CONSTRUCTION CONTRACT

This contract is made and entered into on 6/30/20, by and between WEST COAST ARBORISTS, INC, a STATE OF CALIFORNIA CORPORATION, with a business address at 3625 EAST STEVENSON AVENUE, STOCKTON, CA 95205, hereinafter called "CONTRACTOR," and CITY OF STOCKTON, a municipal corporation, hereinafter called "CITY."

WITNESSETH:

WHEREAS, plans and specifications for the construction of TREE REMOVAL SERVICES (PROJECT NO. OM-20-039), hereinafter called "PROJECT," were regularly adopted by Council Resolution No. 2020-06-23-1111, on June 23, 2020; and

WHEREAS, the contract for said work was regularly awarded to CONTRACTOR, by Council Resolution No. 2020-06-23-1111, on June 23, 2020.

NOW, THEREFORE, in consideration of the promises and of the mutual covenants herein contained, the parties hereto expressly agree as follows:

CONTRACTOR agrees:

1. **SCOPE OF SERVICES.** To do the work and furnish all the labor, materials, tools, equipment, and insurance required for the construction of PROJECT in accordance with the plans and specifications adopted on June 23, 2020, by Council Resolution No. 2020-06-23-1111. The "contract documents," which include the bid documents, project plans, specifications, all letters of clarification, and the City of Stockton Standard Specifications and Plans, are incorporated into and made a part of this contract by this reference to the same extent as if fully set forth.

2. **COMPENSATION.** To do and perform the work contemplated hereby in a good and workmanlike manner and to furnish all labor, materials, tools, and equipment necessary therefore at the prices specified in Exhibit A, attached hereto and by reference made a part hereof, under the direction of and to the complete satisfaction of the Director of Public Works of the City of Stockton. Total compensation for services and reimbursement for costs shall not exceed $238,000.00, or as otherwise mutually agreed to in a Contract Change Order.

3. **INSURANCE.** CONTRACTOR shall not commence any work before obtaining, and shall maintain in force at all times during the duration and performance of this contract, the policies of insurance specified in Exhibit B, which is attached to this contract and incorporated by this reference, and as provided in the "contract documents" including Section 7-1.06 of the City of Stockton Standard Specifications and Plans as adopted on September 27, 2016, by Council Resolution No. 2016-09-27, effective September 27, 2016.

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Local Construction Contract – West Coast Arborist, Inc. – PROJECT NO. OM-20-039 (Updated 01/24/18)
It shall be a requirement under this agreement that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits shall be available to the Additional Insured.

Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured; whichever is greater.

The Additional Insured coverage under the CONTRACTOR’s policy shall be “primary and non-contributory” and will not seek contribution from the City of Stockton’s insurance or self-insurance and shall be at least as broad as ISO CG 20 01 04 13.

The limits of insurance required in this agreement may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of the City of Stockton (if agreed to in a written contract or agreement) before the City of Stockton’s own insurance or self-insurance shall be called upon to protect it as a named insured.

All self-insured retentions (SIR) must be disclosed to the CITY’s Risk Management for approval and shall not reduce the limits of liability. Payment Bond in the amount of the self-insured retention (SIR) may be required.

Policies containing any self-insured retention (SIR) provision shall provide or be endorsed to provide that the SIR may be satisfied by either the named insured or the CITY.

The CITY reserves the right to obtain a full certified copy of any insurance policy and endorsements.

Failure to exercise this right shall not constitute a waiver of right to exercise later.

CONTRACTOR shall maintain insurance as required by this contract to the fullest amount allowed by law and shall maintain insurance for a minimum of five years following the completion of this project. In the event contractor fails to obtain or maintain completed operations coverage as required by this agreement, the City at its sole discretion may purchase the coverage required and the cost will be paid by contractor.

CONTRACTOR agrees to include with all Subcontractors in their subcontract the same requirements and provisions of this agreement including the indemnity and insurance requirements to the extent they apply to the scope of the Subcontractor’s work. Subcontractors hired by CONTRACTOR agree to be bound to CONTRACTOR and the CITY in the same manner and to the same extent as CONTRACTOR is bound to the CITY under the Contract Documents. Subcontractor further agrees to include these same provisions with any Sub-subcontractor. A copy of the CITY Contract Document Indemnity

Local Construction Contract – West Coast Arborist, Inc. – PROJECT NO. OM-20-039 (Updated 01/24/18)
and Insurance provisions will be furnished to the Subcontractor upon request. The General CONTRACTOR shall require all sub-contractors to provide a valid certificate of insurance and the required endorsements included in the agreement prior to commencement of any work and contractor will provide proof of compliance to the City.

4. **INDEMNITY AND HOLD HARMLESS.** With the exception that this section shall in no event be construed to require indemnification by Contractor to a greater extent than permitted under the public policy of the State of California, Contractor shall indemnify, protect, defend with counsel approved by City and at Contractor's sole cost and expense, and hold harmless City, its Mayor, Council, officials, representatives, agents, employees, and volunteers from and against any and all claims, causes of action, liabilities, judgments, awards, losses, liens, claims, stop notices, damages, expenses, and costs (including without limitation attorneys' fees, expert and consultant fees, and other expenses of litigation) of every nature, including, but not limited to, death or injury to persons, or damage to property, which arise out of or are in any way connected with the work performed, materials furnished, or services provided under this Agreement, or from any violation of any federal, State, or municipal law or ordinance, or City Policy, by Contractor or Contractor's officers, agents, employees, volunteers or subcontractors. Contractor shall not be obligated to indemnify or defend City for claims finally determined by a court of law or arbitrator to arise from the active negligence or willful misconduct of the City. It is the intent of the Parties that this indemnity obligation is at least as broad as is permitted under California law. To the extent California Civil Code sections 2782, et seq., limit the defense or indemnity obligations of Contractor to City, the intent hereunder is to provide the maximum defense and indemnity obligations allowed by Contractor under the law. The indemnity set forth in this section shall not be limited by insurance requirements or by any other provision of this Agreement.

With exception that this section shall in no event be construed to require indemnification, including the duty to defend, by Contractor to a greater extent than permitted under the public policy of the State of California, the parties agree that Contractor's duty to defend City is immediate and arises upon the filing of any claim against the City for damages which arise out of or are in any way connected with the work performed, materials furnished, or services provided under this Agreement by Contractor or Contractor's officers, agents, employees, volunteers or subcontractors. Contractor's duties and obligations to defend the City shall apply regardless of whether or not the issue of the City's liability, breach of this Agreement, or other obligation or fault has been determined. Contractor shall be immediately obligated to pay for City's defense costs of the claim, including, but not limited to, court costs, attorney's fees and costs, expert consultant and witness fees and costs, other witness fees, document reproduction costs, arbitration fees, and, if after final judgment an appeal is pursued, all of such costs for the appeal. At the conclusion of the claim, if there is any determination or finding of sole active negligence or willful misconduct on the part of the City, City will then reimburse Contractor for amounts paid in excess of Contractor's proportionate share of responsibility for the damages within 30 days after Contractor provides City with copies of all bills and expenses incurred in the defense of the claim(s). It is agreed between the
parties that this reimbursement provision assures Contractor is not obligated to defend
or indemnity City in an amount greater than provided for under California law, including,
without limitation, California Civil Code sections 2782, 2782.6, and 2782.8.

