CITY OF MILPITAS BRIDGE CONTRACT

Project: City of Milpitas Parks Maintenance Service
Amount of Contract: $383,333.32

THIS CONTRACT, made this 16th day of June, 2017, by and between the City of Milpitas, hereinafter referred to as the "City of Milpitas", a Municipal Corporation and Terracare Associates LLC, a Colorado corporation, hereinafter referred to as "Contractor",

WITNESSETH:

A. WHEREAS, the City of Milpitas has caused specifications, drawings and other contract documents, hereinafter referred to as "Specifications", to be prepared for certain work on the referenced project; and

B. WHEREAS, The term of the contract shall be for four (4) months from July 1, 2017 to October 31, 2017. The City reserves the right to review the Contractor’s performance at any time and cancel all or part of the contract.

C. WHEREAS, said Specifications include: the following documents which by this reference are hereby made a part of this contract:
   1. Scope of Work
   2. Terms and Conditions
   3. Special Provisions for Material & Equipment Furnished by Contractor
   4. Special Provisions For Services
   5. Pricing Form
   6. Apprenticeship Standards Certificate
   7. Nondiscriminatory Employment Certificate
   8. Exhibit A – Insurance Requirements – General
   9. Attachment A – Integrated Pest Management Summary
  10. Attachment B – Individual Park Bid Pages
  11. Attachment C – Commercial Lease Agreement – Garbage Truck
  12. Attachment D – FieldTurf Maintenance Guidelines

D. WHEREAS, Contractor has offered to perform the proposed work in accordance with the terms of said Specifications as set forth above;

NOW, THEREFORE, in consideration of the mutual covenants and agreements of the parties contained in said Specifications, which are made a part hereof as though fully set forth, Contractor hereby agrees to complete the work at the prices and on the terms and conditions therein contained, and the City of Milpitas hereby employs the Contractor and agrees to pay the Contractor the contract prices therein provided for the fulfillment of the work and the performance of the covenants therein set forth.

IN WITNESS WHEREOF, this contract has been executed on the day and year first above written.
City of Milpitas, A Municipal Corporation
Terracare Associates, LLC, a Colorado corporation

______________________________  _____________________________
Thomas C. Williams, City Manager  Contractor's Authorized Signature

______________________________
Name of Authorized Representative

______________________________
Title of Authorized Representative

City of Milpitas
Business Tax Compliance: Certificate No. __________

Approved As
To Form:  ______________________________
  Christopher J. Diaz, City Attorney

Approved As
To content:  ______________________________
  Robert Hill, Project Manager
City of Milpitas
Parks Maintenance Service
Bridge Contract

Issued By: Purchasing Division
Date of Issuance: 6/16/17
CITY OF MILPITAS PARKS MAINTENANCE SERVICES

BRIDGE CONTRACT

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INTRODUCTION
Milpitas is located in Santa Clara County, California. It is situated with San Jose to its west and south and Fremont to its north. The City extends past the eastern portion of Highway 237 and up into the foothills. With the Alameda County border directly to the north, Milpitas sits in the extreme northeast section of the South Bay. The majority of the City’s population is generally located between Interstate freeways 680 and 880, which run roughly north/south through the City. Milpitas is a unique community with a distinctive history. The City was incorporated in 1954, and most of the residential development occurred in the 1960’s and 1970’s. As late as the 1950’s, the City was a rural area with a population under 1,000 residences. Most of the City’s parks were therefore created in a relatively compressed time period and constructed as part of subdivision developments. As a result, many of the parks are similar in design, appearance, and range of amenities offered. Most parks are 35 to 45 years old.

The City of Milpitas has 26 parks of various types as listed below, with various amenities per park. All together the parks encompass a total of 169.40 acres of which 122 are turf acres. Among other things the parks include 20 tennis courts, 3 full basketball courts, 4 half courts, 9 baseball fields, 5 softball fields, 1 football field, and 2 soccer fields. Soccer also shares with 5 other fields. Youth groups practice baseball/soccer at 5 other parks. Twice a year soccer fields have to be converted to baseball fields.

The City is seeking a Contractor to provide a full service replacement for its parks maintenance division, to provide all aspects of landscape maintenance and daily park operation, including equipment maintenance and repair for all park amenities.

EXISTING PARK CLASSIFICATIONS
A park classification system is the basis for park planning within the community. It defines the types of parks the system consists of, describes what facilities each type will contain. The Milpitas park system includes all of the following categories. In general, the system is characterized predominately by mid-sized, neighborhood parks that serve the entire community as well as the local neighborhood.

Community Parks: Community parks typically contain regulation-size ball fields and courts, space for informal games and activities, picnic and gathering areas, children play areas and parking.

Neighborhood Parks: Neighborhood parks in the City are typical walk-to parks that serve the immediate neighborhood, providing open space for informal play.

Urban Parks: Urban parks are small facilities, generally less than one acre in size, which accommodate the daily recreation or passive needs of nearby residents. They typically can include children’s play areas, sitting areas, and limited green space, but are not large enough to contain sports fields.

Linear Parks: Linear parks are narrow corridors of land that have been developed primarily as a trail system. Linear parks may also include other small scale facilities such as picnic tables and benches. Milpitas has taken advantage of the Hetch Hetchy right-of-ways for the development of a linear park system.

Special-use Parks: The Special-use Parks include a park with a special element such as a historical building, unique views, or unique use like a dog park.

School Facilities: The Milpitas Unified School District allows mutual use of recreation facilities,
such as ball fields, pools, and other sports fields.

TECHNICAL SPECIFICATIONS

PART 1 – GENERAL WORK REQUIREMENTS

1.1 SUMMARY

A. Nature of Work. The City is seeking a Contractor to provide full service parks maintenance including all aspects of landscape maintenance and daily park operation, including equipment maintenance and repair for all park amenities. The scope of work of this contract will include all labor, plants, tools, equipment, transportation, implements, insecticides, fungicides, fertilizers, disposal fees and other necessary items. The City of Milpitas has 26 municipal parks subject to this RFP of various types encompassing a total of 169.40 acres of which 122 are turf acres. Among other things the parks include 20 tennis courts, 3 full basketball courts 4 half courts, 9 baseball fields, 5 softball fields, 1 football field, and 2 soccer fields. Soccer also shares with 5 other fields. Youth groups practice baseball/soccer at 5 other parks. Twice a year soccer fields have to be converted to baseball fields.

B. Combination of Regularly Scheduled and “As Needed” Work. The Contractor will be required to perform both regularly scheduled work and unanticipated “as needed” maintenance, clean up and repair work (e.g., unscheduled restroom clean up after an unusually large picnic area party rental) as directed by the City.

C. Change Orders or Additions. The City reserves the right to add additional parks to the contract as they are completed or come off contract with other companies. Compensation for each additional park shall be based on the terms and conditions of this request for proposal.

A general breakdown of the duties required to be performed under the contract follows.

1.2 SUBMITTALS

A. Quality Control Submittals

1. The Contractor shall submit all current and renewal licenses, permits and insurance documents required by the City of Milpitas, the State of California or the Federal government pertaining to the scope of maintenance work.

2. At the beginning of each month, the Contractor shall submit a MONTHLY MAINTENANCE CHECKLIST identifying the scheduled work for the month.

3. At the end of each month, the Contractor shall submit the completed MONTHLY MAINTENANCE CHECKLIST documenting the work completed, the location of the work, and a record of all labor and materials used.

4. The Contractor shall submit a WEEKLY IRRIGATION SYSTEM REPORT that notes visual observations from site inspections, and responses to the central irrigation system alarm reports. A weekly meeting will be scheduled with the City and the Contractor to review the Contractor’s report.
5. The Contractor shall submit a MONTHLY INVOICE for payment of work completed during the previous month, and attach backup documentation for all labor and materials used, and the location of all work, including but not limited to the
   i. MONTHLY MAINTENANCE CHECKLIST
   ii. WEEKLY IRRIGATION SYSTEM REPORTS
   iii. Delivery tickets and receipts for materials used
   iv. Pesticide/Herbicide use reports

6. The Contractor shall provide a written pesticide use recommendation issued by a licensed agricultural pest control advisor and accompanying material safety data sheet for the application of all weed, pest and disease controls, display emergency information on all vehicles carrying pesticides, and label all containers as required by the California Department of Pesticide Regulation. The pesticide use recommendation shall contain but not be limited to the target pest, application rate, precautionary statements, and any restrictions and special conditions.

1.3 QUALITY ASSURANCE

A. Qualifications

1. The Contractor shall have a full-time employee assigned to the job as supervisor for the duration of the contract. He/she must be English-speaking and shall have a minimum of four (4) years’ experience in landscape maintenance supervision, with experience or training in turf management, pest control, soils, fertilizers and plant and weed identification.

2. The Contractor's parks maintenance labor force shall include an irrigation specialist who can correctly troubleshoot problems in the field and make appropriate repairs. The labor force shall be English-speaking and thoroughly trained and familiar with the work to be accomplished and shall perform each task in a competent, efficient manner acceptable to the City.

B. Requirements

1. The Contractor's supervisor shall directly supervise the work force on-site. The Contractor shall notify the City of any changes in the supervision or irrigation specialist positions.

2. The landscape maintenance Contractor's vehicles and labor force shall be visibly identified at all times and the Contractor's employees uniformly dressed in a manner satisfactory to the City.

3. The Contractor's on-site supervisor shall be reachable by cell phone during work hours and the Contractor shall provide contact information after work hours in case of an emergency.
1.4 WORK SCHEDULING

A. The Contractor shall perform all maintenance during hours mutually agreed upon between City and Contractor.

B. The Contractor's work force shall be present at the City daily and as often as necessary to perform specified maintenance in accordance with the approved maintenance schedule and response to the weekly irrigation system checks, and daily irrigation alarm reports.

PART 2 – PRODUCTS

2.1 MATERIALS

A. General

All materials and equipment, shall be provided by the Contractor, except for recycled water, as available from the City.

