

AGREEMENT NO. _____

INDEPENDENT CONTRACTOR'S AGREEMENT

This **INDEPENDENT CONTRACTOR'S AGREEMENT** ("Agreement") is made and entered into on _____, by and between the **CITY OF BAKERSFIELD**, a municipal corporation (referred to herein as "CITY"), **McCORMICK LANDSCAPE SERVICE, INC. DBA VENABLE'S TREE SERVICE** a Corporation authorized to do business in California (referred to herein as "CONTRACTOR").

RECITALS

WHEREAS, CITY requires maintenance at designated public landscape areas in the form of streetscape and median landscape maintenance; and

WHEREAS, CONTRACTOR represents CONTRACTOR is experienced, well qualified, licensed with C-27 Contractor's license and a Qualified Applicators License and a specialist in the field of periodic streetscape and median maintenance; and

WHEREAS, CITY has designated various streetscape and median areas as specific zones for the purpose of assigning and coordinating maintenance; and

WHEREAS, CITY issued a Request for Proposal that allows CITY to accept some or all items quoted on a bid; and

WHEREAS, CONTRACTOR has been selected to perform streetscape and median work designated as Zone 5 by the CITY which consists of streetscape and medians on 24th Street between Oak Street and D Street; and

WHEREAS, CITY desires to engage CONTRACTOR, and CONTRACTOR accepts such engagement, to periodic streetscape and median maintenance.

NOW, THEREFORE, incorporating the foregoing recitals herein, CITY and CONTRACTOR mutually agree as follows:

1. **SCOPE OF WORK.** In exchange for the Compensation (defined below), CONTRACTOR shall perform the following: provide streetscape and median landscape maintenance service within the Zone 5 designated area as

detailed in the Request for Proposal attached as **Exhibit "A"**. Additional special areas will be assigned by the Parks Superintendent on a per time and material basis as listed on the additional bid portion of **Exhibit "B"**. ("Proposal Form "). The Proposal Form shall include all items and procedures necessary to properly complete the task CONTRACTOR has been hired to perform, whether specifically included in the Scope of Work or not.

2. **COMPENSATION/PAYMENT PROCEDURE.** Subject to the conditions of this section, CITY will pay CONTRACTOR as follows for performing the work listed in the Proposal Form for Zone 5 ("Compensation"): Compensation for all work, services or products called for under this Agreement shall consist of a total payment not to exceed **\$253,928.52**, which shall be paid as follows: The compensation set forth in this section shall be the total compensation under this Agreement including, but not limited to, all out-of-pocket costs and taxes. CITY shall pay only the compensation listed unless otherwise agreed to in writing by the parties. **Exhibit "B"** as attached includes the base bid cost proposal. In no case will CITY compensate CONTRACTOR more than \$293,928.52 for performing the Scope of Work.
3. **TERM.** Unless terminated sooner, as set forth herein, this Agreement shall terminate three (3) years after execution of this Agreement and shall be renewable annually thereafter for two (2) consecutive one-year periods. Renewal options shall be exercised at the sole option and discretion of the CITY of Bakersfield. If either the CITY or the CONTRACTOR elects not to extend the Agreement , or upon expiration of the initial service Agreement or any renewal period, the CONTRACTOR shall aid the CITY in continuing, without interruption, the requirements of the Agreement, by continuing to perform on a temporary basis, when specifically requested to do so by the Parks Superintendent in writing, for a specified term not to exceed six (6) months. Such continuance shall be subject to all terms and conditions of the contract, as if the CITY exercised a renewal option.
4. **TERMINATION.** Either party may terminate this Agreement after giving the other party written notice, as provided herein, thirty days before the termination is effective.
5. **COMPLIANCE WITH ALL LAWS.** CONTRACTOR shall, at CONTRACTOR's sole cost, comply with all of the requirements of Municipal, State, and Federal authorities now in force, or which may hereafter be in force, pertaining to this Agreement, and shall faithfully observe in all activities relating to or growing out of this Agreement all Municipal ordinances and State and Federal statutes, rules or regulations, and permitting requirements now in force or which may hereafter be in force including, without limitation,

obtaining a CITY of Bakersfield business tax certificate (Bakersfield Municipal Code Chapter 5.02) where required.

6. **INDEPENDENT CONTRACTOR.** This Agreement calls for CONTRACTOR's performance of the Scope of Work as an independent contractor. CONTRACTOR is not an agent or employee of the CITY for any purpose and is not entitled to any of the benefits provided by CITY to its employees. This Agreement shall not be construed as forming a partnership or any other association with CONTRACTOR other than that of an independent contractor.
7. **DIRECTION.** CONTRACTOR retains the right to control or direct the manner in which the services described herein are performed.
8. **EQUIPMENT.** CONTRACTOR will supply all equipment, tools, materials and supplies necessary to perform the services under this Agreement.
9. **STARTING WORK.** CONTRACTOR shall not begin work until authorized to do so in writing by CITY. No work will be authorized before the date first written above.
10. **KEY PERSONNEL.** CONTRACTOR shall name all key personnel to be assigned to perform the Scope of Work. All key personnel shall be properly licensed and have the experience to perform the work called for under this Agreement. CONTRACTOR shall provide background for each of the key personnel including, without limitation, resumes and work experience performing work similar to the Scope of Work. CITY reserves the right to approve key personnel. Once the key personnel are approved, CONTRACTOR shall not change such personnel without CITY's written approval.
11. **INCLUDED DOCUMENTS.** Any bid documents, including, without limitation, special provisions and standard specifications and any Request for Proposals, Request for Qualifications and responses thereto relating to this Agreement are incorporated by reference as though fully set forth herein.
12. **LICENSES.** CONTRACTOR shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement any licenses, permits and approvals which are legally required for CONTRACTOR to practice its profession and perform the Scope of Work. If CONTRACTOR is a corporation, at least one officer or key employee shall hold the required licenses or professional degrees. If CONTRACTOR is a partnership, at least one partner shall hold the required licenses or professional degrees.

13. **STANDARD OF PERFORMANCE.** The Scope of Work shall be performed in conformity with all legal requirements and industry standards observed by a specialist of CONTRACTOR's profession in California.
14. **SB 854 COMPLIANCE.** To the extent Labor Code Section 1771.1 applies to this Agreement, a contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, be subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, as defined in this chapter, unless currently registered and qualified to perform public work pursuant to Section 1725.5. It is not a violation of Labor Code Section 1771.1 for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded. The prime contractor is required to post job site notices in compliance with Title 8 California Code of Regulations Section 16451. This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.
15. **NO WAIVER OF DEFAULT.** The failure of any party to enforce against another party any provision of this Agreement shall not constitute a waiver of that party's right to enforce such a provision at a later time and shall not serve to vary the terms of this Agreement.
16. **INSURANCE.**
- 16.1 **Types and Limits of Insurance.** In addition to any other insurance or security required under this Agreement, CONTRACTOR must procure and maintain, for the duration of this Agreement, the types and limits of insurance below ("Basic Insurance Requirements").
- 16.1.1 **Automobile liability insurance,** providing coverage for owned, non-owned, and hired autos on an occurrence basis for bodily injury, including death, of one or more persons, property damage, and personal injury, with limits of not less than \$1,000,000 per occurrence.
- 16.1.2 **Commercial general liability insurance,** unless otherwise approved by CITY's Risk Manager, providing coverage on an occurrence basis for bodily injury, including death, of one or more persons, property damage, and personal injury, with limits of not less than \$1,000,000 per occurrence. The policy must:

16.1.2.1 Provide contractual liability coverage for the terms of this Agreement;

16.1.2.2 Provide products and completed operations coverage;

16.1.2.3 Provide premises, operations, and mobile equipment coverage; and

16.1.2.4 Contain an additional insured endorsement in favor of CITY and its mayor, council, officers, agents, employees, and designated volunteers.

16.1.3 **Workers' compensation insurance** with limits of not less than \$1,000,000 per occurrence. In accordance with the provisions of Labor Code Section 3700, every contractor will be required to secure the payment of compensation to his employees. Pursuant to Labor Code Section 1861, CONTRACTOR must submit to CITY the following certification before beginning any work on the Improvements:

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for worker's compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.

By executing this Agreement, CONTRACTOR is submitting the certification required above.

The policy must contain a waiver of subrogation in favor of CITY and its mayor, council, officers, agents, employees, and designated volunteers.

16.2 General Provisions Applying to All Insurance Types.

16.2.1 All policies required of CONTRACTOR must be written on a first-dollar coverage basis, or contain a deductible provision. Subject to CITY's advance approval, CONTRACTOR may utilize a self-insured retention in any or

all of the policies provided, but the policy or policies may not contain language, whether added by endorsement or contained in the policy conditions, that prohibits satisfaction of any self-insured provision or requirement by anyone other than the named insured or by any means including other insurance or which is intended to defeat the intent or protection of an additional insured.

