



TO THE HONORABLE MAYOR AND COUNCIL:

DATE: November 18, 2014

SUBJECT: APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH WEST COAST ARBORISTS, INC. TO PROVIDE TREE MAINTENANCE SERVICES IN THE AMOUNT OF \$130,000 FOR FISCAL YEAR 2014-15, WITH THREE ANNUAL OPTIONS OF A ONE-YEAR RENEWAL; AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT (GENERAL FUNDS)

Report in Brief

The proposed Professional Services Agreement will authorize West Coast Arborists, Inc. (WCA) to continue providing tree maintenance services to the City.

Staff recommends that the City Council approve a Professional Services Agreement with West Coast Arborists, Inc. in the amount of \$130,000 for Fiscal Year 2014-15, with three annual options of a one-year renewal, to provide tree maintenance services; and authorize the City Manager to execute the Agreement for Fiscal Year 2014-2015.

Background

The City of Concord has a large inventory of trees and has been awarded the prestigious *Tree City USA* designation for the last 33 years. On-going maintenance of City-owned trees is required to preserve the City's public health, safety and general welfare. To provide tree maintenance on City-owned trees, the City operates one 2-person crew and uses a contract service provider.

On September 25, 2012 the Concord City Council awarded a contract in an amount not to exceed \$130,000 to West Coast Arborists (WCA). Per the terms of the agreement the contract was extended for one additional year before it expired on June 30, 2014.

In January 2013, the City of Sunnyvale conducted a formal bid process for tree maintenance services for 2.5 years, with three one-year renewal options. The City of Sunnyvale solicited bids for tree maintenance services with the understanding that the resulting contract would allow any other local entity to utilize the bid of the contractor and enter into its own agreement with that contractor, under the same terms and conditions as described in its bid with the City of Sunnyvale (piggyback clause). Sunnyvale awarded a contract to WCA as the lowest responsive bidder. Staff has conducted due diligence and confirmed that the proposal from WCA

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meets or exceeds the specifications and needs of the City of Concord. Additionally, City staff found WCA work in their past contract with Concord to be professional and meet our standards.

Discussion

The City maintains its tree inventory through a combination of in-house staff and a professional service contract—this approach has proven to be efficient and cost effective. Two regular full time City of Concord Parks Division staff members are currently assigned to perform tree maintenance in City parks and open space. These two staff members are certified professional arborists and provide an in-house resource for managing Concord’s urban forest. Additional responsibilities for these staff include responding to emergencies, planting and watering trees, arborist inspections and technical services, training staff and administering the protected tree permit process as required.

WCA, the Company selected for this professional service contract, specializes in highly efficient “grid pruning,” they are dispatched based on priority by the City Arborist to prune and trim targeted areas - primarily street trees. WCA uses their own equipment and provides their own liability insurance. This is a positive factor for the City because performing maintenance on street trees involves significant liability and requires detailed attention to safety; WCA’s three-person standard crew operates in compliance with the latest safety standards, including appropriate protocols for lane closure and traffic controls when necessary.

City staff has found West Coast Arborists (WCA) performance over the last two years to be responsive, efficient and effective. WCA maintained (pruned, trimmed, removed) 1,736 trees in FY 2012-13, 2,017 trees in FY 2013-14, and staff anticipates that WCA will maintain approximately 2,115 trees in FY 2014-15. Based on the number of street trees in the City’s inventory, a complete maintenance cycle is achievable in approximately five years.

WCA has been licensed in good standing with the California State Contractors License Board since 1976. They specialize in Tree Service and Landscaping and maintain an A+ rating from the bonding board. There are approximately 40 Certified Arborists and 100 Certified Tree workers on their staff and they do not use any subcontractors. WCA has multiple letters of reference from several local agencies. They have more than satisfactorily performed tree maintenance services for the City of Concord during the last four years and continue to meet all insurance requirements.

California law allows a public agency to “piggyback” onto contracts for services with other public agencies under certain circumstances. This allows for leveraged pricing for services that can be obtained through the buying power of the agency initiating the contract. The City’s Purchasing Agent has authorized the use of a “piggyback” bidding process for this acquisition.