B. Herbicides, Insecticides, and Fungicides

1. Best quality materials in the original manufacturers' containers, properly labeled with guaranteed analysis.

2. Use non-staining materials.

C. Plant Materials

1. All container grown young plants shall be healthy, vigorous, well-rooted, and established in the container in which they are growing. They shall have tops of good quality and be in a healthy growing condition. A container grown young plant shall have a well-established root system reaching the sides of the container to maintain a firm ball.

2. All annuals and perennials shall be nursery-grown in 4-inch pots, well rooted, full, healthy plants just ready to bloom.

3. All seed for reseeding turf areas shall match existing turf mix.

4. All sod for re-sodding shall match existing turf areas.

2.2 EQUIPMENT

A. Use only the proper tool for each job. Maintain all tools in sharp, properly-functioning condition.

B. Take all measures to prevent introduction of insect or disease-laden materials onto the site by properly cleaning and sterilizing tools prior to usage.

B. Contractor shall provide a list of equipment that will be used to service any contract resulting from this contract. The City reserves the right to perform a physical inspection of the Contractor’s offices, yards or other locations to verify the Contractor possesses the required volume of equipment to service the City’s requirements, as specified.
PART 3 – EXECUTION

3.1 PREPARATION

A. Protection

1. The Contractor shall protect all new planting areas from damage of any kind until sufficiently established.

B. Replacements

1. Contractor shall be responsible to replace all plants damaged or injured by Contractor and set to proper grades in upright position.

2. Replacement plants shall match size, condition and variety of plants replaced, and shall be healthy, vigorous stock, free of insects and disease.

3. Plant materials that die from lack of water shall be the Contractor's responsibility to replace.

3.2 WEED, DISEASE AND PEST CONTROL

A. Landscape areas shall be kept free of weeds. Weeding may be done manually or by the use of selective weed killers. The City typically only uses “CAUTION” labeled chemicals, anything else must be approved in advance by the City. Extreme caution shall be observed if applying selective weed killers so as not to damage any desirable plants. If spraying is done, it shall be at times when there is no wind, or wind at 5 mph or less to avoid drift.

B. Weeds treated with a contact weed chemical shall be left in place for a minimum of seven (7) days. If kill is not complete, additional applications shall be made, at no additional cost to the City, until target species is eliminated. All turf and landscape areas are to be treated in the fall and again in the spring with a systemic pre-emergent granular weed control agent for the control of both broadleaf and grassy weeds. This application shall be included in the base price for the Contract. The material to be used and the application method proposed shall be approved by the City prior to application.

C. The Contractor shall monitor all plant materials and ground covers for pests and diseases. Insects, pests and diseases shall be controlled by the use of approved pesticides and accompanied by a Pesticide Use Recommendation and Material Safety Data Sheet.

D. The Contractor agrees to eradicate all gophers, moles, rodents and other related pests from all landscape areas covered within this project and restore the area to proper condition.

3.3 IRRIGATION SYSTEM MAINTENANCE

A. The existing irrigation system is a Rainmaster Evolution central control irrigation system. The Contractor must be familiar with the configuration of master valves and flow sensors, and controller programming, as well as the weekly observance of uniform coverage, the proper functioning of heads, and troubleshooting for high flow and low flow and no flow conditions. The Contractor shall be responsible for labor and materials to make all repairs from the meter to the nozzle including the field controllers, main lines and laterals up to the T, head, nozzles, risers, swings, etc. Excessive water use, dead and dying plant material, or excessive line breaks
due to Contractor negligence will also be the responsibility of the Contractor. Backflow devices must be certified annually and maintained as needed.

B. Maintenance of the existing system by the Contractor shall include, but not be limited to the following:

1. Irrigation schedules, which shall be submitted for City approval in writing at the beginning of the contract, and for Summer, Fall, Winter and Spring climate adjustments.

2. Weekly field inspection of the irrigation system by an irrigation specialist including observance of uniform coverage from the heads, dry spots, blowouts, runoff, etc.

3. Field inspection by an irrigation specialist of the specific central irrigation system alarm reports on a daily basis.

4. The repair of all irrigation piping, risers, heads and the drip emitters in response to field observation and central irrigation alarm reports.

5. A Contractor representative shall meet with City staff on a weekly basis to review the WEEKLY IRRIGATION SYSTEM REPORT, which will include repairs made to piping, heads and nozzles, or repair approvals required for line breaks, valve replacements, and CONTRACTOR response to daily central system alarm reports.

6. All repair needs or irrigation scheduling needs discovered in the field shall be reported to the City on a weekly basis.

7. At no time will runoff or over spray from the irrigation system into the street, over the sidewalk or onto walls or buildings be allowed.

8. Cleaning and adjusting sprinkler heads and filters for optimum coverage.

9. Annual blowing out of lateral lines to remove debris by removing the last irrigation head and flushing the lines.

10. Monthly exercising of controllers and valves.


12. Raising and/or straightening of heads that are sunken and/or tipped as necessary or as directed.


14. Report promptly to the City all accidental damage that may or may not have resulted from Contractor’s negligence or operations.

15. The completion of the WEEKLY IRRIGATION SYSTEM REPORTS to be submitted with the MONTHLY INVOICE for review before payment.

C. Irrigation System Scheduling
1. Irrigation shall be scheduled with appropriate frequency and duration to meet the water requirements of the plants served by the valve.

2. Irrigation frequency shall be determined by the evaporative demand and rainfall. Irrigation frequency shall be adjusted as necessary to account for predicted changes in weather and water use.

3. Irrigation duration shall be adjusted for each valve to apply the appropriate amount of water required to wet the root zone of the plants within that irrigation zone. Irrigation duration shall consider the following:
   - Precipitation rate (inches per hour) of the specific sprinkler operated by that valve.
   - Infiltration rate of the soil.
   - Water holding capacity of the soil (inches of available water per foot of soil).
   - Rooting depth of plant material:
     - Turf 8”
     - Ground cover 12”
     - Shrubs 24”
     - Trees 36”

4. Irrigation shall be applied in a manner to avoid erosion, excessive run-off, ponding, or creation of a waterlogged soil condition.

D. Controller:

1. Irrigation controllers shall be programmed as much as necessary, and as climate conditions dictate or as directed by the City.

2. Controller programming shall adhere to the scheduling requirements set forth by the City, if any.

3. Controller programs shall be designed to conserve water and encourage deep rooting of all trees and ground cover.

4. Controllers shall be set to irrigate between the hours of 9:00 p.m. and 5:00 a.m.

5. Contractor is responsible for supplying replacement batteries in the controllers and remotes at no additional cost to the City.

3.4 PESTICIDE AND HERBICIDE APPLICATIONS

A. Contractor must have a currently certified California Pest Control Advisor, and all pesticide applicators must have a current “Recommendation” from the California Pest Control Advisor available on site correctly identifying the target weed species, pesticide to be used, rate of application, precautionary statements for safe handling and environmental protection, weather and timing restrictions, and shall be approved by the City prior to application. Applicators must also have a pesticide label and MSDS available on site.

B. Pesticides shall be applied only by personnel who possess a California Qualified Applicator's License, with training in the specific pesticide they are applying.
C. All applications shall be done with extreme care to avoid any hazard to persons, pets, or landscape plantings, including adjacent trees.

D. The Contractor shall follow all applicable California Department of Pesticide Regulations requirements for the safe use and handling of pesticides, and for adherence to label instructions.

E. No restricted use pesticides shall be used without the prior consent of the City. All requirements for the use of restricted materials, including the filing of the Notice of Intent, shall be the responsibility of the Contractor.

3.5 TURF CARE

A. All turf areas shall be maintained throughout the year without holes or brown patches.

B. Turf shall be mowed once per week or as necessary to maintain a neat, trim appearance.
   1. Contractor shall develop and submit a mowing schedule.
   2. The cutting edges of all mowing equipment shall be kept in proper adjustment.
   3. Bruising, scalping or rough cutting of lawn will not be permitted.
   4. All debris shall be removed from turf areas by the Contractor prior to mowing.
   5. Turf shall be cut to a height of 2” to 2 1/2” from November through February, and 2 1/2” to 3” from March through October. All athletic fields shall be maintained at a height of 2” to 2 1/2 at all times.
   6. Contractor must use mulching mowers and all turf cuttings shall be mulched into the site, including the athletic fields.

C. All turf edges shall be trimmed after each cutting or as necessary to maintain a neat, trim appearance.
   1. Trimming shall include cutting all grasses along walls, fences, poles, guy wires and edging all grasses along curbs, sidewalks, mowing strips or any other objects within or immediately adjacent to lawn areas.
   2. Grasses shall be cut back a minimum of 12 inches from the base of any tree.
   3. Care shall be taken to avoid damage to tree trunks, shrubs, sprinklers and other structures while trimming.

3.6 FIELDTURF MAINTENANCE GUIDELINES

A. The Sports Center synthetic turf shall be maintained in accordance with “Attachment D - FieldTurf Maintenance Guidelines”

B. All maintenance is to be completed per the following schedule.
1. Surface Brushing - Recommended Frequency: Every 4 to 6 weeks

2. Surface Aerating – Recommended Frequency: Maximum 2 to 3 times per year (beginning in 2nd year)

3. Surface Raking – Recommended Frequency: Every 4 to 6 weeks

4. Surface Sweeping – Recommended Frequency: As needed

5. Additional Maintenance Activities (specify) – Recommended frequency: As needed

6. Complete Inspection of Line Markings, Seams and High Traffic Areas – Recommended Frequency: As needed

7. Infill Top Dressing (high traffic areas) – Recommended Frequency: As needed

8. Snow Removal (if applicable) – Recommended Frequency: As needed

3.7 CLEANING

A. Dispose of all turf clippings and leaves, sweep all walkways and rake smooth all mulched areas.

A. Remove from the site all equipment, tools, containers and evidence of maintenance activities.

ADDITIONAL DUTIES

Athletic field/court maintenance:
Fields must be well maintained and in ready to use condition all year round. Inspections must be conducted weekly. Baseball and soccer fields are stripped by the leagues. Cutting base lines is performed annually and as needed. Contractor is responsible for installing base pegs, mounds etc., and backboard and fence repairs as needed. Dug outs must be kept in good repair. Backstops, all boards must be kept in good repair, painted annually or as needed. Athletic fields and courts must be kept free of litter, broken glass, pop tops and other debris. All tennis and basketball courts shall be cleaned weekly of all sticky or unsightly residue, gum, etc. Baseball infields are to be maintained weekly free from ruts, trip hazards and holes.

