

SERVICES AGREEMENT

This **SERVICES AGREEMENT** ("Agreement") is made and entered into as of the 1st day of January, 2013, by and between **WATERFALL METROPOLITAN DISTRICT NO. 1**, a quasi-municipal corporation and political subdivision of the State of Colorado (the "District"), and ValleyCrest Landscape Maintenance. ("Contractor").

RECITALS

WHEREAS, the District was organized pursuant to the laws of the State of Colorado in order to construct, operate and maintain certain public facilities and improvements in accordance with its approved service plan; and

WHEREAS, pursuant to § 32-1-1001(1)(d)(I), C.R.S., the District is permitted to enter into contracts affecting the affairs of the District; and

WHEREAS, the District desires to procure landscape services, as described in **Exhibit A** attached hereto, for purposes of operating and/or maintaining District facilities and/or improvements; and

WHEREAS, Contractor has experience in providing the types of services required by the District; and

WHEREAS, the District desires to engage Contractor to perform such services as are needed by the District and Contractor is willing to provide such services to the District for reasonable consideration; and

WHEREAS, the Parties desire to enter into this Agreement to establish the terms and conditions by which Contractor shall provide such services to the District.

NOW THEREFORE, in consideration of the mutual covenants and promises set forth herein, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

AGREEMENT

I. APPOINTMENT OF CONTRACTOR

1.1 APPOINTMENT OF CONTRACTOR. The District hereby retains Contractor and Contractor agrees to perform certain services for the District ("Services") pursuant to the terms and conditions set forth herein.

1.2 INDEPENDENT CONTRACTOR STATUS. Contractor is and shall be considered an independent contractor under this Agreement. Nothing herein contained shall constitute or designate Contractor or any of its employees or agents as employees or agents of the District, nor

shall Contractor be deemed or considered as a partner or agent of the District. Contractor shall have full power and authority to select the means, manner and method of performing its duties under this Agreement without detailed control or direction of the District except as set forth in this Agreement. It shall be Contractor's responsibility as an independent contractor to pay any and all taxes on payments which it receives under this Agreement and to pay its own costs and expenses incurred in connection with performance of this Agreement.

II. DUTIES AND AUTHORITY

2.1 GENERAL LIMITATIONS AND REQUIREMENTS. Contractor shall perform the duties and have the authority specified in Section 2.4 below. Contractor shall have no right or authority, express or implied, to take any action, expend any sum, incur an obligation, or otherwise obligate the District in any manner whatsoever, except to the extent specifically provided in this Agreement or specifically authorized or ratified by the Board of Directors (the "Board") of the District as reflected in the meeting minutes of the Board. Contractor shall at all times conform to the stated policies established and approved by the District.

2.2 COMPLIANCE WITH APPLICABLE LAW. Contractor shall provide the Services set forth herein in full compliance with all applicable laws, ordinances, rules, and regulations of any federal, state, county, or municipal body or agency thereof having jurisdiction in which this Agreement is performed. Contractor declares that Contractor has complied with all federal, state and local laws regarding business permits, certificates and licenses that may be required to carry out the Services to be provided under this Agreement.

2.3 NO RIGHT OR INTEREST IN THE DISTRICT ASSETS. Contractor shall have no right or interest in any of the District's assets, nor any lien with respect thereto, arising out of this Agreement or the performance of the Services contemplated herein.

2.4 SPECIFIC DUTIES AND AUTHORITY. Contractor shall perform the Services for the District as outlined on the Scope of Work in **Exhibit A** attached hereto and incorporated herein by reference. Contractor shall obtain approval from the District prior to providing any Services that vary from those Services set forth in Exhibit A attached hereto.

2.5 GENERAL DUTIES AND AUTHORITY. In connection with its specific duties, Contractor agrees to:

(A) Provide all Services specified in Section 2.4 herein in a good and workmanlike manner and in accordance with any and all approved plans, documents, and specifications described in Contractor's proposal to provide such Services to the District.

(B) Furnish, or cause to be furnished, all labor, materials, equipment, permits and accessories, as necessary, to provide such Services.

(C) Take all precautions necessary for safely and prudently conducting the Services required by this Agreement, including maintaining insurance as required by Part V hereof.

(D) Advise the District of the status of the Services required by this Agreement on a regular basis and work in coordination with the District's staff and consultants to assure that the District has the most complete information available for the exercise of the District's powers and discretionary authority.

(E) Refrain from entering into any contract, oral or written, in the name of the District, and from incurring any debt, liability or obligation for or on behalf of the District. All obligations incurred by Contractor shall be the obligations of Contractor whom shall hold the District harmless therefrom.

III. COMPENSATION

3.1 FEE CALCULATION. Contractor shall be paid as set forth in **Exhibit A** attached hereto and incorporated herein by reference and in accordance with the procedures described herein. Contractor shall obtain approval from the District prior to charging for any Services that vary from those costs set forth in Exhibit A attached hereto. See Exhibit A-7 Work Order Template. In the event of early termination described in Section 4.2 hereof, the District shall pay Contractor for all Services satisfactorily performed up to and including the designated termination date. The District is exempt from Colorado sales and use taxes. Contractor shall use reasonable efforts to assure that costs for Services set forth in Exhibit A and charged to the District as set forth in Section 3.2 herein do not include sales and use taxes.

3.2 MONTHLY REPORTS AND PAYMENTS. Contractor shall submit to the District monthly reports in a form acceptable to the District which describes the work completed to date and the work yet to be performed, and summarizes costs paid to date by the District and the amount currently due to Contractor. Contractor shall submit its report together with its invoice to the District by the 5th day of each month for Services completed in the preceding month. The District's Board shall review and approve all invoices received for payment at the next meeting of the Board. The District reserves the right to inspect all services completed and invoiced for payment. In the event inspected services are not accepted for payment by the District, the terms of Section 3.3 herein shall apply.

3.3 INSPECTION OF SERVICES. The District may inspect the Services provided at any time throughout the term of this Agreement and shall notify Contractor if, in the District's discretion, any or all Services are not provided in accordance with this Agreement. Failure by Contractor to properly provide the Services required by this Agreement shall constitute a default hereunder. In such case, the District shall provide written notice of said default to Contractor. Contractor shall have two (2) days to cure the default unless otherwise agreed to by the Parties. If Contractor fails to cure the default within the time period provided, the District shall be entitled to pursue all remedies provided by law and in equity, including specific performance, and to recover all costs and reasonable attorney fees incurred in any suit or claim brought by the District to enforce the terms of this Agreement. In addition, in the event of default by Contractor, the District may hire a third party to complete the Services and Contractor agrees to pay all additional costs incurred for the completion of the Services by a third party.

3.4 EXPENSES. Contractor shall be responsible for all expenses it incurs in performance of this Agreement and shall not be entitled to any reimbursement or compensation except as set forth in Section 3.1 herein unless such expenses are approved for reimbursement in advance by the District in writing. Contractor shall not charge the District any other fee for use by the District of Contractor's offices, personnel, or overhead except as agreed in advance by the District in writing.

3.5 FEE ADJUSTMENT. In the event, this Agreement extends beyond one year, the District and Contractor shall annually analyze the reasonableness of the fees set forth in Exhibit A attached hereto, and may, upon the mutual consent of the District and Contractor, adjust the schedule of fees as deemed appropriate by the Parties. The failure of the District and Contractor to agree upon any such adjustment shall not require a termination of this Agreement nor shall either party be entitled to seek an adjustment from any court or other tribunal.

3.6 ANNUAL BIDDING. The District shall be entitled to bid each calendar year's services under this Agreement as it deems necessary to comply with current law regarding contracts for such services. Contractor shall have no claim against the District if this Agreement is not extended for any budget year.

IV. DURATION AND TERMINATION

4.1 TERM. The term of this Agreement shall begin on the date set forth above, shall be effective as of such date regardless of the date of execution hereof, and shall expire upon completion of the Services, subject to annual appropriations as set forth in Section 7.6 hereof, unless otherwise agreed to in writing by the parties or terminated pursuant to Section 4.2 herein.

4.2 NOTICE OF TERMINATION. The District reserves and has the right and privilege of canceling, suspending or abandoning the execution of all or any part of the work contemplated by this Agreement, with or without cause, at any time, by providing written notice to Contractor. The termination of this Agreement shall be deemed effective upon receipt of the notice of termination. In the event of such termination, Contractor shall immediately stop rendering services under this Agreement unless otherwise directed by the District. Contractor may terminate this Agreement, with cause, by delivery to the District of written notice of termination at least 60 days prior to the effective date of termination. Contractor shall stop rendering services under this Agreement upon the effective date of termination.

4.3 COMPENSATION. In the event of termination by either party, the District shall pay Contractor for reasonable costs incurred and services satisfactorily performed up to and including the date of the notice of termination if terminated by the District or the effective date of termination if terminated by Contractor. Compensation for work in progress shall be prorated as to the percentage of work completed as of the date of notice of termination or the effective date of termination, as applicable. In ascertaining the services actually rendered hereunder up to the date of notice of termination or the effective date of termination of this Agreement, consideration shall be given to both completed work and work in progress, pertaining to the Services contemplated herein.

The table below is to be used in determining the actual dollar amounts owed to either the District or Contractor in the event the Service Agreement is terminated before the end of a 12-month period (assuming a leveled billing system). The percentages apply only to Categories A, B and C from the Summary Bid Form (Exhibit "A-2") and are representative of the dollar amount of the actual work performed.

