



CITY OF CUPERTINO

REQUEST FOR PROPOSAL

FOR

BLACKBERRY FARM GOLF COURSE MAINTENANCE

RFP Issue Date:

August 5, 2022

Submittal Due Date:

September 2, 2022

OFFICE OF THE DIRECTOR OF PARKS AND RECREATION
QUINLAN COMMUNITY CENTER • 10185 N. STELLING ROAD • CUPERTINO, CA 95014-3255
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REQUEST FOR PROPOSAL CITY OF CUPERTINO

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1. INTRODUCTION

The City of Cupertino was incorporated in 1955 and is located in Santa Clara County, approximately 32 miles south of the San Francisco International Airport and directly west of the City of San Jose on the western edge of the Santa Clara Valley. Cupertino strives to be a leader in providing cost effective municipal services to make government work better for residents, guests, vendors, and staff.

The City of Cupertino invites proposals from qualified Contractors that provide regular golf course maintenance.

2. PURPOSE OF THIS REQUEST FOR PROPOSAL

The purpose of this Request for Proposal (RFP) is to facilitate the selection of a qualified Contractor to provide specified maintenance services at the City of Cupertino (City) Blackberry Farm Golf Course. The maintenance services contract will be awarded to the lowest responsive and responsible bidder.

Contractors submitting a response to the RFP are required to state their understanding of the work and experience. Contractors are urged to submit concise proposals, appropriate to the scale of the work and include only items that are relevant to this work.

The City reserves the right to reject any or all responses received as a result of this solicitation; to extend the submission due date for; to modify, amend, reissue or rewrite this document; and to procure any or all services by other means.

The City will not be liable for any costs incurred for the preparation of proposals or for developing and carrying out interviews, if needed. Submission of a proposal indicates acceptance by the Contractor of the conditions contained in this RFP.

3. SCOPE OF SERVICES

The scope of work is provided in Attachment A. The Contractor's proposal shall address how the Contractor will perform and deliver the indicated services. Work tasks shall include, but are not necessarily limited to those items listed in Attachment A.

Supplies and Equipment

The Contractor shall furnish all labor, tools, equipment, and materials, except as otherwise specified, which are required to perform the maintenance assignments outlined in the Scope of Work. A maintenance building is available adjacent to the golf course and will be presented at the walk-through.

The Contractor shall be prepared to provide maintenance of the Blackberry Farm Golf Course with Contractor-supplied equipment. All materials and supplies shall be of commercial quality only and no additional charges shall be made by the Contractor for providing and maintaining materials and equipment consistent with providing the services described in Attachment A.

The Contractor shall comply with all regulations and safety precautions listed on the product and equipment labels.

The Contractor is required to be registered with the California Department of Industrial Relations (DIR) and have a C-27 Landscaping License.

4. PRE-BID WALK-THROUGH

A pre-bid walk-through is scheduled for Tuesday, August 16, at 10 a.m. Participation in this meeting is optional but encouraged. This pre-bid walk-through will meet at the Blackberry Farm Golf Course Pro Shop, located at 22100 Stevens Creek Blvd., Cupertino, CA 95014. Contractor shall sign in at the start of this pre-bid walk to verify attendance.

5. COST PROPOSAL

The Contractor shall submit a cost for services with the submittal of the proposal in a separate attachment using the Pricing Table in Attachment B.

The cost proposal shall include the following:

- Proposal price shall be inclusive of all cost to manage, furnish and install materials, and implement all aspects of the Scope of Work, Attachment A.
- The lump sum price for each item must include all direct, indirect, overhead, and markup. Final fee will be formalized in contract documents as a "not to exceed amount."

Pricing table shall be used when increasing or decreasing services in future Addendums.

The City intends to execute a three-year contract and shall retain the option to extend the term of the contract on a year-to-year basis not exceeding two years from the expiration date of the original term, for a possible total of five years.

Any such renewal after the first three years shall be accomplished by the City providing a written notice of renewal to the Contractor at least 30 days prior to expiration of the term.

Any such renewal shall contain the same provisions as the original contract, including an increase or decrease in compensation paid to the Contractor. Any increase or decrease in the previous contract price shall be based on the annual percentage change in the Consumer Price Index (CPI) as of June in the year the adjustment is being made. The CPI shall be the San Francisco/Oakland Consumer Price Index for all urban wage earners. There will be no CPI adjustment during the first three-year term of the contract.

6. RFP SCHEDULE

Listed below is the RFP schedule. These dates are subject to change.

<u>Approximate Dates</u>	<u>Task</u>
August 5, 2022	Issuance of Request for Proposal
August 16, 2022, at 10:00 a.m.	Pre-Bid Walk-through
August 19, 2022 by 12:00 p.m.	Deadline to submit RFP questions
September 2, 2022 by 2:00 p.m.	Deadline to submit Proposal

7. SUBMITTAL REQUIREMENTS

Pre-bid questions or requests for clarification shall be sent via email to Rachelle Sander at RachelleS@cupertino.org and must be submitted **by 12:00 p.m. on Friday, August 19, 2022**. Email title should include the words "Golf Maintenance RFP." Questions or clarifications not sent to RachelleS@cupertino.org nor by the due date and time, will not receive a response. Any response provided by the City shall be posted at <https://apps.cupertino.org/bidmanagement/index.aspx>.

Proposals are due **by Friday, September 2, 2022, by 2:00 p.m. Late submittals will not be considered.**

Proposals must be in PDF format and are to be uploaded to the City's bid management platform at [http://apps.cupertino.org/bid management/index.aspx](http://apps.cupertino.org/bid%20management/index.aspx). The proposal shall be precise and not include any unnecessary promotional material. The City prefers a quality submittal over quantity. Succinct, responsive proposals are welcomed. Submittals will not be returned.

The proposal shall include the submittal requirement information in addition to the cost proposal to be deemed qualified for selection. If the requested information is not provided, the submittal shall be considered non-responsive.

All submittals shall provide the following information.

A. Cover Letter

An original, signed cover letter that contains the following.

1. Name of the individual, partnership, company, or corporation submitting the proposal.
2. Statement which indicates an understanding of the Scope of Work as presented in this specification and confirmation that all terms and conditions of the RFP are understood and acknowledged by the undersigned.
3. Statement that the Contractor accepts the City's maintenance service contract, including specifically the City's Indemnification requirements and insurance coverage requirements, without modification. Contractors failing to provide this statement may be considered non-responsive and eliminated from further consideration.

B. Work Plan and Approach

Discuss the Contractor organization's understanding of the Scope of Work to be performed. Describe how the method in which the indicated services will be performed and delivered.