With the exception that this section shall in no event be construed to require
indemnification by Contractor to a greater extent than permitted under the public policy
of the State of California, and in addition to the other indemnity obligations in this
Agreement, Contractor shall indemnify, defend, and hold harmless City, its Mayor,
Council, officials, representatives, agents, employees, and volunteers from and against
all claims, losses, expenses, and costs including, but not limited to, attorneys’ fees,
arising out of any claim brought against the City by an employee, office, agent, or
volunteer of Contractor, regardless of whether such claim may be covered by any
applicable workers compensation insurance. Contractor’s indemnification obligation is
not limited in any way by any limitation on the amount or type of damages, compensation,
or benefits payable by or for the Contractor under workers’ compensation acts, disability
acts, or other employee benefit acts.

The City’s acceptance of the insurance certificates required under this Agreement does
not relieve the CONTRACTOR from its obligation under this paragraph. The
indemnification obligations of this section shall survive the termination of this agreement.
Any exceptions to this language may result in a proposal being deemed non-responsive.
CONTRACTOR/Subcontractor’s responsibility for such defense and indemnity
obligations shall survive the termination or completion of this agreement for the full period
of time allowed by law.

The defense and indemnification obligations of this agreement are undertaken in addition
to, and shall not in any way be limited by, the insurance obligations contained in this
agreement. If any section, subsection, sentence, clause or phrase of this indemnification
is for any reason held to be invalid or unconstitutional, such decision shall not affect the
validity of the remaining portions of this indemnification.

5. STANDARD PLANS AND SPECIFICATIONS. The performance of said
work and the furnishing of said materials shall be executed in accordance with Section
8-1.04B of the City of Stockton Standard Specifications and Plans as adopted on
September 27, 2016, by Council Resolution No. 2016-09-27-1213, effective September
27, 2016, and the provisions of the issued project specifications.

The Director of Public Works will furnish CONTRACTOR a weekly statement showing the
number of days charged to the contract for the preceding week, the number of days
specified for completion of the contract, and the number of days remaining to complete
the contract. CONTRACTOR will be allowed one (1) week in which to file a written protest
setting forth in what respects said weekly statement is incorrect, otherwise the statement
shall be deemed to have been accepted by CONTRACTOR as correct.

Local Construction Contract -- West Coast Arborist, Inc. -- PROJECT NO. OM-20-039 (Updated 01/24/18)
6. **WORKING DAYS.** Tree and stump removal work shall begin no later than ten (10) working days after the date indicated on the Notice to Proceed and be diligently performed until completed. Unless otherwise approved by the CITY representative, the CONTRACTOR shall be required to perform entire tree and stump removals at an average pace of six (6) to ten (10) removals per day.

Liquidated Damages: With each pay application, the average number of trees removed will be calculated, and the difference between the actual average number of removals per day for the pay period, and the minimum average of six (6) removals per day, times the number of days for the pay period will be calculated. The CITY may collect liquidated damages at a rate equal to the average cost to remove one tree (based on the total base bid price divided by the total number of trees in the base bid) times the total of the difference between the actual average removal count and the minimum required average removal count. Total liquidated damages may be withheld from each pay application at the discretion of the CITY representative.

It is further agreed that in case the work called for under the contract is not finished and completed in all parts and requirements within the number of days as specified, the CITY shall have the right to increase the number of days or not, as may seem best to serve the interest of CITY, and if the CITY decides to increase the said number of days, the CITY shall further have the right to charge to CONTRACTOR, CONTRACTOR’s heirs, assigns or sureties, and to deduct from the final payment for the work, all or any part, as may be deemed proper, the liquidated damages as specified or the actual cost of engineering, inspection, superintendence, and other overhead expenses which are directly chargeable to the contract, and which accrue during the period of such extension, whichever is greater, except the cost of final surveys and preparation of final estimate shall not be included in such charges.

A working day shall not include, nor shall CONTRACTOR be assessed with liquidated damages nor the additional cost of engineering and inspection during any delay beyond the time named for the completion of the work caused by acts of God or of the public enemy, acts of CITY, fire, floods, epidemics, quarantine restrictions, strikes, and freight embargoes and subject to approval by the Director of Public Works, inability to get materials ordered by CONTRACTOR or subcontractor due to such causes provided that CONTRACTOR shall notify the Director of Public Works in writing of the causes of delay within five (5) working days from the beginning of any such delay, and the Director shall ascertain the facts and the extent of the delay, and Director’s findings of the facts thereon shall be final and conclusive.

If CONTRACTOR is delayed by reason of alterations made in these specifications, or by any act of the Director of Public Works or of the CITY, not contemplated by the contract, the time of completion shall be extended proportionately and CONTRACTOR shall be relieved during the period of such extension of any claim for liquidated damages, engineering or inspection charges or other penalties. CONTRACTOR shall have no claim for any other compensation for any such delay.

Local Construction Contract – West Coast Arborist, Inc. – PROJECT NO. OM-20-039 (Updated 01/24/18)
7. **CONFORMANCE TO APPLICABLE LAWS.** Contractor shall comply with all applicable Federal, State, and Municipal laws, rules, and ordinances. Contractor shall not discriminate in the employment of persons or in the provision of services under this Contract on the basis of any legally protected classification, including race, color, national origin, ancestry, sex or religion of such person.

   a. **TITLE VI**

      Title VI of the Civil Rights Act of 1964 requires that "no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance." (42 USC Section 2000d) [http://www.dol.gov/oasam/regs/statutes/titlevi.htm](http://www.dol.gov/oasam/regs/statutes/titlevi.htm).

      The City of Stockton requires compliance with the requirements of Title VI in all of its programs and activities regardless of funding source.

   b. **DISCRIMINATION AND HARASSMENT POLICY**

      The City of Stockton has a Discrimination and Harassment Policy (Exhibit C). The purpose of this policy is to reaffirm the CITY's commitment to demonstrating respect for all individuals by strictly prohibiting discrimination and harassment, including sexual harassment in the workplace, to define the types of behavior and conduct prohibited by this policy, and to set forth a procedure for reporting, investigating, and resolving complaints of discrimination and harassment in the workplace.

   c. **LABOR STANDARDS PROVISIONS/CALIFORNIA LABOR CODE**

      The bidder shall understand that conditions set forth in Chapter 1, Part 7, Division 2 of the California Labor Code shall be considered part of the contract agreement [https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=LAB&division=2.&title=&part=7.&chapter=1.&article=2](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=LAB&division=2.&title=&part=7.&chapter=1.&article=2).

   d. **PREVAILING WAGE**

      CONTRACTOR and any subcontractor shall pay each employee engaged in the trade or occupation not less than the prevailing hourly wage rate. In accordance with the provisions of Section 1770 of the Labor Code, the Director of Department of Industrial Relations of the State of California has determined the general prevailing wage and employer payments for health and welfare, pension, vacation, travel time, and subsistence pay as
provided for in Section 1773.1, apprenticeship or other training programs authorized by Section 3093 and similar purposes applicable to the work to be done. CONTRACTOR performing the work under this contract shall obtain a copy of the wage rate determination and shall distribute copies to each subcontractor. As the wage determination for each craft reflects an expiration date, it shall be the prime CONTRACTOR and each subcontractor's responsibility to insure that the prevailing wage rates of concern is current and paid to the employee.

