

**Project Name/No.: Landscape Maintenance Services
Parkways**

Contract No.: _____

Project Manager: PW – S. Parra

Approved: _____

**AGREEMENT FOR SERVICES
BETWEEN THE CITY OF CHINO AND
MERCHANTS LANDSCAPE SERVICES, INC.**

THIS AGREEMENT FOR SERVICES (herein “Agreement”) is made and entered into this 1st day of July, 2025 (“Effective Date”) by and between the City of Chino, a California municipal corporation (“City”) and MERCHANTS LANDSCAPE SERVICES, INC., a California corporation (“Contractor”). City and Contractor may be referred to individually as “Party” or collectively as “Parties.”

RECITALS

A. City has sought, by issuance of a Request for Proposals or Invitation for Bids, the performance of the services defined and described particularly in Article 1 of this Agreement.

B. Contractor, following submission of a proposal or bid for the performance of the services defined and described particularly in Article 1 of this Agreement, was selected by the City to perform those services.

C. Pursuant to the City of Chino’s Municipal Code, City has authority to enter into and execute this Agreement.

D. The Parties desire to formalize the selection of Contractor for performance of those services defined and described particularly in Article 1 of this Agreement and desire that the terms of that performance be as particularly defined and described herein.

OPERATIVE PROVISIONS

NOW, THEREFORE, in consideration of the mutual promises and covenants made by the Parties and contained herein and other consideration, the value and adequacy of which are hereby acknowledged, the parties agree as follows:

ARTICLE 1. SERVICES OF CONTRACTOR

1.1 Scope of Services.

In compliance with all terms and conditions of this Agreement, the Contractor shall provide those services specified in the “Scope of Services” attached hereto as Exhibit “A” and incorporated herein by this reference, which may be referred to herein as the “services” or “work” hereunder. As a material inducement to the City entering into this Agreement, Contractor represents and warrants that it has the qualifications, experience, and facilities necessary to properly perform the services required under this Agreement in a thorough, competent, and professional manner, and is experienced in performing the work and services contemplated herein. Contractor shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all services described herein. Contractor covenants that it shall

follow the highest professional standards in performing the work and services required hereunder and that all materials will be both of good quality as well as fit for the purpose intended. For purposes of this Agreement, the phrase “highest professional standards” shall mean those standards of practice recognized by one or more first-class firms performing similar work under similar circumstances.

1.2 Contractor’s Proposal.

The Scope of Services shall include the scope of work included in Contractor’s proposal, which shall be incorporated herein by this reference as though fully set forth herein. In the event of any inconsistency between the terms of such proposal and this Agreement, the terms of this Agreement shall govern.

1.3 Compliance with Law.

Contractor shall keep itself informed concerning, and shall render all services hereunder in accordance with, all ordinances, resolutions, statutes, rules, and regulations of the City and any Federal, State or local governmental entity having jurisdiction in effect at the time service is rendered.

1.4 California Labor Law.

If the Scope of Services includes any “public work” or “maintenance work,” as those terms are defined in California Labor Code Section 1720 *et seq.* and California Code of Regulations, Title 8, Section 16000 *et seq.*, and if the total compensation is \$1,000 or more, Contractor shall pay prevailing wages for such work and comply with the requirements in California Labor Code section 1770 *et seq.* and 1810 *et seq.*, and all other applicable laws, as they pertain to such work, including the following requirements:

(a) DIR Monitoring and Enforcement. The public work and/or maintenance work performed under this Agreement shall be subject to compliance monitoring and enforcement by the Department of Industrial Relations (“DIR”). Contractor shall post job site notices, as prescribed by regulation.

(b) Prevailing Wages. Contractor shall pay prevailing wages to the extent required by Labor Code Section 1771. Pursuant to Labor Code Section 1773.2, copies of the prevailing rate of per diem wages are on file at City Hall and will be made available to any interested party on request. By initiating any work under this Agreement, Contractor acknowledges receipt of a copy of the DIR determination of the prevailing rate of per diem wages, and Contractor shall post a copy of the same at each job site where work is performed under this Agreement.

(c) Penalty for Failure to Pay Prevailing Wages. Contractor shall comply with and be bound by the provisions of Labor Code Sections 1774 and 1775 concerning the payment of prevailing rates of wages to workers and the penalties for failure to pay prevailing wages. The Contractor shall, as a penalty to the City, forfeit two hundred dollars (\$200) for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined

by the DIR for the work or craft in which the worker is employed for any public work done pursuant to this Agreement by Contractor or by any subcontractor.

(d) Payroll Records. Contractor shall comply with and be bound by the provisions of Labor Code Section 1776, which requires Contractor and each subcontractor to: keep accurate payroll records and verify such records in writing under penalty of perjury, as specified in Section 1776; certify and make such payroll records available for inspection as provided by Section 1776; and inform the City of the location of the records.

(e) Apprentices. Contractor shall comply with and be bound by the provisions of Labor Code Sections 1777.5, 1777.6, and 1777.7 and California Code of Regulations Title 8, Section 200 *et seq.* concerning the employment of apprentices on public works projects. Contractor shall be responsible for compliance with these aforementioned Sections for all apprenticeable occupations. Prior to commencing work under this Agreement, Contractor shall provide City with a copy of the information submitted to any applicable apprenticeship program. Within sixty (60) days after concluding work pursuant to this Agreement, Contractor and each of its subcontractors shall submit to the City a verified statement of the journeyman and apprentice hours performed under this Agreement.

(f) Eight-Hour Work Day. Contractor acknowledges that eight (8) hours labor constitutes a legal day's work. Contractor shall comply with and be bound by Labor Code Section 1810.

(g) Penalties for Excess Hours. Contractor shall comply with and be bound by the provisions of Labor Code Section 1813 concerning penalties for workers who work excess hours. The Contractor shall, as a penalty to the City, forfeit twenty-five dollars (\$25) for each worker employed in the performance of this Agreement by the Contractor or by any subcontractor for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week in violation of the provisions of Division 2, Part 7, Chapter 1, Article 3 of the Labor Code. Pursuant to Labor Code section 1815, work performed by employees of Contractor in excess of eight (8) hours per day, and forty (40) hours during any one week shall be permitted upon public work upon compensation for all hours worked in excess of 8 hours per day at not less than one and one-half (1½) times the basic rate of pay.

(h) Workers' Compensation. California Labor Code Sections 1860 and 3700 provide that every employer will be required to secure the payment of compensation to its employees if it has employees. By executing this Agreement, and in accordance with the provisions of California Labor Code Section 1861, Contractor certifies as follows:

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

(i) Contractor's Responsibility for Subcontractors. For every subcontractor who will perform work under this Agreement, Contractor shall be responsible for such subcontractor's compliance with Division 2, Part 7, Chapter 1 (commencing with Section 1720) of the California Labor Code, and shall make such compliance a requirement in any contract with any subcontractor for work under this Agreement. Contractor shall be required to take all actions necessary to enforce such contractual provisions and ensure subcontractor's compliance, including without limitation, conducting a review of the certified payroll records of the subcontractor on a periodic basis or upon becoming aware of the failure of the subcontractor to pay his or her workers the specified prevailing rate of wages. Contractor shall diligently take corrective action to halt or rectify any such failure by any subcontractor.

1.5 Licenses, Permits, Fees and Assessments.

Contractor shall obtain at its sole cost and expense such licenses, permits and approvals as may be required by law for the performance of the services required by this Agreement. Contractor shall have the sole obligation to pay for any fees, assessments and taxes, plus applicable penalties and interest, which may be imposed by law and arise from or are necessary for the Contractor's performance of the services required by this Agreement, and shall indemnify, defend and hold harmless City, its officers, employees or agents of City, against any such fees, assessments, taxes, penalties or interest levied, assessed or imposed against City hereunder.

1.6 Familiarity with Work.

By executing this Agreement, Contractor warrants that Contractor (i) has thoroughly investigated and considered the scope of services to be performed, (ii) has carefully considered how the services should be performed, and (iii) fully understands the facilities, difficulties and restrictions attending performance of the services under this Agreement. If the services involve work upon any site, Contractor warrants that Contractor has or will investigate the site and is or will be fully acquainted with the conditions there existing, prior to commencement of services hereunder. Should the Contractor discover any latent or unknown conditions, which will materially affect the performance of the services hereunder, Contractor shall immediately inform the City of such fact and shall not proceed except at Contractor's risk until written instructions are received from the Project Manager.

1.7 Software and Computer Services.

If the Scope of Services includes the provision and/or installation of any software, computer system, or other computer technology, Contractor represents and warrants that it has inspected the City's current infrastructure, equipment, computer system and software and that the software, computer system, or other computer technology provided and/or installed by Contractor under this Agreement is compatible, and shall be fully functional, with such infrastructure, equipment, computer system and software of the City. Contractor acknowledges that the City is relying on the representation by Contractor as a material consideration in entering into this Agreement.

1.8 Care of Work.

The Contractor shall adopt reasonable methods during the life of the Agreement to furnish continuous protection to the work, and the equipment, materials, papers, documents, plans, studies and/or other components thereof to prevent losses or damages, and shall be responsible for all such damages, to persons or property, until acceptance of the work by City, except such losses or damages as may be caused by City's own negligence.

1.9 Further Responsibilities of Parties.

Both parties agree to use reasonable care and diligence to perform their respective obligations under this Agreement. Both parties agree to act in good faith to execute all instruments, prepare all documents and take all actions as may be reasonably necessary to carry out the purposes of this Agreement. Unless hereafter specified, neither party shall be responsible for the service of the other.

1.10 Additional Services.

City shall have the right, subject to state law and the City's Municipal Code, at any time during the performance of the services, without invalidating this Agreement, to order extra work beyond that specified in the Scope of Services or make changes by altering, adding to or deducting from said work. No such extra work may be undertaken unless a written order is first given by the Project Manager to the Contractor, incorporating therein any adjustment in (i) the Contract Sum for the actual costs of the extra work, and/or (ii) the time to perform this Agreement, which said adjustments are subject to the written approval of the Contractor. Any increase in compensation for extra work shall require the approval of City Council unless the City Council has previously authorized the City Manager to approve an increase in compensation and the amount of the increase does not exceed such authorization. It is expressly understood by Contractor that the provisions of this Section shall not apply to services specifically set forth in the Scope of Services. Contractor hereby acknowledges that it accepts the risk that the services to be provided pursuant to the Scope of Services may be more costly or time consuming than Contractor anticipates and that Contractor shall not be entitled to additional compensation therefor. City may in its sole and absolute discretion have similar work done by other contractors. No claims for an increase in the Contract Sum or time for performance shall be valid unless the procedures established in this Section are followed.

1.11 Special Requirements.

Additional terms and conditions of this Agreement, if any, which are made a part hereof are set forth in the "Special Requirements" attached hereto as Exhibit "B" and incorporated herein by this reference. In the event of a conflict between the provisions of Exhibit "B" and any other provisions of this Agreement, the provisions of Exhibit "B" shall govern.

ARTICLE 2. COMPENSATION AND METHOD OF PAYMENT.

2.1 Contract Sum.

Subject to any limitations set forth in this Agreement, City agrees to pay Contractor the amounts specified in the "Schedule of Compensation" attached hereto as Exhibit "C" and

incorporated herein by this reference. The total compensation, including reimbursement for actual expenses, shall not exceed One Hundred Ten Thousand Dollars and Zero Cents (\$110,000.00) (the "Contract Sum"), unless additional compensation is approved pursuant to Section 1.10.

2.2 Method of Compensation.

The method of compensation may include: (i) a lump sum payment upon completion; (ii) payment in accordance with specified tasks or the percentage of completion of the services, less contract retention; (iii) payment for time and materials based upon the Contractor's rates as specified in the Schedule of Compensation, provided that (a) time estimates are provided for the performance of sub tasks, (b) contract retention is maintained, and (c) the Contract Sum is not exceeded; or (iv) such other methods as may be specified in the Schedule of Compensation.

2.3 Reimbursable Expenses.

Compensation may include reimbursement for actual and necessary expenditures for reproduction costs, telephone expenses, and travel expenses approved by the Project Manager in advance, or actual subcontractor expenses of an approved subcontractor pursuant to Section 4.5, and only if specified in the Schedule of Compensation. The Contract Sum shall include the attendance of Contractor at all project meetings reasonably deemed necessary by the City. Coordination of the performance of the work with City is a critical component of the services. If Contractor is required to attend additional meetings to facilitate such coordination, Contractor shall not be entitled to any additional compensation for attending said meetings.

2.4 Invoices.

Each month Contractor shall furnish to City an original invoice for all work performed and expenses incurred during the preceding month in a form approved by City's Director of Finance. By submitting an invoice for payment under this Agreement, Contractor is certifying compliance with all provisions of the Agreement. Contractor shall not invoice City for any duplicate services performed by more than one person.

All invoices shall be submitted by email to [**ap@cityofchino.org**](mailto:ap@cityofchino.org). Each invoice is to include:

- (a) Line items for all personnel describing the work performed, the number of hours worked, and the hourly rate.
- (b) Line items for all materials and equipment properly charged to the Services.
- (c) Line items for all other approved reimbursable expenses claimed, with supporting documentation.
- (d) Line items for all approved subcontractor labor, supplies, equipment, materials, and travel properly charged to the Services.

- (e) If this Agreement requires prevailing wages, per Section 1.4 of the Agreement, all invoices shall include a copy of Contractor's Certified Payroll and proof that Certified Payroll has been submitted to the DIR. Contractor shall also submit a list of the prevailing wage rates for all employees and subcontractors providing services under this Agreement, as applicable, with Contractor's first invoice. If these rates change at any time during the term of the Agreement, Contractor shall submit a new list of rates to the City with its first invoice following the effective date of the rate change.

City shall independently review each invoice submitted by the Contractor to determine whether the work performed and expenses incurred are in compliance with the provisions of this Agreement. Except as to any charges for work performed or expenses incurred by Contractor which are disputed by City, or as provided in Section 7.3, City will use its best efforts to cause Contractor to be paid within forty-five (45) days of receipt of Contractor's correct and undisputed invoice; however, Contractor acknowledges and agrees that due to City warrant run procedures, the City cannot guarantee that payment will occur within this time period. In the event any charges or expenses are disputed by City, the original invoice shall be returned by City to Contractor for correction and resubmission. Review and payment by City for any invoice provided by the Contractor shall not constitute a waiver of any rights or remedies provided herein or any applicable law.

