, or if more than two (2) calendar days are reasonably required to cure the default and the defaulting party fails to give adequate assurance of due performance within two (2) calendar days after receipt of written notice of default, specifying the nature of such default and the steps necessary to cure such default, and thereafter diligently take steps to cure the default, the non-defaulting party may terminate the Agreement forthwith by giving to the defaulting party written notice thereof.

27.2 Notwithstanding the above provisions, City shall have the right, at its sole and absolute discretion and without cause, of terminating this Agreement at any time by giving no less than seven (7) calendar days' prior written notice to Contractor. In the event of termination under this Section, City shall pay Contractor for Services satisfactorily performed and costs incurred up to the effective date of termination for which Contractor has not been previously paid. On the effective date of termination, Contractor shall deliver to City all reports, Documents and other information developed or accumulated in the performance of this Agreement, whether in draft or final form.

28. LABOR

28.1 Contractor shall conform with all applicable provisions of state and federal law including, but not limited to, applicable provisions of the federal Fair Labor Standards Act ("FLSA") (29 USCA § 201, *et seq.*).

28.2 Whenever Contractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this Agreement, Contractor shall immediately give written notice to City, and provide all relevant information.

28.3 Contractor represents that all persons working under this Agreement are verified to be U.S. citizens or persons legally authorized to work in the United States.

28.4 To the fullest extent permitted by law, Contractor shall indemnify, defend, and hold harmless City, its City Council, boards and commissions, officers, agents, volunteers, and employees from loss or damage, including but not limited to attorneys' fees, and other costs of defense by reason of actual or alleged violations of any applicable federal, state and local labor laws or law, rules, and/or regulations. This obligation shall survive the expiration and/or termination of the Agreement.

29. STANDARD PROVISIONS

29.1 Recitals. City and Contractor acknowledge that the above Recitals are true and correct and are hereby incorporated by reference.

29.2 Compliance with all Laws. Contractor shall, at its own cost and expense, comply with all statutes, ordinances, regulations and requirements of all governmental entities, including federal, state, county or municipal, whether now in force or hereinafter enacted. In addition, all Work prepared by Contractor shall conform to applicable City, county, state and federal laws, rules, regulations and permit requirements and be subject to approval of the Project Administrator and City.

29.3 Waiver. A waiver by either party of any breach, of any term, covenant or condition contained herein shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition contained herein, whether of the same or a different character.

29.4 Integrated Contract. This Agreement represents the full and complete understanding of every kind or nature whatsoever between the parties hereto, and all preliminary negotiations and agreements of whatsoever kind or nature are merged herein. No verbal agreement or implied covenant shall be held to vary the provisions herein.

29.5 Conflicts or Inconsistencies. In the event there are any conflicts or inconsistencies between this Agreement and the Scope of Services or any other attachments attached hereto, the terms of this Agreement shall govern.

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

29.7 Amendments. This Agreement may be modified or amended only by a written document executed by both Contractor and City and approved as to form by the City Attorney.

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

29.9 Controlling Law and Venue. The laws of the State of California shall govern this Agreement and all matters relating to it and any action brought relating to this Agreement shall be adjudicated in a court of competent jurisdiction in the County of Orange, State of California.

29.10 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, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, sex, sexual orientation, age or any other impermissible basis under law.

29.11 No Attorneys' Fees. In the event of any dispute or legal action arising under this Agreement, the prevailing party shall not be entitled to attorneys' fees.

29.12 Counterparts. This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original and all of which together shall constitute one (1) and the same instrument.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the dates written below.

**APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE**

Date: 5/25/2021

By:  for
Aaron C. Harp
City Attorney

05.25.21
cmh

ATTEST:

Date: _____

By: _____
Leilani I. Brown
City Clerk

CITY OF NEWPORT BEACH,
a California municipal corporation

Date: _____

By: _____
Brad Avery
Mayor

CONTRACTOR:

MARIPOSA LANDSCAPES, INC., a
California corporation

Date: _____

By: _____
Terry Noriega
President/Chief Executive Officer

Date: _____

By: _____
Antonio Valenzuela
Secretary

[END OF SIGNATURES]

Attachments: Exhibit A – Bid Submittal Packet
 Exhibit B – Scope of Services
 Exhibit C – Schedule of Billing Rates
 Exhibit D – Labor and Materials Payment Bond (On-Call Services)
 Exhibit E – Faithful Performance Bond (On-Call Services)
 Exhibit F – Insurance Requirements

EXHIBIT A

BID SUBMITTAL PACKET

CITY OF NEWPORT BEACH

NOTICE INVITING BIDS

Sealed bids shall be submitted electronically via PlanetBids to office of the City Clerk,
100 Civic Center Drive, Newport Beach, CA 92660
By 2:00 PM on the 8th day of April, 2021,
at which time such bids shall be opened and read for

AS-NEEDED SPORTS & RECREATIONAL FIELD LANDSCAPE SERVICES

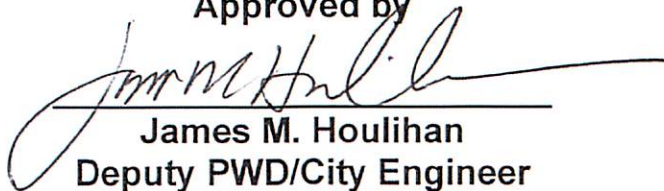
Contract No. 7997-1

\$250,000

Estimated Annual Bid Value



Approved by


James M. Houlihan
Deputy PWD/City Engineer

Prospective bidders may obtain Bid Documents, Project Specifications and Plans
via PlanetBids:

<http://www.planetbids.com/portal/portal.cfm?CompanyID=22078>

Contractor License Classification(s) required for this project: "C-27"

For further information, call Kevin Pekar, Project Manager at (949) 644-3069

BID INFORMATION IS AVAILABLE ON THE CITY WEBSITE:

<http://newportbeachca.gov/government/open-transparent/online-services/bids-rfps-vendor-registration>

City of Newport Beach

**AS-NEEDED SPORTS & RECREATIONAL FIELD LANDSCAPE
SERVICES**

Contract No. 7997-1

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City of Newport Beach

**AS-NEEDED SPORTS & RECREATIONAL FIELD LANDSCAPE
SERVICES**

Contract No. 7997-1

INSTRUCTIONS TO BIDDERS

1. The following documents shall be completed, executed, uploaded and received by the City Clerk *via PlanetBids* in accordance with NOTICE INVITING BIDS:

INSTRUCTIONS TO BIDDERS

BIDDER'S BOND (*Original copies must be submitted to the City Clerk's Office in Sealed Envelope*)

DESIGNATION OF SUBCONTRACTORS ACKNOWLEDGEMENT (*Subcontractor information to be submitted via PlanetBids*)

CONTRACTOR'S INDUSTRIAL SAFETY RECORD

INFORMATION REQUIRED OF BIDDER

ALL ADDENDA TO PLANS AND SPECIFICATIONS AS ISSUED BY AGENCY PRIOR TO BID OPENING DATE (if any; *Contractor shall confirm via PlanetBids*)

TECHNICAL ABILITY AND EXPERIENCE REFERENCES

NON-COLLUSION AFFIDAVIT

DESIGNATION OF SURETIES

PROPOSAL ACKNOWLEDGEMENT (*Line Items to be completed via PlanetBids*)

The City Clerk's Office will open and read the bid results from PlanetBids immediately following the Bid Opening Date (Bid Due Date.)

The Bid Results are immediately available to the public via PlanetBids following the Bid Opening Date (Bid Due Date). Members of the public who would like to attend this reading may go to Bay E, 2nd Floor of the Civic Center (Located at 100 Civic Center Dr.)

2. Cash, certified check or cashier's check (sum not less than 10 percent of the total bid price) may be received in lieu of the BIDDER'S BOND. The title of the project and the words "Sealed Bid" shall be clearly marked on the outside of the envelope containing the documents. Original copies must be submitted to the City Clerk's Office.
3. The City of Newport Beach will not permit a substitute format for the Contract Documents listed above. Bidders are advised to review their content with bonding and legal agents prior to submission of bid.
3. BIDDER'S BOND shall be issued by an insurance organization or surety (1) currently authorized by the Insurance Commissioner to transact business of insurance in the State of California, and (2) listed as an acceptable surety in the latest revision of the Federal Register Circular 570. The successful bidder's security shall be held until the Contract is executed. *Original, sealed copies must be submitted to the City Clerk's Office by the Bid Opening Date (Bid Due Date.)* The title of the project, Contract Number and the words "Sealed Bid" shall be clearly marked on the outside of the envelope containing the documents.
4. The estimated quantities indicated in the PROPOSAL are approximate, and are given solely to allow the comparison of total bid prices.