i. The CONTRACTOR performing the work shall be responsible for obtaining a copy of the State wage rate determination. State wage rates may be obtained at http://www.dir.ca.gov/OPRL/pwd/Determinations/Northern/Northern.pdf. The CONTRACTOR shall be responsible for posting said wage rates at a prominent location at the work site and shall maintain same in a good readable condition for the duration of the work.

ii. Should the CONTRACTOR choose to work on a Saturday, Sunday or on a holiday recognized by the Labor Unions, the CONTRACTOR shall reimburse the CITY the actual cost of engineering, inspection, superintendence, and or other overhead expenses which are directly chargeable to the contract. Should such work be undertaken at the request of the CITY, reimbursement will not be required. To conform strictly with the provisions of Division 2, Part 7, Chapter 1, Article 2, of the Labor Code of the State of California. To forfeit as a penalty to CITY the sum of TWENTY-FIVE AND NO/100 DOLLARS ($25.00) for each laborer, worker, or mechanic employed by CONTRACTOR, or by any subcontractor under CONTRACTOR, in the execution of this contract, for each calendar day during which any laborer, worker, or mechanic is required or permitted to work more than eight (8) hours and who is not paid the general prevailing rate of per diem wages for holiday and overtime work in violation of the provisions of Sections 1770 to 1781 of the Labor Code of the State of California. That all sums forfeited under the provisions of the foregoing sections shall be deducted from the payments to be made under the terms of this contract.

iii. The CONTRACTOR to whom the contract is awarded shall insure that the prime and each subcontractor will in accordance with Section 1776 of the Labor Code, maintain certified payroll records. A copy of said records shall be provided with each invoice to the Public Works Department, Attention Contract Compliance Officer. It shall be the CONTRACTOR'S responsibility to obtain copies of the current prevailing wage rate determination for all subcontractors. Additionally,
certified payroll records must be uploaded to the DIR website as required by labor code.

iv. The CONTRACTOR shall comply with the provisions established in Section 1777.5 of the Labor Code concerning the 1) certified approval by local joint apprenticeship committees for the employment and training of apprentices, and 2) contribution of funds to administer and conduct apprenticeship programs, if applicable to the job.

e. LOCAL EMPLOYMENT ORDINANCE

Pursuant to Stockton Municipal Code Section 3.68.095 the CONTRACTOR and all subcontractors shall make a good faith effort to employ at least 50 percent of the workforce on this project from local residents, as measured by total labor work hours. Failure of any CONTRACTOR or subcontractor to comply with these requirements shall be deemed a material breach of the contract or subcontract. CONTRACTORS and subcontractors shall maintain records necessary for monitoring their compliance with section 3.68.095.

CITY agrees:

8. COMPENSATION. To pay CONTRACTOR for the work herein contemplated in the following manner: Progress payments will be made on or about the first day of each calendar month, in such sum as shall make the aggregate of payment up to such day equal to ninety-five percent (95%) of the proportional contract price, upon the basis of the progress certificate of the Director of Public Works as to the amount of work done and the proportional amount of the contract price represented therefore; and all of the remaining part of the contract price not as aforesaid paid, shall be paid at the expiration of thirty-five (35) days from the completion of said work of construction and the certification by the Director of Public Works of such completion.

9. SECURITIES. Pursuant to Section 22300 of the Public Contract Code, CONTRACTOR will be permitted, at its request and sole expense, to substitute securities for any monies withheld by the CITY to ensure performance under the contract. Said securities will be deposited either with the CITY or with a State or federally chartered bank as escrow agent. Securities eligible for this substitution are those listed in Section 16430 of the California Government Code or bank or savings and loan certificates of deposit. CONTRACTOR shall be the beneficial owner of any securities substituted for monies withheld and shall receive any interest thereon.

10. CHANGE ORDERS. CITY reserves the right to make such alterations, deviations, additions to or omissions from the plans and specifications, including the right to increase or decrease the quantity of any item or portion of the work, as may be deemed by the Engineer to be necessary or advisable and to require such extra work as may be
determined by the Engineer to be required for the proper completion or construction of the whole work contemplated.

Any such changes will be set forth in a contract change order which will specify, in addition to the work done in connection with the change made, adjustment of contract time, if any, and the basis of compensation for such work. A contract change order will not become effective until approved by the City Manager and/or the City Council.

Processing of change orders shall be in accordance with Section 4-1.05A of the City of Stockton Standard Specifications and Plans as adopted by Council on September 27, 2016, by Resolution No. 2016-09-27-1213, effective September 27, 2016, or as otherwise amended by Council. When the compensation for an item of work is subject to adjustment under the provisions of Standard Specifications and Plans, Section 4-1.05A, CONTRACTOR shall, upon request, promptly furnish the Engineer with adequate detailed cost data for such item of work.

11. **AUDITS.** CITY reserves the right to periodically audit all charges made by CONTRACTOR to CITY for services under the contract. Upon request, CONTRACTOR agrees to furnish CITY, or a designated representative, with necessary information and assistance.

CONTRACTOR agrees that CITY or its delegate will have the right to review, obtain and copy all records pertaining to performance of the contract. CONTRACTOR agrees to provide CITY or its delegate with any relevant information requested and shall permit CITY or its delegate access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with this requirement. CONTRACTOR further agrees to maintain such records for a period of three (3) years after final payment under the contract.
12. **WAIVER.** It is expressly understood and agreed by and between the parties hereto that a waiver of any of the conditions of this contract shall not be considered a waiver of any of the other conditions thereof.

It is further understood and agreed by and between the parties hereto that time is of the essence of this contract in all respects.

IN WITNESS WHEREOF, the parties hereto have hereunto affixed their hands and seals the day and year first above written.

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**ATTEST:**
ELIZA R. GARZA
CITY CLERK

By: [Signature]

**CITY:**

By: [Signature]
HARRY BLACK
CITY MANAGER

**APPROVED AS TO FORM & CONTENT:**

JOHN M. LUEBBERKE
OFFICE OF THE CITY ATTORNEY

By: See Master - Approval History 20-0821
DEPUTY CITY ATTORNEY

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**CITY:**

By: [Signature]

**WEST COAST ARBORIST, INC.**

Patrick Mahoney, President

95-3250-82

Tax Identification No.
TREE REMOVAL SERVICES
PROJECT NO. OM-20-039

BIDDING SCHEDULE

Each bidder shall bid each item, including all alternate bid(s). Failure to bid an item shall be just cause for considering the bid as non-responsive. Line item costs should include all Contractor’s overhead and profit and indirect costs. Bids not presented on City forms shall be cause for considering the bid as non-responsive.

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Unit</th>
<th>Qty</th>
<th>Unit price</th>
<th>Total Price</th>
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<td>Tree with Tree Stump Removal (≥&quot; = trunk diameter at breast height that is greater than)</td>
<td>13&quot; to 16&quot; dbh</td>
<td>10</td>
<td>$800.00</td>
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<td>$60,000.00</td>
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<td>Base Bid Total (Items 1 through 11)</td>
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<td>$238,000.00</td>
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TOTAL BID $238,000.00

BIDDER'S NAME West Coast Arborists, Inc.