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Fiscal Impact

The FY 2014-15 budget includes an allocation of \$130,000 which is sufficient to fully fund the work associated with annual tree maintenance. Staff estimates that by using the “piggyback” contract with West Coast Arborists, Inc., the City saved more than \$8,500 in administrative costs by eliminating the traditional project bidding process. The total approved compensation to this contractor for Fiscal Year 2014-15 is \$130,000. The \$130,000 tree maintenance contract allocation for subsequent years is dependent upon City Council approval of this funding through the budget process.

Public Contact

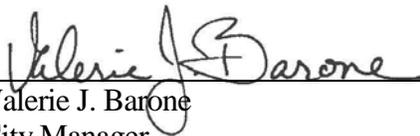
Posting of the Council Agenda.

Recommendation for Action

Staff recommends that the City Council approve a Professional Services Agreement with West Coast Arborists, Inc. to provide tree maintenance services in the amount of \$130,000 for Fiscal Year 2014-15, with three annual options of a one-year renewal and authorize the City Manager to execute the agreement.

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Reviewed by: Steve Voorhies
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Valerie J. Barone
City Manager
Valerie.barone@cityofconcord.org

Reviewed by: Justin Ezell
Public Works Director
justin.ezell@cityofconcord.org

MAINTENANCE SERVICES AGREEMENT

1 **THIS AGREEMENT** ("Agreement") is entered into on November 18, 2014 between the City
2 of Concord ("CITY") and West Coast Arborists, Inc., a California Corporation, 2200 E. Via Burton
3 St., Anaheim CA 92806 ("CONTRACTOR").

4 THE PARTIES ENTER THIS AGREEMENT based upon the following facts, understandings
5 and intentions:

6 The CITY desires to contract with CONTRACTOR to provide the professional services
7 described in Section 2 of this Agreement, upon the terms and conditions hereinafter set forth.

8 On November 18, 2014 the City Council granted authority for the City Manager to enter into
9 an Agreement with CONTRACTOR.

10 NOW, THEREFORE, IN CONSIDERATION of the mutual covenants and promises of the
11 parties herein contained, the parties hereto agree as follows:

12 **1. TERM.** This Agreement shall commence on July 1, 2014 and expire on June 30,
13 2015.

14 **A. Extension of Term.** Upon mutual written agreement by the parties, the term of this
15 Agreement may be extended for three additional period(s) of 1 year(s) each commencing upon the
16 expiration of the initial or extended term, subject to the same terms and conditions of this Agreement.
17 CONTRACTOR shall give written notice of its request for extension of the term of the Agreement to
18 the City's Authorized Representative, as identified in Section 4 below, at least thirty (30) days prior to
19 expiration of the initial or extended term. The extension(s) of the term of this Agreement shall be
20 subject to a review of CONTRACTOR'S performance in accordance with the terms and conditions of
21 this Agreement and shall be subject to City approval. Such extension of time shall be in writing by a
22 duly executed Amendment to this Agreement.

23 **2. SCOPE OF SERVICES.** Subject to such policy direction and approvals provided by
24 the CITY's Authorized Representative, CONTRACTOR shall perform the services described in detail
25 in Exhibit A, Scope of Services. CITY retains all rights of approval and discretion with respect to the
26 projects and undertakings contemplated by this Agreement.

27 **PAYMENT.** The compensation to be paid to CONTRACTOR including payment for
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1 professional services and reimbursable expenses, shall be at the rate and schedules in detail in Exhibit
2 A. However, shall in no event shall the amount CITY pays CONTRACTOR exceed One
3 Hundred Thirty Thousand dollars (\$130,000.00) for the term of this Agreement. Any Amendment to
4 this Agreement that includes an increase to this compensation amount shall be made in accordance
5 with Section 5 below.

