

AGREEMENT FOR LANDSCAPE MAINTENANCE SERVICES

THIS AGREEMENT is made and entered into this _____ day of _____, 2019, by and between the City of Merced, a California Charter Municipal Corporation, whose address of record is 678 West 18th Street, Merced, California 95340, (hereinafter referred to as "City") and Green Horizon, Inc., a California Corporation, whose address of record is 2930 Geer Road, Suite 206, Turlock, California 95382, (hereinafter referred to as "Contractor").

WHEREAS, City desires to engage Contractor to render landscape maintenance services; and,

WHEREAS, Contractor represents that it possesses the required skills and any necessary licenses to provide landscape maintenance services required by the City pursuant to the terms and conditions set forth in this Agreement.

NOW, THEREFORE, the parties hereto, in consideration of the mutual covenants hereinafter recited, hereby agree as follows:

1. **SCOPE OF SERVICES.** The Contractor shall furnish the following services: Contractor shall provide the landscape maintenance services, including all labor, materials, tools, equipment, services and any incidental or customary work necessary to provide landscape maintenance services as more particularly described in Exhibit "A" attached hereto.

No additional services shall be performed by Contractor unless approved in advance in writing by the City, stating the dollar value of the services, the method of payment, and any adjustment in contract time. All such services are to be coordinated with City and the results of the work shall be monitored by the Director of Public Works or his or her designee. However, the means, methods and details by which the work is accomplished shall be the sole responsibility of the Contractor.

2. **TERM.** The term of this Agreement shall be for two (2) years from July 1, 2019, to June 30, 2021, unless earlier terminated as provided herein. Contractor shall complete all of the work outlined in the Scope of Services within the term of this Agreement and shall meet any other established schedules and deadlines. Prior expiration of this Agreement, and upon approval by City, Contractor shall have the option to renew this Agreement for three (3) additional one (1) year terms for the additional maximum period of three (3) years ending as of June 30, 2024.

3. **COMPENSATION.** Payments by the City to the Contractor shall be made monthly and in proportion to the services satisfactorily performed within each phase. For Contractor's services rendered under this Agreement, City shall pay Contractor the not to exceed sum Twenty-Two Thousand Six Hundred Twenty-Eight Dollars (\$22,628.00) per month for a total of Two Hundred Seventy-One Thousand Five Hundred Thirty-Six Dollars (\$271,536.00) annually in accordance with schedule set forth in Exhibit "B."

4. **METHOD OF PAYMENT.** Compensation to Contractor shall be paid by the City after submission by Contractor of an invoice delineating the services performed.

5. **RECORDS.** It is understood and agreed that all plans, studies, specifications, data magnetically or otherwise recorded on computer or computer diskettes, records, files, reports, etc., in possession of the Contractor relating to the matters covered by this Agreement shall be the property of the City, and Contractor hereby agrees to deliver the same to the City upon termination of the Agreement. It is understood and agreed that the documents and other materials including but not limited to those set forth hereinabove, prepared pursuant to this Agreement are prepared specifically for the City and are not necessarily suitable for any future or other use.

6. **CONTRACTOR'S BOOKS AND RECORDS.** Contractor shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to the City for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Contractor to this Agreement. Any records or documents required to be maintained shall be made available for inspection, audit and/or copying at any time during regular business hours, upon oral or written request of the City.

7. **INDEPENDENT CONTRACTOR.** It is expressly understood that Contractor is an independent contractor and that its employees shall not be employees of or have any contractual relationship with the City. Contractor shall be responsible for the payment of all taxes, workers' compensation insurance and unemployment insurance. Should Contractor desire any insurance protection, the Contractor is to acquire same at its expense.

In the event Contractor or any employee, agent, or subcontractor of Contractor providing services under this Agreement is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of the City, Contractor shall indemnify, protect, defend, and hold harmless the City for the payment of any employee and/or employer contributions for PERS benefits on behalf Contractor or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

8. **INDEMNITY.** Contractor shall indemnify, protect, defend, save and hold City, its officers, employees, and agents, harmless from any and all claims or causes of action for death or injury to persons, or damage to property resulting from intentional or negligent acts, errors, or omissions of Contractor or Contractor's officers, employees, volunteers, and agents during performance of this Agreement, or from any violation of any federal, state, or municipal law or ordinance, to the extent caused, in whole or in part, by the willful misconduct, negligent acts, or omissions of Contractor or its employees, subcontractors, or agents, or by the quality or character of Contractor's work, or resulting from the negligence of the City, its officers, employees, volunteers and agents, except for loss caused solely by the gross negligence of the City. It is understood that the duty of Contractor to indemnify and hold harmless includes the duty to defend as set forth in Section 2778 of the California Civil Code. Acceptance by City of insurance certificates and endorsements required under this Agreement does not relieve Contractor from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall survive the termination of this Agreement and shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Contractor acknowledges and agrees to the provisions of this Section and that it is a material element of consideration.

