

CITY OF UPLAND
LANDSCAPE MAINTENANCE SERVICES AGREEMENT

1. PARTIES AND DATE.

This Agreement is made and entered into this **13th day of April, 2026** by and between the City of Upland, a general law city and municipal corporation organized under the laws of the State of California with its principal place of business at 460 N. Euclid Avenue, Upland, CA 91786 (“City”) and **Elite Maintenance & Tree Service**, a California Corporation with its principal place of business at 2972 Larkin Ave. Clovis, CA, 93612 (“Contractor”). City and Contractor are sometimes individually referred to as “Party” and collectively as “Parties” in this Agreement.

2. RECITALS.

2.1 Contractor.

Contractor desires to perform and assume responsibility for the provision of certain maintenance services required by the City on the terms and conditions set forth in this Agreement. Contractor represents that it is experienced in providing landscape maintenance services to public clients, that it and its employees or subcontractors have all necessary licenses and permits to perform the Services in the State of California, and that is familiar with the plans of City. Contractor shall not subcontract any portion of the work required by this Agreement, except as expressly stated herein, without prior written approval of City. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement.

2.2 Project.

City desires to engage Contractor to render such services for Landscape Maintenance Services (“Project”) as set forth in this Agreement.

3. TERMS.

3.1 Scope of Services and Term.

3.1.1 General Scope of Services. Contractor promises and agrees to furnish to the City all labor, materials, tools, equipment, services, and incidental and customary work necessary to fully and adequately supply the professional landscape maintenance services necessary for the Project (“Services”). The Services are more particularly described in Exhibit “A” attached hereto and incorporated herein by reference. All Services shall be subject to, and performed in accordance with, this Agreement, the exhibits attached hereto and incorporated herein by reference, and all applicable local, state, and federal laws, rules, and regulations.

3.1.2 Term. The term of this Agreement shall be from **July 1, 2026 through June 30, 2029** unless earlier terminated as provided herein. The City shall have the unilateral option, at its sole discretion, to renew this Agreement automatically for no more than three (3) additional one-year terms. Contractor shall complete the Services within the term of this Agreement and shall meet any other established schedules and deadlines. The Parties may, by mutual, written consent, extend the term of this Agreement if necessary to complete the Services.

3.2 Responsibilities of Contractor.

3.2.1 Control and Payment of Subordinates; Independent Contractor. The Services shall be performed by Contractor or under its supervision. Contractor will determine the means, methods, and details of performing the Services subject to the requirements of this Agreement. City retains Contractor on an independent contractor basis and not as an employee. Contractor retains the right to perform similar or different services for others during the term of this Agreement. Any additional personnel performing the Services under this Agreement on behalf of Contractor shall also not be employees of City and shall at all times be under Contractor's exclusive direction and control. Contractor shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law. Contractor shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation insurance

3.2.1.1 PERS Eligibility Indemnification. In the event that Contractor or any employee, agent, or subcontractor of Contractor providing services under this Agreement claims or is determined by a court of competent jurisdiction or the California Public Employees Retirement System ("PERS") to be eligible for enrollment in PERS as an employee of the City, Contractor shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Contractor or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, Contractor and any of its employees, agents, and subcontractors providing service under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in PERS as an employee of City and entitlement to any contribution to be paid by City for employer contribution and/or employee contributions for PERS benefits.

3.2.2 Schedule of Services. Contractor shall perform the Services expeditiously, within the term of this Agreement, and in accordance with the Schedule of Services set forth in Exhibit "B" attached hereto and incorporated herein by reference. Contractor represents that it has the professional and technical personnel required to perform the Services in conformance with such conditions. In order to facilitate Contractor's conformance with the Schedule, City shall respond to Contractor's submittals in a timely manner. Upon request of City, Contractor shall provide a more detailed schedule of anticipated performance to meet the Schedule of Services.

3.2.3 Conformance to Applicable Requirements. All work prepared by Contractor shall be subject to the approval of City.

3.2.4 City's Representative. The City hereby designates the Operations Manager, or his or her designee, to act as its representative for the performance of this Agreement ("City's Representative"). City's Representative shall have the power to act on behalf of the City for all purposes under this Agreement. Contractor shall not accept direction or orders from any person other than the City's Representative or his or her designee.

3.2.5 Contractor's Representative. Contractor hereby designates the Branch Manager, or his or her designee, to act as its representative for the performance of this Agreement ("Contractor's Representative"). Contractor's Representative shall have full authority to represent and act on behalf of the Contractor for all purposes under this Agreement. The Contractor's Representative shall supervise and direct the Services, using his or her best skill and attention, and shall be responsible for all means, methods, techniques, sequences, and procedures and for the satisfactory coordination of all portions of the Services under this Agreement.

3.2.6 Coordination of Services. Contractor agrees to work closely with City staff in the performance of Services and shall be available to City's staff, consultants, and other staff at all reasonable times.

3.2.7 Standard of Care; Performance of Employees. Contractor shall perform all Services under this Agreement in a skillful and competent manner, consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Contractor represents and maintains that it is skilled in the professional calling necessary to perform the Services. Contractor warrants that all employees and subcontractors shall have sufficient skill and experience to perform the Services assigned to them. Finally, Contractor represents that it, its employees, and subcontractors have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services, including a City Business License, and that such licenses and approvals shall be maintained throughout the term of this Agreement. As provided for in the indemnification provisions of this Agreement, Contractor shall perform, at its own cost and expense and without reimbursement from the City, any services necessary to correct errors or omissions which are caused by the Contractor's failure to comply with the standard of care provided for herein. Any employee of the Contractor or its sub-contractors who is determined by the City to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any employee who fails or refuses to perform the Services in a manner acceptable to the City, shall be promptly removed from the Project by the Contractor and shall not be re-employed to perform any of the Services or to work on the Project.

3.2.8 Period of Performance and Liquidated Damages. Contractor shall perform and complete all Services under this Agreement within the term set forth in Section 3.1.2 above ("Performance Time"). Contractor shall perform the Services in strict accordance with any completion schedule or Project milestones described in Exhibits "A" or "B" attached hereto, or which may be provided separately in writing to the Contractor. Contractor agrees that if the Services are not completed within the aforementioned Performance Time and/or pursuant to any such completion schedule or Project milestones developed pursuant to provisions of this Agreement, it is understood, acknowledged, and agreed that the City will suffer damage. Pursuant to Government Code Section 53069.85, Contractor shall pay to the City as fixed and liquidated damages, and not as a penalty, the sum of Two Hundred Fifty Dollars (\$250) per day for each and every calendar day of delay beyond the Performance Time or beyond any completion schedule or Project milestones established pursuant to this Agreement.

3.2.9 Disputes. Should any dispute arise respecting the true value of any work done, of any work omitted, or of any extra work which Contractor may be required to do or respecting the size of any payment to Contractor during the performance of this Contract, Contractor shall continue to perform the Work while said dispute is decided by the City. If Contractor disputes the City's decision, Contractor shall have such remedies as may be provided by law.

3.2.10 Laws and Regulations; Employee/Labor Certifications. Contractor shall keep itself fully informed of and in compliance with all local, state, and federal laws, rules and regulations in any manner affecting the performance of the Project or the Services, including all Cal/OSHA requirements, and shall give all notices required by law. Contractor shall be liable for all violations of such laws and regulations in connection with Services. If the Contractor performs any work knowing it to be contrary to such laws, rules, and regulations and without giving written notice to the City, Contractor shall be solely responsible for all costs arising therefrom. City is a public entity of the State of California subject to certain provisions of the Health & Safety Code, Government Code, Public Contract Code, and Labor Code of the State. It is stipulated and agreed that all provisions of the law applicable to the public contracts of a municipality are a part of this Agreement to the same extent as though set forth herein and will be complied with. These include but are not limited to the payment of prevailing wages, the stipulation that eight (8) hours' labor shall constitute a legal day's work and that no worker shall be permitted to work in excess of eight (8) hours during any one calendar day except as permitted by law. Contractor shall defend, indemnify, and hold City, its officials, directors, officers, employees, and agents free and harmless, pursuant to the indemnification provisions of this Agreement, from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules or regulations.

3.2.10.1 Employment Eligibility; Contractor. By executing this Agreement, Contractor verifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time. Such requirements and restrictions include, but are not limited to, examination and retention of documentation confirming the identity and immigration status of each employee of the Contractor. Contractor also verifies that it has not committed a violation of any such law within the five (5) years immediately preceding the date of execution of this Agreement and shall not violate any such law at any time during the term of the Agreement. Contractor shall avoid any violation of any such law during the term of this Agreement by participating in an electronic verification of work authorization program operated by the United States Department of Homeland Security, by participating in an equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, or by some other legally acceptable method. Contractor shall maintain records of each such verification and shall make them available to the City or its representatives for inspection and copy at any time during normal business hours. The City shall not be responsible for any costs or expenses related to Contractor's compliance with the requirements provided for in Section 3.2.10 or any of its subsections.

3.2.10.2 Employment Eligibility; Subcontractors, Sub-subcontractors, and Consultants. To the same extent and under the same conditions as Contractor, Contractor shall require all of its subcontractors, sub-subcontractors and consultants performing any work relating to the Project or this Agreement to make the same verifications and comply with all requirements and restrictions provided for in Section 3.2.10.1.

3.2.10.3 Employment Eligibility: Failure to Comply. Each person executing this Agreement on behalf of Contractor verifies that they are a duly authorized officer of Contractor, and understands that any of the following shall be grounds for the City to terminate the Agreement for cause: (1) failure of Contractor or its subcontractors, sub-subcontractors or consultants to meet any of the requirements provided for in Sections 3.2.10.1 or 3.2.10.2; (2) any misrepresentation or material omission concerning compliance with such requirements (including in those verifications provided to the Contractor under Section 3.2.10.2); or (3) failure to immediately remove from the Project any person found not to be in compliance with such requirements.

3.2.10.4 Labor Certification. By its signature hereunder, Contractor certifies that it is aware of the provisions of Section 3700 of the California 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 agrees to comply with such provisions before commencing the performance of the Services.

3.2.10.5 Equal Opportunity Employment. Contractor represents that it is an equal opportunity employer, and it shall not discriminate against any subcontractor, employee, or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, or termination.