6 CONTRACTOR may submit monthly statements for services rendered; all statements shall
7 include adequate documentation demonstrating work performed during the billing period. It is
8 intended that CITY review such statement and pay CONTRACTOR for services rendered within 30
9 days of receipt of a statement that meets all requirements of this Agreement. Payment by CITY shall
10 not be deemed a waiver of unsatisfactory work, even if such defects were known to the CITY at the
11 time of payment.

12 **4. AUTHORIZED REPRESENTATIVES.** Authorized representatives shall represent
13 CITY and CONTRACTOR in all matters pertaining to the services to be ordered by CITY or rendered
14 by CONTRACTOR under this Agreement except where approval for the CITY is specifically required
15 by the City Council. The CITY's authorized representative is Steve Voorhies, Parks Program
16 Manager of the Public Works Parks Division. The CONTRACTOR's authorized representative is
17 Patrick Mahoney, President.

18 **5. AMENDMENT TO AGREEMENT.** This Agreement may be amended in writing,
19 subject to approval by both parties. If additional services are requested by CITY other than as
20 described in the above Scope of Services, this Agreement may be amended, modified, or changed by
21 the parties subject to mutual consent and in accordance with the CITY's Municipal Code by execution
22 of an Amendment by authorized representatives of both parties setting forth the additional scope of
23 services to be performed, the performance time schedule, and the compensation for such services.

24 **A. Amendment for Additional Compensation.** CITY's Authorized
25 Representative is authorized to execute amendments to the Agreement on behalf of CITY, including
26 amendments providing for additional compensation to CONTRACTOR not to exceed \$50,000 during
27 the fiscal year, including the base contract amount, throughout the term of this Agreement. Any
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1 additional compensation to CONTRACTOR that is \$50,000 or more for the fiscal year, including the
2 base contract amount, must be approved by the City Council.

3 CONTRACTOR's failure to secure CITY's written authorization for additional compensation
4 or changes to the Scope of Work shall constitute a waiver of any and all right to adjustment in the
5 price or time due, whether by way of compensation, restitution, quantum meruit, or similar relief.

6 **6. INDEPENDENT CONTRACTOR**

7 Both parties understand and acknowledge that CONTRACTOR, its agents, employers and
8 subcontractors are and shall at all times remain as to the CITY wholly independent contractors.
9 Neither the CITY nor any of its officers or employees shall have any control over the manner by
10 which CONTRACTOR performs this Agreement and shall only dictate the results of the performance.
11 CONTRACTOR shall not represent that CONTRACTOR or its agents, employees or subcontractors
12 are agents or employees of the CITY, and CONTRACTOR shall have no authority, express or
13 implied, to act on behalf of the CITY in any capacity whatsoever as an agent, and shall have no
14 authority, express or implied, to bind the CITY to any obligation whatsoever, unless otherwise
15 provided in this Agreement.

16 As an independent contractor, CONTRACTOR shall not be eligible for any benefits, which the
17 City may provide to its employees and all persons, if any, hired by CONTRACTOR shall be
18 employees or subcontractors of CONTRACTOR and shall not be construed as employees or agents of
19 the CITY in any respect. CONTRACTOR shall receive no premium or enhanced pay for work
20 normally understood as overtime, i.e., hours that exceed forty (40) hours per work week, or work
21 performed during non-standard business hours, such as in the evenings or on weekends.
22 CONTRACTOR shall not receive a premium or enhanced pay for work performed on a recognized
23 holiday. CONTRACTOR shall not receive paid time off for days not worked, whether it be in the
24 form of sick leave, administrative leave, or for any other form of absence. CONTRACTOR shall pay
25 all taxes, assessments and premiums under the federal Social Security Act, any applicable
26 unemployment insurance contributions, Workers Compensation insurance premiums, sales taxes, use
27 taxes, personal property taxes, or other taxes or assessments now or hereafter in effect and payable by
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1 reason of or in connection with the services to be performed by CONTRACTOR.

2 **7. STANDARD OF PERFORMANCE.** CONTRACTOR represents and warrants to
3 CITY that CONTRACTOR is skilled and able to provide such services described in the Scope of
4 Work and that such services shall be performed in an expeditious manner, and with the degree of skill
5 and care that is required by current, good, and sound procedures and practices. CONTRACTOR
6 further agrees that the services shall be in conformance with generally accepted professional standards
7 prevailing at the time work is performed.