5. Bids are to be computed upon the estimated quantities indicated in the PROPOSAL multiplied by unit price submitted by the bidder. In the event of discrepancy between wording and figures, bid wording shall prevail over bid figures. In the event of error in the multiplication of estimated quantity by unit price, the correct multiplication will be computed and the bids will be compared with correctly multiplied totals. The City shall not be held responsible for bidder errors and omissions in the PROPOSAL.
6. The City of Newport Beach reserves the right to reject any or all bids and to waive any minor irregularity or informality in such bids. Pursuant to Public Contract Code Section 22300, at the request and expense of the Contractor, securities shall be permitted in substitution of money withheld by the City to ensure performance under the contract. The securities shall be deposited in a state or federal chartered bank in California, as the escrow agent.
7. In accordance with the California Labor Code (Sections 1770 *et seq.*), the Director of Industrial Relations has ascertained the general prevailing rate of per diem wages in the locality in which the work is to be performed for each craft, classification, or type of workman or mechanic needed to execute the contract. A copy of said determination is available by calling the prevailing wage hotline number **(415) 703-4774**, and requesting one from the Department of Industrial Relations. All parties to the contract shall be governed by all provisions of the California Labor Code – including, but not limited to, the requirement to pay prevailing wage rates (Sections 1770-7981 inclusive). A copy of the prevailing wage rates shall be posted by the Contractor at the job site.
9. The Contractor shall be responsible for insuring compliance with provisions of Section 1777.5 of the Labor Code Apprenticeship requirements and Section 4100 *et seq.* of the Public Contracts Code, “Subletting and Subcontracting Fair Practices Act”.
10. No contractor or subcontractor may be listed on a bid proposal for a public works project (submitted on or after March 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)].
11. No contractor or subcontractor may be awarded a contract for public work on a public works project (awarded on or after April 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5.
12. This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.
13. All documents shall bear signatures and titles of persons authorized to sign on behalf of the bidder. For corporations, the signatures shall be of a corporate officer or an individual authorized by the corporation. For partnerships, the signatures shall be of a general partner. For sole ownership, the signature shall be of the owner.
14. Pursuant to Public Contract Code section 9204, for any demand by contractor, whether on behalf of itself or a subcontractor that lacks privity of contract with the City but has requested that contractor proceed on its behalf, sent by registered mail or certified mail return receipt requested for a time extension, payment by the City for money or damages arising from work done by, or on behalf of, the contractor and payment for which is not otherwise expressly provided or to which the claimant is not otherwise entitled, or for payment of an amount that is disputed by the City, the following is a summary of the claims resolution process to be applied:
 - A. The City shall review the claim and, within 45 days, shall provide a written statement identifying the portions of the claim that are disputed and undisputed. This time period may

be extended by mutual agreement. The claimant shall furnish all reasonable documentation to support the claim. If the City needs approval from its City Council to provide the written statement and the City Council does not meet within the prescribed time period, the City shall have up to 3 days following the next regular meeting of the City Council to provide the written statement. Payment of the undisputed portion of the claim shall be made within 60 days after the City issues its written statement.

- B. If the claimant disputes the City's written statement or if the City does not issue a written statement in the prescribed time period, the claimant may demand in writing an informal meet and confer conference, which shall be scheduled within 30 days of receipt of claimant's demand.
- C. Within 10 business days of the meet and confer conference, if a dispute remains, the City shall provide a written statement identifying the portion of the claim that remains in dispute and the undisputed portion. The City shall pay any remaining amount of the undisputed portion within 60 days. Any disputed portion of the claim shall be submitted to nonbinding mediation or similar nonbinding process, with the City and claimant sharing the costs equally and agreeing to a mediator within 10 business days. If the parties cannot timely agree on a mediator, each party shall select a mediator and those mediators shall select a qualified neutral third party to mediate the remaining disputed portion. If mediation is unsuccessful, any remaining disputed portion shall be addressed using procedures outside of Public Contract Code section 9204.
- D. Failure by the City to meet the time requirements herein shall result in the claim being rejected in its entirety and shall not constitute an adverse finding with regard to the merits of the claim or the responsibility or qualifications of the claimant.

The signature below represents that the above has been reviewed.

592268, Class A, C27, C61/D49
Contractor's License No. & Classification


Authorized Signature/Title Terry Noriega, President

1000005079 Exp: 06/30/2022
DIR Registration Number & Expiration Date

03/23/2021
Date

Mariposa Landscapes, Inc.
Bidder

City of Newport Beach

AS-NEEDED SPORTS & RECREATIONAL FIELD LANDSCAPE
SERVICES

Contract No. 7997-1

BIDDER'S BOND

We, the undersigned Principal and Surety, our successors and assigns, executors, heirs and administrators, agree to be jointly and severally held and firmly bound to the City of Newport Beach, a charter city, in the principal sum of Ten Percent The Amount Bid In ***** Dollars (\$ 10% *****), to be paid and forfeited to the City of Newport Beach if the bid proposal of the undersigned Principal for the construction of **AS-NEEDED SPORTS & RECREATIONAL FIELD LANDSCAPE SERVICES, Contract No. 7997-1** in the City of Newport Beach, is accepted by the City Council of the City of Newport Beach and the proposed contract is awarded to the Principal, and the Principal fails to execute the Contract Documents in the form(s) prescribed, including the required bonds, and original insurance certificates and endorsements for the construction of the project within thirty (30) calendar days after the date of the mailing of "Notification of Award", otherwise this obligation shall become null and void.

If the undersigned Principal executing this Bond is executing this Bond as an individual, it is agreed that the death of any such Principal shall not exonerate the Surety from its obligations under this Bond.

Witness our hands this 25th day of March, **2021**.

Mariposa Landscapes, Inc.
Name of Contractor (Principal)


Authorized Signature/Title

Hartford Fire Insurance Company
Name of Surety


Authorized Agent Signature

One Pointe Drive, 6th Floor, Brea, CA 92821
Address of Surety

Mary Smith, Attorney-In-Fact
Print Name and Title

(714)674-1321 Leslie Reyes
Telephone

(Notary acknowledgment of Principal & Surety must be attached)

ACKNOWLEDGMENT

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

State of California

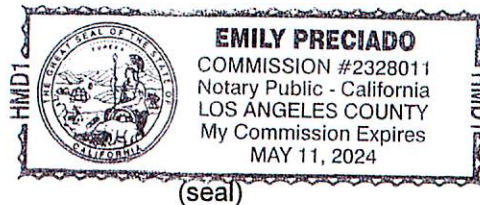
County of Los Angeles } ss.

On March 25, 2021 before me, Emily Preciado,
Notary Public, personally appeared Mary Smith,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same
in his/her/their authorized capacity(ies), and that by his/her/their signatures(s) on the instrument
the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Emily Preciado
Signature



OPTIONAL INFORMATION

Date of Document _____ Thumbprint of Signer _____

Type or Title of Document _____

Number of Pages in Document _____

Document in a Foreign Language _____

Type of Satisfactory Evidence:

_____ Personally Known with Paper Identification

_____ Paper Identification

_____ Credible Witness(es)

Capacity(ies) claimed by Signer(s):

_____ Trustee

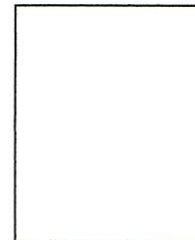
_____ Power of Attorney

_____ CEO / CFO / COO

_____ President / Vice-President / Secretary / Treasurer

Other: _____

Other Information: _____



☐ Check here if
no thumbprint
or fingerprint
is available.

ACKNOWLEDGMENT

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

State of California

County of _____ } ss.

On _____, 20____ before me, _____,

Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signatures(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

(seal)

ACKNOWLEDGMENT

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

State of California

County of _____ } ss.