2.5 Waiver.

Payment to Contractor for work performed pursuant to this Agreement shall not be deemed to waive any defects in work performed by Contractor.

2.6 Contingency of Funds.

Contractor acknowledges that funding or portions of funding for this Agreement may be contingent upon State budget approval; receipt of funds from, and/or obligation of funds by the State of California to City; or inclusion of sufficient funding for the services hereunder in the budget approved by Chino City Council for each fiscal year covered by this Agreement. If such approval, funding or appropriations are not forthcoming, or are otherwise limited, City may immediately terminate or modify this Agreement without penalty.

ARTICLE 3. PERFORMANCE SCHEDULE

3.1 Time of Essence.

Time is of the essence in the performance of this Agreement.

3.2 Schedule of Performance.

Contractor shall commence the services pursuant to this Agreement upon receipt of a written notice to proceed and shall perform all services within the time period(s) established in the "Schedule of Performance" attached hereto as Exhibit "D" and incorporated herein by this

reference. When requested by the Contractor, extensions to the time period(s) specified in the Schedule of Performance may be approved in writing by the Project Manager but not exceeding one hundred eighty (180) days cumulatively.

3.3 Force Majeure.

The time period(s) specified in the Schedule of Performance for performance of the services rendered pursuant to this Agreement shall be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including, but not restricted to, acts of God or of the public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, litigation, and/or acts of any governmental agency, including the City, if the Contractor shall within ten (10) days of the commencement of such delay notify the Project Manager in writing of the causes of the delay. The Project Manager shall ascertain the facts and the extent of delay, and extend the time for performing the services for the period of the enforced delay when and if in the judgment of the Project Manager such delay is justified. The Project Manager's determination shall be final and conclusive upon the parties to this Agreement. In no event shall Contractor be entitled to recover damages against the City for any delay in the performance of this Agreement, however caused, Contractor's sole remedy being extension of the Agreement pursuant to this Section.

3.4 Term.

Unless earlier terminated in accordance with Article 7 of this Agreement, this Agreement shall continue in full force and effect until completion of the services, which shall be no later than June 30, 2030, except as otherwise provided in the Schedule of Performance (Exhibit "D"). This Agreement may be renewed by a written amendment for up to an additional two (2) year(s) at the option of the City if the City is satisfied with the quality of services performed by Contractor under this Agreement.

ARTICLE 4. COORDINATION OF WORK

4.1 Representatives and Personnel of Contractor.

The following principals of Contractor ("Principals") are hereby designated as being the principals and representatives of Contractor authorized to act in its behalf with respect to the work specified herein and make all decisions in connection therewith:

(Name)

(Title)

(Name)

(Title)

It is expressly understood that the experience, knowledge, capability and reputation of the foregoing principals were a substantial inducement for City to enter into this Agreement.

Therefore, the foregoing principals shall be responsible during the term of this Agreement for directing all activities of Contractor and devoting sufficient time to personally supervise the services hereunder. All personnel of Contractor, and any authorized agents, shall at all times be under the exclusive direction and control of the Principals. For purposes of this Agreement, the foregoing Principals may not be replaced nor may their responsibilities be substantially reduced by Contractor without the express written approval of City. Additionally, Contractor shall utilize only competent personnel to perform services pursuant to this Agreement. Contractor shall make every reasonable effort to maintain the stability and continuity of Contractor's staff and subcontractors, if any, assigned to perform the services required under this Agreement. Contractor shall notify City of any changes in Contractor's staff and subcontractors, if any, assigned to perform the services required under this Agreement, prior to and during any such performance.

4.2 Status of Contractor.

Contractor shall have no authority to bind City in any manner, or to incur any obligation, debt or liability of any kind on behalf of or against City, whether by contract or otherwise, unless such authority is expressly conferred under this Agreement or is otherwise expressly conferred in writing by City. Contractor shall not at any time or in any manner represent that Contractor or any of Contractor's officers, employees, or agents are in any manner officials, officers, employees or agents of City. Neither Contractor, nor any of Contractor's officers, employees or agents, shall obtain any rights to retirement, health care or any other benefits which may otherwise accrue to City's employees. Contractor expressly waives any claim Contractor may have to any such rights.

4.3 Project Manager.

The Project Manager shall be the Public Works Services Manager or any other person as may be designated by the Project Manager. It shall be the Contractor's responsibility to assure that the Project Manager is kept informed of the progress of the performance of the services and the Contractor shall refer any decisions which must be made by City to the Project Manager. Unless otherwise specified herein, any approval of City required hereunder shall mean the approval of the Project Manager. The Project Manager shall have authority, if specified in writing by the City Manager, to sign all documents on behalf of the City required hereunder to carry out the terms of this Agreement.

4.4 Independent Contractor.

Neither the City nor any of its employees shall have any control over the manner, mode or means by which Contractor, its agents or employees, perform the services required herein, except as otherwise set forth herein. City shall have no voice in the selection, discharge, supervision or control of Contractor's employees, servants, representatives or agents, or in fixing their number, compensation or hours of service. Contractor shall perform all services required herein as an independent contractor of City and shall remain at all times as to City a wholly independent contractor with only such obligations as are consistent with that role. Contractor shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of City. City shall not in any way or for any purpose become or be deemed

to be a partner of Contractor in its business or otherwise or a joint venturer or a member of any joint enterprise with Contractor.

4.5 Prohibition Against Subcontracting or Assignment.

The experience, knowledge, capability and reputation of Contractor, its principals and employees were a substantial inducement for the City to enter into this Agreement. Therefore, Contractor shall not contract with any other entity to perform in whole or in part the services required hereunder without the express written approval of the City. In addition, neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of City. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty five percent (25%) of the present ownership and/or control of Contractor, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this Agreement shall be void. No approved transfer shall release the Contractor or any surety of Contractor of any liability hereunder without the express consent of City.

ARTICLE 5. INSURANCE AND INDEMNIFICATION

5.1 Insurance Coverages.

Without limiting Contractor's indemnification of City, and prior to commencement of any services under this Agreement, 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.

(a) General liability insurance. Contractor shall maintain commercial general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01, in an amount not less than \$1,000,000 per occurrence, \$2,000,000 general aggregate, for bodily injury, personal injury, and property damage. The policy must include contractual liability that has not been amended. Any endorsement restricting standard ISO "insured contract" language will not be accepted.

(b) 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 the Contractor arising out of or in connection with Services to be performed under this Agreement, including coverage for any owned, hired, non-owned or rented vehicles, in an amount not less than \$1,000,000 combined single limit for each accident.

(c) Professional liability (errors & omissions) insurance. Contractor shall maintain professional liability insurance that covers the Services to be performed in connection with this Agreement, in the minimum amount of \$1,000,000 per claim and in the aggregate. Any policy inception date, continuity date, or retroactive date must be before the effective date of this Agreement and Contractor agrees to maintain continuous coverage through a period no less than three (3) years after completion of the services required by this Agreement.

(d) Workers' compensation insurance. Contractor shall maintain Workers' Compensation Insurance (Statutory Limits) and Employer's Liability Insurance (with limits of at least \$1,000,000).

(e) Subcontractors. Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and certified endorsements for each subcontractor. All coverages for subcontractors shall include all of the requirements stated herein.

(f) Additional Insurance. Policies of such other insurance, as may be required in the Special Requirements in Exhibit "B".

5.2 General Insurance Requirements.

(a) Proof 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. Insurance certificates and endorsements 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. City reserves the right to require complete, certified copies of all required insurance policies, at any time.

(b) Duration of coverage. Contractor shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the Services hereunder by Contractor, its agents, representatives, employees or subcontractors.

(c) Primary/noncontributing. Coverage provided by Contractor shall be primary and any insurance or self-insurance procured or maintained by City shall not be required to contribute with it. The limits of insurance required herein may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of City before the City's own insurance or self-insurance shall be called upon to protect it as a named insured.

(d) City's rights of enforcement. In the event any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, City has the right but not the duty to obtain the insurance it deems necessary and any premium paid by City will be promptly reimbursed by Contractor or City will withhold amounts sufficient to pay premium from Contractor payments. In the alternative, City may cancel this Agreement.

(e) Acceptable insurers. All insurance policies shall be issued by an insurance company currently authorized by the Insurance Commissioner to transact business of insurance or that is on the List of Approved Surplus Line Insurers in the State of California, with an assigned policyholders' Rating of A- (or higher) and Financial Size Category Class VI (or larger) in accordance with the latest edition of Best's Key Rating Guide, unless otherwise approved by the City's Risk Manager.

(f) Waiver of subrogation. All insurance coverage maintained or procured pursuant to this agreement shall be endorsed to waive subrogation against City, its elected or appointed officers, agents, officials, employees and volunteers or shall specifically allow Contractor or others providing insurance evidence in compliance with these specifications 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 and insurance clauses from each of its subcontractors.

(g) Enforcement of contract provisions (non-estoppel). Contractor acknowledges and agrees that any actual or alleged failure on the part of the City to inform Contractor of non-compliance with any requirement imposes no additional obligations on the City nor does it waive any rights hereunder.

(h) 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 the 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.

(i) Notice of cancellation. Contractor agrees to oblige its insurance agent or broker and insurers to provide to City with a thirty (30) day notice of cancellation (except for nonpayment for which a ten (10) day notice is required) or nonrenewal of coverage for each required coverage.

(j) Additional insured status. General liability policies shall provide or be endorsed to provide that City and its officers, officials, employees, and agents, and volunteers shall be additional insureds under such policies. This provision shall also apply to any excess/umbrella liability policies.

(k) Prohibition of undisclosed coverage limitations. None of the coverages required herein will be in compliance with these requirements if they include any limiting endorsement of any kind that has not been first submitted to City and approved of in writing.

(l) Separation of insureds. A severability of interests provision must apply for all additional insureds ensuring that Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the insurer's limits of liability. The policy(ies) shall not contain any cross-liability exclusions.

(m) Pass through clause. Contractor agrees to ensure that its subcontractors, subcontractors, and any other party involved with the project who is brought onto or involved in the project by Contractor, provide the same minimum insurance coverage and endorsements required of Contractor. Contractor agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements

of this section. Contractor agrees that upon request, all agreements with contractors, subcontractors, and others engaged in the project will be submitted to City for review.

(n) Agency's right to revise specifications. The City reserves the right at any time during the term of the contract to change the amounts and types of insurance required by giving the Contractor ninety (90) days advance written notice of such change. If such change results in substantial additional cost to the Contractor, the City and Contractor may renegotiate Contractor's compensation.

(o) 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 specifications unless approved by City.

(p) 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.

(q) Additional 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.

5.3 Indemnification.

To the full extent permitted by law, Contractor agrees to indemnify, defend and hold harmless the City, its officers, employees and agents ("Indemnified Parties") against, and will hold and save them and each of them harmless from, any and all actions, either judicial, administrative, arbitration or regulatory claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions or liabilities whether actual or threatened (herein "claims or liabilities") that may be asserted or claimed by any person, firm or entity arising out of or in connection with the negligent performance of the work, operations or activities provided herein of Contractor, its officers, employees, agents, subcontractors, or invitees, or any individual or entity for which Contractor is legally liable ("indemnitors"), or arising from Contractor's or indemnitors' reckless or willful misconduct, or arising from Contractor's or indemnitors' negligent performance of or failure to perform any term, provision, covenant or condition of this Agreement, and in connection therewith:

(a) Contractor will defend any action or actions filed in connection with any of said claims or liabilities and will pay all costs and expenses, including legal costs and attorneys' fees incurred in connection therewith;

(b) Contractor will promptly pay any judgment rendered against the City, its officers, agents or employees for any such claims or liabilities arising out of or in connection with the negligent performance of or failure to perform such work, operations or activities of Contractor hereunder; and Contractor agrees to save and hold the City, its officers, agents, and employees harmless therefrom;

(c) In the event the City, its officers, agents or employees is made a party to any action or proceeding filed or prosecuted against Contractor for such damages or other claims arising out of or in connection with the negligent performance of or failure to perform the work, operation or activities of Contractor hereunder, Contractor agrees to pay to the City, its officers, agents or employees, any and all costs and expenses incurred by the City, its officers, agents or employees in such action or proceeding, including but not limited to, legal costs and attorneys' fees.

Contractor shall incorporate similar indemnity agreements with its subcontractors and if it fails to do so Contractor shall be fully responsible to indemnify City hereunder therefore, and failure of City to monitor compliance with these provisions shall not be a waiver hereof. This indemnification includes claims or liabilities arising from any negligent or wrongful act, error or omission, or reckless or willful misconduct of Contractor in the performance of professional services hereunder. The provisions of this Section do not apply to claims or liabilities occurring as a result of City's sole negligence or willful acts or omissions, but, to the fullest extent permitted by law, shall apply to claims and liabilities resulting in part from City's negligence, except that design professionals' indemnity hereunder shall be limited to claims and liabilities arising out of the negligence, recklessness or willful misconduct of the design professional. The indemnity obligation shall be binding on successors and assigns of Contractor and shall survive termination of this Agreement.

ARTICLE 6. RECORDS, REPORTS, AND RELEASE OF INFORMATION

6.1 Records.

Contractor shall keep, and require subcontractors to keep, such ledgers, books of accounts, invoices, vouchers, canceled checks, reports, studies or other documents relating to the disbursements charged to City and services performed hereunder (the "books and records"), as shall be necessary to perform the services required by this Agreement and enable the Project Manager to evaluate the performance of such services. Any and all such documents shall be maintained in accordance with generally accepted accounting principles and shall be complete and detailed. The Project Manager shall have full and free access to such books and records at all times during normal business hours of City, including the right to inspect, copy, audit and make records and transcripts from such records. Such records shall be maintained for a period of three (3) years following completion of the services hereunder, and the City shall have access to such records in the event any audit is required. In the event of dissolution of Contractor's business, custody of the books and records may be given to City, and access shall be provided by Contractor's successor in interest. Notwithstanding the above, the Contractor shall fully cooperate with the City in providing access to the books and records if a public records request is made and disclosure is required by law including but not limited to the California Public Records Act.

