

**AGREEMENT BETWEEN  
SAN DIEGO UNIFIED PORT DISTRICT  
and  
NATURESCAPE SERVICES, INC.  
for  
RUOCCO PARK MAINTENANCE SERVICES  
AGREEMENT NO. 220-2019MA**

The parties to this Agreement are the SAN DIEGO UNIFIED PORT DISTRICT, a public corporation (District) and NATURESCAPE SERVICES, INC., a California Corporation (Service Provider). The parties agree to the following:

1. **SCOPE OF SERVICES.** Service Provider shall furnish all technical and professional labor, and materials to satisfactorily comply with Attachment A, Scope of Services, attached hereto and incorporated herein, as requested by District. Service Provider shall keep the Executive Director of the District or their designated representative informed of the progress of said services at all times.
2. **TERM OF AGREEMENT.** This Agreement shall commence on July 1, 2020 and shall terminate on June 30, 2025, subject to earlier termination as provided below.
3. **COMPENSATION.** For performance of services rendered pursuant to this Agreement and as further described in Attachment B, Compensation and Invoicing, attached hereto and incorporated herein; District shall compensate Service Provider based on the following, subject to the limitation of the maximum expenditure provided herein:
  - a. **Maximum Expenditure.** The maximum expenditure under this Agreement shall not exceed \$705,241.24. Said expenditure shall include without limitation all sums, charges, reimbursements, costs and expenses provided for herein. Service Provider shall not be required to perform further services after compensation has been expended. In the event that the Service Provider anticipates the need for services in excess of the maximum Agreement amount, the District shall be notified in writing

immediately. District must approve an amendment to this Agreement before additional fees and costs are incurred.

- b. **Payment Procedure.** For work performed on an hourly basis, Service Provider agrees to assign the person with the lowest hourly rate who is fully competent to provide the services required. If Service Provider finds it necessary to have work, which would usually be performed by personnel with a lower rate, performed by personnel paid at the higher hourly rate, Service Provider shall nevertheless, bill at the lower rate.
- c. **Progress Documentation.** Service Provider shall provide District progress reports in a format and on a schedule as District directs. Progress reports shall include a description of work completed, cumulative dollar costs incurred, anticipated work for the next reporting period, percentage of work complete, and the expected completion date for remaining work. The report shall identify problem areas and important issues that may affect project cost and/or schedule. The report shall present actual percent completion versus planned percent completion.
- d. **As-Needed Additional Services; Task Authorizations**
  - (1) As-Needed Additional Services may be required for the completion of the services specified in this Agreement. For performance of As-Needed Additional Services, District shall compensate Service Provider using the terms and conditions in Attachment B, Compensation and Invoicing. With As-Needed Additional Services the maximum amount of this agreement shall not exceed \$705,241.24. If As-Needed Additional Services are required, they shall be undertaken by Service Provider only upon issuance of a Task Authorization (TA), Exhibit A, attached hereto and incorporated herein, for said services.
  - (2) An estimate of the level of effort shall be submitted to the District and negotiated for each Task Authorization. Pricing of each Task

Authorization shall be governed by the cost and pricing information attached hereto and made a part of this Agreement as Attachment B, Compensation and Invoicing.

- (3) A Task Authorization shall not be considered effective until the Task Authorization form has been signed by District.
- (4) Service Provider shall bill for As-Needed Additional Services in accordance with the terms of payment, including the documentation required in this Agreement. In addition, invoices for As-Needed Additional Services shall cite the appropriate Task Authorization (TA) number.

#### 4. **RECORDS**

- a. Service Provider shall maintain full and complete records of the cost of services performed under this Agreement. Such records shall be open to inspection of District at all reasonable times in the City of San Diego and such records shall be kept for at least three (3) years after the termination of this Agreement.
- b. Such records shall be maintained by Service Provider for a period of three (3) years after completion of services to be performed under this Agreement or until all disputes, appeals, litigation or claims arising from this Agreement have been resolved, whichever is later.
- c. Service Provider understands and agrees that District, at all times under this Agreement, has the right to review project documents and work in progress and to audit financial records, whether or not final, which Service Provider or anyone else associated with the work has prepared or which relate to the work which Service Provider is performing for District pursuant to this Agreement regardless of whether such records have previously been provided to District. Service Provider shall provide District at Service Provider's expense a copy of all such records within five (5)

working days of a written request by District. District's right shall also include inspection at reasonable times of the Service Provider's office or facilities, which are engaged in the performance of services pursuant to this Agreement. Service Provider shall, at no cost to District furnish reasonable facilities and assistance for such review and audit. Service Provider's failure to provide the records within the time requested shall preclude Service Provider from receiving any compensation due under this Agreement until such documents are provided.