C. Qualification and Experience

Contractor shall have prior experience maintaining golf courses. The Contractor shall have at a minimum of five (5) years of experience maintaining golf courses and performed the responsibilities as noted in Attachment A. A description of the Contractor's qualifications, maintenance experience, organization, including the names of principals, number of employees, client base, areas of specialization and expertise, certifications, and any other pertinent information in such a manner that proposal evaluators may reasonably formulate an opinion about the stability and financial strength of the organization. Contractor shall include work experience related to working alongside sensitive habitat and creeks.

D. Key Personnel

Name, position, summary of qualifications and related experience, and proposed responsibilities of key personnel.

E. Cost Proposal

Provide cost proposal as specified in Section 5. Cost proposal shall be delivered in a separate PDF attachment.

F. References

Provide at least three references from other agencies for whom the Contractor has

provided services of equivalent or greater scope as being proposed. Each reference shall include the organization name, phone number and email of the contact person, and the services performed.

8. CONTRACT REQUIREMENTS

The Contractor shall execute a standard City of Cupertino maintenance services contract, defining basic contractual relationships with attachments that specify the scope of services, compensation schedule, and deliverable schedule. A sample City maintenance services contract is attached to this RFP as Attachment B. Please note that insurance requirements are identified in Attachment C. Please also note that this contract is subject to payment of Prevailing Wages pursuant to California Labor Code Section 1720, et seq.

9. ATTACHMENTS

The following attachments are provided with the RFP package:

- Attachment A – Scope of Work and Technical Specifications
- Attachment B – Pricing Table
- Attachment C – Sample of Cupertino Maintenance Services Contract
- Attachment D – Insurance Requirements

END OF REQUEST FOR PROPOSAL

ATTACHMENT A: SCOPE OF WORK AND TECHNICAL SPECIFICATIONS BLACKBERRY FARM GOLF COURSE MAINTENANCE

The following services are to be performed after 5:30 a.m. and before 6:00 p.m. Power equipment of any type (except for electric golf carts) are not allowed before 7:00 a.m. City owned golf carts are not available for Contractor use.

PUTTING GREENS

1.1 Scope

Greens shall be maintained disease and weed free. Complete renovation of any green is not included in this maintenance project.

1.2 Mowing Frequency

Greens to be mowed six times per week, year-round. Contractor shall recycle grass trimmings.

1.3 Height of Cut

The grass on the putting greens is to be 0.135 of an inch.

1.4 Changing Cups

Contractor shall change the cup location on each green daily, year-round. Placement is to be at least eight feet from the edge of the green, on a level surface. When requested, use the 1/3 rule – 1/3 of the pins back, 1/3 pins middle, 1/3 pins up.

1.5 Fertilization

Contractor to collect soil samples six times per year to determine recommended nutrients, rates of application and frequency of application, with the goal of a sustainable fertility program. Use organic fertilizers, for example, Earthworks or approved equivalent. The City shall determine which of the greens are to be tested. Contractor to use Logan Laboratories or City approved equal for soil testing and recommendations. All fertilizer shall be applied in accordance with all applicable laws, codes, specifications and policies, and at a minimum rate that is consistent with healthy turf.

1.6 Aerification/Top Dressing/Verti-Cutting

Contractor is to perform DryJect aerification or equal two times per year in March/April and September/October, and overseed with Pencross bentgrass in September. Perform a Dryject Maximus aerification or equal in July. Verti-cut greens monthly during the growing season.

Top-dress with TD320 from TMT enterprises or City approved equal.

1.7 Pesticide Application

All pesticide application shall be completed by a qualified person in accordance with all applicable laws, codes, specifications, and policies. Greens to be maintained disease and weed free. Apply all chemicals sparingly. Applications shall be as per EPA regulations. Contractor must possess safety data sheets (SDS) for all materials. All posting and re-entry requirements must be followed. Contractor to submit a written report of all pesticide applications every two months. Contractor to be present at the annual pesticide use meeting conducted by the City. A recommendation by a licensed Pest Control Advisor (PCA) that is familiar with the Blackberry Farm Golf Course and with its setting and protected natural resources is required for applications, and a licensed staffer with a current Qualified Applicator License (QAL) or is a Qualified Applicator Certificate holder (QAC) shall be on site and provide oversight during applications is required. All work shall adhere to all laws, regulations, and applicable guidelines for all pesticide applications. Contractor may be required to obtain a Restricted Materials Use Permit and Notice of Intent prior to any applications. Contractor is required to attend the annual pesticide meeting that is coordinated by the City's environmental programs team.

1.8 Protection of Creek

No runoff from fertilizer, pesticide, or chemical applications shall flow into creeks or ponds nor to drainage inlets that discharge to creeks or ponds.

1.9 Interseeding

Contractor shall interseed greens with City approved mix of creeping bentgrass two times per year, in the spring and fall at a rate of 2 lbs. per 1,000 square feet unless otherwise directed.

1.10 Litter Control

Contractor shall assess the area on a regular basis for the removal of all litter (i.e. paper, leaves, cans, bottles, tree branches, etc.).

COLLAR MAINTENANCE

2.1 Mowing Frequency

Collars to be mowed two times per week in the spring, summer, and fall. Collars to be mowed one time per week in the winter.

2.2 Height of Cut

The grass on the collars is to be ½ inch year-round.

2.3 Fertilization

Fertilization of the collars to be applied in the same manner as the greens.

2.4 Weed Control

Weed control of the collars to be applied in the same manner as the greens.

TEE MAINTENANCE

3.1 Mowing Frequency

Tees to be mowed three times per week in the spring, summer, and fall. Tees to be mowed two times per week in the winter.

3.2 Height of Cut

The grass on the tees is to be ½ inch year-round.

3.3 Fertilization

Contractor to collect soil samples six times per year to determine the recommended complete fertilizer to use. Contractor to use Logan Laboratories or City approved equal for soil testing and recommendations. Fertilizer to be applied four times per year in March, May, late August and October. The application rate shall be at the manufacturer's recommended rate. All fertilizer shall be applied in accordance with all applicable laws, codes, specifications, policies, and at minimum rates consistent with healthy turf. Special care shall be taken to prevent fertilizer or fertilizer-containing runoff from getting into creek areas.

3.4 Aerification

Contractor to aerate four times per year in May and October and as needed.

3.5 Overseeding

Contractor to overseed four times per year with perennial rye grass, at eight pounds per 1,000 square feet unless otherwise directed. Contractor to use seeder/slicer (verti-cutting) unit for distribution.