Mechanical weed control: Removal of all weeds along walls, fences, poles, guy wires, curbs, sidewalks, mowing strips, other objects within or immediately adjacent to lawn areas and throughout athletic fields.

Restroom maintenance: 15 restrooms per day 7 days a week, (including holidays). Opening: Restroom opening starts at 5:30 AM and must be complete by 8 AM Restrooms must then be cleaned, including scrubbing and disinfecting all toilets, urinals, and sink basins. All floors must be washed daily and squeegeed out so as to leave no standing water, all dust and cobwebs shall be removed from walls and rafters inside and outside of the restroom. Activate all faucets and hand dryers. Flush all toilets and urinals and check for proper operation. Unplug any plugged fixture drains immediately. The restroom must be restocked daily, including replacing light bulbs, and making any repairs of leaks or inoperable equipment as fast as scheduling permits. For purposes of this Contract, “regularly scheduled work” shall constitute once a day, daily work as set forth in this paragraph. Only work not covered by the preceding sentence shall be considered discretionary “as needed” work subject to the $22,535.64 allotment.
**Restroom Security:** All damage, non-functional equipment, trash buildup, or acts of vandalism must be reported to the City daily and dealt with according to the requirements listed herein. The restrooms at the Russell School Bobby Sox Complex are kept clean by the City but opened and closed by the user groups.

**Park clean up:** All parks are cleaned each Monday and include removing all trash and debris from picnic areas and all pathways, and raking leaves and other organic debris from the picnic areas. Picnic tables, benches and surrounding concrete shall be washed as necessary to be kept clean of spilled food and drink. Parks are monitored every day and cleaned as necessary depending on weather conditions and usage. Clean up must occur after all scheduled events, company picnics, birthdays, celebrations, etc. Contractor will be provided with schedule of events by the City.

**Empty garbage cans:** The City has 360 cans. The City will provide a garbage truck; (F650 Super Duty with Wayne 10 yard compactor) contractor must provide a licensed operator (Class C). Depending on park usage the number of cans to be dumped varies from 300-700 cans per week based on a four day per week pick up route. One loop of the route generally takes two days to complete. During the spring and summer months (April thru September) all cans must be checked and/or emptied prior to 5 PM on Friday. When the truck is full Contractor may dump out without charge at the Newby Island Landfill. The landfill is operated by Republic Services and is located at 1601 Dixon Landing Rd. Milpitas, CA 95035. On or about September 1, 2017 Garden City Sanitation dba Milpitas Sanitation will take over and the location of the landfill will switch to Kirby Canyon Landfill 910 Coyote Creek Golf Dr. Morgan Hill, CA 95037. Contractor must wash out the truck at the end of each route at the City wash rack in the Corporation Yard at 1265 North Milpitas Blvd. Contractor shall perform lubrication of compaction unit according to manufacturers specifications. Damages to the vehicle shall be the responsibility of the contractor. The vehicle cab shall be kept in a clean well maintained manner. Damaged or vandalized cans must be replaced as needed and will be supplied by the City. For purposes of this Contract, “regularly scheduled work” for emptying of garbage cans shall constitute a four day per week public pick up route. Only work not covered by the preceding sentence shall be considered discretionary “as needed” work subject to the $22,535.64 allotment.

**Dog Park:** Clean up must be twice a week and include litter, debris and emptying garbage cans. Repair of holes in turf and removal of any tripping hazards. All fences, gates and benches, and drinking fountains must be maintained in good operational condition. All maintenance and mowing in the dog park must occur between 8 AM and 12 noon on Thursdays No chemical weed controls are allowed in the dog park.

**Protections of Community:** Whenever the Contractor’s operations create a condition hazardous to traffic or to the public, the Contractor, at the Contractor’s expense and without cost to the City, shall furnish, erect and maintain such barricades, lights, signs, and other devices and take such other precautions as are necessary to prevent damage or accidents or injury to the public and Contractor’s employees. The Contractor shall also furnish such flagmen as are necessary to give adequate warning to traffic or to the public of any dangerous conditions to the public. All flagging costs shall be born solely by the contractor.

**Storage Areas:** The Contractor is responsible for making Contractor’s own storage arrangements for equipment and material, etc. Stockpiling material on the streets or in the public right-of-way is not allowed at any time. Materials and debris will be removed from the job sites by the end of the working day. Failure to do so will cause the City to remove the material or debris from the site and deduct the cost of said work from the Contractor’s monthly maintenance payment.

**GENERAL PARK MAINTENANCE**
Includes:

**Protective fencing** – All exterior perimeter fencing, including wooden, cyclone, and steel bar fencing surrounding all service areas including playgrounds, horse shoe pits, athletic courts; must be kept in good repair.
Minor repair or maintenance of all fencing areas must be completed within one business day of occurrence or reporting. Larger repairs must be completed within 3 business days of the occurrence or reporting by the City.

Graffiti – Graffiti shall be reported during regular service visits.

Bike Racks - Must be kept in good repair.

Dog Bag Dispensers - Approximately 30, replenish bags as needed. Replace dispensers as needed. Bags must be bio-degradable.

Bulletin Boards - Must be kept in good repair, including replacement of Plexiglas doors as needed.

Raised Planters/Retaining Walls - Come in two types wooden and pre-cast concrete blocks, all must be kept in good repair.

Shade Structures - Come in three types: wooden, canvas and steel must be kept in good repair.

Picnic Tables and Benches - Must be kept in good repair including painting and replacing damaged boards. Picnic areas shall be maintained in a clean and sanitary condition. Litter, broken glass, and other debris shall be cleaned from the site and tables and concrete pads cleaned of sticky or unsightly residue, pop tops, etc.

Barbecues. – Steel barbecues must be painted annually with black hi-temp paint and replaced as necessary due to rusting out. Concrete barbecues must be kept in good repair, all loose or damaged blocks must be replaced as necessary. All trash, unburned charcoal, and ashes must be removed regularly.

Catch Basins – All catch basins must be kept clear of accumulated debris. Grating must be maintained in good condition and replaced as necessary.

Pathway Maintenance and Repairs - Pathways come in three types: decomposed granite, asphalt, and concrete. They must be kept free of tripping hazards, pot holes, and vehicle ruts. Tripping hazards or raised areas must be ground down as necessary, pot holes and vehicle ruts must be filled in with like material. All pathways must be kept free of litter, broken glass, pop tops and other debris. Asphalt and concrete pathways shall be cleaned of sticky or unsightly residue, gum, etc.

Bridge Maintenance - There are six combination wood and steal bridges. All bridges must be kept in good repair, including painting and/or replacing damaged boards.

Parking Lot cleaning: All trash and leaves must be removed only as needed.

Service Requests: Contractor Must be able to respond to all service requests within the same business day. Service requests can include any aspect of any duty under the contract. Hazards have to be taken care of the same day; all other repairs must be worked into the schedule as soon as possible and within a maximum of three (3) days. Service requests come from City dispatch and/or various City departments, and or the community hotline. Requests will be transferred by email or phone to the contractor.

Vandalism Repairs/Clean Up: There are approximately 100-200 acts of vandalism per year. Vandalism can be anything from broken glass, to burned garbage cans, turf damage, or damage to any facility or piece of playground equipment. Clean up must be completed within one business day of occurrence or reporting. Public hazards must be secured immediately. Larger repairs must be completed within 3 business days of the occurrence or reporting by the City.
PERFORMANCE MEASURES

The selected Contractor shall perform all services in a diligent way to avoid callbacks from the City. Thoroughness and completeness of the work is required. Lack of completeness and neatness, will result in callbacks from the City. Callbacks from the City due to unacceptable work shall be solely the Contractor’s responsibility at the Contractor’s expense. Callback work shall be performed in a timely manner and shall not exceed 24 hours from first notification. Notification of unacceptable work will be sent in writing to the project manager no more than 24 hours after initial finding.
TERMS AND CONDITIONS

ACCEPTANCE PERIOD. Unless otherwise specified herein, proposals remain open and are firm for a period of not less than ninety- (90) calendar days from the proposal submission deadline.

ASSIGNMENT OF RIGHTS OR OBLIGATIONS. Except as noted hereunder, the Contractor may not assign, transfer or sell any rights or obligations resulting from this contract without first obtaining the specific written consent of the City of Milpitas.

ATTORNEY FEES. In the event a suit or action is instituted in connection with any controversy arising out of this contract, the prevailing party shall be entitled to receive, in addition to its costs, such sum as the court may adjudge reasonable as to attorney’s fees and costs.

AUTHORITY OF THE CITY OF MILPITAS. Subject to the power and authority of the City of Milpitas as provided by law in this contract, the City of Milpitas shall in all cases determine the quantity, quality, and acceptability of the work, materials and supplies for which payment is to be made under this contract. The City of Milpitas shall decide the questions that may arise relative to the fulfillment of the contract or the obligations of the contractor hereunder.

CANCELLATION OF THE CONTRACT. **Without CAUSE**, the City of Milpitas may cancel this contract at any time with thirty (30) days written notice to the supplier/contractor. **With cause**, the City of Milpitas may cancel this contract at any time with ten (10) days written notice to the Contractor. Cancellation for cause shall be at the discretion of the City of Milpitas and shall be, but is not limited to, failure to supply the materials, equipment or service specified within the time allowed or within the terms, conditions or provisions of this contract. The Contractor may not cancel this contract without prior written consent of the City of Milpitas Purchasing Agent.