To determine this dollar amount, add each month's percentage between the Service Agreement start date and termination date. Multiply this percentage by the A, B and C total to determine the amount of actual work done. The difference between this total, compared to the amount actually paid $[1/12 \times (A+B)]$, is the amount owed to either the District or the Contractor.

Mth	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
%	2	3	10	12	10	10	10	10	10	12	8	3

Example:

Category A plus Category B and Category C from the Service Agreement Summary Bid Form is \$12,000.00. The Service Agreement start date is January 1. The termination date is July 31. The total of the percentages = 58%. $58\% \times \$12,000 = \$6,960.00$, which represents the actual work done. The actual amount paid was \$1,000.00/month x 7 months = \$7,000.00. Because the actual amount of work done is less than the actual amount paid, the Contractor owes the District Manager \$40.00.

V. INSURANCE

5.1 INSURANCE COVERAGE REQUIREMENTS.

(A) Minimum Scope and Limits of Insurance. At all times during the Term of this Agreement, Contractor shall carry and maintain, at its sole cost and expense, no less than the following liability insurance coverage limits (unless otherwise crossed out or adjusted by the Parties, any such changes shall be initialed and dated by both Parties):

General Liability

General Aggregate	\$ 2,000,000.00
Products and Completed Operations	\$ 2,000,000.00
Personal and Advertising Injury	\$ 1,000,000.00
Each Occurrence	\$ 1,000,000.00
Damage to Rented Premises	\$ 100,000.00
Medical Expenses (Any one person)	\$ 5,000.00

Automobile Liability

Combined Single Limit	\$ 1,000,000.00
-----------------------	-----------------

Workmen's Compensation and Employer Liability

Each Accident	\$ 100,000.00
---------------	---------------

Disease Limit	\$	500,000.00
Disease Each Employee	\$	100,000.00
<u>Umbrella</u>	\$	1,000,000.00

All policies listed herein shall be on an occurrence basis.

(B) Additional Coverage. In addition, unless otherwise crossed out, initialed and dated by both Parties, the following coverage shall be obtained by Contractor, on an occurrence basis:

- (1) ~~Performance Bond, when applicable~~
- (2) Inland Marine including Builder's Risk, Installation Floater, Contractor's Equipment
- (3) ~~Pollution Liability, claims made is acceptable~~

(C) Endorsements. The District, and if applicable, its managing consultant, shall be listed as additional insured on the comprehensive general liability insurance policy and auto liability insurance policy. General liability insurance coverage and auto liability insurance coverage shall be primary. Waiver of subrogation applies to general liability insurance and Workers Compensation insurance. All insurance policies required by this Agreement shall include a provision requiring a 10-day notice to the District for the cancellation of an insurance policy due to the non-payment of a premium and a minimum of a 30-day notice to the District for any change to or cancellation of an insurance policy other than for non-payment of a premium.

(D) Certificates of Insurance. Contractor shall provide to the District certificates of insurance showing the insurance coverages and required endorsements described above, prior to performing any services under this Agreement.

(E) Non-limiting. No provision, term or condition contained under this Part V of the Agreement shall be construed as limiting in any way, the indemnification provision contained in Section 7.3 hereof, or the extent to which Contractor may be held responsible for payments of damages to persons or property

VI. ILLEGAL ALIENS

6.1 CERTIFICATION. Prior to the execution of this Agreement, Contractor shall certify to the District, as attached hereto as **Exhibit B**, that at the time of certification, it does not knowingly employ or contract with an illegal alien who will perform work under this Agreement and that Contractor will participate in either the E-Verify Program administered by the U.S. Department of Homeland Security and the Social Security Administration, or in the Colorado Department of Labor and Employment's Employment Verification Program (the "Department Program"), as further described in Section 6.6 herein, in order to confirm the employment

eligibility of all employees who are newly hired for employment to perform work under this Agreement.

6.2 PROHIBITED ACTS. Contractor shall not:

(A) Knowingly employ or contract with an illegal alien to perform work under this Agreement; or

(B) Enter into a contract with a subcontractor that fails to certify to Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement. Contractor shall provide the District with all certifications received from subcontractors in which subcontractors certify that said subcontractors do not knowingly employ or contract with an illegal alien to perform work under this Agreement.

6.3 VERIFICATION.

(A) Contractor has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement through participation in either the E-Verify Program or the Department Program.

(B) Contractor shall not use either the E-Verify Program or the Department Program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed.

(C) If Contractor obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien, Contractor shall:

(i) Notify the subcontractor and the District within three (3) days that Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and

(ii) Terminate the subcontract with the subcontractor if, within three (3) days of receiving the notice required pursuant to subparagraph (i) hereof, the subcontractor does not stop employing or contracting with the illegal alien; except that Contractor shall not terminate the contract with the subcontractor if during such three (3) days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

6.4 DUTY TO COMPLY WITH INVESTIGATIONS. Contractor shall comply with any reasonable request by the Colorado Department of Labor and Employment (the "Department") made in the course of an investigation conducted pursuant to § 8-17.5-102 (5), C.R.S. to ensure that Contractor is complying with this Part VI of the Agreement.

6.5 BREACH. If Contractor violates a provision of this Part VI, the District may terminate the Agreement for breach of the Agreement. If the Agreement is so terminated,

Contractor shall be liable for actual and consequential damages to the District. The District shall notify the Colorado office of the Secretary of State if Contractor violates a provision of this Part VI of the Agreement and the District terminates the Agreement.

6.6 DEPARTMENT PROGRAM. If Contractor participates in the Department Program, in lieu of the E-Verify Program, Contractor shall notify the Department and the District of such participation. Contractor shall, within twenty (20) days after hiring an employee who is newly hired for employment to perform work under the Agreement, affirm that the Contractor has examined the legal work status of such employee, retained file copies of the documents required by 8 U.S.C. Sec. 1324a, and not altered or falsified the identification documents for such employees. Contractor shall provide a written, notarized copy of the affirmation, similar in form as attached hereto as **Exhibit C**, to the District.

VII. MISCELLANEOUS

7.1 MODIFICATION. This Agreement may not be amended, modified, or changed, in whole or in part, without a written agreement executed by both the District and Contractor.

7.2 ASSIGNMENT. Contractor shall not assign or transfer all or any part of Contractor's interest in this Agreement without the District's prior written consent. Any attempted assignment or transfer shall be void and shall constitute a breach of the Agreement and cause for termination of this Agreement. Regardless of the District's consent, no assignment or transfer shall release Contractor from Contractor's obligation to perform all other obligations to be performed by Contractor hereunder for the Term of the Agreement. Consent to one assignment shall not be deemed to be consent to any subsequent assignment nor the waiver of any right to consent to such subsequent assignment.

7.3 INDEMNIFICATION. Contractor shall defend, indemnify, assume all responsibility for and hold harmless the District and its directors, officers, consultants, employees, servants, agents, or authorized volunteers, from all claims or suits for any damages to property or injury to persons, and for the costs of litigation and reasonable attorney fees of all such parties and persons that may arise out of any actions undertaken by Contractor pursuant to this Agreement; provided, however, that the provisions of this Section 7.3 shall not apply to loss, damage or claims attributable solely to the intentional acts or omissions of the District.

7.4 GOVERNMENTAL IMMUNITY. Nothing in this Agreement shall be construed to be a waiver, in whole or in part, of any right, privilege, or protection afforded the District or its Board of Directors, officers, employees, servants, agents, or authorized volunteers, pursuant to the Colorado Governmental Immunity Act, Section 24-10-101, *et seq.*, C.R.S.

7.5 LIABILITY OF THE DISTRICT. No provision, covenant or agreement contained in this Agreement, nor any obligations herein imposed upon the District shall constitute or create an indebtedness or debt of the District within the meaning of any Colorado constitutional provision or statutory limitation.

7.6 SUBJECT TO ANNUAL BUDGET AND APPROPRIATION. The District does not intend hereby to create a multiple-fiscal year direct or indirect debt or other financial obligation whatsoever. The performance of those obligations of the District hereunder requiring budgeting and appropriation of funds are subject to annual budgeting and appropriations.

7.7 NOTICES. Any notices, demands, or other communications required or permitted to be given by any provision of this Agreement shall be in writing and may be personally delivered; sent by certified mail, return receipt requested; sent by electronic mail; or sent by a nationally recognized receipted overnight delivery service, including United States Postal Service, United Parcel Service, Federal Express, or Airborne Express, for earliest delivery the next day. Any such notice shall be deemed to have been given as follows: when personally delivered to the party to whom it is addressed; when mailed, three delivery (3) days after deposit in the United States mail, postage prepaid; when by electronic mail, on the day sent if sent on a day during regular business hours (9 a.m. to 5 p.m.) of the recipient, otherwise on the next day at 9 a.m.; and when by overnight delivery service, one (1) day after deposit in the custody of the delivery service. The addresses for mailing, transmitting, or delivering notices shall be as follows:

If to the District: Waterfall Metropolitan District No. 1
C/o Pinnacle Consulting Group Inc.
Attention: Carla Hawkins
Pinnacle Consulting Group Inc
5110 Granite Street, Suite C
Loveland, CO 80538
970-669-3611/970-669-3612F
Email: carlah@pinnacleconsultinggroupinc.com

Copy to: Icenogle, Seaver & Pogue, PC.
Attention: Alan D. Pogue
4725 South Monaco Street, Suite 225
Denver, Colorado 80237
303-292-9100/303-292-9101F
Email: apogue@isp-law.com

If to the Contractor: ValleyCrest Landscape Maintenance
8324 S. County Road 9
Fort Collins, CO 80538
Attn: MJ Kasper
303-591-7688/303-410-1695 Fax
Email: MKasper@valleycrest.com

7.8 NON-WAIVER. The delay or failure of either party at any time to require performance or compliance by the other of any of its obligations or agreements shall in no way be deemed a waiver of those rights to require such performance or compliance. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought. The waiver of any

right or remedy in respect to any occurrence of event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

7.9 GOVERNING LAW. This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado.

7.10 SEVERABILITY. If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable in any circumstance, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or of the offending provision in any other circumstance.