On _____, 20____ before me, _____,

Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signatures(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

(seal)

POWER OF ATTORNEY

Direct Inquiries/Claims to:

THE HARTFORD
BOND, T-12
One Hartford Plaza
Hartford, Connecticut 06155
Bond.Claims@thehartford.com

call: 888-266-3488 or fax: 860-757-5835

KNOW ALL PERSONS BY THESE PRESENTS THAT:

Agency Name: BOLTON & COMPANY

Agency Code: 72-183250

- | | |
|-------------------------------------|--|
| <input checked="" type="checkbox"/> | Hartford Fire Insurance Company, a corporation duly organized under the laws of the State of Connecticut |
| <input checked="" type="checkbox"/> | Hartford Casualty Insurance Company, a corporation duly organized under the laws of the State of Indiana |
| <input checked="" type="checkbox"/> | Hartford Accident and Indemnity Company, a corporation duly organized under the laws of the State of Connecticut |
| <input type="checkbox"/> | Hartford Underwriters Insurance Company, a corporation duly organized under the laws of the State of Connecticut |
| <input type="checkbox"/> | Twin City Fire Insurance Company, a corporation duly organized under the laws of the State of Indiana |
| <input type="checkbox"/> | Hartford Insurance Company of Illinois, a corporation duly organized under the laws of the State of Illinois |
| <input type="checkbox"/> | Hartford Insurance Company of the Midwest, a corporation duly organized under the laws of the State of Indiana |
| <input type="checkbox"/> | Hartford Insurance Company of the Southeast, a corporation duly organized under the laws of the State of Florida |

having their home office in Hartford, Connecticut, (hereinafter collectively referred to as the "Companies") do hereby make, constitute and appoint, **up to the amount of Unlimited :**

Steven L. Brockmeyer, Barbara Doering, Emily Preciado, Mary Smith, Ronald C. Wanglin of PASADENA, California

their true and lawful Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign its name as surety(ies) only as delineated above by ☒, and to execute, seal and acknowledge any and all bonds, undertakings, contracts and other written instruments in the nature thereof, on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

In Witness Whereof, and as authorized by a Resolution of the Board of Directors of the Companies on May 6, 2015 the Companies have caused these presents to be signed by its Senior Vice President and its corporate seals to be hereto affixed, duly attested by its Assistant Secretary. Further, pursuant to Resolution of the Board of Directors of the Companies, the Companies hereby unambiguously affirm that they are and will be bound by any mechanically applied signatures applied to this Power of Attorney.



John Gray

John Gray, Assistant Secretary

M. Ross Fisher

M. Ross Fisher, Senior Vice President

STATE OF CONNECTICUT }
COUNTY OF HARTFORD } ss. Hartford

On this 5th day of January, 2018, before me personally came M. Ross Fisher, to me known, who being by me duly sworn, did depose and say: that he resides in the County of Hartford, State of Connecticut; that he is the Senior Vice President of the Companies, the corporations described in and which executed the above instrument; that he knows the seals of the said corporations; that the seals affixed to the said instrument are such corporate seals; that they were so affixed by authority of the Boards of Directors of said corporations and that he signed his name thereto by like authority.



CERTIFICATE

Kathleen T. Maynard

Kathleen T. Maynard
Notary Public
My Commission Expires July 31, 2021

I, the undersigned, Assistant Vice President of the Companies, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which is still in full force effective as of March 25, 2021
Signed and sealed at the City of Hartford.



Kevin Heckman
Kevin Heckman, Assistant Vice President

ACKNOWLEDGMENT

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

State of California
County of Los Angeles

On March 26, 2021 before me, D. Jones, Notary Public
(insert name and title of the officer)

personally appeared Terry Noriega,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

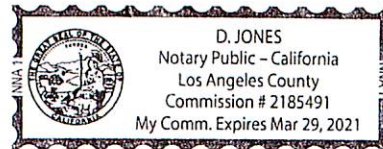
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.

Signature



(Seal)



City of Newport Beach

AS-NEEDED SPORTS & RECREATIONAL FIELD LANDSCAPE SERVICES

Contract No. 7997-1

DESIGNATION OF SUBCONTRACTOR(S) - AFFIDAVIT

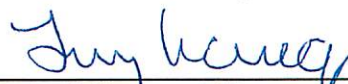
State law requires the listing of all subcontractors who will perform work in an amount in excess of one-half of one percent of the Contractor's total bid. If a subcontractor is not listed, the Contractor represents that he/she is fully qualified to and will be responsible for performing that portion of the work. Substitution of subcontractors shall be made only in accordance with State law and/or the Standard Specifications for Public Works Construction, as applicable.

Pursuant to Public Contract Code Section 22300 appropriate securities may be substituted for any monies to be withheld to ensure performance under the Contract.

The Bidder, by signing this designation, certifies that bids from the subcontractors as listed in the Bidder's electronic bid have been used in formulating the bid for the project and that these subcontractors will be used subject to the approval of the Engineer and in accordance with State law. No changes may be made in these subcontractors except with prior approval of the City of Newport Beach. Bidders must also include DIR registration numbers for each subcontractor.

Mariposa Landscapes, Inc.

Bidder



Authorized Signature/Title Terry Noriega, President

City of Newport Beach

**AS-NEEDED SPORTS & RECREATIONAL FIELD LANDSCAPE
SERVICES**

Contract No. 7997-1

TECHNICAL ABILITY AND EXPERIENCE REFERENCES

Contractor must use this form!!! Please print or type.

Bidder's Name Mariposa Landscapes, Inc

FAILURE OF THE BIDDER TO PROVIDE ALL REQUIRED INFORMATION IN A COMPLETE AND ACCURATE MANNER MAY BE CONSIDERED NON-RESPONSIVE.

Bidders must possess a minimum of 10 years of experience doing field renovation work.

Bidders with **no** field renovation experience for an Orange County coastal agency **shall be considered non-responsive.**

Bidders who **have not been** awarded contracts valued at over \$500,000 dollars **shall be considered non-responsive.**

Bidders shall provide three (3) current municipal references, which, when checked, will need a minimum "B grade", or **shall be considered non-responsible.**

For all public agency landscaping projects that you have worked on (or are currently working on) in the past 2 years in excess of **\$250,000** annually, provide the following information:

No. 1

Project Name/Number Landscape Maintenance of City Parks and Facilities

Project Description Landscsape Maintenance

Approximate Construction Dates: From 2016 To: Current

Agency Name City of Newport Beach

Contact Person Kevin Pekar Telephone (949) 644-3069

Original Contract Amount \$ 1,975,000.00 Final Contract Amount \$ 2,784,530.49

If final amount is different from original, please explain (change orders, extra work, etc.)

Extra Work

Did you file any claims against the Agency? Did the Agency file any claims against you/Contractor? If yes, briefly explain and indicate outcome of claims.
City audited our company and found that we were in wage violation and failed to submit

a DAS 140. We paid the required fine to cover the initial contract. We are currently being audited on the extensions.

No. 2Project Name/Number Landscape Maintenance of City Parks, Medians, Parkways and FacilitiesProject Description Landscape MaintenanceApproximate Construction Dates: From 2013 To: CurrentAgency Name City of ArcadiaContact Person Dave Thompson Telephone (626) 254-2709Original Contract Amount \$ 522,900.00 Final Contract Amount \$ 522,900.00

If final amount is different from original, please explain (change orders, extra work, etc.)

N/A

Did you file any claims against the Agency? Did the Agency file any claims against you/Contractor? If yes, briefly explain and indicate outcome of claims.

N/A**No. 3**Project Name/Number City of Rancho CucamongaProject Description Landscape Maintenance of Medians and ParkwaysApproximate Construction Dates: From 1989 To: CurrentAgency Name City of Rancho CucamongaContact Person Steve Relph Telephone (909) 774-4116Original Contract Amount \$ 1,345,769.28 Final Contract Amount \$ 1,345,769.28

If final amount is different from original, please explain (change orders, extra work, etc.)

N/A

Did you file any claims against the Agency? Did the Agency file any claims against you/Contractor? If yes, briefly explain and indicate outcome of claims.

N/A

No. 4Project Name/Number Landscape Maintenance- LMD AreasProject Description Landscape MaintenanceApproximate Construction Dates: From 2015 To: CurrentAgency Name City of TustinContact Person Christine Zepeda Telephone (714) 573-3147Original Contract Amount \$ 546,204.00 Final Contract Amount \$ 546,204.00

If final amount is different from original, please explain (change orders, extra work, etc.)

N/A

Did you file any claims against the Agency? Did the Agency file any claims against you/Contractor? If yes, briefly explain and indicate outcome of claims.

N/A**No. 5**Project Name/Number Landscape MaintenanceProject Description Landscape MaintenanceApproximate Construction Dates: From 2017 To: CurrentAgency Name City of MonroviaContact Person Sean Sullivan Telephone (626) 932-5522Original Contract Amount \$ 708,991.00 Final Contract Amount \$ 708,991.00

If final amount is different from original, please explain (change orders, extra work, etc.)

N/A

Did you file any claims against the Agency? Did the Agency file any claims against you/Contractor? If yes, briefly explain and indicate outcome of claims.

N/A

No. 6

Project Name/Number _____

Project Description _____

Approximate Construction Dates: From _____ To: _____

Agency Name _____

Contact Person _____ Telephone () _____

Original Contract Amount \$ _____ Final Contract Amount \$ _____

If final amount is different from original, please explain (change orders, extra work, etc.)