If the agreement is terminated, for any reason, the Contractor shall turn over all records, to include but not be limited to the following: records of repairs, services, deliveries, and replacement parts, to the City within fifteen (15) working days after completion of duties contained in the agreement.

In the event of cancellation, The City shall only be liable for payment of services performed or goods delivered and accepted or approved by the City prior to the effective date of the termination.

CHANGES IN WORK. The City of Milpitas may, at any time work is in progress, by written order make alterations in the terms of work as shown in the specifications, require the performance of extra work, decrease the quantity of work, or make such other changes as the City of Milpitas may find necessary or desirable. The Contractor shall not claim forfeiture of contract by reasons of such changes by the City of Milpitas. Changes in work and the amount of compensation to be paid to the Contractor for any extra work as so ordered shall be determined in accordance with the unit prices of contractor's proposal.

CITY REPRESENTATIVE. **Robert Hill, Public Works Manager** **(408) 586-2626** shall represent the City in all matters pertaining to the services to be rendered under this Agreement; all requirements of City pertaining to the services and materials to be rendered under this Agreement shall be coordinated through the City representative.
CLEAN-UP. It is the Contractor’s responsibility to properly dispose of all rubbish and waste materials according to applicable federal, state and local health, safety, and environmental laws, ordinances, rules and regulations. Should the Contractor neglect or refuse to remove such unsatisfactory work or materials within forty-eight (48) hours after the receipt of the above mentioned notice, or if they fail to make satisfactory progress in doing so, the City may cause said work or materials to be removed and charges to the Contractor. Such expense shall be deducted from any monies due or to become due the Contractor under the agreement.

CLEANUP COST. Contractor shall include all costs for cleanup during performance and upon completion of work on this project. Contractor will remove all unused equipment and instruments of service, all excess or unsuitable material, trash, rubbish and debris, and legally dispose of same, unless otherwise directed by these specifications. Contractor shall leave entire area in a neat, clean, and acceptable condition as approved by Robert Hill, Public Works Manager.

COMPLIANCE WITH ALL LOCAL, STATE, AND FEDERAL LAWS AND REQUIREMENTS. The Contractor shall adhere to all applicable federal, state, and local laws, codes and ordinances, including, but not limited to, those promulgated by CAL-OSHA, FED-OSHA, EPA, and the California State Department of Health Services.

CONTRACT INCORPORATION. This contract embodies the entire contract between the City of Milpitas and the Contractor. The parties shall not be bound by or be liable for any statement, representation, promise, inducement or understanding of any kind or nature not set forth herein. No changes, amendments, or modifications of any of the terms or conditions of the contract shall be valid unless reduced to writing and signed by both parties. The complete contract shall include the entire contents of the contract and all supplemental agreements, change orders, and any and all written agreements which alter, amend or extend the contract.

CONTRACT SUBJECT TO APPROPRIATION OF FUNDS. The Contractor understands and accepts that at all times; the contract is subject to appropriation of funds by the Milpitas City Council. The contract may terminate without penalty, liability or expense of any kind to the City at the end of contract term. The City has no obligation to make appropriations for the contract in lieu of appropriations for new or other contracts. City budget decisions are subject to the discretion of the Mayor and City Council. Contractor’s assumption of risk of possible non-appropriation is a part of the consideration for the contract. This section controls against any and all other provisions of the contract.

CONTRACT TERM. Contract term will be for four (4) months from July 1, 2017 to October 31, 2017. The City reserves the right to review the Contractor’s performance at any time and cancel all or part of the contract.

CONTRACTOR RESPONSIBILITY. Any work completed by the Contractor that does not meet the quality standards as determined by the City, shall be re-done by the Contractor at no cost to the City. In the event Contractor’s work repeatedly does not meet the quality standards, the City reserves the right to terminate contract without any cost to the City.

EXECUTION OF CONTRACT. Time is of the essence of this contract. The Contractor shall execute the contract, including but not limited to signing all necessary documents and submitting all required insurance, within ten (10) days after electronic delivery of the notice or within fifteen (15) days after such notice has been deposited in the United States mail. One copy of the contract will be returned to
the Contractor after the City of Milpitas executes the contract. In case of failure of the Contractor to execute and return the contract and all required documents within the time allowed, the City of Milpitas may, at its option, consider that the Contractor has abandoned the contract. Once abandoned the City may negotiate a contract with the next highest scoring Contractor or withdraw the RFP.

FORCE MAJEURE. If execution of this contract shall be delayed or suspended and if such failure arises out of causes beyond the control of and without fault or negligence of the Contractor, the Contractor shall notify the City of Milpitas, in writing, within twenty-four (24) hours, after the delay. Such causes may include but are not limited to acts of God, war, acts of a public enemy, and acts of any governmental entity in its sovereign or contractual capacity, fires, floods, epidemics, strikes and unusually severe weather.

LAWS GOVERNING CONTRACT. This contract shall be in accordance with the laws of the state of California. The parties stipulate that this contract was entered into in the County of Santa Clara, in the state of California. The parties further stipulate that the County of Santa Clara, California, is the only appropriate forum for any litigation resulting from a breach hereof or any questions risen here from.

REPLACEMENT OF PARTS AND MATERIALS. The Contractor shall provide only new and unused replacement parts, supplies and materials of Original Equipment Manufacturer (OEM) quality for any repairs or replacements that may be required to return an item or system to normal operating conditions in compliance with warranty requirements, unless otherwise approved in writing by the City’s Facilities Manager.

a) Parts Availability: The Contractor shall maintain an adequate inventory of new replacement parts and materials or have immediate access to replacement components to properly service and repair, based on equipment manufacturer’s recommendations for routine expendable parts, normal yearly replacement parts and multi-year replacement parts.

b) Stocking and Parts Storage: Contractor has the option of stocking locally or having access to immediate delivery, parts for the purpose of providing unscheduled service on an emergency basis. It shall be the responsibility of the Contractor to make all arrangements for delivery, unloading, receiving and storing materials in the building during installation. The City will not assume any responsibility for receiving these shipments. The Contractor shall make arrangements with the City’s Facilities Maintenance Manager, Roger Robledo for security and storage space in the building during installation.

c) Combustible Material: All combustible materials shall be handled and stored in compliance with all state and federal safety codes and regulations. Thinners, fluid and loose dry products being used by the service Contractor on site shall be kept covered at all times.

SEVERABILITY. If any provisions or portion of any provision, of this contract are held invalid, illegal or unenforceable, they shall be severed from the contract and the remaining provisions shall be valid and enforceable.

SPECIFICATIONS, CHANGES TO. The parties shall not be bound by or be liable for any statement, representation, promise, inducement or understanding of any kind or nature not set forth herein or by written amendment. No changes, amendments, or modifications of any of the terms or conditions of the specification shall be valid unless reduced to writing and signed by both parties.
SPECIFICATIONS, DEFINITION. The term “Specification” or “Proposal Specification” as used in this contract shall be interpreted to mean all the pages that make up the contract, including but not limited to the Terms and Conditions, Scope of Work, Pricing Form, and any other documents required to be submitted or otherwise included in this solicitation.

WARRANTY. The Contractor shall guarantee that work performed under this contract shall meet or exceed all applicable requirements of the latest revisions of all applicable Building Codes, OSHA, Mechanical, National Electrical, Unified, and International Building and Plumbing codes and the City’s Municipal Code, federal, and state rules and regulations, as applicable.

a) Workmanship: The Contractor shall guarantee all work against any defects in workmanship to the extent the resulting work product shall remain functional and in good order for the warranty period. If any defects or signs of deterioration are noted within the warranty period which in the City’s opinion are due to faulty workmanship or materials, the Contractor, upon notification and at his/her expense, shall make the necessary repairs to satisfactory correct any system deficiency. The Contractor shall automatically make such repairs upon call-back for servicing to correct the same malfunction.

b) Warranty period: Shall be for a period of one year after completion of the installation and date of acceptance which is defined as the date of final payment for the work. The warranty period includes the manufacturer’s warranty and the Contractor’s, whichever is the later period. Contractor shall unconditionally guarantee the materials used in performance of this contract are within the specified guidelines and recommendations of the manufacturer’s warranty.

c) Completion of warranty work: All warranty work shall be completed within five (5) working days from notice of defect. The Contractor shall bear all costs of correcting rejected or defective work and perform such work within the timeline otherwise agreed to in writing between the City and the Contractor.

d) Cover Clause. If the Contractor fails to deliver or perform as ordered, or within the time specified, or within reasonable time as interpreted by the City, or fails to make replacement of rejected or defective items or services, whether so requested immediately or as directed by the City, the City may purchase goods or services from other sources to take the place of the goods or services rejected found defective or not delivered. The City reserves the right to authorize immediate purchase (within 24 hours) from other sources against rejections on any contract when necessary. On all such purchases, the Contractor agrees to reimburse the City promptly for excess costs occasioned by such purchases. Should the cost be less, the Contractor shall have no claim to the difference. Such purchases may be deducted from the outstanding invoices or claims, or charged back against future invoices. The City may also require a Performance Bond for the remaining contract duration.
SPECIAL PROVISIONS
FOR
MATERIALS & EQUIPMENT
FURNISHED BY CONTRACTOR

AUTHORIZED DISTRIBUTOR. Contractor must be an Authorized Distributor for the product(s) offered in this contract. Contractor must submit documentation from an authorized distributor from whom he has purchased the specified materials or equipment. Said documentation must state that the distributor will honor all manufacturers' warranties.

COMPLIANCE WITH OSHA. Contractor agrees that all item(s) offered comply with all applicable Federal and the State Occupational Safety and Health Act, laws, standards and regulations, and that Contractor will indemnify and hold the buyer harmless for any failure to so conform.

