



ON-CALL PUBLIC WORKS CONTRACT WITH West Coast Arborists, Inc.

1. **PARTIES**

This On-Call Public Works Contract ("Contract") is made by and between the City of Cupertino, a municipal corporation ("City"), and West Coast Arborists, Inc. ("Contractor") a Corporation for On-Call Tree Maintenance Services, and is effective on the last date signed below ("Effective Date").

2. **SCOPE OF WORK**

2.1 Scope of Work. Contractor will perform and provide all labor, materials, equipment, supplies, transportation and any other items or work necessary to perform and complete the work described in the Scope of Work ("Work"), attached and incorporated here as **Exhibit A**, on an as-needed basis. The Work must comply with this Contract and with each Service Order issued by the City's Project Manager or his/her designee, in accordance with the following procedures, unless otherwise specified in **Exhibit A**. Contractor further agrees to carry out its work in compliance with any applicable local, State, or Federal order regarding COVID-19.

2.2 Service Orders. Before issuing a Service Order, the City Project Manager will request that Work be done in writing and hold a meeting with Contractor to discuss the Service Order. Contractor will submit a written proposal that includes a specific Scope of Work, Schedule of Performance, and Compensation, which the Parties will discuss. Thereafter, City will execute a Service Order Form for the Work, attached and incorporated here as **Exhibit B**. The Service Order will specify the Scope of Work, Schedule of Performance, Compensation, and any other conditions applicable to the Service Order. Issuance of a Purchase Order is discretionary. The City Project Manager is authorized to streamline these procedures based on the City's best interests. In particular, in emergency situations, the City Project Manager may execute a Service Order for emergency work based on oral conversations with the Contractor, without adhering to the full process outlined in this section. Contractor will not be compensated for Work performed without a duly authorized and executed Service Order.

3. **TIME OF PERFORMANCE**

3.1 Term. This Contract begins on the Effective Date and ends on March 31, 2026 ("Contract Time"), unless terminated earlier as provided herein. The City's appropriate department head or City Manager may extend the Contract Time through a written amendment to this Contract, 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 complete the Work within the time specified in each Service Order, and under no circumstances should the Work go beyond the Contract Time.

3.3 Time is of the essence for the performance of all the Work required in this Contract and in

each Service Order. Contractor must have sufficient time, resources, and qualified staff to deliver the Work on time. Contractor must respond promptly to each Service Order request.

4. COMPENSATION

4.1 Maximum Compensation. City will pay Contractor for satisfactory performance of the Work based upon actual costs and capped so as not to exceed \$200,000.00 ("Contract Price"), based upon the Scope of Work in **Exhibit A** and the budget and rates included. The maximum compensation includes all expenses and reimbursements and will remain in place even if Contractor's actual costs exceed the capped amount.

4.2 Per Service Order. Compensation for Work provided under a Service Order will be based on the rates set forth in the Service Order, which shall not exceed the capped amount specified in the Service Order.

4.3 Invoices and Payments. Contractor must submit an invoice on the first day of each month, describing the Work performed during the preceding month, itemizing labor, materials, equipment, and any incidental costs incurred. Contractor will be paid ninety-five percent (95%) of the undisputed amounts billed within thirty (30) days after City receives a properly submitted invoice. Any retained amounts will be included with Contractor's final payment within sixty (60) days of City's acceptance of the Work pursuant to a specific Service Order as complete.

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 Work and for the persons hired to work under this Contract. 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 Work 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 Work as required by law and have procured a City Business License, if required by the Cupertino Municipal Code. Contractor shall possess a California Contractor's License in good standing for the following classification(s): , which must remain valid for the entire Contract Time.

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

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

5.6 Payment of Benefits and Taxes. Contractor is solely responsible for the payment of employment taxes incurred under this Contract and any similar federal or state taxes. Contractor and any of its employees, agents, and subcontractors shall not have any claim under this Contract

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 Contract, 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 Contract are not greater than they would have been had the determination not been made.

6. CHANGE ORDERS

Amendments and change orders must be in writing and signed by City and Contractor. Contractor's request for a change order must specify the proposed changes in the Work, Contract Price, and Contract Time. Each request must include all the supporting documentation, including but not limited to plans/drawings, detailed cost estimates, and impacts on schedule and completion date.

7. ASSIGNMENTS; SUCCESSORS

Contractor shall not assign, hypothecate, or transfer this Contract 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 Contract 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. This Contract is binding on Contractor, its heirs, successors, and permitted assigns.

8. PUBLICITY / SIGNS

Any publicity generated by Contractor for the Project during the Contract Time, and for one (1) year thereafter must credit City contributions to the Project. The words "City of Cupertino" must be displayed in all pieces of publicity, flyers, press releases, posters, brochures, interviews, public service announcements, and newspaper articles. No signs may be posted or displayed on or about City property, except signage required by law or this Contract, without prior written approval from the City.

9. SUBCONTRACTORS

9.1 Contractor must perform all the Work with its own forces, except that Contractor may hire qualified subcontractors to perform up to % of the Work under any give Service Order, provided that each subcontractor is required by contract to be bound by the provisions of this Contract and any applicable Service Order. Contractor must provide City with written proof of compliance with this provision upon request.

9.2 City may reject any subcontractor of any tier and bar a subcontractor from performing Work on the Project, if City in its sole discretion determines that subcontractor's Work falls short of the requirements of this Contract or constitutes grounds for rejection under the Public Contract Code. If City rejects a subcontractor, Contractor at its own expense must perform the subcontractor's Work or hire a new subcontractor that is acceptable to City. A Notice of Completion must be recorded within fifteen (15) days after City accepts the Work under a particular Service Order if the Work involves work by subcontractors.

10. RECORDS AND DAILY REPORTS

10.1 Contractor must maintain daily reports of the Work and submit them to City upon request and at completion of Work pursuant to a Service Order. The reports must describe the Work and specific tasks performed, the number of workers, the hours, the equipment, the weather conditions, and any circumstances affecting performance. City will have ownership of the reports, but Contractor will be permitted to retain copies.