6.2 Reports.

Contractor shall periodically prepare and submit to the Project Manager such reports concerning the performance of the services required by this Agreement as the Project Manager shall require. Contractor hereby acknowledges that the City is greatly concerned about the cost of work and services to be performed pursuant to this Agreement. For this reason, Contractor

agrees that if Contractor becomes aware of any facts, circumstances, techniques, or events that may or will materially increase or decrease the cost of the work or services contemplated herein or, if Contractor is providing design services, the cost of the project being designed, Contractor shall promptly notify the Project Manager of said fact, circumstance, technique or event and the estimated increased or decreased cost related thereto and, if Contractor is providing design services, the estimated increased or decreased cost estimate for the project being designed.

6.3 Ownership of Documents.

All drawings, specifications, maps, designs, photographs, studies, surveys, data, notes, computer files, reports, records, documents and other materials (the “documents and materials”) prepared by Contractor, its employees, subcontractors and agents in the performance of this Agreement shall be the property of City and shall be delivered to City upon request of the Project Manager or upon the termination of this Agreement, and Contractor shall have no claim for further employment or additional compensation as a result of the exercise by City of its full rights of ownership use, reuse, or assignment of the documents and materials hereunder. Any use, reuse or assignment of such completed documents for other projects and/or use of uncompleted documents without specific written authorization by the Contractor will be at the City’s sole risk and without liability to Contractor, and Contractor’s guarantee and warranties shall not extend to such use, reuse or assignment. Contractor may retain copies of such documents for its own use. Contractor shall have the right to use the concepts embodied therein. All subcontractors shall provide for assignment to City of any documents or materials prepared by them, and in the event Contractor fails to secure such assignment, Contractor shall indemnify City for all damages resulting therefrom. Moreover, Contractor with respect to any documents and materials that may qualify as “works made for hire” as defined in 17 U.S.C. § 101, such documents and materials are hereby deemed “works made for hire” for the City.

6.4 Confidentiality and Release of Information.

(a) All information gained or work product produced by Contractor in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Contractor. Contractor shall not release or disclose any such information or work product to persons or entities other than City without prior written authorization from the Project Manager.

(b) Contractor, its officers, employees, agents or subcontractors, shall not, without prior written authorization from the Project Manager or unless requested by the City Attorney, voluntarily provide documents, declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement. Response to a subpoena or court order shall not be considered “voluntary” provided Contractor gives City notice of such court order or subpoena.

(c) If Contractor, or any officer, employee, agent or subcontractor of Contractor, provides any information or work product in violation of this Agreement, then City shall have the right to reimbursement and indemnity from Contractor for any damages, costs and fees, including attorney’s fees, caused by or incurred as a result of Contractor’s conduct.

(d) Contractor shall promptly notify City should Contractor, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed there under. City retains the right, but has no obligation, to represent Contractor or be present at any deposition, hearing or similar proceeding. Contractor agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Contractor. However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

ARTICLE 7. ENFORCEMENT OF AGREEMENT AND TERMINATION

7.1 California Law.

This Agreement shall be interpreted, construed and governed both as to validity and to performance of the parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of San Bernardino, State of California, or any other appropriate court in such county, and Contractor covenants and agrees to submit to the personal jurisdiction of such court in the event of such action. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Central District of California, in the County of San Bernardino, State of California.

7.2 Disputes; Default.

In the event that Contractor is in default under the terms of this Agreement, the City shall not have any obligation or duty to continue compensating Contractor for any work performed after the date of default. Instead, the City may give notice to Contractor of the default and the reasons for the default. The notice shall include the timeframe in which Contractor may cure the default. This timeframe is presumptively thirty (30) days, but may be extended, though not reduced, if circumstances warrant. During the period of time that Contractor is in default, the City shall hold all invoices and shall, when the default is cured, proceed with payment on the invoices. In the alternative, the City may, in its sole discretion, elect to pay some or all of the outstanding invoices during the period of default. If Contractor does not cure the default, the City may take necessary steps to terminate this Agreement under this Article. Any failure on the part of the City to give notice of the Contractor's default shall not be deemed to result in a waiver of the City's legal rights or any rights arising out of any provision of this Agreement.

7.3 Retention of Funds.

Contractor hereby authorizes City to deduct from any amount payable to Contractor (whether or not arising out of this Agreement) (i) any amounts the payment of which may be in dispute hereunder or which are necessary to compensate City for any losses, costs, liabilities, or damages suffered by City, and (ii) all amounts for which City may be liable to third parties, by reason of Contractor's acts or omissions in performing or failing to perform Contractor's obligation under this Agreement. In the event that any claim is made by a third party, the amount or validity of which is disputed by Contractor, or any indebtedness shall exist which shall appear

to be the basis for a claim of lien, City may withhold from any payment due, without liability for interest because of such withholding, an amount sufficient to cover such claim. The failure of City to exercise such right to deduct or to withhold shall not, however, affect the obligations of the Contractor to insure, indemnify, and protect City as elsewhere provided herein.

7.4 Waiver.

Waiver by any party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any work or services by Contractor shall not constitute a waiver of any of the provisions of this Agreement. No delay or omission in the exercise of any right or remedy by a non-defaulting party on any default shall impair such right or remedy or be construed as a waiver. Any waiver by either party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

7.5 Rights and Remedies are Cumulative.

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

7.6 Legal Action.

In addition to any other rights or remedies, either party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement. Notwithstanding any contrary provision herein, Contractor shall file a statutory claim pursuant to Government Code Sections 905 *et seq.* and 910 *et seq.*, in order to pursue a legal action under this Agreement.

7.7 Liquidated Damages.

Since the determination of actual damages for any delay in performance of this Agreement would be extremely difficult or impractical to determine in the event of a breach of this Agreement, the Contractor and its sureties shall be liable for and shall pay to the City the sum of Zero Dollars (\$0) as liquidated damages for each working day of delay in the performance of any service required hereunder. The City may withhold from any monies payable on account of services performed by the Contractor any accrued liquidated damages.

7.8 Termination Prior to Expiration of Term.

This Section shall govern any termination of this Contract except as specifically provided in the following Section for termination for cause. The City reserves the right to terminate this

Contract at any time, with or without cause, upon thirty (30) days' written notice to Contractor, except that where termination is due to the fault of the Contractor, the period of notice may be such shorter time as may be determined by the Project Manager. In addition, the Contractor reserves the right to terminate this Contract at any time, with or without cause, upon sixty (60) days' written notice to City, except that where termination is due to the fault of the City, the period of notice may be such shorter time as the Contractor may determine. Upon receipt of any notice of termination, Contractor shall immediately cease all services hereunder except such as may be specifically approved by the Project Manager. Except where the Contractor has initiated termination, the Contractor shall be entitled to compensation for all services rendered prior to the effective date of the notice of termination and for any services authorized by the Project Manager thereafter in accordance with the Schedule of Compensation or such as may be approved by the Project Manager, except as provided in Section 7.3. In the event the Contractor has initiated termination, the Contractor shall be entitled to compensation only for the reasonable value of the work product actually produced hereunder. In the event of termination without cause pursuant to this Section, the terminating party need not provide the non-terminating party with the opportunity to cure pursuant to Section 7.2.

7.9 Termination for Default of Contractor.

If termination is due to the failure of the Contractor to fulfill its obligations under this Agreement, City may, after compliance with the provisions of Section 7.2, take over the work and prosecute the same to completion by contract or otherwise, and the Contractor shall be liable to the extent that the total cost for completion of the services required hereunder exceeds the compensation herein stipulated (provided that the City shall use reasonable efforts to mitigate such damages), and City may withhold any payments to the Contractor for the purpose of set-off or partial payment of the amounts owed the City as previously stated.

7.10 Attorneys' Fees.

If either party to this Agreement is required to initiate or defend or made a party to any action or proceeding in any way connected with this Agreement, the prevailing party in such action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorney's fees. Attorney's fees shall include attorney's fees on any appeal, and in addition a party entitled to attorney's fees shall be entitled to all other reasonable costs for investigating such action, taking depositions and discovery and all other necessary costs the court allows which are incurred in such litigation. All such fees shall be deemed to have accrued on commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

ARTICLE 8. CITY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION

8.1 Non-liability of City Officers and Employees.

No officer or employee of the City shall be personally liable to the Contractor, or any successor in interest, in the event of any default or breach by the City or for any amount which may become due to the Contractor or to its successor, or for breach of any obligation of the terms of this Agreement.

8.2 Conflict of Interest.

Contractor covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Contractor's performance of services under this Agreement. Contractor further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor without the express written consent of the Project Manager. Contractor agrees to at all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of City in the performance of this Agreement.

No officer or employee of the City shall have any financial interest, direct or indirect, in this Agreement nor shall any such officer or employee participate in any decision relating to the Agreement which affects her/his financial interest or the financial interest of any corporation, partnership or association in which (s)he is, directly or indirectly, interested, in violation of any State statute or regulation. The Contractor warrants that it has not paid or given and will not pay or give any third party any money or other consideration for obtaining this Agreement.

8.3 Covenant Against Discrimination.

Contractor covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, gender, sexual orientation, marital status, national origin, ancestry or other protected class in the performance of this Agreement. Contractor shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, sex, gender, sexual orientation, marital status, national origin, ancestry or other protected class.

8.4 Unauthorized Aliens.

Contractor hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act, 8 U.S.C. § 1101 *et seq.*, as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Contractor so employ such unauthorized aliens for the performance of work and/or services covered by this Agreement, and should any liability or sanctions be imposed against City for such use of unauthorized aliens, Contractor hereby agrees to and shall reimburse City for the cost of all such liabilities or sanctions imposed, together with any and all costs, including attorneys' fees, incurred by City.

ARTICLE 9. MISCELLANEOUS PROVISIONS

9.1 Notices.

Any notice, demand, request, document, consent, approval, or communication either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by prepaid, first-class mail, in the case of the City, to the City

Manager and to the attention of the Project Manager (with her/his name and City title), City of Chino, 13220 Central Avenue, Chino, California 91710 and in the case of the Contractor, to the person(s) at the address designated on the execution page of this Agreement. Either party may change its address by notifying the other party of the change of address in writing. Notice shall be deemed communicated at the time personally delivered or in seventy-two (72) hours from the time of mailing if mailed as provided in this Section.

9.2 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 this Agreement or any other rule of construction which might otherwise apply.

9.3 Counterparts.

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

9.4 Integration; Amendment.

This Agreement including the attachments hereto is the entire, complete and exclusive expression of the understanding of the parties. It is understood that there are no oral agreements between the parties hereto affecting this Agreement and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the parties, and none shall be used to interpret this Agreement. No amendment to or modification of this Agreement shall be valid unless made in writing and approved by the Contractor and by the City Council. The parties agree that this requirement for written modifications cannot be waived and that any attempted waiver shall be void.

9.5 Severability.

In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the parties hereunder unless the invalid provision is so material that its invalidity deprives either party of the basic benefit of their bargain or renders this Agreement meaningless.

9.6 Warranty & Representation of Non-Collusion.

No official, officer, or employee of City has any financial interest, direct or indirect, in this Agreement, nor shall any official, officer, or employee of City participate in any decision relating to this Agreement which may affect his/her financial interest or the financial interest of any corporation, partnership, or association in which (s)he is directly or indirectly interested, or in violation of any corporation, partnership, or association in which (s)he is directly or indirectly interested, or in violation of any State or municipal statute or regulation. The determination of

“financial interest” shall be consistent with State law and shall not include interests found to be “remote” or “noninterests” pursuant to Government Code Sections 1091 or 1091.5. Contractor warrants and represents that it has not paid or given, and will not pay or give, to any third party including, but not limited to, any City official, officer, or employee, any money, consideration, or other thing of value as a result or consequence of obtaining or being awarded any agreement. Contractor further warrants and represents that (s)he/it has not engaged in any act(s), omission(s), or other conduct or collusion that would result in the payment of any money, consideration, or other thing of value to any third party including, but not limited to, any City official, officer, or employee, as a result of consequence of obtaining or being awarded any agreement. Contractor is aware of and understands that any such act(s), omission(s) or other conduct resulting in such payment of money, consideration, or other thing of value will render this Agreement void and of no force or effect.

Contractor’s Authorized Initials _____

9.7 Corporate Authority.

The persons executing this Agreement on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) that entering into this Agreement does not violate any provision of any other Agreement to which said party is bound. This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the parties.

[SIGNATURES ON FOLLOWING PAGE]

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

CITY:

CITY OF CHINO, a municipal corporation

Linda Reich, City Manager

ATTEST:

Natalie Gonzaga, City Clerk

APPROVED AS TO FORM:
ALESHIRE & WYNDER, LLP

Fred Galante, City Attorney

APPROVED AS TO CONTENT:

Hye Jin Lee, P.E., Director of Public Works

CONTRACTOR:
MERCHANTS LANDSCAPE SERVICES, INC.

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

Address: 8748 Industrial Lane
Rancho Cucamonga, CA 91730

Two corporate officer signatures required when Contractor is a corporation, with one signature required from each of the following groups: 1) Chairman of the Board, President or any Vice President; and 2) Secretary, any Assistant Secretary, Chief Financial Officer or any Assistant Treasurer.

EXHIBIT "A"

SCOPE OF SERVICES

- I. Contractor will perform the Services described in Contractor's Proposal, attached hereto as Exhibit A-1.**
- II. All work product is subject to review and acceptance by the City, and must be revised by the Contractor without additional charge to the City until found satisfactory and accepted by City.**

EXHIBIT “A-1”

SCOPE OF SERVICES

Merchants Landscape will staff this contract according to the annual schedule. There will be a 2-man crew with a F-150 full size truck and a trailer, 64” laser mower, with stick edger’s and weed eaters, mowing all the turf in less than a day, this same crew will detail the parkways the remainder of the day. There will be a 2-man crew with a F-150 full size truck and a trailer detailing the areas 1 more day per week. In addition, 1 irrigator will be on site 2 days per week running through the systems and making any repairs, the irrigation tech will have a Ford Ranger. Their schedule is created around completing these tasks on a monthly basis. The Area Supervisor will be Luis Rangel. Merchants Landscape will have a total of 48-man hours dedicated to these Parkway job sites. Cesar Trujillo, the Branch Manager, will be available for job walks weekly.

All foremen are equipped with Nextel radios/phones, and the supervisors additionally will have smart phones for e-mailing. Merchants also maintains a local office and storage yard in Rancho Cucamonga on Industrial Lane will full time secretaries to assist the area supervisors with reports and e-mails. Merchants also maintain a 24-hour company manned dispatch center for any after hour needs. Merchants maintains over 2 million dollars’ worth of landscape equipment, ranging from numerous tractors and renovation equipment to over 100 rider mowers. All maintained by 7 mechanics.