DEMONSTRATION OF PRODUCT OFFERED. A demonstration of the item(s) offered may be required. If the demonstration cannot not to be performed at a City of Milpitas facility, the demonstration must be performed within a 60-mile radius of the (Purchasing) Office. Item(s) that do not perform to the City of Milpitas’s satisfaction during the demonstration will be declared non-responsive and will not be considered for the contract.

F.O.B. POINT & SHIPPING CHARGES. All prices shall be quoted F.O.B. Destination – Prepaid and Allowed, City of Milpitas, CA.

NEW AND UNUSED. Unless specifically provided to the contrary, all material and equipment shall be new and unused and of the current production year. Proposals that are received for other than the current production year or for items and materials that have been previously used will be rejected.

PARTS, EQUIPMENT AND FIXTURES. All repairs, parts, and equipment including, but not limited to, irrigation systems and equipment, etc. must be new, and made using original manufacturers’ parts or equal. If an original manufacturers part is not available, all “or equal” parts must be approved by the City. In the case of generic material such as lumber, fencing, paint, piping, etc. replacements must be made with as closely matching material as possible.

SAMPLES. For evaluation purposes, samples may be requested from the Contractor. Samples shall be provided at no charge. The City of Milpitas reserves the right to consume samples for testing purposes. The City of Milpitas may retain samples until delivery and acceptance of contracted items. Contractor shall remove samples at his expense within (30) days of request by the City of Milpitas.

TESTING. After delivery, random samples may be submitted to a commercial laboratory, or other inspection agency, for testing to determine if they conform to the specifications. In cases where tests indicate the samples do not meet specifications, the cost of the testing shall be borne by the Contractor. When tests indicate the materials do not meet specifications, the City of Milpitas reserves the right to cancel the contract and purchase the goods in the open market at the expense of Contractor.
SPECIAL PROVISIONS FOR SERVICES

ACCESSIBILITY. The Contractor shall be fully informed regarding any peculiarities and access limitations in the performance of work required under the contract awarded from this solicitation. Contractor shall exercise due diligence and particular caution to determine timeliness and ease of access in performing work required under the contract.

ADHERENCE TO ALL LOCAL, STATE, AND FEDERAL LAWS AND REQUIREMENTS. The Contractor shall adhere to all applicable health and safety laws and regulations including, but not limited to, those promulgated by CAL-OSHA, FED-OSHA, EPA, the California State Department of Health Services, and Santa Clara County Environmental Health Department.

APPRENTICES USE OF. Use of Apprentices: Contractor agrees to comply with Chapter 1, Part 7, Division 2, §1777.5 et seq. of the California Labor Code. These sections require the Contractor to employ apprentices in apprentice-eligible occupations in a ratio of not less than one hours of apprentice work for each five hours of journeyman work (unless an exception is granted in accordance with §1777.5), and the contractor shall not discriminate among otherwise qualified employees as apprentices solely on the ground of sex, race, religion, creed, national origin, ancestry, or color. Only apprentices as defined in §3077, who are in training under apprenticeship standards and who have written apprentice agreements will be employed on public works in apprentice-eligible occupations. The responsibility for compliance with these provisions is fixed with the prime contractor for all apprentice-eligible occupations.

BUSINESS LICENSE. If the scope of work under this bid includes performing services or installation on City of Milpitas property, the Contractor must have a current City of Milpitas Business License. Inquiries regarding Business License may be directed to the City’s Fiscal Services Unit at (408) 586-3105. Business Licenses are not required for materials or equipment shipped by U.S. mail or common carrier.

COMPLIANCE WITH FAIR EMPLOYMENT PRACTICE ACT. Contractor agrees in accordance with Section 1735 and 1777.6 of California Labor Code, and the California Fair Employment Practice Act (Sections 1410-1433) that in the hiring of common or skilled labor for the performance of any work under this contract or any subcontract hereunder, no Contractor, material supplier or vendor shall, by reason of race, color, national origin or ancestry, or religion, discriminate against any person who is qualified and available to perform the work to which such employment relates.

COOPERATION BETWEEN CONTRACTORS. The City of Milpitas reserves the rights to contract for and perform other or additional work on or near the work covered by these specifications. When separate contracts are let within the limits of any one project, each Contractor shall conduct his work so as not to interfere with or hinder the progress or completion of the work being performed by other Contractors. Contractors working on the same project shall cooperate with each other as directed. Each Contractor involved shall assume all liability, financial or otherwise, in connection with his contract and shall protect and save harmless the City of Milpitas from any and all damages or claims that may arise because of inconvenience, delays, or loss experienced by him because of the presence and operations of other Contractors working within the limits of the same project.

COORDINATION WITH AGENCIES. The Contractor shall coordinate his activities with the proper regulatory agencies and have their representative on site at the proper times.
CONFIDENTIAL OR PROPRIETARY INFORMATION OF THE CITY. Contractor understands and agrees that, in the performance of the contracted work or services or in contemplation thereof, Contractor may have access to private or confidential information which may be owned or controlled by the City and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to the City. Contractor agrees that all information disclosed by the City to Contractor shall be held in confidence and used only in performance of contracted work or services. Contractor shall exercise the same standard or care to protect such information as a reasonably prudent Contractor would use to protect its own proprietary data.

DAMAGE. The Contractor shall be held responsible for any breakage, loss of the City of Milpitas’s equipment or supplies through negligence of the Contractor or his employee while working on the City of Milpitas’s premises. The Contractor shall be responsible for restoring or replacing any equipment, facilities, etc. so damaged. The Contractor shall immediately report to the City of Milpitas any damages to the premises resulting from services performed under this contract. Failure or refusal to restore or replace such damaged property will be a breach of this contract.

INDEPENDENT CONTRACTOR. Contractor or any agent or employee of Contractor shall be deemed at all times to be an independent Contractor and is wholly responsible for the manner in which it performs the services and work requested by the City under contract. Contractor or any agent or employee of Contractor shall not have employee status with the City, nor be entitled to participate in any plans, arrangements, or distributions by the City pertaining to or in connection with any retirement, health or other benefits that the City may offer its employees. Contractor or any agent or employee of Contractor is liable for the acts and omissions of itself, its employees and its agents. Contractor shall be responsible for all obligations and payments, whether imposed by federal, state or local law, including, but not limited to: FICA, income tax withholdings, unemployment compensation, insurance, and other similar responsibilities related to Contractor’s performing services and work, or any agent or employee of Contractor provided same. Nothing in this solicitation nor the contract awarded thereof shall be construed as creating an employment or agency relationship between the City and Contractor or any agent or employee of Contractor. Any terms in the contract awarded from this solicitation referring to direction form the City shall be construed as providing direction as to policy and the result of Contractor’s work only, and not as to the means by which such a result is obtained. The City does not retain the right to control the means or the method by which Contractor performs work under the contract. It is expressly agreed by Contractor that in the performance of the services required under this contract, Contractor, and any of its employees, shall at all times be considered independent Contractors and not agents of the City of Milpitas.

INDEMNIFICATION. Contractor shall indemnify, defend with counsel reasonably acceptable to the City, and hold harmless the City and its officials, officers, employees, agents, Contractors, consultants, and volunteers from and against any and all losses, liability, claims, suits, actions, damages, and causes of action arising out of any personal injury, bodily injury, loss of life, or damage to property, or any violation of any federal, state, or municipal law or ordinance, to the extent caused, in whole or in part, by the willful misconduct or negligent acts or omissions of Contractor or its employees, or agents, by acts for which they could be held strictly liable, or by the quality or character of their work. The foregoing obligation of Contractor shall not apply when (1) the injury, loss of life, damage to property, or violation of law arises wholly from the negligence or willful misconduct of the City or its officers, employees, agents, Contractors, consultants, or volunteers and (2) the actions of Contractor or its employees or agents have contributed in no part to the injury, loss of life, damage to property, or violation of law. It is understood that the duty of Contractor to indemnify and hold harmless includes the duty to defend as set forth in Section 2778 of the California Civil Code. Acceptance by City of
insurance certificates and endorsements required under the contract awarded from this solicitation does not relieve Contractor from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause is a material element of the contract and shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply.

**INSURANCE REQUIREMENTS.** Within ten (10) consecutive calendar **days** of award of contract, Successful Bidder must furnish the City of Milpitas with the Certificates of Insurance proving coverage as specified in Exhibit A – Insurance Requirements - General and naming the City of Milpitas, its officers and agents, Additional Insured by endorsement. **Failure to furnish the required certificates within the time allowed may result in disqualification for contract award.**

**LIQUIDATED DAMAGES.** Time is of the essence of this contract. Failure to start and complete all work specified within the time allowed shall constitute material breach of contract. The “time allowed” will be calculated from the date of the Notice to Proceed through the “Maximum Completion/Delivery Time” indicated by contract or approved Work Order for the completed work or delivery of the goods specified. Contractor to complete the work or deliver the goods within the time allowed will result in damages, and for each consecutive day in excess, the Contractor shall pay to the City of Milpitas the sum equal to actual damages or **$250** of per calendar day. Such amount shall not be construed as a penalty but as a minimum value of liquidated damages that may be deducted from payment due to the Contractor if such delay occurs.

**PERMITS.** Unless otherwise specified herein, Contractor shall at his expense, obtain all permits and licenses and pay all charges and fees necessary for the performance of the contract, and shall give all public notices necessary for the lawful performance of the contract. Contractor shall pay all taxes, levies, duties and assessments of every nature due in connection with any work under the contract, shall make any and all payroll deductions required by law, and shall indemnify and hold harmless the City of Milpitas from any liability on account of any and all such taxes, levies, duties, assessments and deductions.

**PRE-START UP MEETING.** The Contractor shall not commence work until a meeting between representatives of the Contractor and the City of Milpitas is held. The meeting will be held at Public Works Department, 1265 N. Milpitas Blvd, Milpitas, CA 95035, at a time and date later to be established.