10.2 If applicable, Contractor must keep a separate set of as-built drawings showing changes and updates to the Scope of Work or the original drawings as changes occur. Actual locations to scale must be identified for all major components of the Work, including mechanical, electrical and plumbing work; HVAC systems; utilities and utility connections; and any other components City determines should be included in the final drawings of the Project. Deviations from the original drawings must be shown in detail, and the location of all main runs, piping, conduit, ductwork, and drain lines must be shown by dimension and elevation.

10.3 Contractor must maintain complete and accurate accounting records of its Work, in accordance with generally accepted accounting principles, which must be available for City review and audit, kept separate from other records, and maintained for four (4) years from the date of City's final payment.

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 Contractors ("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 Contract or in any manner relating to any of the following:

- (a) Breach of contract, obligations, representations or warranties;
- (b) Performance or nonperformance of the Work or of any obligations under the Contract by Contractor, its employees, agents, servants, or subcontractors;
- (c) Payment or nonpayment by Contractor or its subcontractors or sub-subcontractors for Work performed on or off the Project Site; and
- (d) Personal injury, property damage, or economic loss resulting from the work or performance of Contractor or its subcontractors or sub-subcontractors.

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, in accordance with California Public Contract Code Section 9201. At City's request, Contractor will assist City in the defense of a claim, dispute, or lawsuit arising out of this Contract.

11.3 Contractor's duties under this entire Section 11 are not limited to Contract Price, Workers' Compensation, or other employee benefits, or the insurance and bond coverage required in this Contract. Nothing in the Contract shall be construed to give rise to any implied right of indemnity in favor of Contractor against City or any other 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 Contract, 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 Contract. 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 Contract.

12. INSURANCE

Contractor shall comply with the Insurance Requirements, attached and incorporated here as **Exhibit C**, and must maintain the insurance for the Contract Time, or longer as required by City. City will not execute the Contract 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 Contract.

13. COMPLIANCE WITH LAWS

13.1 General Laws. Contractor shall comply with all local, state, and federal laws and regulations applicable to this Contract. 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 Work, as required by the Immigration Reform and Control Act.

13.2 Labor Laws.

a. The following provisions apply to any Service Order of \$1,000 or more:

- i. **In General.** For purposes of California labor law, this is a public works contract subject to the provisions of Part 7 of Division 2 of the California Labor Code (Sections 1720 et seq.). In accordance with Labor Code Section 1771, Contractor and all subcontractors shall pay not less than current prevailing wage rates as determined by the

California Department of Industrial Relations ("DIR") to all workers employed on this project. In accordance with Labor Code Section 1815, Contractor and all subcontractors shall pay all workers employed on this project 1 ½ the basic rate of pay for work performed in excess specified hour limitations. The work performed pursuant to this Contract is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

- ii. **Registration.** Contractor and all subcontractors shall not engage in the performance of any work under this Contract unless currently registered and qualified to perform public work pursuant to section 1725.5 of the California Labor Code. Contractor represents and warrants that it is registered and qualified to perform public work pursuant to section 1725.5 of the Labor Code and will provide its DIR registration number, along with the registration numbers of any subcontractors as required, to the City.
- iii. **Posting.** Contractor shall post at the job site the determination of the DIR director of the prevailing rate of per diem wages together with all job notices that are required by regulations of the DIR.
- iv. **Reporting.** Contractor and any subcontractors shall keep accurate payroll records in accordance with Section 1776 of the Labor Code and shall furnish the payroll records directly to the Labor Commissioner in accordance with the law.
- v. **Report on Prevailing Rate of Wages.** The City has obtained the general prevailing rate of per diem wages in the vicinity of the project for each type of worker needed, a copy of which is on file at the City of Cupertino City Hall, and shall be made available to any interested party upon request.
- vi. **Employment of Apprentices.** Contractor's attention is directed to the provisions in Sections 1777.5 and 1777.6 of the Labor Code concerning the employment of apprentices by the Contractor or any subcontractor. It shall be the responsibility of the Contractor to effectuate compliance on the part of itself and any subcontractors with the requirements of said sections in the employment of apprentices. Information relative to apprenticeship standards, wage schedules, and other requirements may be obtained from the Director of Industrial Relations, ex-officio the Administrator of Apprenticeship, San Francisco, California, or from the Division of Apprenticeship Standards and its branch offices.
- vii. **Penalties.** Contractor's attention is directed to provisions in Labor Code Sections 1775 and 1813. In accordance with Labor Code Section 1775, Contractor and subcontractors may be subject to penalties for Contractor's and subcontractors' failure to pay prevailing wage rates. In accordance with Labor Code Section 1813, Contractor or subcontractors may be subject to penalties for Contractor's or subcontractors' failure to pay overtime pay rates for hours worked by workers employed on this project in excess specified hour limitations.

b. Contractor must compensate workers who are paid less than prevailing wages or required to work more than a legal day's work. Contractor will also be required to pay City a penalty of \$ per worker for each day of violation.

c. As required by Labor Code Section 1861, by signing this Contract Contractor certifies as follows: "I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the work of this contract."

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 Contractor's employees or subcontractors 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, its employees, subcontractors, servants, and agents, may not have, maintain, or acquire a conflict of interest in relation to this Contract in violation of law, including Government Code section 1090 and Government Code section 81000 and their accompanying regulations. No officer, official, employee, consultant, or other agent of the City ("City Representative") may have, maintain, or acquire a "financial interest" in the Contract, as that term is defined by state law, or in violation of a City ordinance or policy while serving as a City Representative or for one year thereafter. Contractor, its employees, subcontractors, servants, and agents warrant they are not employees of City nor do they have any relationship with City officials, officers, or employees that creates a conflict of interest. Contractor may be required to file a conflict of interest form if it 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 City rules governing gifts to public officials and employees.