It is the responsibility of the area supervisor to ensure that onsite crews are meeting the contract specifications. The area supervisor accomplishes this with the site inspection reports, which will be turned into the branch manager each Monday. The area supervisor uses these inspection sheets to ensure that he sees each site weekly and so he can schedule what areas may need specific attention. In addition, Merchants will have schedules for each crew showing how they will be rotating through the City sites.

Truck and Trailers for this contract:

- 1 – F150 Truck with Trailer
- 2 – Ford Rangers for the irrigator

1. Intent

It is the intent of these specifications that work performed under this Agreement shall result in a complete operating system in satisfactory working condition with respect to the functional purpose of the installations. Should a conflict arise between these specifications and any referenced specifications, these specifications shall have precedence. All referenced specifications are incorporated into this Agreement controlling the work as herein specified, but otherwise are not applicable.

2. Description of Work

The intent of these specifications is to prescribe and provide for the complete and finished performance and accomplishment, in every respect, of the entire contemplated work or

improvement indicated by the detailed specifications; and it shall be understood that the Contractor undertaking the execution of all or any part of such work or improvement will be required to perform, maintain, construct, and complete the same in a thorough, satisfactory, and workmanlike manner in accordance with these specifications, and to furnish and provide in connection therewith all necessary labor, tools, implements, equipment, and materials and supplies except such as may otherwise be specified will be furnished by the City.

The work to be done consists of the complete landscape maintenance of all landscape areas listed in the Schedule of Compensation (Exhibit C). Landscape maintenance includes but not limited to pruning, shaping, and skirting of trees up to a height of 18 feet, shrubs and ground cover plants; weed control, control of all plant diseases and pests; rodent/pest control, turf maintenance, irrigation maintenance, hardscape maintenance, and all other maintenance required to maintain the landscape areas in the Compensation Categories.

Included in the exhibits, is the Schedule of Services (Exhibit D) and location descriptions to identify minimum service levels required for each area. In no event, shall the Contractor provide service less than those identified. The Contractor may request alteration of the Schedule of Services from the Public Works Services Manager for reasons of rain or inclement weather. Any turf maintenance operations missed due to inclement weather shall be rescheduled within two (2) working days. Any turf maintenance operations missed and not completed as scheduled shall be deducted from the monthly billing statement.

3. Equipment

The Contractor must furnish adequate equipment to properly perform the work in a workmanlike manner in accordance with these specifications. Such equipment must be in good state of repair and maintained in such state during the progress of the work. No worn or obsolete equipment shall be used, and in no case, shall the manufacturer's rating of capacity for any equipment be exceeded.

4. Cleaning Equipment

Cleaning Equipment shall be power brooms, power blowers, air compressors, water flushing equipment, and hand brooms suitable for cleaning the surface, gutters, and sidewalks to remove loose wood chips, grass, and other debris upon operation of tree trimming/maintenance operations.

5. General Tree Maintenance

The Contractor shall be responsible for general tree maintenance in the specific landscape areas including trimming and pruning, adequate watering, fertilizing, staking, removal of fallen leaves and branches, removing suckers raising skirts and protection against pests.

6. Standards of Performance

- A. The Contractor agrees to comply with all applicable provisions of Federal, State, and local laws governing the duties and obligations of businesses and employees.
- B. The Standards of Performance which the Contractor is obligated to perform hereunder are these standards considered to be good turf horticultural practices. Reference: National Turfgrass Council and the National Turfgrass Sports Association.

- C. Turf mowers will operate at suggested manufacturer's mowing speeds in accordance with local conditions. Additional passes shall be made, if necessary, in problem areas where excess grass or other conditions warrant special attention.
- D. The Contractor shall conduct his work at all times in a manner which will not interfere with normal activities or prohibit pedestrian traffic on adjacent sidewalks or vehicular traffic on adjacent streets.
- E. Manual or mechanical edging methods shall be used wherever physically possible.
- F. All leaves and clippings shall be removed concurrent with every mowing.

7. Pruning Standards and Specifications

- A. All work shall conform to the 2017 edition of the ANSI A300 Pruning Standards. In all cases, the City's representative shall have complete and sole discretion in determining conformance and acceptability of trees trimmed by the Contractor. Trimmed trees rejected by the City's representative shall be excluded from payment.
- B. Contractor shall comply with Standards of CAL OSHA and the American National Standard Institute, Z133.1-1988 Safety Requirements.
- C. The contractor shall endeavor to maintain good public relations at all times the work shall be conducted in a manner which will cause the least possible interference and annoyance to the public. Work shall be performed by competent employees and supervised by an experienced English-speaking supervisor in tree trimming operations. The contractor shall be responsible for advanced notification to the residents at each work location of the intended tree operations. The contractor shall be responsible to see that private property and vehicles at work locations are not endangered or damaged during the course of work. Illuminated arrow boards, sign stands, delineators and/or cones, along with the proper signage, shall be used to identify work site for vehicular and pedestrian safety.
- D. No hooks, gaffs, spurs, or climbers will be used by anyone employed for such trimming. Any vine plant growing on trees shall be removed at ground level.
- E. Final pruning cuts shall be made without leaving stubs. Cuts shall be made in a manner to promote fast callous growth.
- F. Brush and debris shall be removed daily, sidewalks swept, lawns and parkways raked out, and gutters cleaned.
- G. Contractor shall maintain at least one (1) English-speaking arborist to be on site within 30 minutes of being contacted.
- H. When trimming fungus, disease or fire blight infected limbs or fronds, all pruning tools shall be cleaned after each cut with alcohol or bleach.
- I. Topping shall not be done without prior approval of the City.

8. Tree Pruning

All trees are included in required trimming operations. The Contractor shall not be responsible for any trimming operations above eighteen (18) feet. Tree pruning shall be performed based on the following categories with the intent of developing structurally sound trees symmetrical and appearance of the proper vertical and horizontal clearance. All pruning and trimming operations shall be in accordance with ISA standards.

- A. All trees shall be trimmed, shaped, and thinned at least once per year.
- B. All dead and damaged branches and limbs shall be removed at the point of breaking at the time breaking occurs.
- C. All trees shall be trimmed and shaped to provide a symmetrical appearance typical of the species.
- D. All suckers and sprouts shall be cut flush with the trunk or limbs as needed, regardless of height.
- E. All structural weaknesses such as split crotch or limbs, or severe damage shall be reported to the Public Works Services Manager or designee.
- F. Special emphasis shall be placed upon public safety during pruning operations, particularly when adjacent to roadways.
- G. All trimmings and debris shall be removed and disposed of off-site at the end of each day's work.
- H. Prune trees along sidewalks to allow eight (8) foot clearance for pedestrians in twelve (12) feet above curb and gutters for vehicular traffic.
- I. Signs shall be kept cleared at all times.
- J. Contractor shall be responsible to apply all insecticides/fungicides to prevent or control diseases and pests.
- K. Ailing or stunted trees, which fail to meet expected growth, will receive additional treatments to correct deficiencies.
- L. Under no circumstances will stripping of lower branches be permitted. Lower branches shall be retained in a "tipped back" or pinched condition.
- M. Topping of trees will not be permitted.

8. Staking and Tying

Trees shall be staked fall into the following categories:

- A. Replacement of missing or damaged stakes where the tree diameter is less than three (3) inches, at twenty-four (24) inches above ground.
- B. In those cases where the tree has been damaged and requires staking for support.
- C. For new trees or recently planted trees which have not previously been staked.
- D. Contractor shall use remove/adjust ties and stakes to prevent damage.

Replacement ties and stakes shall be the responsibility of the Contractor.

9. Tree Stakes and Ties

Trees stakes shall be 2" diameter pressure treated wood poles and the appropriate length to secure tree properly. Tree ties shall be from V.I.T. Products using two 32" flexible vinyl straps.

10. Tree Removals

- A. All trees eighteen (18) feet or less, which are downed by either natural or unnatural causes, shall be removed and disposed of off-site by the Contractor. All stumps shall be ground to 12" below grade and wood chips raked level to fill hole.
- B. All trees greater than eighteen (18) feet, which are down or all trees which are still standing but must be removed for other reasons, shall be handled as extra work or separate action by the City.

11. Tree Specifications

Each replacement tree shall be selected in accordance with the standards set forth in the American Standard for Nursery Stock.

12. Signs

The contractor shall equip each vehicle used in the City with signs that read "Landscape Maintenance Services Provided by the City of Chino."

13. Site Maintenance

- A. Throughout the period of this Agreement, the Contractor shall maintain the work sites in a safe, neat, and orderly condition free of all hazardous conditions, trash, debris, surplus materials, and objectional matter of any kind, all to the satisfaction of the Public Works Services Manager. All signs utilized by the Contractor shall be maintained in a graffiti free condition.
- B. During the course of the tree trimming/maintenance activities, the Contractor shall protect all existing improvements, including underground utilities, which are to remain in place within and adjacent to the right-of-way, from damage resulting from operations. In the event that an improvement is damaged, the Contractor shall immediately notify its owner and the Public Works Services Manager of such damage, and the improvement shall immediately be restored to its original condition to the satisfaction of its owner, either by the owner or Contractor, at the option of the owner, at the Contractor's expense.
- C. It is anticipated that nuisance waters, such as stormwater runoff and irrigation water, will run in and across the right-of-way at various times throughout the period of construction. It shall be the responsibility of the Contractor, at their own expense, to provide for and protect the work from such waters. In addition, the Contractor's responsibility shall include handling nuisance waters so that their operations do not cause them to damage existing improvements or properties adjacent to or near the site of the work.
- D. At the completion of the contracted activities, the Contractor shall clean up the site of the work and leave it in a neat and orderly condition, free from trash, debris, and excess construction materials and other objectional matter, all to the satisfaction of the City.

14. Working Days

Any day except Saturday, Sunday, or legal holidays and days on which the Contractor is specifically required by the special provisions, by his labor contract, or by law to suspend construction operations. Also expected is any day on which the Contractor is prevented by inclement weather or conditions resulting therefrom, from proceedings with at least 75 percent of the normal labor and equipment forced for at least five hours toward completion of the current controlling operations.

15. Time of Completion

The Contractor shall complete all fieldwork in every detail at the locations within the dates specified by the Public Works Services Manager. The Contractor shall not perform any fieldwork prior to said date.

16. Traffic Control

Traffic control is paramount to the successful completion of landscape maintenance operations. The Work Area Traffic Control Handbook (W.A.T.C.H.), Latest Edition, shall be the reference document for establishing traffic control and detours for this project.

17. Standard Drawing

Unless otherwise noted on the plans, all standards to be used in tree planting shall be the latest edition of the City of Chino Standard Drawings and Specifications and the Pruning Standards for The Western Chapter of the International Society of Arboriculture.

18. Permits

If needed, City construction permits shall be provided to the Contractor by the City at no expense to the Contractor. A City of Chino lane/roadway closure application and permit is required for any maintenance activities that require the closing of any City street or traffic lane. The application shall include a detailed plan of the Contractor's proposed traffic handling setup. The plan must be approved by the City's Traffic Engineer and a permit issued no less than seven days prior to the beginning of operations or construction.

19. Scheduling of Work

The contractor shall, prior to commencing work, submit and gain approval of a weekly work schedule indicating the order and location of work. The general hours of operations shall be 8:30 a.m. to 3:00 p.m. on major streets and 7:00 a.m. to 4:00 p.m. on residential streets with respect to any chipping, cutting, or other operations generating harsh or unusual noise. The days of operations shall be Monday through Friday. No work shall be performed on Saturday or Sunday, unless approved by the Public Works Services Manager or designee.

20. Scheduling of Services

The Schedule of Services (Exhibit D) identifies the minimum service levels required. In no event shall the contractor provide maintenance less than those identified period. However, increased services may be required at times to provide an acceptable level of service and to promote healthy and vigorous growth and to improve the aesthetic value of the plant material at no additional cost.

21. Turf Mowing

Turf in this Agreement shall be mowed with “reel” or “Rotary.” The mowers shall be maintained so as to provide a smooth even cut without tearing. The reel or blade adjustment will provide a uniform, level cut without ridges or depressions. Recycler mowers shall only be used upon acceptance by the Public Works Services Manager.

22. Frequency

Mowing shall be performed at such intervals of time so that no more than one-third of the grass blade is removed during each mowing and returning the grass to the accepted height for the species of grass being mowed, but at intervals of no less than described in the Schedule of Services. Inclement weather may preclude adherence to the Schedule of Services. The Contractor may request alteration of this mowing frequency from the Public Works Services Manager for reasons of rain or prolonged cold period. Work shall be performed on the same day each week. All mowing missed during due to inclement weather shall be rescheduled and completed within three (3) work days. Any mowing missed and not completed during the week shall be deducted from the monthly billing statement.

23. Cutting Heights

Cutting heights shall be adjusted according to the predominate type of grass, in accordance with the following:

Turfgrass Species	Mowing Height
Perennial Rye	1.5 to 2.5
Tall Fescue	1.75 to 2.5
Bermuda	.25 to 1.0
St. Augustine	2.0 to 3.0

24. Clipping Pick-Up

All grass clippings shall be collected and removed from the site prior to the completion of that day's mowing operations or the end of the day, whichever occurs first.

25. Artificial Turf Maintenance

The artificial turf will be maintained twice a week on Mondays and Thursdays using the rake and/or leaf blower to remove debris, such as leaves and sticks. Use proper pesticides to keep pests from damaging the artificial turf and infill. Use weed control treatment on an as needed basis. Use a stiff broom or wide bristle airbrush to redistribute any infill that has washed out.

26. Waste Disposal

All glass, leaves, paper, and other debris shall be removed and disposed of off-site prior to mowing.

27. Clean Up

All walkways, roadways, trails, or other areas dirtied by mowing operations shall be cleaned and all debris disposed of off-site prior to the completion of that day's mowing operations or the end of the day, whichever occurs first. All debris generated from the Contractor's operations shall be picked up and disposed of off-site that debris shall be blown into the streets and roadways.

28. Edging

All turf grass borders shall be neatly and uniformly edged or trimmed concurrent with every mowing.

29. Mechanical Engineering

Mechanical methods shall be used except where physically not possible or practical.