**PREVAILING WAGES.** Contractor shall comply with all applicable laws and regulations of the federal, state and local government. Contractor is hereby notified of the requirements of California Labor Code Sections 1720 et seq. and 1770 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 Scope of Services is 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, if applicable. Contractor shall defend, indemnify and hold 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 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 Section 1776), hours of labor (Labor Code Sections 1813 and 1815) and debarment of Contractors (Labor Code Sections 1777.1).
Pursuant to Labor Code Sections 1725.5 and 1771.1, the Contractor must be registered with the Department of Industrial Relations. Contractor shall maintain registration for the term of the agreement. This Scope of Services may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be the Contractors’ sole responsibility to comply with all applicable registration and labor compliance requirements.

The Contractor shall provide copies of all certified payrolls electronically to the City and the California Department of Industrial Relations at the end of each month or more frequently as directed.

PROTECTION OF PUBLIC. Adequate warning devices, barricades, guards, flagmen or other necessary precautions shall be taken by the Contractor to give advised and reasonable protection, safety and warning to persons and vehicular traffic concerned in the area.

REJECTION OF WORK. Contractor agrees that the City of Milpitas has the right to make all final determinations as to whether the work has been satisfactorily completed.

RIGHTS RESERVED. (a) Rejection or Work. Contractor agrees that the City of Milpitas has the right to make all final determinations as to whether the work has been satisfactorily completed. (b) Completion of Work. If Contractor fails to comply with the conditions of the contract, or fails to complete the required work or furnish the required materials within in the time stipulated, the City of Milpitas reserves the right to purchase in the open market which may be subject to liquidated damages.

SAFETY. The Contractor and their respective employees are required and shall comply with all Occupational Safety and Health Administration (OSHA), State and City Safety and Occupational Health Standards and any other applicable federal, state, and local health, safety, and environmental laws, ordinances, rules and regulations in the performance of the services. All Contractors shall be held responsible for the safety of their employees and any unsafe acts or conditions that may cause injury or damage to any persons or property within and around the work site area under this contract. In case of conflict, the most stringent safety requirement shall govern. The Contractor shall indemnify and hold the City harmless from and against all claims, demands, suits, actions, judgments, fines, penalties and liability of every kind arising from the breach of the Contractor's obligations under this paragraph.

1. Material Safety Data Sheets: The Contractor shall be required to have in their possession at the location of each project and available upon request, material safety data sheets applicable to hazardous substances.

2. The Contractor shall provide all necessary safety cones, barriers and equipment at the job site during the execution of work, and alert building occupants of potential hazards.

3. The Contractor’s employees are to report any safety hazards, evidence of misuses or damages to the equipment or environmental problems directly to Robert Hill, Public Works Inspector.

4. Contractor shall be solely responsible for the safety of Contractor’s employees and others relative to Contractor’s work, work procedures, materials, equipment, transportation, signage and related activities and equipment.
SAFETY, FIRST AID REQUIREMENTS. Successful Contractor shall comply with the provisions of California Code of Regulations Section 1502 & 1512, et. seq. regarding safety and first aid kits on site. The successful Contractor shall also comply with the requirements of the California Manual of Temporary Traffic Controls, 2007 Edition, Section 6D.03 Worker Safety Considerations.

WORKFORCE. The Contractor and all employees shall perform the services in a timely, professional and efficient manner. The City reserves the right to remove any employee from City property for violation of federal, state, and local health, safety and environmental laws, ordinances, rules and regulations.

1. The Contractor shall employ all personnel for work in accordance with the requirements set forth by the United States Department of Labor. The City reserves the right to verify citizenship or right to work in the United States.

   a. The Contractor shall process background checks on all employees assigned to a project prior to commencement of work and deliver a copy to the City's designated representative.

2. The Contractor's service personnel shall be equipped with the appropriate equipment and tools for testing and servicing. In addition, The Contractor's service personnel shall operate out of an adequately stocked service van.

UNKNOWN OBSTRUCTIONS. Should any unknown obstruction be encountered during the course of this contract the Contractor shall immediately bring it to the attention of Robert Hill, Public Works Inspector for the City of Milpitas. The Contractor shall be responsible for the protection of all existing equipment, or utilities encountered within the work area.
To: City of Milpitas  
455 E. Calaveras Blvd.  
Milpitas, CA, 95035-5411

From: ________________________________
Name of Contractor

____________________________________
Mailing Address

____________________________________
City, State & Zip

The undersigned Contractor agrees that he will contract with the City of Milpitas to provide all necessary labor, supervision, machinery, tools, apparatus, etc. to do all the work and furnish all the materials specified in the contract in the manner and time therein prescribed, and that he will take in full payment the amount set forth hereon.

City of Milpitas Parks Maintenance Service includes the following documents which by this reference are hereby offered as a part of the contract:

1. Scope of Work
2. Terms and Conditions
3. Special Provisions for Material & Equipment Furnished by Contractor
4. Special Provisions For Services
5. Pricing Form
6. Apprenticeship Standards Certificate
7. Nondiscriminatory Employment Certificate
8. Exhibit A – Insurance Requirements – General
9. Attachment A – Integrated Pest Management Summary
10. Attachment B – Individual Park Bid Pages
11. Attachment C – Commercial Lease Agreement – Garbage Truck
12. Attachment D – FieldTurf Maintenance Guidelines

The cost of all labor, material, and equipment necessary for the completion of the work itemized, even though not shown or specified, shall be included in the prices shown hereon. The City of Milpitas reserves the right to increase or decrease the quantity of any item or omit items as may be deemed necessary, and the same shall in no way affect or make void the contract. When increases or decreases are made, appropriate additions or deductions from the contract total price will be made.

COST
Regularly Scheduled Work All Parks: Referring to ATTACHMENT B-INDIVIDUAL PARK DETAILS the TOTAL LUMP SUM price for all labor, materials and overhead for all regularly scheduled maintenance, repair and operation costs. For the regularly scheduled frequency of required tasks and services, attention is drawn to the frequencies listed in the TECHNICAL SPECIFICATIONS of the contract.
Automatic $33,333.33 Allowance for “As Needed” Work. Contractor shall receive an allowance of $33,333.33 for on-call, emergency and as needed response work. Such work shall be compensated on a time and materials basis. Such work shall include but not be limited to emergency repairs of any nature, such as broken pipes, equipment, broken branches, unscheduled clean up, unscheduled trash collection, etc. The City will also allow a 10% markup for all materials provided under this section. If the materials used are from a supply source owned wholly or in part by the Contractor, payment therefore shall not exceed the current wholesale price for such materials delivered to the job site. The City reserves the right to furnish such materials as it deems advisable, and the Contractor shall have no claims for costs and mark-up on such materials.

### FOR ALL PARKS

<table>
<thead>
<tr>
<th>Job Duties</th>
<th>Frequency</th>
<th>Four Month Lump Sum Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) Mowing and edging</td>
<td>weekly</td>
<td>$102,020.33</td>
</tr>
<tr>
<td>2) Weed control</td>
<td>Twice annually and as needed</td>
<td>$15,353.00</td>
</tr>
<tr>
<td>3) Mechanical weed control</td>
<td>as needed</td>
<td>$5,117.67</td>
</tr>
<tr>
<td>4) Empty trash cans</td>
<td>twice weekly and as needed</td>
<td>$25,588.33</td>
</tr>
<tr>
<td>5) Remove trash and misc. debris from landscape</td>
<td>weekly and as needed</td>
<td>$5,117.67</td>
</tr>
<tr>
<td>6) Inspect, adjust and repair irrigation system</td>
<td>weekly and as needed</td>
<td>$40,941.33 Not-To-Exceed</td>
</tr>
<tr>
<td>7) Restroom service: opening, cleaning, repair and restocking – 7 days a week</td>
<td>daily</td>
<td>$35,823.67</td>
</tr>
<tr>
<td>8) Athletic field maintenance</td>
<td>weekly</td>
<td>$25,588.33</td>
</tr>
<tr>
<td>9) Parking lot cleaning</td>
<td>as needed</td>
<td>$15,353.00</td>
</tr>
<tr>
<td>10) Vandalism reports and repairs</td>
<td>as needed</td>
<td>$20,470.67</td>
</tr>
<tr>
<td>11) Herbicide application</td>
<td>seasonally</td>
<td>$20,470.67</td>
</tr>
<tr>
<td>12) General Park Maintenance</td>
<td>as needed</td>
<td>$23,364.67</td>
</tr>
<tr>
<td>13) Tennis and basketball court cleaning (and replacement of nets as necessary)</td>
<td>weekly</td>
<td>$10,235.33</td>
</tr>
<tr>
<td>14) Dog park</td>
<td>twice weekly</td>
<td>$15,353.00</td>
</tr>
</tbody>
</table>

**TOTAL FOUR MONTH MAINTENANCE CONTRACT.........$360,797.67**

The MONTHLY sum of all parks .................................................$90,199.42

Monthly On-Call and Emergency Response Allowance ...............$5,633.91

**Total Monthly Contract Amount: $95,833.33**

Regular working hours shall be Monday through Friday, 8:00 a.m. to 5:00 p.m., local time. Some locations may require an accommodation for uninterruptable operations in the event that the circumstances impact operations. Otherwise, only emergency work shall be performed on Saturdays and Sundays.
Labor costs for all classifications applicable to providing on-call, emergency and other related services shall be provided on the form provided in this section of the proposal offer form.