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

14. BONDS

For any Service Order of \$25,000 or more, Contractor must obtain a payment bond and a performance bond, each in the penal sum of 100% of the compensation pursuant to the Service Order, using the Bond Forms attached and incorporated here as **Exhibit D**. Each bond must be issued by a surety admitted in California, with a financial rating from A.M. Best Company of Class A- or higher, or as otherwise acceptable to City. If an issuing surety cancels a bond or becomes insolvent, Contractor must provide a substitute bond from a surety acceptable to City within seven (7) calendar days after written notice from City. If Contractor fails to do so, City may in its sole discretion and without prior notice, purchase bonds at Contractor's expense, deduct the cost from payments due Contractor, or terminate the Service Order or Contract. City will not authorize work under a Service Order until the required bonds are submitted.

15. UTILITIES, TRENCHING, AND EXCAVATION

15.1 Contractor must call the Underground Service Alert ("USA") 811 hotline and request marking of utility locations before digging or commencing Work. For underground service alerts

for street lighting and traffic signal conduits, City's Service Center must be called at (408) 777-3269. Government Code Section 4215 requires Contractor to notify City and Utility in writing if it discovers utilities or utility facilities not identified in the Contract.

15.2 Pursuant to Government Code Section 7104, Contractor must stop work, notify City in writing, and wait for instructions if one of the conditions below is found at the worksite. City will work with Contractor to amend the Contract or issue a change order if the discovered conditions materially change the Work/Performance, Contract Time or Contract Price.

- (a) Material believed to be hazardous waste under Health and Safety Code Section 25117, and which requires removal to a Class I, Class II, or Class III disposal site pursuant to law;
- (b) Subsurface or latent physical conditions at the Project worksite differing from those indicated by information about the worksite made available to Contractor; and
- (c) Unknown physical conditions at the Project worksite of any unusual nature, materially different from those ordinarily encountered and from those generally recognized as inherent in the character of the Work.

15.3 For Service Orders where compensation is \$25,000 or higher that require excavation or involve trenches five feet or more in depth, Contractor must submit a detailed plan for City approval, per Labor Code Section 6705, prior to commencing work. The plan must show the design of shoring, bracing, sloping, and other provisions for worker protection from caving ground and other hazards. The protective system must comply with all Construction Safety Orders. If the plan varies from shoring system standards, it must be prepared by a registered civil or structural engineer.

16. URBAN RUNOFF MANAGEMENT

16.1 All Work must fully comply with federal, state, and local laws and regulations concerning storm water management. Contractor must avoid creating excess dust when breaking asphalt or concrete and during excavation and grading. If water is used for dust control, Contractor will use only the amount of water necessary to dampen the dust. Contractor will take all steps necessary to keep wash water out of the streets, gutters, and storm drains. Prior to the start of the Work, Contractor will implement erosion and sediment controls to prevent pollution of storm drains, and must upgrade and maintain these controls based on weather conditions or as otherwise required by City. These controls must be in place during the entire Contract Time and must be removed at the end of construction and completion of the Work. Such controls must include, but will not be limited to, the following requirements:

- (a) Install storm drain inlet protection devices such as sand bag barriers, filter fabric fences, and block and gravel filters at all drain inlets impacted by construction. During the annual rainy season, October 15 through June 15, storm drain inlets impacted by construction work must be filter-protected from onsite de-watering activities and saw-cutting activities. Shovel or vacuum saw-cut slurry and remove from the Work site;
- (b) Cover exposed piles of soil or construction material with plastic sheeting. Store all construction materials in containers;
- (c) Sweep and remove all materials from paved surfaces that drain to streets, gutters and storm drains prior to rain and at the end of each work day. When the Work is completed, wash the streets, collect and dispose of the wash water offsite in lawful manner;

- (d) After breaking old pavement, remove debris to avoid contact with rainfall/runoff;
- (e) Maintain a clean work area by removing trash, litter, and debris at the end of each work day and when Work is completed. Clean up any leaks, drips, and other spills as they occur.

These requirements must be used in conjunction with the California Stormwater Quality Association and California Best Management Practices Municipal and Construction Handbooks, local program guidance materials from municipalities, and any other applicable documents on stormwater quality controls for construction. Contractor's failure to comply with this Section will result in the issuance of noncompliance notices, citations, Work stop orders and regulatory fines.

17. PROJECT COORDINATION

City Project Manager. The City assigns Jimmy Tan as the City's representative for all purposes under this Contract, with authority to oversee the progress and performance of the Scope of Work. 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 Juan Ortiz as its single Representative for all purposes under this Contract, with authority to oversee the progress and performance of the Work. Contractor's Project manager is responsible for coordinating and scheduling the Work in accordance with City instructions, service orders, and the Schedule of Performance. Contractor must regularly update the City's project manager about the status, progress and any delays with the work. City's written approval is required prior to Contractor substituting a new Representative which shall result in no additional costs to City.

18. ABANDONMENT AND TERMINATION

18.1 City may abandon or postpone the Work or parts thereof at any time. Contractor will be compensated for satisfactory Work performed through the date of abandonment and will be given reasonable time to close out Work under a Service Order. With City's pre-approval in writing, the time spent in closing out Work under a Service Order will be compensated up to ten percent (10%) of the total time expended in performing the Work.

18.2 City may terminate the Contract for cause or without cause at any time. Contractor will be paid for satisfactory Work rendered through the termination date and will be given reasonable time to close out the Work.

18.3 Final payment will not be made until Contractor delivers the Work and provides records documenting the Work, products, and deliverables completed.

19. GOVERNING LAW, VENUE, AND DISPUTE RESOLUTION

This Contract is governed by the laws of State of California. Venue for any legal action shall be the Superior Court of the County of Santa Clara, California. The dispute resolution procedures of Public Contract Code Section 20104, et seq., incorporated here by reference, apply to this Contract and Contractor is required to continue the Work pending resolution of any dispute. Prior to filing a lawsuit, Contractor must comply with the claim filing requirements of the California Government Code. 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.

20. 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 Contract, the prevailing party will be entitled to reasonable attorney fees and costs.