- 16.2.2** All policies required of CONTRACTOR must be primary insurance as to CITY and its mayor, council, officers, agents, employees, or designated volunteers and any insurance or self-insurance maintained by CITY and its mayor, council, officers, agents, employees, and designated volunteers must be excess of CONTRACTOR's insurance and must not contribute with it.
- 16.2.3** The insurance required above, except for workers' compensation insurance, must be placed with insurers with a Best's rating as approved by CITY's Risk Manager, but in no event less than A-:VII. Any deductibles, self-insured retentions, or insurance in lesser amounts, or lack of certain types of insurance otherwise required by this Agreement, or insurance rated below Best's A-:VII, must be declared prior to execution of this Agreement and approved by CITY in writing.
- 16.2.4** The insurance required in this section must be maintained until the Scope of Work is satisfactorily completed as evidenced by CITY's written acceptance. All policies must provide that there will be continuing liability thereon, notwithstanding any recovery on any policy.
- 16.2.5** Full compensation for all premiums which the CONTRACTOR is required to pay to satisfy the Basic Insurance Requirements shall be considered as included in the prices paid for the performance of the Scope of Work, and no additional allowance will be made therefor or for additional premiums which may be required by extensions of the policies of insurance.
- 16.2.6** It is further understood and agreed by CONTRACTOR that its liability to CITY will not in any way be limited to or affected by the amount of insurance obtained and carried by CONTRACTOR in connection with this Agreement.

16.2.7 Unless otherwise approved by CITY, if any part of the Scope of Work is subcontracted, the Basic Insurance Requirements must be provided by, or on behalf of, all subcontractors even if CITY has approved lesser insurance requirements for CONTRACTOR, and all subcontractors must agree in writing to be bound by the provisions of this section.

- 17. THIRD PARTY CLAIMS.** In the case of public works contracts, CITY will timely notify CONTRACTOR of third party claims relating to this Agreement. CITY shall be allowed to recover from CONTRACTOR, and CONTRACTOR shall pay on demand, all costs of notification.
- 18. INDEMNITY.** CONTRACTOR shall indemnify, defend, and hold harmless CITY and CITY's officers, agents and employees against any and all liability, claims, actions, causes of action or demands whatsoever against them, or any of them, before administrative or judicial tribunals of any kind whatsoever, arising out of, connected with, or caused by CONTRACTOR or CONTRACTOR's employees, agents, independent contractors, companies, or subcontractors in the performance of, or in any way arising from, the terms and provisions of this Agreement whether or not caused in part by a party indemnified hereunder, except for CITY's sole active negligence or willful misconduct.
- 19. ASSIGNMENT.** Neither this Agreement nor any rights, interests, duties, liabilities, obligations or responsibilities arising out of, concerning or related in any way to this Agreement (including, but not limited to, accounts, actions, causes of action, claims, damages, demands, liabilities, losses, obligations, or reckonings of any kind or nature whatsoever, for compensatory or exemplary and punitive damages, or declaratory, equitable or injunctive relief, whether based on contract, equity, tort or other theories of recovery provided for by the common or statutory law) may be assigned or transferred by any party. Any such assignment is prohibited, and shall be unenforceable and otherwise null and void without the need for further action by the non-assigning party or parties.
- 20. ACCOUNTING RECORDS.** CONTRACTOR shall maintain accurate accounting records and other written documentation pertaining to all costs incurred in performance of this Agreement. Such records and documentation shall be kept at CONTRACTOR's office during the term of this Agreement, and for a period of three years from the date of the final payment hereunder, and made available to CITY representatives upon request at any time during regular business hours.

21. **BINDING EFFECT.** The rights and obligations of this Agreement shall inure to the benefit of, and be binding upon, the parties to the Agreement and their heirs, administrators, executors, personal representatives, successors and assigns.
22. **CORPORATE AUTHORITY.** Each individual signing this Agreement on behalf of entities represents and warrants that they are, respectively, duly authorized to sign on behalf of the entities and to bind the entities fully to each and all of the obligations set forth in this Agreement.
23. **COUNTERPARTS.** This Agreement may be executed in any number of counterparts, each of which shall be considered as an original and be effective as such.
24. **EXECUTION.** This Agreement is effective upon execution. It is the product of negotiation and all parties are equally responsible for authorship of this Agreement. Section 1654 of the California Civil Code shall not apply to the interpretation of this Agreement.
25. **EXHIBITS.** In the event of a conflict between the terms, conditions or specifications set forth in this Agreement and those in exhibits attached hereto, the terms, conditions, or specifications set forth in this Agreement shall prevail. All exhibits to which reference is made in this Agreement are deemed incorporated in this Agreement, whether or not actually attached.
26. **FURTHER ASSURANCES.** Each party shall execute and deliver such papers, documents, and instruments, and perform such acts as are necessary or appropriate, to implement the terms of this Agreement and the intent of the parties to this Agreement.
27. **GOVERNING LAW.** The laws of the State of California will govern the validity of this Agreement and its interpretation and performance. Any litigation arising in any way from this Agreement shall be brought in Kern County, California.
28. **INTERPRETATION.** Whenever the context so requires, the masculine gender includes the feminine and neuter, and the singular number includes the plural.
29. **MERGER AND MODIFICATION.** This Agreement sets forth the entire agreement between the parties and supersedes all other oral or written representations. This Agreement may be modified only in a writing approved by the CITY Council and signed by all the parties.

30. **NON-INTEREST.** No CITY officer or employee shall hold any interest in this Agreement (California Government Code section 1090).
31. **NOTICES.** All notices relative to this Agreement shall be given in writing and shall be personally served or sent by certified or registered mail and be effective upon actual personal service or depositing in the United States mail. The parties shall be addressed as follows, or at any other address designated by notice:

**CITY: CITY OF BAKERSFIELD
CITY HALL
1600 TRUXTUN AVENUE
BAKERSFIELD, CALIFORNIA 93301**

**CONTRACTOR: MCCORMICK LANDSCAPING SERVICE, INC.
DBA VENABLE'S TREE SERVICE
17347 BRIMHALL ROAD
BAKERSFIELD, CA 93314
661-589-9770 (OFFICE)
(661589-9780 (FAX)**

32. **RESOURCE ALLOCATION.** All CITY obligations under the terms of this Agreement are subject to the appropriation and allocation of resources by the CITY Council.
33. **TITLE TO DOCUMENTS.** All documents, plans, and drawings, maps, photographs, and other papers, or copies thereof prepared by CONTRACTOR pursuant to the terms of this Agreement, shall, upon preparation, become CITY property.
34. **TAX NUMBERS.**

CONTRACTOR's Federal Tax ID Number 23-3400084
CONTRACTOR is a corporation? Yes X No
(Please check one.)

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first written above.

"CITY"
CITY OF BAKERSFIELD

By: _____
KAREN GOH
Mayor

"CONTRACTOR"
**MCCORMICK LANDSCAPING
SERVICE, INC. DBA VENABLE'S TREE
SERVICE**

By: _____

Print Name: Jonathon McCormick

Title: Vice President

APPROVED AS TO CONTENT:
CITY DEPARTMENT NAME

By: _____
RICK ANTHONY
Recreation and Parks Director

APPROVED AS TO FORM:
VIRGINIA GENNARO
City Attorney

By: _____
VIRIDIANA GALLARDO-KING
Deputy City Attorney II

Insurance: _____

[Signatures on Following Page]

COUNTERSIGNED:

By: _____
RANDY MCKEEGAN
Finance Director

Attachment: Exhibit A: Request for Proposal
 Exhibit B: Proposal Form



Request for Proposal

**Independent Contractor for
Landscape Maintenance Services
City of Bakersfield Recreation & Parks**

Date 4/28/2023

Contractors wishing to be considered for this project should thoroughly read this Request for Proposal.

I. GENERAL PROJECT DESCRIPTION AND REQUIREMENTS

The City of Bakersfield Recreation and Parks is requesting bids/proposals to perform periodic landscape maintenance services for streetscapes and medians. Only companies with substantial experience and background in public and/or commercial landscape maintenance should submit a bid. The areas consist of landscaped turf and planter areas on medians and streetscapes. The service being requested is for a period of three (3) years with optional two (2) consecutive one-year periods. A valid C-27 Contractor's License and a Qualified Applicators License through the Kern County Agricultural Commission are required at the time of bid submittal.

All landscape maintenance work performed shall be subject to prevailing wages in accordance with the State of California Department of Industrial Relations.