3.2.10.6 Air Quality. Contractor must fully comply with all applicable laws, rules and regulations in furnishing or using equipment and/or providing services, including, but not limited to, emissions limits and permitting requirements imposed by the California Air Resources Board (CARB). Contractor shall specifically be aware of the CARB limits and requirements' application to "portable equipment", which definition is considered by CARB to include any item of equipment with a fuel-powered engine. Contractor shall indemnify City against any fines or penalties imposed by CARB or any other governmental or regulatory agency for violations of applicable laws, rules and/or regulations by Contractor, its subcontractors, or others for whom Contractor is responsible under its indemnity obligations provided for in this Agreement.

3.2.10.7 Water Quality.

(A) Management and Compliance. To the extent applicable, Contractor's Services must account for, and fully comply with, all local, state and federal laws, rules and regulations that may impact water quality compliance, including, without limitation, all applicable provisions of the Federal Water Pollution Control Act (33 U.S.C. §§ 1300); the California Porter-Cologne Water Quality Control Act (Cal Water Code §§ 13000-14950); laws, rules and regulations of the Environmental Protection Agency and the State Water Resources Control Board; the City's ordinances regulating discharges of storm water; and any and all regulations, policies, or permits issued pursuant to any such authority regulating the discharge of pollutants, as that term is used in the Porter-Cologne Water Quality Control Act, to any ground or surface water in the State.

(B) Liability for Non-Compliance. Failure to comply with the laws, regulations and policies described in this Section is a violation of law that may subject Contractor or City to penalties, fines, or additional regulatory requirements. Contractor shall defend, indemnify and hold the City, its directors, officials, officers, employees, volunteers and agents free and harmless, pursuant to the indemnification provisions of this Agreement, from and against any and all fines, penalties, claims or other regulatory requirements imposed as a result of Contractor's non-compliance with the laws, regulations and policies described in this Section, unless such non-compliance is the result of the sole established negligence, willful misconduct or active negligence of the City, its officials, officers, agents, employees or authorized volunteers.

(C) Training. In addition to any other standard of care requirements set forth in this Agreement, Contractor warrants that all employees and subcontractors shall have sufficient skill and experience to perform the Services assigned to them without impacting water quality in violation of the laws, regulations and policies described in this Section. Contractor further warrants that it, its employees, and subcontractors will receive adequate training, as determined by City, regarding the requirements of the laws, regulations and

policies described in this Section as they may relate to the Services provided under this Agreement. Upon request, City will provide Contractor with a list of training programs that meet the requirements of this paragraph.

3.2.11 Insurance.

3.2.11.1 Time for Compliance. Contractor shall not commence Work under this Agreement until it has provided evidence satisfactory to the City that it has secured all insurance required under this Section. In addition, Contractor shall not allow any subcontractor to commence work on any subcontract until it has provided evidence satisfactory to the City that the subcontractor has secured all insurance required under this Section.

3.2.11.2 Minimum Requirements. Contractor shall, at its expense, procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Agreement by the Contractor, its agents, representatives, employees, or subcontractors. Contractor shall also require all of its subcontractors to procure and maintain the same insurance for the duration of the Agreement. Such insurance shall meet at least the following minimum levels of coverage:

(A) Minimum Scope of Insurance. Coverage shall be at least as broad as the latest version of the following: (1) *General Liability*: Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001); (2) *Automobile Liability*: Insurance Services Office Business Auto Coverage form number CA 0001, code 1 (any auto); and (3) *Workers' Compensation and Employer's Liability*: Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance. The policy shall not contain any exclusion contrary to the Agreement, including but not limited to endorsements or provisions limiting coverage for (1) contractual liability (including but not limited to ISO CG 24 26 or 21 29); or (2) cross liability for claims or suits by one insured against another.

(B) Minimum Limits of Insurance. Contractor shall maintain limits no less than: (1) *General Liability*: minimum amount of \$1,000,000 per occurrence; and \$2,000,000 aggregate for bodily injury, personal injury, and property damage. If Commercial General Liability Insurance or other form with general aggregate limit is used including, but not limited to, form CG 2503, either the general aggregate limit shall apply separately to this Agreement/location or the general aggregate limit shall be twice the required occurrence limit; (2) *Automobile Liability*: minimum amount of \$1,000,000 combined single limit per accident for bodily injury and property damage; (3) *Workers' Compensation and Employer's Liability*: Workers' Compensation/Employer's Liability limits with a minimum amount of \$1,000,000 per accident for bodily injury or disease, as required by the Labor Code of the State of California; (4) *Professional Liability*: minimum amount of \$1,000,000 per claim and aggregate (errors and omissions) . Defense costs shall be paid in addition to the limits.

(C) Notices; Cancellation or Reduction of Coverage. At least fifteen (15) days prior to the expiration of any such policy, evidence showing that such insurance coverage has been renewed or extended shall be filed with the City. If such coverage is cancelled or materially reduced, Contractor shall, within ten (10) days after receipt of written notice of such cancellation or reduction of coverage, file with the City evidence of insurance showing that the required insurance has been reinstated or has been provided through another insurance company or companies. In the event any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, the City has the right but not the duty to obtain the insurance it deems necessary, and any premium paid by the City will be promptly reimbursed by Contractor or the City may withhold amounts sufficient to pay premium from Contractor payments. In the alternative, the City may suspend or terminate this Agreement.

(D) Additional Insured. The City of Upland, its directors, officials, officers, employees, agents, and volunteers shall be named as additional insureds on Contractor's and its subcontractors' policies of commercial general liability and automobile liability insurance using the endorsements and forms specified herein or exact equivalents.

3.2.11.3 Insurance Endorsements. The insurance policies shall contain the following provisions, or Contractor shall provide endorsements on forms supplied or approved by the City to add the following provisions to the insurance policies:

(A) General Liability. The general liability policy shall include or be endorsed (amended) to state that: (1) using ISO CG forms 20 10 and 20 37, or endorsements providing the exact same coverage, the City of Upland, its directors, officials, officers, employees, agents, and volunteers shall be covered as additional insured with respect to the Services or ongoing and complete operations performed by or on behalf of the Contractor, including materials, parts or equipment furnished in connection with such work; and (2) using ISO form 20 01, or endorsements providing the exact same coverage, the insurance coverage shall be primary insurance as respects the City, its directors, officials, officers, employees, agents, and volunteers, or if excess, shall stand in an unbroken chain of coverage excess of the Contractor's scheduled underlying coverage. Any excess insurance shall contain a provision that such coverage shall also apply on a primary and noncontributory basis for the benefit of the City before the City's own primary insurance or self-insurance shall be called upon to protect it as a named insured. Any insurance or self-insurance maintained by the City, its directors, officials, officers, employees, agents, and volunteers shall be excess of the Contractor's insurance and shall not be called upon to contribute with it in any way. Notwithstanding the minimum limits set forth in Section 3.2.11.2(B), any available insurance proceeds in excess of the specified minimum limits of coverage shall be available to the parties required to be named as additional insureds pursuant to this Section 3.2.11.3(A).

(B) Automobile Liability. The automobile liability policy shall include or be endorsed (amended) to state that: (1) the City, its directors, officials, officers, employees, agents, and volunteers shall be covered as additional insureds with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by the Contractor or for which the Contractor is responsible; and (2) the insurance coverage shall be primary insurance as respects the City, its directors, officials, officers, employees, agents, and volunteers, or if excess, shall stand in an unbroken chain of coverage excess of the Contractor's scheduled underlying coverage. Any insurance or self-insurance maintained by the City, its directors, officials, officers, employees, agents, and volunteers shall be excess of the Contractor's insurance and shall not be called upon to contribute with it in any way. Notwithstanding the minimum limits set forth in Section 3.2.11.2(B), any available insurance proceeds in excess of the specified minimum limits of coverage shall be available to the parties required to be named as additional insureds pursuant to this Section 3.2.11.3(B).

(C) Workers' Compensation and Employer's Liability Coverage. The insurer shall agree to waive all rights of subrogation against the City, its directors, officials, officers, employees, agents, and volunteers for losses paid under the terms of the insurance policy which arise from work performed by the Contractor.

(D) Professional Liability (Errors and Omissions). At all times during the performance of the work under this Agreement the Contractor shall maintain professional liability or Errors and Omissions insurance appropriate to its profession, in a form and with insurance companies acceptable to the City and in an amount indicated herein. This insurance shall be endorsed to include contractual liability applicable to this Agreement and shall

be written on a policy form specifically designed to protect against acts, errors, or omissions of the Contractor. "Covered Professional Services" as designated in the policy must specifically include work performed under this Agreement. The policy must "pay on behalf of" the insured and must include a provision establishing the insurer's duty to defend.

(E) All Coverages. Each insurance policy required by this Agreement shall be endorsed to state that: (A) coverage shall not be suspended, voided, reduced or canceled except after thirty (30) days (10 days for nonpayment of premium) prior written notice by certified mail, return receipt requested, has been given to the City; and (B) any failure to comply with reporting or other provisions of the policies, including breaches of warranties, shall not affect coverage provided to the City, its directors, officials, officers, employees, agents, and volunteers. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the City, its officials, officers, employees, agents and volunteers, or any other additional insureds.

3.2.11.4 Separation of Insureds; No Special Limitations; Waiver of Subrogation. All insurance required by this Section shall contain standard separation of insureds provisions. In addition, such insurance shall not contain any special limitations on the scope of protection afforded to the City, its directors, officials, officers, employees, agents, and volunteers. All required insurance coverages, except for the professional liability coverage, shall waive any right of subrogation of the insurer against the City, its officials, officers, employees, agents, and volunteers, or any other additional insureds, 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, its officials, officers, employees, agents, and volunteers, or any other additional insureds, and shall require similar written express waivers and insurance clauses from each of its subcontractors.

3.2.11.5 Deductibles and Self-Insurance Retentions. Any deductibles or self-insured retentions must be declared to and approved by the City. Contractor shall guarantee that, at the option of the City, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its directors, officials, officers, employees, agents, and volunteers; or (2) the Contractor shall procure a bond guaranteeing payment of losses and related investigation costs, claims and administrative and defense expenses.

3.2.11.6 Subcontractor Insurance Requirements. Contractor shall not allow any subcontractors to commence work on any subcontract relating to the work under the Agreement until they have provided evidence satisfactory to the City that they have secured all insurance required under this Section. If requested by Contractor, the City may approve different scopes or minimum limits of insurance for particular subcontractors. The Contractor and the City shall be named as additional insureds on all subcontractors' policies of Commercial General Liability using ISO form 20 38, or coverage at least as broad.

3.2.11.7 Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating no less than A: VIII, licensed to do business in California, and satisfactory to the City.