5. **SERVICE PROVIDER'S SUB-CONTRACTORS**

- a. It may be necessary for Service Provider to sub-contract for the performance of certain technical services or other services for Service Provider to perform and complete the required services; provided, however, all Service Provider's sub-contractors shall be subject to prior written approval by District. The Service Provider shall remain responsible to District for any and all services and obligations required under this Agreement, whether performed by Service Provider or Service Provider's sub-contractors. Service Provider shall compensate each Service Provider's sub-contractors in the time periods required by law. Any Service Provider's sub-contractors employed by Service Provider shall be independent Service Providers and not agents of District. Service Provider shall insure that Service Provider's sub-contractors satisfy all substantive requirements for the work set forth by this Agreement, including insurance and indemnification.
- b. Listed below are the firms that the District has approved as Service Provider's sub-contractors to provide services under this Agreement:

<u>NAME OF FIRM</u>	<u>TYPE OF SERVICES PROVIDED</u>
Arbor West Tree Surgeons	Tree Service over 12'
M.B. Oliver, Inc. dba Agricultural Pest Control Services / Agpest	Pest Control

- c. Service Provider shall also include a clause in its Agreements with Service Provider's sub-contractors which reserves the right, during the performance of this Agreement and for a period of three (3) years following termination of this Agreement, for a District representative to audit any cost, compensation or settlement resulting from any items set forth in this Agreement. This clause shall also require Service Provider's sub-contractors to retain all necessary records for a period of three (3) years after completion of services to be performed under this Agreement or until all disputes, appeals, litigation or claims arising from this Agreement have been resolved, whichever is later.

## 6. **COMPLIANCE**

- a. In performance of this Agreement, Service Provider and Service Provider's sub-contractors shall comply with the California Fair Employment and Housing Act, the American with Disabilities Act, and all other applicable federal, state, and local laws prohibiting discrimination, including without limitation, laws prohibiting discrimination because of age, ancestry, color, creed, denial of family and medical care leave, disability, marital status, medical condition, national origin, race, religion, sex, or sexual orientation. Service Provider shall comply with the prevailing wage provisions of the Labor Code, and the Political Reform Act provisions of the Government Code, as applicable.
- b. Service Provider shall comply with all Federal, State, regional and local laws, and district Ordinances and Regulations applicable to the performance of services under this Agreement as exist now or as may be added or amended.

7. **INDEPENDENT ANALYSIS.** Service Provider shall provide the services required by this Agreement and arrive at conclusions with respect to the rendition of information, advice or recommendations, independent of the control and

direction of District, other than normal contract monitoring provided, however, Service Provider shall possess no authority with respect to any District decision.

8. **ASSIGNMENT.** This is a personal services Agreement between the parties and Service Provider shall not assign or transfer voluntarily or involuntarily any of its rights, duties, or obligations under this Agreement without the express written consent of Executive Director (President/CEO) of District in each instance.

9. **INDEMNIFY, DEFEND, HOLD HARMLESS**

- a. **Duty to Indemnify, duty to defend and hold harmless.** To the fullest extent provided by law, Service Provider agrees to defend, indemnify and hold harmless the District, its agents, officers or employees, from and against any claim, demand, action, proceeding, suit, liability, damage, cost (including reasonable attorneys' fees) or expense for, including but not limited to, damage to property, the loss or use thereof, or injury or death to any person, including Service Provider's officers, agents, subcontractors, employees, ("Claim"), caused by, arising out of, or related to the performance of services by Service Provider as provided for in this Agreement, or failure to act by Service Provider, its officers, agents, subcontractors and employees. The Service Provider's duty to defend, indemnify, and hold harmless shall not include any Claim arising from the active negligence, sole negligence or willful misconduct of the District, its agents, officers, or employees.
- b. The Service Provider further agrees that the duty to indemnify, and the duty to defend the District as set forth in 9.a, requires that Service Provider pay all reasonable attorneys' fees and costs District incurs associated with or related to enforcing the indemnification provisions, and defending any Claim arising from the services of the Service Provider provided for in this Agreement.
- c. The District may, at its own election, conduct its defense, or participate in the defense of any Claim related in any way to this Agreement. If the

District chooses at its own election to conduct its own defense, participate in its own defense or obtain independent legal counsel in defense of any Claim arising from the services of Service Provider provided for in this Agreement, Service Provider agrees to pay all reasonable attorneys' fees and all costs incurred by District.

10. **INSURANCE REQUIREMENTS**

a. Service Provider shall at all times during the term of this Agreement maintain, at its expense, the following minimum levels and types of insurance:

(1) Commercial General Liability (including, without limitation, Contractual Liability, Personal Injury, Advertising Injury, and Products/Completed Operations) coverages, with coverage at least as broad as Insurance Services Office Commercial General Liability Coverage (occurrence Form CG 0001) with limits no less than one million dollars (\$1,000,000) per Occurrence and two million dollars (\$2,000,000) Aggregate for bodily injury, personal injury and property damage.