SB 854 COMPLIANCE. To the extent Labor Code Section 1771.1 applies to this Agreement, a contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, be subject to the requirements of Section 4104 of the Public Contract Code or engage in the performance of any contract for public work, as defined in this chapter, unless currently registered and qualified to perform public work pursuant to Section 1725.5. It is not a violation of Labor Code Section 1771.1 for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded. The prime contractor is required to post job site notices in compliance with Title 8 California Code of Regulations Section 16451. This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

II. SERVICES TO BE PROVIDED BY THE CONTRACTOR (SCOPE OF WORK)

The company shall have a professional staff to provide all the services necessary for the project as

Landscape Maintenance Services

defined in Sections I (General), and II (Scope of Work). The company shall have the staff and resources required to complete the tasks as defined in Sections I & II and in this scope of work within the stated project time schedule. At a minimum, the company's team is to include a principal of the company experienced in the maintenance and operation of public and/or commercial landscape improvements.

When needed for the Scope of Work, the contractor shall coordinate with other contractors and/or owners of impacted facilities.

LANDSCAPE AREAS

The proposal shall include furnishing all personnel, equipment, and materials to perform the landscape maintenance services for the areas listed in Attachments A-1, A-2, and A-3

Maintenance and pruning activities for trees are not a part of this Contract, although landscape maintenance activities where trees are an integral part of the landscape area shall be performed up to the base of the tree and tree skirts shall be kept 8' above surface to provide clearance for path of travel. Landscape maintenance activities shall be performed such that the health of the trees are not adversely affected. Adjust tree stakes and ties as needed that are an integral part of the landscape.

STANDARDS

All landscape maintenance services shall be performed by trained personnel using current, acceptable horticultural practices.

All work shall be performed in a manner which maintains the original intent of the landscape design.

All chemical applications shall be performed in accordance with current county, state, and federal laws, utilizing EPA registered materials and methods of application. These applications shall be performed under the supervision of a State of California Department of Pesticide Regulations Licensed Certified Applicator.

APPROVALS

Any work performed in addition to that which is outlined in the contract shall only be done upon written approval by the City.

WORKMANSHIP

During landscape maintenance operations, all areas shall be kept neat and clean. Precautions shall be taken to avoid damage to existing structures and adjacent landscaping. All work shall be performed in a safe manner to the operators, the occupants, and any pedestrians.

Upon completion of maintenance operations, all debris and waste material shall be disposed of offsite at an appropriate disposal site.

Any damage to the landscape, the structure, or the irrigation system caused by the Contractor shall be repaired by the Contractor without charge to the City.

Scope of Work for Zone 4

Irrigation:

The irrigation system shall be maintained for optimum performance. This shall include cleaning and adjusting all sprinkler heads and valves for proper coverage. Inspections of the irrigation system, in operation, shall be made weekly during summer months, April through October, and monthly November through March, to detect any system malfunctions. Maintain records of inspections at each controller. Upon request of the City, the Contractor shall demonstrate the operation and coverage of any sprinkler irrigation system and make any required adjustments immediately.

Proper irrigation system maintenance includes the overall supervision of the system, controller scheduling, and routine adjustments. The Contractor is responsible for adjustment of the irrigation system to maintain adequate growth and appearance. The City is responsible for irrigation repairs from sprinkler heads to backflow. The Contractor shall report irrigation repairs needed such as, controller, control valves, mainline, lateral piping, sprinkler heads and fittings in writing to Park Superintendent or designee within 48 hours. Provide location and description of issue with estimated cost for repair. Failure of the system to provide full and proper coverage shall not relieve the Contractor of the responsibility to provide adequate coverage. Any plant material adversely impacted because of irrigation failures maintained by the contractor shall be promptly replaced with same plant material at no cost to the City.

A qualified person shall be completely responsible for operating the irrigation systems, with the duties of adjusting controllers, observing the effectiveness of the irrigation system, and making minor adjustments to the system to maintain adequate growth and appearance with minimal runoff. Irrigation programs shall comply with the State of California Model Water Efficient Landscape Ordinance. City staff shall reserve the right to request modifications to the irrigation schedule to accommodate City requirements and/or events. Requests will be submitted at least 48 hours prior to the contractor either orally or in written format. All requests shall be carried out in a timely manner. A chart shall be maintained to record current irrigation programs, including day, time, and length of watering for each station and program for each controller.

Mowing:

Grass shall be cut on a weekly basis. Preferred mowing height shall be 1 ½" – 2" during the months of May – August and not less than 1 ½" throughout the rest of the year. Avoid ruts and compaction and make necessary repairs as needed. The City promotes the use of "mulching" or "recycling" type of mowers. All excessive clipping has to be removed from turf and disposed by the Contractor at an appropriate disposal location.

Edging:

Edging of all sidewalks, curbs, and other paved areas shall be performed at the same time as mowing of turf areas and/or on a weekly basis. Ground cover shall be edged as needed to contain them within their borders. Debris from the edging operations shall be removed and the areas blown clean. Caution shall be used to avoid any flying debris.

Pruning of Shrubs:

All pruning of shrubs and groundcover, etc., shall be consistent with International Society of Arboriculture (ISA) standards. All ornamental shrubs and ground cover shall be pruned when appropriate to remove dead or damaged branches, follow the natural form of the plant, and create the effect intended by the landscape architect or designer. Except for designated safety or line of site concerns. All green waste shall be disposed of offsite at an appropriate disposal facility.

Weed Control:

Weed control shall be practiced when weeds present a visible problem. It shall be the Contractor's responsibility to eliminate all weeds regardless of what type they are by either spraying or removing them by hand. Any weeds removed by hand shall be removed in a manner which leaves the ground surface level. All chemical applications shall be performed in accordance with current Kern County, California, and federal laws, utilizing EPA registered materials and methods of application. These applications shall be performed under the supervision of a Licensed Certified Applicator. Actual application and materials to be used shall be coordinated with the Parks Superintendent or designee. Pesticide reporting as required by the Kern County Department of Agriculture shall be the responsibility of the Contractor. Record keeping, written pesticide recommendations, use reports, and labeling of proper chemical storage areas are the responsibility of the Contractor. Pesticide use relating to areas covered in this document shall be made available within 15 days of receipt of a written request from the City. Contact Parks Superintendent or designee if there is any question about which areas require pesticide use records.

Litter:

Litter will be picked up a minimum of once per week. Each visit will include a thorough removal of all litter throughout the entire site. All papers, cans, bottles, broken glass, etc. will be removed from the landscape. High use or special considerations may dictate additional cleaning.

Pedestrian Walkways and Hardscapes:

All pedestrian walkways and hardscapes shall be maintained free from weeds, debris and any obstruction that may cause hazards. This includes but is not limited to, granite, rocks, branches, limbs and /or dirt piles, etc.

Seasonal Leaf Removal:

The Contractor shall clean up and dispose of leaf drop on a seasonal basis. The Contractor shall clean up leaf drop during the fall. All leaf litter, sticks, branches, etc., shall be disposed of offsite at an appropriate disposal site. **Contractor shall not place leaves in street under any circumstances. All leaf drop collection shall be hauled away by Contractor.**

Scope of Work for Zone 5

Irrigation:

The subsurface drip irrigation system shall be maintained for optimum performance. This shall include cleaning and adjusting all emitters and valves for proper coverage. Inspections of the subsurface irrigation system, in operation, shall be made weekly during summer months, April through October, and monthly November through March, to detect any system malfunctions. Maintain records of inspections at each controller. Upon request of the City, the Contractor shall demonstrate an irrigation system check and make any required adjustments immediately.

Proper irrigation system maintenance includes the overall supervision of the system, controller scheduling, and routine adjustments. The Contractor is responsible for adjustment of the irrigation system to maintain adequate growth and appearance. The Contractor is responsible for irrigation repairs from emitters to valves. The City is responsible for repairs from the valve to the backflow. Contractor shall report irrigation repairs needed such as, controller, control valves, and mainline in writing to Park Superintendent or designee within 48 hours. Provide location and description of issue with estimated cost for repair. Failure of the system to provide full and proper coverage shall not relieve the Contractor of the responsibility to provide adequate coverage. Any plant material adversely impacted because of irrigation failures maintained by the contractor shall be promptly replaced with same plant material at no cost to the City.

A qualified person shall be completely responsible for operating the irrigation systems, with the duties of adjusting controllers, observing the effectiveness of the irrigation system, and making minor adjustments to the system to maintain adequate growth and appearance with minimal runoff. Irrigation programs shall comply with the State of California Model Water Efficient Landscape Ordinance. City staff shall reserve the right to request modifications to the irrigation schedule to accommodate City requirements and/or events. Requests will be submitted at least 48 hours prior to the contractor either orally or in written format. All requests shall be carried out in a timely manner. A chart shall be maintained to record current irrigation programs, including day, time, and length of watering for each station and program for each controller.