9. **INSURANCE.** During the term of this Agreement, Contractor shall maintain in full force and effect at its own cost and expense, the following insurance coverage:

a. **Workers' Compensation Insurance.** Full workers' compensation insurance shall be provided with a limit of at least One Hundred Thousand Dollars (\$100,000) for any one person and as required by law, including Employer's

Liability limits of \$1,000,000.00 per accident. The policy shall be endorsed to waive the insurer's subrogation rights against the City.

b. General Liability.

- (i) Contractor shall obtain and keep in full force and effect general liability coverage at least as broad as ISO commercial general liability coverage occurrence Form CG 0001.
- (ii) Contractor shall maintain limits of no less than One Million Dollars (\$1,000,000) per occurrence for bodily injury, personal injury and property damage.
- (iii) The City, its officers, employees, volunteers and agents are to be named as additional insureds under the policy, as respects liability arising out of work or operations performed by or on behalf of the Contractor.
- (iv) The policy shall stipulate that this insurance will operate as primary insurance for work performed by Contractor and its sub-contractors, and that any other insurance or self insurance maintained by City or other named insureds shall be excess and non-contributory.
- (v) Contractor shall maintain its commercial general liability coverage for three (3) years after completion of the work and shall add an additional insured endorsement form acceptable to the City naming the City of Merced, its officers, employees, agents and volunteers for each year thereafter for at least three (3) years after completion of the work. Copies of the annual renewal and additional insured endorsement form shall be sent to the City within thirty (30) days of the annual renewal.

c. Automobile Insurance.

- (i) Contractor shall obtain and keep in full force and effect an automobile policy of at least One Million Dollars (\$1,000,000) per accident for bodily injury and property damage.

- (ii) The City, its officers, employees, volunteers and agents are to be named as additional insureds under the policy, as respect to automobiles owned, leased, hired or borrowed by the Contractor.
- (iii) The policy shall stipulate that this insurance will operate as primary insurance for work performed by Contractor and its sub-contractors, and that any other insurance or self insurance maintained by City or other named insureds shall be excess and non-contributory.

d. Professional Liability Insurance. Contractor shall carry professional liability insurance appropriate to Contractor's profession in the minimum amount of One Million Dollars (\$1,000,000).

e. Qualifications of Insurer. The insurance shall be provided by an acceptable insurance provider, as determined by City, which satisfies all of the following minimum requirements:

- (i) An insurance carrier admitted to do business in California and maintaining an agent for service of process within this State; and,
- (ii) An insurance carrier with a current A.M. Best Rating of A:VII or better (except for workers' compensation provided through the California State Compensation Fund).

f. Certificate of Insurance. Contractor shall complete and file with the City prior to engaging in any operation or activity set forth in this Agreement, certificates of insurance evidencing coverage as set forth above and which shall provide that no cancellation or expiration by the insurance company will be made during the term of this Agreement, without thirty (30) days written notice to City prior to the effective date of such cancellation—including cancellation for nonpayment of premium. In addition to any other remedies City may have, City reserves the right to withhold payment if Contractor's insurance policies are not current.

10. **ASSIGNABILITY OF AGREEMENT.** It is understood and agreed that this Agreement contemplates personal performance by the Contractor and is based upon a determination of its unique personal competence and experience and upon its specialized personal knowledge. Assignments of any or all rights, duties or obligations of the Contractor under this Agreement will be permitted only with the express written consent of the City.

11. **CONTRACTOR'S LICENSE.** At all times during the term of this Agreement and any extension thereof, Contractor shall keep and possess a valid State Contractor's License type C-27 Landscaping Contractor as specified for this Agreement in City's Request for Proposals.

12. **TERMINATION FOR CONVENIENCE OF CITY.** The City may terminate this Agreement any time by mailing a thirty (30) day notice in writing to Contractor that the Agreement is terminated. Said Agreement shall then be deemed terminated, and no further work shall be performed by Contractor. If the Agreement is so terminated, the Contractor shall be paid for that percentage of the phase of work actually completed, based on a pro rata portion of the compensation for said phase satisfactorily completed at the time the notice of termination is received.