Hourly labor rates shall be provided in actual wage rates paid to workers under the contract pursuant to prevailing wages, plus a mark-up that will account for all other costs associated with the work to be performed. The labor mark-up shall include all profits, administrative overhead, and cost including but not limited to: equipment if not specified otherwise, travel, vehicles, small tools, materials, supplies and other expendables required to complete the specified work. **Labor costs will be evaluated based upon 40 hours of service.**

<table>
<thead>
<tr>
<th>ITEM NO.</th>
<th>DESCRIPTION – If your title for Positions 1, 2, 3, and/or 4 is different than ours please fill in the blank</th>
<th>REGULAR HOURLY RATE</th>
<th>OVERTIME WEEKDAY HOURLY RATE</th>
<th>OVERTIME WEEKEND HOURLY RATE</th>
<th>OVERTIME HOLIDAY HOURLY RATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Crew Supervisor (__________________)</td>
<td>$75.00</td>
<td>$112.50</td>
<td>$112.50</td>
<td>$150.00</td>
</tr>
<tr>
<td>2</td>
<td>Crew Forman (____________________)</td>
<td>$60.00</td>
<td>$90.00</td>
<td>$90.00</td>
<td>$120.00</td>
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<td>3</td>
<td>Irrigation Tech. (____________________)</td>
<td>$73.00</td>
<td>$109.50</td>
<td>$109.50</td>
<td>$146.00</td>
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<tr>
<td>4</td>
<td>Landscape Maintenance Laborer (________________________)</td>
<td>$52.00</td>
<td>$78.00</td>
<td>$78.00</td>
<td>$104.00</td>
</tr>
<tr>
<td>5</td>
<td>Other Labor Rate: Specify Type of Labor <strong>Garbage Truck Driver</strong>______</td>
<td>$55.00</td>
<td>$82.50</td>
<td>$82.50</td>
<td>$110.00</td>
</tr>
<tr>
<td>6</td>
<td>Other Labor Rate: Specify Type of Labor <strong>Extra Work</strong>______</td>
<td>$56.00</td>
<td>$84.00</td>
<td>$84.00</td>
<td>$112.00</td>
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<tr>
<td>7</td>
<td>Other Labor Rate: Specify Type of Labor ____________</td>
<td>$</td>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>8</td>
<td>Other Labor Rate: Specify Type of Labor ____________</td>
<td>$</td>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>9</td>
<td>Labor Markup percentage <strong>50</strong>%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>10</td>
<td>Minimum Hours (if any) ____________</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>11</td>
<td>Mark-up percentage (%), if any, off Contractors verified invoice cost for materials will be <strong>10</strong>_, (Max 10%)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>12</td>
<td>Markup percentage (%) for rented Equipment: <strong>10</strong>, (Max 10%)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Total Minimum Service Call: $108.00/hr    Hours: 2 Hour Minimum

Maximum response time to Emergency Calls (normal business hours): 30 Minutes
Maximum response time to Emergency Calls (non-business hours): 2 Hours

INSTALLED UNIT PRICES (labor and materials included):

1. Shrub, 1 gallon          $15.00
2. Shrub, 5 gallon          $43.00
3. Tree, 15 gallon          $125.00
4. Tree, 24 inch boxed      $350.00
5. Groundcover flat         $43.00
6. Annual color flat (25 count, 4 inch size) $45.00
7. Redwood bark, per cubic yard $90.00

Contractor's Acknowledgement of His Understanding of the Terms and Conditions. Signature below verifies that Contractor has read, understands, and agrees to the conditions contained herein and on all of the attachments.

Representations Made Under Penalty Of Perjury. The representations herein are made under penalty of perjury. We hereby offer to sell the City of Milpitas the above item(s) at the prices shown and under the terms and conditions herein, attached, or incorporated by referenced.

CERTIFICATION OF CONTRACTOR

I/We (Insert Company Name) ___________________________ agree to provide any/all Landscape Maintenance Services as stipulated in this bridge contract and pricing as indicated on the Pricing Form. I/We further agree that the below; undersigned is authorized by the (Insert Company Name) ___________________________ to bind the company in contract for the specified contract term. I further agree to abide by the terms and conditions of the contract and not to materially modify such terms without expressed written consent of the City of Milpitas Purchasing Agent.

Company Name: ___________________________ Legal Entity Type: ___________________________

Authorized Contact Title: ___________________________ Print Contact Name: ___________________________

Contact Signature: ___________________________ Contact E-Mail Address: ___________________________

Contact Telephone#: ___________________________ Contact Fax #: ___________________________

Company Address: ___________________________ City, State & Zip Code: ___________________________

Taxpayer I.D. #: ___________________________ Business License #: ___________________________

CSLB # _____________ Class _____________ CA Labor Compliance PWCR#______________
APPRENTICESHIP STANDARDS CERTIFICATE

City of Milpitas Parks Maintenance Services – Bridge Contract

Information relative to apprenticeship standards and administration of the apprenticeship program may be obtained from the Director of Industrial Relations, San Francisco, California, or from the Division of Apprenticeship Standards and its branch office.

Each bidder shall sign the following certification:

"I am aware of the provisions of Sections 1777.5 and 1777.6 of the Labor Code concerning the employment of apprentices by the Contractor under him or her. I will comply with the requirements of said sections in the employment of apprentices, as evidenced by my signature below."

_____________________________________________
Name of Contractor (Person, Firm, or Corporation)

_____________________________________________
Signature of Contractor's Authorized Representative

_____________________________________________
Name of Authorized Representative

_____________________________________________
Title of Authorized Representative

_____/_____/_____
Date of Signing
NONDISCRIMINATORY EMPLOYMENT CERTIFICATE

City of Milpitas Parks Maintenance Services – Bridge Contract

Certificate Generally
Consistent with a policy of nondiscrimination in employment on contracts of the City of Milpitas and in furtherance of the provisions of Section 1735 and 1777.6 of the California Labor Code a "Contractor's obligation for nondiscriminatory employment certificate" as hereinafter set forth shall be attached and incorporated by reference as an indispensable and integral term of all RFQ specifications and contracts of the City of Milpitas for the construction, repair, or improvement of public works.

Contents of Certificate
The Contractor's obligation for nondiscriminatory employment is as follows and in performing the work required of this contract, the Contractor agrees as follows:

1. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, ancestry, sexual orientation, political affiliation or beliefs, sex, age, physical handicap, medical condition, marital status or pregnancy (as those terms are defined by the California Fair Employment and Housing Act -- Government Code Section 12900-12996), except where such discrimination is based on a bona fide occupational qualification.

2. The Contractor will take positive action or ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, national origin, ancestry, sexual orientation, political affiliation or beliefs, sex, age, physical handicap, medical condition, marital status or pregnancy (as those terms are defined by the California Fair Employment and Housing Act -- Government Code Section 12900-12996), except where such discrimination is based on a bona fide occupational qualification. Such action shall include but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City of Milpitas setting forth the provisions of this nondiscrimination clause.

3. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, national origin, ancestry, sexual orientation, political affiliation or beliefs, sex, age, physical handicap, medical condition, marital status or pregnancy (as those terms are defined by the California Fair Employment and Housing Act -- Government Code Section 12900-12996), except where such discrimination is based on a bona fide occupational qualification.

4. The Contractor will send to each labor union or representative of workers, with which the Contractor has a collective bargaining agreement or other contract or understanding, a notice to be provided by the City of Milpitas advising the said labor union or workers' representative of the
Contractor's commitments under this provision, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

5. The Contractor will permit access to the Contractor's records of employment, employment advertisements, application forms, and other pertinent data and records by the City of Milpitas, the Fair Employment Practices Commission, or any other appropriate Agency of the State designated by the City of Milpitas for the purposes of investigation to ascertain compliance with the Contractor's Obligation for Nondiscriminatory Employment provisions of this contract, or Fair Employment Practices statute.

6. A finding of willful violation of the nondiscriminatory employment practices article of this contract or of the Fair Employment Practices Act shall be regarded by the City of Milpitas as a basis for determining that as to future contracts for which the Contractor may submit quotes, the Contractor is a "disqualified bidder" for being "non-responsible".

7. The City of Milpitas shall deem a finding of willful violation of the Fair Employment Practices Act to have occurred upon receipt of written notice from the Fair Employment Practices Commission that it has investigated and determined that the Contractor has violated the Fair Employment Practices Act and has issued an order under Labor Code Section 1426 or obtained an injunction under Labor Code Section 1429.

8. Upon receipt of any such written notice, the City of Milpitas shall notify the Contractor that unless he or she demonstrates to the satisfaction of the City of Milpitas within a stated period that the violation has been corrected, he or she shall be declared a "disqualified bidder" until such time as the Contractor can demonstrate that he or she has implemented remedial measures, satisfactory to the City of Milpitas, to eliminate the discriminatory employment practices which constituted the violation found by the Fair Employment Practices Commission.

9. Upon receipt from any person of a complaint of alleged discrimination under any City of Milpitas contract, the City of Milpitas Administrator shall ascertain whether probable cause for such complaint exists. If probable cause for the complaint is found, the Administrator shall request the City Council to hold a public hearing to determine the existence of a discriminatory practice in violation of this contract.

10. In addition to any other remedy or action provided by law or the terms of this contract, the Contractor agrees that, should the Council determine after a public hearing duly noticed to the Contractor that the Contractor has not complied with the nondiscriminatory employment practices provisions of this contract or has willfully violated such provisions, the City of Milpitas may, without liability of any kind, terminate, cancel, or suspend this contract, in whole or in part. In addition, upon such determination the Contractor shall, as a penalty to the City of Milpitas, forfeit a penalty of $25.00 for each calendar day, or portion thereof, for each person who was denied employment as a result of such noncompliance. Such monies shall be recovered from the Contractor. The City of Milpitas may deduct any such penalties from any monies due the Contractor from the City of Milpitas.