3.6 Tee Markers

Contractor shall move and rotate daily. Keep 10 feet apart and eight feet from back of tee box (except where markers do not allow).

3.7 Permanent Yardage Markers

Contractor to keep markers visible at all times.

3.8 Weed Control

Contractor to apply broadleaf weed control two times per year, in the spring and fall.

Broadleaf weed control shall at a minimum control English daisy, clover, spurge, and chickweed. Contractor to apply one crabgrass control in spring. The appearance of other broad leaf weeds will require the use of appropriate control measures. All weed controls shall be applied in accordance with all applicable laws, codes, specifications, and policies.

3.9 Protection of Creek

No runoff from fertilizer, pesticide, or chemical applications shall flow into creek areas, nor to drain inlets that discharge to creek areas.

3.10 Seed and Topsoil Tees

Contractor to place seeds and sand/organic compost mix on tees daily to repair divots.

3.11 Litter Control

Contractor shall assess the area on a regular basis for the removal of all litter (i.e. paper, leaves, cans, bottles, tree branches, etc.).

FAIRWAY MAINTENANCE

4.1 Mowing Frequency

Two to three times per week in growing season and one to two times per week in winter.

4.2 Height of Cut

Fairway grass shall be kept at ¾ inch year-round.

4.3 Fertilization

Contractor to collect soil samples six times per year to determine the recommended complete fertilizer use. Contractor to use Logan Laboratories or City approved equal for soil testing and recommendations. Fertilizer to be applied four times per year in March, May, late August, and October. The application rate shall be at the manufacturer's recommended rate. All fertilizer shall be applied in accordance with all applicable laws, codes, specifications, policies, and at minimum rates consistent with healthy turf. Special care shall be taken to prevent fertilizer or fertilizer-containing runoff from getting into creek areas.

4.4 Aerification/Verti-Cutting

Contractor to aerate, verti-cut one time per year in April or May.

4.5 Overseeding

Contractor to overseed one time per year with perennial rye grass, at eight pounds per 1,000 square feet unless otherwise directed. Contractor to use seeder/slicer (verti-cutting) unit for distribution. Perform spot overseeding as needed with perennial rye grass.

4.6 Weed Control

Contractor to apply broadleaf weed control two times per year, in the spring and fall. Broadleaf weed control is for, but not limited to, English daisy, clover, spurge, and chickweed. Contractor to apply one crabgrass control in spring. All weed controls shall be applied in accordance with all applicable laws, codes, specifications, and policies.

4.7 Protection of Creek

No runoff from fertilizer, pesticide, or chemical applications shall flow into creek areas, nor to drain inlets that discharge to creek areas.

4.8 Litter Control

Contractor shall assess the area on a regular basis for the removal of all litter (i.e. paper, leaves, cans, bottles, tree branches, etc.).

ROUGH MAINTENANCE

5.1 Mowing Frequency

Rough to be mowed two times per week, year-round.

5.2 Height of Cut

Rough to be kept at a height of 1 to 1 ½ inches, year-round.

5.3 Fertilization

Contractor to collect soil samples six times per year to determine the recommended complete fertilizer use. Contractor to use Logan Laboratories or City approved equal for soil testing and recommendations. Fertilizer to be applied four times per year in March, May, late August, and October. The application rate shall be at the manufacturer's recommended rate. All fertilizer shall be applied in accordance with all applicable laws, codes, specifications, policies, and at minimum rates consistent with healthy turf. Special care shall be taken to prevent fertilizer or fertilizer-containing runoff from getting into creek areas.

5.4 Aerification/Verti-cutting

Contractor to aerate, verti-cut one time per year in April or May.

5.5 Weed Control

Contractor to apply broadleaf weed control two times per year, in the spring and fall. Broadleaf weed control is for, but not limited to, English daisy, clover, spurge, and chickweed. Contractor to apply one crabgrass control in spring. All weed controls shall be applied in accordance with all applicable laws, codes, specifications, and policies.

5.6 Protection of Creek

No runoff from fertilizer, pesticide, or chemical applications shall flow into creek areas, nor to drain inlets that discharge to creek areas.

5.7 Litter Control

Contractor shall assess the area on a regular basis for the removal of all litter (i.e. paper, leaves, cans, bottles, tree branches, etc.).

EQUIPMENT AND EQUIPMENT STORAGE

6.1 Green Equipment

The City encourages the contractor to use environmentally friendly or green equipment and supplies for this contract. Any portable motorized landscape equipment used for maintenance is required to have a noise level reading of 65dBA or less measured at a distance of 50 feet, as certified by the manufacturer, per municipal code 10.48.010.

6.2 Equipment Maintenance

All mowing equipment shall be on a regular preventative maintenance schedule for hydraulic and oil lines to minimize damage to turf and protect the creek and wildlife habitat from leaks. Hydraulic hoses shall be changed off site every six months.

6.3 Greens

Mowing equipment shall be nine or more bladed and a reel-type mower with a frequency of cut at a minimum of .25 at 3.6 mph.

6.4 Tees

Mowing equipment shall be seven or more bladed and a reel-type mower with a frequency of cut at a minimum of .53 at 4.2 mph.

6.5 Fairways

Mowing equipment shall be six or more bladed and a reel-type mower with a frequency of cut at a minimum of .67 at 5 mph.

PARKING LOT AT GOLF COURSE ENTRANCE

7.1 Sweeping

Contractor shall sweep every two weeks. Manually using a blower is acceptable during the hours of 7:00 a.m. to 8:00 p.m. on weekdays and 9:00 a.m. to 6:00 p.m. on weekends, per municipal code 10.48.051.

7.2 Loose Trash and Garbage Cans

Contractor shall pick up trash and check area daily. Contractor shall remove and dispose all trash from the parking lot.

7.3 Broken Glass/Bottles

Contractor shall pick up and dispose of broken glass or similar potentially harmful materials immediately.

MAINTENANCE BUILDING/AREA

8.1 Building

Contractor shall not enter the maintenance building before 5:30 a.m. Contractor shall inspect all equipment for leaks, daily. Contractor shall fix leaks and clean up any spills or leaks immediately. Contractor shall not store any equipment or vehicles in the maintenance building, that are not used for regular course maintenance. No barbecues, washing of personal cars, or fires of any kind are allowed. Smoking is not allowed anywhere on the course, patio area, maintenance building or adjacent parking lot, per municipal code 10.90.020.

8.2 Restrooms at Maintenance Building

Public restrooms exist on the golf-facing side of the golf maintenance building. The public restrooms will be cleaned and maintained by the City or the City's designee.