Bid Forms Page 4 of 11 Last Revised 09/22/16
NOTE: The City of Stockton is now using the online insurance program PINS Advantage. Once you have been awarded a contract you will receive an email from the City’s online insurance program requesting you to forward the email to your insurance provider(s). Please see attached flyer regarding PINS Advantage.

Exhibit B:

Insurance Requirements for Most Contracts
(Tree Removal, Project No. OM-20-039)

Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the Contractor, his agents, representatives, employees or subcontractors.

MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. Commercial General Liability (CGL): Insurance Services Office Form CG 00 01 covering CGL on an “occurrence” basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than $2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.

2. Automobile Liability: ISO Form Number CA 00 01 covering any auto (Code 1), or if Contractor has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than $1,000,000 per accident for bodily injury and property damage.

3. Workers’ Compensation: as required by the State of California, with Statutory Limits, and Employer’s Liability Insurance with limit of no less than $1,000,000 per accident for bodily injury or disease.

It shall be a requirement under this agreement that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits shall be available to the Additional Insured. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of any Insurance policy or proceeds available to the named insured; whichever is greater. No representation is made that the minimum insurance requirements of this agreement are sufficient to cover the obligations of the Contractor under this agreement.
Limits of Insurance

The limits of insurance required in this agreement may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis before the City's own insurance or self-insurance shall be called upon to protect it as a named insured.

Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

Additional Insured Status

The City of Stockton, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 if a later edition is used). Additional insured Name of Organization shall read "City of Stockton, its officers, officials, employees, and volunteers." Policy shall cover City of Stockton, its officers, officials, employees, and volunteers for all locations work is done under this contract.

Primary Coverage

The Additional Insured coverage under the Contractor's policy shall be "primary and non-contributory" and will not seek contribution from the City's insurance or self-insurance and shall be at least as broad as CG 20 01 04 13. The City of Stockton does not accept endorsements limiting the Contractor's insurance coverage to the sole negligence of the Named Insured.

Notice of Cancellation

Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the City of Stockton.

Waiver of Subrogation

Contractor hereby grants to City of Stockton a waiver of any right to subrogation which any insurer of said Contractor may acquire against the City of Stockton by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any
endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City of Stockton has received a waiver of subrogation endorsement from the insurer. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City of Stockton for all work performed by the Contractor, its employees, agents and subcontractors.

Self-Insured Retentions

All Self-insured retentions must be disclosed to Risk Management for approval and shall not reduce the limits of liability. The City of Stockton may require the Contractor to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or City of Stockton.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the City of Stockton.

Verification of Coverage

Contractor shall furnish the City of Stockton with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the City of Stockton Risk Services before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The City of Stockton reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Contractor shall, prior to the commencement of work under this Agreement, provide the City of Stockton with a copy of its declarations page(s) and endorsement page(s) for each of the required policies.

Subcontractors

Contractors shall require and verify that all subcontractors, or other parties hired for this work, purchase and maintain coverage for indemnity and insurance requirements as least as broad as specified in this agreement to the extent they apply to the scope of the subcontractor's work with the same certificate of insurance requirements and naming as additional insureds all parties to this contract. Contractor shall include the following language in their agreement with Subcontractors: Subcontractors hired by
Contractor agree to be bound to Contractor and City in the same manner and to the same extent as Contractor is bound to City under the contract documents and provide a valid certificate of insurance and the required endorsements included in the agreement as proof of compliance prior to commencement of any work and to include this same requirement for any subcontractors they hire for this work. A copy of the owner contract document indemnity and insurance provisions will be furnished to the subcontractor upon request. Contractor shall provide proof of such compliance and verification to the City upon request.

**Special Risks or Circumstances**

City of Stockton reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

**Certificate Holder Address**

Proper address for mailing certificates, endorsements and notices shall be:

City of Stockton  
Attn: City Risk Services  
400 E Main Street, 3rd Floor – HR  
Stockton, CA 95202
I. PURPOSE

The purpose of this policy is to reaffirm the City's commitment to demonstrating respect for all individuals by strictly prohibiting discrimination and harassment, including sexual harassment in the workplace. This policy defines prohibited behavior and conduct, and sets forth a procedure for reporting, investigating and resolving complaints of discrimination, harassment, in the workplace, including retaliation and hostile work environment.

II. POLICY

A. The City of Stockton prohibits any form of discrimination and/or harassment of any person based on race, religious creed, color, national origin, ancestry, military and veterans status, physical or mental disability, medical condition, genetic characteristics or information, denial of family and medical care leave, marital status, sexual orientation, sex (including gender, gender identity, gender expression, transgender, pregnancy, childbirth and breastfeeding), political affiliation, age (40 and older), concerted labor activity, or any other category or attribute consistent with state or federal law. All such discrimination and harassment is unlawful and shall not be tolerated. In addition, under the federal Affordable Care Act (ACA), the City of Stockton prohibits discrimination and/or harassment, or retaliation against an employee who obtains coverage, receives a tax credit or subsidy through the Health Care “Market Place” or “Exchange.”

B. It is an unlawful employment practice to discriminate against or to harass an unpaid intern or volunteer on the basis of any legally protected classification unless an exception applies, such as a bona fide occupational qualification.

C. The City will neither tolerate nor condone discrimination and/or harassment of employees by managers, supervisors, co-workers, or non-employees with whom City employees have a business service, or professional relationship.

D. All City employees and non-employees share a responsibility to assist in
CITY OF STOCKTON, CALIFORNIA
CITY MANAGER ADMINISTRATIVE DIRECTIVE

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PER-015 (Sexual Harassment in the Workplace) revised from 10/21/94, 5/1/95, 1/1/98
PER-037 (Sexual Harassment Investigative Procedures) revised from 2/15/93

maintaining an employment environment free of discrimination and harassment. This policy applies to all aspects of City employment, including, but not limited to, hiring, reassignment, placement, promotion, employment action, disciplinary action, layoff, reemployment, transfer, leave of absence, compensation and benefits, training; or other terms of treatment of that person in an unpaid internship, or another limited duration program to provide unpaid work experience for that person, or the harassment of an unpaid intern or volunteer.

E. All allegations of discrimination and/or harassment shall be investigated immediately by the City, in accordance with this policy. If it is determined that any prohibited activity has occurred, remedial action shall be taken. Such action may include discipline up to and including discharge. In addition, under applicable law, individual supervisors and employees may be subject to personal liability and/or punitive damages in any litigation arising as a result of such conduct.

F. All new hires shall attend harassment awareness training, and supervisors and managers shall attend harassment awareness and prevention training for supervisors every two years.

G. The City of Stockton prohibits retaliation against any employee or non-employee by another employee, non-employee, supervisor, or manager for reporting, filing, testifying, assisting or participating in any manner in any investigation, proceeding, or hearing conducted by the employer or a federal or state enforcement agency.