8 **8. PERFORMANCE BY CONTRACTOR.** CONTRACTOR shall not employ other
9 consultants, subconsultants, experts, contractors, or subcontractors without the prior written approval
10 of the CITY. Notwithstanding the foregoing, CITY shall not be obligated or liable for payment
11 hereunder to any party other than CONTRACTOR. CONTRACTOR hereby designates
12 CONTRACTOR'S representative as the person primarily responsible for the day-to-day performance
13 of CONTRACTOR'S work under this Agreement. CONTRACTOR shall not change
14 CONTRACTOR'S representative without the prior written consent of the CITY. Unless otherwise
15 expressly agreed by the CITY, CONTRACTOR'S representative shall remain responsible for the
16 quality and timeliness of performance of the services, notwithstanding any permitted or approved
17 delegation hereunder.

18 **9. OWNERSHIP AND MAINTENANCE OF DOCUMENTS.** All documents
19 furnished by CONTRACTOR pursuant to this Agreement are instruments of CONTRACTOR's
20 services in respect to this project. They are not intended nor are represented to be suitable for reuse by
21 others except CITY on extensions of this project or on any other project. Any reuse without specific
22 written verification and adoption by CONTRACTOR for the specific purposes intended will be at
23 user's sole risk and without liability or legal exposure and expenses to CONTRACTOR, including
24 attorney's fees arising out of such unauthorized reuse.

25 CONTRACTOR's records, documents, calculations, and all other instruments of service
26 pertaining to actual project shall be given to CITY at the completion of the project. The CITY
27 reserves the right to specify the file format that electronic document deliverables are presented to the
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1 CITY.

2 **10. INDEMNIFICATION.** CONTRACTOR agrees to defend, indemnify and hold
3 harmless the CITY, its officers, officials, employees, agents and volunteers from and against any and
4 all claims, demands, actions, losses, damages, injuries, and liability (including all attorney's fees and
5 other litigation expenses) arising out of CONTRACTOR's performance under the terms of this
6 Agreement. This indemnification obligation on CONTRACTOR'S part shall not apply to demands,
7 actions, losses, damages, injuries, and liability arising out of sole negligence or willful misconduct on
8 the part of CITY.

9 **11. INSURANCE.** CONTRACTOR shall, at its own expense, procure and maintain in
10 full force at all times during the term of this Agreement the following insurance:

11 **A. Commercial General Liability Coverage.** CONTRACTOR shall maintain
12 commercial general liability insurance with limits of no less than one million dollars (\$1,000,000)
13 combined single limit per occurrence or two million dollars (\$2,000,000) aggregate limit for bodily
14 injury, personal injury, and property damage.

15 **B. Automobile Liability Coverage.** CONTRACTOR shall maintain automobile
16 liability insurance covering all vehicles used in the performance of this Agreement providing a one
17 million dollar (\$1,000,000) combined single limit per occurrence for bodily injury, personal injury,
18 and property damage.

19 **C. Compliance with State Workers' Compensation Requirements.**
20 CONTRACTOR covenants that it will insure itself against liability for Workers' Compensation
21 pursuant to the provisions of California Labor Code §3700, et seq. CONTRACTOR shall, at all
22 times, upon demand of the City, furnish proof that Workers' Compensation Insurance is being
23 maintained by it in force and effect in accordance with the California Labor Code. The insurer shall
24 also agree to waive all rights of subrogation against the CITY, its officers, officials, employees and
25 volunteers for losses arising from work performed by CONTRACTOR for CITY. This provision shall
26 not apply upon written verification by CONTRACTOR that CONTRACTOR has no employees.

27 **D. Other Insurance Provisions.** The policies are to contain, or be endorsed to
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1 contain the following provisions:

2 **(1) Additional Insured.** CITY, its officers, agents, employees, and
3 volunteers are to be covered as an additional insured as respects: Liability arising out of activities
4 performed by or on behalf of CONTRACTOR and operations of CONTRACTOR, premises owned,
5 occupied, or used by CONTRACTOR. The coverage shall contain no special limitations on the scope
6 or protection afforded to CITY, its officers, officials, employees, or volunteers.