13. **CONFORMANCE TO APPLICABLE LAWS.** Contractor shall comply with its standard of care regarding all applicable Federal, State, and municipal laws, rules and ordinances. No discrimination shall be made by Contractor in the employment of persons to work under this contract because of race, color, national origin, ancestry, disability, sex or religion of such person.

14. **WAIVER.** In the event that either City or Contractor shall at any time or times waive any breach of this Agreement by the other, such waiver shall not constitute a waiver of any other or succeeding breach of this Agreement, whether of the same or any other covenant, condition or obligation.

15. **VENUE.** This Agreement and all matters relating to it shall be governed by the laws of the State of California and any action brought relating to this Agreement shall be held exclusively in a state court in the County of Merced.

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IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the date first above written.

CITY OF MERCED
A California Charter Municipal
Corporation

BY: _____
City Manager

ATTEST:
STEVE CARRIGAN, CITY CLERK

BY: _____
Assistant/Deputy City Clerk

APPROVED AS TO FORM:

BY:  4-30-19
City Attorney Date

ACCOUNT DATA:

BY: _____
Verified by Finance Officer

{Signatures continued on next page.}

CONTRACTOR:
GREEN HORIZON, INC.,
A California Corporation

BY: _____

(Signature)

Joseph MATTO S

(Typed Name)

Its: _____

(Title)

PRESIDENT

BY: _____

(Signature)

(Typed Name)

Its: _____

(Title)

Taxpayer I.D. No. 20-4013433

ADDRESS: 2930 Geer Rd., Ste 206
Turlock, CA 95382

TELEPHONE: (209) 678-0250

FAX: NONE

E-MAIL: GREENHORIZON@ATT.NET

Landscape Maintenance Services - Mowing and Edging

Scope of Service

- The contractor shall provide Landscape Maintenance-Mowing and edging of approximately 179 acres of parks and street center-medians within the City of Merced. (see attachment)
- The contractor shall be responsible for the satisfactory and complete execution of the work in accordance with the true intent of the specifications. The contractor shall provide, without extra charge, all incidental items required as part of the work even though not particularly specified or indicated.
- The Scope of Service is to be used as a general guide and is not intended to be a complete list of all services necessary to complete the project.
- The contractor shall be liable for all damages done as a result of mower/edger or related operations to fixed objects such as sprinklers, backflows, signs, posts and all vegetation, including turf, trees, shrubs, and desirable natural growth. Damages shall include among others things: skinning, scraping, or gouging of trees or shrubs, and rutting, scalping or tearing of turf.
- The contractor shall furnish all transportation, equipment and necessary supplies including but not restricted to: mowers, edgers, and blowers.
- The contractor shall furnish, operate, and maintain, suitable and adequate equipment necessary to perform all tasks described in scope of service.
- The equipment furnished by the contractor must be in good repair and shall be maintained so as to produce a clean, sharp cut to the grass at all times.

EXHIBIT A

- Equipment which in any way pulls or rips grass or damages the turf shall not be allowed to operate under this contract. All equipment will be of such a type so that the height of cut can be adjusted to a minimum 2" and maximum of 4".
- The contractor shall have enough equipment and personnel to complete each mowing and edging cycle at each site contracted for.
- Mowing cycles shall be completed weekly through the months of March through October, and as necessary when conditions permit in November through February.
- Grass shall not be allowed to reach a height of five (5) inches or more and shall be mowed to the minimum height of two (2) inches. All elements of the lawn maintenance cycle shall be completed the same day they are started.
- No partial mowing will be allowed unless the weather forces a delay. If rain or excessively wet turf conditions exist, contractor shall finish the cycle as soon as favorable conditions exist. Clippings shall be removed if visible after mowing and removed at the contractor's expense.
- No clippings shall be disposed of in or on City property unless a prior agreement has been made. Crews shall not blow debris into street/curb or storm drains. Contractor must follow all current Federal, State and Local Best Management Practices.
- Contractor shall edge along all walks and curb areas every mowing. Edging shall not be wider than ½ inch from edge of sidewalks to lawn surface. All edging debris shall be removed from walkways and curb areas and disposed of at contractor's expense.
- No mowing or edging shall be done on weekends, unless approval is obtained by Contract Administrator.

EXHIBIT A

- The contractor shall perform no additional work/service, unless approved in advance by the Public Works Director or designee stating the dollar value of the services, method of payment, and any adjustment in contract time. Any work done without the permission of the City is a gift from the contractor.
- Contractor must notify City of all irrigation issues within 24 hours, i.e. broken sprinklers, overwatering/flooded areas hindering completion of the mow cycle.
- The work described herein shall have duration of 24 months. A single three-year extension may be made based upon the good performance of the contractor and sufficient funds in City's budget. The completed work will be paid for as service rendered monthly. If service has not been performed in accordance with the agreement liquidated damage will be assessed. Annual CPI increases will be calculated using United States Department of Labor, All Urban Consumer-Western Region.