3.2.11.8 Verification of Coverage. Contractor shall furnish City with original certificates of insurance and endorsements effecting coverage required by this Agreement on forms satisfactory to the City. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf and shall be on forms provided by the City if requested. All certificates and endorsements must be received and approved by the City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies, at any time.

3.2.11.9 Reporting of Claims. Contractor shall report to the City, in addition to Contractor's insurer, any and all insurance claims submitted by Contractor in connection with the Services under this Agreement.

3.2.12 Safety. Contractor shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, the Contractor shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be performed. Safety precautions as applicable shall include, but shall not be limited to: (A) adequate life protection and lifesaving equipment and procedures; (B) instructions in accident prevention for all employees and subcontractors, such as safe walkways, scaffolds, fall protection ladders, bridges, gang planks, confined space procedures, trenching and shoring, equipment and other safety devices, equipment and wearing apparel as are necessary or lawfully required to prevent accidents or injuries; and (C) adequate facilities for the proper inspection and maintenance of all safety measures.

3.2.13 Bonds.

3.2.13.1 Performance Bond. If required by law or otherwise specifically requested by City in Exhibit "C" attached hereto and incorporated herein by reference, Contractor shall execute and provide to City concurrently with this Agreement a Performance Bond in the amount of the total, not-to-exceed compensation indicated in this Agreement, and in a form provided or approved by the City. If such bond is required, no payment will be made to Contractor until it has been received and approved by the City.

3.2.13.2 Payment Bond. If required by law or otherwise specifically requested by City in Exhibit "C" attached hereto and incorporated herein by reference, Contractor shall execute and provide to City concurrently with this Agreement a Payment Bond in the amount of the total, not-to-exceed compensation indicated in this Agreement, and in a form provided or approved by the City. If such bond is required, no payment will be made to Contractor until it has been received and approved by the City.

3.2.13.3 Bond Provisions. Should, in City's sole opinion, any bond become insufficient, or any surety be found to be unsatisfactory, Contractor shall renew or replace the affected bond within 10 days of receiving notice from City. In the event the surety or Contractor intends to reduce or cancel any required bond, at least thirty (30) days prior written notice shall be given to the City, and Contractor shall post acceptable replacement bonds at least ten (10) days prior to expiration of the original bonds. No further payments shall be deemed due or will be made under this Agreement until any replacement bonds required by this Section are accepted by the City. To the extent, if any, that the total compensation is increased in accordance with the Agreement, the Contractor shall, upon request of the City, cause the amount of the bonds to be increased accordingly and shall promptly deliver satisfactory evidence of such increase to the City. To the extent available, the bonds shall further provide that no change or alteration of the Agreement (including, without limitation, an increase in the total compensation, as referred to above), extensions of time, or modifications of the time, terms, or conditions of payment to the Contractor, will release the surety. If the Contractor fails to furnish any required bond, the City may terminate this Agreement for cause.

3.2.13.4 Surety Qualifications. Only bonds executed by an admitted surety insurer, as defined in Code of Civil Procedure Section 995.120, shall be accepted. The surety must be a California-admitted surety with a current A.M. Best's rating no less than A: VIII and satisfactory to the City. If a California-admitted surety insurer issuing bonds does not meet these requirements, the insurer will be considered qualified if it is in conformance with Section 995.660 of the California Code of Civil Procedure, and proof of such is provided to the City.

3.2.14 Accounting Records. Contractor shall maintain complete and accurate records with respect to all costs and expenses incurred under this Agreement. All such records shall be clearly identifiable. Contractor shall allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement. Contractor shall allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of three (3) years from the date of final payment under this Agreement.

3.2.15 Work Site.

3.2.15.1 Inspection Of Site. Contractor shall visit sites where Services are to be performed and shall become acquainted with all conditions affecting the Services prior to commencing the Services. Contractor shall make such examinations as it deems necessary to determine the condition of the work sites, its accessibility to materials, workmen and equipment, and to determine Contractor's ability to protect existing surface and subsurface improvements. No claim for allowances—time or money—will be allowed as to such matters after commencement of the Services.

3.2.15.2 Field Measurements. Contractor shall make field measurements, verify field conditions, and shall carefully compare such field measurements and conditions and other information known to Contractor with the Contract Documents, including any plans, specifications, or scope of work before commencing Services. Errors, inconsistencies, or omissions discovered shall be reported to the City immediately and prior to performing any Services or altering the condition.

3.2.16 Loss and Damage. Contractor shall be responsible for all loss and damage which may arise out of the nature of the Services agreed to herein, or from the action of the elements, or from any unforeseen difficulties which may arise or be encountered in the prosecution of the Services until the same is fully completed and accepted by City.

3.2.17 Warranty. Contractor warrants all Services under the Contract (which for purposes of this Section shall be deemed to include unauthorized work which has not been removed and any non-conforming materials incorporated into the work) to be of good quality and free from any defective or faulty material and workmanship. Contractor agrees that for a period of one year (or the period of time specified elsewhere in the Contract or in any guarantee or warranty provided by any manufacturer or supplier of equipment or materials incorporated into the work, whichever is later) after the date of final acceptance, Contractor shall within ten (10) days after being notified in writing by the City of any defect in the Services or non-conformance of the Services to the Contract, commence and prosecute with due diligence all Services necessary to fulfill the terms of the warranty at its sole cost and expense. Contractor shall act sooner as requested by the City in response to an emergency. In addition, Contractor shall, at its sole cost and expense, repair and replace any portions of the work (or work of other contractors) damaged by its defective Services or which becomes damaged in the course of repairing or replacing defective work. For any work so corrected, Contractor's obligation hereunder to correct defective work shall be reinstated for an additional one-year period, commencing with the date of acceptance of such corrected work. Contractor shall perform such tests as the City may require

verifying that any corrective actions, including, without limitation, redesign, repairs, and replacements comply with the requirements of the Contract. All costs associated with such corrective actions and testing, including the removal, replacement, and reinstatement of equipment and materials necessary to gain access, shall be the sole responsibility of the Contractor. All warranties and guarantees of subcontractors, suppliers, and manufacturers with respect to any portion of the work, whether express or implied, are deemed to be obtained by Contractor for the benefit of the City, regardless of whether or not such warranties and guarantees have been transferred or assigned to the City by separate agreement and Contractor agrees to enforce such warranties and guarantees, if necessary, on behalf of the City. In the event that Contractor fails to perform its obligations under this Section, or under any other warranty or guaranty under this Contract, to the reasonable satisfaction of the City, the City shall have the right to correct and replace any defective or non-conforming work and any work damaged by such work or the replacement or correction thereof at Contractor's sole expense. Contractor shall be obligated to fully reimburse the City for any expenses incurred hereunder upon demand.

3.3 Fees and Payments.

3.3.1 Compensation. Contractor shall receive compensation, including authorized reimbursements, for all Services rendered under this Agreement at the rates set forth in Exhibit "B" attached hereto and incorporated herein by reference. The total annual compensation shall vary, subject to City Council approval of the annual budget itemized for Landscape Maintenance Services, including routine monthly services as well as Additional Extra Work, which may be authorized, as described below.

3.3.1.1 Adjustments. Beginning July 1, 2029, upon Contractor's request, Contractor's rates may be adjusted no more than once per year based on the percentage change in the Consumer Price Index- All urban consumers, All Items - (Series ID# CUURS49CSA0) Riverside-San Bernardino – Ontario, CA areas for the twelve (12) month period January through January immediately preceding the adjustments. All such price adjustment requests shall be submitted between March 1st and April 1st. The failure to submit price adjustment requests by April 1st shall waive the Contractor's right to request an adjustment for that year. Upon proper notice, price adjustments shall go into effect on July 1st of the same year. In no event shall the adjustment exceed five percent (5%) in any single year.

3.3.2 Payment of Compensation. Contractor shall submit to City a monthly itemized Invoice which indicates work and site locations completed specifying Services rendered by Contractor. The Invoice shall describe the amount of Services and supplies provided since the initial commencement date, or since the start of the subsequent billing periods, as appropriate, through the date of the invoice. City shall, within 45 days of receiving such invoice, review the statement and pay all approved charges thereon.

3.3.3 Deductions. City may deduct or withhold, as applicable, from each progress payment an amount necessary to protect City from loss because of: (1) stop payment notices as allowed by state law; (2) unsatisfactory prosecution of the Services by Contractor; (3) sums representing expenses, losses, or damages as determined by the City, incurred by the City for which Contractor is liable under the Agreement; and (4) any other sums which the City is entitled to recover from Contractor under the terms of the Agreement or pursuant to state law, including Section 1727 of the California Labor Code. The failure by the City to deduct any of these sums from a progress payment shall not constitute a waiver of the City's right to such sums.

3.3.4 Reimbursement for Expenses. Contractor shall not be reimbursed for any expenses unless authorized in writing by City.

3.3.5 Extra Work. At any time during the term of this Agreement, City may request that Contractor perform Extra Work. As used herein, "Extra Work" means any work which is determined by City to be necessary for the proper completion of the Project, but which the parties did not reasonably anticipate would be necessary at the execution of this Agreement. The City Manager may approve Extra Work up to ten percent (10%) of the amount of the Agreement. Any Extra Work in excess of this amount shall be approved by the City Council. Contractor shall not perform, nor be compensated for, Extra Work without written authorization from City's Representative.

3.3.6 Prevailing Wages. Contractor is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects. If the Services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Contractor agrees to fully comply with such Prevailing Wage Laws. City shall provide Contractor with a copy of the prevailing rates of per diem wages in effect at the commencement of this Contract. Contractor shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request and shall post copies at Contractor's principal place of business and at the project site. Contractor shall defend, indemnify, and hold the City, its officials, officers, employees, and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. It shall be mandatory upon the Contractor and all subcontractors to comply with all California Labor Code provisions, which include but are not limited to prevailing wages (Labor Code Sections 1771, 1774 and 1775), employment of apprentices (Labor Code Section 1777.5), certified payroll records (Labor Code Sections 1771.4 and 1776), hours of labor (Labor Code Sections 1813 and 1815) and debarment of contractors and subcontractors (Labor Code Section 1777.1). The requirement to submit certified payroll records directly to the Labor Commissioner under Labor Code section 1771.4 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Section 1771.4.