30. Chemical Engineering

Chemical applications shall be used on areas such as planters, buildings, around trees, along asphalt trails/paths, around sports field equipment, fence lines, around sprinkler heads, etc. Chemical edging will only be permitted where mechanical methods are impossible. Prior to the application of chemicals, all areas shall be trimmed to the proper heights. Contractor shall use non-restricted chemicals only to perform chemical edging.

31. Hardscape Cleaning

All hard surface areas shall be thoroughly swept/blown or vacuumed to be maintained in a clean and safe condition. The Contractor shall be responsible for thoroughly cleaning all hardscape areas concurrent with mowing operations.

32. Extraordinary Maintenance

Additional turf maintenance operations may be required and may be considered as extraordinary work if it is caused by any of the following:

- A. Acts of God
- B. Civil Disorder
- C. Vehicle Collision
- D. Vandalism
- E. Storm or Weather Activity
- F. Tree Spray/Inspect Infestation

The Contractor shall respond within one hour to emergency calls when directed by the City.

33. Chemical Application

Chemicals shall be recommended and approved by the Public Works Services Manager or designee prior to use. Unless otherwise approved by the Public Works Services Manager or designee, only non-restricted chemicals shall be used. A Notice of Intent to apply Non-Restricted/Restricted Materials Form (Attachment 1) shall be completed and submitted to the Public Works Services Manager or designate a minimum of seven days prior to intended use. No chemical applications shall be performed until the Public Works Services Manager's or designee's approval is obtained, and a Notice of Intent is filed to the San Bernardino County Department of Agriculture. Failure to obtain authorization from the City may result in a \$500.00 per instance deduction. The Contractor is responsible for any and all permits required by the County.

34. License and Certificate

Chemicals shall only be applied under the supervision of persons possessing a valid pest control advisors license and shall be applied only by certified applicators. Records of all chemical application operations, authorization stating dates, times, methods of applications, chemical

formulations, applicators name and weather conditions at the time of application shall be made and retained in an active file for a minimum of two (2) years. After this period, records shall be retained in accordance with the San Bernardino County Department of Agricultural Regulations.

35. Drift

Chemicals shall be applied to limit drift to six (6) inches. All precautionary measure necessary to ensure public and worker safety shall be employed since all areas will be open for public access during application.

36. Public Notices

Contractor shall be responsible for posting all notices when chemicals are applied. All notices shall be in accordance with Chemical Product Labels and Department of Agriculture Regulations.

37. Irrigation Schedules

Irrigation shall be accomplished in accordance with the following time frame:

- A. All City Maintained Parkways 10:00 p.m. – 6:00 a.m.

Contractor is required to submit irrigation schedules for all areas maintained under this Agreement. The schedule shall include the following: station number, water time, cycles start time, and any damage/repair to the system. **Schedules are due monthly. Failure to submit the schedules may result in a \$200.00 penalty per incident.**

38. Plant Irrigation Requirements

Contractor shall monitor the requirements of the plant material, soil conditions, seasonal temperature variation, wind conditions and rainfall and recommend appropriate changes in duration of watering cycles. All landscaped areas shall be irrigated as required to maintain adequate growth and appearance. No actual changes will be implemented without the prior approval of the Public Works Services Manager or designee.

39. Special Watering

Special watering required during daytime hours and for landscape areas without automatic controllers such as after fertilization, irrigation checks and during periods of extreme dryness or heat, and during manual irrigation cycles shall be conducted in accordance with the following criteria:

- A. Prior approval must be given by the Public Works Services Manager or designee.
- B. There shall be minimal drift onto private property or roadways caused from wind.
- C. There shall be no interference with other field maintenance activities, special event activities, or public usage.
- D. There shall be irrigation personnel present at each location until the watering cycle is completed.

40. City Requests

Contractor shall respond withing thirty (30) minutes for emergency shutdowns as requested by the City to turn off any malfunctioning irrigation system, particularly stuck irrigation valves are broken sprinkler heads. Contractor shall respond within an hour to emergency repairs as requested by the City. Requests for routine repairs and replacements shall be completed within

24 hours. Contractor shall also be responsible to turn off all controllers during conditions of extended rain and forecasted rain events.

41. Damages from Irrigation

All damages resulting from under or over watering shall be repaired at the Contractor's expense.

42. Irrigation System Components

The entire irrigation system, including all components from the connection at meters shall be maintained in an operational state at all times. This coverage applies to all backflow devices, controllers, remote control valves, gate valves, main and lateral lines, sprinkler heads, and moisture sensing devices. The Contractor shall bear the labor and material costs for all routine irrigation repairs and replacements, such as replacement of non-functioning sprinkler heads and nozzles, replacements of missing valve box lids, and minor repairs to irrigation valves and controllers. Routine repairs and replacements are not considered extra work. **Any irrigation component that needs to be replaced must be exchanged with the most current high efficiency product. All new high efficiency products must be approved by the Public Works Services Manager or designee before installation.**

The Contractor shall have on hand at all times one spare irrigation controller for each model used within the City. Upon discovery of a controller failure, if the Contractor is unable to immediately repair damage to the controller, the Contractor shall remove the damaged controller and temporarily install the spare one. The damaged controller shall be taken to a reputable controller repair shop for diagnosis and repair. The cost of furnishing and installing the spare controller, the cost of removing the damaged controller, the cost of transporting the damaged controller to a repair shop, and the cost of obtaining repair to the original controller is all to be included in the proposal price for maintenance. The labor cost for reinstalling the repaired controller, or a new one, if the original controller cannot be repaired, shall be at no additional cost to the City. If a controller malfunctions and the Contractor does not have a temporary one to replace it, the Contractor will be responsible for watering the site by hand. The Contractor shall bear the cost of any damage to the plant material caused by sufficient irrigation maintenance up to and including replacement.

43. Compliance with AB 325 "Model Water Irrigation Ordinance"

Contractor shall be required to comply with all restrictions associated with Assembly Bill 325. To include audits and efficiency standards for all landscape areas.

44. Trained Personnel

Contractor shall provide competent personnel fully trained in all phases of irrigation systems operation, maintenance, and repair; for all irrigation components, including electric and battery-operated controllers, valves and sprinkler heads. Personnel shall be knowledgeable and competent with all brands and models of irrigation equipment.

45. Irrigation System Testing

All irrigation systems shall be tested and inspected a minimum of once per month.

- A. A schedule shall be submitted at the start of this Agreement showing the location, day of the week, and time of day that each system will be tested and operated. Any changes shall

be submitted for approval prior to enactment.

- B. Adjust all sprinkler heads for optimum performance to prevent overspray/runoff onto walks and roadways as much as possible. This shall include selecting the best degree of arc to fit the existing site conditions.
- C. All system malfunctions, damage, and obstructions shall be reported and action taken immediately.
- D. In addition to monthly testing, all irrigation systems shall be tested and inspected as necessary when damage is suspected, observed, or reported, daily if necessary.
- E. A report listing the results of monthly testing shall be included with the monthly irrigation schedules.

46. Weed Control

A regular program of pre-emergent chemical application shall be used to control weed growth, supplemented by hand removal of noxious weeds or grasses as necessary.

47. Weeding

Weeding shall be done regularly to avoid establishment of weeds. Weeding shall be performed both chemically and mechanically at the discretion of the Public Works Services Manager or designee.

48. Weed Removal

Contractor shall be responsible to maintain the turf areas in “weed free” condition. Chemical control of broadleaf weeds shall be employed as often as necessary to maintain “weed free” condition. In addition, turf grasses shall be treated as follows:

- A. Between January 15 and February 15, a pre-emergent crabgrass control compound shall be applied to all fescue areas.
- B. Between November 1 and November 30, a broadleaf pre-emergent weed control compound shall be applied to all areas.
- C. Twice per year, a broad-spectrum fungicide shall be applied at the manufacturers recommended coverage rate in December and June.
- D. Post emergent will be used as necessary to keep turn in “weed free” condition year-round.

49. Spray Pattern Indicator

A spray pattern indicator (colorant) may be used with all chemical weed control applications, whether pre-emergent or post-emergent as directed by the Public Works Services Manager or designee. The color must be approved by the City.

50. Broadleaf Weeds

Chemical control of broadleaf weeds shall be employed as often as necessary to maintain turf areas in a “weed free” condition.

51. Medians and Sidewalks

Medians and sidewalks are maintained in a weed free condition. This includes the removal of weeds in all paved, unpaved, and artificial turf surfaces of medians and sidewalks boundaries and in joints, cracks or crevices within or adjoining the curb and gutter areas surrounding the

common landscape areas. Sidewalks are to be kept clean at all times. All hardscape areas are to be thoroughly blown off each week.

52. Turf Fertilizer

All turf will be fertilized in accordance with the following criteria when granular fertilizer is used. Except as amended by the Public Works Services Manager or designee, when granular fertilizer is used, all turf areas will be fertilized in accordance with the following criteria:

Type	Formula	Rate	Cycle
Bluegrass	Turf Gold 22-5-6	1 lb. Nitrogen per 1000 sq. ft.	90 Days
Bermuda	Turf Gold 22-5-6	1 lb. Nitrogen per 1000 sq. ft. (March – Nov)	90 Days
Fescue	Turf Gold 22-5-6	1 lb. Nitrogen per 1000 sq. ft.	90 Days
St. Augustine	Turf Gold 22-5-6	1 lb. Nitrogen per 1000 sq. ft. (March – Nov)	90 Days

53. Schedule Changes

All proposed changes shall be submitted to the Public Works Services Manager or designee prior to use. All fertilization schedules shall commence on the effective date of the Agreement then follow the cycles established in the Schedule of Services. The Public Works Services Manager or designee must be notified of the exact date/time of scheduled fertilization at least fourteen (14) working days prior to the start of fertilization.

Turf shall be free of moisture at the time of fertilizer application. Application of the fertilizer shall be done in sections, determined by areas covered by each irrigation system. All areas fertilized shall be thoroughly soaked immediately after the fertilizer is broadcast.

All turf areas shall be fertilized in accordance with the following criteria when liquid fertilizer is used.

54. Liquid Fertilizers

All liquid concentrate fertilizer formulation shall be approved prior to the use by the Public Works Services Manager or designee. All liquid concentrate fertilizer shall be water soluble, emulsifiable, and shall be capable of remaining suspended in water until the fertilization cycle is completed liquid fertilizers shall be applied at a rate specified by the manufacturer.

55. Fertilizing Ground Cover Areas

All ground cover areas will be broadcast balanced fertilizer (Landscape Color 14-14-14) as described in the Schedule of Services during the first week of April and the first week of November and shall be applied at a rate required by the manufacturer. Application of additional fertilizers may be required in order to maintain plant material in a healthy condition.

56. Tree and Shrub Areas

Fertilization of all trees and shrubs shall be done as described in the schedule of services in April and November with the balanced fertilizer (Landscape Color 14-14-14). Fertilizers will be applied within drip line of all trees when applicable. Trees within narrow planting strips will be fertilized with an approved root feeder, fertilizing as much of the area as possible within the drip line.

57. Application

Fertilizer shall be broadcast by mechanical methods only. Fertilizer shall not be directly applied by hand.

58. Overseeding/Reseeding

Overseeding (March) vs. Reseeding (October): Overseeding is panting grass seed over existing turf, while reseeding is starting a new lawn from scratch.

All turf areas shall be overseeded to reestablish to an acceptable condition annually between March 30 and April 30 the Public Works Services Manager or designee must be notified of the exact date/time of scheduled seeding fourteen (14) calendar days prior to the start of any overseeding. Overseeding shall be performed in accordance with the following criteria:

- A. All areas to be overseeded shall be raked or verticut cut to remove all thatch and to provide a rough seedbed suitable for seeding.
- B. Areas to be reseeded shall be fertilized to provide one (1) to one and one-half (1-1/2) pounds of nitrogen per thousand square feet. Chemical formulation of fertilizer to be used shall be (Endure 16-16-16) unless otherwise specified by the Public Works Services Manager or designee.
- C. A fescue grass seed shall be applied at the rate specified on the label for the type of seed being used for reseeding. Seed quality shall meet the minimum requirements established by the San Bernardino County Department of Agriculture. No seed shall be applied without prior verification of seed quality by the Public Works Services Manager or designee.
- D. Once seed has been applied, Contractor shall cover all seed and firm the soil with a water ballast roller either empty or partially filled depending upon soil condition. Seed shall then be lightly covered with top soil to prevent erosion and reduce evaporation of soil moisture.
- E. In addition, bare or sparse turf areas shall be reseeded by the Contractor on an as needed basis, at the request of the City.
- F. Winter overseeding of seasonal turf grass, such as Bermuda, Kakuya, and St. Augustine, will be required using a perennial rye. Cost of overseeding shall be included in the contracted price. Overseeding shall not follow dethatching or aeration by more than five (5) calendar days.

59. Dethatch/Scalping

Unless otherwise directed by the Public Works Services Manager or designee, all turf areas shall be detached/scalped a minimum of once per year between October 1 and November 30. Dethatching shall be accomplished by use of a "vertical cut type" dethatch machine. The degree of thatch removal shall be determined by the Public Works Services Manager or designee immediately prior to the start of dethatching operations. All thatch and debris shall be picked up

and disposed of off-site prior to the end of the workday. Scalping shall be accomplished by mowing turf as low as possible before reseeding.

60. Aeration

All turf areas shall be aerated a minimum of two times per year, once between March 15 and April 15, and once between October 15 and November 15. Aeration shall be accomplished by removing 5/8" diameter by 4" deep cores at a maximum spacing of 4" by use of a mechanical aeration machine. Contractor shall aerate the entire area first in one direction (east to west) then repeat the operation in the opposing direction (north to south). All cores shall be removed from the turf and disposed of off-site or thoroughly pulverized within 24-hours after aerating. All trails, roadways, walkways, etc., impacted by miscellaneous turf maintenance operations shall be thoroughly cleaned at the conclusion of the operation or the end of the day whichever occurs first. Contractor shall be responsible for the disposal of dethatch and aeration debris.

61. Pruning

All shrubbery shall be pruned, trimmed, thinned, and suckers removed to properly contain their size with respect to species, size of planters, and the best health of the plant and/or as described in the Schedule of Services.

62. Shrubbery Replacement

The Contractor shall be responsible for the complete removal and replacement of shrubbery lost due to the Contractor's faulty maintenance or negligence, as determined by the Public Works Services Manager or designee.