7 Except for worker's compensation and professional liability insurance, the policies mentioned
8 in this subsection shall name CITY as an additional insured and provide for notice of cancellation to
9 CITY. CONTRACTOR shall also provide timely and prompt notice to CITY if CONTRACTOR
10 receives any notice of cancellation or nonrenewal from its insurer.

11 **(2) Primary Coverage.** CONTRACTOR's insurance coverage shall be
12 primary insurance with respect to CITY, its officers, officials, employees, and volunteers. Any
13 insurance, risk pooling arrangement, or self-insurance maintained by CITY, its officers, officials,
14 employees, or volunteers shall be in excess of CONTRACTOR's insurance and shall not contribute
15 with it.

16 **(3) Reporting Provisions.** Any failure to comply with the reporting
17 provisions of the policy shall not affect the coverage provided to the CITY, its officers, officials,
18 employees, or volunteers.

19 **(4) Verification of Coverage.** CONTRACTOR shall furnish CITY with
20 certificates of insurance and the original endorsements effecting coverage required by this Agreement.
21 The certificates and endorsements for each insurance policy are to be signed by a person authorized by
22 that insurer to bind coverage on its behalf. The aforementioned policies shall be issued by an
23 insurance carrier having a rating of Best A-7 or better which is satisfactory to the City Attorney and
24 shall be delivered to CITY at the time of the execution of this Agreement or before work commences.
25 Such policies and certificates shall be in a form approved by the City Attorney. CITY reserves the
26 right to require complete certified copies of all required insurance policies at any time.

27 **12. TIME OF PERFORMANCE.** The time of performance of the services under this
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1 Agreement is of the essence, and all time deadlines identified in this Agreement or Scope of Services
2 shall be strictly construed.

3 **13. SUSPENSION OF WORK.** CITY may, at any time, by ten (10) days' written notice,
4 suspend further performance by CONTRACTOR. All suspensions shall extend the time schedule for
5 performance in a mutually satisfactory manner, and CONTRACTOR shall be paid for services
6 performed and reimbursable expenses incurred prior to the suspension date. During the period of
7 suspension, CONTRACTOR shall not receive any payment for services, or expenses, except for
8 reasonable administration expenses, incurred by CONTRACTOR by reason of such suspension.

9 **14. TERMINATION.** CITY may terminate this Agreement for any reason upon ten (10)
10 days written notice to the other party. CITY may terminate the Agreement upon five (5) days written
11 notice if CONTRACTOR breaches this Agreement. In the event of any termination, CONTRACTOR
12 shall promptly deliver to the CITY any and all finished and unfinished reports or other written,
13 recorded, photographic, or visual materials, documents, data, and other deliverables ("Work
14 Materials") prepared for the CITY prior to the effective date of such termination, all of which shall
15 become CITY's sole property. After receipt of the Work Materials, CITY will pay CONTRACTOR
16 for the services performed as of the effective date of the termination.

17 **15. COMPLIANCE WITH CIVIL RIGHTS.** During the performance of this contract,
18 CONTRACTOR agrees as follows:

19 **A. Equal Employment Opportunity.** In connection with the execution of this
20 Agreement, CONTRACTOR shall not discriminate against any employee or applicant for
21 employment because of race, religion, color, sex, or national origin. Such actions shall include, but
22 not be limited to, the following: employment, promotion, upgrading, demotion, or transfer;
23 recruitment or recruitment advertising; layoff or termination; rate of pay or other forms of
24 compensation; and selection for training including apprenticeship.

25 **B. Nondiscrimination Civil Rights Act of 1964.** CONTRACTOR will comply
26 with all federal regulations relative to nondiscrimination in federally assisted programs.