(a) The deductible or self-insured retention on this Commercial General Liability shall not exceed \$5,000 unless District has approved of a higher deductible or self-insured retention in writing.

(b) The Commercial General Liability policy shall be endorsed to include the District; its agents, officers and employees as additional insureds in the form as required by the District. An exemplar endorsement is attached (Exhibit B, Certificate of Insurance, attached hereto and incorporated herein).

(c) The coverage provided to the District, as an additional insured, shall be primary and any insurance or self-

insurance maintained by the District shall be excess of the Service Provider's insurance and shall not contribute to it.

- (d) The Commercial General Liability policy shall be endorsed to include a waiver of transfer of rights of recovery against the District ("Waiver of Subrogation").
- (2) Commercial Automobile Liability (Owned, Scheduled, Non-Owned, or Hired Automobiles) written at least as broad as Insurance Services Office Form Number CA 0001 with limits of no less than one million dollars (\$1,000,000) combined single limit per accident for bodily injury and property damage.
- (3) Workers' Compensation, statutory limits, is required of the Service Provider and all sub-consultants (or be a qualified self-insured) under the applicable laws and in accordance with "Workers' Compensation and Insurance Act", Division IV of the Labor Code of the State of California and any Acts amendatory thereof. Employer's Liability, in an amount of not less than one million dollars (\$1,000,000) each accident, \$1,000,000 disease policy limit and \$1,000,000 disease each employee. This policy shall be endorsed to include a waiver of subrogation endorsement, where permitted by law.
- (4) Professional Liability insurance in the amount of \$1,000,000 per claim and \$1,000,000 aggregate.
  - (a) At the end of the agreement period, Consultant shall maintain, at its own expense, continued Professional Liability insurance of not less than five (5) years, in an amount no less than the amount required pursuant to this Agreement.
  - (b) Alternately, if the existing Professional Liability is terminated during the above referenced five-year period, Consultant



shall maintain at its own expense, “tail” coverage in the same minimum amount as set forth in this paragraph.

- (c) All coverages under this section shall be effective as of the effective date of this Agreement or provide for a retroactive date of placement that coincides with the effective date of this Agreement.
- (5) Umbrella or Excess Liability insurance with limits no less than one million dollars (\$1,000,000) per occurrence and aggregate. This policy must provide excess insurance over the same terms and conditions required above for the General Liability, Automobile Liability and Employer’s Liability policies.
- b. Service Provider shall furnish District with certificates of insurance coverage for all the policies described above upon execution of this Agreement and upon renewal of any of these policies. A Certificate of Insurance in a form acceptable to the District, an exemplar Certificate of Insurance is attached as Exhibit B and made a part hereof, evidencing the existence of the necessary insurance policies and endorsements required shall be kept on file with the District. Except in the event of cancellation for non-payment of premium, in which case notice shall be 10 days, all such policies must be endorsed so that the insurer(s) must notify the District in writing at least 30 days in advance of policy cancellation. Service Provider shall also provide notice to District prior to cancellation of, or any change in, the stated coverages of insurance.
- c. The Certificate of Insurance must delineate the name of the insurance company affording coverage and the policy number(s) specifically referenced to each type of insurance, either on the face of the certificate or on an attachment thereto. If an addendum setting forth multiple insurance companies or underwriters is attached to the certificate of insurance, the addendum shall indicate the insurance carrier or

underwriter who is the lead carrier and the applicable policy number for the CGL coverage.

- d. Furnishing insurance specified herein by the District will in no way relieve or limit any responsibility or obligation imposed by the Agreement or otherwise on Service Provider or Service Provider's sub-contractors or any tier of Service Provider's sub-contractors. District shall reserve the right to obtain complete copies of any of the insurance policies required herein.

- 11. **ACCURACY OF SERVICES.** Service Provider shall be responsible for the technical accuracy of its services and documents resulting therefrom and District shall not be responsible for discovering deficiencies therein. Service Provider shall correct such deficiencies without additional compensation. Furthermore, Service Provider expressly agrees to reimburse District for any costs incurred as a result of such deficiencies. Service Provider shall make decisions and carry out its responsibilities hereunder in a timely manner and shall bear all costs incident thereto so as not to delay the District, the project, or any other person related to the project, including the Service Provider or its agents, employees, or subcontractors.
- 12. **INDEPENDENT CONTRACTOR.** Service Provider and any agent or employee of Service Provider shall act in an independent capacity and not as officers or employees of District. The District assumes no liability for the Service Provider's actions and performance, nor assumes responsibility for taxes, bonds, payments or other commitments, implied or explicit by or for the Service Provider. Service Provider shall not have authority to act as an agent on behalf of the District unless specifically authorized to do so in writing. Service Provider acknowledges that it is aware that because it is an independent contractor, District is making no deductions from its fee and is not contributing to any fund on its behalf. Service Provider disclaims the right to any fee or benefits except as expressly provided for in this Agreement.