Pruning of Shrubs:

All pruning of shrubs and groundcover, etc., shall be consistent with International Society of Arboriculture (ISA) standards. All ornamental shrubs and ground cover shall be pruned when appropriate to remove dead or damaged branches, follow the natural form of the plant, and create the effect intended by the landscape architect or designer. Except for designated safety or line of site concerns. All green waste shall be disposed of offsite at an appropriate disposal facility.

Weed Control:

Weed control shall be practiced when weeds present a visible problem. It shall be the Contractor's responsibility to eliminate all weeds regardless of what type they are by either spraying or removing them by hand. Any weeds removed by hand shall be removed in a

Landscape Maintenance Services

manner which leaves the ground surface level. All chemical applications shall be performed in accordance with current Kern County, California, and federal laws, utilizing EPA registered materials and methods of application. These applications shall be performed under the supervision of a Licensed Certified Applicator. Actual application and materials to be used shall be coordinated with the Parks Superintendent or designee. Pesticide reporting as required by the Kern County Department of Agriculture shall be the responsibility of the Contractor. Record keeping, written pesticide recommendations, use reports, and labeling of proper chemical storage areas are the responsibility of the Contractor. Pesticide use relating to areas covered in this document shall be made available within 15 days of receipt of a written request from the City. Contact Parks Superintendent or designee if there is any question about which areas require pesticide use records.

Litter:

Litter will be picked up a minimum of once per week. Each visit will include a thorough removal of all litter throughout the entire site. All papers, cans, bottles, broken glass, etc. will be removed from the landscape. High use or special considerations may dictate additional cleaning.

Pedestrian Walkways and Hardscapes:

All pedestrian walkways and hardscapes shall be maintained free from weeds, debris and any obstruction that may cause hazards. This includes but is not limited to, granite, rocks, branches, limbs and /or dirt piles, etc.

Seasonal Leaf Removal:

The Contractor shall clean up and dispose of leaf drop on a seasonal basis. The Contractor shall clean up leaf drop during the fall. All leaf litter, sticks, branches, etc., shall be disposed of offsite at an appropriate disposal site. **Contractor shall not place leaves in street under any circumstances. All leaf drop collection shall**

III. TIME SCHEDULE Time is of the essence for this contract. Upon adoption of an agreement between City Council and the successful company the expectation is to have the contract begin immediately thereafter.

VI. SELECTION OF CONTRACTOR

The fee proposal shall include an annual total for the scope of work.

It is the intention of the City to award a contract to a bidder who furnishes satisfactory evidence of having the requisite experience, ability, sufficient capital, and facilities to enable them to successfully and properly prosecute the work or provide the specified materials and to complete the work or provide the materials within the time specified in the contract. **Unless bidder gives notice of "all-or-none" in bid, the City may accept any item or category/group of items quoted or award a contract on the basis of total bid.**

Additional items will be requested in writing by the city prior to any work being performed by a successful bidder.

The submission of a fee proposal shall be conclusive evidence that the PROPOSER and its subcontractors have investigated and satisfied themselves as to the conditions to be encountered, the character, quality and scope of work to be performed, and any municipal and ordinance requirements of the City of Bakersfield.

The City reserves the right to make the selection of a PROPOSER based on any or all factors of value, whether quantitatively identifiable or not, including, but not limited to, the anticipated initiative and ability of the PROPOSER to perform the services set forth herein. In evaluating proposals and determining the proposal best serving the interests of the City, pricing will not necessarily be controlling, but quality, efficiency, utility, suitability and delivery of the equipment or services offered will be considered along with any other relevant factors such as financial standing and the general competency of the PROPOSER. The PROPOSER may also be evaluated on the basis of character, integrity, reputation, judgment, experience, and efficiency.

V. TERM OF CONTRACT Award, if any, resulting from this Request for Proposal, shall be for a three (3) year period and shall be renewable annually thereafter for two (2) consecutive one-year periods. Renewal options shall be exercised at the sole option and discretion of the City of Bakersfield. If either the City or the Contractor elects not to extend the annual service contract, or upon expiration of the initial service contract or any renewal period, the Contractor shall aid the City in continuing, without interruption, the requirements of the contract, by continuing to perform on a temporary basis, when specifically requested to do so in writing by the Park Superintendent for a specified term not to exceed six (6) months. Such continuance shall be subject to all terms and conditions of the contract, as if the City exercised a renewal option.

Award, if made, shall be made within sixty (60) days to the responsive, responsible bidder meeting the specifications and requirements of the Invitation to Bid and having the lowest bid consistent with quality and service. The following criteria may be used in this determination:

- A. Unit price or lump sum price.
- B. Quality and performance of the goods and/or services, and suitability to the purpose for which the goods and services are intended.
- C. Company's reputation and financial status.
- D. Experience, including bidder's performance on previous purchases by, or contracts with, the City.
- E. Ability of bidder to provide future maintenance, repair parts and services.
- F. Application of local and other preferences.
- G. Discounts.

Prices shall remain open and valid, subject to acceptance for sixty (60) days after bid closing date. Any bid for which the supplier specifies a shorter acceptance period may be rejected.

VI. SOLICITATION CAVEAT The PROPOSER and its subcontractors understand and agree that the City of Bakersfield shall have no financial responsibility for any costs incurred by the PROPOSER and its subcontractors in responding to this Request for Proposal and shall not be liable for any PROPOSER or its subcontractors costs attributed to their own study and investigation or design of a specific project until PROPOSER has executed a contract with the City of Bakersfield and has been authorized in writing to proceed. The City of Bakersfield reserves the right to terminate this Request for Proposal after three (3) days' notice to all prospective PROPOSERS.

VII. INSURANCE The Contractor and his/her insurance company should carefully review the insurance requirements applicable to this job. All requirements must be met before the City will allow work to commence on this contract. When performing work on property in the care, custody or control of the City, Contractor shall, at its expense, procure and maintain insurance with a State of California admitted surety with an A.M. Best's Insurance Rating of A:VII or better on all of its operations under this Contract for the duration of the work and the warranty period. Certificates of Insurance shall be provided within ten (10) consecutive calendar days of request. Failure to furnish the required certificates and endorsements within the time allowed will result in cancellation of award and forfeiture of the Bidder's Bid Security, if said security is required under the contract.

Broad Form Commercial General Liability Insurance. Contractor shall carry broad form commercial general liability insurance in any combination of primary, excess or umbrella insurance, covering all operations by, or on behalf of, Contractor for the limits of liability not less than **\$1,000,000 per occurrence and in the aggregate, combined single limit for bodily injury and property damage. If the policy has a general aggregate limit, the aggregate limit shall apply separately to this project.**

Coverage shall be at least as broad as Insurance Services Office Commercial General Liability coverage "occurrence" form CG 0001. Contractor's coverage shall be "occurrence" coverage and not "claims made" coverage. Coverage shall include, or be endorsed to include, products and completed operations and coverage for personal injury liability assumed under Contract. The policy shall also include coverage for liability arising out of the use and operation of any City-furnished equipment by Contractor, its personnel and others.

The City, its officers, appointed and elected officials, agents, employees and volunteers shall be named as additional insured on Contractor's policy by a policy provision or endorsement providing coverage at least as broad as *Insurance Services Office Additional Insured - Owners, Lessees or Contractors (Form B) endorsement Number CG 2010 11 85*. Forms CG 2010 10 01 and CG 2037 10 01 may be substituted for Form CG 2010 11 85 upon approval of the City

Automobile Liability Insurance. Contractor shall carry Automobile Liability Insurance in any combination of primary, excess or umbrella insurance, provided the coverage is at least as broad as the liability coverage of Insurance Services Office Business Automobile Liability, Symbol #1 "any auto" (form number CA 0001), in an amount not less than **\$1,000,000 per occurrence combined single limit for bodily injury and property damage**. The policy shall include coverage for liability arising out of the use and operation of owned, non-owned and hired autos, including the operation of City-furnished vehicles by Contractor, its personnel and subcontractors.

Additional Insured. The General Liability policy is to contain or be endorsed to name the City, its officers, appointed and elected officials, agents, employees and volunteers as Additional Insured as respects the liability arising out of the activities performed in connection with this contract. The coverage shall (a) be primary with respect to any insurance or self-insurance programs maintained by the City; (b) stipulate that any insurance or self-insurance maintained by the City shall not be called upon to contribute with the Contractor's insurance (c) shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability; and (d) contain Standard Cross-liability provisions. Such additional insured endorsements maintained by the Contractor and its subcontractors shall not be required to provide coverage for City for the active negligence of City.