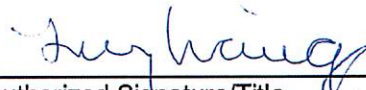
Did you file any claims against the Agency? Did the Agency file any claims
against you/Contractor? If yes, briefly explain and indicate outcome of claims.

Attach additional sheets if necessary.

**Attach to this Bid the experience resume of the person who will be designated as
General Construction Superintendent or on-site Construction Manager for the
Contractor. *Please see attached resume**

Upon request, the Contractor shall attach a financial statement and other information
sufficiently comprehensive to permit an appraisal of the Contractor's current financial
conditions.

Mariposa Landscapes, Inc.
Bidder


Authorized Signature/Title Terry Noriega, President

M A R I P O S A L A N D S C A P E S I N C

RESUME

Michael Williams

General Superintendent/Account Manager

C. (626) 647-6238

F. (714) 352-2298

E. michael.williams@mariposa-ca.com

Michael Williams will be the person in-charge and responsible for project management, communication with foreman, field supervisor and primary contact with the City of Newport Beach.

He has over 31 years work experience conducting and overseeing Landscape Maintenance work for Public Works, Commercial and Residential. With a vast experience in all aspects of irrigation design and retrofit, Maintenance and Arbor care

Michael is responsible for all aspects of project management, emphasizing safety, high quality work, operational efficiency, and exemplary customer service. He also conducts walk-throughs to ensure that punch lists are completed and institutes improvements to enhance the quality of work.

Certifications:

- CPR and Safety trained
- B.S. Ornamental Horticulture, Cal Poly San Luis Obispo
- Qualified Applicator License: 133955



City of Newport Beach

**AS-NEEDED SPORTS & RECREATIONAL FIELD LANDSCAPE
SERVICES**

Contract No. 7997-1

DESIGNATION OF SURETIES

Bidder's name Mariposa Landscapes, Inc.

Provide the names, addresses, and phone numbers for all brokers and sureties from whom Bidder intends to procure insurance and bonds (list by insurance/bond type):

The Hartford Address: One Point Drive, Brea, CA 92821 Ph (714)674-1291 -Bonds

Bolton & Co. Address: 3475 E. Foothill Blvd, Pasadena, CA 91107 Ph (626)799-7000 -Bonds

Federated Mutual Insurance Co. Address: P.O. Box 328, Owatonna, MN 55060 Ph 1-888-333-4949 -Insurance

Global Risk, LLC Address: 800 Wilshire Blvd., 2nd Floor, Los Angeles, CA 90017 Ph: (213) 550-2253-Insurance

City of Newport Beach

**AS-NEEDED SPORTS & RECREATIONAL FIELD LANDSCAPE
SERVICES**

Contract No. 7997-1

**CONTRACTOR'S INDUSTRIAL SAFETY RECORD
TO ACCOMPANY PROPOSAL**

Bidder's Name Mariposa Landscapes, Inc.


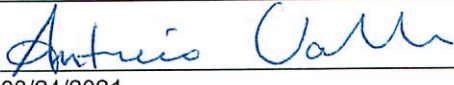
Record Last Five (5) Full Years
Current Year of Record

	Current Year of Record 2021	Record for 2020	Record for 2019	Record for 2018	Record for 2017	Record for 2016	Total
No. of contracts	222	381	505	269	204	195	1,776
Total dollar Amount of Contracts (in Thousands of \$)	\$25,050,00 0.00	\$39,620,0 00.00	\$40,920,00 0.00	\$38,850,00 0.00	\$34,910,0 00.00	\$34,860,0 00.00	\$214,210,0 00.00
No. of fatalities	0	0	0	0	0	0	0
No. of lost Workday Cases	1	4	5	4	9	4	27
No. of lost workday cases involving permanent transfer to another job or termination of employment	0	0	1	2	0	3	6

The information required for these items is the same as required for columns 3 to 6, Code 10, Occupational Injuries, Summary--Occupational Injuries and Illnesses, OSHA No. 102.

Legal Business Name of Bidder Mariposa Landscapes, Inc.
Business Address: 6232 Santos Diaz St., Irwindale, CA 91702
Business Tel. No.: (626) 960-0196
State Contractor's License No. and
Classification: 592268, Class A, C27, C61/D49
Title _____

The above information was compiled from the records that are available to me at this time and I declare under penalty of perjury that the information is true and accurate within the limitations of those records.

Signature of bidder  Terry Noriega
Date 03/24/2021
Title President
Signature of bidder  Antonio Valenzuela
Date 03/24/2021
Title Secretary
Signature of bidder N/A
Date _____
Title _____
Signature of bidder N/A
Date _____
Title _____

Signature Requirements: If bidder is an individual, name and signature of individual must be provided, if doing business under a fictitious name, the fictitious name must be set forth along with the County. If bidder is a partnership or joint venture, legal name of partnership/joint venture must be provided, followed by signatures of all of the partners/joint ventures or if fewer than all of the partners/joint ventures submit with evidence of authority to act on behalf of the partnership/joint venture. If bidder is a corporation, legal name of corporation must be provided, followed by signatures of the corporation President or Vice President or President and Secretary or Assistant Secretary, and the corporate seal, or submit with evidence of authority to act on behalf of the corporation. All must be acknowledged before a Notary Public, who must certify that such individuals, partners/joint ventures, or officers were proven on the basis of satisfactory evidence to be the persons whose name are subscribed to and acknowledged that they executed the same in their authorized capacities.

[NOTARY ACKNOWLEDGMENT and CORPORATE SEAL MUST BE ATTACHED]

ACKNOWLEDGMENT

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

State of California
County of Los Angeles

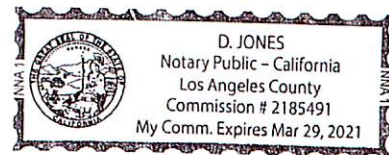
On March 25, 2021 before me, D. Jones, Notary Public
(insert name and title of the officer)

personally appeared Terry Noriega & Antonio Valenzuela,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.

Signature  (Seal)





State of California Secretary of State

S

Statement of Information

(Domestic Stock and Agricultural Cooperative Corporations)

FEES (Filing and Disclosure): \$25.00.

If this is an amendment, see instructions.

IMPORTANT - READ INSTRUCTIONS BEFORE COMPLETING THIS FORM**FQ60862****FILED**In the office of the Secretary of State
of the State of California**AUG-25 2017****1. CORPORATE NAME**

MARIPOSA LANDSCAPES, INC.

2. CALIFORNIA CORPORATE NUMBER

C1469653

This Space for Filing Use Only

No Change Statement (Not applicable if agent address of record is a P.O. Box address. See instructions.)**3. If there have been any changes to the information contained in the last Statement of Information filed with the California Secretary of State, or no statement of information has been previously filed, this form must be completed in its entirety.**☐ If there has been no change in any of the information contained in the last Statement of Information filed with the California Secretary of State, check the box and proceed to Item 17.**Complete Addresses for the Following** (Do not abbreviate the name of the city. Items 4 and 5 cannot be P.O. Boxes.)

	CITY	STATE	ZIP CODE
4. STREET ADDRESS OF PRINCIPAL EXECUTIVE OFFICE			
6232 SANTOS DIAZ ST, IRWINDALE, CA 91702			
5. STREET ADDRESS OF PRINCIPAL BUSINESS OFFICE IN CALIFORNIA, IF ANY			
6232 SANTOS DIAZ ST, IRWINDALE, CA 91702			
6. MAILING ADDRESS OF CORPORATION, IF DIFFERENT THAN ITEM 4			

Names and Complete Addresses of the Following Officers (The corporation must list these three officers. A comparable title for the specific officer may be added; however, the preprinted titles on this form must not be altered.)

	ADDRESS	CITY	STATE	ZIP CODE
7. CHIEF EXECUTIVE OFFICER/				
TERRY L NORIEGA	6232 SANTOS DIAZ ST, IRWINDALE, CA 91702			
8. SECRETARY				
ANTONIO VALENZUELA	6232 SANTOS DIAZ ST, IRWINDALE, CA 91702			
9. CHIEF FINANCIAL OFFICER/				
THERESA LU	6232 SANTOS DIAZ ST, IRWINDALE, CA 91702			

Names and Complete Addresses of All Directors, Including Directors Who are Also Officers (The corporation must have at least one director. Attach additional pages, if necessary.)