7.11 ATTORNEYS' FEES. In the event that litigation is brought by either party hereto in connection with this Agreement, the prevailing party shall be entitled to recover from the opposing party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the exercise of any of its rights or remedies hereunder or the enforcement of any terms, conditions, or provisions hereof.

7.12 NO THIRD PARTY BENEFICIARY RIGHTS. This Agreement is entered into for the sole benefit of the District and Contractor and no other parties are intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under or to this Agreement.

7.13 HEADINGS. The headings, captions and titles contained herein are intended for convenience and reference only and are not intended to modify, explain or to be a full or accurate description of the content thereof and shall not in any way affect the meaning or interpretation of this Agreement.

7.14 BINDING AGREEMENT. This Agreement shall inure to and be binding upon the respective parties hereto and their successors and permitted assigns.

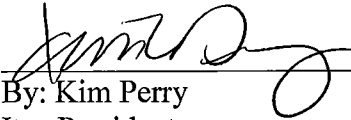
7.15 ENTIRE AGREEMENT. This Agreement, including all Exhibits and the Addendum attached hereto, constitutes the entire Agreement between the parties with respect to any matter referenced herein and supersedes any and all other prior writings and oral negotiations.

7.16 COUNTERPARTS. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and together shall constitute one and the same instrument.

(Remainder of Page Left Intentionally Blank.)

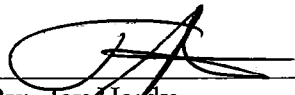
IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first above written.

**WATERFALL METROPOLITAN
DISTRICT NO. 1**



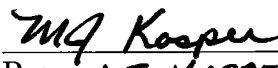
By: Kim Perry
Its: President

ATTEST:



By: Jay Hardy
Its: Secretary

**VALLEYCREST LANDSCAPE
MAINTENANCE**



By: M.J. KASPER
Its: Regional Manager

EXHIBIT A
SCOPE OF WORK
&
PAYMENT FOR SERVICES

WATERFALL METRO DISTRICT

EXTERIOR LANDSCAPE MAINTENANCE
SPECIFICATIONS

EXTERIOR LANDSCAPE MAINTENANCE

STATEMENT OF INTENT

Contractor is hereby made aware that the District and the Landscape Maintenance Consultants, OLM, INC., ("Consultant") anticipate that the landscape maintenance at this site shall be of the very highest quality. All work to be performed within the scope of these specifications shall be strictly managed, executed, and performed by experienced personnel.

SCOPE OF WORK

The Landscape Maintenance Services (as defined in the Service Agreement - Exhibit "A-1" "Service Description and Specifications") will be performed by the Contractor. These Specifications include the complete care and guarantee, as defined within these specifications, of all planted trees, plants, groundcovers, and lawn areas within the limits of the work area of Waterfall Metropolitan District located in Loveland, Co.

Contractor shall provide all materials, equipment, and labor required and/or inferred to perform all tasks identified too the specifications and frequencies described in Exhibit "A-1 and "A-2". Contractor shall pay all federal, state and local taxes, including excise, use and sales taxes.

The District reserves the right to modify the scope of work, i.e., the quantity or type of materials used, the frequency of performance, etc.

1.0 Warranties

Contractor warrants that work performed and all goods delivered under this Service Agreement shall be free from any defects in workmanship and material, and shall conform strictly to these specifications. Contractor further warrants that all work shall be performed using Contractor's best efforts and shall be in conformance with industry standards for workmanship.

Contractor shall replace, at Contractor's expense, all plant material which, in the opinion of the District, fails to maintain a healthy, vigorous condition as a result of the Contractor's failure to perform the work specified herein. All work shall be timely performed, time being of the essence of this Agreement.

By executing this Service Agreement, Contractor represents that he has examined carefully all of the contract documents, is acquainted with the premises where the work is to be performed and all conditions relevant to the work, and has made all evaluations and investigations necessary to a full understanding of any difficulties which may be encountered in performing the work. Contractor acknowledges that the contract documents are sufficient for the proper and complete execution of the work.

2.0 Liabilities

It is the responsibility of the Contractor to notify the District in writing of any conditions beyond the control of the Contractor or scope of work of these specifications that may result in the damage, and/or loss of plant material. This responsibility includes, but is not limited to, the following:

- a. Vandalism and/or other abuse of the property, which results in damage to the plant material.
- b. Areas of the site that continually hold water.
- c. Areas of the site that are consistently too dry.

Contractor shall list any such items on the Weekly Maintenance Worksheet (Service Agreement – Exhibit “A-4”) along with recommend solutions and related costs. Failure of the Contractor to report such items shall result in the Contractor incurring full responsibility and cost for the repair of such items.

3.0 Safety

Contractor shall maintain an adequate safety program to ensure the safety of employees and any other individuals working under this agreement. Contractor shall comply with all applicable OSHA standards, Federal, State, and Local Laws and Regulations. Contractor shall take precautions at all times to protect any persons and property affected by Contractor’s work under this agreement, utilizing safety equipment such as bright vests, traffic cones, etc.

4.0 Payment

WATERFALL REGION A

Payments by the District to Contractor for work performed shall be based on the dollar amounts described in Categories A and B from the Summary Bid Form- Exhibits “A-2”, which comprise the Base Payment amount that is paid monthly and described in paragraphs 4.2 and 4.3.

Category A – Landscape Maintenance Total	\$ 23,604.00
Category B – Seasonal Color/Perennial Maintenance Total	\$ 256.00
Category C – Seasonal Plant Installation Total	\$ N/A
Category D – Mulch Total*	\$ _____*
TOTAL CONTRACT PRICE	\$ 23,860.00

* Per the District’s request and prior written approval

- 4.1 Payment for Landscape Maintenance (Category A) and Seasonal Color/Perennial Maintenance (Category B), from the Summary Bid Form (see Exhibit "A-2"), will be based on 12 equal monthly payments.
- 4.2 Contractor shall submit to the District an invoice based upon the unit price schedule for Categories A and B from the Summary Bid Form (Exhibit "A-2") and a detailed statement of all services rendered to the District by the Contractor in the preceding month. Within 30 days of receipt of said invoice and statement, the District shall remit to the Contractor seventy-five percent (75%) of the "Base Payment", or \$17,895, hereinafter referred to as the "Base Payment Fixed Amount".
- 4.3 In addition to the Base Payment of Categories A and B from the Summary Bid Form, the Contractor may also be entitled to receive a monthly *Performance Payment*[™] of twenty-five percent (25%), or \$5,965, hereinafter referred to as the *Performance Payment*[™]. The amount of a *Performance Payment*[™], if any, shall be determined as follows: The Consultant, the District and the Contractor shall conduct an inspection of the work performed by the Contractor once per month, and the Consultant shall prepare a Landscape Maintenance Inspection Gradesheet (see - Exhibit "A-3") based on each inspection. Based upon the *Performance Payment*[™] percentage (described in Article 7.3 "Grade Evaluation/Scoring") for a month, the Contractor may be entitled to a *Performance Payment*[™] for said month based on a score of 87% and above.
- 4.4 Any *Performance Payment*[™] due for a month shall be paid concurrent with the Base Payment for said month. The Consultant will be responsible for scheduling the monthly inspections. The Consultant must be given at least 14 days' notice to reschedule. All inspections will proceed as scheduled with or without the attendance of the Contractor.
- 4.5 *Performance Payment*[™] is void unless OLM, INC. performs the Monthly Landscape Maintenance Inspection. If Consultant does not perform the monthly landscape maintenance inspection, the Contractor receives full compensation for that month.
- 4.6 Payment for Seasonal Color/Perennial Installation and Mulching, Categories C and D from the Proposal Forms, will be invoiced as the work is completed and approved by Consultant and/or the District.

5.0 Scheduling

Scheduling of maintenance visits will be determined by the District. The District shall be contacted at least 48 hours ahead of time when services cannot be performed by Contractor on schedule and an alternate time shall be scheduled.

District may at any time request alterations to the general maintenance service provided that the Contractor may accomplish the request without incurring additional expense for equipment, materials or labor.

6.0 Billing

It is the Contractor's responsibility to inspect and manage the need for the frequencies of the specified items in Exhibit "A-2". It is also the responsibility of the Contractor to notify the District (see section 4.2 above) of items performed to ensure they do not exceed the frequencies specified on the Category A and B (Maintenance Itemized Bid Forms – Exhibit "A-2").

Labor unit prices including a per supervised man-hour cost and a per labor hour cost shall be provided for any proposed Contractor work outside the this scope that the District requests. Any such work must be approved in writing by the District before it is begun by the Contractor.

