



Amendment No. 5

Project Name/No.: Landscape Maintenance/Package B
Dept./Contract Rep: PW-LMAD/J. Gutierrez

Contract No.: 21220061 (A5)
Approved: 05/21/2024

**CITY of YORBA LINDA
AMENDMENT NO. 5 TO
LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT
PACKAGE B – HIDDEN HILLS
WITHIN THE CITY OF YORBA LINDA**

This is Amendment No. 5 (“Amendment No. 5”) to that certain Landscape Maintenance Assessment District Package B – Hidden Hills within the City of Yorba Linda (“Agreement”) made on July 1, 2019 between the City of Yorba Linda (“City”) and Merchants Landscape Services, Inc. (“Contractor”), which this Amendment No. 5 is made and entered into on May 21st, 2024 to allow for a two-year term extension from July 1, 2024 to June 30, 2026 and contract renewal to provide landscape maintenance services during Fiscal Year 2024-2025 and Fiscal Year 2025-2026, with an eight percent (8.0%) increase to the annual contract amount for first year of the renewal term, and an additional two percent (2.0%) increase to the annual contract amount for the second year of the renewal term the renewal term as described in Exhibit A-3:

1. Capitalized terms used but not defined in this Amendment No. 5 shall have the meanings ascribed to them in the Agreement.
2. 3.1.2, “Term” is amended to read as follows, The City agrees to renew this agreement for an additional two-year term, from July 1, 2024 to June 30, 2026:

SECTION 3.1.2 TERM

The term of this agreement shall be from July 1, 2019 to June 30, 2026, unless earlier terminated as provided herein. The contractor shall complete the services within the term of this agreement and shall meet any other established schedules and deadlines.

3. 3.3.1, “Compensation” is amended to read as follows, The City agrees to pay the contractor the not-to-exceed amount of **One Million Four Hundred Six Thousand Three Hundred Eighty-Five and 06/100 Dollars (\$1,406,385.06) for the two-year term extension as follows**, \$696,230.23 for Fiscal Year 2024-2025 and \$710,154.83 for Fiscal year 2025-26 unless adjustment pursuant to the applicable terms of this contract or written change orders approved and signed in advance by the City.

SECTION 3.3.1 COMPENSATION.

City hereby agrees to pay Contractor a sum not to exceed **Four Million Three Hundred Twenty-One Thousand Five Hundred Eight and 68/100 Dollars (\$4,321,508.68)** notwithstanding any contrary indications that may be contained in Contractor’s proposal, for the Services to be performed and reimbursable costs incurred under this Agreement. In the event of a conflict between this Agreement and Exhibit A-3, regarding the amount of compensation, this Agreement shall prevail. City shall pay Contractor for the Services rendered pursuant to this Agreement at the time and in the manner set forth herein. The payments specified below shall be the only payments from City to Contractor for the Services rendered pursuant to this Agreement. Contractor shall

submit all invoices to City in the manner specified herein. Except as specifically authorized in advance by City, Contractor shall not bill City for duplicate services performed by more than one person.

4. 3.1.1 "General Scope of Services" is amended to read as follows, amending the scope of services to allow for an increased quantity services to be rendered during Fiscal Years 2024-2025 and 2025-2026 and incorporating attached **Exhibit A-3 "Additional Services and Compensation Table"** into the Agreement:

SECTION 3.1.1 GENERAL SCOPE OF SERVICES.

Contractor promises and agrees to furnish to the Owner all labor, materials, tools, equipment, services, and incidental and customary work necessary to fully and adequately supply the landscape maintenance services necessary for the Project ("Services"). 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.