3.3.7 Registration/DIR Compliance. If the Services are being performed as part of an applicable "public works" or "maintenance" project, and if the total compensation is \$15,000 or more, then pursuant to Labor Code Sections 1725.5 and 1771.1, the Contractor and all subcontractors performing such Services must be registered with the Department of Industrial Relations. Contractor shall maintain registration for the duration of the Project and require the same of any subcontractors, as applicable. This Project may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Contractor's sole responsibility to comply with all applicable registration and labor compliance requirements. Notwithstanding the foregoing, the contractor registration requirements mandated by Labor Code Sections 1725.5 and 1771.1 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Sections 1725.5 and 1771.1. Any stop orders issued by the Department of Industrial Relations against Contractor or any subcontractor that affect Contractor's performance of Services, including any delay, shall be Contractor's sole responsibility. Any delay arising out of or resulting from such stop orders shall be considered Contractor caused delay and shall not be compensable by the City. Contractor shall defend, indemnify and hold the City, its officials, officers, employees and agents free and

harmless from any claim or liability arising out of stop orders issued by the Department of Industrial Relations against Contractor or any subcontractor.

3.4 Termination of Agreement.

3.4.1 Grounds for Termination. City may, by written notice to Contractor, terminate the whole or any part of this Agreement at any time and without cause by giving written notice to Contractor of such termination, and specifying the effective date thereof, at least seven (7) days before the effective date of such termination. Upon termination, Contractor shall be compensated only for those services which have been adequately rendered to City, and Contractor shall be entitled to no further compensation. Contractor may not terminate this Agreement except for cause.

3.4.2 Effect of Termination. If this Agreement is terminated as provided herein, City may require Contractor to provide all finished or unfinished Documents and Data and other information of any kind prepared by Contractor in connection with the performance of Services under this Agreement. Contractor shall be required to provide such document and other information within fifteen (15) days of the request.

3.4.3 Additional Services. In the event this Agreement is terminated in whole or in part as provided herein, City may procure, upon such terms and in such manner as it may determine appropriate, services similar to those terminated.

3.5 General Provisions.

3.5.1 Delivery of Notices. All notices permitted or required under this Agreement shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

Contractor:

Elite Maintenance & Tree Service
2972 Larkin Ave
Clovis, CA, 93612
Attn: Darin Sherlock, Vice President

City:

City of Upland
460 N. Euclid Avenue
Upland, CA 91786
Attn: City Manager

With Copy To:
City of Upland
460 N. Euclid Avenue
Upland, CA 91786
Attn: City Attorney

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

3.5.2 Indemnification.

3.5.2.1 Scope of Indemnity. To the fullest extent permitted by law, Contractor shall defend, indemnify and hold the City, its officials, employees, agents and volunteers free and harmless from any and all claims, demands, causes of action, suits, actions, proceedings, costs, expenses, liability, judgments, awards, decrees, settlements, loss, damage or injury of any kind, in law or equity, regardless of whether the allegations are false, fraudulent, or groundless, to property or persons, including wrongful death, (collectively, "Claims") in any manner arising out of, pertaining to, or incident to any alleged acts, errors or omissions, or willful misconduct of Contractor, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Contractor's Services, the Project or this Agreement, including without limitation the payment of all expert witness fees, attorneys' fees and other related costs and expenses. Notwithstanding the foregoing, to the extent required by Civil Code section 2782, Contractor's indemnity obligation shall not apply to liability for damages for death or bodily injury to persons, injury to property, or any other loss, damage or expense which is caused by the sole or active negligence or willful misconduct of the City or the City's agents, servants, or independent contractors who are directly responsible to the City.

3.5.2.2 Additional Indemnity Obligations. Contractor shall defend, with counsel of City's choosing and at Contractor's own cost, expense, and risk, any and all Claims covered by this indemnification section that may be brought or instituted against City or its officials, employees, agents and volunteers. In addition, Contractor shall pay and satisfy any judgment, award or decree that may be rendered against City or its officials, employees, agents and volunteers as part of any such claim, suit, action or other proceeding. Contractor shall also reimburse City for the cost of any settlement paid by City or its officials, employees, agents and volunteers as part of any such claim, suit, action or other proceeding. Such reimbursement shall include payment for City's attorney's fees and costs, including expert witness fees. Contractor shall reimburse City and its officials, employees, agents, and volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Contractor's obligation to indemnify shall survive expiration or termination of this Agreement, and shall not be restricted to insurance proceeds, if any, received by the City, its officials, employees, agents and volunteers.

3.5.3 Governing Law; Government Code Claim Compliance. This Agreement shall be governed by the laws of the State of California. Venue shall be in San Bernardino County, California. In addition to any and all contract requirements pertaining to notices of and requests for compensation or payment for extra work, disputed work, claims and/or changed conditions, Contractor must comply with the claim procedures set forth in Government Code sections 900 et seq. prior to filing any lawsuit against the City. Such Government Code claims, and any subsequent lawsuit based upon the Government Code claims shall be limited to those matters that remain unresolved after all procedures pertaining to extra work, disputed work, claims, and/or changed conditions have been followed by Contractor. If no such Government Code claim is submitted, or if any prerequisite contractual requirements are not otherwise satisfied as specified herein, Contractor shall be barred from bringing and maintaining a valid lawsuit against the City.

3.5.4 Time of Essence. Time is of the essence for each and every provision of this Agreement.

3.5.5 City's Right to Employ Other Contractors. City reserves right to employ other contractors in connection with this Project.

3.5.6 Successors and Assigns. This Agreement shall be binding on the successors and assigns of the parties.

3.5.7 Assignment or Transfer. Contractor shall not assign, hypothecate, or transfer, either directly or by operation of law, this Agreement, or any interest herein without the prior written consent of the City. Any attempt to do so shall be null and void, and any assignees, hypothecates or transferees shall acquire no right or interest by reason of such attempted assignment, hypothecation, or transfer.

3.5.8 Construction; References; Captions. Since the Parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party. Any term referencing time, days or period for performance shall be deemed calendar days and not workdays. All references to Contractor include all personnel, employees, agents, and subcontractors of Contractor, except as otherwise specified in this Agreement. All references to City include its officials, officers, employees, agents, and volunteers except as otherwise specified in this Agreement. The captions of the various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, or intent of this Agreement.

3.5.9 Amendment; Modification. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

3.5.10 Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel or otherwise.

3.5.11 No Third-Party Beneficiaries. Except to the extent expressly provided for in Section 3.5.7, there are no intended third-party beneficiaries of any right or obligation assumed by the Parties.

3.5.12 Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

3.5.13 Prohibited Interests. Contractor maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this Agreement. Further, Contractor warrants that it has not paid, nor has it agreed to pay any company or person, other than a bona fide employee working solely for Contractor, any fee, commission, percentage, brokerage fee, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. Contractor further agrees to file, or shall cause its employees or subcontractors to file, a Statement of Economic Interest with the City's Filing Officer as required under state law in the performance of the Services. For breach or violation of this warranty, City shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer or employee of City, during the term of his or her service with City, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

3.5.14 Cooperation; Further Acts. The Parties shall fully cooperate with one another and shall take any additional acts or sign any additional documents as may be necessary, appropriate, or convenient to attain the purposes of this Agreement.

3.5.15 Authority to Enter Agreement. Contractor has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each Party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and bind each respective Party.

3.5.16 Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

3.5.17 Entire Agreement. This Agreement contains the entire Agreement of the parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings, or agreements. This Agreement may only be modified by a writing signed by both parties.

[SIGNATURES ON FOLLOWING PAGE]


**SIGNATURE PAGE FOR
MAINTENANCE SERVICES AGREEMENT
BETWEEN THE CITY OF UPLAND
AND ELITE MAINTENANCE & TREE SERVICE**

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date first written above.

CITY OF UPLAND

ELITE MAINTENANCE & TREE SERVICE

APPROVED BY:

DocuSigned by:

MICHAEL BLAY
City Manager

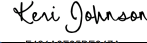
DocuSigned by:
By: 
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Its: VICE PRESIDENT

Printed Name:

DARIN SHERLOCK

ATTESTED BY:

DocuSigned by:

KERI JOHNSON
City Clerk


DocuSigned by:
By: 
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Its: C.E.O.

Printed Name:

DERIK JAKUSZ

APPROVED AS TO FORM:

DocuSigned by:

Best Best & Krieger LLP
City Attorney

911565
Contractor's License Number

1000008208
DIR Registration Number

EXHIBIT A

SCOPE OF SERVICES

The Contractor's primary responsibility will be to maintain the landscape areas at the highest industry standards by integrating innovative and progressive techniques and to follow the objectives as set forth in the specifications. The Contractor shall furnish all labor, equipment, materials, tools, services, and special skills required to perform the landscape maintenance as set forth in this specification and in keeping with the highest standards of quality and performance. Maintenance of the landscape shall include, but not be limited to, inspections, mowing, trimming, pruning, fertilization, aeration, weed control, cultivation, pest control, tree surgery, de-thatching, plant replacements, renovation, and clean-up of City facilities. The Contractor will create a maintenance schedule to keep the designated City Facility landscaped areas maintained. The specific service locations will be geographically categorized within the City of Upland.

Irrigation maintenance shall be all inclusive and shall include inspections, operation of the systems, adjustments, repairs, modifications, improvements, testing, analysis, and other work as needed. The Contractor will submit a maintenance schedule to the City, scheduling the maintenance operations which include, but are not limited to: tree pruning, aeration, thatching, insecticides/herbicide application and application of all fertilization to trees, shrubs, ground cover, and turf. This specification establishes the minimum standards for the maintenance of the landscaped areas for the City.

The Contractor shall provide skilled landscape maintenance services, tools, equipment, and transportation to perform landscape maintenance services of City Facility landscaped properties within the jurisdiction of the City of Upland Public Works Department. The Contractor agrees to provide services as per the Scope of Work Functions and Frequencies, Technical Specifications, General Specifications, in accordance with and as referenced in the City Landscape Standards, Exhibit "A" contained herein to maintain the Work Locations in a safe, attractive, and useable condition.

1. Emergency Numbers and Callouts. 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.

A. In the event that emergency work is required, the Contractor shall notify the Landscape Supervisor by telephone in advance before any emergency work is commenced. Non-emergency maintenance work requires written approval before the work is performed. An answering service is not acceptable for emergency calls after working hours/weekends.

B. In situations involving emergency work after normal working hours, the Contractor shall dispatch qualified personnel and equipment to reach the site within two (2) hours. The Contractor's vehicle shall carry sufficient equipment to safely control traffic. When the Contractor arrives at the site, the Contractor shall set up traffic warning

and control devices, if deemed necessary, and proceed to repair the system on a temporary basis.