Additional Insured coverage shall be by a policy provision or endorsement providing coverage at least as broad as *Insurance Services Office Additional Insured - Owners, Lessees or Contractors (Form B) endorsement Number CG 2010 11 85*. Forms CG 2010 10 01 and CG 2037 10 01 may be substituted for Form CG 2010 11 85 upon approval of the City

Original endorsements, signed by a person authorized to bind coverage on its behalf, shall be furnished to the City by the successful bidder. All amendatory endorsements must reference the policy number to which they refer. With regard to additional insured requirements, the following specific language shall be utilized:

"The City is named as additional insured for all liability arising out of the operations by or on behalf the named insured, and this policy protects the additional insured, its officers, appointed and elected officials, agents, employees and volunteers against liability for bodily injuries, deaths or property damage or destruction arising in any respect directly or indirectly in the performance of the contract.

The inclusion of more than one insured shall not operate to impair the rights of one insured against another insured and the coverages afforded shall apply as though separate policies have been issued to each insured.

The insurance provided herein is primary and no insurance held or owned by the City shall be called upon to contribute to a loss.

This policy does not exclude explosion, collapse, underground excavation hazard or removal of lateral support."

Workers' Compensation and Employers Liability Insurance. Workers' Compensation Insurance shall be provided as required by any applicable law or regulation. Employers Liability Insurance shall be provided in amounts not less than \$1,000,000 each accident for bodily injury by accident, \$1,000,000 policy limit for bodily injury by disease, and \$1,000,000 each employee for bodily injury by disease. **The insurer shall waive all rights of subrogation against the City, its officers, appointed and elected officials, agents, employees and volunteers.**

If there is any risk of injury to Contractor's employees under the U.S. Longshoremen's and Harbor Workers' Compensation Act, the Jones Act or under other laws, regulations or statutes applicable to maritime employees, coverage shall be included for such injuries or claims.

Workers' Compensation Self-Insurance. In the event the Contractor is self-insured, he shall furnish a Certificate of Permission to Self-Insure, signed by the Department of Industrial Relations Administration of Self Insurance, Sacramento, California.

Deductibles and Self-Insured Retention. Any deductibles or self-insured retention, or lack of insurance specified herein, insurance in lesser amounts than specified herein or insurance with a rating less than A.M. Best's A:VII, must be declared to, and approved by, the City. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retention or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses in an amount specified by the City.

Cancellation Clause. Each insurance policy required by this clause shall be endorsed to state that either party shall not cancel coverage, except after thirty (30) days' prior written notice has been given to the City. The following specific language shall be utilized:

"Coverage by this policy shall not be reduced or cancelled without thirty (30) days written notice given to the City by certified mail."

All policies shall provide that there shall be continuing liability coverage thereon, notwithstanding any recovery on any policy.

All Operations Insurance. The City prefers that the insurance certificates and amendatory endorsements be provided on an "All California Operations" or "All Projects" basis. *Note: If stating "All Operations" on the certificate of insurance, do not include a project, contract or agreement number on the insurance documents.*

In the event Contractor cannot provide insurance on an "All Operations" basis, all insurance correspondence, notices, certificates, and endorsements from the insurance carriers must each separately reference the City project, contract or agreement number as well as the policy number.

Subcontractors. The City's insurance requirements shall apply to all subcontractors employed by contractor under the work specified herein. The minimum limits of insurance specified herein shall apply to all subcontractors even though the City has approved lesser insurance requirements for the Successful Bidder.

Commencement of Work and Failure to Comply with Requirements. Original, signed certificates

Landscape Maintenance Services

of insurance and original, separate endorsements, naming the City as additional insured for commercial general liability insurance and automobile insurance as well as a waiver of subrogation for Worker's Compensation Insurance are to be received and reviewed by the City before any work is commenced hereunder by Contractor. An individual who is authorized to sign on behalf of the insurer, thus binding the insurer, shall sign the certificates and amendatory endorsements. The City reserves the right to require complete, certified copies of all required insurance policies at any time.

In the event Contractor fails to comply with this section, the City may take such action as the City deems necessary to protect the City's interest. Such action may include but is not limited to termination of the Contract, withholding of payments, or other actions as the City deems appropriate. Furthermore, if at any time during the life of the contract, Contractor fails to maintain in full force any insurance required by the contract documents, the City may acquire the necessary insurance for the Contractor and deduct the cost thereof from the monies due the Contractor.

VIII. INDEMNIFICATION Contractor shall indemnify, defend and hold harmless City, its officers, agents and employees against any and all liability, claims, actions, causes of action or demands whatsoever against them, or any of them, before administrative or judicial tribunals of any kind whatsoever, arising out of, connected with, or caused by Contractor, Contractor's employees, agents, independent contractors, companies or subcontractors in the performance of, or in any way arising from, the terms and provisions of this Agreement whether or not caused in part by a party indemnified hereunder, except for City's sole active negligence or willful misconduct.

Proposer acknowledges that he has fully informed himself of the contents and meaning of this hold harmless agreement and submits a bid with full knowledge thereof and that the terms are contractual and not a mere recital. These requirements shall also apply to any subcontractor whose hazards are not covered by the Contractor's insurance policies.

IX. CONTACTS AT THE CITY OF BAKERSFIELD

All questions concerning the project shall be directed to:

Keith Howell, Park Superintendent
Recreation and Parks Department
City of Bakersfield
4101 Truxtun Avenue
Bakersfield, CA 93309
Voice Phone: 661-326-3695

The following items must be submitted with a bid:

- **Proposal Form**
- **Completed General Information Sheet**

A pre-bid site visit is scheduled for **Thursday May 4, 2023**

- 9 AM – Liberty Park, 11225 Brimhall Rd, Bakersfield, CA.

Landscape Maintenance Services

- 11AM – Beach Park 3400 21 St. Bakersfield, CA.

The phone number to contact with questions is 661-326-3695, Keith Howell, Park Superintendent.

Project Proposals are due by **Friday, May 12, 2023, at 4:00 PM in a sealed envelope** at the City of Bakersfield, Recreation & Parks Office at 1600 Truxtun Ave., City Hall North 3rd. floor, Bakersfield, CA 93301, attention: Darin Budak

Insurance requirements: See attached draft agreement. These must be met by awarded company.

Attachments:

Proposal Form (complete and submit with bid)

Draft Independent Contractor's Agreement

General Information Sheet (complete and submit with bid)

Exhibit "A" Location descriptions and area maps

Bid Sheet on Following Page

PROPOSAL FORM

TO BE COMPLETED BY OFFEROR AND INCLUDED IN PROPOSAL

TO: CITY OF BAKERSFIELD
RE: Landscape Maintenance Services

Term of Contract: The Agreement shall be in place for one (1) year with four (4) optional consecutive one-year renewals from the effective date.

Having carefully examined the Request for Proposal, attachments and related documents, the undersigned proposes and agrees to provide to the City of Bakersfield in accordance with RFP and sample Contract for Streetscape and Median maintenance, Contractor submits the following proposal:

Base Bid

Public Landscape Areas		Monthly Cost	Annual Cost
Maintenance Zone 4 Attachment A-1, A-2			
Maintenance Zone 5 Attachment A-3,			

End Base Bid

Additional Bid

		Hourly Rate	Material Cost
Hourly Rate and materials cost for special areas			

End Additional Bid

Base Bid for Maintenance Zone 4:

Maintenance Monthly \$_____ X 12 months = \$_____ 1-year term

Base Bid for Maintenance Zones 5:

Maintenance Monthly \$_____ X 12 months = \$_____ 1-year term

Note: The bidder shall submit prices for the Base.

Name of Firm, or Corporation

Signature of Offeror's Authorized Representative

Name & Title of Authorized Representative

General Information Sheet (Proposal Response Item)

NAME OF FIRM:
FIRM NAME FOR AGREEMENT (If different from above):
BUSINESS ADDRESS:
CITY, STATE, ZIP CODE:
TELEPHONE NUMBER:
FACSIMILE NUMBER:
E-MAIL ADDRESS:
CONTACT PERSON (for this bid request): TELEPHONE NUMBER:
EMERGENCY CONTACT NUMBERS Cell Phone: Toll Free Number:
<u>CONTRACTORS LICENSE NO:</u> <u>AGRICULTURAL COMMISSIONER'S CERTIFICATION INFO:</u> <u>QUALIFIED APPLICATORS LICENSE NO:</u>
CITY BUSINESS TAX CERTIFICATE #:
STATE BOARD OF EQUALIZATION SALES TAX PERMIT #:
FEDERAL EMPLOYER ID #:
☐ CORPORATION ☐ PARTNERSHIP ☐ JOINT VENTURE ☐ SOLE PROPRIETOR ☐ OTHER
FOR CORPORATIONS, THE STATE IN WHICH FIRM IS INCORPORATED:
NAMES AND TITLES OF COMPANY PRINCIPALS:
INSURANCE INFORMATION – Provide the name of your insurance carrier for each type of insurance listed. General Liability Insurance: Automobile Liability Insurance: Worker's Compensation: Fidelity Bond or Crime Insurance:
Offer or acknowledges receipt of Addenda Number(s) ☐, ☐, ☐ and ☐