Landscape Maintenance Services - Ray Flanagan Park - Mowing, Edging, Pruning, and Irrigation Repair

Scope of Service

Pruning-General

All shrubs and trees shall be pruned as required to maintain them in a healthy growing condition. Pruning is to be done in a manner which promotes the plants' natural growth characteristics. Hedging, shearing, or other sever pruning will not be allowed except with prior approval.

Growth shall be kept within reasonable bounds to prevent its encroachment into walks, passageways, and streets.

All dead, dying, or damaged branches shall be removed immediately. All cuts shall be made cleanly with no stubs or projections remaining.

Trees-General

The contractor shall be responsible for all pruning that can be reached with a 12-foot pole-saw by a person standing on the ground. All trees are to be maintained in their natural shape.

Newly planted trees are to be staked, pruned, and shaped to promote their eventual development into strong, healthy representatives of their species. Until young trees are strong enough to stand alone, they shall be flex-tied between two approved 2-inch by 2-inch by 8-foot treated tree stakes. Split plastic hose or black tire casing held in place by 12-gauge wire shall be used to secure the young trees. Tree ties to be inspected often for signs of girdling or abrasion.

The contractor shall bring to the attention of the Director of Public Works or his designee within 24 hours of any tree which shows signs of root heaving, leaning, having hanger limbs, or in some manner constituting a safety hazard.

EXHIBIT A

IRRIGATION-GENERAL

Irrigation shall be done with the use of automatic or manual sprinkler systems where available and operable. Failure of an existing system to provide full and adequate coverage shall not relieve the contractor of the responsibility to provide proper coverage of all areas. Providing any supplementary hoses, sprinklers, nozzles, etc., necessary to accomplish full coverage shall be the contractor's responsibility.

A. Maintenance

The contractor shall maintain all sprinkler systems in such a way as to give proper coverage and full working capacity, making whatever adjustments necessary to prevent excessive run-off time into streets or other areas not intended to be irrigated. Care shall be taken to prevent wasting water, causing soil erosion, or allowing seepage into existing underground improvements or structures.

The contractor shall, at no cost to the City, keep controller or valve boxes free of dirt and debris; repair, replace, clean, adjust, straighten, raise or lower the following sprinkler system components as it relates to maintenance of the landscape areas:

1. sprinkler heads;
2. sprinkler caps;
3. sprinkler head risers;
4. Valve covers;
5. Valve boxes;
6. Valve box lids, including electrical pull boxes and lids;
7. Valve sleeves;
8. Quick coupler valves and caps;
9. Hose bibs.

EXHIBIT A

B. Inspection

The contractor shall, at least once a week, inspect all areas covered by an automatic irrigation system for any malfunction. Approximately thirty (30) days prior to the termination of the contract, a comprehensive test of all irrigation systems shall be made by a Public Works Department representative. Any repairs deemed the contractor's responsibility shall be made by the contractor prior to the end of the contract period.

If repairs made are not to the satisfaction of the Director of Public Works or his designee's satisfaction, deductions shall be made in the final contract payment to cover the cost of eliminating the discrepancies determined by the Director of Public Works Operations or his designee.

C. Repairs

Irrigation systems which are damaged or altered in any way as a result of work performed under this contract shall be repaired or replaced in kind and in an approved manner by the contractor.

Repairs shall be made immediately after damage or alteration occurs, unless otherwise directed. Repairs made as a result of theft, vandalism or an act of God shall be performed by the City.

Winterization – Contractor shall winterize all exposed piping and back flow prevention devices to prevent freeze damage. All damage to back flow devices caused by freezing will be the contractor responsibility to repair or replace.

Repairs not made, or not made to the satisfaction of the Director of Public Works or his designee, the work will be done by others and billed to the contractor.