27 **C. Solicitations for Subcontractors including Procurement of Materials and**
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1 **Equipment.** In all solicitation, either by competitive bidding or negotiations, made by
2 CONTRACTOR for work to be performed under a subcontract including procurement of materials or
3 leases of equipment, each potential subcontractor, supplier or lessor shall be notified by
4 CONTRACTOR of CONTRACTOR'S obligation under this Agreement and the regulations relative
5 to nondiscrimination on the grounds of race, religion, color, sex, or national origin.

6 **16. CONFLICT OF INTEREST.**

7 A. CONTRACTOR covenants and represents that neither it, nor any officer or
8 principal of its firm, has, or shall acquire any interest, directly or indirectly, which would conflict in
9 any manner with the interests of CITY or which would in any way hinder CONTRACTOR's
10 performance of services under this Agreement. CONTRACTOR further covenants that in the
11 performance of the Agreement, no person having any such interest shall be employed by it as an
12 officer, employee, agent or subcontractor without the express written consent of the CITY.
13 CONTRACTOR agrees to at all times avoid conflicts of interest, or the appearance of any conflicts of
14 interest, with the interests of the CITY in the performance of this Agreement.

15 B. CONTRACTOR is not a designated employee within the meaning of the
16 Political Reform Act because CONTRACTOR:

17 (1) Will conduct research and arrive at conclusions with respect to its rendition
18 of information, advice, recommendation or counsel independent of the control and direction of the
19 CITY or of any CITY official, other than normal contract monitoring; and

20 (2) Possesses no authority with respect to any CITY decision beyond the
21 rendition of information, advice, recommendation or counsel. (2 Cal. Code Regs. § 18700(a)(2).)

22 **17. COMPLIANCE WITH LAWS.** CONTRACTOR shall comply with all applicable
23 Federal, State of California, and local laws, rules, and regulations and shall obtain all applicable
24 licenses, including a business license with the City of Concord, and permits for the conduct of its
25 business and the performance of the services.

26 **18. CHOICE OF LAW.** This Agreement shall be construed and interpreted in accordance
27 with the laws of the State of California, excluding any choice of law rules which may direct the
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1 application of the laws of another jurisdiction. In the event that suit shall be brought by either party
2 hereunder, the parties agree that trial of such action shall be held exclusively in a state court in the
3 County of Contra Costa, California.

4 **19. NON-WAIVER.** The waiver by either party of any breach of any term, covenant, or
5 condition contained in the Agreement, or any default in their performance of any obligations under the
6 Agreement shall not be deemed to be a waiver of any other breach or default of the same or any other
7 term, covenant, condition, or obligation, nor shall any waiver of any incident of breach of default
8 constitute a continuing waiver of same.

9 **20. ENFORCEABILITY; INTERPRETATION.** In the event that any of the provisions
10 or portions of application of any of the provisions of the Agreement are held to be illegal or invalid by
11 a court of competent jurisdiction, CITY and CONTRACTOR shall negotiate an equitable adjustment
12 in the provisions of the Agreement with a view toward affecting the purpose of the Agreement. The
13 illegality or invalidity of any of the provisions or portions of application of any of the provisions of
14 the Agreement shall not affect the legality or enforceability of the remaining provisions or portions of
15 application of any of the provisions of the Agreement. This Agreement shall be interpreted as though
16 it was a product of a joint drafting effort and no provisions shall be interpreted against a party on the
17 ground that said party was solely or primarily responsible for drafting the language to be interpreted.

18 **21. INTEGRATION.** All exhibits identified in this Agreement are attached hereto and
19 incorporated herein by reference. The Agreement contains the entire agreement and understanding
20 between the parties as to the subject matter of this Agreement. It merges and supersedes all prior or
21 contemporaneous agreements, commitments, representation, writings, and discussions between
22 CONTRACTOR and CITY, whether oral or written.