21. SIGNS/ADVERTISEMENTS

No signs may be displayed on or about City's property, except signage which is required by law or by the Contract, without City's prior written approval as to size, design and location.

22. THIRD PARTY BENEFICIARIES

There are no intended third party beneficiaries of this Contract.

23. WAIVER

Neither acceptance of the Work 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.

24. WARRANTY

Contractor warrants that materials and equipment used will be new, of good quality, and free from defective workmanship and materials, and that the Work will be free from material defects not intrinsic in the design or materials. All Work, materials, and equipment should pass to City free of claims, liens, or encumbrances. Contractor warrants the Work and materials for one year from the date of City's acceptance of the Work as complete ("Warranty Period"), except when a longer guarantee is provided by a supplier, manufacturer or is required by this Contract. During the Warranty Period, Contractor will repair or replace any Work defects or materials, including damage that arises from Contractor's Warranty Work, except any wear and tear or damage resulting from improper use or maintenance.

25. ENTIRE AGREEMENT

This Contract and the attachments, documents, and statutes attached, referenced, or expressly incorporated herein, including authorized amendments or change orders constitute the final and complete contract between City and Contractor with respect to the Work and the Project. No oral contract or implied covenant will be enforceable against City. If there is any inconsistency between any term, clause, or provision of the main Contract and any term, clause, or provision of the attachments or exhibits thereto, the terms of the main Contract shall prevail and be controlling.

26. SEVERABILITY/PARTIAL INVALIDITY

If a court finds any term or provision of this Contract to be illegal, invalid, or unenforceable, the legal portion of said provision and all other contract provisions will remain in full force and effect.

27. SURVIVAL

The contract provisions which by their nature should survive the Contract or Completion of Project, including without limitation all provisions regarding warranties, indemnities, payment obligations, insurance, and bonds, shall remain in full force and effect after the Work is completed or Contract ends.

28. INSERTED PROVISIONS

Each provision and clause required by law for this Contract 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.

29. HEADINGS

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

30. COUNTERPARTS

This Contract may be executed in counterparts, each of which is an original and all of which taken together shall form one single document.

31. 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 (5th) 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 Office of the City Manager 10300 Torre Ave., Cupertino CA 95014 Attention: Jimmy Tan Email: JimmyT@cupertino.org	To Contractor: West Coast Arborists, Inc. 2200 E. Via Burton Anaheim CA 92806 Attention: Juan Ortiz Email: jortiz@wcainc.com
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32. EXECUTION

The persons signing below warrant they have the authority to enter into this Contract and to legally bind their respective Parties. If Contractor is a corporation, signatures from two officers of the corporation are required pursuant to California Corporations Code Section 313. This Contract may be executed in counterparts, each one of which is deemed an original and all of which, taken together, constitute a single binding instrument.

SIGNATURES CONTINUE ON THE FOLLOWING PAGE

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

CITY OF CUPERTINO

A Municipal Corporation

West Coast Arborists, Inc.

By _____

Name _____

Title _____

Date _____

By PM _____

Name Pat Mahoney _____

Title President _____

Date Mar 2, 2023 _____

APPROVED AS TO FORM:

CHRISTOPHER D. JENSEN
Cupertino City Attorney

ATTEST:

KIRSTEN SQUARCIA
City Clerk

Date _____

EXHIBIT A

SCOPE OF WORK

The scope of contracted work shall consist of pruning, removal, stump grinding, and other maintenance of trees, along street corridors, and throughout parks, open spaces and facilities within the City of Cupertino, hereafter referred to as the City. Work shall be administered and approved by representatives of the Department of Public Works.

1. GENERAL REQUIREMENTS

- A. Contractor shall be aware of and shall comply with the City Codes governing tree work, traffic control and any other regulations that may affect operations.
- B. The Contractor shall furnish all labor, tools, equipment, materials, and supervision necessary to perform the pruning, removal of trees, stump grinding and other arboriculture related services as described in this section, in accordance with these specifications and subject to the terms and conditions of the contract.
- C. All work performed by Contractor shall conform to the latest International Society of Arboriculture (ISA), The American National Standard for Tree Pruning (ANSI A300) and specifications listed herein. Contractor shall comply with Standards of CAL-OSHA and the American National Standard Institute, Z133 Safety Requirements.
- D. Contractor shall exercise precautions as necessary when working adjacent to aerial and subterranean utilities. In the event that aerial utility wires present a hazard to the Contractor's personnel or others near the work site, work is to immediately cease, and the appropriate utility company notified. In the event that work requires excavation, the Contractor is responsible for appropriate notification of Underground Service Alert (USA).
- E. Contractor shall staff each project work site with a Supervisor who holds a current International Society of Arboriculture (ISA) Certified Arborist Credential. All Supervisors shall possess adequate technical background to ensure that all work is accomplished in compliance with applicable codes and regulations. All Contractor personnel engaged in the actual tree pruning shall hold, at minimum, a current ISA Certified Tree Worker credential. All other personnel (e.g. ground workers, traffic control staff) shall have sufficient training so as to be

capable of performing their functions in a safe and proficient manner.

F. The Contractor shall comply with all local sound control and noise level rules, regulations, and ordinances. No internal combustion engine shall operate on the project without a muffler of the type recommended by the manufacturer. Should any muffler or other control device sustain damage, the Contractor shall promptly remove the equipment and shall not return said equipment to the job until the device is repaired or replaced. Said noise and vibration level requirements shall apply to all equipment on the job or related to the job, including, but not limited to truck, transit mixers or transit equipment that may or may not be owned by the Contractor.

G. Contractor shall comply with all air pollution control rules, regulations, ordinances, and statutes. The Contractor shall comply with the provisions of the Clean Air Act, as amended (42 W.S.C. 1957 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et. Seq.) and the regulations there under (40 C.F.R. part 15).

H. The Contractor shall follow the appropriate best management practices contained in the California Storm Water Best Management Practice Handbook, which is available from the Santa Clara Valley Water District Non-Point Source Program.