**ATTACHMENT A-1
MAINTENANCE ZONE 4**

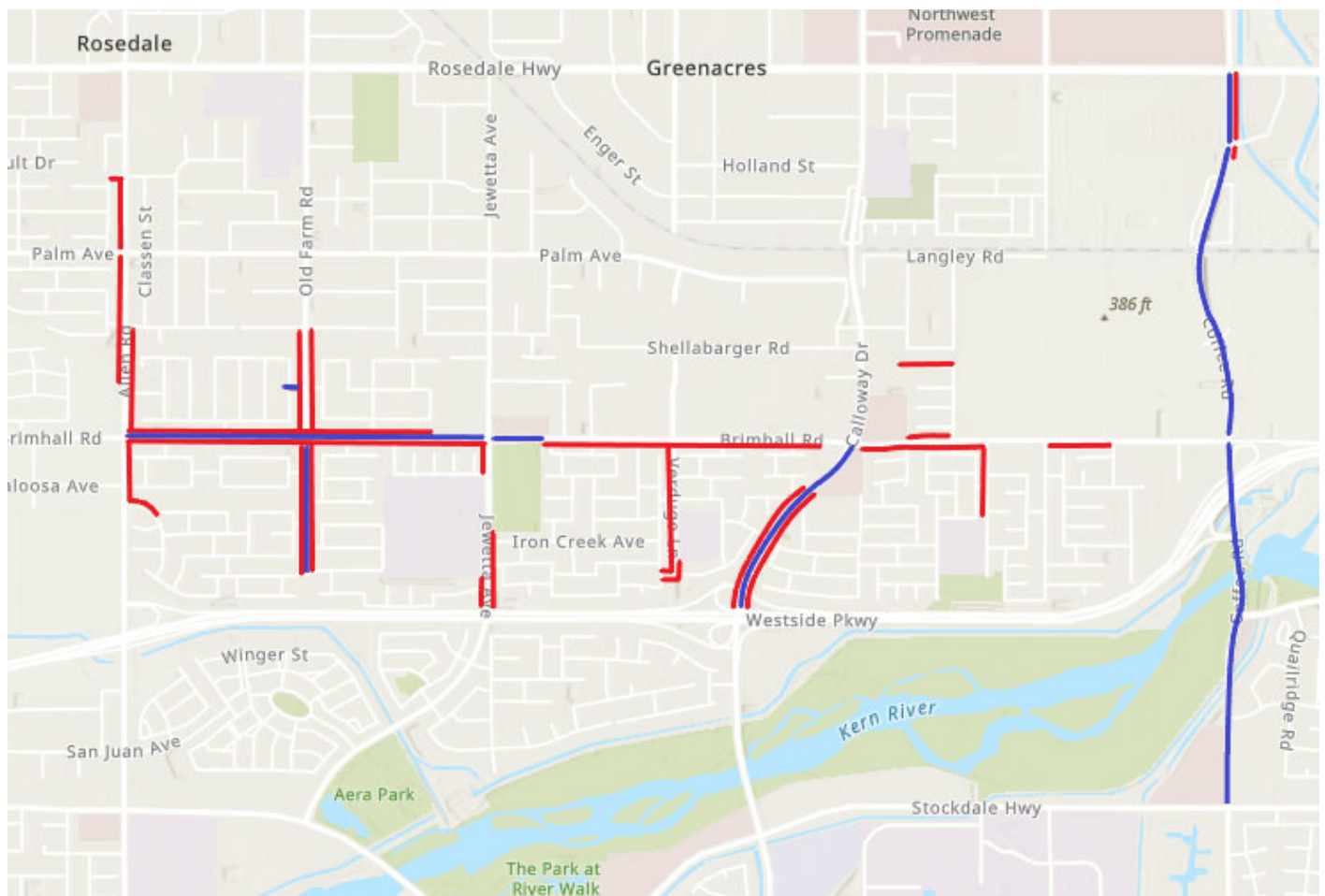
Street name:	From:	To:	Turf	Planter
			Sq.Ft	Sq.Ft
Coffee Rd.	Rosedale Hwy	Stockdale Hwy	23,385	27,481
Brimhall Rd.	Coffee Rd.	Allen Rd.	51,130	150,752
Mondavi Way.	Brimhall Rd.	South of Chalone Ct.		5,647
Thistlewood Ct.	Windsong St.	End of Cul-de-sac		3,120
Windsong St.	Buckingham Way	Brimhall Rd.		582
Calloway Dr.	Brimhall Rd.	Hwy 58 / Westside Pkwy	25,232	9,145
Verdugo Ln.	Brimhall Rd.	Sioux Creek Dr.		22,988
Jewetta Ave.	Brimhall Rd.	Westside Pkwy		12,327
Old Farm Rd.	Old Town Rd.	Stonington St.	16,512	39,165
Rendley St.	Old Farm Rd.	Ironstone Dr.		470
Sparland Way	Brimhall Rd.	Longmeadow Way		813
Dove Creek Dr.	Majesty Palm St.	Allen Rd.	295	1,930
Allen Rd.	Dove Creek Dr.	South of Vermillion Dr.	9,025	42,145
Vermillion Dr.	Allen Rd.	Savonburg Dr.		2,695

Turf estimated square foot – 125,579.

Planter estimated square foot – 319,260.

DG pathways, Right-Of Ways, County, and commercial properties are excluded from the scope of work.

**ATTACHMENT A-2
MAINTENANCE ZONE 4 BOUNDARIES MAP**



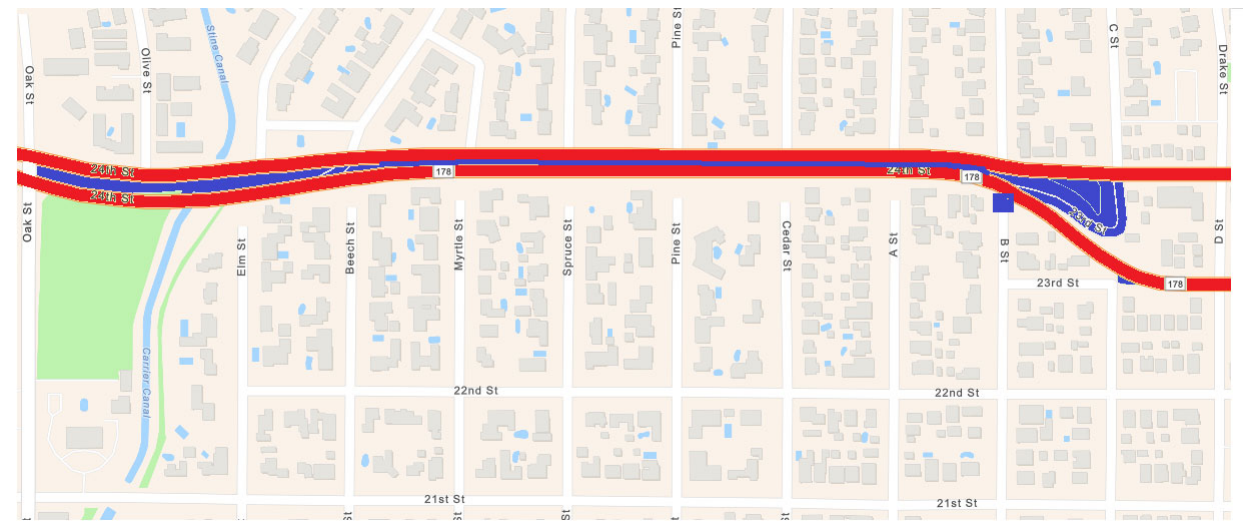
Red - Streetscapes
Blue – Medians

ATTACHMENT A-3
MAINTENANCE ZONE 5

Street name:	From:	To:	Maintenance Area	
			Sq.Ft	
24 th St.	Oak St.	D St.	156,746	

Estimated square foot Maintenance area – 156,746.
County, and commercial properties are excluded from the scope of work.

MAINTENANCE ZONE 5 BOUNDARIES MAP



Red = Streetscape
Blue = Medians

Maintenance Zone 5 consists of the landscape and hardscapes areas on 24th St. between the north soundwall and the south soundwall from Oak St. to D St.

SAMPLE AGREEMENT

AGREEMENT NO. _____

INDEPENDENT CONTRACTOR'S AGREEMENT

This **INDEPENDENT CONTRACTOR'S AGREEMENT** ("Agreement") is made and entered into on _____, by and between the **CITY OF BAKERSFIELD**, a municipal corporation (referred to herein as "CITY"), and _____ a [business type: Sole Proprietorship; Partnership; Corporation; LLC; etc.] authorized to do business in California (referred to herein as "CONTRACTOR").