	ADDRESS	CITY	STATE	ZIP CODE
10. NAME				
TERRY NORIEGA	6232 SANTOS DIAZ ST, IRWINDALE, CA 91702			
11. NAME				
12. NAME				

13. NUMBER OF VACANCIES ON THE BOARD OF DIRECTORS, IF ANY:**Agent for Service of Process** If the agent is an individual, the agent must reside in California and Item 15 must be completed with a California street address, a P.O. Box address is not acceptable. If the agent is another corporation, the agent must have on file with the California Secretary of State a certificate pursuant to California Corporations Code section 1505 and Item 15 must be left blank.**14. NAME OF AGENT FOR SERVICE OF PROCESS**
TERRY NORIEGA**15. STREET ADDRESS OF AGENT FOR SERVICE OF PROCESS IN CALIFORNIA, IF AN INDIVIDUAL** CITY STATE ZIP CODE
6232 SANTOS DIAZ ST, IRWINDALE, CA 91702**Type of Business****16. DESCRIBE THE TYPE OF BUSINESS OF THE CORPORATION**
LANDSCAPE MAINTENANCE SERVICES**17. BY SUBMITTING THIS STATEMENT OF INFORMATION TO THE CALIFORNIA SECRETARY OF STATE, THE CORPORATION CERTIFIES THE INFORMATION CONTAINED HEREIN, INCLUDING ANY ATTACHMENTS, IS TRUE AND CORRECT.**

08/25/2017

BRANDON Y HUANG

CONTROLLER

DATE

TYPE/PRINT NAME OF PERSON COMPLETING FORM

TITLE

SIGNATURE

SI-200 (REV 01/2013)

Page 1 of 1

APPROVED BY SECRETARY OF STATE

City of Newport Beach

**AS-NEEDED SPORTS & RECREATIONAL FIELD LANDSCAPE
SERVICES**

Contract No. 7997-1

ACKNOWLEDGEMENT OF ADDENDA

Bidder's name Mariposa Landscapes, Inc.

The bidder shall signify receipt of all Addenda here, if any, and attach executed copy of addenda to bid documents:

Addendum No.	Date Received	Signature
	<i>None</i>	

City of Newport Beach

**AS-NEEDED SPORTS & RECREATIONAL FIELD LANDSCAPE
SERVICES**

Contract No. 7997-1

INFORMATION REQUIRED OF BIDDER

Bidder certifies under penalty of perjury under the laws of the State of California that the following information is true and correct:

Name of individual Contractor, Company or Corporation: Mariposa Landscapes, Inc.

Business Address: 6232 Santos Diaz St., Irwindale, CA 91702

Telephone and Fax Number: (626) 960-0196 (626) 960-8477

California State Contractor's License No. and Class: 592268 Class A, C27, C61/D49, C31
(REQUIRED AT TIME OF AWARD)

Original Date Issued: 04/19/1990 Expiration Date: 04/30/2022

List the name and title/position of the person(s) who inspected for your firm the site of the work proposed in these contract documents:

Dave Widjaja, Estimator

The following are the names, titles, addresses, and phone numbers of all individuals, firm members, partners, joint ventures, and company or corporate officers having a principal interest in this proposal:

Name	Title	Address	Telephone
------	-------	---------	-----------

Terry, Noriega, President		Address: 6232 Santos Daiz St., Irwindale, CA 91702	(626) 960-0196
---------------------------	--	--	----------------

Antonio Valnezuela, Velnzuela		Address: 62323 Santosn Diaz St., Irwindale, CA 91702	(626) 960-0196
-------------------------------	--	--	----------------

Corporation organized under the laws of the State of California

The dates of any voluntary or involuntary bankruptcy judgments against any principal having an interest in this proposal are as follows:

None

All company, corporate, or fictitious business names used by any principal having interest in this proposal are as follows:

None

For all arbitrations, lawsuits, settlements or the like (in or out of court) you have been involved in with public agencies in the past five years (Attach additional Sheets if necessary) provide:

Provide the names, addresses and telephone numbers of the parties;

*Please see attached

Briefly summarize the parties' claims and defenses;

*Please see attached

Have you ever had a contract terminated by the owner/agency? If so, explain.

No

Have you ever failed to complete a project? If so, explain.

No

For any projects you have been involved with in the last 5 years, did you have any claims or actions by any outside agency or individual for labor compliance (i.e. failure to pay prevailing wage, falsifying certified payrolls, etc.)? Yes/ No

Are any claims or actions unresolved or outstanding? Yes No

If yes to any of the above, explain. (Attach additional sheets, if necessary)

* Please see attached

Failure of the bidder to provide ALL requested information in a complete and accurate manner may be considered non-responsive.

Mariposa Landscapes, Inc.

Bidder

Terry Noriega

(Print name of Owner or President
of Corporation/Company)

Terry Noriega

Authorized Signature/Title

President

Title

03/24/2021

Date

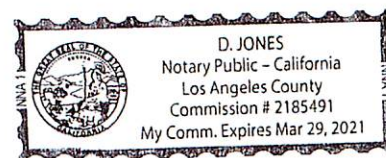
On MARCH 24, 2021 before me, D. Jones, Notary Public, personally appeared TERRY NORIEGA, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

[Signature]
Notary Public in and for said State

(SEAL)



My Commission Expires: 3/29/21

M A R I P O S A

L A N D S C A P E S I N C

Mariposa Landscapes Inc. Pending and Settled Litigation

Name	Claim/Case No.	Date	Court	Status	Type
Kesselring v. City of Palmdale	MC025984	November 7, 2016	Superior, Los Angeles	Dismissed 6-9-17	GL
M. Chavarria v. Mariposa Landscapes Inc.	BC690689	January 24, 2018	Superior, Los Angeles	Dismissed 7-1-19	Empl.
Cartwright v. City of San Dimas	BC660950	June 5, 2018	Superior, Los Angeles	Dismissed 10-2-19	GL
Arvallo v. City of Corona	RIC1810846	June 6, 2018	Superior, Riverside	Dismissed	GL
Hansell v. City of Rancho Cucamonga	CIVDS1725721	February 21, 2019	Superior, San Bernardino	Dismissed 05-21-20	GL
Aronson v. City of Palm Springs	PSC1902825	April 24, 2019	Superior, Riverside	Dismissed	GL
Flores v. City of Burbank	19STCV02043	September 5, 2019	Superior, Los Angeles	Pending	GL



TEL 800 • 794 • 9458 • FAX 626 • 960 • 8477 • www.mariposa-ca.com
6232 SANTOS DIAZ ST., IRVINDALE, CA 91702 • CA CONTRACTOR'S LIC # 592268 A, C-27, D-49

Our Core Values – Safety • Teamwork • Quality • Integrity

M A R I P O S A L A N D S C A P E S I N C

For any projects you have been involved with in the last 5 years, did you have any claims or actions by any outside agency or individual for labor compliance (i.e. failure to pay prevailing wage, falsifying certified payrolls, etc?)- Yes

In 2020 Mariposa Landscapes, Inc. was audited by the City of Newport Beach and found to be in violation for not submitting the required DAS 140 form and for not paying the appropriate wages for services performed as extra work that were found not be considered maintenance work.

The City of Newport Beach is currently auditing us on the contract extensions for the same.



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City of Newport Beach

**AS-NEEDED SPORTS & RECREATIONAL FIELD LANDSCAPE
SERVICES**

Contract No. 7997-1

PROPOSAL

*(Contractor shall submit proposals via the PROPOSAL (Bid Line Items) contained in PlanetBids.
Contractor shall sign the below acknowledgement)*

To the Honorable City Council
City of Newport Beach
100 Civic Center Drive
Newport Beach, California 92660

Councilmembers:

The undersigned declares that the Contractor has carefully examined the location of the work, has read the Instructions to the Bidders, has examined the Plans and Special Provisions, and hereby proposes to furnish all materials except that material supplied by the City and shall perform all work required to complete Contract No. **7997-1** in accordance with the Plans and Special Provisions, and will take in full payment therefore the following unit prices for the work, complete in place, to wit:

03/24/2021
Date

(626) 960-0196 (626) 960-8477
Bidder's Telephone and Fax Numbers

592268, Class A, C27, C61/D49
Bidder's License No(s).
and Classification(s)

1000005079
DIR Registration Number

Mariposa Landscapes, Inc.
Bidder

 Terry Noriega, President
Bidder's Authorized Signature and Title

6232 Santos Diaz St., Irwindale, CA 91702
Bidder's Address

Bidder's email address: david.hall@mariposa-ca.com

PR-1

EXHIBIT B

SCOPE OF SERVICES

EXHIBIT B
SCOPE OF SERVICES

SPECIFICATIONS AS PROVIDED IN FORMAL BID DOCUMENTS

AS-NEEDED SPORT & RECREATIONAL FIELD LANDSCAPING SERVICES

CONTRACT NO. 7997-1

All work necessary for the completion of this contract shall be done in accordance with these Special Provisions

Award and Selection

Award of a multi-year on-call maintenance agreement shall be awarded to lowest responsible bidder based on the lowest Base Bid amount. Lowest Base Bid amount consists of the items necessary to renovate a standard City sports/recreational field. On-call agreement compensation limits and terms shall be subject to City and City Council discretion and award.