When any extra work is performed and the District deems such work entitles compensation beyond the monthly price of maintenance, the Contractor will complete an additional work request showing:

- a. The number of workmen, their title, and the number of man-hours required to perform the work.
- b. A brief description of the nature of the work, a list of materials used, and an estimate of total cost to complete work.
- c. All possible associated future costs, i.e., mulch, additional irrigation heads.

7.0 Weekly Inspections

Contractor is responsible for a weekly inspection of the entire property and for the performance of all items required and referred to in these specifications.

7.1 Weekly Maintenance Worksheet

Contractor is also responsible for notifying the District and the Consultant through the Weekly Maintenance Worksheet (Exhibit "A-4") of any problems. This worksheet must be left with the property manager on the day of the maintenance visit and copies must be sent to OLM, INC. on a weekly basis. These forms are very important in protecting both the District and Contractor when discrepancies occur. The Contractor may use its own formatted worksheet form upon approval of the District and/or Consultant. Any items not called to the attention of the District and Consultant that result in any damage to the property will become the liability of the Contractor.

7.2 Monthly Landscape Maintenance Inspection

District and Consultant will perform a monthly site inspection with the Contractor. At that time, the Consultant will compile a list of landscape related items that should be performed before the next site inspection. OLM, INC. will be responsible for scheduling

the monthly inspections. OLM, INC. must have no less than a 14-day notice if there is a need to reschedule. All scheduled inspections will proceed with or without the attendance of the Contractor.

7.3 **Grade Evaluation/Scoring**

Consultant will be responsible for the graded evaluation of the property. The final grade evaluation will be determined by the timely and quality execution of the Contractor's landscape maintenance functions. Contractor's monthly *Performance Payment*TM will be determined by the final score based on the form labeled Sample Landscape Maintenance Inspection Gradesheet (Exhibit "A-3"). Each item listed on the Inspection Form has a specific amount of points from which deductions may be made for the improper execution of each landscape-related task. Items are not scored if the work is being performed to industry standards.

The Exhibits and Schedules attached to this Service Agreement and made a part hereof are:

Exhibit "A-1"	Service Description and Specifications
Exhibit "A-2"	Summary and Itemized Bid Forms
Exhibit "A-3"	Landscape Maintenance Inspection Gradesheet
Exhibit "A-4"	Weekly Maintenance Worksheet
Exhibit "A-5":	Site Maps
Exhibit "A-6":	Irrigation Information
Exhibit "A-7":	Work Order Form

(Remainder of Page Left Intentionally Blank.)

EXHIBIT "A-1"***SERVICE DESCRIPTION AND SPECIFICATIONS***

The indications for Unit Price Line Items after each specification correspond to the Landscape Maintenance Itemized Bid Form and Seasonal Plant Maintenance Itemized Bid Form - Exhibit "A-2" and are to be performed to the frequencies specified

I. FESCUE AND BLUEGRASS TURF MAINTENANCE**A. Mowing**

Turf shall be cut at a height of two (2) inches to four (4) inches as conditions dictate. No more than one-third (1/3) of the grass blade is to be removed when cutting. Contractor shall be responsible for controlling excessive grass clippings within turf or mulched bed areas. Contractor shall make every effort to minimize grass clippings deposited in lakes and/or retention ponds. *(Unit Price Line Item: Mow)*

B. Edging

Contractor shall be responsible for edging or monofilament trimming along all bedlines bordered with bed edging material. e.g., metal, plastic, concrete borders. **Contractor shall be allowed to use monofilament trimmers when edging any bedlines bordered by bed edging material.** Contractor shall be required to monofilament trim these areas at the same mow height.

Contractor shall be responsible for edging with metal blade edgers all curbs, walkways and turf bed lines not bordered by bed edging material. Treewells located within Fescue/Bluegrass turf areas shall be edged with metal blade edgers only. All edged turf areas will have a perpendicular appearance. Angled or beveled hardlines or bedlines are not acceptable. Weedeaters are not to be used in edging. Blowers will be used to clean sidewalks, curbs, and streets of organic material caused by mowing and edging. *(Unit Price Line Item: Edge Bedlines/Edge Hardlines)*

C. Fertilization

Contractor shall have full responsibility of determining the proper formulations and rates of all fertilizers to maintain healthy vigorous turf. Contractor shall be expected to apply any minor nutrients necessary to maintain a healthy turf. *(Unit Price Line Item: Turf Fertilization)*

D. Insect And Disease Control

Contractor shall be responsible for weekly inspections of the entire property and treatment of any insect or disease related problems. *(Unit Price Line Item: Insect/Disease Control)*

E. Water

Contractor shall be responsible for monitoring moisture levels in irrigated and non-irrigated turf areas and reporting any problems, in writing, that may be present during maintenance visits. Contractor shall be responsible for damage to turf that was not reported to the District in writing, and will be responsible for the replacement of said turf. Contractor shall not be responsible for the manual watering of any turf area unless it is under additional warranty. *(Unit Price Line Item: Irrigation Management)*

F. Turf Weed Control

Contractor shall maintain all turf in such a way as to control and strive to eliminate weeds. The program will include pre-emergent, post-emergent, and mechanical weed control methods. *(Unit Price Line Item: Turf Weed Control)*

G. Monofilament Trim

After each mowing operation Contractor shall use a weedeater or similar tool or machine to trim grass and/or weeds that cannot be mowed with larger machinery. Contractor shall be required to monofilament trim these areas at the same mow height. *(Unit Price Line Item: Monofilament Trim)*

F. Aeration

Contractor shall provide price to aerate Fescue/Bluegrass turf areas only. There shall be a minimum of four (4) plugs per square foot, reaching a minimum depth of at least one and one-half (1.5) inches. *(Unit Price Line Item: Aeration)*

II. NATIVE GRASS MAINTENANCE**A. Mowing**

Native grass shall be cut at a height of four (4) inches to six (6) inches as conditions dictate. Contractor shall be responsible for controlling excessive grass clippings within native grass or mulched bed areas after each mowing. Contractor shall make every effort to minimize grass clippings deposited in lakes and/or retention ponds. *(Unit Price Line Item: Mow)*

B. Edging

Contractor shall be responsible for edging or monofilament trimming along all bedlines bordered with bed edging material, e.g. metal, plastic, concrete borders. **Contractor shall be allowed to use monofilament trimmers when edging any bedlines bordered by edging material.** Contractor shall be required to monofilament trim these areas as the same mow height.

Contractor shall be responsible for edging with metal blade edgers all curbs, walkways, native grass bed lines not bordered by edging material. Contractor shall not be required to edge treewells located in native grass areas with metal blade edgers. Contractor shall be required to clean and remove vegetation from around base of trees during each mow. Contractor shall be responsible for taking actions not to damage tree trunks with power equipment when mowing these areas. All completed edges will have a perpendicular appearance between native grass and hardlines, and native grass and bedlines. An angled or beveled appearance of hardlines or bedlines is unacceptable. Weed eaters are not to be used in edging. Blowers will be used to clean sidewalks, curbs, and streets of organic material caused by mowing and edging. *(Unit Price Line Item: Edge Bedlines/Edge Hardlines)*

C. Water

Contractor shall be responsible for monitoring moisture levels in irrigated and non-irrigated native grass areas and reporting any problems, in writing, that may be present during maintenance visits. Contractor shall be responsible for damage to native grass that was not reported to the District in writing, and will be responsible for the replacement of said native grass. Contractor shall not be responsible for the manual watering of any native grass area unless it is under additional warranty. *(Unit Price Line Item: Irrigation Management)*

D. Native Grass Weed Control

Contractor shall be responsible for two (2) post emerge herbicide applications to native grass areas. Contractor shall strive to control non-desirable vegetation in these areas. *(Unit Price Line Item: Native Grass Weed Control)*

E. Monofilament Trim

After each mowing operation Contractor shall use a weed eater or similar tool or machine to trim grass and/or weeds that cannot be mowed with larger machinery. *(Unit Price Line Item: Monofilament Trim)*

III. SHRUB AND GROUNDCOVER MAINTENANCE

A. Pruning

All shrubs shall be hand pruned to remove dead and/or damaged wood to allow for natural development of plant material and to create the effect intended by the Consultant and District. Pruning shall be performed through the growing months to keep the plant material aesthetically pleasing and within its boundaries. Deep hand pruning and/or structure pruning shall be performed once a year during the dormant months. Structure pruning shall be defined as using hand pruners, handsaws, and/or loppers to prune old wood and prune behind multiple breaks to maintain proper proportions, and to promote interior growth and an aesthetically pleasing appearance. Removal of up to 50% of the height and foliage of plants shall take place during these prunings. Contractor shall be allowed to shear plant material that is approved by the District. *(Unit Price Line Item: Shrubs or Groundcover Trim)*

B. Ornamental Grass Pruning

All Ornamental grasses shall be pruned to an approximate 6 to 8 inch height removing previous year's growth and drying and declining foliage. This pruning shall take place once plants begin to "shatter" or fall apart, approximately late February. Contractor shall be allowed to use power shearing equipment for these cut backs. All pruning debris shall be removed from the site. *(Line Item: Shrub/Groundcover Pruning)*

C. Groundcover Pruning

Groundcover shall be pruned as needed to maintain separation away from base of trees, shrub masses, and hardscapes. All pruning debris shall be removed from the site. *(Line Item: Shrub/Groundcover Pruning)*

D. Fertilization

Contractor shall have full responsibility of determining the proper formulation and rates of fertilizers to maintain healthy, vigorous, growing plants. Contractor shall be expected to apply any minor nutrients that might be needed to maintain healthy plant material. *(Unit Price Line Item: Shrub Fertilization)*