23 **22. SUCCESSORS AND ASSIGNS: NO THIRD PARTY BENEFICIARIES; NO**
24 **JOINT VENTURE.** CITY and CONTRACTOR respectively, bind themselves, their successors,
25 assigns, and legal representatives to the terms and obligations of this Agreement. CONTRACTOR
26 shall not assign or transfer any interest in the Agreement without the CITY's prior written consent,
27 which consent shall be in the CITY's sole discretion. Any attempted assignment or transfer in breach
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1 of this provision shall be void. This Agreement is not intended and shall not be construed to create
2 any third party benefit. This Agreement is not intended and shall not be construed to create a joint
3 venture or partnership between the parties. CONTRACTOR, its officers, employees and agents shall
4 not have any power to bind or commit the CITY to any decision.

5 **23. FINANCIAL RECORDS.** Records of CONTRACTOR's direct labor costs, payroll
6 costs, and reimbursable expenses pertaining to this project covered by this Agreement will be kept on
7 a generally recognized accounting basis and made available to CITY if and when required.

8 **24. NOTICES.** All notices required hereunder shall be in writing and mailed postage
9 prepaid by certified or registered mail, return receipt requested, or by personal delivery to the CITY's
10 address as shown below, or such other places as CITY or CONTRACTOR may, from time to time,
11 respectively, designate in a written notice given to the other. Notice shall be deemed received three
12 (3) days after the date of the mailing thereof or upon personal delivery.

13
14 To CITY: **Steve Voorhies, Parks Program Manager**
15 **Public Works Department**
16 **City of Concord**
17 **1455 Gasoline Alley**
18 **Concord, CA 94520**
19 **Phone: (925) 671-3202**
20 **Fax: (925) 680-1660**

21 To CONTRACTOR: **Patrick Mahoney**
22 **President**
23 **West Coast Arborists, Inc**
24 **2200 E. Via Burton St.**
25 **Anaheim, CA 92806**
26 **Phone: (800)521-3714**
27 **Fax: (714)956-3745**

28 **25. NON-LIABILITY.** No member of the CITY and no other officer, employee or agent
of the CITY shall be personally liable to CONTRACTOR or otherwise in the event of any default or
breach of the CITY, or for any amount which may become due to CONTRACTOR or any successor
in interest, or for any obligations directly or indirectly incurred under the terms of this Agreement.

26. EXECUTION. Each individual or entity executing this Agreement on behalf of
CONTRACTOR represents and warrants that he or she or it is duly authorized to execute and deliver

1 this Agreement on behalf of CONTRACTOR and that such execution is binding upon
2 CONTRACTOR.

3 This Agreement may be executed in several counterparts, each of which shall constitute one
4 and the same instrument and shall become binding upon the parties when at least one copy hereof
5 shall have been signed by both parties hereto. In approving this Agreement, it shall not be necessary
6 to produce or account for more than one such counterpart.

7
8 **IN WITNESS WHEREOF**, the parties have executed this Agreement in one (1) or more
9 copies as of the date and year first written above.

10 **CONTRACTOR**

CITY OF CONCORD, a Municipal Corporation

11
12 **CONTRACTOR**

CITY OF CONCORD, a Municipal Corporation

13
14 By: _____

By: _____

15 Name: **Patrick Mahoney**
16 Title: **President**
17 Address: **2200 E. Via Burton St.**
Anaheim, CA 92806
18 Telephone: **(800)521-3714**

Name: **Valerie J. Barone**
Title: **City Manager**
Address: **1950 Parkside Drive**
Concord, CA 94519
Telephone: **(925) 671-3150**

19 APPROVED AS TO FORM:

ATTEST:

20
21 _____
City Attorney

City Clerk

22
23 **FINANCE DIRECTOR'S CERTIFICATION:**

24 **Concord, California**

25 **Date: _____, 2014**

26
27 **I HEREBY CERTIFY THAT ADEQUATE FUNDS EXIST OR WILL BE RECEIVED**

1 DURING THE CURRENT FISCAL YEAR 2014/15 TO PAY THE ANTICIPATED
2 EXPENSES TO BE INCURRED PURSUANT TO THIS CONTRACT.

3 THE SUM OF **\$130,000.00**. Account Codes: \$110,000 from 261-5710-1Z01-63800-400
4 \$20,000 from 100-5700-1Z01-63800-400

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6 Finance Director's Signature
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