C. The Contractor shall supply the City with the name(s) and phone number(s) of responsible person(s) representing the Contractor for 24-hour emergency response. The above-mentioned information shall always remain current. Any changes shall be forwarded to the City in writing within 12 hours of any such change. (Failure to provide the City with current emergency information within the 12-hour period shall result in a \$500.00 penalty per occurrence).

Emergency response can be defined by:

1. Instructions per City Landscape Supervisor and/or Operations Manager
2. Prior agreement
3. Public health/safety matters, wind and/or rainstorm conditions
4. Irrigation malfunctions and/or leaks

Public health/safety matters include but are not limited to broken water mains, stuck valves, threat to private property resulting from the responsible Contractor's operations, fallen trees, natural disasters, etc.

2. Special License and Permits. The Contractor shall have and maintain a valid **C-27 Contractor's license**. All applications of chemical controls, i.e., herbicides and pesticides, shall be done in compliance with governmental requirements. Applications of such materials shall be done by personnel licensed by the State of California, Department of Food and Agriculture. Contractor will obtain any permits required by local governmental agency for the use of special chemicals.

3. Dress Code and Appearance. All personnel of the Contractor shall be required to wear uniforms bearing the company name while on the project. Sufficient changes shall be provided to present a neat and clean appearance of personnel at all times. The uniform shall consist of a shirt, trousers and/or short pants during the summer months and reflective safety jacket with company name during cool weather. Safety vests bearing the company name are not considered a part of the uniform but shall be required to be worn to comply with this contract document. Failure of an employee to wear a uniform shall result in a \$250.00 deduction and forfeiture per occurrence.

4. Personnel Special Requirements

A. The Contractor shall provide personnel fully trained in all phases of landscape irrigation systems operation, maintenance, adjustments, and repair; in all types of irrigation controllers, valves, moisture sensing devices, and sprinkler heads; and with all brands and models of irrigation equipment used within the City.

B. The Contractor shall provide personnel knowledgeable of, and proficient in, current water management concepts, with the capability of working with City staff in implementing more advanced water management strategies.

C. All irrigation personnel shall be capable of verbal and written communication at a professional level of English.

5. Special Requests. The Contractor may be requested by the City Landscape Supervisor to perform special tasks which are above his normal scheduled work (i.e., pruning for a specific aesthetic view problem). It is intended that the Specifications are indicative of the work to be anticipated by the Contractor and will allow for reasonable additional work at no additional cost to the City which is considered normal maintenance to meet the objectives and criteria.

6. Project Inspections. Upon request, the Contractor or his representative will walk the project with the City representative, or the Landscape Supervisor, for the purpose of determining compliance with the Specifications or to discuss required work. The Contractor's representative shall be authorized to sign documents and effect changes to the job. Contractor is to submit a weekly Completion Form. Template form will be provided by the City.

7. Traffic Control. In accordance with the California Trans Watch Manual, the Contractor shall notify local authorities of his intent to begin Work at least five (5) days before Work is begun. The Contractor shall cooperate with local authorities relative to handling traffic through the area and shall make his own arrangements relative to keeping the working area clear of vehicles. If the Contractor permits traffic to operate in an unsafe manner and does not take appropriate safety measures (such as placement of markers or signs regarding the presence of workers near a roadway), the City may immediately suspend all Work until the Contractor has met all safety requirements. All vehicles used by the Contractor on the job site must be equipped with flashing yellow beacons of the type approved by the City.

A. When entering or leaving roadways carrying public traffic, the Contractor's equipment, whether empty or loaded, shall in all cases yield to public traffic. The Contractor shall make every effort to keep commercial driveways open during working hours. During and after working hours, all driveways shall be accessible with smooth and safe crossings through the construction area. WATCH Manual, (Work Area Traffic Control Handbook).

8. Protection of Property During Inclement Weather. During periods of storms or high winds, the Contractor will provide supervisory inspection of the project during regular hours to prevent or minimize possible damage from inclement weather. The Contractor shall submit a report identifying any storm or high wind damage to the City's representative attached to a site map identifying the location of damage and cost estimate to repair/replace any damage. If remedial work is required beyond the scope of this Contract, it shall be paid for as extra work. It is the Contractor's responsibility for removing landscape debris and general trash accumulated by high winds or other typical or non-typical environmental conditions. The Contractor shall modify their schedule to complete all the required work within forty-eight (48) hours of inclement weather.

9. Protection of Existing Facilities and Structures. The Contractor shall exercise due care in protecting from damage all existing facilities, structures, and utilities both above surface and underground on the City's property. Any damage to City property deemed to be caused by the Contractor's negligence shall be corrected or paid for by the Contractor at no cost to the City. If the City requests or directs the Contractor to perform work in a given area, it will be the Contractor's responsibility to verify and locate any underground systems, i.e., utility lines. This does not release the Contractor of the responsibility for taking reasonable precaution when working in these areas. Any damage or problems shall be reported immediately to the City.

10. City Liaison. The City representative and/or City Landscape Maintenance Supervisor, and the Contractor's representative will meet on a weekly basis. The purpose of this meeting will be to discuss specific project problems. More frequent contact may be required between the City Landscape Supervisor and the Operations Manager separately from these meetings. The City Landscape Supervisor and/or Operations Manager will review, and initial invoice items verified as completed prior to submittal to the Director of Public Works for payment. The original invoice should be emailed to: Public Works Landscape Supervisor and/or Operations Manager or Designee.

11. Work Not Included. Water and electrical billings, except in instances where excessive costs are incurred by the City due to water waste or negligence by the Contractor, are not included within this Agreement. If the Director of the Public Works Department determines that excessive utility costs have occurred in their sole and absolute discretion, the City may withhold from the payment to the Contractor those funds necessary to reimburse the City for these additional costs.

12. Contractor Negligence. Any damage to the City's property which has been determined to be due to the Contractor's negligence shall be corrected at no additional cost to the City. Dead or missing plants attributable to improper care by the Contractor shall be corrected by the Contractor at no additional cost to the City.

13. Scheduling of Operations. The Contractor shall perform his work at such times as to minimize disturbance or interference to resident convenience, recreational programs, and pedestrian or vehicle circulation. For example, mowing or irrigation checks should occur early in the morning. The Contractor shall submit a Maintenance Schedule describing maintenance operations and when work and applications of chemicals/fertilizers will be accomplished. This schedule shall be submitted and approved PRIOR to starting any maintenance operations. All forms and schedules shall be of a format approved by the City.

14. Sound Control Requirements. The Contractor shall comply with all local sound control and noise level rules, regulations, and ordinances which apply to any work performed pursuant to the Contract.

A. Each internal combustion engine used for any purpose on the job or related to the job shall be equipped with a muffler of a type recommended by the manufacturer of such equipment. No internal combustion engine shall be operated on

the project without said muffler. Properly equipped internal combustion engines may only be operated between 7:00 a.m. and 7:00 p.m. Except in the event of an unforeseen emergency and/or storm event.

B. Full compensation for conforming to the requirements of this section shall be considered as included in the prices paid for the various contract items of work involved and no additional compensation will be allowed, therefore.

15. Construction/Maintenance Equipment. The Contractor shall take all necessary precautions for safe operation of his equipment and the protection of the public from injury and damage from such equipment.

16. Additions/Deletions to City Landscape Areas. Changes in the areas to be maintained may be made as the City accepts new areas and/or relinquishes currently maintained areas. All such changes shall only be made upon written notification in the form of a change order which shall clearly state the effective date of the change. The Contractor agrees that as additional landscaped areas are added to the LMD/CFD, the Contractor shall maintain such additional landscaped areas in accordance with contract specifications.

17. Additions/Deletions to Maintenance Specifications. The City reserves the right to make additions, deletions, revisions, and/or otherwise modify the General Landscape Maintenance Specifications. Any change in the specifications that causes the Contractor to suffer additional expenses may be negotiated upon written justification.

18. Administration.

A. Reports and Schedules and Payment Adjustments

- 1) The report and schedule forms, which will be provided, indicate the major items of work, and further delineate the time frames for accomplishment.
- 2) The Contractor shall complete the schedule for each item of work and each area of work.
- 3) The initial schedule shall be submitted on or by the effective date of the contract. Thereafter it shall be submitted on the day agreed upon by the Contractor and the Inspector.
- 4) Failure to supply the required schedule shall result in the deduction and forfeiture of Two-Hundred Fifty Dollars (\$250.00) from payment to the Contractor per occurrence.
- 5) Changes to the schedule shall be received by the Landscape Supervisor at least twenty-four (24) hours prior to the scheduled time for the work.

- 6) Failure to notify of a change and/or failure to perform an item of work on a scheduled day may result in deduction of payment for that date or work even though the work is performed on a subsequent day.
- 7) The Contractor shall adjust their schedule to compensate for all holidays and/or adjust their schedule as directed.

B. Performance During Inclement Weather

1. During the periods when inclement weather hinders normal operations, the Contractor shall adjust his work force in order to accomplish those activities that are not affected by weather. Activities affected by the weather shall be completed within 48 hours after the inclement weather or as directed by the City's representative.
2. The prime factors in assigning work shall be the safety of the work force and damage to landscaping, in that order.
3. Failure to adjust the work force to show good progress on the work shall result in deduction of payments to reflect only the work accomplished.

C. Performance On Schedule

1. The Contractor will be given the maximum latitude in establishing work schedules which correspond to its staff and equipment resources. The Contractor will also be provided the opportunity to adjust those schedules to meet special circumstances.
2. All Work shall be completed on the week scheduled as shown on the schedule.
3. Failure to complete the work as scheduled will result in the following actions:
 - i) The sum of two-hundred fifty dollars (\$250.00) per day will be deducted and forfeited from payments to the Contractor for each instance where an item of work is not completed in accordance with the schedule or specifications, except for mowing/mechanical edging which shall be one-hundred dollars (\$100.00) per instance.

- ii) These actions shall not be construed as a penalty but as an adjustment of payment to the Contractor for only the work performed or as the cost to the City for inspection and other related costs from the failure by the Contractor to complete the work according to schedule.