8.3 Green Waste Dumpster

Contractor shall contact the supervisor when the green waste dumpster is full. City is responsible for emptying dumpster. Contractor is responsible for keeping the area around dumpster, free of garbage and debris. Green waste dumpster is to be used for debris collected as a result of golf course maintenance only.

8.4 Blackberry Farm Park Dumpsters

Contractor may dispose of garbage and recycling collected as a result of golf course maintenance only, in the designated dumpsters at Blackberry Farm Park.

ENTRY AREA AND PRO SHOP GROUNDS

9.1 Flower Beds

Contractor shall replant the two planter boxes located near the pro shop, a minimum of two times per year. Contractor shall weed, mulch, water, and replenish as needed, year-round. The planter box located on the number one tee measures approximately 4.5 feet by 35.5 feet (160 sq. ft.). The planter box located near the entrance gate, measures approximately 8 feet by 34 feet (272 sq. ft.).

9.2 Landscape Shrubbery

Contractor shall trim monthly and as needed.

9.3 Patio and Walkways

Contractor shall sweep daily. Manually using a blower is acceptable during the hours of 7:00 a.m. to 8:00 p.m. on weekdays and 9:00 a.m. to 6:00 p.m. on weekends, per municipal code 10.48.051.

9.4 Trash and Recycling Containers

Contractor shall pick up trash and empty trash cans located on the patio, daily. Contractor shall empty the cardboard recycling containers located next to the pro shop at least one time per week.

9.5 Foot Brushes and Air Hose

Contractor shall clean and check weekly and replace when worn.

9.6 Leaks from Golf Carts

Contractor shall clean immediately.

IRRIGATION

10.1 Maintenance

Contractor shall maintain the irrigation system, including irrigation main and lateral lines, sprinkler heads, valves, and controllers in good operation, functioning properly, and conforming to related laws, codes, and regulations. Leaks in the irrigation system shall be repaired by the Contractor. Contractor shall provide an itemized cost proposal that includes labor rate and materials for the repair of leaks. Any damage to the irrigation system caused by Contractor's equipment or carelessness while carrying out maintenance operations shall be repaired without charge.

10.2 Frequency

Contractor shall irrigate as required to maintain adequate moisture for growth rate and appearance. Contractor is to hand water, as needed, all portions of the course that do not receive adequate water from the irrigation system. Irrigation shall be performed at night or early morning when it does not interfere with golf play. Irrigation controller programs shall be adjusted as required.

10.3 Water Conservation

Irrigation controllers shall be programmed to maintain course appearance and health of vegetation while maximizing water conservation. Contractor may be required to reduce

irrigation on the tees, fairways, and rough while providing the necessary water to keep the greens healthy at all times. Adjustments to the irrigation cycle may also be necessary to meet any drought restrictions imposed by Santa Clara Valley Water District and California State Water Board.

10.4 Monitoring

Contractor shall check the system daily, year-round. Contractor shall make corrections for coverage, clogging of lines, removal of obstacles, tilting of heads, and management of pant materials that obstruct the spray, as they occur.

10.5 Wind Problems

In areas where wind creates problems of spraying on to private property or road rights of way, operation shall occur during a period of lowest wind velocity.

10.6 Testing for Adequate Soil Moisture

Contractor shall determine by visual observation, plant resiliency, turgidity, examining cores removed by soil probe, and moisture sensor devices.

10.7 Water Cost

Water costs shall be paid by the City.

OTHER AREAS

11.1 Benches and Tee signs

Contractor shall immediately remove any damaged bench and notify the City. City is responsible for replacing benches and tee signs.

11.2 Ball Washers

Contractor shall check for water and soap daily. Contractor shall replace tee towels monthly or more often if towel is frayed, discolored, or aesthetically unpleasing. City is responsible for replacing ball washers.

11.3 Trash Cans

Contractor shall empty trash cans located on the course, daily, or more frequently if trash cans are overflowing. City is responsible for the replacement of trash receptacles.

11.4 Debris and Trash

Contractor shall remove immediately and dispose of debris and trash in a safe and legal manner.

11.5 Tee Markers

Contractors shall have two sets on each hole. Missing or broken markers shall be replaced immediately.

11.6 Yard Markers

Contractor shall replace any yard markers as needed.

11.7 Out of Bounds and Hazard Stakes

Contractor shall replace out of bounds or hazard stakes, immediately, if missing or broken.

11.8 Flags, Poles, and Cups

Contractor shall replace flags, poles, and cups including at the nine-hole foot golf course, when they are discolored, frayed, or damaged in any way.

11.9 Sand Traps

Complete renovation of any sand trap is not included in this maintenance project. Contractor shall rake daily. Contractor shall keep sand at a minimum of four inches in depth and keep clear of all weeds. When using a power rake, Contractor shall stay approximately one foot from edge of trap. When hand-raking edge of trap, sand shall be pushed inward on the low side and pulled outward on the high side. Contractor shall edge traps monthly and as needed. Sand shall not be dragged out of the trap when exiting the trap with a power rake.

11.10 Sand Trap Rakes

Contractor shall keep two rakes per sand trap, or more, as needed. Missing or broken rakes shall be replaced immediately.

11.11 Trees

Any tree removal or tree replacement is the responsibility of the City. Contractor shall keep all trees trimmed at least eight feet from the ground to prevent damage to golf cart tops and maintenance equipment, except for trees and shrubs along the creek which shall only be trimmed as acceptable by City staff. Contractor shall maintain trees in a safe, healthy, and aesthetically pleasing condition at all times. Contractor shall mow, weed, and/or mulch tree wells as needed. Contractor shall immediately remove any broken tree limbs. Downed brush shall be removed as soon as possible. All trimmings or debris shall be removed from the course unless they are chipped and used for mulch on site. City shall be responsible for removal of dead or fallen trees unless the dead or fallen tree was a result of the Contractor's negligence.

11.12 Weed Control (Non-Selective)

Contractor shall use mechanical method of trimming or removing undesirable vegetation in tree wells, perimeter and interior fence lines, barriers, railroad ties, delineators, and along edges of golf play areas that are along the creek or associated native planting areas.

11.13 Bridge

Contractor shall inspect the bridge daily for safe conditions and repair the structure immediately when necessary.

11.14 Driving Range

Contractor shall cut grass weekly. Contractor to collect soil samples six times per year to determine the recommended complete fertilizer use. Contractor to use Logan Laboratories or City approved equal for soil testing and recommendations. Fertilizer to be applied four times per year in March, May, late August, and October. The application rate shall be at the manufacturer's recommended rate. All fertilizer shall be applied in accordance with all applicable laws, codes, specifications, policies, and at minimum rates consistent with healthy turf. Special care shall be taken to prevent fertilizer or fertilizer-containing runoff from getting into creek areas.