H. This policy applies to all officials, employees, volunteers, unpaid interns, agents, or contractors of the City.

I. This policy shall be administered by the Director of Human Resources.
III. DEFINITION AND EXAMPLES OF DISCRIMINATION AND HARASSMENT

A. "Discrimination," as used in this policy, is any action, behavior, practice, or process that is intended to deny, or results in the denial of, employment rights, privileges, or benefits because of a person's race, religious creed, color, national origin, ancestry, military and veterans status, physical or mental disability, medical condition, genetic characteristics or information, denial of family and medical care leave, marital status, sexual orientation, sex (including gender, gender identity, gender expression, transgender, pregnancy, childbirth and breastfeeding), political affiliation, age (40 and older), concerted labor activity, or any other prohibition identified under state and federal law. The following are examples of conduct that may constitute discrimination:

1. Soliciting applications from a source where all or most of potential workers are of the same race or color.

2. Considering a person's gender as the basis for differences in pay, work assignments, performance evaluations, training, discipline, or any other area of employment; and

3. Questioning a job applicant about the existence, nature and severity of a disability.

B. "Harassment," as used in this policy, consists of any conduct affecting another person because of his or her race, religious creed, color, national origin, ancestry, military and veterans status, physical or mental disability, medical condition, genetic characteristics or information, denial of family and medical care leave, marital status, sexual orientation, sex (including gender, gender identity, gender expression, transgender, pregnancy, childbirth and breastfeeding), political affiliation, age (40 and older), concerted labor activity, or any other category or attribute identified under state and federal law when such conduct has the purpose or the effect of: (1) creating an intimidating, hostile or offensive work environment; (2) unreasonably interfering with the employee's or non-employee's work performance; or (3)
otherwise adversely affecting an employee’s or non-employee’s employment opportunities.

Harassment may take many forms, including, but not limited to, the following examples:

1. **Verbal Harassment**: Epithets, derogatory and offensive comments or slurs based on race, religion, color, national origin, ancestry, physical or mental disability, marital status, pregnancy, medical condition, gender, sexual orientation, political affiliation, age, or any other category or attribute identified under state and federal law.

2. **Physical Harassment**: Assault, impeding or blocking movement that results in the physical interference with normal work or movement on the basis of race, religion, color, national origin, ancestry, physical or mental disability, marital status, pregnancy, medical condition, gender, sexual orientation, political affiliation, age, or any other category or attribute identified under state and federal law.

3. **Visual Harassment**: The displaying of posters, photography, notices, bulletins, e-mails, cartoons or drawings with derogatory and offensive content based on race, religion, color, national origin, ancestry, physical or mental disability, marital status, pregnancy, medical condition, gender, sexual orientation, political affiliation, age, or any other category or attribute identified under state and federal law.

C. "Sexual harassment," as used in this policy, is a subcategory of harassment, and is specifically defined by law as unwanted sexual advances, requests for sexual favors or visual, verbal or physical conduct of a sexual nature when:

1. Submission to such conduct is made a term or condition of employment; or

2. Submission to or rejection of such conduct is used as a basis for employment decisions affecting the individual; or
3. Such conduct has the purpose or effect of unreasonably interfering with an employee’s or non-employee’s work performance or creating an intimidating, hostile or offensive working environment because of the persistent, severe or pervasive nature of the conduct.

Examples of Sexual Harassment include, but are not limited to the following:

a. Unwelcome sexual overtures or propositions.

b. Offering employment benefits or status in exchange for sexual favors.

c. Making or threatening retaliation after a negative response to sexual advances.

d. Visual conduct such as leering, making sexual gestures, displaying sexually suggestive objects or pictures, cartoons, calendars or posters.

e. Verbal conduct such as using epithets or slurs, telling sexually explicit jokes, or making derogatory or suggestive comments about a person’s body or dress.

f. Written communications of a sexual nature distributed in hard copy, soft copy or via a computer network.

g. Verbal abuse of a sexual nature, graphic verbal commentary about an individual’s body, sexually degrading words to describe an individual, suggestive or obscene letters, notes or invitations.

h. Physical conduct such as touching, assaulting, impeding or blocking movements.
i. Retaliation for making harassment reports or threatening to report harassment.

D. Affordable Care Act (ACA) Anti-Retaliation
   Pursuant to section §1558 of the Affordable Care Act, the City prohibits discrimination or retaliation towards any employee who:

   1. Receives a health insurance tax credit or subsidy through the Health Care "Marketplace" or "Exchange", by which can trigger a penalty payable by the employer;
   2. Reports potential violations of protections afforded under Title I of the Act, which provides guaranteed availability protections among other things;
   3. Testifies in a proceeding concerning such violation;
   4. Assists or participates in a proceeding concerning a violation; or
   5. Objects to, or refuses to participate in, any activity, policy, practice, or assigned task that the employee reasonably believes to be in violation of any provision of the Title I of the Act.

An employee who believes that he or she has been discharged or otherwise discriminated against in violation of section §1558 of the Affordable Care Act may seek relief in accordance with the procedures, notifications, burdens of proof, remedies, and statutes of limitation set forth in section 2087(b) of title 15, United States Code.

IV. REPORTING AND COMPLAINT PROCEDURES

A. Immediate Action Required

   The City’s reporting and complaint procedures provide for an immediate, thorough and objective investigation of discrimination or harassment claims, appropriate disciplinary action taken against any person found to have engaged in prohibited behavior, and appropriate alternative remedies to any
employee or non-employee subject to discrimination or harassment. To accomplish this, such incidents must be reported immediately to a supervisor or manager.

1. **Employee’s and Non-Employee’s Responsibilities when Subjected to Discrimination and/or Harassment**

   a. Employees or non-employees who believe they have been subjected to discrimination or harassment, or are aware of discrimination or harassment against others, shall report the situation immediately to his/her supervisor or manager, except as specified in subsection (b), below. Employees and non-employees shall report any such incidents occurring in the workplace, whether committed by coworkers, supervisors or managers, or third persons doing business with the City, such as customers or vendors, or other non-employees. If comfortable doing so, an employee or non-employee who has a complaint of discrimination or harassment is encouraged to directly inform the person(s) engaging in the behavior that such conduct is offensive and insist the behavior to stop.

   b. Employees and non-employees must immediately contact a supervisor or manager to register a complaint of discrimination or harassment, unless that supervisor or manager is the individual engaging in the unwanted behavior. In that case, the employee or non-employee may contact someone at the next supervisory level. If the employee or non-employee feels uncomfortable dealing directly with his or her immediate supervisor or manager, he or she may contact the department head, or the Director of Human Resources (or either of their designees) to register a complaint of discrimination or harassment.

   c. Employees and non-employees may file a formal complaint of harassment or discrimination with their department head or
with Human Resources. To assist the City in conducting a thorough investigation, complaints shall be submitted in writing and shall include specific details of the incident(s), the names of the individuals involved, the names of any witnesses, and any documentary evidence (notes, pictures, cartoons, etc.) that will corroborate the allegations.

d. Employees and non-employees shall immediately report any retaliation to a supervisor, manager, department head or Director of Human Resources (or designee). All retaliation complaints shall be immediately, objectively and thoroughly investigated in accordance with the investigation procedures. If a report of retaliation is substantiated, appropriate disciplinary action, up to and including discharge shall be taken.

2. Supervisor’s or Manager’s Responsibilities to Eliminate Discrimination and/or Harassment

a. A supervisor or manager is responsible for enforcing the City’s discrimination and harassment policy. Supervisors or managers must ensure that all employees and non-employees are aware of the City’s policy through open discussion of the policy at staff meetings and by posting the policy in a conspicuous location accessible to all staff members.

b. A supervisor or manager shall be cognizant of employees’ and non-employees’ behavior and shall not permit any employee or non-employee under their supervision to be subjected to or engage in any conduct prohibited by this policy.

c. A supervisor or manager who observes conduct prohibited by this policy shall immediately direct the employee or non-employee to cease the conduct.
d. A supervisor or manager who receives a complaint of prohibited conduct is required to take the complaint seriously, and report the matter immediately to the department head; be supportive of the complainant; ensure there is no retaliation against the complainant; conduct an internal fact-finding review into the allegations; obtain as much detailed information as possible; thoroughly document the findings; communicate in written form to the parties the resolution of the complaint; and report to and consult with the Human Resources Department promptly, without delay.