I. Upon completion of the scheduled work or at the end of the day, whatever occurs first, the Contractor shall clean all the streets and grounds occupied by Contractor in connection with the project, of all rubbish, debris, excess material, temporary structures, and equipment, leaving the entire site of the work in a neat and presentable condition. All cleanup and disposal cost shall be included as part of this contract at no additional cost to the City.

J. The Contractor will be responsible for providing, placing and maintaining approved signs, barricades, pedestals, flashers, delineators, fences, barriers and flagmen where needed, and other necessary facilities in the vicinity of the maintenance area and where any dangerous conditions may be encountered as a result thereof, for the protection of the motoring public. The Contractor will not be allowed to proceed with the work until such time that a sufficient number of these protection devices have been delivered to the project site and placed on site for use.

K. Where parked vehicles are likely to interfere with the proposed

work, the Contractor will supply and post at no less than 200' intervals on each side of the street "Temporary No Parking" signs 72 hours before the start of construction and to report the time of posting to the Sheriff's Department for the purpose of establishing "Tow Away" provisions. The Contractor shall be responsible for the removal of the temporary signs upon the completion of the Work. All signs shall be kept graffiti free at all times.

- L. Should the Contractor appear neglectful in furnishing warning and protection devices as outlines above, the Director of Public Works or his/her designee may direct attention to the existence of a hazard and the necessity of additional or different measures which shall be furnished and installed by the Contractor at Contractor's own expense, free of any cost to the City. Should the Contractor refuse or fail to act in a timely manner to correct a hazardous condition, the Director of Public Works or his/her designee may direct City forces to provide the necessary protective and warning devices as deemed appropriate by the Director of Public Works or his/her designee. The cost accrued by the City in connection therewith will be deducted from the Contractor's contract payment. Any action or inaction on the part of the City in directing attention to the inadequacy of warning and protective measures or in providing additional protective warning devices shall not relieve the Contractor from responsibility for public safety or abrogate Contractor's obligation to furnish and pay for these devices.
- M. The Contractor shall submit any and all work schedules and/or traffic control plans to the Director of Public Works or his/her designee for approval as needed.
- N. Existing improvements in areas adjoining the property whereon tree pruning work is being performed shall be protected from injury or damage resulting from operations of the Contractor.

2. TREE PRUNING

All trimming/maintenance work shall be accordance with pruning standards as established by the latest edition of the International Society of Arboriculture Western Chapter. In all cases, the Director of Public Works or his/her designee shall have complete and sole discretion in determining conformance and acceptability of trees trimmed by the

Contractor.

Maintenance pruning of trees is based on tree species, growth characteristics, tree form, tree condition, and tree structure. Tree evaluation before pruning determines what pruning must be performed to achieve or enhance a tree's structural integrity, appearance, or desired size. City trees are pruned to raise for clearance to reduce its size and to restore after damage to tree has occurred.

The specific techniques employed shall be consistent with industry practices for the size and species of the tree being trimmed. All dead, broken, damaged, loose, diseased or insect infested limbs, branches and stubs shall be removed. Small limbs, including suckers and waterspouts, shall be cut close to the trunk or branch from which they arise. Branches that are developing in a manner as to become larger than the limbs they originate from shall be removed. When encountering limbs that are weighted with more foliage than the limb is likely to support, selectively prune branches toward the end of the limb in order to reduce end weight and thus decrease the likelihood of limb failure. All cuts shall be made just outside the branch collar to the parent stem so that the wound closure can readily start under normal conditions.

Final pruning cuts shall be made in such a manner so as to favor the earliest possible covering of the wound by natural callus growth. Excessively deep flush cuts, which produce large wounds or weaken the tree at the cut, shall not be made. The branch collar should be removed. All limbs 2" or greater shall be undercut to prevent splitting. The remaining limbs and branches shall not be split or broken at the cut. All crossed or rubbing limbs shall be removed unless approved by the Director of Public Works or his/her designee.

Contractor shall consult the Director of Public Works or his/her designee before making any cuts that could result in permanent disfigurement of the structure of any tree. If Contractor is, at any time, unclear on what course of action to follow in the field, Contractor shall consult with the Director of Public Works or his/her designee.

- a. Contractor shall comply with Standards of CAL-OSHA and the American National Standard Institute Safety Requirements.

- b. The Contractor shall exercise precautions as necessary when working adjacent to aerial and subterranean utilities. In the event that aerial utility wires present a hazard to the Contractor's personnel or others near the work site, work is to immediately cease, and the appropriate utility company notified. Work shall then commence in accordance with instructions from the utility company. In the event that work causes excavation, Contractor is responsible for appropriate notification of Underground Service Alert (USA).
- c. No hooks, gaffs, spurs or climbers will be used by anyone employed for such trimming. Any vine plant growing on trees shall be removed at ground level.
- d. Final pruning cuts shall be made without leaving stubs. Cuts shall be made in a manner to promote fast callous growth.
- e. Contractor shall maintain at least one (1) English speaking arborist, on-site, at all times.
- f. When trimming fungus, disease or fire blight infected limbs or fronds, all pruning tools shall be cleaned after each cut with alcohol or bleach.
- g. Topping shall not be done without prior approval of the City.

Specifications for Complete Trim

- a. Low branches overhanging streets shall be removed, where practical, to a minimum height above the street grade to fifteen feet (15'). Low branches overhanging sidewalks and parkway shall be removed to a minimum height of seven feet (7') and without detracting from the natural shape of the tree.
- b. Shorten the length of limbs which extend beyond the natural perimeter of an otherwise symmetrical form.
- c. Prune end branches to lighten end weight where such overburden appears likely to cause breakage of limbs. Remove cross limbs, water sprouts and suckers. Remove or subordinate competing central leaders as appropriate.
- d. All trees on which vines are growing shall have said vines removed. Vine tendrils shall be removed in a manner which will not injure trees or cause scarring of low branches and tree trunks.
- e. Young trees shall be structurally pruned in accordance with Ansi A-300 Best management practices for Pruning.