11.15 Perimeter Fencing

City is responsible for all repairs and replacement of perimeter fencing and safety netting.

11.16 Vandalism and Graffiti

Contractor is responsible for the removal/repair of graffiti and vandalism to Contractor-owned property. City is responsible for the removal/repair of graffiti and vandalism to any City-owned property.

11.17 Wildlife

In accordance with Cupertino Municipal Code 8.01.160, "no person shall use a leg-hold steel jawed trap, steel jawed trap, or steel leg-hold trap, as defined in Fish and Game Code Section 4004, in any urban service area boundary, as defined in Government Code Section 56080."

11.18 USGA Green Section Visit

Contractor shall have a USGA staff agronomist visit the course annually on the following schedule. The first year, the visit shall be in the spring, second year in the summer, third year in the fall. No winter visits. Contractor shall act on all appropriate recommendations that result from these visits.

BLACKBERRY FARM GATE AND RESTROOMS

12.1 Scenic Circle Gate

Contractor shall open the Scenic Circle gate between 6:00 a.m. and 6:30 a.m. on weekends and holidays except for December 25 and January 1. City shall provide Contractor a list of observed holidays by December 1, each year.

12.2 West Side Restrooms

Contractor shall open the restrooms located on the west side of the park between 6:00 a.m. and 6:30 p.m. on the weekends and holidays except for December 25 and January 1. City shall provide Contractor a list of observed holidays by December 1, each year.

ATTACHMENT B: PRICING TABLE

Item	Description	Unit	Estimated Quantity	Unit Price	Total (\$)
1	Provide all services as set forth in Attachment A, Putting Greens, Tasks 1.1 – 1.10 , each month, January 1, 2023 through December 31, 2026	Month	36		
2	Provide all services as set forth in Attachment A, Collar Maintenance, Tasks 2.1 – 2.4 , each month, January 1, 2023 through December 31, 2026	Month	36		
3	Provide all services as set forth in Attachment A, Tee Maintenance, Tasks 3.1 – 3.11 , each month, January 1, 2023 through December 31, 2026	Month	36		
4	Provide all services as set forth in Attachment A, Fairway Maintenance, Tasks 4.1 – 4.8 , each month, January 1, 2023 through December 31, 2026	Month	36		
5	Provide all services as set forth in Attachment A, Rough Maintenance, Tasks 5.1 – 5.7 , each month, January 1, 2023 through December 31, 2026	Month	36		
6	Provide all services as set forth in Attachment A, Equipment and Equipment Storage, Tasks 6.1 – 6.5 , each month, January 1, 2023 through December 31, 2026	Month	36		
7	Provide all services as set forth in Attachment A, Parking Lot at Golf Course Entrance, Tasks 7.1 – 7.3 , each month, January 1, 2023 through December 31, 2026	Month	36		
8	Provide all services as set forth in Attachment A, Maintenance	Month	36		

	Building/Area, Tasks 8.1 – 8.4 , each month, January 1, 2023 through December 31, 2026				
9	Provide all services as set forth in Attachment A, Entry Area and Pro Shop Grounds, Tasks 9.1 – 9.6 , each month, January 1, 2023 through December 31, 2026	Month	36		
10	Provide all services as set forth in Attachment A, Irrigation, Tasks 10.1 – 10.7 , each month, January 1, 2023 through December 31, 2026	Month	36		
11	Other Areas				
11.1	Benches and Tee Signs	Each	1		
11.2	Ball Washers	Month	36		
11.3	Trash Cans	Month	36		
11.4	Debris and Trash	Month	36		
11.5	Tee Markers	Each	1		
11.6	Yard Markers	Each	1		
11.7	Out of Bounds and Hazard Stakes	Each	1		
11.8	Flags, Poles, and Cups	Each	1		
11.9	Sand Traps	Month	36		
11.10	Sand Trap Rakes	Each	1		
11.11	Trees	Month	36		
11.12	Weed Control (Non-Selective)	Month	36		
11.13	Bridge	Month	36		
11.14	Driving Range	Month	36		
11.15	Perimeter Fencing	Each	1		
11.18	USGA Green Section Visit	Year	3		
12	Opening of the Blackberry Farm Scenic Circle gate and one set of restrooms on the west end of the park on weekends and holidays, except December 25 and January 1	Hours	1,089		
	TOTAL COST				



MAINTENANCE SERVICES CONTRACT

1. **PARTIES**

This Agreement is made by and between the City of Cupertino, a municipal corporation (“City”), and _____ (“Contractor”), a

_____ for _____, and is effective on the last date signed below (“Effective Date”).

2. **SERVICES**

Contractor agrees to provide the services and perform the tasks (“Services”) set forth in detail in Scope of Services, attached here and incorporated as **Exhibit A**. Contractor further agrees to carry out its work in compliance with any applicable local, State, or Federal order regarding COVID-19.

3. **TIME OF PERFORMANCE**

3.1 This Agreement begins on the Effective Date and ends on _____ (“Contract Time”), unless terminated earlier as provided herein. Contractor’s Services shall begin on _____ and shall be completed by _____. The City’s appropriate department head or the City Manager may extend the Contract Time through a written amendment to this Agreement, provided such extension does not include additional contract funds. Extensions requiring additional contract funds are subject to the City’s purchasing policy.

3.2 Schedule of Performance. Contractor must deliver the Services in accordance with the Schedule of Performance, attached and incorporated here **Exhibit B**.

3.3 Time is of the essence for the performance of all the Services. Contractor must have sufficient time, resources, and qualified staff to deliver the Services on time.

4. **COMPENSATION**

4.1 Maximum Compensation. City will pay Contractor for satisfactory performance of the Services an amount that will be based on actual costs but that will be capped so as not to exceed \$ _____ (“Contract Price”), based upon the scope of services in **Exhibit A** and the budget and rates included in **Exhibit C**, Compensation attached and incorporated here. The maximum compensation includes all expenses and reimbursements and will remain in place even if Contractor’s actual costs exceed the capped amount. No extra work or payment is permitted without prior written approval of City.

4.2 Invoices and Payments. Monthly invoices must state a description of the deliverable completed and the amount due for the preceding month. Within thirty (30) days of completion of Services, Contractor must submit a requisition for final and complete payment of costs and pending claims for City approval. Failure to timely submit a complete and accurate payment requisition relieves City of any further payment or other obligations under the Agreement.