D. Other Deficient Performance Items

1. The Contractor shall be notified both verbally and in writing each time performance is unsatisfactory and corrective action is necessary.
2. The Contractor shall complete corrective action within the following time frames subsequent to verbal notification:
 - a) Major irrigation problems within eight (8) hours
 - b) Other irrigation problems within twenty-four (24) hours (including controller program adjustments, reports, and schedules)
 - c) Other deficiencies within forty-eight (48) hours
 - d) Re-staking of trees within twenty-four (24) hours
 - e) Failure to remove and dispose of debris generated by regular maintenance operations, within twenty-four (24) hours
 - f) Failure to remove and dispose of debris including tumbleweeds from wind or normal litter accumulation, within twenty-four (24) hours.
 - g) Failure to provide weekly irrigation observation report within twenty-four (24) hours of the first working day of the following week
 - h) Failure to submit a monthly water meter report within twenty-four (24) hours of the first working day of the month.
 - i) Failure to submit a monthly water meter report within twenty-four (24) hours of the first working day of the month.
 - j) Failure of an employee to wear a uniform or a safety vest per occurrence.

19. Green Waste Recycling - Recycling of landscape material as part of this contract is required by the City. The City will provide locations to dispose of the "Clean" landscape material at no cost to the Contractor. "Clean" is defined as green waste (leaves, bushes, grass clipping) that is free from contamination from non-green waste such as construction material, plastic irrigation lines, rocks, trash, etc. The Contractor shall meet all recycling needs as required by the designated City representative at no additional cost to the City.

TECHNICAL SPECIFICATIONS

5.0 GENERAL LANDSCAPE MAINTENANCE SPECIFICATIONS

This specification establishes the standards of maintenance for City Facilities Landscaped areas in the City of Upland.

The Contractor's primary responsibility will be to maintain the landscape areas at the highest industry standards by integrating innovative and progressive techniques and to follow the objectives as set forth in these specifications.

The Contractor shall furnish all labor, equipment, materials, tools, services, and special skills required to perform the landscape maintenance as set forth in this specification and in keeping with the highest standards of quality and performance.

Maintenance of the landscape shall include but not be limited to inspections, mowing, trimming, shrub pruning, fertilization, aeration, weed control, cultivation, pest control, de-thatching, plant replacements, renovation, and clean-up of drainage facilities. It is the intent to schedule maintenance to keep this site in a state of healthy vigorous growth.

Contractor shall be responsible for all repairs, at the Contractor's expense, to the complete in-ground portion of the irrigation system from the point that irrigation water exits the system to the point of connection with the water meter.

Irrigation maintenance shall include inspections, operation of the systems, adjustments, repairs, modifications, improvements, testing, analysis, and other work as needed.

The Contractor will provide a Maintenance Schedule, as directed by the City, showing the schedule of Maintenance Operations including, but not limited to: mowing, aeration, thatching, pruning, insecticide/herbicide application, the application of fertilizers to shrubs, ground cover and turf, restroom cleaning and trash removal.

5.1 SUPERVISION

The Contractor shall assign a supervisor working regular hours for the duration of this contract for each awarded area. He or she shall have a minimum of five-years' experience as a Landscape Supervisor. The supervisor shall be capable of communicating effectively both in written and verbal English.

5.2 PERSONNEL

- A. The Contractor shall provide personnel fully trained in all phases of landscape irrigation systems operation, maintenance, adjustments, and repairs; in all types of components, to include irrigation controllers, valves, master valves, moisture sensing devices, and sprinkler heads; and with all brands and models of irrigation equipment used within the City.
- B. The Contractor shall provide personnel knowledgeable of, and proficient in, current water management concepts, with the capability of working with City staff in implementing more advanced water management strategies.
- C. The Contractor shall provide personnel capable of verbal and written communication of the English language at a professional level.

5.3 PROJECT INSPECTION

Upon request, the Contractor or his representatives will walk the project with the City's Landscape Supervisor or other Representatives for the purpose of determining compliance with the specifications or to discuss required work. Contractor representatives must be authorized to sign documents that affect changes to the job.

5.4 SAFETY

Contractor shall be responsible for providing a safe workplace, and compliance with standards and regulations of the California Occupational Safety and Health Act (Cal OSHA), Federal Occupational Safety and Health Act (OSHA), California Division of Industrial Safety Orders (CDIS), and any other applicable government law or City Risk Management standards.

5.5 NON-PERFORMANCE

All work performance shall be subject to inspection and approval by the City's Landscape Supervisor. If performance is unsatisfactory, or work is not performed, a deduction shall be applied to the Contractor's billing in accordance with the deduction schedule listed below. A City issued deficiency notification form shall be used whenever deductions are applied.

The sum of the detailed cost line item, per individual landscape maintenance task not performed per these specifications, shall be deducted, and forfeited from payments to the Contractor.

5.6 TURFGRASS

A. General

- 1. Watering: A regular, deep watering program shall be accomplished to give the best results. The established turf should not be kept moist but should

dry out somewhat between watering. Allow turf to dry out before mowing.

2. Aeration: Mechanically aerate all turf areas as often as required or as directed by the City's Landscape Supervisor, not to exceed 4 times per year, to reduce compaction/stress conditions, which will offer greater water penetration and reduce runoff. In those areas where soil condition is poor, top dressing may be required by the City Landscape Supervisor. When top dressing is required, the Contractor shall submit a request for extra work which must be approved by the City Landscape Supervisor before work is scheduled.

Use a plug aerator with ½ inch tines. Any areas that show excessive compaction shall receive additional treatment as required to alleviate this condition. The scheduling of aeration will be recorded on the Maintenance Schedule and shall be performed no less than two (2) times per year. In rocky areas, a solid tine or vertical slice aerator will be required.

3. Mowing: **All turf areas shall be mowed a minimum of once per week.** Unless otherwise directed by the City's Landscape Supervisor, cut cool season turf grass at 2 inches. Common Bermuda and other warm season grasses shall be mowed to not exceed 1 inch, hybrid Bermuda at ¾ inches. Avoid removing more than one-third of the leaf area blade at any one time. Remove or catch the clippings. Use rotary type mowers for cool season grasses and reel type mowers for warm season grasses with sharp blades (blades should be sharpened or replaced at least twice a week). All debris must be removed daily and disposed of legally off-site. Care shall be exercised during the mowing operation to prevent damage to trees and other obstacles located within the turf areas such as electrical boxes or fixtures. Do not mow areas that are saturated with water. Alternate mowing patterns shall be used whenever possible to prevent wheel ruts in turf areas. If ruts are made, contractor will make repairs at his own expense. The Landscape Supervisor must approve of all mowing equipment used by the contractor. Small rotary push mowers will be required for parkways and other small areas.

It is the intent of the City that the contractor uses mulching mower equipment to mow all turf areas. The contractor may be required, at the discretion of the Landscape Supervisor, to bag and remove grass clippings if the use of mulching mowers creates a hazardous or messy condition in the work area.

4. Fertilizing: Apply fertilizers so as to provide sufficient nitrogen and other basic nutrients on a regular basis to maintain the turf in a healthy condition, or as directed by the Landscape Supervisor. Fertilizer will be applied as often as required to always maintain deep green color. The type of turf and time of year will determine the type of fertilizer used. The frequency of application will greatly depend on the amount of leaching caused by excess use of water. The

type of fertilizer used, and frequency applied will be recorded. Coordinate all fertilizer applications with the Landscape Supervisor.

5. Trimming and Edging: Trim around walls, buildings, curbs, header boards, valve boxes, quick couplers, and paved areas on a weekly basis to present a neat, clean appearance. Chemically edge around trees (tree wells) within a minimum 18" radius from the trunk using care not to damage the tree trunk or roots. At no time will chemical edging be allowed on anything other than tree wells unless directed otherwise in writing by the Landscape Supervisor.
6. Thatching: Thatch all turf areas **once per fiscal year** at a time when there will be the least amount of stress to turf, preferably in the Spring or Fall. Thatching will be in accordance with the following methods:
 - Step 1: Aerify entire area using an aerator with ½ inch tines.
 - Step 2: Verticut the entire area using a thatching machine set to contact the soil line.
 - Step 3: Verticut in two different directions. Pick up debris with a turf vacuum.
 - Step 3: Mow with rotary mower at regular cutting height as specified above or as directed by the Landscape Technician.
7. Refurbishment of Turfgrass: Turf areas that thin out due to shading effect of trees, structures, and irrigation malfunction (due to Contractor's negligence) will be reseeded with an approved grass seed to restore the thinning areas. Coordinate with the Landscape Supervisor. This will not be considered extra work. In the winter months the Landscape Supervisor may require sod.
8. String Trimmers
Care shall be exercised with regard to the use of string trimmers to prevent damage to building surfaces, walls, header board, light fixtures, signage, etc. String trimmers shall not be used within 18" of a tree trunk.
9. Weed Control
Contractor shall always maintain City Facility landscape areas in a weed free condition using either chemical or mechanical means. Pre-emergent herbicide applications shall be required to control crabgrass in all turf areas. The Contractor shall exercise extreme care and caution while applying chemical weed controls to avoid damaging any non-target plant materials. Before such applications are made, the turf should be well established and in a vigorous growth condition. All chemical applications will be recorded and coordinated with the City Landscape Supervisor.

5.7 SHRUB MAINTENANCE

A. Pruning

1. Shrubs shall be pruned as required for safety, removal of broken, dead, and diseased branches, general containment, and appearance.
2. All shrubbery shall be pruned, trimmed, thinned, and suckers removed to properly contain its size with respect to species, size of planters and the best health of the plant. Coordinate with the City Landscape Supervisor.
3. Prune shrubs to retain as much of the natural informal appearance as possible, consistent with intended use. Coordinate with City Landscape Supervisor.
4. Shrubs used as formal hedges or screens shall be pruned as required to present a neat appearance.
5. Remove any spent blossoms or dead flower stalks as required to present a neat appearance.
6. Shrubs and mounding shall not exceed 2 feet in height within areas required for vehicle sight distance depending upon roadway topography (i.e., medians and street corners). Coordinate with the City Landscape Supervisor.
7. Shrubs shall be maintained within the limits of confined areas (i.e., narrow medians, walkways, etc.) so as not to encroach on same.
8. Shrubs shall be trimmed to maintain horizontal clearance along all walkways and trails to prevent encroachment onto private property.

B. Shrubbery Replacement

The Contractor, at their expense, shall be responsible for the complete removal and replacement of shrubbery lost due to negligence by the Contractor as determined by the City Landscape Supervisor.

C. Pruning Schedule

Shrubs shall be pruned and trimmed as needed, or as requested by the City Landscape Supervisor.

D. Fertilization

Contractor shall apply a balanced fertilizer as needed in shrub areas to maintain a healthy appearance and condition, or as directed by the City Landscape Supervisor.