63. Pruning Schedule

Shrubs and vines shall be pruned and trimmed as needed, using sound horticultural techniques. Shrubs and vines shall be maintained within the limits of confined areas (i.e., narrow medians, walkways, fences, etc.) so as not to encroach on same.

In addition, all shrubs and vines shall be trimmed to maintain horizontal clearance along all walkways, trails and fence lines to prevent encroachment onto private property and to remove dead, damaged or diseased plant material.

64. Fertilization

Contractor shall use a balanced fertilizer in shrub areas as requested in the Schedule of Services.

65. Cultivation and Mulching

Contractor shall cultivate around shrub and tree areas and tree wells sufficiently and often enough to control weed growth and maintain existing irrigation and drainage ditches. Mulch is also required to be applied in all open areas as requested by the Public Works Services Manager or designee. Mulch shall be applied 3" in depth evenly throughout the landscape area and will be supplied by the Contractor.

66. Irrigation (Deep Watering)

Deep watering shall be defined as the application of sufficient quantities of water to maintain reasonably healthy vigor of plants. Basin modifications may be required. Quantities of water

shall be sufficient to allow for deepwater penetration and encouragement of deep rooting of the plants.

67. Renovation

Ground cover plantings shall be thinned and pruned for the health of the planting and the appearance of the site and at such other times when directed by the Public Works Services Manager or designee.

68. Edging

Beds shall be maintained within their intended bounds and shall not be permitted to encroach into lawns, shrub beds or adjacent areas or in any manner deemed undesirable by the Public Works Services Manager.

69. Replanting

Replanting shall be required throughout the contract period in order to maintain the continuity of the ground cover area. Replacement plants will be provided by the City, and the Contractor shall be responsible for providing the labor at no additional cost to the City. If planting is required due to Contractor's negligence, Contractor shall be responsible for all plants and labor at no cost to the City.

70. Irrigation after Planting

All areas planted in ground cover shall be immediately adequately irrigated to maintain the planting in a healthy condition.

71. Trimmings

All trimmings shall be removed from the premises on the day of renovation and edging work.

72. Drains and Grates

All concrete "v" drains to include the portion under the sidewalk shall be kept free of vegetation, debris and algae to allow unrestricted water flow. All other drainage facilities shall be cleaned of all vegetation and debris. All grates shall be tested for security and refastened as necessary. Missing or damaged grates shall be reported to the Public Works Services Manager or designee immediately.

73. Hard Surface Areas

All hard surface areas shall be thoroughly cleaned a minimum of two times per week or more often, if necessary, to maintain in a clean and safe condition.

74. Disease and Pest Control Inspections

The Contractor shall regularly inspect all landscaped areas for the presence of disease, ants or other insect infestation. The Contractor shall advise the Public Works Services Manager or designee within 24-hours if disease or insect infestation is found; and shall identify the disease or insect and specify control measures to be taken; and upon written approval of the Public Works Services Manager or designee shall implement the approved control measures exercising extreme caution in the application of all spray materials, dusts or other materials used.

75. Use of Chemicals

The Contractor shall submit a list of all chemicals herbicides and pesticides proposed for use under this contract for approval by the Public Works Services Manager or designee. Materials included on this list shall be limited to chemicals approved by the State of California Department of Agriculture and shall include the exact brand name and generic formulation. The use of any chemical on the list shall be based on the recommendation of a Licensed Pest Control Advisor and shall conform to the current San Bernardino County Department of Agriculture regulations.

No chemical herbicide, rodenticide, or pesticide shall be applied until its use is approved in writing by the Public Works Services Manager or designee as appropriate for the purpose of the areas proposed. Restricted materials can only be used by a licensed applicator possessing a restricted materials applicator permit as issued by the State Department of Agriculture.

A Notice of Intent to apply restricted/non-restricted materials form must be submitted to the Public Works Services Manager or designee before application of material(s).

A monthly report shall include a statement of all applications of herbicides and pesticides detailing the chemical used, quantity, rate of application, area in which used and the purpose of the application.

76. Disease and Pest Control Approval

Approved control measures shall continue until the disease or insect is controlled to the satisfaction of the Public Works Services Manager or designee. The Contractor shall utilize all safeguards necessary during disease or insect control operations to ensure safety of the public and the employees of the Contractor.

77. Rodent Pest Control

The Contractor shall provide complete and continuous control and/or eradication of all plant pests/rodents diseases. The Contractor shall select and supply proper materials and licensed personnel and obtain all necessary permits to comply with City, County, State, and Federal laws and regulations. Contractors will assume responsibility and liability for the use of all chemical contracts as per Senate Bill 198.

All gopher mounds are to be removed from turf and landscape areas on a daily basis. Soil from gopher mounds shall be raked until surrounding soil is level. Any gopher mound not removed from site within 24-hours shall be deemed as non-performance of rodent pest control. An amount of \$200 for unmaintained rodent pest control for that site will be deducted from the monthly billing statement.

78. Notification of Material Loss

The Contractor shall notify the Public Works Services Manager or designee within 24-hours of the loss of plant material due to any cause. Any plant that dies and not reported shall become the responsibility of the Contractor for replacement.

79. Replacement Responsibilities

The Contractor shall be responsible for replacement of turf, annual plants, trees, shrubs, ground cover and soil as deemed necessary due to Contractor's negligence. The size and species of

replacement of these items shall be as directed by the Public Works Services Manager or designee.

80. Unforeseen Damages

All landscape plants and material damaged due to acts of God, vandalism or vehicular accidents shall be supplied by the City at the City's expense and the Contractor shall install at no additional cost to the City.

81. Specific Plant Replacements

In order to ensure maximum health, growth and overall aesthetic appearance of plantings in the work area, it may be desirable and necessary to replace certain plants. The necessity or desirability of such plant replacements shall be determined by the Public Works Services Manager or designee. Where such replacements are to be made, all plants will be provided by the Contractor at cost (or provided by the City at no cost to the Contractor) and installed by the Contractor at no additional cost to the City. It is anticipated that annuals will be replaced a minimum of three times per year.

82. Plant Removals

Except for emergency removal, no trees, shrub/ ground cover/turf shall be removed from the areas being maintained without prior approval of the Public Works Services Manager or designee.

83. Replacement Parts

The Contractor shall maintain a stock (at Contractor's expense) of high usage items for repair or replacement (i.e., irrigation parts, tree stakes, ties, etc.).

84. Contractor Generated Trash

The Contractor shall promptly remove from the work area all debris generated by the performance of the work specified herein.

85. User Generated Trash

The Contractor shall be responsible to remove all trash and debris in accordance with the Schedule of Services. Other litter and debris found within the contract areas is also to be removed by the Contractor, including the removal of flyers, decorations and advertisements from light poles, irrigation controllers and electrical boxes.

86. Green Waste

The Contractor is required to manage all of the green waste generated by the performance of the work specified herein. Green waste may be turned into mulch, and provided at no additional cost back to the City for use in ground cover areas.

87. Storm Drain Training

In instances where applicable Municipal Operations are performed by contract staff, the City requires evidence that contract staff have received Storm Water training by a Certified Trainer or training provided by the City of Chino.

88. Exclusions

Contractor will be responsible for the removal of graffiti on irrigation controllers

The Contractor will not be responsible for the maintenance of the following items during the term of the contract; however, any deficiencies in these areas are to be brought to the immediate attention of the Public Works Services Manager or designee.

- Buildings
- Lighting Facilities
- Restrooms
- Flag Poles
- Replacement of trash cans
- Walls
- Fences
- Graffiti removal on buildings, walls and fences*
- Railings
- Monuments
- Signs
- Flags or Banners

89. Redevelopment, Construction or Reconstruction

Where redevelopment, construction or reconstruction may involve any portion of an area under these specifications, the Public Works Services Manager or designee may delete a portion of or the entire site from contractual maintenance during the construction and plant establishment period. The deletion of this portion of work shall be reflected in the monthly reimbursement to the Contractor per the unit prices submitted in the schedule of unit prices required above, or agreed upon by the City and Contractor.

90. Daily Activity Maintenance Reports

Daily activity maintenance reports shall be required from the Contractor indicating the scope of work along with location of the intended work. All staff performing work must be listed on the report, by location. The format of the daily activity maintenance report must be approved in advance by the Public Works Services Manager.

91. Hazardous Conditions

The Contractor shall maintain all work sites free of hazards to persons and/or property resulting from its operations. Any hazardous condition noted by the Contractor which is not a result of his operations shall immediately be reported to the Public Works Services Manager.

92. Restricted Materials Applicators License

The Contractor shall be responsible for appropriate personnel having a valid and current Qualified Applicators Certificate for the work described in these specifications. Any use of restricted materials shall be in strict accordance with the State Agriculture Rules and regulations.

93. Extra Work

Extra work is defined as scheduled renovations and extraordinary work required by changes in the details of work shown on the specifications. Unless otherwise noted, compensation for extra work shall be set at the rate(s) as specified in the Compensation Schedule for Extra Work. The

City is not compelled to award extra work to the Contractor. In some instances, additional proposals may be solicited by other vendors, or the work may be accomplished by City staff.

No work of any kind shall be considered as extra unless separate authorization is issued by the City for said work before work commences. In the event the Contractor is required by the City and agrees to perform extra work the following will govern such work.

- A. An estimate of the costs shall be submitted for approval prior to work being done. The Contractor shall maintain records sufficient to distinguish the direct cost of all extra work operations and shall furnish reports itemizing all costs for labor, materials, and equipment rental. The report shall include hours worked. The following procedure will govern extra work.
 - a. Work will be executed under the direction of the Public Works Services Manager on a time and materials basis or an agreed upon lump sum price depending on the nature of the work.
 - b. City will issue a work request for such extra work to be performed.
 - c. Extra work will not be initiated without City authorization.
 - d. Contractor must complete extraordinary work utilizing staff not assigned to the City performing regular daily routine maintenance.
 - e. Extra Work may include, but not be limited to, the following:
 - i. Replacement of plant materials due to failures beyond the Contractor's responsibility.
 - ii. Replacement of sprinkler heads, valves, and quick couplers due to vandalism or Acts of God.
 - iii. Landscape and irrigation systems renovations.
 - iv. Remedial landscaping.

The Contractor shall be required to begin extra work promptly once authorization is obtained.

94. Inspections

- A. City/Contractor Inspections
 - a. The inspection and administration of the contract work will be made by the Inspector supported by the Public Works Services Manager. Any and all questions arising regarding the performance of the work shall be directed to the Inspector. If the question cannot be answered, or if the answer is unacceptable, it will be referred by the Inspector to the Public Works Services Manager.
- B. City Inspections
 - a. The Contractor shall accompany the Inspector, on an inspection tour of all areas of responsibility once each week, whereupon any maintenance deficiencies will be noted. All deficiencies noted on this report are required to be corrected prior to the following week's meeting. Additionally, the Contractor shall accompany the Public Works Services Manager on inspection tours at the request of the Public Works Services Manager.
 - b. All deficiency notices and calculations of payment deductions shall originate with the Inspector and be authorized by the Public Works Services Manager.
- C. Inspections/Administration Cost Limitation
 - a. The inspection and administration criteria stated below shall comprise the maximum amount of City staff time required for this contract.
 - b. The cost for all time in excess of the stated criteria required due to inadequate

level of landscape maintenance and poor administrative preparation on the part of the Contractor, shall be deducted and forfeited from payments. The stated criteria shall be exclusive from excessive damage from outside sources beyond the Contractor's control requiring additional inspection and administration.

- c. The actual cost computation shall be made using Maintenance Contract Inspector salary inclusive of direct and indirect overhead at the time costs are incurred.
- d. The Public Works Services Manager or Inspector shall maintain an accurate log of inspection and administrative time for computing costs. The log will be available upon demand for review by the Contractor.

D. Independent Inspections

- a. The City may utilize a mutually acceptable horticulturist or arborist to examine and inspect the landscape areas to assist the Public Works Services Manager in assessing the quality of Contractor's maintenance.

95. Payment

Payment shall be made to the Contractor monthly for all work performed to the satisfaction of the Public Works Services Manager within 30 days of invoicing by the Contractor. The Contractor shall be required to provide one monthly invoice for all work performed. All requests for payment of Damage Repair or Extra Work must be accompanied by the City's written request for such services. All work not billed to the City within thirty (30) days of completion by the Contractor shall be subject to nonpayment by the City.

Billing is to be by address and include tree species, ward, caliper, variety (botanical and common), trim date, condition and appropriate data acceptable to the Public Works Services Manager. The computer format shall be Tree keeper or Microsoft Excel at the discretion of the Public Works Services Manager.

96. Payment Withheld/Deducted

The City may withhold and/or deduct payment to such extent as may be necessary to protect the City from loss due to:

- A. Work required in the specifications which is defective, incomplete or not performed.
- B. Claims filed or reasonable evidence indicating probable filing of claims for damages caused by the Contractor to private or public property.
- C. Failure of the Contractor to make payments properly to employees, subcontractors or vendors for materials or services provided.
- D. Expenses incurred by the City to perform work required in the specifications that is defective, incomplete or not performed.
- E. Failure to participate in and respond to the scheduled Maintenance Inspections.
- F. Costs incurred by the City due to extra administration costs for additional inspections and subsequent correspondence/notifications.
- G. Failure to submit monthly/quarterly schedules and reports.

These actions shall not be construed a penalty but as an adjustment of payment based on the work actually performed, or as the cost of the City for inspection and other related costs from the failure of the Contractor to complete the work according to schedule. One Hundred Dollars (\$100.00) per day may be deducted from monthly payments for every day that schedules are not submitted to the City.

97. Supervision by Contractor

The Contractor Representative shall be within the City's limits to supervise and or inspect all work being performed to the satisfaction of the City Representative. Contractor Representative shall provide efficient supervision to the work, using his best skill and attention and shall provide and keep on the work site at all times during its progress a competent crew leader/foreman and any necessary assistants. All directions of the Inspector or his authorized representative shall be received and obeyed by the crew leader/foreman in charge of the particular work; and all such directions given shall be as binding as if given to or by the Contractor in person. The Contractor shall be required to have personnel in the City Monday through Friday during regular business hours.

98. Access to Work

The Public Works Services Manager's authorized representative shall at all times have access to the work and shall be furnished with every reasonable facility for acquiring full knowledge respecting the progress, workmanship, and character of materials used and employed in the work.