3. TREE REMOVAL

Specifications for Complete Tree Removal

- a. The trees to be removed will be marked in a manner determined by the Director of Public Works or his/her designee. Only those trees so marked shall be removed by the Contractor.
- b. Trees shall be felled in a manner consistent with industry practices with the primary emphasis on the safety of the public and the protection of adjacent property. At no time shall branches, limbs or tree trunks be allowed to freefall and create damage of any type.
- c. Cranes and other rigging equipment shall be properly certified, with evidence of such available for inspection prior to use of said equipment in City of Cupertino. Crane operators shall be certified by the National Commission for the Certification of Crane Operators (NCCCO) and shall be prepared to display current certification prior to operating a crane in the City. The use of cranes and certified crane operators shall not result in additional charges to the City.
- d. While loading and handling debris, the Contractor shall maintain control at all times so as not to result in damage to the public rights of way or private property. In addition, the Contractor shall not drop logs or trunks so as to create undue noise or impact shock disturbances or damages to public and/or private property.
- e. Removal of entire tree, stump remaining shall be no higher than four (4) inches above soil grade and shall be removed within 48 hours after tree removal.
- f. Work shall begin within 10 days after each request and be diligently pursued until completion.
- g. Contractor shall make all arrangements necessary to have power or utility lines temporarily disconnected, if necessary, for the safe removal of the tree.
- h. When the removal requires special or additional means, there shall be no additional units or overall cost to the City without the authorization of the Director of Public Works or his/her designee.

4. STUMP REMOVAL

Specifications for stump and surface root removal:

Stumps shall be ground to a minimum of twelve (12") inches below the level of the adjacent ground. Holes shall be filled with resulting mulch and raked level with the adjacent ground. For larger tree removals, the Contractor shall grind an additional twelve (12) inches around the circumference of the removed trunk, or import soil as needed to till into backfill in order to attain even grade with the adjacent ground. All wood, debris and excess mulch shall be removed, and the surrounding area shall be raked and /or swept clean.

NOTE: If stump grinding does not follow within the same workday as removal, a safety barricade shall be placed and maintained over the stump until the stump grinding is complete.

The Contractor shall be responsible for contacting Underground Service Alert for the locating of underground utilities prior to stumping operations. The Contractor is also responsible for identifying the location of all public and private property landscape irrigation prior to the removal of a tree and its roots. The Contractor shall be responsible for the repair of any private property irrigation system components that are damaged during a tree removal or stump grinding. Repairs should be made using components matching those that were damaged.

All lateral surface roots shall be removed to a depth of 8 inches (8") below grade. When sidewalk is present, remove all surface roots between the curb and sidewalk. When no sidewalk is present, remove surface roots.

Backfill material shall be compacted to provide for minimal settling. It shall consist of an equal mixture of soil and stumped material which shall be three (3) inches above grade to provide for any soil settlement.

5. GROWTH REGULATOR APPLICATION

If requested, the Contractor shall apply all herbicides and chemicals in accordance with law. The Contractor shall use legally approved herbicides and chemicals in proportions to the manufacturer's recommendations. The instructions on the label shall be followed explicitly and special care shall be exercised in application. When spraying, special care shall be exercised to prevent unnecessary discomfort to the people in the area.

Exhibit B

CITY OF CUPERTINO
MASTER AGREEMENT CONSULTANT SERVICES
SERVICE ORDER NO. Choose

Master Agreement Contract #: _____ MA Date: _____

Maximum Compensation: _____ MA End Date: _____

Consultant: Firm Name: _____
Address: _____
Contact: _____ Ph: _____

Project Name: _____

☒ Description: (simple project description if appropriate)

☐ Attachment A: Includes Description of Project, Scope of Service, Schedule of Performance and Compensation

City Project Management

Managing Department: Public Works Project Manager: _____

Fiscal/Budget :

Master Agreement Maximum Compensation: _____

Total Previously Encumbered to Date: _____

Encumbrance this Service Order: _____

Master Agreement Unencumbered Balance: _____

SO Acc't #: _____ PO #: _____

Project #: _____ Date: _____

Approvals Signatures:

Consultant/
Contractor _____ Date: _____

Manager/
Supervisor: _____ Date: _____

Appropriation Certification: I hereby certify that an unexpended appropriation is available in the above fund for the above contract as estimated and that fund are available as of this date of signature

City Finance: _____ Date: _____

Management Analyst

ON-CALL PUBLIC WORKS CONSTRUCTION CONTRACTS

Insurance Requirements: Exhibit C

Contractor shall procure and maintain for the duration of the contract, *and for five years following the completion of the Project*, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by Contractor, its 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, *written on a comprehensive general liability form, and must include coverage for liability arising from Contractor's or Subcontractor's acts or omissions, including Contractor's protected coverage, blanket contractual, products and completed operations, vehicle coverage and employer's non-ownership liability coverage, with limits of at least \$2,000,000 per occurrence. The CGL policy must protect against any and all liability for personal injury, death, property damage or destruction, and personal and advertising injury.* If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit 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 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 limit 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 accident for bodily injury or disease, or as otherwise required by statute. If Contractor is self-insured, Contractor must provide a Certificate of Permission to Self-Insure, duly authorized by the DIR.
☐ N/A if box checked (Contractor provides written verification it has no employees).
4. **Professional Liability** with limits no less than \$1,000,000 per occurrence or claim, and \$2,000,000 aggregate.
☒ N/A if box checked (Contract is not design/build)..
5. **Builder's Risk**. Course of Construction insurance utilizing an "All Risk" (Special Perils) coverage form, with limits equal to the completed value of the project and no coinsurance penalty provisions.

☒ N/A if box checked (Project does not involve construction or improvements/installations to property).

6. **Contractors' Pollution Legal Liability** and/or Asbestos Legal Liability and/or Errors and Omissions with limits no less than **\$1,000,000** per occurrence or claim, and **\$2,000,000** policy aggregate.