B. **Confidentiality.** The City will make every effort to protect the privacy and confidentiality of all parties involved, as well as any information and/or documentation obtained, to the extent possible consistent with a thorough investigation.

C. **Penalty for Non-Compliance.** The City shall take disciplinary action, up to and including discharge, against any supervisor or manager who fails in his/her responsibility to take immediate action in response to an employee’s or non-employee’s complaint of discrimination or harassment. Further, such disciplinary action shall be taken against a supervisor or manager who fails to stop discriminatory or harassing conduct committed in his/her presence or to stop such conduct about which the supervisor or manager has knowledge.

V. **INVESTIGATION PROCEDURES**

A. **Determination of Responsibility for Investigation**

If a formal complaint is filed with the department head or the Director of Human Resources (or either of their designees), the department head and the Director of Human Resources shall consult with one another to determine whether the department or Human Resources shall conduct the fact-finding investigation into the allegations. Either the department head or the Director of Human Resources (or either of their designees), depending on who is
responsible for the investigation, shall issue written notification to the complainant and alleged harasser(s). The notification shall specify the nature of the complaint, and inform the parties that an investigation into the allegations of discrimination and/or harassment shall be conducted.

B. Investigative Guidelines

The investigation shall include the following steps taken in the order best suited to the circumstances:

1. Identify and preserve the evidence.

2. Confirm the name and position of the complainant. Interview the complainant.

3. Allow the complainant the opportunity to place the complaint in writing.

4. Obtain the identity of the alleged harasser(s).

5. Obtain as many details as possible regarding the incident(s) that prompted the complaint, including the number of occurrences, dates, times, locations, and witnesses (if applicable).

6. Ascertain how the complainant felt about the alleged incident when it occurred; complainant's response(s) to the alleged behavior; and witness statements (if applicable).

7. Ascertain if any threats or promises were made in connection with the alleged harassment.

8. Ascertain if the complainant knows of or suspects that there are other victims of harassment by the same person(s).

9. Ascertain whether the complainant has spoken to anyone, especially
supervisors, about the harassment.

10. Ascertain what resolution would be acceptable to the complainant.

11. Interview the alleged harasser to get his or her side of the story, including any possible motivation for a false allegation.

12. Interview witnesses who were identified by the complainant regarding the alleged harasser or other persons identified during the investigation.

13. Interview witnesses who were identified by the alleged harasser or other persons identified during the investigation.

14. Advise all participants that the investigation is "confidential" and not to engage in any retaliatory conduct, as such conduct is subject to disciplinary action up to and including discharge. Confidentiality will be maintained to the extent possible. An individual who is interviewed during the course of an investigation is prohibited from discussing the substance of the interview, except as otherwise directed by a supervisor or the Director of Human Resources. Any individual who discusses the content of an investigatory interview will be subject to discipline or other appropriate sanction.

15. Conduct follow-up interviews, if warranted.

16. Prepare report of findings and discuss with management and designated legal staff.

VI. RESPONDING TO THE COMPLAINT

A. Following the completion of the fact-finding investigation, either the department head or the Director of Human Resources (or either of their designees), depending on who is responsible for the investigation, shall
make a report of findings, along with a recommendation regarding the appropriate remedial action to be taken, if warranted. The recommendation shall be made after reviewing the findings of the investigation, giving consideration to all factual information, the nature of the alleged conduct, and the totality of the circumstances. If the investigation was conducted by the Director of Human Resources, or designee, the Director, or designee, shall confer with the affected department head and both shall concur on the remedial action to be taken, if any. If the investigation was conducted by the department head, the department head shall confer with the Director of Human Resources prior to making the report of findings and both shall concur on the remedial action to be taken, if any.

B. If either the department head or the Director of Human Resources does not concur with the findings and recommendation of the other, the City Attorney (or designee) shall review and resolve the matter in dispute.

C. Report of findings and recommendation shall be treated as a confidential document and no other distribution shall be made without first consulting with the City Attorney's Office. A completed investigation report will not be disclosed, except as it is deemed necessary to support a disciplinary action, to take remedial action, to defend the City in adversarial proceedings, or to comply with the law or court order.

D. Either the department head or the Director of Human Resources (or either of their designees), depending on who is responsible for the investigation shall provide a written response to the complainant and the person alleged to have committed the misconduct, discrimination and/or harassment. The response shall include a copy of the City’s discrimination and harassment policy and a memorandum indicating the City’s determination as to whether the complaint is:

1. **Unsustained:** The investigation failed to disclose sufficient evidence to substantiate the allegation(s).

2. **Unfounded:** The investigation proved that the act(s) or omission(s)
complained of did not occur. The finding also applies when the individual employee(s) named in the complaint were not involved in the act(s) or omission(s) alleged.

3. Sustained: The investigation disclosed sufficient evidence to substantiate the allegation(s) made in the complaint; appropriate action will be taken.

E. Details regarding any specific fact-findings or disciplinary action to be taken will not be communicated to the complainant. The City Attorney shall review the response for legal sufficiency before dissemination.

F. The City shall close and retain the investigation file, in accordance with applicable laws, regulations, and City policy regarding retention of City records.

VII. DISCIPLINE

Disciplinary action imposed as a result of any investigation conducted pursuant to this policy shall be commensurate with the severity of the offense, up to and including discharge, even for a first offense.

VIII. ALTERNATIVE REMEDIES

If upon exhausting all internal remedies to file, investigate, and respond to charges of discrimination/harassment, pursuant to title VII of the Federal Civil Rights Act of 1964 (42 U.S.C §§ 2000e et seq.), any person has a right to file a charge of discrimination/harassment with the Equal Employment Opportunity Commission ("EEOC"). In addition, pursuant to the California Fair Employment and Housing Act (Gov. Code §§ 12900 – 12996.) a person may also file a complaint of discrimination/harassment with the California Department of Fair Employment and Housing ("DFEH"). Employees or non-employees who believe that they have been subjected to discrimination/harassment may file a complaint with either of these
agencies. Both the EEOC and DFEH serve as neutral fact-finders and attempt to assist parties in resolving disputes voluntarily.

IX. COMMUNICATION OF POLICY

This policy shall be provided to all managers, supervisors, employees, volunteers, unpaid interns, agents or contractors of the City and shall be posted in the appropriate places. All employees shall participate in City approved harassment awareness training as directed by management or Human Resources; and all supervisors, as required by law, shall participate in City approved interactive harassment awareness training and education sessions at least once every two years, or as otherwise specified by law.