E. Insect and Disease Control

Contractor shall be responsible for weekly inspections of the entire property and treatment of any insect or disease related problems. *(Unit Price Line Item: Insect/Disease Control)*

F. Water

Contractor shall be responsible for monitoring moisture levels throughout the year in irrigated and in non-irrigated areas and reporting any problems, in writing, that may be present during maintenance visits. Contractor shall be responsible for damage to plants that was not reported to the District in writing and shall be responsible for replacement of these items. Contractor shall not be responsible for the hand watering of any shrub or groundcover areas not under irrigation. *(Unit Price Line Item: Irrigation Management)*

G. Bed Weed Control

Weeds shall be controlled in bed areas by mechanical, physical and chemical methods. Bed areas are to be maintained to control and strive to eliminate weeds. *(Unit Price Line Item: Bed Weed Control)*

IV. TREE MAINTENANCE**A. Pruning**

Contractor shall be responsible for maintaining all trees such that no branches/limbs will overhang sidewalks or parking areas lower than fifteen (15) feet from the ground. Lower branching on all trees shall be pruned as needed to keep them elevated to a uniform height. Maximum height for this pruning shall be no more than 15 feet. Trees located in natural areas shall be pruned only when their growth habit affects formal maintenance areas. Limbs and branches are to be removed from property. All sucker growth from trunk and base of trees shall be removed weekly or as required to maintain a clean appearance.

Contractor will be responsible for pruning all ornamental trees. Pruning will include the shaping of all heads, removal of conflicting branches and removal of interior sucker growth. *(Line Item: Tree Pruning)*

B. Fertilization

Fertilization applies to planted trees that are staked or guyed and planted trees that have a caliper of eight (8) inches or less. Native mature trees do not apply. Contractor is required to notify District and make recommendations, in writing, of all other trees that may need supplemental fertilization. *(Unit Price Line Item: Tree Fertilization)*

C. Insect And Disease Control

Contractor shall be responsible for weekly inspections of the entire property and treatment of any insect or disease related problems. Only trees with a caliper of eight (8) inches or less shall be treated. Contractor is required to notify District

and make recommendations, in writing, of all other trees that may need supplemental insect and disease control. (*Unit Price Line Item: Insect/Disease Control*)

D. Water

Contractor shall be responsible for monitoring moisture levels throughout the year in irrigated and in non-irrigated areas and reporting any problems, in writing, that may be present during maintenance visits. Contractor shall be responsible for damage to trees that was not reported to the District in writing and shall be responsible for replacement of these items. Contractor shall not be responsible for the hand watering of any trees not under irrigation. (*Unit Price Line Item: Irrigation Management*)

E. Staking

Staked trees shall be re-staked and adjusted as often as necessary. Stakes shall be adjusted and/or removed when deemed appropriate by Consultant and/or Contractor. However, trees that need to be re-staked utilizing specialized equipment and crews shall be done at a mutually agreed upon price, submitted in writing for review and approval. (*Unit Price Line Item: Tree Pruning*)

V. SEASONAL COLOR/PERENNIAL MAINTENANCE AND INSTALLATION

A. Bed Preparation - Annuals

Contractor shall be responsible for measuring and confirming the quantities for each annual rotation for all existing pots and annual bed areas based on plant spacing as specified. Contractor shall be responsible for planting the specified size and quantity of plant material designated by the Consultant.

Contractor shall be responsible for all bed preparation and soil amendments necessary to provide a grade A quality seasonal color display. Contractor shall be responsible for taking general and micronutrient tests of annual bed areas and making appropriate soil adjustments.

Bed areas shall be formed to create a moderate crown. Contractor shall remove rocks and debris, and trench all sides of beds that face curb or turf at a depth of three (3) inches before final mulching. (Included in installation total)

B. Seasonal Color Replacement - Annuals

Contractor shall be responsible for replacing any seasonal color plants that have declined, died or failed to maintain a healthy, vigorous appearance in the opinion of the District and Consultant until the time of the first hard freeze.

C. Deadheading And Pruning - Annuals

Deadheading: Declining flowers and foliage shall be removed as specified.

Pruning: Plants shall be pruned to prevent plants from becoming leggy or unsightly and to maintain a consistent, uniform mass. *(Unit Price Line Item: Deadheading and Pruning)*

D. Fertilization – Annuals and Perennials

Plants shall be fertilized to maintain a healthy, vigorous growth and appearance. *(Unit Price Line Item: Fertilization)*

E. Insect and Disease Control – Annuals and Perennials

Contractor shall be responsible for weekly inspections of annual bed areas and treatment of any insect or disease related problems. Fire ants shall be treated and mounds removed as needed. *(Unit Price Line Item: Insect/Disease Control)*

F. Watering – Annuals and Perennials

Contractor shall be responsible for monitoring moisture levels throughout the year in irrigated and in non-irrigated bed areas and reporting any problems, in writing, that may be present during maintenance visits. Contractor shall be responsible for damage to plants that was not reported to the District in writing and shall be responsible for replacement of these items. Contractor shall not be responsible for the hand watering of any seasonal color areas unless plant material has not yet established. When new seasonal color is installed, Contractor shall be responsible for supplemental watering only until plants become established.

Contractor shall be responsible for removing all seasonal color at the end of season as requested by District. All plant material and other debris shall be removed off site and bed raked smooth and properly crowned after plants are removed.

G. Bed Weed Control – Annuals and Perennials

Weeds shall be controlled in bed areas by mechanical, physical and chemical methods. Bed areas are to be maintained to control and strive to eliminate weeds. *(Unit Price Line Item: Bed Weed Control)*

H. Perennial Maintenance (In addition to above)

Contractor shall be responsible for continual pruning and grooming of all perennials throughout the growing season. Maintenance should include but not be limited to removal of spent blooms, flower stalks and declining foliage. A one-

time (Fall or late Winter) cutback and mulching of all foliage shall also be included in the cost.

VI. MULCHING FOR TREE AND SHRUB BED AREAS

A. Brown Cedar Mulch

Contractor will be responsible for providing cost per occurrence of a complete application of Grade A mulch to existing mulched bed areas. Mulch is to be spread at a depth of one (1) inch such that none of the old or previously laid mulch is visible.

Contractor is responsible for accurate measurement of all bed areas and tree circles as part of the bid process. Contractor is responsible for spot mulching of any bare soil areas that result due to the underestimation of mulch or landscape maintenance performance, i.e., mower damage around bedlines, treewells, etc. Contractor shall not price mulching treewells within Native turf areas. *(Line Item: Mulch)*

B. Trenching

Bedline edges shall be trenched and beveled at a depth of two (2) inches along bed areas that are bordered by sidewalks, curbs, and annual bed areas. All bed lines and tree wells bordered by turf shall be defined by creating a one-inch (1-inch) beveled trench with smooth, symmetrical, parallel bedlines.

All treewells located in turf and bed areas shall have root balls raked smooth, removing all old water rings, excessive mulch and/or soil. Treewells within turf areas are to be made uniform in diameter to be consistent with similar varieties within that location. *(Line Item: Mulch)*

VII. GENERAL SITE MAINTENANCE: TRASH, WEED CONTROL AND DEBRIS DISPOSAL

A. Cleanup Procedures

As part of Contractor's weekly maintenance visits a general cleanup program will be performed. The cleanup program shall involve a policing of all maintained areas for the removal of paper, cans, bottles, sticks, cigarette butts, leaves, and other debris. A complete sweeping or blowing, by mechanical means, of the entire parking lots, loading docks, driveways, parkways, roadways, curbs, gutters, drains, and sidewalk areas will also be performed. *(Line Item: Debris Disposal)*

B. Weed Control

All parking lots, loading docks, driveways, parkways, roadways, streetscapes, curbs, gutters, drains, and sidewalk areas shall be maintained to control and strive to eliminate weeds. *(Line Item: Bed Weed Control)*

C. Disposal of Debris

All debris shall be removed and disposed of offsite. Contractor shall be responsible for removal and proper disposal of any wildlife carcass throughout property. *(Line Item: Debris Disposal)*

D. Severe Weather Cleanup

In the event of a natural disaster, such as a major ice storm, snowstorm, windstorm, or tornado, the Contractor shall not be responsible for any cleanup operation outside of the specifications in the Service Agreement.

If District elects, they may request that the Contractor utilize dedicated man-hours for the purpose of severe weather cleanup.

E. Typical Weather Cleanup

Contractor shall be responsible for cleanup of debris as a result of typical weather conditions. *(Line Item: Debris Disposal)*

F. Trail/Walking Path Maintenance

Contractor shall be responsible for maintaining trails and/or walking paths to include litter and leaf debris removal. Contractor shall also be responsible for weed and vegetation control within three (3) feet of pathways and/or trails. *(Line Item: Debris Disposal)*

VIII. LEAF REMOVAL**A. Leaf Collections**

Fallen leaves on lawn and planted bed areas shall be collected and removed from property no less than six (6) times per year as requested by the Consultant and District. This is to be done from the beginning of November through February, or until leaves dispersment ceases. On a weekly basis, the Contractor will disperse leaves from focal areas, bed, and turf areas to prevent heavy buildup and damage to plant material by smothering. *(Unit Price Line Item: Debris Disposal)*

B. Disposal Of Leaf Debris

All leaf debris shall be removed and disposed of offsite. *(Unit Price Line Item: Debris Disposal)*

IX. PLANT MATERIAL DISPOSAL**A. Removal**

Dead plant material not requiring general tree surgeon services for removal shall be removed and disposed of immediately by the Contractor off site. *(Unit Price Line Item: Debris Disposal)*

B. Replacement

Contractor shall contact and advise the District, in writing, of possible plant replacements. Plant replacement or removal necessitated by negligence of the Contractor shall be the sole responsibility of the Contractor.