11. The Contractor certifies to the City of Milpitas that he or she has met or will meet the following standards for positive compliance, which shall be evaluated in each case by the City of Milpitas:
   a. The Contractor shall notify all supervisors and other personnel officers in writing of the content of the nondiscrimination provision and their responsibilities under it.
b. The Contractor shall notify all sources of employee referrals (including unions, employment agencies, advertisements, Department of Employment) of the content of the nondiscrimination provision.

c. The Contractor shall file a basic compliance report as required by the City of Milpitas. Willfully false statements made in such reports shall be punishable as provided by law. The compliance report shall also specify the sources of the work force and who has the responsibility for determining whom to hire, or whether or not to hire.

d. The Contractor shall notify the City of Milpitas of opposition to the nondiscrimination provision by individuals, firms or organizations during the period of this contract.

12. Nothing contained in this Contractor's Obligation for Nondiscriminatory Employment Certificate shall be construed in any manner to prevent the City of Milpitas from pursuing any other remedies that may be available at law.

13. The Contractor certifies to the City of Milpitas that the Contractor will comply with the following requirements with regard to all subcontractors and suppliers:

a. In the performance of the work under this contract, the Contractor will include the provisions of the foregoing paragraphs (1) through (8) in all subcontracts and in any supply contract to be performed within the State of California, so that such provisions will be equally binding upon each subcontractor and each supplier.

b. The Contractor will take such action with respect to any subcontract or purchase order as the City of Milpitas may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigations with a subcontractor or supplier as a result of such direction by the City of Milpitas, the Contractor may request the City of Milpitas to enter into such litigation to protect the interests of the City of Milpitas.

_____________________________________________
Name of Contractor (Person, Firm, or Corporation)

_____________________________________________
Signature of Contractor’s Authorized Representative

_____________________________________________
Name of Authorized Representative

_____________________________________________
Title of Authorized Representative

_____/_____/_____
Date of Signing
EXHIBIT A

INSURANCE REQUIREMENTS - GENERAL

Definition:
For purposes of this contract, the following definition applies: City of Milpitas includes the duly elected or appointed officers, agents, employees and volunteers of the City of Milpitas, individually or collectively.

Insurance Required:
No work shall be done under this Contract unless there is in effect insurance required by the Contract and under this section, and such insurance has been approved by the City, nor shall the Contractor allow any subcontractor to commence work on his subcontract until all insurance required of the subcontractor has been so obtained and approved. The Contractor shall maintain or cause to be maintained adequate workers' compensation insurance as required under the laws of the State of California, for all labor employed by him or by any subcontractor under him who may come within the protection of such worker's compensation laws of the State of California and shall provide or cause to be provided employer's general liability insurance for the benefit of his employees and the employees of any subcontractor under him not protected by such compensation laws.

Minimum Scope of Insurance: (Check Mark Indicates Required)
Coverage must be at least as broad as:

(X) Insurance Services Office Commercial General Liability coverage (occurrence Form CG0001).
(X) Insurance Services Office Form Number CA 0001 covering Automobile Liability, Code 1 (any auto).
(X) Workers’ Compensation insurance as required by the State of California and Employer’s Liability Insurance.
( ) Professional Liability or Errors & Omissions Liability insurance appropriate to the consultant’s profession.
( ) Architects’ and Engineers’ coverage is to be endorsed to include contractual liability.

Minimum Limits of Insurance:
Contractor must maintain limits no less than:

1. General Liability: $1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability insurance with a general aggregate limit is used, either the general aggregate limit must apply separately to this project/location or the general aggregate limit must be twice the required occurrence limit.
   (Including operations, products and completed operations, as applicable.)
2. Automobile Liability: $1,000,000 per accident for bodily injury and property damage.
3. Workers’ Compensation Employer’s Liability: Statutory
   $1,000,000 each accident
   $1,000,000 disease-policy limit
   $1,000,000 disease-each employee
4. **Professional Liability or Errors & Omissions Liability:**
   - $1,000,000 each occurrence
   - $1,000,000 policy aggregate

**Deductibles and Self-Insured Retentions:**
Any deductibles or self-insured retentions must be declared to and approved by the City. The City may require the Contractor to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

**Other Insurance Provisions:**
The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. **The City of Milpitas, its officers, officials, employees, and volunteers** are to be covered as insureds with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the Contractor; and 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 as a separate owner’s policy.

2. For any claims related to this project, the **Contractor’s insurance coverage shall be primary insurance as respects the City, its officers, officials, employees, and volunteers.** Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of the **Contractor’s insurance and shall not contribute with it.**

3. The Insurance Company agrees to **waive all rights of subrogation** against the City, its elected or appointed officers, officials, agents and employees for losses paid under the terms of any policy which arise from work performed by the Named Insured for the City. **This provision also applies to the Contractor’s Workers’ Compensation policy.**

4. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party, except after **thirty (30) days’ prior written notice (10 days for non-payment)** by certified mail, return receipt requested, has been given to the City. If Contractor’s insurer refuses to provide this endorsement, Contractor shall be responsible for providing written notice to the City that coverage will be canceled thirty (30) days after the date of the notice or ten (10) days for non-payment.

**Acceptability of Insurers:**
Insurance is to be placed with licensed insurers admitted to transact business in the State of California with a current A.M. Best’s rating of no less than A-VII. If insurance is placed with a surplus lines insurer, insurer must be listed on the State of California List of Eligible Surplus Lines Insurers (LESLI) with a current A.M. Best’s rating of no less than A-X. Exception may be made for the State Compensation Fund when not specifically rated.
Verification of Coverage:
Contractor shall furnish the City with original certificates and amendatory endorsements effecting coverage required by this clause. The endorsements should be on insurance industry forms, provided those endorsements or policies conform to the contract requirements. All certificates and endorsements are to be received and approved by the City before work commences. The City reserves the right to require, at any time, complete, certified copies of all required insurance policies, including endorsements evidencing the coverage required by these specifications.

The Certificate with endorsements and notices shall be e-mailed to the City Purchasing Agent, Chris Schroeder at cschroeder@ci.milpitas.ca.gov.

Subcontractors:
Contractors must include all subcontractors as insureds under its policies or furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors are subject to all of the requirements included in these specifications.

Absence of Insurance:
If the Contractor allows the insurance to lapse, be cancelled, or be reduced below the limits specified in this article, the Contractor shall cause all work in the Project to cease and any delays or expenses caused due to stopping of work and change of insurance shall be considered Contractor's delay and shall not be considered to increase cost to the City or increase time in which the Project shall be completed.

Contractor agrees that if it does not keep the aforesaid insurance in full force and effect, City may immediately terminate this Agreement.
California Regional Water Quality Control Board, Municipal Regional Stormwater NPDES Permit, Specifically Permit Provision C.9 – Pesticide Toxicity Control.

Attachment A

Use of pesticides shall comply with the requirements of the California Regional Water Quality Control Board, Municipal Regional Stormwater NPDES permit, specifically Permit Provision C.9 – Pesticide Toxicity Control. The Contractor shall provide the City a copy of its Integrated Pest Management Plan for control of insect and weed pests for City approval and shall conduct its work in accordance with the requirements of its approved IPM plan

Integrated Pest Management Plan Required

Contractor shall provide to the City a copy of its Integrated Pest Management (IPM) Plan, an ecosystem-based strategy to use the minimum amount of lowest toxicity pesticides feasible for the control of pests and their damage. The IPM plan shall describe strategies including physical controls such as pulling weeds, horticultural controls such as pruning, mechanical controls such as trapping, environmental controls such as applying mulch, biological controls such as monitoring predators, and use of pest-resistant plants varieties to control pesticides without the use of chemical pesticide. The IPM plan shall also state that Acute Toxicity Category I chemicals, as identified by the U.S Environmental Protection Agency (EPA), such as organophosphorous pesticides (diazinon, chlorpyrifos, malathion); pyrethroids (bifenthrin, cyfluthrin, beta-cyfluthrin, cypermethrin, deltamethrin, esfenvalerate, lambda-cyhalothrin, permethrin, and tralomethrin); carbamates (e.g. carbaryl); and fipronil shall not be used.

The IPM Plan shall include following information:

1. Materials and Equipment – The material and equipment to be used shall be defined in IPM such as mechanical devices for monitoring and capturing pests.

2. Monitoring and Detection – The IPM shall describe the methods and procedures to be used to identify sites of pest harborage and access, and for making objective assessments of pest populations level throughout the term of the contract.

3. Certification and Training - Applicators shall be licensed and certified as required by the California Department of Pesticide Regulations. Applicators shall be EcoWise Certified IPM Practitioner or accompanied by an EcoWise Certified IPM Practitioner if in training. Contractor shall be registered with the County Agricultural Commissioner in the County of Santa Clara. Applicators training shall be part of this IPM.

4. Record Keeping and Reporting – The IPM shall provide labels and material safety data sheets for each pesticide used at each site and shall provide pesticide use records on monthly basis electronically no later than the 10th day of the subsequent month to the Milpitas Urban Runoff Program Manager at 455 E. Calaveras Blvd, Milpitas, CA 95035.
The records shall include date, applicator, target pest, site treated, product name, product manufacturer, U.S. EPA’s product registration number, total product used (lbs, oz, pts, gallons etc.). Copy of this Reporting Form is attached as Attachment – B.

Pesticides shall be used only as a last resort, with the lowest toxicity pesticides given first priority for use. Before use, the Contractor shall provide the city a written pesticide use recommendation issued by a licensed agricultural pest control advisor and shall the pesticide material safety data sheet. The pesticide use recommendation shall contain, but not be limited to the target pest, application rate, precautionary statement, and any restrictions and special conditions.

Before application, the Contractor shall ensure it displays emergency information on all vehicles carrying pesticides, and all pesticides containers shall be labeled as required by the California Department of Pesticides Regulation.

May 1, 2013
<table>
<thead>
<tr>
<th>Month of Application</th>
<th>Number of Applications</th>
<th>Dry Weight (lb)</th>
<th>Wet Weight (lb)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Contractor shall submit a copy of this report no later than the 15th of the subsequent month.

City of Millipitas

City: Millipitas

Address: 455 E. Calaveras Blvd

Phone number, e-mail address & web-site:

Contact Person:

Attachment B

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