APPROVED:

KURT O. WILSON
CITY MANAGER

::ODMAI/GRPW/SECOS.PER.PER_Library:86180.1
Title: Contract Title: Construction Contract - Tree Removal Services, Project No. OM-20-039

Notes:

Sponsors:

Attachments: Construction Contract - Tree Removal Services_OM-20-039_West Coast Arborists

Contact:

Drafter: Analissa.Nunez@stocktongov.com

Related Files:
### Approval History

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### History of Legislative File
Text of Legislative File 20-6821

Contract Title: Construction Contract - Tree Removal Services, Project No. OM-20-039

Vendor/Other Party: West Coast Arborists, Inc.
Contract Amount: $238,000
Contract Start Date: Contract End Date: Term: construction

City Contract Type (select one):
Original Amendment Change Order Grant Subdivision Agreement
Other

Council Approval Required? Yes/No (if No, provide account #):
Council approval required for contracts over: $75,000 for Fiscal Year:2019/20
Motion/Resolution/Ordinance #:2020-06-23-1111 Must be attached:

Required Documents
The following documents shall be submitted with the signed contract when required:
Business License Required? Yes/No Business License #: 20-0013910
Bonds Required? Yes/No
Insurance Required? Yes/No
Notary Required? Yes/No
Recordation Required? Yes/No

Mandatory Routing Order
1 DEPARTMENT: PUBLIC WORKS / O&M DEPT
Department Head Approval: JODI ALMASSY
Date: 6/26/2020
Project Mgr: MITCHEL JACKSON ext: 8283
Staff: ANALISSA NUNEZ ext: 8317
Notes:

2 PROCUREMENT
Approved by Name/Signature:
Date:
Notes:

3 VENDOR/OTHER PARTY
Signed originals on: 05/12/20
Notes:

4 RISK SERVICES
Insurance approved on: 6/29/20 by: Matt Braley
Bonds approved on: n/a by:
RM #: 20-457
Notes: Insurance expires on 7/1. Docs are being requested.

5 CITY ATTORNEY
Approved as to Form/Content on: 06/29/2020 by: Taryn Jones
Notes: Contract logged into Prolaw, forwarded to CM on 6/29/20 by lh

6 CITY MANAGER
Signed by City Manager on:
Notes:

7 CITY CLERK
City Clerk attested on: 7/7/20 by: MKomanee
Returned PDF to dept. on: 7/7/20
OB #:
Notes:

8 ORIGINATING DEPARTMENT: PUBLIC WORKS / O&M DEPT
Copy of contract to be retained by department. Original on file in the Clerk's office.
Requisition #.
Copy sent to vendor on: by:
Copy of contract sent to Purchasing on: by:
Notes:

9 PROCUREMENT:
Purchase Order #. PUR #.
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<th>Approver Name</th>
<th>Due Days</th>
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## CONTRACT ROUTING FORM

### CITY CONTRACT TYPE (select one)
- [ ] Original
- [ ] Amendment/Change Order
- [x] Grant
- [ ] Subdivision Agreement
- [ ] Other

### CONTRACT INFORMATION
- **Contract Amount:** $238,000.00
- **Contract Title:** CONSTRUCTION CONTRACT - TREE REMOVAL SERVICES, PROJECT NO. OM-20-039
- **Vendor/Other Party:** WEST COAST ARBORISTS, INC.
- **Contract Start Date:** 
- **Contract End Date:** 
- **Contract Term:** construction contract

### COUNCIL APPROVAL REQUIRED? [x] Yes [ ] No (provide account # if no)
- Council approval required for contracts over $75,000 for FISCAL YEAR: 2019/20
- Motion/Resolution/Ordinance No: 2020-06-23-111
- Must be Attached [ ]

### REQUIRED DOCUMENTS (The following documents shall be submitted with the signed contract when required):
- [ ] Business License Required? [ ] Yes [x] No
- Business License No: 20-0013910
- [ ] Bonds Required? [ ] Yes [ ] No
- [ ] Insurance Required? [ ] Yes [ ] No
- [ ] Notary Required? [ ] Yes [ ] No
- [ ] Recordation Required? [ ] Yes [ ] No

### Mandatory Routing Order

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<thead>
<tr>
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<tr>
<td><strong>DEPARTMENT HEAD APPROVAL</strong></td>
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<tr>
<td>Project Mgr: MITCHEL JACKSON</td>
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<tr>
<td>Staff: ANALISSA NUNEZ</td>
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<tr>
<td>Forwarded to: PROCUREMENT on: 6/26/20</td>
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<td>by: A.NUNEZ</td>
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<td>Forwarded to: CITY MANAGER on: by:</td>
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</tr>
<tr>
<td>Retained ( ) original(s) for City's file. Hard Copy on file? [ ] Yes [ ] No [ ] OB #</td>
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<td>Requisition No. Original sent to vendor on: by:</td>
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<td>Copy of contract to be retained by department. Original on file in the Clerk's office.</td>
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<tr>
<td>Copy of contract sent to Purchasing on: by:</td>
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<th>PROCUREMENT: Purchase Order No. PUR No.</th>
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MEMORANDUM

June 24, 2020

TO: Harry Black, City Manager

FROM: Jodi Almassy, Director
       Public Works Department

SUBJECT: TREE REMOVAL SERVICES, PROJECT NO. OM-20-039, APPROVED BY CITY COUNCIL

On June 23, 2020, the above item was approved by City Council by Resolution No. 2020-06-23-1111. The contents of this item remain the same, of which, no changes have been made since its adoption by City Council. With the action taken by the City Council, the City Manager is authorized to execute the attached documents.

JODI ALMASSY, DIRECTOR
PUBLIC WORKS DEPARTMENT

JLA:VM:MJ:an

Attachments
11. CONSENT AGENDA

Approve on the Consent Agenda the Consent Agenda with a single vote, save item 11.8 which was considered separately and 11.3 which will be heard as new business.

Moved by: Daniel Wright, seconded by Susan Lenz.
Vote: Motion carried 7-0

Yes: Jesus Andrade, Paul Canepa, Christina Fugazi, Sol Jobrack, Susan Lenz, Michael Tubbs, and Daniel Wright.

11.11 20-6506 APPROVE RESOLUTION TO AUTHORIZER TREE REMOVAL SERVICES

RECOMMENDATION It is recommended that the City Council adopt a resolution to: 1. Approve the Notice of Exemption No. NOE15-20 under the California Environmental Quality Act for Tree Removal Services, Project No. OM-20-039. 2. Approve the specifications for Tree Removal Services, Project No. OM-20-039. 3. Award a Construction Contract in the amount of $238,000 to West Coast Arborists, Inc., of Stockton, CA, for Tree Removal Services, Project No. OM-20-039. It is also recommended that the City Manager be authorized to take appropriate and necessary actions to carry out the purpose and intent of this resolution.

Legislation Text
Attachment A - Tree Removal Locations
Attachment B - Bid Withdrawal Request
Proposed Resolution - OM-20-039
Exhibit 1 - NOE15-20
Exhibit 2 - Construction Contract
APPROVE RESOLUTION TO AUTHORIZE TREE REMOVAL SERVICES

RECOMMENDATION

It is recommended that the City Council adopt a resolution to:

1. Approve the Notice of Exemption No. NOE15-20 under the California Environmental Quality Act for Tree Removal Services, Project No. OM-20-039.

2. Approve the specifications for Tree Removal Services, Project No. OM-20-039.

3. Award a Construction Contract in the amount of $238,000 to West Coast Arborists, Inc., of Stockton, CA, for Tree Removal Services, Project No. OM-20-039.