E. Cultivation and Mulching

Contractor shall cultivate landscape bed 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 dirt areas and/or around trees as required by the landscape inspector (mulch will be supplied or paid for by the City).

F. Irrigation (Deep Soaking)

Deep soaking shall be defined as the application of sufficient quantities of water, without excessive run-off, to maintain the reasonable health and vigor of plants. Basin modifications may be required. Quantities of water shall be sufficient to allow for deep water penetration and encouragement of deep rooting of the plants.

5.8 VINES

A. General

1. Vines and espalier plants shall be checked and retied as required. Secure vines with appropriate ties to promote directional growth on supports.
2. Do not use nails to secure vines on masonry walls.
3. Existing vines planted in pockets not provided with sprinklers shall be deep watered as needed to promote optimum growth.
4. Pruning of vines will be in accordance with good horticulture practices.
5. Vines shall be trimmed as required for safety, disease, general containment, or appearance, or as directed by the City Landscape Supervisor.
6. All vines planted on walls shall be trimmed and maintained 18" from the top of the wall. This distance may be modified at the discretion of the City Landscape Supervisor.

5.9 GROUNDCOVER

A. General

1. Trim ground cover plantings as required for general containment and to present a neat, clean appearance.
2. **Weeds shall be controlled and not reach two inches (2") in height.** Remove weeds by chemical or mechanical means as approved by the City Landscape Supervisor.
3. Keep ground cover trimmed back from all utility cabinets, irrigation controller units, valve boxes, quick couplers, or any other appurtenances or fixtures. Do not allow ground cover to grow up the trunks of trees, into shrubs, on structures

or walls unless directed by the landscape inspector. Keep trimmed back approximately 4 inches from structures, walls, etc. Coordinate trimming around base of shrubs/trees with City Landscape Supervisor.

4. Bare soil areas shall be cultivated a minimum of once per month and/or mulched as directed by the landscape inspector. Mulch will be supplied or paid for by the City.

5.10 TREE MAINTENANCE

A. General:

1. The contractor shall prune suckers and low-hanging branches to provide clearance.
2. The contractor shall install or replace damaged or missing tree stakes.

5.11 FERTILIZATION

A. General:

Contractor shall use only dry pelletized fertilizers unless otherwise approved by the City Landscape Supervisor. Applications shall be in accordance with the manufacturer's specifications.

B. Scheduling:

The application of all fertilizers shall be recorded and specifically identified on the Contractor's Maintenance Schedule indicating the fertilizer used and frequency applied (i.e., turf, trees, shrubs, ground cover, etc.).

C. Method of Application:

When applying fertilizer granules, every precaution shall be taken to contain these materials in the planting areas. The Contractor will be responsible for removing all fertilizer stains from concrete caused by his application.

D. Timing of Application:

When climatic factors cause problems with the general use of fertilizers, an adjustment of the fertilizing schedule may be necessary. After fertilizer application, watering schedule shall be monitored to eliminate runoff or leaching of fertilizer materials.

E. Soil Testing:

Soil tests and plant analysis shall be obtained at the discretion of the City Landscape Supervisor to determine the need for fertilizer or amendments and shall be completed prior to application. Copies of all test reports shall be submitted for review by the City Landscape Supervisor prior to application. The Contractor shall provide soil and foliar testing at no expense to the City. For the purposes of bidding, the Contractor should assume twenty-four (24) tests per year. The City Landscape Technician shall determine all test locations.

5.12 PEST CONTROL OF PLANT MATERIAL

A. General:

1. Contractor shall practice Integrated Pest Management. This shall involve common-sense practices that use environmentally acceptable methods of pest control with the least possible hazard to the public, City property, and the environment. Practices shall combine the use of current information on pest life cycles, exclusion, natural enemies, and host resistance.
2. Contractor shall provide complete control of all plant pests and/ or diseases.
3. The Contractor shall obtain all necessary licenses and permits to comply with City, County, State and Federal regulations or laws.
4. Contractor will assume responsibility and liability for the use of all chemical controls.
5. Pest and disease shall include, but shall not be limited to all insects, mites, other vertebrates, and invertebrates including gophers, ground squirrels, pathogens, and nematodes.
6. All material use shall be in strict accordance and applied within the most current EPA regulations and the California Food and Agricultural Code.

B. Application of Pesticides

1. City shall be notified prior to the application of pesticides and other chemicals. Pesticide applications shall be recorded on the Maintenance Schedule and coordinated with the City's Landscape Supervisor. Material Use Reports for all pesticides shall be filed with the City no later than the 15th day of every month for the preceding month.
2. Pesticides shall be applied at times which limit the possibility of contamination from climatic or other factors. Early morning application shall be used, when possible, to avoid contamination from drift. Applicator shall monitor forecast weather conditions to avoid applications prior to inclement weather, to eliminate potential runoff in treated areas.
3. Irrigation water applied after treatment shall be reduced to eliminate runoff. When water is required to increase pesticide efficiency, it shall be applied only in quantities of which the area is capable of absorbing without excessive runoff.

4. Care shall be taken in transferring and mixing pesticides to prevent contaminating areas outside the target area. Application methods shall be used which ensure that materials are confined to the target area. Spray tanks containing leftover materials shall not be drained on the site. Disposal of pesticides and tank rinsing materials shall be within the guidelines established in the State of California Food and Agricultural Code or EPA regulations.
5. Spray equipment shall be in good operating condition, quality, and design to efficiently apply materials to the target area. Spray drift from pesticide applications shall be minimized.
6. Wherever a specific type of material is specified, no substitutions shall be allowed without the written consent of the City Landscape Supervisor.

C. Certification of Materials:

1. All materials shall be transported to the site in original containers. Materials shall be subject to inspection by the City Landscape Supervisor.
2. The State of California Agricultural Code requires that pesticides and/or chemicals may be used only after a written recommendation by a State of California Licensed Pest Control Advisor is obtained, with a copy forwarded to the City Landscape Manager and/or Supervisor prior to chemical usage. These recommendations shall be updated on a yearly basis. A recommendation consists of all the information the applicator should know for accurate and safe usage. The recommendation must be time and site specific.
3. If a Restricted Use Pesticide is recommended, a use permit issued by the County of San Bernardino Agricultural Commissioner must be provided to the City.
4. All pesticides shall be applied only by an operator possessing a California state issued Qualified Applicator's License or a Qualified Applicator's Certificate.
5. All areas of the landscape shall be inspected for infestations of pests such as ants, insects, mites, snails, and sow bugs. Plants shall be observed closely for leaves that may be blotched, blighted, deformed, mildewed, rusted, scorched, discolored, defoliated, or wilted.
6. Contractor shall identify the cause of plant injury and consult a Pest Control Advisor before application of chemical treatments.

7. Cultural preventive methods shall begin before a pest is visible. At certain times of the year, and with certain environmental conditions, the presence of certain pests can be anticipated. New plant growth shall be monitored for the presence of aphids, leaf hoppers, scale, mealy bugs, and mites. A 10-power magnifying glass is helpful for identifying mites. Evidence of ant activity may be seen in soil, along walks, and trunks of shrubs and trees.
8. Adult beetles shall be controlled before they lay eggs on bark in the spring. Ongoing inspections are necessary to determine if there is a summer brood.
9. Snails shall be controlled before becoming epidemic. They can be anticipated as a menace from spring until the advent of high temperatures.
10. Contractor shall prevent the spread of disease by keeping all cutting edges sterile by dipping in an alcohol or bleach solution after each cut.
11. Weeds must be removed upon appearance. Selective post-emergent herbicides shall be used to kill weeds without permanent injury to other plants.
12. Broadleaf weeds in turf shall be removed selectively, without injury to the lawn grass other than slight, temporary discoloration.
13. Grass weeds in lawns shall be controlled with selective post-emergent herbicides.
14. Creeping grasses shall be kept out of shrubs and groundcovers.
15. Weeds not killed with herbicides shall be removed manually. Turf and other desirable plants killed by weeds, chemicals, etc., shall be replaced at the Contractor's expense. All replacements must be made within 7 calendar days after receiving notice from the City.

5.13 WEED CONTROL OF PAVED SURFACES AND EMPTY CITY OWNED LOTS

- A. Contractor shall be responsible for controlling weeds in the cracks and expansion joints of hardscape areas that are contiguous to contractor-maintained City landscape areas, City parking lots. This includes, but is not limited to, curb and gutter areas, sidewalks, ~~sport courts~~, trails, parking lots, etc.
- B. Landscape areas adjacent to empty lots shall have a contractor maintained 4' to 5' foot "buffer zone" separating the landscape from the weeds or vegetation on empty lots. Coordinate with the City Landscape Supervisor.

5.14 DRAINAGE FACILITIES

Contractor shall be responsible for the continual inspection and maintenance of all drains installed in the landscape areas. This includes V-ditches, surface drains, rock/cobble open culverts, or any other drainage facilities that are contiguous to the landscape areas, and along City right-of-ways which include along roadways. Drains and/or culverts shall be routinely checked and maintained free of obstruction, debris, and weed/vegetation to assure proper drainage. Remove any debris or obstructions that might accumulate, preventing the proper flow of water.

5.15 GENERAL CLEAN-UP

- A. At no time will the Contractor be allowed to blow grass clippings or any other landscape debris into public streets or gutters without being swept or vacuum cleaned.
- B. Contractor shall remove all debris resulting from their maintenance operations and dispose of it off-site at the time of occurrence. All grass clippings shall be picked up after each mowing or trimming operation. Use of mulching mowers must be approved by the City. If the use of mulching mowers is approved, all visible clippings must be removed in accordance with this specification.
- C. All debris resulting from any of the Contractor's operations shall be removed from the work site and may be transported to the City Public Works Yard facilities for disposal. No debris will be allowed to remain at the end of the workday. (Failure to remove and dispose of debris shall result in a \$250.00 forfeiture from payment.) All debris must be separated into green waste, recyclables, and other waste to minimize contamination and be disposed of in the appropriate locations. Failure to separate and dispose of debris appropriately shall result in a \$250.00 forfeiture from payment.
- D. All walkways will be always kept clean/clear of debris and plant growth. Care shall be taken not to create unnecessary hazards to foot or wheelchair traffic during maintenance operations.
- E. All shrub areas not inter-planted with ground cover will be raked clean a minimum of once a week or as directed by the City Landscape Supervisor.
- F. All other debris resulting from any of the Contractor's operations shall be removed and disposed of legally at the Contractor's expense. No debris will be allowed to remain at the end of the workday. Failure to remove and dispose of debris properly shall result in a \$250.00 forfeiture from payment for each occurrence.