Whenever the Contractor varies the period during which work is carried out, they shall give due notice to the Public Works Services Manager so that proper access for inspection may be provided. Any inspection of work shall not relieve the Contractor of any obligations to fulfill the contract as prescribed.

99. Maintenance Deficiencies

The Public Works Services Manager shall report maintenance deficiencies to the Contractor's representative. All maintenance deficiencies shall be corrected within forty-eight (48) hours. Any deficiencies not completed within the 48 hours will result in a deduction from pay. The Contractor shall keep records of actual work performed. The Contractor shall also be responsible for notifying the Public Works Services Manager or designee of all maintenance deficiencies on a weekly basis.

100. Disposal of Material

Excavation material determined as unsuitable fill material by the Public Works Services Manager shall become the property of the Contractor and shall be legally disposed of outside the site of the Work by and at the expense of the Contractor. The Contractor is required to dispose all green waste generated by the performance of the work specified herein.

101. Specifications on the Work

The Contractor shall keep one copy of all specifications and drawings on the work site in good order, accessible to the Public Works Services Manager and his representatives.

102. Removal of Obstructions

The Contractor shall remove and dispose of all structures, debris, or other obstructions to the construction of the work as specified. Where such obstructions consist of improvements not required by law to be removed by the owner thereof, all such improvements shall be removed, maintained and permanently replaced by the Contractor at his expense as required for performance of the work.

103. Interpretation of Plans and Specifications

Should it appear that the work to be done or any matter relative thereto is not sufficiently detailed or explained by the specifications, the Contractor shall apply to the Public Works Services Manager for such further explanation as may be necessary and shall conform to such explanation or interpretation as part of the contract so far as may be consistent with the intent of the original plans and specifications. In the event of any discrepancy between any drawing and the figures written thereon, the figures shall be taken as correct.

104. Errors or Discrepancies Noted by the Contractor

If the Contractor, either commencing work or in the course of the work, finds any discrepancy between the specifications and the drawings, or between the physical conditions at the site of the work, or finds any error or omission in any of the specifications, or in any survey, he shall promptly notify the Public Works Services Manager in writing of any such discrepancy, error, or omission. If the Contractor observes that the specifications are at variance with any applicable law, ordinance, regulation, order or decree, contractor shall promptly notify the Public Works Services Manager in writing of such conflict.

The Public Works Services Manager on receipt of any such notice shall promptly investigate the circumstances and give appropriate instructions to the Contractor. Until such instructions are given, any work done by the Contractor, either directly or indirectly, after his discovery of such error, discrepancy, or conflict, will be at his own risk, and he shall bear all costs arising therefrom.

105. Public Representation by Contractor

The Contractor's representative shall contact the City's representative daily to submit work-reporting forms, convey messages, return telephone calls to the public, schedule field reviews, etc. The Assistant Public Works Services Manager's working hours are 6:00 a.m. to 5:00 p.m., Monday through Friday. The Assistant Public Works Services Manager can be contacted by phone at (909) 334-3266.

106. Temporary Suspension of Work

The Public Works Services Manager shall have the authority to suspend the work, wholly or in part, for such period as he may deem necessary, due to unsuitable weather or to such other conditions as are considered unfavorable for the suitable prosecution of the work, or for such time as he may deem necessary due to the failure on the part of the Contractor to carry out orders given or to perform any provisions of the work. The contractor shall immediately comply with the written order of the Public Works Services Manager to suspend the work wholly or in part and shall not resume the work until ordered to do so in writing by the Public Works Services Manager.

In the event a suspension of work is ordered because of failure on the part of the Contractor to carry out orders given or to perform any provisions of the work, such suspension of work shall not relieve the Contractor of his responsibility to complete the work within the time limit set forth herein and shall not be considered cause for extension of the time for completion and, further, such suspension of work shall not entitle the Contractor to any additional compensation.

107. Final Clean Up

Upon completion and before making application for acceptance of any portion of the work, the Contractor shall clean the work site and all ground occupied by him in connection with the work of all rubbish, excess materials, temporary structures and equipment. All parts of the work area shall be left in a neat and presentable condition.

Care should be taken to prevent spillage on streets over which hauling is done, and any such spillage or debris deposited on streets due to the Contractor's operation shall be immediately cleaned up.

108. Suggestions to the Contractor

Any plan or method suggested to the Contractor by the Public Works Services Manager or inspector but not specified or required, if adopted or followed in whole or in part, shall be used at the risk and responsibility of the Contractor, and the City and the Public Works Services Manager will assume no responsibility therefor.

109. Emergencies

A. Emergency Response

- a. The Contractor shall have the capability to receive and to respond immediately to calls of an emergency nature during normal working hours and during hours outside of normal working hours. Calls of an emergency nature received by the City shall be referred to the Contractor for immediate disposition.

B. Emergency Work

- a. In the event that emergency work is required, the Contractor shall notify the Public Works Services Manager or representative by telephone in advance before any emergency work is commenced. Non-emergency maintenance work requires written approval before the work is performed.

C. Emergency Personnel

- a. In situations involving an emergency after normal work hours, the Contractor shall dispatch qualified personnel and equipment to reach the site within one (1) hour. Contractor's vehicle shall carry sufficient equipment to effect safe control of traffic. When the Contractor arrives at the site, the Contractor shall set up traffic warning and control devices, as needed, and proceed to repair the system on a temporary basis.
- b. The Contractor shall supply the City with name(s) and telephone number(s) of responsible person(s) representing the Contractor for twenty-four (24) hour emergency response. The above-mentioned information shall remain current at all times. Any changes shall be forwarded to the City in writing within twelve (12) hours of any such change.

D. Provision for Emergencies

- a. Unusual conditions may arise on the Work, which will require that immediate and unusual provisions be made to protect the public from danger or loss or damage to life and property, due directly or indirectly to the prosecution of the Work, and it is part of the service required of the Contractor to make such provisions and to furnish such protection.
- b. The Contractor shall use such foresight and shall take such steps and precautions as his operations make necessary to protect the public from danger or damage, or loss of life or property, which would result from the interruption or contamination

of public water supply, irrigation or other public service or from the failure of partly completed work.

- c. Whenever, in the opinion of the City, an emergency exists against which the Contractor has not taken sufficient precaution for the safety of the public or the protection of utilities or of adjacent structures or property which may be injured by process of construction on account of such neglect; and whenever, in the opinion of the City, immediate action shall be considered necessary in order to protect public or private personnel or property interests, or prevent likely loss of human life or damage on account of the operations under the contract, then and in that event the City may provide suitable protection to said interest by causing such work to be done and material to be furnished as, in the opinion of the City, may seem reasonable and necessary.
- d. The cost and expense of said labor and material together with the cost and expense of such repairs as may be deemed necessary shall be borne by the Contractor, and if he shall not pay said cost and expense upon presentation of bills therefor, duly certified by the Public Works Services Manager, then said cost and expense will be paid by the City and shall thereafter be deducted from any amounts due, or which may become due paid Contractor. Failure of the City, however, to take such precautionary measures shall not relieve the Contractor of his full responsibility for public safety.
- e. The foregoing provisions are in addition to and not in limitation of any other rights or remedies available to the City.

110. Contractor's Response

The Contractor must maintain telephone service so that all calls from the City to the Contractor have no toll charge. Failure to respond by telephone call or in person within one (1) hour of the City's attempt to contact the Contractor's representative may result in a \$200.00 penalty per incident. Failure to respond at any level will subject Contractor to any primary or secondary costs arising from said emergencies.

111. Complaint Requests

The Contractor must correct all complaint requests within forty-eight (48) hours. Failure to respond and correct as requested may result in termination of the contract.

112. Additions to the System

In the event that additional areas are added to the system or the City desires to add existing areas to the Contract, these may be added to the maintenance agreement at the rate(s) as specified in the Compensation Schedule for additions to the system. The City is not compelled to award new additions to the Contractor. In some instances, additional proposals may be solicited by other vendors, or the work may be accomplished by City staff.

113. Public Convenience

Construction and maintenance operations shall be conducted in such a manner as to cause as little inconvenience as possible to abutting property owners. Water or dust palliative shall be applied as necessary for alleviation or prevention of dust nuisance caused by the Contractor's operations. Convenient access to driveways, houses and buildings along the line of the work

shall be maintained at least each morning and evening and temporary approaches to crossings or intersecting streets shall be provided and kept in good condition.

114. Public Safety

The Contractor shall furnish, erect and maintain such lights, barricades, bridges, and other devices as are necessary to prevent accidents and avoid damage or injury to the public. Should the Public Works Services Manager point out the inadequacy of warning devices or should the Public Works Services Manager approve the location of warning devices, such action shall not relieve the Contractor of responsibility for public safety, nor abrogate his obligation to furnish and pay for these devices. Should it be determined, during hours other than work hours and the Contractor is unavailable, that the warning devices are inadequate, the City may furnish and erect such additional devices as may be necessary.

All construction signs to be used on the job site and on the approaches to the job site shall conform to those standards set forth by the State of California, Department of Transportation. Barricades shall be effectively reflectorized by having not less than one-half of the top board of the barricade covered with reflectorized sheeting surface. All warning flashers shall be kept in good working order.

No material or equipment shall be stored where it will interfere with the safe passage of public traffic, and at the end of each day's work and at other times when construction operations are suspended for any reason, the Contractor shall remove all equipment and other obstructions from that portion of the roadway open for use by the public traffic. Spillage resulting from hauling operations along or across any public traveled way shall be removed promptly.

Whenever the Contractor's operations require one-way traffic or create a condition hazardous to the public traffic, he shall provide and station competent flagmen whose sole duties shall consist of directing the movement of traffic through or around the work.

115. Notice and Service Thereof

Any notice required or given by one party to the other under the contract shall be in writing and shall be dated and signed by the party giving such notice or by a duly authorized representative of such party. Any such notices shall not be effective for any purpose whatsoever unless served in the following manner:

- A. Notice shall be given to the City by personal delivery thereof to the Public Works Services Manager or by depositing the same in the United States mail enclosed in a sealed envelope, registered, and with postage prepaid, addressed to: Public Works Services Manager, City of Chino, 5050 Schaefer Avenue, Chino, CA 91710.
- B. Notice shall be given to the Contractor by personal delivery thereof to said Contractor or to his authorized representative at the site of the project, or by depositing the same in the United States mail, enclosed in a sealed envelope addressed to said Contractor at the address established for the conduct of the work under this contract, postage prepaid and registered.
- C. Notice shall be given to the Surety, or any other person, by personal delivery to said Surety or other person, or by depositing the same in the United States mail, enclosed in a sealed envelope addressed to such Surety or persons at the address of said Surety or

persons last communicated by him to the party giving the notice, postage prepaid and registered.

115. Unforeseen Difficulties

All loss or damage arising out of the nature of the work to be done under the contract, or from any unforeseen obstruction or difficulties which may be encountered during the progress of the work and in the prosecution of the same, or from the action of the elements, or from encumbrances on the line of the work, shall be sustained by the Contractor.

The cost and expense of said labor and material together with the cost and expense of such repairs as may be deemed necessary shall be borne by the Contractor, and if he shall not pay said cost and expense upon presentation of bills therefor, duly certified by the Public Works Services Manager, then said cost and expense will be paid by the City and shall thereafter be deducted from any amounts due, or which may become due paid Contractor. Failure of the City, however, to take such precautionary measures shall not relieve the Contractor of his full responsibility for public safety. The foregoing provisions are in addition to and not in limitation of any other rights or remedies available to the City.

116. Existing Utilities

The Contractor shall notify Underground Service Alert at 811 at least 48 hours in advance of his intention to begin any work affecting existing utilities so that they may notify the affected utility companies. Whenever the improvement requires the relocation or replacement of an existing utility under the contract, this information will be shown on the contract drawing. Unless this notification is shown on the contract drawing, the Contractor shall assume that the utility is to remain in place or be relocated or replaced by others.

The utility companies listed below can be contacted as indicated:

- A. Southern California Gas Co. (800) 427-2000
- B. Southern California Edison (800) 655-4555
- C. Frontier (800) 921-8101
- D. Cable TV/Spectrum (888) 892-2253
- E. Water & Sewer/City Yard (909) 334-3266

Any difference or conflicts which may arise between the Contractor and such other forces or contractors because of delays or hindrance to each other, shall be adjusted and determined by the Public Works Services Manager. If the work of the Contractor is delayed because of any acts or omissions of any other contractor or force, the Contractor shall on that account have no claim for additional compensation or extra cost against the City.

117. Preservation of Property

Trees and shrubbery that are not shown on the plans to be removed, pole lines, fences, signs, survey markers and monuments, buildings, structures, conduits, pipelines and other improvements and facilities adjacent to the work shall be protected from injury or damage and if ordered by the Public Works Services Manager, the Contractor shall provide and install suitable safeguards to protect such objects from injury or damage. If such objects are injured or damaged by reason of the Contractor's operation, they shall be replaced or restored to a condition as good as when the Contractor entered upon the work.

118. Cooperation with Others

Nothing contained in these documents shall be interpreted as granting to the Contractor exclusive occupancy of the maintenance site for the work. Should maintenance be under way or subsequently begun by other forces or by other contractors within or adjacent to the limits of the work, or in the vicinity of the work to be done under this contract, the Contractor shall so conduct his operations as to interfere to the least possible extent with the work of such other forces or contractors. If the performance of this contract is likely to be interfered with by the simultaneous performance of some other forces or contractors, the Public Works Services Manager shall decide which contractor shall continue or whether the work can be proceeding simultaneously.

Any difference or conflicts which may arise between the Contractor and such other forces or contractors because of delays or hindrance to each other, shall be adjusted and determined by the Public Works Services Manager. If the work of the Contractor is delayed because of any acts or omissions of any other contractor or force, the Contractor shall on that account have no claim for additional compensation or extra cost against the City.

119. Coordination with Community Agencies

The contractor shall notify the following agencies of any construction or street closure forty-eight (48) hours prior to the start of such closure:

Chino Police Department	909-334-3000
Chino Fire Department	909-902-5260
Waste Management	909-591-1714
Spectrum (Cable TV)	888-892-2253
Frontier	800-921-8101
Southern California Edison	909-930-8432
Southern California Gas	800-427-2000
Underground Service Alert	811

The Contractor shall notify the U.S. Postal Service of all areas affecting service five (5) working days prior to construction.