5. INDEPENDENT CONTRACTOR

5.1 Status. Contractor is an independent contractor and not an employee, partner, or joint venture of City. Contractor is solely responsible for the means and methods of performing the Services and for the persons hired to work under this Agreement. Contractor is not entitled to health benefits, worker's compensation, or other benefits from the City.

5.2 Contractor's Qualifications. Contractor warrants on behalf of itself and its subcontractors that they have the qualifications and skills to perform the Services in a competent and professional manner and according to the highest standards and best practices in the industry.

5.3 Permits and Licenses. Contractor warrants on behalf of itself and its subcontractors that they are properly licensed, registered, and/or certified to perform the Services as required by law and have procured a City Business License, if required by the Cupertino Municipal Code.

5.4 Subcontractors. Only Contractor's employees are authorized to work under this Agreement. Prior written approval from City is required for any subcontractor, and the terms and conditions of this Agreement will apply to any approved subcontractor.

5.5 Tools, Materials, and Equipment. Contractor will supply all tools, materials and equipment required to perform the Services under this Agreement.

5.6 Payment of Benefits and Taxes. Contractor is solely responsible for the payment of employment taxes incurred under this Agreement and any similar federal or state taxes. Contractor and any of its employees, agents, and subcontractors shall not have any claim under this Agreement or otherwise against City for seniority, vacation time, vacation pay, sick leave, personal time off, overtime, health insurance, medical care, hospital care, insurance benefits, social security, disability, unemployment, workers compensation or employee benefits of any kind. Contractor shall be solely liable for and obligated to pay directly all applicable taxes, fees, contributions, or charges applicable to Contractor's business including, but not limited to, federal and state income taxes. City shall have no obligation whatsoever to pay or withhold any taxes or benefits on behalf of Contractor. Should any court, arbitrator, or administrative authority, including but not limited to the California Public Employees Retirement System (PERS), the Internal Revenue Service or the State Employment Development Division, determine that Contractor, or any of its employees, agents, or subcontractors, is an employee for any purpose, then Contractor agrees to a reduction in amounts payable under this Agreement, or to promptly remit to City any payments due by the City as a result of such determination, so that the City's total expenses under this Agreement are not greater than they would have been had the determination not been made.

6. PROPRIETARY/CONFIDENTIAL INFORMATION

In performing this Agreement, Contractor may have access to private or confidential information owned or controlled by the City, which may contain proprietary or confidential details the disclosure of which to third parties may be damaging to City. Contractor shall hold in confidence all City information provided by City to Contractor and use it only to perform this Agreement. Contractor shall exercise the same standard of care to protect City information as a reasonably prudent contractor would use to protect its own proprietary data.

7. OWNERSHIP OF MATERIALS

7.1 Property Rights. Any interest (including copyright interests) of Contractor in any product, memoranda, study, report, map, plan, drawing, specification, data, record, document, or other information or work, in any medium (collectively, “Work Product”), prepared by Contractor in connection with this Agreement will be the exclusive property of the City upon completion of the work to be performed hereunder or upon termination of this Agreement, to the extent requested by City. In any case, no Work Product shall be shown to any third-party without prior written approval of City.

7.2 Copyright. To the extent permitted by Title 17 of the U.S. Code, all Work Product arising out of this Agreement is considered “works for hire” and all copyrights to the Work Product will be the property of City. Alternatively, Contractor assigns to City all Work Product copyrights. Contractor may use copies of the Work Product for promotion only with City’s written approval.

7.3 Patents and Licenses. Contractor must pay royalties or license fees required for authorized use of any third party intellectual property, including but not limited to patented, trademarked, or copyrighted intellectual property if incorporated into the Services or Work Product of this Agreement.

7.4 Re-Use of Work Product. Unless prohibited by law and without waiving any rights, City may use or modify the Work Product of Contractor or its sub-contractors prepared or created under this Agreement, to execute or implement any of the following:

- (a) The original Services for which Contractor was hired;
- (b) Completion of the original Services by others;
- (c) Subsequent additions to the original Services; and/or
- (d) Other City projects.

7.5 Deliverables and Format. Contractor must provide electronic and hard copies of the Work Product, on recycled paper and copied on both sides, except for one single-sided original.

8. RECORDS

Contractor must maintain complete and accurate accounting records relating to its performance in accordance with generally accepted accounting principles. The records must include detailed information of Contractor’s performance, benchmarks and deliverables, which must be available

to City for review and audit. The records and supporting documents must be kept separate from other records and must be maintained for four (4) years from the date of City's final payment.

Contractor acknowledges that certain documents generated or received by Contractor in connection with the performance of this Agreement, including but not limited to correspondence between Contractor and any third party, are public records under the California Public Records Act, California Government Code section 6250 et seq. Contractor shall comply with all laws regarding the retention of public records and shall make such records available to the City upon request by the City, or in such manner as the City reasonably directs that such records be provided.

9. ASSIGNMENT

Contractor shall not assign, sublease, hypothecate, or transfer this Agreement, or any interest therein, directly or indirectly, by operation of law or otherwise, without prior written consent of City. Any attempt to do so will be null and void. Any changes related to the financial control or business nature of Contractor as a legal entity is considered an assignment of the Agreement and subject to City approval, which shall not be unreasonably withheld. Control means fifty percent (50%) or more of the voting power of the business entity.

10. PUBLICITY / SIGNS

Any publicity generated by Contractor for the project under this Agreement, during the term of this Agreement and for one year thereafter, will reference the City's contributions in making the project possible. The words "City of Cupertino" will be displayed in all pieces of publicity, including flyers, press releases, posters, brochures, public service announcements, interviews and newspaper articles. No signs may be posted, exhibited or displayed on or about City property, except signage required by law or this Contract, without prior written approval from the City.

11. INDEMNIFICATION

11.1 To the fullest extent allowed by law, and except for losses caused by the sole and active negligence or willful misconduct of City personnel, Contractor shall indemnify, defend and hold harmless City, its City Council, boards and commissions, officers, officials, employees, agents, servants, volunteers, and consultants ("Indemnitees"), through legal counsel acceptable to City, from and against any and all liability, damages, claims, actions, causes of action, demands, charges, losses, costs, and expenses (including attorney fees, legal costs, and expenses related to litigation and dispute resolution proceedings) of every nature, arising directly or indirectly from this Agreement or in any manner relating to any of the following:

- (a) Breach of contract, obligations, representations, or warranties;
- (b) Negligent or willful acts or omissions committed during performance of the Services;
- (c) Personal injury, property damage, or economic loss resulting from the work or performance of Contractor or its subcontractors or sub-subcontractors;
- (d) Unauthorized use or disclosure of City's confidential and proprietary Information;
- (e) Claim of infringement or violation of a U.S. patent or copyright, trade secret, trademark, or service mark or other proprietary or intellectual property rights of any third party.