Contractor Licensing

At the time of bid submittal and until completion of work, the Contractor must possess the following Contractor License: **C-27**. At the start of work and until completion of work, the Contractor and any/all Subcontractors shall possess a valid Business License issued by the City.

Contractor's Experience

Bidders must possess a minimum of 10 years of experience doing field renovation work.

Bidders with no field renovation experience for an Orange County coastal agency **shall be considered non-responsive.**

Bidders who have not been awarded contracts valued at over \$500,000 dollars **shall be considered non-responsive.**

Bidders shall provide three (3) current municipal references, which, when checked, will need a minimum "B grade", or **shall be considered non-responsive.**

Site Locations

Arroyo Park	1411 Bayswater
Bob Henry Park	900 Dover Drive
Bonita Canyon Sports Park	1990 Ford Road
Bonita Creek Park	3010 La Vida
Buffalo Hills Park	1891 Port Provence Place
Coastal Peak Park	20403 E Coastal Peak
Eastbluff Park	2555 Vista Del Oro
Grant Howald Park	3000 Fifth Avenue
Irvine Terrace Park	721 Evita Drive
Lincoln School	3101 Pacific View Drive
Mariners Park & FS	1300 Irvine Avenue
Peninsula Park	A St and Ocean Front E
San Miguel Park	San Miguel Dr and Spyglass Hill Road
Sunset Ridge Park	4850 Coast Hwy W

Scope of Work

- **DESCRIPTION OF PROJECT**

- Contractor shall provide as-needed athletic and recreational field services to address various projects related to maintenance and renovation of youth sports fields.
- Furnish all labor, equipment, and supervision to provide athletic and recreational field services on an as-needed basis at various facilities, parks, and worksites located throughout the City.
- Services shall include, but not be limited to:
 - Remove and install sod;
 - Aerate field/park areas;
 - Fertilize fields based on City specifications;
 - Mow grass;
 - Apply City-supplied seed and topdress; and
 - Apply greens sand and athletic mixes, and level areas per City requests.
- City shall supply the following materials:
 - Roll off bins for sod disposal,
 - Mirimichi-brand fertilizer product,
 - Seed and topdress,
 - Greens sand, and
 - Athletic mix.

- **WORKMANSHIP AND SUPERVISION**

- The work force shall include a thoroughly skilled, experienced, and competent supervisor who shall be responsible for adherence to the specifications expressed within the Scope of Services. All supervisory personnel must be able to communicate effectively in English (both orally and in writing). Any order given to supervisory personnel shall be delivered to the Contractor. The supervisor assigned must be identified by name to ensure coordination and continuity.
- All personnel working at the outlined areas shall be neat in appearance and in uniforms as approved by the Landscape Manager. All personnel shall wear identification badges or patches. Those employees working in or adjacent to traffic lanes shall wear safety vests.
- Persons employed by the Contractor who are found not to be satisfactory by the City shall be discharged or reassigned by the Contractor on fifteen (15) days' notice from the City.

- **SAFETY REQUIREMENT**

- All Work performed under this contract shall be performed in such a manner as to provide maximum safety to the public and where applicable, comply with all safety standards required by CAL-OSHA. The Landscape Manager reserves the right to issue restraining or cease and desist orders to the Contractor when unsafe or harmful acts are observed or reported relative to the performance of the work under this contract. All contractor vehicles shall have a "W.A.T.C.H." work area traffic control manual at all times
- The Contractor shall maintain all work sites free of hazards to persons and/or property resulting from his/her operations, which shall be immediately reported to the Landscape Manager.
- The Contractor shall notify the City immediately of any unusual and/or hazardous conditions, including tripping hazards, holes, or other conditions at the various facilities, parks, and worksites located throughout the City where Contractor is performing the Work.

- **WORKING HOURS**

- Normal working hours shall be no more than ten (10) hours per day between the hours of 7:00 a.m. and 5:00 p.m. Normal working days are Monday through Friday. Unless otherwise specified in the Scope of Work, no Saturday or Sunday work is to be scheduled without prior verbal permission from the City. No motorized equipment shall be operated before 8:00 a.m. or after 5:00 p.m.

- **MATERIALS AND RESPONSIBILITY**

- City shall supply the following materials:
 - Roll off bins for sod disposal,
 - Mirimichi-brand fertilizer product,
 - Seed and topdress,
 - Greens sand, and

- Athletic mix.
- In the event the City exercises the option to purchase the materials, the following conditions will apply:
 - Contractor shall conform to all City practices and procedures.
 - All City purchases will be for the sole expressed use of and for the City.
 - The Contractor shall secure, store, inventory, distribute and control all materials entrusted to the Contractor's representatives.
 - All materials and inventories shall be made available to the City upon request. The Contractor will reduce the unit cost for each maintenance task by the City's actual cost for the materials provided and used.
- Unless otherwise stated above, Contractor shall be responsible to provide all labor and materials to allow for successful Project completion.
 - The City may choose to reimburse the Contractor for materials that need to be procured. These instances shall be analyzed on a case-by- case basis and reimbursement for materials will need to be agreed upon in the Contractor's letter proposal prior to the commencement of work.
 - Receipts shall be required for reimbursements for materials purchased for projects. City reserves the right to specify what type of material and/or equipment will be purchased per project. All equipment and material purchases shall be preapproved by the Fleet/Facilities Manager, or his/her designee. The contractor shall charge the actual cost of materials to the City plus 5% for overhead costs associated with procurement of materials.

Bidding and Payment

The unit cost bid prices for each item of work shown on the Proposal shall include full compensation for furnishing the labor, materials, tools, and equipment to perform the necessary work.

On-Call agreement award shall be awarded based on the lowest base bid amount as specified in this bid.

Note: Contractor shall submit Proposal Line Items via the Line Items tab contained in PlanetBids in order to be considered for award. The following bid items included in the Proposal are as follows.

BID ITEMS

BASE BID	Deep-Tine Aeration - 10 inch solid tines (Per Field = 70,000 Sq. Ft)	Sq Ft	70000
BASE BID	Dethatch/Renovate/Vacuum Cut (Per Field = 70,000 Sq. Ft)	Sq Ft	70000
BASE BID	Install City-provided Mirimichi-brand organic fertilizer product (at 20lbs/1000 square feet)	Sq Ft	70000
BASE BID	Apply City-supplied greens sand and level (at 30 Cubic yards per field)	Cubic Yard	30

Other Work	Shatter-Tine Aeration (Per Field = 70,000 Sq. Ft)	Sq Ft	70000
Other Work	Gypsum Application at 25lbs/1000 square feet (Soil Buster or equal)	Sq Ft	70000
Other Work	Mow (Reel Blade)	Sq Ft	70000
Other Work	Mow (Rotary Blade)	Sq Ft	70000
Other Work	Core aeration and remove plugs	Sq Ft	70000
Other Work	Fertilize w/ 21-0-0 (or Equal) at 1 lb. of N/1000 square feet	Sq Ft	70000
Other Work	Replacing Home Plate	Each	1
Other Work	Replacing Pitchers Plate	Each	1
Other Work	Replacing Base Anchors	Each	1
Other Work	Moving soccer goal	Each	1
Other Work	Add Turface to Baseball or Softball Infield (40 bags per field)	Per Field	1
Other Work	Add Brickdust to Baseball or softball Infield	Per Field	1
Other Work	Remove existing, Install, and Roll Hybrid Bermuda Sod Bandera (or equal) (Less than 5,000 Sq. Ft.) *	Sq Ft	1
Other Work	Remove existing, Install, and Roll Hybrid Bermuda Sod Bandera (or equal) (5,000-20,000 Sq. Ft.) *	Sq Ft	1
Other Work	Remove existing, Install, and Roll Hybrid Bermuda Sod Bandera (or equal) *	Sq Ft	1

Other Work	Apply City-Supplied Seed and topdress (20 yards approx. per field)	Per Field	1
Other Work	Apply City-supplied greens sand and level (less than 10 yards)	Per Yard	1
Other Work	Apply City-supplied greens sand and level (10 yards or greater)	Per Yard	1
Other Work	Apply City-Supplied Aguinaga 80-20, Athletic Mix and level (less than 10 yards)	Per Yard	1
Other Work	Apply City-Supplied Aguinaga 80-20, Athletic Mix and level (10 yards or greater)	Per Yard	1