RECITALS

WHEREAS, CONTRACTOR represents that CONTRACTOR is experienced, well qualified and a specialist in the field of _____.

NOW, THEREFORE, incorporating the foregoing recitals herein, CITY and CONTRACTOR mutually agree as follows:

1. SCOPE OF WORK. In exchange for the Compensation (defined below), CONTRACTOR shall perform the following:

_____ ("Scope of Work"). The Scope of Work shall include all items and procedures necessary to properly complete the task CONTRACTOR has been hired to perform, whether specifically included in the Scope of Work or not.

2. COMPENSATION/PAYMENT PROCEDURE. Subject to the conditions of this section, CITY will pay CONTRACTOR as follows for performing the Scope of Work ("Compensation"): **[choose one]**

(1) A total, lump sum payment of \$ _____ after the Scope of Work is completed to CITY's satisfaction, or

(2) On an hourly [or time/material] basis in accordance with the hourly rates as shown on **Exhibit A**.

CITY will pay CONTRACTOR within 30 days after CONTRACTOR submits an itemized invoice for the portions of the Scope of Work completed and that invoice is approved by CITY. The Compensation will be the total amount paid to CONTRACTOR for performing the Scope of Work and includes, but is not limited to, all out-of-pocket costs and taxes. CITY will pay no other compensation to CONTRACTOR. In no case will CITY compensate CONTRACTOR more than \$_____ for performing the Scope of Work.

3. **TERM.** Unless terminated sooner, as set forth herein, this Agreement shall terminate on _____ **[Date]**.

4. **TERMINATION.** Either party may terminate this Agreement after giving the other party written notice, as provided herein, ten days before the termination is effective.

5. **COMPLIANCE WITH ALL LAWS.** CONTRACTOR shall, at CONTRACTOR's sole cost, comply with all of the requirements of Municipal, State, and Federal authorities now in force, or which may hereafter be in force, pertaining to this Agreement, and shall faithfully observe in all activities relating to or growing out of this Agreement all Municipal ordinances and State and Federal statutes, rules or regulations, and permitting requirements now in force or which may hereafter be in force including, without limitation, obtaining a City of Bakersfield business tax certificate (Bakersfield Municipal Code Chapter 5.02) where required.

6. **INDEPENDENT CONTRACTOR.** This Agreement calls for CONTRACTOR's performance of the Scope of Work as an independent contractor. CONTRACTOR is not an agent or employee of the CITY for any purpose and is not entitled to any of the benefits provided by CITY to its employees. This Agreement shall not be construed as forming a partnership or any other association with CONTRACTOR other than that of an independent contractor.

7. **DIRECTION.** CONTRACTOR retains the right to control or direct the manner in which the services described herein are performed.

8. **EQUIPMENT.** CONTRACTOR will supply all equipment, tools, materials and supplies necessary to perform the services under this Agreement.

9. **STARTING WORK.** CONTRACTOR shall not begin work until authorized to do so in writing by CITY. No work will be authorized before the date first written above.

10. **KEY PERSONNEL.** CONTRACTOR shall name all key personnel to be assigned to

perform the Scope of Work. All key personnel shall be properly licensed and have the experience to perform the work called for under this Agreement. CONTRACTOR shall provide background for each of the key personnel including, without limitation, resumes and work experience performing work similar to the Scope of Work. CITY reserves the right to approve key personnel. Once the key personnel are approved, CONTRACTOR shall not change such personnel without CITY's written approval.

11. INCLUDED DOCUMENTS. Any bid documents, including, without limitation, special provisions and standard specifications and any Request for Proposals, Request for Qualifications and responses thereto relating to this Agreement are incorporated by reference as though fully set forth herein.

12. LICENSES. CONTRACTOR shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement any licenses, permits and approvals which are legally required for CONTRACTOR to practice its profession and perform the Scope of Work. If CONTRACTOR is a corporation, at least one officer or key employee shall hold the required licenses or professional degrees. If CONTRACTOR is a partnership, at least one partner shall hold the required licenses or professional degrees.

13. STANDARD OF PERFORMANCE. The Scope of Work shall be performed in conformity with all legal requirements and industry standards observed by a specialist of CONTRACTOR's profession in California.

14. SB 854 COMPLIANCE. To the extent Labor Code Section 1771.1 applies to this Agreement, a contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, be subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, as defined in this chapter, unless currently registered and qualified to perform public work pursuant to Section 1725.5. It is not a violation of Labor Code Section 1771.1 for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded. The prime contractor is required to post job site notices in compliance with Title 8 California Code of Regulations Section 16451. This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

15. NO WAIVER OF DEFAULT. The failure of any party to enforce against another party any provision of this Agreement shall not constitute a waiver of that party's right to enforce such a provision at a later time and shall not serve to vary the terms of this Agreement.

16. INSURANCE.

16.1 Types and Limits of Insurance. In addition to any other insurance or security required under this Agreement, CONTRACTOR must procure and maintain, for the duration of this Agreement, the types and limits of insurance below ("Basic Insurance Requirements").

16.1.1 Automobile liability insurance, providing coverage for owned, non-owned, and hired autos on an occurrence basis for bodily injury, including death, of one or more persons, property damage, and personal injury, with limits of not less than \$1,000,000 per occurrence.

16.1.2 Commercial general liability insurance, unless otherwise approved by CITY's Risk Manager, providing coverage on an occurrence basis for bodily injury, including death, of one or more persons, property damage, and personal injury, with limits of not less than \$1,000,000 per occurrence. The policy must:

16.1.2.1 Provide contractual liability coverage for the terms of this Agreement;

16.1.2.2 Provide products and completed operations coverage;

16.1.2.3 Provide premises, operations, and mobile equipment coverage; and

16.1.2.4 Contain an additional insured endorsement in favor of CITY and its mayor, council, officers, agents, employees, and designated volunteers.

16.1.3 Workers' compensation insurance with limits of not less than \$1,000,000 per occurrence. In accordance with the provisions of Labor Code Section 3700, every contractor will be required to secure the payment of compensation to his employees. Pursuant to Labor Code Section 1861, CONTRACTOR must submit to CITY the following certification before beginning any work on the Improvements:

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for worker's compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.

By executing this Agreement, CONTRACTOR is submitting the certification required above.

The policy must contain a waiver of subrogation in favor of CITY and its mayor, council, officers, agents, employees, and designated volunteers.

16.2 General Provisions Applying to All Insurance Types.

- 16.2.1** All policies required of CONTRACTOR must be written on a first-dollar coverage basis, or contain a deductible provision. Subject to CITY's advance approval, CONTRACTOR may utilize a self-insured retention in any or all of the policies provided, but the policy or policies may not contain language, whether added by endorsement or contained in the policy conditions, that prohibits satisfaction of any self-insured provision or requirement by anyone other than the named insured or by any means including other insurance or which is intended to defeat the intent or protection of an additional insured.
- 16.2.2** All policies required of CONTRACTOR must be primary insurance as to CITY and its mayor, council, officers, agents, employees, or designated volunteers and any insurance or self-insurance maintained by CITY and its mayor, council, officers, agents, employees, and designated volunteers must be excess of CONTRACTOR's insurance and must not contribute with it.
- 16.2.3** The insurance required above, except for workers' compensation insurance, must be placed with insurers with a Best's rating as approved by CITY's Risk Manager, but in no event less than A-:VII. Any deductibles, self-insured retentions, or insurance in lesser amounts, or lack of certain types of insurance otherwise required by this Agreement, or insurance rated below Best's A-:VII, must be declared prior to execution of this Agreement and approved by CITY in writing.
- 16.2.4** The insurance required in this section must be maintained until the Scope of Work is satisfactorily completed as evidenced by CITY's written acceptance. All policies must provide that there will be continuing liability thereon, notwithstanding any recovery on any policy.
- 16.2.5** Full compensation for all premiums which the CONTRACTOR is required to pay to satisfy the Basic Insurance Requirements shall be considered as included in the prices paid for the performance of the Scope of Work, and no additional allowance will be made therefor or for additional premiums which may be required by extensions of the policies of insurance.
- 16.2.6** It is further understood and agreed by CONTRACTOR that its liability

to CITY will not in any way be limited to or affected by the amount of insurance obtained and carried by CONTRACTOR in connection with this Agreement.

- 16.2.7** Unless otherwise approved by CITY, if any part of the Scope of Work is subcontracted, the Basic Insurance Requirements must be provided by, or on behalf of, all subcontractors even if CITY has approved lesser insurance requirements for CONTRACTOR, and all subcontractors must agree in writing to be bound by the provisions of this section.