5.16 PLANT ADDITIONS AND / OR REPLACEMENTS

As part of this agreement, the Contractor may be requested to replace damaged or destroyed trees, turf, shrubs, vines, ground cover, or flowers. Contractor shall

submit a timely proposal in writing for these improvements. Such work will be paid for as extra work by the City unless otherwise specified within these specifications. No work shall commence until the proposal has been signed as accepted by the City Landscape Supervisor. Exceptions will be replacements due to Contractor's neglect. This will be determined by the City Landscape Supervisor.

5.17 GUARANTEE AND/OR REPLACEMENT POLICY

All new plant material installations, irrigation installations and repairs done as part of this contract shall be guaranteed for a period of one calendar year with exceptions due to "Acts of God," i.e., damage or death of plant material due to windstorm or rainstorm, or vandalism, theft, or other willful acts over which the maintenance contractor has no control. Existing plants shall be replaced by Contractor if they die due to Contractor's negligence.

5.18 TRASH, LITTER AND DEBRIS CLEAN-UP

- A. Applies to **all** landscape areas as well as contiguous hardscape areas.
- B. All areas shall be inspected whenever service is provided and maintained in a neat, clean, and safe condition always.
- C. All animal feces or other materials detrimental to human health shall be removed from landscape areas whenever service is provided or per request.
- D. All broken glass and sharp objects shall be removed whenever service is provided or per request.
- E. All trash, litter and debris shall be removed and disposed of whenever landscape services are provided and as requested by the City's Landscape Supervisor. The City provides on-site dumpster enclosures at some, but not all locations for this purpose.
- F. Trash Receptacles (9 Exterior) at City Facilities (City Hall, Upland Library, Carnegie Library) shall be serviced/emptied when landscape service is provided, unless it is a dedicated holiday. Trash receptacles shall be cleaned inside and out at least once per week or as directed by the City Landscape Supervisor. All lids and City logos must be wiped clean at time of services or as requested by the City Landscape Supervisor.
- G. Trash liners can be replaced at the time of service. Contractor shall provide liners at the Contractor's expense. Liner size shall be no smaller than 36"X58" (44 Gallon). Liner thickness shall be no thinner than 1.5 mil.
- H. All sidewalks, trails, pathways, and hardscape areas contiguous to City landscape areas shall be swept, cleaned, or hosed down when landscape services are provided, if necessary, to remove glass, sand/dirt, leaves, pine

needles or any other debris that is hazardous to foot traffic or the intended use of the area.

5.19 LIGHTING INSPECTION

All area/security lighting and monument lighting systems shall be inspected monthly, and a written report shall be submitted. Any damaged or malfunctioning equipment shall be reported to the City Landscape Supervisor.

5.20 ASPHALT AREAS AND PATHWAYS

Special emphasis shall be placed on chemical edging along these areas to prevent damage to the asphalt by vegetation. All such damage shall be repaired at the Contractor's expense.

5.21 IRRIGATION SYSTEM MAINTENANCE

- A. Contractor shall be responsible for all repairs, to the complete in-ground portion of the irrigation system from the point that irrigation water exits the system to the point of connection with the water meter.
- B. Irrigation maintenance shall include inspections, operation of the systems, adjustments, repairs, modifications, testing, analysis, and other work as needed.
- C. Reporting:
 - 1. All Irrigation systems shall be checked once per week, at a minimum, for proper operation. A record of this observation must be maintained and submitted to the City Landscape Supervisor by the first working day of the following week. During extreme weather conditions more frequent observations and adjustments may be required.
 - 2. Contractor shall submit an irrigation schedule, which lists watering days and times for standalone controllers.
 - 3. Contractor shall create and maintain irrigation zone data sheets upon request of the City Landscape Supervisor.
 - 4. The initial programming of new controllers shall be performed by City personnel, with the contractor's assistance.
- D. Repairs & Maintenance:
 - 1. Any repairs identified in the observation report will be corrected within 48 hours.
 - 2. Any repairs made by the Contractor shall be in accordance with the original design specifications. All materials are to be new and identical to existing materials unless a Landscape Supervisor approves a substitute in writing.

3. Contractor shall implement repairs in accordance with all effective warranties, and no separate payment shall be made for repairs on equipment covered by warranty.
4. The Contractor shall keep all irrigation heads clean of flow impediments and always adjusted properly.
5. Contractor shall be responsible for adjusting height of sprinklers and risers as necessary to compensate for growth of plant material.
6. Contractor shall restore any landscape areas disturbed by irrigation repair work back to their preexisting condition.
7. Damages to plant material due to the Contractor's lack of performance in accordance with these specifications shall be the responsibility of the Contractor and will be repaired at the Contractor's expense.
8. Damage to the system caused by conditions under which the contractor has no control, shall be repaired by the contractor as Extra Work if approved by the City Landscape Supervisor. Such circumstances include:
 - Theft (Missing/Broken Heads)
 - Storm Damage
 - Damage/Vandalism by Others
9. At any time, the Landscape Supervisor may request a coverage test to evaluate proper settings, timing, usage, or maintenance of system.
10. The Contractor shall keep all controller enclosures free of debris and pests, always. Any resultant damage due to the Contractor not meeting this specification will be the Contractor's responsibility.
11. The Contractor shall be responsible for hand watering at no additional cost any areas not provided with an automatic irrigation system. Contractor will also be required to hand water at no additional cost any landscape areas with a non-functioning irrigation system if it is the Contractor's responsibility to maintain that system.
12. The Contractor may be required to hose off plant material monthly in areas where a drip system is used.
13. Contractor shall maintain an adequate inventory of medium to high usage stock items for repair of the irrigation system.

E. Water Management:

1. The City of Upland Facilities has approximately 25 irrigation controllers.
2. The Contractor is responsible to always monitor and adjust all automatic controller programs. Contractor shall coordinate central irrigation system program adjustments with the City Landscape Supervisor. Contractor is expected to use the minimum amount of water required to maintain healthy plant growth and vigor.
3. Irrigation shall be applied at hours that will ensure that vehicular traffic and foot traffic is not disturbed.
4. Watering shall be scheduled to prevent runoff, pooling, and over-watering.
5. In determining rates of application, soil type, topography, and weather condition shall be taken into consideration.
6. Until the groundcover plantings are established, care shall be exercised to minimize soil erosion using proper irrigation programming. Repeat cycles shall be utilized where appropriate and available, applying water over shorter periods of time that will allow for proper infiltration.
7. Particular attention shall be required for all sloped areas which, by physical nature provide for the greatest potential runoff.
8. Contractor shall turn off all stand-alone controllers in the field when it is unnecessary to irrigate due to adequate rainfall. Failure to turn off the irrigation controllers shall result in a \$250.00 deduction from payment per occurrence.
9. Automatic controllers, backflow and pump enclosures shall be kept always locked. The City Parks and Landscape Supervisor and assigned City Maintenance staff will have master keys to all controllers. (The City shall provide locks for irrigation enclosures. However, it is the contractor's responsibility to request and replace locks as needed).
10. All irrigation controller, backflow device and pump enclosures shall be painted as needed to prevent rusting and to maintain good appearance. (Stainless steel enclosures shall not be painted). Painting shall occur a minimum of once per year and shall be placed on the annual activity schedule as outlined in the maintenance schedule. Paint color will be determined by City Landscape Supervisor.

5.22 PERFORMANCE ON SCHEDULE:

- A. The Contractor will be provided the latitude to establish work schedules that correspond to its manpower and equipment resources. The Contractor will also

be provided the opportunity and procedures for adjusting those schedules to meet special circumstances. The City Landscape Supervisor must approve all schedules and changes and such approved schedules shall consider the needs of the various leagues, and organizations that use the facilities. Therefore, all work shall be completed on the day scheduled (as shown on the schedule). Failure to complete this work will result in a deduction of \$250.00 from payment for each occurrence.

- B. Deficient Performance: The contractor shall be notified both verbally and in writing each time performance is considered to be non-satisfactory and corrective action is necessary. The contractor shall complete corrective action within two (2) hours of notification. Failure to completely open/address a site according to the schedule and these specifications will constitute deficient performance.

5.23 ANCILLARY / EXTRA SERVICES

In the event the Contractor is required by the City and agrees to perform ancillary / extra services, the following procedure shall govern such work:

Work will be executed under the direction of the Public Works Operations Manager on a time and materials basis or an agreed lump sum price depending on the nature of the work.

A written estimate of cost will be required for approval by the City Landscape Supervisor for approval prior to the work being done. The Contractor shall maintain records sufficient to distinguish the direct cost of other operations. He shall furnish reports of extra work on forms furnished by the contractor, itemizing all costs for labor, materials, and equipment. The report shall include hours worked. Invoices for extra work shall be submitted no later than sixty (60) days after the City's acceptance of the proposal for work. The following procedure will govern such extra work:

City will issue work request for such extra work to be performed.

Material cost shall be actual cost **not to exceed 15%** for the handling of materials purchased by the Contractor and used for the extra work.

Extra work must be approved by the Public Works Operations Manager or designee in writing.

Extra work may include, but is not limited to the following:

- Landscape improvements and repairs.
- Hardscape improvements and repairs.
- Irrigation system improvements and repairs.
- Tree removals and/or pruning.
- Steam cleaning and pressure washing.
- Wind and/or rainstorm debris cleanup.

EXHIBIT B

SCHEDULE OF SERVICES / COMPENSATION



LANDSCAPE MAINTENANCE LOCATION DETAILS:	Frequency (Weekly)	Type of Material	Total Square Feet	Unit Cost (Weekly)	Annual Cost
City Building Facilities					
Public Works Yard - 1370 N Benson Ave	W	Plant Mat.	12,951	\$ 49.22	\$ 2,559.44
Police Station - 1499 W 13th St	W	Turf / Plant	102,562	\$ 389.74	\$ 20,266.48
Old Fire Station - 2046 N San Antonio Ave	W	Turf / Plant	24,243	\$ 92.13	\$ 4,790.76
City Hall, Library, Carnegie & Historic Fire. 450 & 460 N. Euclid Ave & 123 D Street.	W	Turf / Plant	193,028	\$ 733.53	\$ 38,143.56
Total	~~~	~~~	332,784	~~~	\$ 65,760.24

Total 3-year contract cost \$197,280.72.