X. IRRIGATION MANAGEMENT**A. Sentinel Central Control System**

District uses a computerized weather driven central control irrigation system. This system monitors water flow, weather conditions, and controller status and automatically calculates run times for each irrigation zone under its control. The Contractor is responsible for communicating, in writing, with the District's Central Control Manager increases or decreases in duration specific individual zones. The Contractor is responsible to determine if the changes requested have achieved the desired results in landscape improvement. The District may choose at its discretion to integrate any non-central controlled irrigation satellite into the system at any time. If the irrigation satellite added to the District's system is located within an area that the Contractor does not maintain the Contractor is not responsible for the condition of the irrigated zones attached. The District will only require of the Contractor to check and repair specific components of these satellites. This system is in place to conserve the limited water resources of the common areas and individual building sites. Failure to communicate, in writing, changes in watering needs of any given irrigation zone will be considered a failure to monitor the condition of the landscape.

Contractor agrees to monitor, adjust and maintain all irrigation zones heads valves pipes and sprinklers. Minor adjustments include flow control, radius adjustment, nozzle cleaning, sprinkler height, valve enclosure integrity and access, and level adjustment. Contractor will notify the District of malfunction or damage to the system's integrity. Should it be determined that damage is cause of negligence by the Contractor, the Contractor shall pay the cost of such repair. Cost may be paid

directly by Contractor or deducted by District from payments due to the Contractor. This price should be reflected in the irrigation inspection category on the LANDSCAPE MAINTENANCE ITEMIZED BID FORM. (*Unit Price Line Item: Irrigation Management*)

B. Landscape/Irrigation Contractor Responsibility

1. All Contractors are required to furnish the District with a list of company personnel that are to be notified in the event of problem(s) with the irrigation system in areas they are responsible to maintain.
2. Landscape irrigation contractors sharing central control timers or otherwise with other contractors are requested to notify the District anytime they observe irrigation problems in areas they do not maintain.
3. Contractors will notify the Central Control Manager not less than 72 hours prior to all insecticide treatments. Contractors failing to coordinate this action with the Central Control Manager subject themselves to problems of receiving adequate water.

XI. IRRIGATION SYSTEM

A. Irrigation Winterization

The Contractor shall winterize the irrigation piping to insure that no damage will occur due to ice expansion within the piping. It is the Contractor's responsibility to winterize the irrigation system prior to freezing or frost warnings. If damage to real property or personal injury occurs due to Contractor's failure to winterize the system, the Contractor shall be financially responsible (See Article 3.3).

1. Shut down and lock off, if possible, all water sources into the irrigation system then blow the system clear of water using compressed air (80 psi maximum) admitted into the piping at a quick coupling valve or hose bib located at the highest elevation on the system piping.
2. Activate individual zones, higher zones first, then proceed successively towards lower elevations. Proceed through all zones twice.
3. Open hose bib at lowest elevations on main line after zones have been cleared. Allow all water in main line to be expelled before closing ball valve and removing air compressor.
4. The air compressor used to winterize the system must have an engine separate from the compressor tanks to prevent high temperature air from being injected directly into the PVC piping.

5. Remove any local program execution instructions from all irrigation controllers where applicable to prevent solenoid activation and possible heat failure due to lack of water flow. Do not disconnect power so that winter communication diagnostics can be performed when applicable.
6. Notify District in writing, within five (5) working days of completed winterization. *(Unit Price Line Item: Irrigation Winterization)*

B. Irrigation Startup

Due to seasonal progression, when deemed appropriate by the Contractor, District and Consultant, the irrigation system will be activated and thoroughly inspected before beginning operations for the watering season. Equipment that fails testing must be noted and described in writing by the Contractor. Any necessary repairs must be approved by the District in writing prior to beginning work. *(Unit Price Line Item: Irrigation Startup)*

XII. LANDSCAPE MAINTENANCE, FERTILIZATION, WEED AND INSECT CONTROL

- A. All pesticides, insecticides, fertilizers, and any other chemical products must be used in strict compliance with labels and instructions. Applications must comply with all state and federal regulations. The specifications contained herein are intended to be consistent with current label instructions. In the event the specifications conflict with instructions on the pesticide labels, the label instructions shall govern. MSDS (Material Safety Data Sheets) forms shall be placed in visible locations prior to spray applications.
- B. Contractor shall be responsible for applying chemicals and fertilizers. The following rates are general guidelines and are to be used as such. Contractor is totally responsible for furnishing the District with healthy, vigorous plant material throughout the term of the Service Agreement.
- C. Chemical forms may vary with weather conditions.
- D. Contractor shall be responsible for controlling any insect, disease, or nutrient problems that may occur during the year.
- E. Contractor shall be responsible for taking general and micronutrient tests of turf and shrub bed areas. The District and Consultant shall receive copies of test results and a list of actions to be taken by Contractor to correct all problems identified by the report within 45 days of the execution of the Service Agreement.
- F. Contractor shall be responsible for making any extra visits necessary during the year to correct any problems that may occur during the term of the Service Agreement.

- G.** Contractor shall be responsible for applications of any other nutrients that should be applied to maintain a balanced soil.
- H.** Contractor shall take full responsibility for replacing any plant material that is damaged by the improper application or lack of timely application of nutrients that are necessary to maintain healthy plant material.

EXHIBIT "A-2"

Exterior Landscape Maintenance
WATERFALL METROPOLITAN DISTRICT
Loveland, Colorado

This Summary Bid Form totals the Itemized Bid Forms for Categories A, B, C and D. The combined annual sum of all four categories is defined as the "TOTAL BID PRICE."

A. Landscape Maintenance Total includes irrigation repairs	\$23,604
B. Seasonal Color/Perennial Maintenance Total	\$256
C. Seasonal Color Installation Total	\$N/A
D. Mulch Total	\$ Per the District's request and prior written approval
TOTAL BID PRICE	\$23,860

Contractor Company Name: ValleyCrest Landscape Maintenance

Contractor Address: 8324 S. County Road 9, Fort Collins, CO 80528

Contractor Representative: MJ Kasper

Title: _____

Contractor Signature*: _____

Telephone Number: 303-591-7688/303-410-1695

Date: _____

***Signature not required on e-mailed copies of bids.**

WORK SCHEDULE

Work under this Service Agreement is to begin at the execution of the Agreement, and run concurrent thereof for the period of one (1) year, with an option of a two year renewal.

ADDENDA

Contractor acknowledges receipt of the following Addenda, which are included in the Proposal.

ADDENDUM #	DATED:
ADDENDUM #	DATED:

UNIT PRICES

Contractor acknowledges receipt of the following Unit Price Addenda, which are included in the Proposal.

ADDENDUM #	DATED:
ADDENDUM #	DATED:

WATERFALL METROPOLITAN DISTRICT

CATEGORY A

LANDSCAPE MAINTENANCE ITEMIZED BID FORM

FUNCTION	FREQUENCY (PER YEAR)
Fescue/Bluegrass	
Mow	26
Edge (Bedlines)	13
Edge (Hardlines)	13
Monofilament Trim	26
Turf Fertilization	3
Turf Insect/Disease/Weed Control	52
Aerification	1
Native Grass	
Mow	3
Edge – bedlines	3
Edge - hardlines	3
Monofilament Trim	3
Native Grass fertilization	0
Native Grass Weed Control	2
Native Grass Insect & Disease Control	0
General Landscape Maintenance Items	
Bed Weed Control	52
Shrub/Groundcover Trim	4
Tree Pruning	1
Debris Disposal	52
Insect and disease control	52
Tree Fertilization	1
Shrub Fertilization	1
Groundcover Fertilization	1
Irrigation Management	52
Irrigation Central Control Operator	1
Irrigation Winterization/Start Up	1
Waterfall & Pond Maintenance	7

CATEGORY A. 1ST YEAR LANDSCAPE MAINTENANCE TOTAL

\$ 23,604

WATERFALL METROPOLITAN DISTRICT

CATEGORY B

**SEASONAL PERENNIAL MAINTENANCE
ITEMIZED BID FORM**

PERENNIAL MAINTENANCE	FREQUENCY (PER YEAR)
Deadheading	6
Cut Back	1
Insect/Disease	52
Fertilization	2

Perennial Maintenance Subtotal **\$ 256.00**

**CATEGORY B. SEASONAL PERENNIAL
MAINTENANCE TOTAL** **\$ 256.00**

CATEGORY C

SEASONAL COLOR INSTALLATION ITEMIZED BID FORM

QUANTITY	PLANT MATERIAL	SIZE	UNIT PRICE	TOTAL
	Summer Annuals	4"		0.00

QUANTITY	PLANT MATERIAL	SIZE	UNIT PRICE	TOTAL
	Summer Annuals	2-1/2"		0.00

CATEGORY C. SEASONAL COLOR INSTALLATION TOTAL **\$ 0.00**

NOTES:

1. All annuals shall be container-grown Grade A plants with multiple blooms at the time of installation.
2. All prices shall be inclusive of material costs including soil amendments, mulch, labor, taxes, etc. All plants should be in bloom at time of planting.
3. Colors or varieties different than those specified above must be approved in writing by the District Manager and/or Consultant prior to installation.