Incorporated into this Agreement are the following listed documents and each and all of the terms and conditions, provisions, and requirements set forth, contemplated, and referred to therein: the Specifications for Landscape Maintenance Within Landscape Maintenance Assessment District Package B, Notice Inviting Bids, Instructions to Bidders, Definitions, Special Provisions for the Maintenance of Landscape and Associated Facilities, Performance Measurements/ Specification (Landscape), Performance Measurements/ Specification (Non- Landscape), Performance Guideline and Maps (Task Frequency Matrix, Package Vicinity Map, and Trail/ Slope Erosion Control Details), and the Contractor' s Proposal, Bidder Information, List of Subcontractors, References, Designation of Sureties, Contractor' s Licensing Statement, Bond Documents, Bid Addendums and/ or Clarifications, Noncollusion Affidavit, Experience Statement, Bid Schedule, Bid Proposal, Unit Cost Sheet, Contractor Questionnaire and **Exhibit A-3, "Additional Services and Compensation Table"**.

5. All other terms and conditions of the Agreement remain in full force and effect.
6. This Amendment No. 5 may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

[Signatures on Following Page]

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

CITY OF YORBA LINDA

Dated: _____

By: _____
MARK A. PULONE
CITY MANAGER

ATTEST:

Marcia Brown
City Clerk

CONTRACTOR:

MERCHANTS LANDSCAPE SERVICES, INC.

By: _____

Signature: _____

Title: _____

Address: _____

Dianna Honeywell
Finance Director

By: _____

Signature: _____

Title: _____

Address: _____

APPROVED AS TO FORM:
RUTAN & TUCKER LLP

Todd Litfin
City Attorney

Two signatures are required if a corporation.

NOTE: CONTRACTOR'S SIGNATURES SHALL BE DULY NOTARIZED, AND APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONTRACTOR'S BUSINESS IDENTITY.

EXHIBIT "A-3"

Additional Services and Compensation Table

Contractor shall provide contractual services as described in the scope of services of the agreement for an extended period of time, including Fiscal Year 2024-2025 and Fiscal Year 2025-2026. The amounts included in the table below do not reflect any future potential amendments for potential City authorized encumbrance of contingencies for up to 15% of the annual contract amount. Any such additional increase will be incorporated via a separate instrument.

<u>Amendment No.</u>	<u>TERM</u>	<u>AMOUNT</u>
(A) Initial Agreement	July 1st, 2019 – June 30th, 2022 (3-Years)	\$1,676,726.00
(A) Amendment NO.1	July 1 st , 2022 – July 31 st , 2022 (1-Month)	\$46,575.00
(A) Amendment NO.2	August 1 st , 2022 - September 30 th , 2022 (2-Months)	\$99,486.00
(A) Amendment NO.3	October 1st, 2022 - June 30th, 2023 (9-Months)	\$447,679.00
(A) Amendment NO.4	July 1 st , 2023 - June 30 th , 2024 (1-Year)	\$644,657.62

(B) <u>Amendment NO.5</u> (Current)	July 1 st , 2024 – June 30 th , 2025	\$696,230.23
(C) <u>Amendment NO.5</u> (Current)	July 1 st , 2025 – June 30 th , 2026	\$710,154.83

Amendment Number 5 Subtotal = **\$1,406,385.06**

Not- to-Exceed Agreement Total Compensation= **\$4,321,508.68**

(A) Compensation for Original Agreement, previously approved Change Order and Amendments are listed in the table above for reference and tabulation purposes only.

(B) Amount listed applies to Fiscal Year 2024-2025, but is cumulatively approved as a part of the same amendment with the Fiscal year 2025-2026 amount noted in footnote (C). The Fiscal Year amount for the first year of the Fifth Amendment is based upon an 8.0% increase over the Amendment No. 4 Fiscal Year 2023-2024 base agreement amount.

(C) Amount listed applies to Fiscal Year 2025-2026, but is cumulatively approved as a part of the same amendment with the Fiscal year 2024-2025 amount noted in footnote (B). The amount for the second half of the Fifth Amendment is based upon a 2.0% increase over the Fiscal year 2024-2025 base agreement amount described above in footnote (B).