It is also recommended that the City Manager be authorized to take appropriate and necessary actions to carry out the purpose and intent of this resolution.

Summary

The Tree Removal Services, Project No. OM-20-039, will remove 138 City trees and stumps at 112 address locations citywide (Attachment A). The trees identified for removal are dead and/or dying.

On January 16, 2020, the City received five bids for this project. The lowest bidder, Arborwell, Inc., of Hayward, CA, requested to withdraw their bid due to a mathematical error and misunderstanding of the contract requirements (Attachment B). Public Works' staff, together with the City Attorney's Office, determined that the bid withdrawal request from Arborwell, Inc. is acceptable. Staff recommends award of the Construction Contract to the second lowest responsive bidder, West Coast Arborists, Inc., of Stockton, CA, in the amount of $238,000. Staff also recommends that Council adopt a resolution approving Notice of Exemption No. NOE15-20 under the California Environmental Quality Act (CEQA) and approving the specifications for the project. The project is anticipated to be completed by December 2020.

DISCUSSION

Background

The Public Works' Street Tree Division consists of one Tree Crew, with five crew members, performing primarily emergency tree removals and public safety services, such as stop sign and stop signal clearance trimming. This single crew is unable to keep pace with the demand for removal of dead and dying trees. Contracted services are utilized to remove large trees that are in the worst condition. Services are typically bid on a unit price basis according to the size of the tree. Removal
locations are determined by public calls for service and field inspection by Public Works' staff.

The inventoried count of City maintained trees is approximately 90,000. All are in need of trimming and routine maintenance. Many trees have reached the end of their useful life or have succumbed to disease or pest infestation due to the lack of scheduled maintenance, and now require removal. Currently, the City has a backlog of approximately 560 trees on its list for non-emergency removal. Funding is insufficient to remove all the trees that have been identified for removal. Accordingly, regular re-prioritization of the tree removal locations is required, and prioritization is based on size rather than how long any one tree has been on the removal list. With removal of the 138 trees identified with this project at 112 address locations citywide (Attachment A), the City will have a backlog of approximately 430 trees on its removal list.

On July 26, 2016, Council adopted a Community Workforce and Training Agreement (CWTA). The CWTA became effective August 25, 2016 and applies to all Public Works projects over $1 million that are bid after that date. The CWTA was not applied to this project because the estimated construction cost was less than $1 million.

Present Situation

On December 5, 2019, the Tree Removal Services project was advertised for bids. On January 16, 2020, five bids were received with the following results:

<table>
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<th>COMPANY NAME</th>
<th>BID AMOUNT</th>
<th>ADJUSTED BID AMOUNT (local preference applied)</th>
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<tr>
<td>Arborwell, Inc. (Hayward, CA)</td>
<td>$180,000</td>
<td>$180,000</td>
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<tr>
<td>West Coast Arborists, Inc. (Stockton, CA)</td>
<td>$238,000</td>
<td>$233,240</td>
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<td>New Image Landscape Co. (Fremont, CA)</td>
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<td>The Davey Tree Expert Co. (Sacramento, CA)</td>
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<td>The Professional Tree Care Co. (Berkeley, CA)</td>
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The lowest bidder, Arborwell, Inc., submitted a letter to the City after the public bid opening requesting to withdraw their bid due to a mathematical error and misunderstanding of the contract requirements (Attachment B). Public Works' staff, together with the City Attorney’s Office, determined that the bid withdrawal request from Arborwell, Inc. is acceptable.

The bid from West Coast Arborists, Inc., the lowest responsive bidder, is regular in all respects and has the proper license to perform the work. Staff recommends Council approve the specifications for the project and award a Construction Contract to West Coast Arborists, Inc. in the amount of $238,000.
The requirements of Stockton Municipal Code (SMC) section 3.68.090, Local Business Preference, apply to this project. West Coast Arborists, Inc., is located within the County and is entitled to a two percent bid preference. Application of the Local Business Preference did not change the bid results. The Local Employment Ordinance, SMC section 3.68.095, also applies to this contract.

The project is in conformance with the City's General Plan, pursuant to California Government Code, Section 65402, and is categorically exempt from the requirements of CEQA as specified under Article 19, Section 15301, Class 1(c), of the CEQA Guidelines. The activities related to this project constitute a discretionary project under the City’s jurisdiction and qualifies as a project that does not have a significant effect on the environment. The resolution will approve the filing of Notice of Exemption No. NOE15-20 under CEQA. The project is anticipated to be completed by December 2020.

FINANCIAL SUMMARY

The Construction Contract with West Coast Arborists, Inc. is proposed to be funded from the Fiscal Year 2019-20 Street Trees operating budget as noted below:
Street Trees, Gas Tax, Maintenance and Repair Services
030-3071-590.20-25 $200,000

General Fund, Parks Maintenance and Repair Services
010-3070-590.20-25 $38,000

TOTAL $238,000

There is no additional impact to the City’s General Fund or any other unrestricted fund as a result of taking the recommended actions.

Attachment A - List of Tree Removal Locations
Attachment B - Arborwell, Inc.’s Bid Withdrawal Request
Resolution No. 2020-06-23-1111

STOCKTON CITY COUNCIL

RESOLUTION APPROVING THE NOTICE OF EXEMPTION NO. NOE15-20, APPROVING THE PLANS AND SPECIFICATIONS, AND AWARDING A CONSTRUCTION CONTRACT FOR TREE REMOVAL SERVICES, PROJECT NO. OM-20-039

On January 16, 2020, the City Clerk of the City of Stockton opened, examined, and publicly declared the sealed bids offered for Tree Removal Services, Project No. OM-20-039; and

The project will remove 138 City trees and stumps at 112 address locations citywide; and

The lowest bidder, ArboWell, Inc., of Hayward, CA, submitted a letter to the City after the public bid opening requesting to withdraw their bid due to a mathematical error and misunderstanding of the contract requirements. Public Works’ staff, together with the City Attorney’s Office, determined that the bid withdrawal request from ArboWell, Inc. is acceptable; and

The second lowest responsive bidder, West Coast Arborists, Inc., of Stockton, CA, in the amount of $238,000, is regular in all respects and has the proper license to perform the work; and

The project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) as specified under Article 19, Section 15301, Class 1(c), of the CEQA Guidelines, because this is a discretionary project under the City’s jurisdiction and qualifies as a project which has been determined to not have a significant effect on the environment; now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF STOCKTON, AS FOLLOWS:

1. The City Council approves the filing of Notice of Exemption No. NOE15-20 under CEQA for Tree Removal Services, Project No. OM-20-039, a copy of which is attached as Exhibit 1 and incorporated by this reference.

2. The City Council approves the specifications for Tree Removal Services, Project No. OM-20-039.

3. The City Council awards a Construction Contract between the City of Stockton and West Coast Arborists, Inc., in the amount of $238,000, and the City Manager is authorized and directed to execute same, a copy of which is attached as Exhibit 2 and incorporated by this reference.

//
4. The City Manager is hereby authorized to take whatever actions are necessary and appropriate to carry out the purpose and intent of this Resolution.

PASSED, APPROVED, and ADOPTED ________June 23, 2020________.

MICHAEL D. TUBBS, Mayor
of the City of Stockton

ATTEST:

ELIZA R. GARZA, CMO
City Clerk of the City of Stockton