WATERFALL METROPOLITAN DISTRICT

4. Contractor is responsible for estimating and confirming the quantity of flowers based on the spacing shown below:

4 Inch Plant Material

- a. Distance away from curbs, turflines, etc.:
Summer Annuals 10"
- b. On Center (o.c.) Spacings:
Summer Annuals 10"

2-1/2 Inch Plant Material

- a. Distance away from curbs, turflines, etc.:
Summer Annuals 6"
- b. On Center (o.c.) Spacings:
Summer Annuals 6"

CATEGORY D

**MULCH
ITEMIZED BID FORM**

MATERIAL	UNIT PRICE	TOTAL PRICE
Cedar Mulch	\$45.00/yard	To be determined

CATEGORY D. FIRST YEAR MULCH TOTAL \$ Per the District's request and prior written approval

NOTES:

1. Contractor is responsible for measuring and pricing the quantity of mulch required for each complete mulching of all presently mulched areas on site.
2. Contractor mulching total shall include one (1) complete trenching as specified in the trenching specifications. A second complete trenching will be required; however, some areas may require a second or "touchup" trenching to keep mulch contained within beds, tree wells and hardscapes.

**WATERFALL METROPOLITAN DISTRICT
SUPPLEMENTAL PRICING**

1. Brown Cedar Mulch (per yard, spread on site)	\$ 45.00
2. Cost per hr for hand watering with 500 gallon or larger tank.	\$ 94.00
3. Sodding – Fescue sod laid and rolled, site ready (price/sf.) 4. no removal	\$ 0.56
5. Sodding – Bluegrass sod laid and rolled, site ready (priced/sf) 6. no removal	\$ 0.56
7. Price per hour – Irrigation Service Technician with one laborer (\$45/hr for Tech & \$35/hr Laborer)	\$ 80.00
8. Annual cost for Sentinel Water Management Operator * - See Attachment "A"	\$
9. Contractor shall provide cost per 1000 sq sf to aerate and overseed Fescue/Bluegrass turf areas only. Fescue/Bluegrass turf areas shall be overseeded during the months of May-June with certified Grade A turf-type Fescue/Bluegrass seed at a rate of three and one-half (3.5) pounds per 1000 square feet. The Fescue/Bluegrass lawns will be aerated with a spoon or core-type aerating machine. There shall be a minimum of four (4) plugs per square foot, reaching a minimum depth of at least one and one-half (1.5) inches. In conjunction with the aeration process a machine such as a "power seeder" or "slice seeder" shall be used to reestablish a quality lawn. Contractor shall be responsible for aerating and seeding only the turf areas that have less than 80% turf density. All areas will not require overseeding; only the weak and thin turf areas.	\$250.00 cost per 1000 sq ft

The prices above shall be commensurate with the Service Agreement term.

* See attachment "A"

**WATERFALL METROPOLITAN DISTRICT
EXHIBIT "A-3"
MONTHLY LANDSCAPE MAINTENANCE INSPECTION GRADESHEET**

A. LANDSCAPE MAINTENANCE	VALUE	DEDUCTION	REASON FOR DEDUCTION
TURF	5		
TURF FERTILITY	15		
TURF EDGING	5		
WEED CONTROL TURF AREAS	5		
TURF INSECT/DISEASE CONTROL	10		
PLANT FERTILITY	5		
WEED CONTROL BED AREAS	5		
PLANT INSECT/DISEASE CONTROL	5		
PRUNING	10		
CLEANLINESS	5		
MULCHING	5		
WATER/IRRIGATION MANAGEMENT	15		
CARRYOVERS	5		

B. SEASONAL COLOR/PERENNIAL MAINTENANCE	VALUE	DEDUCTION	REASON FOR DEDUCTION
VIGOR/APPEARANCE	10		
INSECT/DISEASE CONTROL	10		
DEADHEADING/PRUNING	5		
MAXIMUM VALUE	120		

Date _____ Score: _____ *Performance Payment*TM % _____

Contractor Signature: _____

Inspector Signature: _____

Property Representative Signature: _____



EXHIBIT "A-4"
WEEKLY MAINTENANCE WORKSHEET

- 1) Date of maintenance visit: _____
- 2) Supervisor: _____
- 3) Watering man-hours: _____
- 4) Listing of problems and locations:
 - a) Insect and plants: _____

 - b) Disease and plants: _____

 - c) Nutrient problems and plants _____

 - d) Dry plants: _____

 - e) Wet plants: _____

 - f) Amount of mulch applied: _____
 - g) Amount of mulch needed or applied over designated amount: _____
 - h) Dead plants removed: _____

 - i) Tree service work needed: _____

 - j) Irrigation damage and repairs: _____

- 5) Extra work performed:
 - a) Number of men: _____
 - b) Their title(s): _____
 - c) Hours per man: _____
 - d) Description of work performed: _____

General Notes:

Please list any items the District Manager and/or Consultant need to know or any extra work that is to be performed outside of the grounds maintenance contract scope. Attach pricing and work schedule for consideration:

**EXHIBIT "A-4" CONTINUED
WEEKLY IRRIGATION REPORT**

1) Date of Report: FROM _____ TO _____

2) Central Control Manager: _____

**Make sure that supporting information is provided with these reports: examples -- Locations and repair plan with dates of completion.

3) Attach all current water use with historical data for the week.

4) Attach all flow graphs for all controllers connected to the Sentinel System.

5) Provide Alarm report:

6) Rain day or delay report:

7) Hardware communication report:

8) Watering man-hours: _____

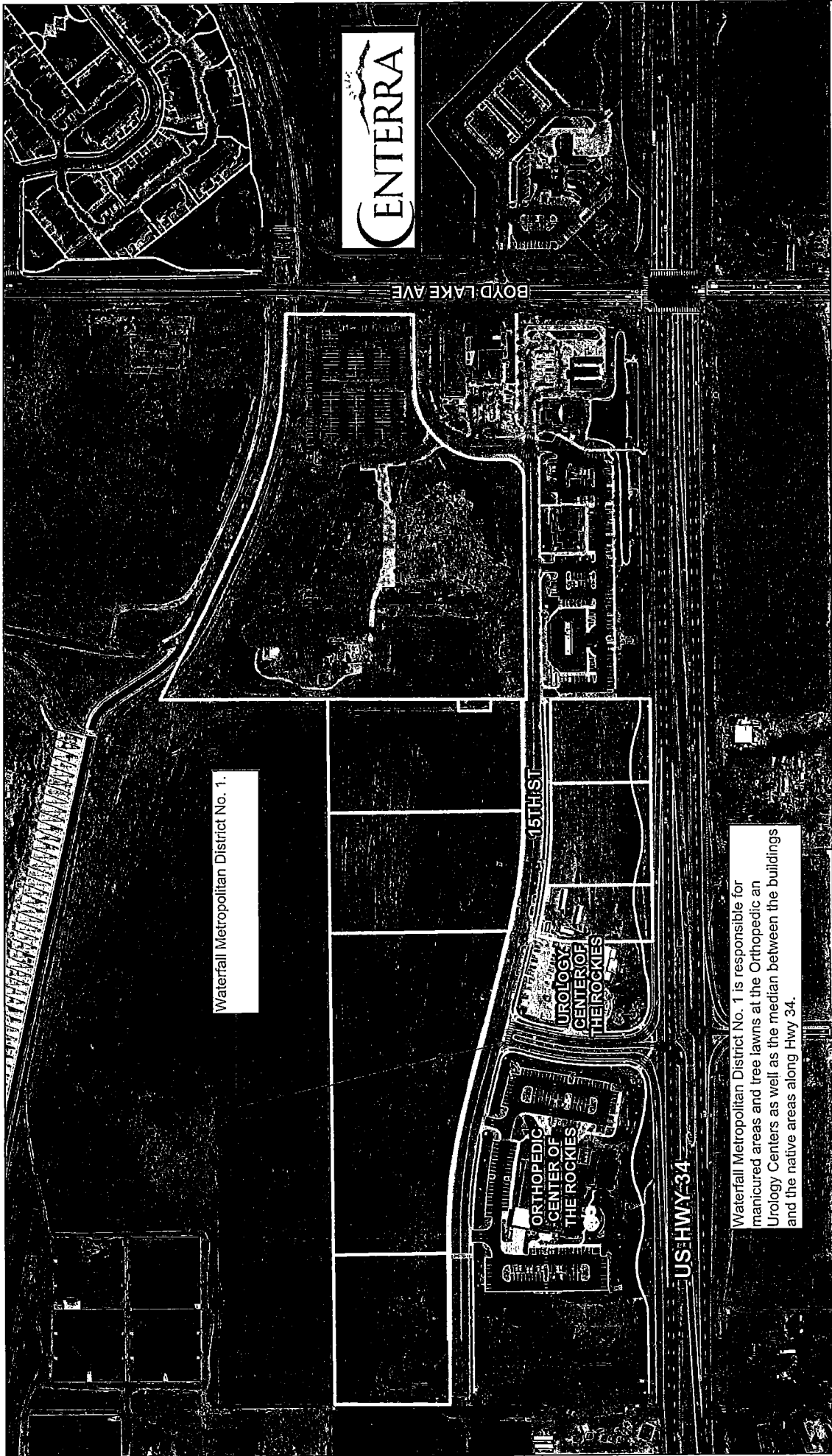
a) Dry plants: _____

b) Wet plants: _____

9) Please list any items the District and/or Consultant need to know or any extra work that is to be performed outside of the central control manager scope. Give an estimate of time to perform the work:

10) Pro-active or future planning report. Include items that are recommended in improve the system.