11.2 Contractor must pay the costs City incurs in enforcing this provision. Contractor must accept a tender of defense upon receiving notice from City of a third-party claim. At City's request, Contractor will assist City in the defense of a claim, dispute, or lawsuit arising out of this Agreement.

11.3 Contractor's duties under this section are not limited to the Contract Price, workers' compensation payments, or the insurance or bond amounts required in the Agreement. Nothing in the Agreement shall be construed to give rise to an implied right of indemnity in favor of Contractor against City or any Indemnitee.

11.4. Contractor's payments may be deducted or offset to cover any money the City lost due to a claim or counterclaim arising out of this Agreement, a purchase order, or other transaction.

11.5. Contractor agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this Section 11 from each and every subcontractor, or any other person or entity involved by, for, with, or on behalf of Contractor in the performance of this Agreement. Failure of City to monitor compliance with these requirements imposes no additional obligations on City and will in no way act as a waiver of any rights hereunder.

11.6. This Section 11 shall survive termination of the Agreement.

12. INSURANCE

Contractor shall comply with the Insurance Requirements, attached and incorporated here as **Exhibit D**, and must maintain the insurance for the duration of the Agreement, or longer as required by City. City will not execute the Agreement until City approves receipt of satisfactory certificates of insurance and endorsements evidencing the type, amount, class of operations covered, and the effective and expiration dates of coverage. Failure to comply with this provision may result in City, at its sole discretion and without notice, purchasing insurance for Contractor and deducting the costs from Contractor's compensation or terminating the Agreement.

13. COMPLIANCE WITH LAWS

13.1 General Laws. Contractor shall comply with all local, state, and federal laws and regulations applicable to this Agreement. Contractor will promptly notify City of changes in the law or other conditions that may affect the Project or Contractor's ability to perform. Contractor is responsible for verifying the employment authorization of employees performing the Services, as required by the Immigration Reform and Control Act.

13.2 Labor Laws. Contractor shall comply with all labor laws applicable to this Agreement. If the Scope of Services includes a "public works" component, Contractor is required to comply with prevailing wage laws under Labor Code Section 1720 and other labor laws.

13.3 Discrimination Laws. Contractor shall not discriminate on the basis of race, religious creed, color, ancestry, national origin, ethnicity, handicap, disability, marital status, pregnancy, age, sex, gender, sexual orientation, gender identity, Acquired-Immune Deficiency Syndrome (AIDS), or any other protected classification. Contractor shall comply with all anti-discrimination

laws, including Government Code Sections 12900 and 11135, and Labor Code Sections 1735, 1777, and 3077.5. Consistent with City policy prohibiting harassment and discrimination, Contractor understands that harassment and discrimination directed toward a job applicant, an employee, a City employee, or any other person, by Contractor or its employees or sub-contractors will not be tolerated. Contractor agrees to provide records and documentation to the City on request necessary to monitor compliance with this provision.

13.4 Conflicts of Interest. Contractor shall comply with all conflict of interest laws applicable to this Agreement and must avoid any conflict of interest. Contractor warrants that no public official, employee, or member of a City board or commission who might have been involved in the making of this Agreement, has or will receive a direct or indirect financial interest in this Agreement, in violation of California Government Code Section 1090 et seq. Contractor may be required to file a conflict of interest form if Contractor makes certain governmental decisions or serves in a staff capacity, as defined in Section 18700 of Title 2 of the California Code of Regulations. Contractor agrees to abide by the City's rules governing gifts to public officials and employees.

13.5 Remedies. Any violation of Section 13 constitutes a material breach and may result in City suspending payments, requiring reimbursements or terminating this Agreement. City reserves all other rights and remedies available under the law and this Agreement, including the right to seek indemnification under Section 11 of this Agreement.

14. PROJECT COORDINATION

City Project Manager. The City assigns _____ as the City's representative for all purposes under this Agreement, with authority to oversee the progress and performance of the Scope of Services. City reserves the right to substitute another Project manager at any time, and without prior notice to Contractor.

Contractor Project Manager. Subject to City approval, Contractor assigns _____ as its single Representative for all purposes under this Agreement, with authority to oversee the progress and performance of the Scope of Services. Contractor's Project manager is responsible for coordinating and scheduling the Services in accordance with the Scope of Services and the Schedule of Performance. Contractor must regularly update the City's Project Manager about the progress with the work or any delays, as required under the Scope of Services. City written approval is required prior to substituting a new Representative.

15. ABANDONMENT OF PROJECT

City may abandon or postpone the Project or parts therefor at any time. Contractor will be compensated for satisfactory Services performed through the date of abandonment, and will be given reasonable time to assemble the work and close out the Services. With City's pre-approval in writing, the time spent in closing out the Services will be compensated up to a maximum of ten percent (10%) of the total time expended to date in the performance of the Services.

16. TERMINATION

City may terminate this Agreement for cause or without cause at any time. Contractor will be paid for satisfactory Services rendered through the date of termination, but final payment will not be made until Contractor closes out the Services and delivers the Work Product.

17. GOVERNING LAW, VENUE, AND DISPUTE RESOLUTION

This Agreement is governed by the laws of the State of California. Any lawsuits filed related to this Agreement must be filed with the Superior Court for the County of Santa Clara, State of California. Contractor must comply with the claims filing requirements under the Government Code prior to filing a civil action in court. If a dispute arises, Contractor must continue to provide the Services pending resolution of the dispute. If the Parties elect arbitration, the arbitrator's award must be supported by law and substantial evidence and include detailed written findings of law and fact.

18. ATTORNEY FEES

If City initiates legal action, files a complaint or cross-complaint, or pursues arbitration, appeal, or other proceedings to enforce its rights or a judgment in connection with this Agreement, the prevailing party will be entitled to reasonable attorney fees and costs.

19. THIRD PARTY BENEFICIARIES

There are no intended third party beneficiaries of this Agreement.

20. WAIVER

Neither acceptance of the Services nor payment thereof shall constitute a waiver of any contract provision. City's waiver of a breach shall not constitute waiver of another provision or breach.

21. ENTIRE AGREEMENT

This Agreement represents the full and complete understanding of every kind or nature between the Parties, and supersedes any other agreement(s) and understanding(s), either oral or written, between the Parties. Any modification of this Agreement will be effective only if in writing and signed by each Party's authorized representative. No verbal agreement or implied covenant will be valid to amend or abridge this Agreement. If there is any inconsistency between any term, clause, or provision of the main Agreement and any term, clause, or provision of the attachments or exhibits thereto, the terms of the main Agreement shall prevail and be controlling.