17. THIRD PARTY CLAIMS. In the case of public works contracts, CITY will timely notify CONTRACTOR of third party claims relating to this Agreement. CITY shall be allowed to recover from CONTRACTOR, and CONTRACTOR shall pay on demand, all costs of notification.

18. INDEMNITY. CONTRACTOR shall indemnify, defend, and hold harmless CITY and CITY's officers, agents and employees against any and all liability, claims, actions, causes of action or demands whatsoever against them, or any of them, before administrative or judicial tribunals of any kind whatsoever, arising out of, connected with, or caused by CONTRACTOR or CONTRACTOR's employees, agents, independent contractors, companies, or subcontractors in the performance of, or in any way arising from, the terms and provisions of this Agreement whether or not caused in part by a party indemnified hereunder, except for CITY's sole active negligence or willful misconduct.

19. ASSIGNMENT. Neither this Agreement nor any rights, interests, duties, liabilities, obligations or responsibilities arising out of, concerning or related in any way to this Agreement (including, but not limited to, accounts, actions, causes of action, claims, damages, demands, liabilities, losses, obligations, or reckonings of any kind or nature whatsoever, for compensatory or exemplary and punitive damages, or declaratory, equitable or injunctive relief, whether based on contract, equity, tort or other theories of recovery provided for by the common or statutory law) may be assigned or transferred by any party. Any such assignment is prohibited, and shall be unenforceable and otherwise null and void without the need for further action by the non-assigning party or parties.

20. ACCOUNTING RECORDS. CONTRACTOR shall maintain accurate accounting records and other written documentation pertaining to all costs incurred in performance of this Agreement. Such records and documentation shall be kept at CONTRACTOR's office during the term of this Agreement, and for a period of three years from the date of the final payment hereunder, and made available to CITY representatives upon request at any time during regular business hours.

21. BINDING EFFECT. The rights and obligations of this Agreement shall inure to the benefit of, and be binding upon, the parties to the Agreement and their heirs,

administrators, executors, personal representatives, successors and assigns.

22. CORPORATE AUTHORITY. Each individual signing this Agreement on behalf of entities represents and warrants that they are, respectively, duly authorized to sign on behalf of the entities and to bind the entities fully to each and all of the obligations set forth in this Agreement.

23. COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which shall be considered as an original and be effective as such.

24. EXECUTION. This Agreement is effective upon execution. It is the product of negotiation and all parties are equally responsible for authorship of this Agreement. Section 1654 of the California Civil Code shall not apply to the interpretation of this Agreement.

25. EXHIBITS. In the event of a conflict between the terms, conditions or specifications set forth in this Agreement and those in exhibits attached hereto, the terms, conditions, or specifications set forth in this Agreement shall prevail. All exhibits to which reference is made in this Agreement are deemed incorporated in this Agreement, whether or not actually attached.

26. FURTHER ASSURANCES. Each party shall execute and deliver such papers, documents, and instruments, and perform such acts as are necessary or appropriate, to implement the terms of this Agreement and the intent of the parties to this Agreement.

27. GOVERNING LAW. The laws of the State of California will govern the validity of this Agreement and its interpretation and performance. Any litigation arising in any way from this Agreement shall be brought in Kern County, California.

28. INTERPRETATION. Whenever the context so requires, the masculine gender includes the feminine and neuter, and the singular number includes the plural.

29. MERGER AND MODIFICATION. This Agreement sets forth the entire agreement between the parties and supersedes all other oral or written representations. This Agreement may be modified only in a writing approved by the City Council and signed by all the parties.

30. NON-INTEREST. No CITY officer or employee shall hold any interest in this Agreement (California Government Code section 1090).

31. NOTICES. All notices relative to this Agreement shall be given in writing and shall be personally served or sent by certified or registered mail and be effective upon actual personal service or depositing in the United States mail. The parties shall be

addressed as follows, or at any other address designated by notice:

**CITY: CITY OF BAKERSFIELD
CITY HALL
1600 Truxtun Avenue
Bakersfield, California 93301**

CONTRACTOR: _____

32. RESOURCE ALLOCATION. All CITY obligations under the terms of this Agreement are subject to the appropriation and allocation of resources by the City Council.

33. TITLE TO DOCUMENTS. All documents, plans, and drawings, maps, photographs, and other papers, or copies thereof prepared by CONTRACTOR pursuant to the terms of this Agreement, shall, upon preparation, become CITY property.

34. TAX NUMBERS.

CONTRACTOR's Federal Tax ID Number

CONTRACTOR is a corporation? Yes _____ No _____
(Please check one.)

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first written above.

"CITY"
CITY OF BAKERSFIELD

"CONTRACTOR"

By: _____
KAREN GOH
Mayor

By: _____
Print Name: _____
Title: _____

[Signatures on Following Page]

APPROVED AS TO CONTENT:
RECREATION AND PARKS DEPARTMENT

By: _____
RICK ANTHONY
Director of Recreation and Parks

APPROVED AS TO FORM:
VIRGINIA GENNARO
City Attorney

By: _____
VIRIDIANA GALLARDO-KING
Deputy City Attorney II
Insurance: _____

COUNTERSIGNED:

By: _____
RANDY MCKEEGAN
Finance Director

Attachment: Exhibit ____

EXHIBIT B**PROPOSAL FORM**

TO BE COMPLETED BY OFFEROR AND INCLUDED IN PROPOSAL

TO: CITY OF BAKERSFIELD**RE: Landscape Maintenance Services**

Term of Contract: The Agreement shall be in place for one (1) year with four (4) optional consecutive one-year renewals from the effective date.

Having carefully examined the Request for Proposal, attachments and related documents, the undersigned proposes and agrees to provide to the City of Bakersfield in accordance with RFP and sample Contract for Streetscape and Median maintenance, Contractor submits the following proposal:

Base Bid

Public Landscape Areas		Monthly Cost	Annual Cost
Maintenance Zone 4 Attachment A-1, A-2		\$20,017.76	\$240,213.06
Maintenance Zone 5 Attachment A-3,		\$7,053.57	\$84,642.84

End Base Bid

Additional Bid

		Hourly Rate	Material Cost
Hourly Rate and materials cost for special areas		\$45	

End Additional Bid

Base Bid for Maintenance Zone 4:

Maintenance Monthly \$ \$20,017.76 X 12 months = \$ \$240,213.06 1-year term

Base Bid for Maintenance Zones 5:

Maintenance Monthly \$ \$7,053.57 X 12 months = \$ \$84,642.84 1-year term

Note: The bidder shall submit prices for the Base.

McCormick Landscape Service, Inc.
Name of Firm, or Corporation


Signature of Offeror's Authorized Representative

Jonathon McCormick Vice President
Name & Title of Authorized Representative

General Information Sheet (Proposal Response Item)

NAME OF FIRM: McCormick Landscape Service, Inc.	
FIRM NAME FOR AGREEMENT (If different from above):	
BUSINESS ADDRESS: 17347 Brimhall Rd.	
CITY, STATE, ZIP CODE: Bakersfield CA, 93314	
TELEPHONE NUMBER: 661-589-9770	
FACSIMILE NUMBER: 661-589-9780	
E-MAIL ADDRESS: Jonathon@1mpls.com	
CONTACT PERSON (for this bid request): Jonathon McCormick	
TELEPHONE NUMBER: 661-589-9770	
EMERGENCY CONTACT NUMBERS	
Cell Phone: 661-201-5195	
Toll Free Number:	
<u>CONTRACTORS LICENSE NO:</u> 786687	
<u>AGRICULTURAL COMMISSIONER'S CERTIFICATION INFO:</u>	
<u>QUALIFIED APPLICATORS LICENSE NO:</u>	
CITY BUSINESS TAX CERTIFICATE #: 23 00052283	
STATE BOARD OF EQUALIZATION SALES TAX PERMIT #:	
FEDERAL EMPLOYER ID #: 26-3400084	
☒ CORPORATION ☐ PARTNERSHIP ☐ JOINT VENTURE ☐ SOLE PROPRIETOR ☐ OTHER	
FOR CORPORATIONS, THE STATE IN WHICH FIRM IS INCORPORATED: California	
NAMES AND TITLES OF COMPANY PRINCIPALS:	
Byron McCormick - Secretary	Jonathon McCormick - Vice President Machell McCormick - President
INSURANCE INFORMATION – Provide the name of your insurance carrier for each type of insurance listed.	
General Liability Insurance: Ohio Casualty Insurance Company	
Automobile Liability Insurance: State Farm General Insurance Company	
Worker's Compensation: Insurance Company of the West	
Fidelity Bond or Crime Insurance: Western Surety Company	
Offer or acknowledges receipt of Addenda Number(s) ☐ , ☐ , ☐ and ☐ 1	