EXHIBIT “B”

SPECIAL REQUIREMENTS

(Superseding Contract Boilerplate)

EXHIBIT “C”

SCHEDULE OF COMPENSATION

- I. Contractor shall be compensated for the services provided under this Agreement in accordance with the budget and rates provided in Exhibit “C-1”.**
- II. Within the budgeted amounts for each Task, and with the approval of the Project Manager, funds may be shifted from one Task subbudget to another so long as the Contract Sum is not exceeded per Section 2.1, unless Additional Services are approved per Section 1.10.**
- III. The City will compensate Contractor for the Services performed upon submission of a valid invoice, as described in Section 2.4.**
- IV. The total compensation for the Services shall not exceed the Contract Sum, as provided in Section 2.1 of this Agreement.**

EXHIBIT "C"

SCHEDULE OF COMPENSATION

The costs listed below must include the complete and total cost for all landscape maintenance services, including turf, trees, plants, hard surfaces, and rodent/pest control required under this contract and listed in the Schedule of Services (Exhibit D). Unless otherwise noted, the cost for each site shall include all landscape maintenance services required for the ENTIRE site.

PARKWAY NO.	LOCATION	SQUARE FEET	COST PER MONTH (See enclosed maps for locations)
P-1	Pipeline Ave.	5,670	\$207.00
P-2	Rainier Court	844	\$31.00
P-3	Norton Ave.	3,724	\$137.00
P-4	Pipeline Ave.	8,160	\$302.00
P-5	Pipeline Ave.	3,792	\$138.00
P-6	East End Ave.	10,188	\$376.00
P-7	Philadelphia Ave.	10,836	\$400.00
P-8	Norton Ave.	2,568	\$95.00
P-9	Yorba Ave.	2,881	\$106.00
P-10	Butterfield & Dunlap Islands	1,536	\$57.00
P-11	Francis Ave.	2,270	\$84.00
P-12	Riverside Dr. at Robin Lane	3,416	\$126.00
P-13	Walnut Ave. at Strawberry Pl.	4,233	\$156.00
P-14	Mountain Ave.	10,375	\$384.00
P-15	Walnut Ave.	3,563	\$132.00
P-16	Walnut Ave.	4,864	\$179.00

PARKWAY NO.	LOCATION	SQUARE FEET	COST PER MONTH (See enclosed maps for locations)
P-17	San Antonio Ave.	4,300	\$159.00
P-18	Walnut Ave. at	3,675	\$135.00
P-19	Walnut Ave. at San Antonio Ave.	2,705	\$100.00
P-20	Cypress Ave.	17,801	\$658.00
P-21	Chino Ave.	14,600	\$540.00
P-22	Monte Vista Ave.	6,050	\$233.00
P-23	San Antonio at Cypress Channel	1,267	\$46.00
P-24	Cypress Ave. at Cypress Channel	3,336	\$123.00
P-25	Philadelphia Ave. Tree Wells	208	\$8.00
P-26	Chino Ave. Parkway and Mountain View Park Equestrian Trail	11,700	\$439.00
P-27	Franklin Ave. Median	1,536	\$56.00
P-28	Riverside Dr. and Magnolia Tree Wells	624	\$23.00
P-29	San Antonio and Garcia Avenues	950	\$35.00
P-30	Cypress Ave. / Schaefer Ave.	13,310	\$492.00
P-31	Mountain/Edison Avenues Park Site	21,000 Approx.	\$675.00
P-32	Lester Ave.	2,376	\$87.00
P-33	Schaefer Ave.	2,105	\$77.00
P-34	Fern n/o Edison and Adjacent Median	10,716	\$396.00
P-35	El Prado Monument Sign	10,000	\$370.00
P-36	Chino Ave./Euclid Ave./ Fern Ave.	12,375	\$457.00
P-37	Fern Ave. / Riverside Dr.	11,400	\$421.00
P-38	Schaefer Ave. / East End Ave.	3,300	\$122.00
P-39	Palm Place	1,275	\$47.00
P-40	Lexington Ave / Norton Ave.	1,037	\$38.00
TOTAL MONTHLY COST FOR PARKWAYS			\$8,647.00
TOTAL ANNUAL COST FOR PARKWAYS			\$103,764.00

ADDITIONS TO THE SYSTEM – REQUIRED FROM ALL CONTRACTORS

The Monthly Maintenance cost per square foot, for additional areas added to the contract, is required from all Contractors and shall be entered on the appropriate line for each Proposed Category.

ADDITIONS TO THE SYSTEM (MONTHLY COST FOR ADDITION OF LISTED ITEM AT VARIOUS LOCATIONS)	
Aeration (per square foot)	\$.01
Artificial Turf Maintenance (per square foot)	\$.02
Dethatching (per square foot)	\$.035
Fertilization of Turf, Shrubs, & Ground Cover (per square foot)	\$.01
Ground Cover Trimming (per square foot)	\$.035
Hard Surface Cleaning (per square foot)	\$.02
Hard Surface Power Wash (per square foot)	\$.03
Overseeding (per square foot)	\$.02
Reseeding (per square foot)	\$.02
Shrub Pruning (per square foot)	\$.04
Tree Trimming (per tree)	\$200.00
Turf Mowing (per square foot)	\$.05
Vine and Hedge Trimming (per square foot)	\$.045
Litter & Debris Pick-up (per square foot)	\$.02

ADDITIONS TO THE SYSTEM – REQUIRED FROM ALL CONTRACTORS

The Monthly Maintenance cost per square foot, for additional areas added to the contract, is required from all Contractors and shall be entered on the appropriate line for each Proposed Category.

EXTRAORDINARY WORK – REQUIRED FROM ALL PROPOSERS

To be paid on a time and materials basis. Total cost, in writing, per project will be required before authorization of work in this category.

To be paid on a time and materials basis. Total cost, in writing, per project will be required before authorization of work in this category.

LABOR	COST PER HOUR
Foreman/Crew Leader	\$40.00
Worker/Labor	\$35.00
Irrigation Specialist	\$70.00
Additional Employee Classifications:	\$125.00

EQUIPMENT	COST PER HOUR
Pickup Truck	\$25.00
Flatbed Truck	\$40.00
Additional Equipment Classifications:	\$60.00

MATERIALS:

Materials will be reimbursed at Contractor's cost or purchased by the City and supplied to the Contractor at the discretion of the Public Works Services Manager.

EXTRAORDINARY WORK	UNIT PRICE	UNIT DESCRIPTION
Individual Tree Trimming	\$200.00	Each
Complete Tree and Stump Removal	\$75.00	Diameter (in inches)
Stump Removal Only	\$20.00	Diameter (in inches)
Tree Planting	\$105.00	Each for 24" Box
15 Gallon With Root Barrier	\$175.00	Each
15 Gallon Without Root Barrier	\$150.00	Each
24 Gallon With Root Barrier	\$475.00	Each
24 Gallon Without Root Barrier	\$400.00	Each
Watering	\$300.00	Day
Emergency Call Out	\$125.00	Hour

EXHIBIT “D”

SCHEDULE OF PERFORMANCE

- I. Contractor shall perform all services and deliver all work products timely in accordance with the schedule attached hereto as Exhibit “D-1”.**
- III. The Project Manager may approve extensions for performance of the services in accordance with Section 3.2.**

EXHIBIT “D”

SCHEDULE OF SERVICES

Maintenance Days: Monday through Friday

DESCRIPTION	FREQUENCY (MONDAY-FRIDAY)
Litter Control:	
Litter Pick-up – all landscaped areas (including medians, tree wells, and sidewalks)	Weekly
Hardscape Cleaning (including stamp concrete and blowing sidewalks by tree wells)	Twice a Week
Hardscape Power Wash	As Needed
Turf:	
Mowing: April – October	Weekly
Mowing: November – March	Bi-Weekly
Edging, blowing off hardscape, spring trimming, hand mowing	Weekly (following mowing on same day)
Artificial Turf:	
Mondays and Thursdays	Twice a Week
Miscellaneous:	
Aeration: March & October	Twice a Year Minimum (As specified in scope of services)
Reseeding: Spring Season (March – April)	Once a Year or as Instructed
Overseeding: Winter Season (October – November)	Once a Year or as Instructed
Dethatch / Scalping: October	Once a Year or as Instructed
Irrigation:	
Check watering schedules, inspect irrigation controllers	Monthly
Inspect sprinkler heads for proper operation & coverage	Following Mowing
Hand Watering	As required until irrigation repairs are completed
Emergency Repairs	As required within 1 hour
Emergency Shutdowns	As required within 30 minutes
Routine Repairs and Replacements	As required. To be completed within 24 hours
Ground Cover:	
Renovation/Trimming/Edging	Weekly
Cultivation	Weekly
Watering	As Required
Weeding	Weekly
Fertilizing:	
Trees, ground cover, shrubs	90-Day Cycle “Fertilization”
Turf	90-Day Cycle “Fertilization”

Flower Beds	Three (3) Growing Periods Per Year “Fertilization”
Fungicide Spraying	As Required Under “Tree Maintenance”
Shrubs/Plants:	
Pruning	Bi-Weekly or As Needed
Cultivation/Mulching	Weekly
Irrigation (Deep Soaking)	As Required
Tree Maintenance:	
Deep Watering of Tree Wells	As Needed
Staking and Tying	As Needed
Removal of Suckers	Check Weekly & Remove
General Pruning	Per ISA Standards
Raising Skirts	As Needed
Spraying Deciduous Trees	As Required Under “Tree Maintenance”
Spraying Conifer Trees	As Required Under “Tree Maintenance”
Tree Removal	As Required Under “Tree Maintenance”
Broad Leaf Weed Spraying: June & November	Twice a Year
Weed Control	Requires Weed-Free Conditions
Disease, Rodent, and Pest Control	As Required Under “Disease and Pest Control”
Equestrian Trail:	
Litter Pick-up	Weekly
Weed Control	Weekly
Decomposed Granite Application	As Required Under “General Maintenance”

MERCHANTS LANDSCAPE SERVICES, INC.

ANNUAL MAINTENANCE SCHEDULE

JAN.	FEB	MAR	APRIL	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC
Mow & edge turf bi-weekly	Mow & edge turf bi-weekly Fertilize 22-5-5	Mow & edge turf bi-weekly Broadleaf Arerate	Mow & edge turf weekly	Mow & edge turf weekly	Mow & edge turf weekly Fertilize 22-5-5	Mow & edge turf weekly Aerate	Mow & edge turf weekly	Mow & edge turf weekly	Mow & edge turf weekly De-thatching Aerate Fertilize 16-6-8	Mow & edge turf bi-weekly Broadleaf	Mow & edge turf bi-weekly
Trim shrubs ground cover, Vines & trees	Trim shrubs ground cover, Vines & trees	Trim shrubs ground cover, Vines & trees pre-emergence	Trim shrubs ground cover, Vines & trees Fertilize 15-15-15	Trim shrubs ground cover, Vines & trees	Trim shrubs ground cover, Vines & trees	Trim shrubs ground cover, Vines & trees	Trim shrubs ground cover, Vines & trees	Trim shrubs ground cover, Vines & trees	Trim shrubs ground cover, Vines & trees Fertilize 15-15-15	Trim shrubs ground cover, Vines & trees pre-emergence	Trim shrubs ground cover, Vines & trees
Weed Control	Weed Control	Weed Control	Weed Control	Weed Control	Weed Control	Weed Control	Weed Control	Weed Control	Weed Control	Weed Control	Weed Control
Irrigation System check Weekly	Irrigation System check Weekly	Irrigation System check Weekly	Irrigation System check Weekly	Irrigation System check Weekly	Irrigation System check Weekly	Irrigation System check Weekly	Irrigation System check Weekly	Irrigation System check Weekly	Irrigation System check Weekly	Irrigation System check Weekly	Irrigation System check Weekly
Litter removal Daily	Litter removal Daily	Litter removal Daily	Litter removal Daily	Litter removal Daily	Litter removal Daily	Litter removal Daily	Litter removal Daily	Litter removal Daily	Litter removal Daily	Litter removal Daily	Litter removal Daily
Monthly report form due 10th of each month	Monthly report form due 10th of each month	Monthly report form due 10th of each month	Monthly report form due 10th of each month	Monthly report form due 10th of each month	Monthly report form due 10th of each month	Monthly report form due 10th of each month	Monthly report form due 10th of each month	Monthly report form due 10th of each month	Monthly report form due 10th of each month	Monthly report form due 10th of each month	Monthly report form due 10th of each month
Area Supervisor to inspect job site weekly	Area Supervisor to inspect job site weekly	Area Supervisor to inspect job site weekly	Area Supervisor to inspect job site weekly	Area Supervisor to inspect job site weekly	Area Supervisor to inspect job site weekly	Area Supervisor to inspect job site weekly	Area Supervisor to inspect job site weekly	Area Supervisor to inspect job site weekly	Area Supervisor to inspect job site weekly	Area Supervisor to inspect job site weekly	Area Supervisor to inspect job site weekly
Supply district with greenwaste report	Supply district with greenwaste report	Supply district with greenwaste report	Supply district with greenwaste report	Supply district with greenwaste report	Supply district with greenwaste report	Supply district with greenwaste report	Supply district with greenwaste report	Supply district with greenwaste report	Supply district with greenwaste report	Supply district with greenwaste report	Supply district with greenwaste report
OSHA Safety meetings everyother week	OSHA Safety meetings everyother week	OSHA Safety meetings everyother week	OSHA Safety meetings everyother week	OSHA Safety meetings everyother week	OSHA Safety meetings everyother week	OSHA Safety meetings everyother week	OSHA Safety meetings everyother week	OSHA Safety meetings everyother week	OSHA Safety meetings everyother week	OSHA Safety meetings everyother week	OSHA Safety meetings everyother week
Mulch planter beds annually	Mulch planter beds annually	Mulch planter beds annually	Mulch planter beds annually	Mulch planter beds annually	Mulch planter beds annually	Mulch planter beds annually	Mulch planter beds annually	Mulch planter beds annually	Mulch planter beds annually	Mulch planter beds annually	Mulch planter beds annually
D.G. into planter annually	D.G. into planter annually	D.G. into planter annually	D.G. into planter annually	D.G. into planter annually	D.G. into planter annually	D.G. into planter annually	D.G. into planter annually	D.G. into planter annually	D.G. into planter annually	D.G. into planter annually	D.G. into planter annually