22. INSERTED PROVISIONS

Each provision and clause required by law for this Agreement is deemed to be included and will be inferred herein. Either party may request an amendment to cure mistaken insertions or omissions of required provisions. The Parties will collaborate to implement this Section, as appropriate.

23. HEADINGS

The headings in this Agreement are for convenience only, are not a part of the Agreement and in no way affect, limit, or amplify the terms or provisions of this Agreement.

24. SEVERABILITY/PARTIAL INVALIDITY

If any term or provision of this Agreement, or their application to a particular situation, is found by the court to be void, invalid, illegal, or unenforceable, such term or provision shall remain in force and effect to the extent allowed by such ruling. All other terms and provisions of this Agreement or their application to specific situations shall remain in full force and effect. The Parties agree to work in good faith to amend this Agreement to carry out its intent.

25. SURVIVAL

All provisions which by their nature must continue after the Agreement expires or is terminated, including the Indemnification, Ownership of Materials/Work Product, Records, Governing Law, and Attorney Fees, shall survive the Agreement and remain in full force and effect.

26. NOTICES

All notices, requests and approvals must be sent in writing to the persons below, which will be considered effective on the date of personal delivery or the date confirmed by a reputable overnight delivery service, on the fifth calendar day after deposit in the United States Mail, postage prepaid, registered or certified, or the next business day following electronic submission:

To City of Cupertino	To Contractor:
Attention:	Attention:
Email:	Email:

27. EXECUTION

The person executing this Agreement on behalf of Contractor represents and warrants that Contractor has full right, power, and authority to enter into and carry out all actions contemplated by this Agreement and that he or she is authorized to execute this Agreement, which constitutes a legally binding obligation of Contractor. This Agreement may be executed in counterparts, each one of which is deemed an original and all of which, taken together, constitute a single binding instrument.

IN WITNESS WHEREOF, the parties have caused the Agreement to be executed.

CITY OF CUPERTINO
A Municipal Corporation

CONTRACTOR

By _____

By _____

Name _____

Name _____

Title _____

Title _____

Date _____

Date _____

APPROVED AS TO FORM:

CHRISTOPHER D. JENSEN
Cupertino City Attorney

ATTEST:

KIRSTEN SQUARCIA
City Clerk

DATE: _____

EXHIBIT C
Insurance Requirements
Professional/Specialized Services Agreement

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

MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. ***Commercial General Liability*** (CGL): Insurance Services Office (“ISO”) Form CG 00 01 covering CGL on an “occurrence” basis, including products and completed operations, contractual liability, property damage, bodily injury, and personal and advertising injury with limits no less than **\$2,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this Project (ISO CG 25 03 or 25 04) or it shall be twice the required occurrence limit.
 - a. It shall be a requirement under this agreement that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits shall be made available to the Additional Insured and shall be (1) the minimum coverage/limits specified in this agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policy, whichever is greater.
 - b. Additional Insured coverage under Contractor's policy shall be "primary and non-contributory," will not seek contribution from City's insurance/self-insurance, and shall be at least as broad as ISO CG 20 10 04 13
 - c. The limits of insurance required may be satisfied by a combination of primary and umbrella or excess insurance, provided each policy complies with the requirements set forth in this Contract. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary basis for the benefit of City before the City's own insurance or self-insurance shall be called upon to protect City as a named insured.
2. ***Automobile Liability***: ISO Form Number CA 00 01 covering any auto (Code 1), or, if Contractor has no owned autos, then hired autos (Code 8) and non-owned autos (Code 9), with limits no less than **\$1,000,000** per accident for bodily injury and property damage.
3. ***Workers' Compensation***: As required by the State of California, with Statutory Limits, and Employer's Liability Insurance of no less than **\$1,000,000** per occurrence for bodily injury or disease. *(Not required if Contractor provides written verification it has no employees).*
4. ***Professional Liability***. Insurance which includes coverage for professional acts, errors and omissions, with limits no less than **\$2,000,000** per occurrence or claim, \$2,000,000 aggregate *(if applicable)*.

If Contractor maintains broader coverage and/or higher limits than the minimums shown above, City requires and shall be entitled to the broader coverage and higher insurance limits maintained by Contractor.

OTHER INSURANCE PROVISIONS

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

Additional Insured Status

The City of Cupertino, its City Council, officers, officials, employees, agents, servants and volunteers are to be covered as additional insureds on the CGL and automobile liability policies with respect to liability arising out of the Services performed by or on behalf of Contractor including materials, parts, or equipment furnished. Endorsement of CGL coverage shall be at least as broad as ISO Form CG 20 10 11 85 or if not

available, through the addition of **both** CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 if a later edition is used.

Primary Coverage

For any claims related to this Contract, the Contractor's insurance coverage shall be primary coverage at least as broad as ISO CG 20 01 04 13 as respects the City, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of Contractor's insurance and shall not contribute to it.

Notice of Cancellation

Each insurance policy shall state that coverage shall not be canceled or allowed to expire, except with written notice to City 30 days in advance or 10 days in advance if due to non-payment of premiums.

Waiver of Subrogation

Contractor grants to City a waiver of any right to subrogation which any insurer of said Contractor may acquire against City by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.

Self-Insured Retentions

City may approve self-insured retentions and require proof of Contractor's ability to pay losses and related investigations, claim administration and defense expenses within the retention. The policy shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or City.

Acceptability of Insurers

Insurers must be acceptable to City and licensed to do business in California, and each insurer must have an A.M. Best's financial strength rating of "A" or better and a financial size rating of "VII" or better.

Claims Made Policies (applicable only to professional liability)

If any of the required policies provide coverage on a claims-made basis:

1. The Retroactive Date must be shown and must be before the Effective Date of the Contract.
2. Insurance must be maintained for at least five (5) years after completion of the Services.
3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the Contract Effective Date, the Contractor must purchase "extended reporting" coverage for a minimum of five (5) years after completion of the Services.

Verification of Coverage

Contractor shall furnish the City with acceptable original certificates and mandatory endorsements (or copies of the policies effecting the coverage required by this Contract), and a copy of the Declarations and Endorsement Page of the CGL policy listing all policy endorsements to City prior to commencing the Services. City retains the right to demand verification of compliance at any time during the Contract.

Subcontractors

Contractor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that City is an additional insured on insurance required from subcontractors.

Insurance coverage shall not limit Contractor's duties to indemnify, defend and hold City harmless. City reserves the right to modify these requirements based on the nature of the risk, prior experience, insurer, coverage or other special circumstances.