EXHIBIT C

SCHEDULE OF BILLING RATES

EXHIBIT C
SCHEDULE OF BILLING RATES

AS-NEEDED SPORT & RECREATIONAL FIELD LANDSCAPING SERVICES

CONTRACT NO. 7997-1

Item	Description	Unit	Unit Cost
BASE BID	Deep-Tine Aeration – 10-inch solid tines (Per Field = 70,000 Sq. Ft)	Sq Ft	\$0.007143
BASE BID	Dethatch/Renovate/Vacuum Cut (Per Field = 70,000 Sq. Ft)	Sq Ft	\$0.042786
BASE BID	Install City-provided Mirimichi-brand organic fertilizer product (at 20lbs/1000 square feet)	Sq Ft	\$0.009400
BASE BID	Apply City-supplied greens sand and level (at 30 Cubic yards per field)	Cubic Yard	\$29.50
Other Work	Shatter-Tine Aeration (Per Field = 70,000 Sq. Ft)	Sq Ft	\$0.007300
Other Work	Gypsum Application at 25lbs/1000 square feet (Soil Buster or equal)	Per Field	\$1,486.00
Other Work	Mow (Reel Blade)	Sq Ft	\$0.009029
Other Work	Mow (Rotary Blade)	Sq Ft	\$0.005786
Other Work	Core aeration and remove plugs	Sq Ft	\$0.016457
Other Work	Fertilize w/ 21-0-0 (or Equal) at 1 lb. of N/1000 square feet	Sq Ft	\$0.012443
Other Work	Replacing Home Plate	Each	\$221.00
Other Work	Replacing Pitchers Plate	Each	\$130.00

Other Work	Replacing Base Anchors	Each	\$159.00
Other Work	Moving soccer goal	Each	\$166.00
Other Work	Add Turface to Baseball or Softball Infield (40 bags per field)	Per Field	\$3,554.00
Other Work	Add Brickdust to Baseball or softball Infield	Per Field	\$3,275.00
Other Work	Remove existing, Install, and Roll Hybrid Bermuda Sod Bandera (or equal) (Less than 5,000 Sq. Ft.) *	Sq Ft	\$1.76
Other Work	Remove existing, Install, and Roll Hybrid Bermuda Sod Bandera (or equal) (5,000-20,000 Sq. Ft.) *	Sq Ft	\$1.50
Other Work	Remove existing, Install, and Roll Hybrid Bermuda Sod Bandera (or equal) *	Sq Ft	\$1.35
Other Work	Apply City-Supplied Seed and topdress (20 yards approx. per field)	Per Field	\$1,285.00
Other Work	Apply City-supplied greens sand and level (less than 10 yards)	Per Yard	\$32.00
Other Work	Apply City-supplied greens sand and level (10 yards or greater)	Per Yard	\$29.50
Other Work	Apply City-Supplied Aguinaga 80-20, Athletic Mix and level (less than 10 yards)	Per Yard	\$32.00
Other Work	Apply City-Supplied Aguinaga 80-20, Athletic Mix and level (10 yards or greater)	Per Yard	\$29.50

EXHIBIT D

**CITY OF NEWPORT BEACH
BOND NO. _____
LABOR AND MATERIALS PAYMENT BOND**

WHEREAS, the City of Newport Beach, State of California, has awarded to _____ hereinafter designated as the "Principal," an agreement for maintenance and/or repair services, in the City of Newport Beach, in strict conformity with the Agreement on file with the office of the City Clerk of the City of Newport Beach, which is incorporated herein by this reference.

WHEREAS, Principal has executed or is about to execute the Agreement and the terms thereof require the furnishing of a bond, providing that if Principal or any of Principal's subcontractors, shall fail to pay for any materials, provisions, or other supplies used in, upon, for, or about the performance of the Work agreed to be done, or for any work or labor done thereon of any kind, the Surety on this bond will pay the same to the extent hereinafter set forth.

NOW, THEREFORE, We the undersigned Principal, and, _____ duly authorized to transact business under the laws of the State of California, as Surety, (referred to herein as "Surety") are held and firmly bound unto the City of Newport Beach, in the sum of _____ Dollars and 00/100 (\$ _____), lawful money of the United States of America, said sum being equal to 100% of the amount of any Letter Proposal accepted by City of over Twenty Five Thousand Dollars and 00/100 (\$25,000.00), payable by the City of Newport Beach under the terms of the Agreement; for which payment well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors, or assigns, jointly and severally, firmly by these present.

THE CONDITION OF THIS OBLIGATION IS SUCH, that if the Principal or the Principal's subcontractors, fail to pay for any materials, provisions, or other supplies, implements or machinery used in, upon, for, or about the performance of the Work contracted to be done, or for any other work or labor thereon of any kind, or for amounts due under the Unemployment Insurance Code with respect to such work or labor, or for any amounts required to be deducted, withheld and paid over to the Employment Development Department from the wages of employees of the Principal and subcontractors pursuant to Section 13020 of the Unemployment Insurance Code with respect to such work and labor, then the Surety will pay for the same, in an amount not exceeding the sum specified in this Bond, and also, in case suit is brought to enforce the obligations of this Bond, a reasonable attorneys' fee, to be fixed by the Court as required by the provisions of Section 9554 of the Civil Code of the State of California.

The Bond shall inure to the benefit of any and all persons, companies, and corporations entitled to file claims under Section 9100 of the California Civil Code so as to give a right of action to them or their assigns in any suit brought upon this Bond, as

required by and in accordance with the provisions of Sections 9500 *et seq.* of the Civil Code of the State of California.

And Surety, for value received, hereby stipulates and agrees that no change, extension of time, alterations or additions to the terms of the Agreement or to the Work to be performed thereunder shall in any wise affect its obligations on this Bond, and it does hereby waive notice of any such change, extension of time, alterations or additions to the terms of the Agreement or to the Work or to the specifications.

In the event that any principal above named executed this Bond as an individual, it is agreed that the death of any such principal shall not exonerate the Surety from its obligations under this Bond.

IN WITNESS WHEREOF, this instrument has been duly executed by the above named Principal and Surety, on the _____ day of _____, 20____.

Name of Contractor (Principal)

Authorized Signature/Title

Name of Surety

Authorized Agent Signature

Address of Surety

Print Name and Title

Telephone

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE
Date: _____

By: _____
Aaron C. Harp
City Attorney

**NOTARY ACKNOWLEDGMENTS OF CONTRACTOR AND SURETY MUST BE
ATTACHED**

ACKNOWLEDGMENT

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

State of California

County of _____ } ss.

On _____, 20____ before me, _____,

Notary Public, personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same
in his/her/their authorized capacity(ies), and that by his/her/their signatures(s) on the instrument
the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.

Signature

(seal)

ACKNOWLEDGMENT

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

State of California

County of _____ } ss.

On _____, 20____ before me, _____,

Notary Public, personally appeared _____,
proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same
in his/her/their authorized capacity(ies), and that by his/her/their signatures(s) on the instrument
the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.

Signature

(seal)

EXHIBIT E

**CITY OF NEWPORT BEACH
BOND NO. _____
FAITHFUL PERFORMANCE BOND**

The premium charges on this Bond is \$ _____, being at the rate of \$ _____ thousand of the Agreement price.

WHEREAS, the City of Newport Beach, State of California, has awarded to _____ hereinafter designated as the "Principal," an agreement for LANDSCAPE MAINTENANCE OF MEDIANS AND ROADSIDES, in the City of Newport Beach, in strict conformity with the Agreement on file with the office of the City Clerk of the City of Newport Beach, which is incorporated herein by this reference.

WHEREAS, Principal has executed or is about to execute the Agreement and the terms thereof require the furnishing of a Bond for the faithful performance of the Agreement.

NOW, THEREFORE, we, the Principal, and _____, duly authorized to transact business under the laws of the State of California as Surety (hereinafter "Surety"), are held and firmly bound unto the City of Newport Beach, in the sum of _____ Dollars and 00/100 (\$_____.00) lawful money of the United States of America, said sum being equal to 100% of the amount of any Letter Proposal accepted by City of over Twenty Five Thousand Dollars and 00/100 (\$25,000.00), of the Agreement, to be paid to the City of Newport Beach, its successors, and assigns; for which payment well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors, or assigns, jointly and severally, firmly by these present.

THE CONDITION OF THIS OBLIGATION IS SUCH, that if the Principal, or the Principal's heirs, executors, administrators, successors, or assigns, fail to abide by, and well and truly keep and perform any or all the Work, covenants, conditions, and agreements in the Agreement and any alteration thereof made as therein provided on its part, to be kept and performed at the time and in the manner therein specified, and in all respects according to its true intent and meaning, or fails to indemnify, defend, and save harmless the City of Newport Beach, its officers, employees and agents, as therein stipulated, then, Surety will faithfully perform the same, in an amount not exceeding the sum specified in this Bond; otherwise this obligation shall become null and void.