☒ N/A if box checked (Project does not involve environmental hazards)

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/or higher limits maintained by the contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

Self-Insured Retentions. Self-insured retentions must be declared to and approved by City. At City's option, either: (1) Contractor shall cause the insurer to reduce or eliminate self-insured retentions as respects City, its officers, officials, employees, and volunteers; or (2) Contractor shall provide a financial guarantee satisfactory to City guaranteeing payment of losses and related investigations, claim administration, and defense expenses. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or the City.

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 Project, Contractor's insurance coverage shall be "**primary and non-contributory**" and at least as broad as ISO CG 20 01 04 13 with respect to City, its officers, officials, employees and volunteers, and shall not seek contribution from City's insurance. If the limits of insurance are satisfied in part by **Umbrella/Excess Insurance**, the Umbrella/Excess Insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a "primary and non-contributory" basis for the benefit of City.

Notice of Cancellation

Each insurance policy required shall provide that coverage shall not be canceled, except with notice to the City. Each certificate of insurance must state that the coverage afforded by the policy is in force and will not be reduced, cancelled or allowed to expire without at least 30 days advance written notice to City, unless due to non-payment of premiums, in which case ten days advance written notice must be provided to City. Such notice must be sent to City via certified mail and addressed to the attention of the City Manager.

Builder's Risk

Contractor may submit Builder's Risk insurance in the form of Course of Construction coverage, which shall **name the City as a loss payee**, as its interest may appear. The Builder's Risk policy must be issued on an occurrence basis, for all-risk coverage on a 100% completed value basis on the insurable portion of the Project, with no coinsurance penalties, and for the benefit of City. If the Project does not involve new or major reconstruction, City may elect, acting in its sole discretion, to accept an Installation Floater policy instead of Builder's Risk. For such projects, the Property Installation Floater shall include improvement, remodel, modification, alteration, conversion or adjustment to existing buildings, structures, processes, machinery and equipment, and shall provide property damage coverage for any

building, structure, machinery or equipment damaged, impaired, broken, or destroyed during the performance of the Work, including during transit, installation, and testing at the City's site.

Waiver of Subrogation

Each required policy must include an endorsement providing that the carrier agrees to waive any right of subrogation it may have against City. Contractor agrees to waive rights of subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Contractor, its employees, agents and subcontractors.

Acceptability of Insurers

Insurance must be issued by insurers acceptable to City and licensed to do business in the State of 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.

Verification of Coverage

Contractor shall furnish the City with original certificates and amendatory endorsements, or copies of the applicable insurance language, effecting coverage required by this contract. All certificates and endorsements are to be received and approved by the City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements, required by these specifications, at any time.

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. For CGL coverage subcontractors shall provide coverage with a form at least as broad as CG 20 38 04 13.

Surety Bonds

As required by Contract and described in the Contract Documents. The Payment and Performance Bonds shall be in a sum equal to the applicable Service Order Price. If the Performance Bond provides for a one-year warranty a separate Maintenance Bond is not necessary. If the warranty period specified in the Contract is for longer than one year a Maintenance Bond equal to 10% of the Contract Price is required. Bonds shall be duly executed by a responsible corporate surety, authorized to issue such bonds in the State of California and secured through an authorized agent with an office in California.

Special Risks or Circumstances

City reserves the right to modify these requirements, based on the nature of the risk, prior experience, insurer, coverage, or other circumstances.

1325217.1



CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YYYY)
06/27/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Aon Risk Insurance Services West, Inc.
Los Angeles CA Office
707 Wilshire Boulevard
Suite 2600
Los Angeles CA 90017-0460 USA

CONTACT NAME:
PHONE (A/C No. Ext): (866) 283-7122 FAX (A/C No.): (800) 363-0105
E-MAIL ADDRESS:

INSURER(S) AFFORDING COVERAGE

NAIC #

INSURED
West Coast Arborists, Inc.
2200 E Via Burton
Anaheim CA 92806 USA

INSURER A: Starr Indemnity & Liability Company 38318
INSURER B: Starr Specialty Insurance Company 16109
INSURER C:
INSURER D:
INSURER E:
INSURER F:

COVERAGES

CERTIFICATE NUMBER: 570094093881

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

Limits shown are as requested

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER:			1000100141221	07/01/2022	07/01/2023	EACH OCCURRENCE \$2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$1,000,000 MED EXP (Any one person) \$5,000 PERSONAL & ADV INJURY \$2,000,000 GENERAL AGGREGATE \$4,000,000 PRODUCTS - COM/POP AGG \$4,000,000
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY			1000198198221	07/01/2022	07/01/2023	COMBINED SINGLE LIMIT (Ea accident) \$2,000,000 BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)
	<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTION						EACH OCCURRENCE AGGREGATE
B	<input checked="" type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	N/A	1000004228 Workers Comp CA SIR applies per policy terms & conditions	07/01/2022	07/01/2023	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE-EA EMPLOYEE \$1,000,000 E.L. DISEASE-POLICY LIMIT \$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

City of Cupertino, its City Council, officers, officials, employees, agents, servants and volunteers are included as Additional Insured in accordance with the policy provisions of the General Liability and Automobile Liability policies. General Liability policy evidenced herein are Primary and Non-Contributory to other insurance available to an Additional Insured, but only in accordance with the policy's provisions. A Waiver of Subrogation is granted in favor of the City of Cupertino, its City Council, officers, officials, employees, agents, servants and volunteers in accordance with the policy provisions of the General Liability and Workers Compensation policies.

CERTIFICATE HOLDER

CANCELLATION

City of Cupertino
10300 Torre Avenue
Cupertino CA 95014 USA

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Aon Risk Insurance Services West, Inc.