EXHIBIT "A-5"
SITE MAPS (separate PDF files attached)



Waterfall Metropolitan District No. 1.

Waterfall Metropolitan District No. 1 is responsible for manicured areas and tree lawns at the Orthopedic and Urology Centers as well as the median between the buildings and the native areas along Hwy 34.

BOYD LAKE VILLAGE LOVELAND, CO



EXHIBIT "A-6"
IRRIGATION INFORMATION
WATERFALL

Horstman Place & 15th Street, Loveland, CO
Clock Hunter ICC
Zones 32
Back flow 1 ½ in

Urology Center Building
3520 East 15th Street, Loveland, CO
Clock Railbird
Zones 9
Back flow 1 inch

Orthopaedic Center of the Rockies
3470 East 15th Street Loveland, CO
Clock Hunter ICC
Zones 16
Backflow 1 ½ in

**ADVANCED IRRIGATION CENTRAL CONTROL OPERATION – TO BE INCLUDED
ONCE CONTOLLERS ARE INSTALLED AT NO INCREASE IN EXPENSE**

A. OVERVIEW

The District has in place a computerized centrally controlled computerized irrigation management system. This system monitors water flow, weather conditions, and controller status and automatically calculates run times for each irrigation zone under its control. The purpose of this system is to conserve water and control operating costs. The District may choose to separate the central control operation and maintenance from the landscape irrigation contractor's normal irrigation equipment maintenance activities. This system is critical to the community's public image of conservation.

B. CENTRAL CONTROL MANAGER (C.C.M.)

The District will designate an individual or company to oversee the programming and maintenance of activities related solely to the communities irrigation central control system. This individual or company will provide an independent viewpoint outside the manufacturers need to sell equipment for system expansion or operation. The C.C.M. will work with the irrigation contractor to meet reduced water consumption goals. The C.C.M. must have a current list of similar projects. A minimum of 10 years experience is desired.

C. COMMUNICATION

The Contractor is responsible for communicating with the C.C.M. concerning increases or decreases in irrigation requirements for specific irrigated areas as well as active repairs to transmission lines and field electrical systems. The Contractor is responsible to determine if scheduling changes requested have achieved the desired results in landscape improvement. The C.C.M. will require of the contractor to check and repair specific components of the irrigation system based on error reports generated by the central control system. Failure to communicate changes in watering needs of any given irrigation zone will be considered a failure to monitor the condition of the landscape.

The C.C.M. will work with the Contractor to determine the best communication method for making adjustments to the systems operation. The C.C.M. has full authority to direct the Contractor in all aspects of repairs and irrigation water management activities. The C.C.M. will share any recorded malfunctions in central control equipment to the Contractor so that alternative irrigation methods can be put in place.

The landscape contractor will designate one person to communicate with the C.C.M. This individual will communicate needs to increase or decrease irrigation in areas with new plant material and existing plant material.

The contractor is required to furnish the District and C.C.M. with a list of company personnel that are to be notified in the event of problem(s) with the irrigation system in areas they are responsible for.

Contractors will notify the C.C.M. not less than 72 hours prior to all insecticide treatments or fertilizer application that require watering in schedules. Contractors failing to coordinate this action with the C.C.M. subject themselves to problems of receiving adequate water/water pressure.

Monitoring Reports: The C.C.M. will provide reports to the District and landscape contractor. This system will include, but not be limited to, date, time, system check lists and trouble reports on no less than a weekly basis. Contractor will be required to adhere to the reporting procedures and the timely submission of written reports as required by the C.C.M.

TOTAL ANNUAL COST \$included

Signature

Print

Company

Date

EXHIBIT "A-7" - Work Order Form

WORK ORDER FOR - WATERFALL METROPOLITAN DISTRICT NO. 1

This Work Order dated this ____ day of _____, 201_, forms a part of that certain Service Agreement for Services dated the ____ day of _____, 201_, between Waterfall Metropolitan District No. 1 ("District") and _____. ("Contractor"). The District and the Contractor agree that pursuant to the terms of the Service Agreement for services identified above, the Contractor will perform the following services for the following compensation:

Article 1 – Description of Basic Services

The Services and related schedule, where applicable, are set forth on the attached Exhibit ??-1 – Article 1 to this Work Order.

Article 2 – Compensation

For Services, as identified in the Description of Basic Professional Services in Article 1 above, compensation shall not exceed \$ _____ per the attached exhibit to this Work Order and according to the hourly rates of the various categories of the Contractor’s employees in the Contractor’s Schedule of Fees, as set forth in Exhibit B to the Service Agreement for services. The specific method of compensation is identified in the attached exhibit to this Work Order.

The Contractor estimates that the sum of the Contractor’s fixed fee or hourly fees plus reimbursable expenses and material costs for the services shall not exceed the amount specified in the attached exhibit, subject to additions and deductions only by written authorization.

For Additional Services of the Contractor, as described in Section III “Compensation” of the Service Agreement for Services, compensation shall be set forth in a written and executed Additional Services Authorization.

Article 3- Notice to Proceed

Contractor is hereby notified to commence Work in accordance with the Service Agreement for services as describer in Article I noted above dated _____, 20___. Work is to begin on or before _____, 20___. All Work is to be substantially complete no later than _____, 20___. Completion of all Work, including punch-list work, is to be complete within ___ consecutive calendar days after substantial completion. The date of completion of all Work is therefore _____, 20___.

Article 3 – Guaranty/Warranty-

The Contractor shall guarantee all materials and equipment furnished and Work performed for a period of **one (1) year** from the date of final completion. The Contractor warrants and guarantees for a period of **one (1) year** from the date of final completion and acceptance of the project that the completed Project is free from all defects due to faulty materials or workmanship and the Contractor shall promptly make such corrections as may be necessary by reason of such defects including the repairs of any damages to other parts of the project resulting from such defects. The District will give notice of observed defects with reasonable promptness given the urgency of the circumstances and the possibility of consequential damages. In the event that the Contractor should fail to make such repairs, adjustments, or other work that may be made necessary by such defects, the District may do so and charge the Contractor the cost hereby incurred.

In witness whereof, the parties hereto have made and executed this Work Order as of the day and year signed by the District.

WATERFALL METROPOLITAN DISTRICT NO. 1

CONTRACTOR

By: _____
Title: _____
Date: _____

By: _____
Title: _____
Date: _____

ACCEPTANCE OF NOTICE

Receipt of the above NOTICE TO PROCEED is hereby acknowledged this ____ day of _____, 20__.

**CERTIFICATION
REGARDING ILLEGAL ALIENS**

To: WATERFALL METROPOLITAN DISTRICT NO. 1

I, M.J. KASPER, as Regional Manager of ValleyCrest Landscape Maintenance, the prospective "Contractor" for that certain contract for landscape services to be entered into with Waterfall Metropolitan District No. 1, do hereby certify on behalf of said Contractor that, as of the date of this Certification, Contractor does not knowingly employ or contract with an illegal alien who will perform work under this Agreement and that Contractor will participate in either the E-Verify Program administered by the U.S. Department of Homeland Security and the Social Security Administration, or in the Colorado Department of Labor and Employment's Employment Verification Program pursuant to Section 8-17.5-102(5)(c), C.R.S. in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement.

Executed on the 11th day of April, 2013.

**VALLEYCREST LANDSCAPE
MAINTENANCE**

MJ Kasper
By: M.J. KASPER
Its: Regional Manager

EXHIBIT C

AFFIRMATION OF LEGAL WORK STATUS



Contractor Affirmation for the Department Program

Required for use by contractors participating in the Department Program for public contracts for services 8-17.5-101 & 102, C.R.S.

The contractor shall provide a written, notarized copy of this affirmation to the contracting state agency or political subdivision. **DO NOT** submit this affirmation to the Colorado Division of Labor unless specifically requested to do so.

Employee Name: Last _____ First _____ MI _____ Date of Birth: _____ Date of Hire: _____

In accordance with 8-17.5-102, C.R.S., I have _____ Contract Number: _____

(Initial after each)

- Examined the legal work status of the above named employee _____ Contractor / Business Name: _____
- Retained file copies of documents required by 8 U.S.C. sec. 1324a. _____ Phone: _____
- Not altered or falsified the employee's identification documents _____ Contractor or Contractor Representative Name: _____

Contractor OR Contractor Representative Signature and Title: _____ Date Signed: _____

Subscribed and affirmed before me in the county of _____, State of Colorado, this _____ day of _____, 20____.



(Notary's official signature)

(Commission expiration date)

8-17.5-102(5)(c)(II), C.R.S. A participating contractor shall, within twenty days after hiring an employee who is newly hired for employment to perform work under the public contract for services, affirm that the contractor has examined the legal work status of such employee, retained file copies of the documents required by 8 U.S.C. sec. 1324a, and not altered or falsified the identification documents for such employees. The contractor shall provide a written, notarized copy of the affirmation to the contracting state agency or political subdivision.

This affirmation and the documents required by 8 U.S.C. sec. 1324a will be retained by the contractor for the duration of the above named individual's employment. This affirmation is provided as a courtesy by the Colorado Division of Labor. Another substantially similar affirmation may be used, provided that it contains the necessary elements and information as required by law.