EXHIBIT B

REQUEST FOR PROPOSAL - LANDSCAPE MAINTENANCE SERVICES MOWING & EDGING

count	PARK NAME:	MOW ACRE:	TOTAL ACRE:	PARK ADDRESS:	Green Horizon
1	Ada Givens Park	4.95	4.99	2904 Green Street	\$5,580.00
2	Albert Lawson Park	3.25	3.25	204 W. 28th Street	\$3,660.00
3	Applegate Park	20.67	32.12	1045 W. 25th Street	\$25,540.00
4	Benjamin Banneker Memorial Park	0.96	0.96	1311 2nd Street	\$2,740.00
5	Black Rascal Creek Bikeway park "R" to Hwy 59	2.89	13.69	Black Rascal Creek	\$4,740.00
6	Black Rascal Creek Bikeway Park G to Cherokee	3.99	7.10	Black Rascal Creek	\$6,540.00
7	Black Rascal Creek Bikeway Park M to R	4.62	7.10	Black Rascal Creek	\$7,580.00
8	Black Rascal Creek Bikeway Park Parsons to McKee	1.28	7.34	Black Rascal Creek	\$2,100.00
9	Bob Carpenter Park	5.53	5.98	1801 Silverado Avenue	\$8,240.00
10	Bob Hart Square	0.18	0.41	500 Block of Main Street	\$1,720.00
11	Bruce Gabriault Park	0.19	0.21	1352 Hansen Ave	\$1,820.00
12	Burbank Park	2.99	3.79	450 E. Olive Avenue	\$3,380.00
13	Carol Gabriault Park	5.00	5.75	1601 Willowbrook Drive	\$5,640.00
14	Charles Richard Drew Park	0.38	0.51	820 "N" Street	\$1,820.00
15	Circle Park	0.23	0.25	499 E. 23rd Street	\$2,200.00
16	Davenport Park	7.06	8.84	1311 Cormorant Drive	\$10,520.00
17	Diego Rivera Park	0.23	0.25	940 "P" Street	\$1,380.00
18	Dwight Amey Park	6.84	8.17	3389 Blix Avenue	\$10,200.00
19	Elmer Murchie Park	3.55	3.55	4495 Bancroft Drive	\$4,018.00
20	Fahrens Park	15.75	47.62	"R" & Buena Vista to end of Frisbee Park	\$19,460.00
21	Fredrick Douglas Park	0.87	0.89	11th & "W" Street	\$2,480.00
22	Gilbert Macias Park	4.91	4.91	229 E. Childs Avenue	\$5,540.00
23	Harriet Tubman Park	0.33	0.44	706 W. 4th Street	\$1,580.00
24	Joe Herb Park	14.59	26.60	2200 Yosemite Parkway	\$18,040.00
25	Lincoln Ave Park Strip	0.70	0.70	3101 Lincoln Avenue	\$2,000.00
26	Love Veasley Family Park	0.15	0.17	452 W. 6th Street	\$1,440.00
27	Macready Park	3.10	3.10	3 Macready Drive	\$3,500.00
28	McCombs Youth Center	0.18	0.95	615 W. 15th Street	\$1,720.00
29	McNamara Park	5.31	8.70	1040 Canal Street	\$7,920.00
30	Merced Dog Park	2.88	9.41	1125 W. Yosemite Avenue	\$4,300.00
31	Neighborhood Park E. 12th	0.34	0.39	67 E. 12th Street	\$1,620.00
32	Neighborhood Park West & U	0.15	0.15	305 "U" Street	\$1,440.00
33	Neighborhood Park W. 11th	0.14	0.17	127 W. 11th Street	\$1,340.00
34	Public Works Corporation Yard	0.77	0.77	1776 Grogan Avenue	\$1,340.00
35	Rahilly Park	13.75	28.02	3400 Parsons Avenue	\$17,000.00
36	Ray Flanagan Park	3.00	3.95	440 Cone Avenue	\$11,620.00
37	Richard Bernasconi Park	2.56	11.15	3791 Jardin Way	\$3,820.00
38	Roland Brooks Park	3.58	4.21	495 S. "G" Street	\$4,040.00
39	Rudolph Joseph Merino Park	7.49	8.69	1275 Pacific Drive	\$11,160.00
40	Sante Fe Strip Park	9.08	9.08	Between "R" & "M" Donna to Yosemite	\$14,880.00
41	Stephen Grey Park	0.70	1.01	1755 W.N. Bear Creek Ave	\$2,000.00
42	Stephen Leonard Park	2.12	2.70	650 "T" Street	\$2,400.00
43	Street Median Park Strip "N" Street	0.50	0.50	"N" Street between 16th and 20th Street	\$1,780.00
44	Street Park Rambler/Pat Nolet Park Island	0.12	0.12	1013 Rambler Road	\$1,140.00
45	Stuart Park/Industrial sign	0.17	0.17	Wardrobe & West Avenue	\$1,620.00
46	William Lloyd Garrison Park	0.86	1.02	76 South "S" Street	\$2,460.00
47	Youth Sports Complex	9.72	12.34	1803 Wardrobe Avenue	\$14,478.00
Total Acres:		178.61	302.19	GRAND TOTAL:	\$271,536.00