Holder Identifier : ABHDEO

Certificate No : 570094093881



ADDITIONAL REMARKS SCHEDULE

Page _ of _

AGENCY Aon Risk Insurance Services West, Inc.		NAMED INSURED West Coast Arborists, Inc.	
POLICY NUMBER See Certificate Number: 570094093881			
CARRIER See Certificate Number: 570094093881	NAIC CODE		
		EFFECTIVE DATE:	

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
FORM NUMBER: ACORD 25 FORM TITLE: Certificate of Liability Insurance

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER	
INSURER	
INSURER	
INSURER	

ADDITIONAL POLICIES

If a policy below does not include limit information, refer to the corresponding policy on the ACORD certificate form for policy limits.

[illegible]

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – SCHEDULED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):	Location(s) Of Covered Operations
Where Required By Written Contract	Where Required By Written Contract
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

C. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
 2. Available under the applicable Limits of Insurance shown in the Declarations;
- whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – COMPLETED OPERATIONS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):	Location And Description Of Completed Operations
Where Required By Written Contract	Where Required By Written Contract
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the location designated and described in the Schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are

required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following is added to Section III – Limits Of Insurance:

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable Limits of Insurance shown in the Declarations;

whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

DESIGNATED INSURED FOR COVERED AUTOS LIABILITY COVERAGE

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by this endorsement.

This endorsement identifies person(s) or organization(s) who are "insureds" for Covered Autos Liability Coverage under the Who Is An Insured provision of the Coverage Form. This endorsement does not alter coverage provided in the Coverage Form.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Named Insured: West Coast Arborists, Inc.

Endorsement Effective Date: 07/01/2022

SCHEDULE

Name Of Person(s) Or Organization(s):

Where required by written contract

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

Each person or organization shown in the Schedule is an "insured" for Covered Autos Liability Coverage, but only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured provision contained in Paragraph **A.1.** of Section **II** – Covered Autos Liability Coverage in the Business Auto and Motor Carrier Coverage Forms and Paragraph **D.2.** of Section **I** – Covered Autos Coverages of the Auto Dealers Coverage Form.



Starr Indemnity & Liability Company

Dallas, TX 1-866-519-2522

Primary and Non-Contributory Condition

Policy Number: 1000100141221

Effective Date: July 1, 2022 at 12:01 A.M.

Named Insured: West Coast Arborists, Inc.

This endorsement modifies insurance provided under the:

Commercial General Liability Coverage Part

A. SECTION IV – CONDITIONS, condition **4. Other Insurance** is amended as follows:

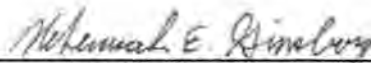
1. The following is added to paragraph **4.a.** of the **Other Insurance** condition:

This insurance is primary insurance as respects our coverage to the additional insured, where the written contract or written agreement requires that this insurance be primary and non-contributory. In that event, we will not seek contribution from any other insurance policy available to the additional insured on which the additional insured is a Named Insured.

ALL OTHER TERMS AND CONDITIONS REMAIN UNCHANGED.

Signed for **STARR INDEMNITY & LIABILITY COMPANY**


Steve Blakey, President


Nehemiah E. Ginsburg, General Counsel

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – STATE OR GOVERNMENTAL AGENCY OR SUBDIVISION OR POLITICAL SUBDIVISION – PERMITS OR AUTHORIZATIONS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

State Or Governmental Agency Or Subdivision Or Political Subdivision:
Where Required By Written Contract
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. Section II – Who Is An Insured is amended to include as an additional insured any state or governmental agency or subdivision or political subdivision shown in the Schedule, subject to the following provisions:

1. This insurance applies only with respect to operations performed by you or on your behalf for which the state or governmental agency or subdivision or political subdivision has issued a permit or authorization.

However:

- a. The insurance afforded to such additional insured only applies to the extent permitted by law; and
- b. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

2. This insurance does not apply to:

- a. "Bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the federal government, state or municipality; or

- b. "Bodily injury" or "property damage" included within the "products-completed operations hazard".

- B. With respect to the insurance afforded to these additional insureds, the following is added to Section III – Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
 2. Available under the applicable Limits of Insurance shown in the Declarations;
- whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT - CALIFORNIA

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

You must maintain payroll records accurately segregating the remuneration of your employees while engaged in the work described in the Schedule.

The additional premium for this endorsement shall be 2.0% of the California workers' compensation premium otherwise due on such remuneration.

Schedule**Person or Organization****Job Description**

Any person or organization to whom you become obligated to waive your rights of recovery against, under any contract or agreement you enter into prior to the occurrence of loss.

Where required by contract

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.
(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective: 07/01/2022

Policy No.: 100 0004228

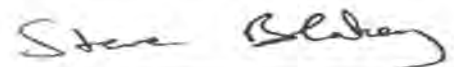
Endorsement No.:

Insured: West Coast Arborists, Inc.

Premium:

Insurance Company: Starr Specialty & Liability Company

Countersigned by








West Coast Arborists, Inc for On-Call Tree Maintenance Services

Final Audit Report

2023-03-02

Created:	2023-03-02
By:	City of Cupertino (webmaster@cupertino.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAAxt_YLANoSn7E9aXm-YjXlePQS_u4W-

"West Coast Arborists, Inc for On-Call Tree Maintenance Services" History

-  Document created by City of Cupertino (webmaster@cupertino.org)
2023-03-02 - 11:26:08 PM GMT- IP address: 35.229.54.2
-  Document emailed to Julia Kinst (juliak@cupertino.org) for approval
2023-03-02 - 11:27:18 PM GMT
-  Document approved by Julia Kinst (juliak@cupertino.org)
Approval Date: 2023-03-02 - 11:27:45 PM GMT - Time Source: server- IP address: 216.198.111.214
-  Document emailed to Pat Mahoney (pmahoney@wcainc.com) for signature
2023-03-02 - 11:27:47 PM GMT
-  Email viewed by Pat Mahoney (pmahoney@wcainc.com)
2023-03-02 - 11:35:21 PM GMT- IP address: 174.205.229.53
-  Document e-signed by Pat Mahoney (pmahoney@wcainc.com)
Signature Date: 2023-03-02 - 11:36:09 PM GMT - Time Source: server- IP address: 174.205.229.53
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