As a part of the obligation secured hereby, and in addition to the face amount specified in this Performance Bond, there shall be included costs and reasonable expenses and fees, including reasonable attorneys fees, incurred by City, only in the event City is required to bring an action in law or equity against Surety to enforce the obligations of this Bond.

Surety, for value received, stipulates and agrees that no change, extension of time, alterations or additions to the terms of the Agreement or to the Work to be performed

thereunder shall in any way affect its obligations on this Bond, and it does hereby waive notice of any such change, extension of time, alterations or additions of the Agreement or to the Work or to the specifications.

This Faithful Performance Bond shall be extended and maintained by the Principal in full force and effect for one (1) year following the date of formal acceptance of the Project by City.

In the event that the Principal executed this bond as an individual, it is agreed that the death of any such Principal shall not exonerate the Surety from its obligations under this Bond.

IN WITNESS WHEREOF, this instrument has been duly executed by the Principal and Surety above named, on the _____ day of _____, 20____.

Name of Contractor (Principal)

Authorized Signature/Title

Name of Surety

Authorized Agent Signature

Address of Surety

Print Name and Title

Telephone

**APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE**

Date: _____

By: _____
Aaron C. Harp
City Attorney

*NOTARY ACKNOWLEDGMENTS OF
CONTRACTOR AND SURETY MUST BE ATTACHED*

ACKNOWLEDGMENT

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

State of California

County of _____ } ss.

On _____, 20____ before me, _____,

Notary Public, personally appeared _____,

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signatures(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

(seal)

ACKNOWLEDGMENT

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

State of California

County of _____ } ss.

On _____, 20____ before me, _____,

Notary Public, personally appeared _____,

proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signatures(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

(seal)

EXHIBIT F

INSURANCE REQUIREMENTS – MAINTENANCE/REPAIR/JANITORIAL SERVICES

1. Provision of Insurance. Without limiting Contractor's indemnification of City, and prior to commencement of Work, Contractor shall obtain, provide and maintain at its own expense during the term of this Agreement, policies of insurance of the type and amounts described below and in a form satisfactory to City. Contractor agrees to provide insurance in accordance with requirements set forth here. If Contractor uses existing coverage to comply and that coverage does not meet these requirements, Contractor agrees to amend, supplement or endorse the existing coverage.
2. Acceptable Insurers. All insurance policies shall be issued by an insurance company currently authorized by the Insurance Commissioner to transact business of insurance in the State of California, with an assigned policyholders' Rating of A- (or higher) and Financial Size Category Class VII (or larger) in accordance with the latest edition of Best's Key Rating Guide, unless otherwise approved by the City's Risk Manager.
3. Coverage Requirements.
 - A. Workers' Compensation Insurance. Contractor shall maintain Workers' Compensation Insurance, statutory limits, and Employer's Liability Insurance with limits of at least one million dollars (\$1,000,000) each accident for bodily injury by accident and each employee for bodily injury by disease in accordance with the laws of the State of California, Section 3700 of the Labor Code.

Contractor shall submit to City, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of City, its City Council, boards and commissions, officers, agents, volunteers, employees, and any person or entity owning or otherwise in legal control of the property upon which Contractor performs the Project and/or Services contemplated by this Agreement.
 - B. General Liability Insurance. Contractor shall maintain commercial general liability insurance and, if necessary, umbrella liability insurance, with coverage at least as broad as provided by Insurance Services Office form CG 00 01, in an amount not less than one million dollars (\$1,000,000) per occurrence, two million dollars (\$2,000,000) general aggregate. The policy shall cover liability arising from premises, operations, products-completed operations, personal and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).
 - C. Automobile Liability Insurance. Contractor shall maintain automobile insurance at least as broad as Insurance Services Office form CA 00 01 covering bodily injury and property damage for all activities of Contractor arising out of or in connection with Work to be performed under this

Agreement, including coverage for any owned, hired, non-owned or rented vehicles, in an amount not less than one million dollars (\$1,000,000) combined single limit each accident.

4. Other Insurance Requirements. The policies are to contain, or be endorsed to contain, the following provisions:
 - A. Waiver of Subrogation. All insurance coverage maintained or procured pursuant to this Agreement shall be endorsed to waive subrogation against City, its City Council, boards and commissions, officers, agents, volunteers, employees, and any person or entity owning or otherwise in legal control of the property upon which Contractor performs the Project and/or Services contemplated by this Agreement or shall specifically allow Contractor or others providing insurance evidence in compliance with these requirements to waive their right of recovery prior to a loss. Contractor hereby waives its own right of recovery against City, and shall require similar written express waivers from each of its subcontractors.
 - B. Additional Insured Status. All liability policies including general liability, products and completed operations, excess liability, pollution liability, and automobile liability, if required, shall provide or be endorsed to provide that City, its City Council, boards and commissions, officers, agents, volunteers, employees, and any person or entity owning or otherwise in legal control of the property upon which Contractor performs the Project and/or Services contemplated by this Agreement shall be included as insureds under such policies.
 - C. Primary and Non Contributory. All liability coverage shall apply on a primary basis and shall not require contribution from any insurance or self-insurance maintained by City.
 - D. Notice of Cancellation. All policies shall provide City with thirty (30) calendar days notice of cancellation (except for nonpayment for which ten (10) calendar days notice is required) or nonrenewal of coverage for each required coverage.
5. Additional Agreements Between the Parties. The parties hereby agree to the following:
 - A. Evidence of Insurance. Contractor shall provide certificates of insurance to City as evidence of the insurance coverage required herein, along with a waiver of subrogation endorsement for workers' compensation and other endorsements as specified herein for each coverage. Insurance certificates and endorsement must be approved by City's Risk Manager prior to commencement of performance. Current certification of insurance shall be kept on file with City at all times during the term of this Agreement. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. At least fifteen (15) days prior to the expiration of any such policy, evidence of insurance showing that such insurance coverage has been renewed or

extended shall be filed with the City. If such coverage is cancelled or reduced, Contractor shall, within ten (10) days after receipt of written notice of such cancellation or reduction of coverage, file with the City evidence of insurance showing that the required insurance has been reinstated or has been provided through another insurance company or companies. City reserves the right to require complete, certified copies of all required insurance policies, at any time.

- B. City's Right to Revise Requirements. City reserves the right at any time during the term of the Agreement to change the amounts and types of insurance required by giving Contractor sixty (60) calendar days advance written notice of such change. If such change results in substantial additional cost to Contractor, City and Contractor may renegotiate Contractor's compensation.
- C. Right to Review Subcontracts. Contractor agrees that upon request, all agreements with subcontractors or others with whom Contractor enters into contracts with on behalf of City will be submitted to City for review. Failure of City to request copies of such agreements will not impose any liability on City, or its employees. Contractor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that City is an additional insured on insurance required from subcontractors. For CGL coverage, subcontractors shall provide coverage with a format at least as broad as CG 20 38 04 13.
- D. Enforcement of Agreement Provisions. Contractor acknowledges and agrees that any actual or alleged failure on the part of City to inform Contractor of non-compliance with any requirement imposes no additional obligations on City nor does it waive any rights hereunder.
- E. Requirements not Limiting. Requirements of specific coverage features or limits contained in this Section are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be all inclusive, or to the exclusion of other coverage, or a waiver of any type. If the Contractor maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.
- F. Self-insured Retentions. Any self-insured retentions must be declared to and approved by City. City reserves the right to require that self-insured retentions be eliminated, lowered, or replaced by a deductible. Self-insurance will not be considered to comply with these requirements unless approved by City.

- G. City Remedies for Non-Compliance. If Contractor or any subcontractor fails to provide and maintain insurance as required herein, then City shall have the right but not the obligation, to purchase such insurance, to terminate this Agreement, or to suspend Contractor's right to proceed until proper evidence of insurance is provided. Any amounts paid by City shall, at City's sole option, be deducted from amounts payable to Contractor or reimbursed by Contractor upon demand.
- H. Timely Notice of Claims. Contractor shall give City prompt and timely notice of claims made or suits instituted that arise out of or result from Contractor's performance under this Agreement, and that involve or may involve coverage under any of the required liability policies. City assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve City.
- I. Contractor's Insurance. Contractor shall also procure and maintain, at its own cost and expense, any additional kinds of insurance, which in its own judgment may be necessary for its proper protection and prosecution of the Work.