13. **ADVICE OF COUNSEL.** The parties agree that they are aware that they have the right to be advised by counsel with respect to the negotiations, terms and conditions of this Agreement, and that the decision of whether or not to seek the advice of counsel with respect to this Agreement is a decision which is the sole responsibility of each of the parties hereto. This Agreement shall not be construed in favor of or against either party by reason of the extent to which each party participated in the drafting of the Agreement. The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California.
14. **INDEPENDENT REVIEW.** Each party hereto declares and represents that in entering into this Agreement it has relied and is relying solely upon its own judgment, belief and knowledge of the nature, extent, effect and consequence relating thereto. Each party further declares and represents that this Agreement is being made without reliance upon any statement or representation not contained herein of any other party, or any representative, agent or attorney of any other party.
15. **INTEGRATION AND MODIFICATION.** This Agreement contains the entire Agreement between the parties and supersedes all prior negotiations, discussion, obligations and rights of the parties in respect of each other regarding the subject matter of this Agreement. There is no other written or oral understanding between the parties. No modifications, amendment or alteration of this Agreement shall be valid unless it is in writing and signed by the parties hereto.
16. **OWNERSHIP OF RECORDS.** Any and all materials and documents, including without limitation drawings, specifications, computations, designs, plans, investigations and reports, prepared by Service Provider pursuant to this Agreement, shall be the property of District from the moment of their preparation and the Service Provider shall deliver such materials and documents to District at the Don L. Nay Port Administration Building (located at 3165 Pacific Highway, San Diego, California 92101) whenever requested to do so by District. However,

Service Provider shall have the right to make duplicate copies of such materials and documents for its own file, or other purposes as may be expressly authorized in writing by District. Said materials and documents prepared or acquired by Service Provider pursuant to this Agreement (including any duplicate copies kept by the Service Provider) shall not be shown to any other public or private person or entity, except as authorized by District. Service Provider shall not disclose to any other public or private person or entity any information regarding the activities of District, except as expressly authorized in writing by District.

17. **TERMINATION.** In addition to any other rights and remedies allowed by law, the Executive Director (President/CEO) of District may terminate this Agreement at any time with or without cause by giving thirty (30) days written notice to Service Provider of such termination and specifying the effective date thereof. In that event, all finished or unfinished documents and other materials shall at the option of District be delivered by Service Provider to the Don L. Nay Port Administration Building (located at 3165 Pacific Highway, San Diego, California 92101). Termination of this Agreement by Executive Director (President/CEO) as provided in this paragraph shall release District from any further fee or claim hereunder by Service Provider other than the fee earned for services which were performed prior to termination but not yet paid. Said fee shall be calculated and based on the schedule as provided in this Agreement.

18. **DISPUTE RESOLUTION**

- a. If a dispute arises out of or relates to this Agreement, or the alleged breach thereof, and is not settled by direct negotiation or such other procedures as may be agreed, and if such dispute is not otherwise time barred, the parties agree to first try in good faith to settle the dispute amicably by mediation administered at San Diego, California, by the American Arbitration Association, or by such other provider as the parties may mutually select, prior to initiating any litigation or arbitration. Notice of any such dispute must be filed in writing with the other party within a reasonable time after the dispute has arisen. Any resultant Agreements

shall be documented and may be used as the basis for an amendment or directive as appropriate.

- b. If mediation is unsuccessful in settling all disputes that are not otherwise time barred, and if both parties agree, any still unresolved disputes may be resolved by arbitration administered at San Diego, California, by the American Arbitration Association, or by such other provider as the parties may mutually select, provided, however, that the Arbitration Award shall be non-binding and advisory only. Any resultant Agreements shall be documented and may be used as the basis for an amendment or directive as appropriate. On demand of the arbitrator or any party to this Agreement, sub-contractor and all parties bound by this arbitration provision agree to join in and become parties to the arbitration proceeding.
  - c. The foregoing mediation and arbitration procedures notwithstanding, all claim filing requirements of the Agreement documents, the California Government Code, and otherwise, shall remain in full force and effect regardless of whether or not such dispute avoidance and resolution procedures have been implemented, and the time periods within which claims are to be filed or presented to the District Clerk as required by said Agreement, Government Code, and otherwise, shall not be waived, extended or tolled thereby. If a claim is not timely filed or presented, such claim shall be time barred and the above dispute avoidance and resolution procedures, whether or not implemented or then pending, shall likewise be time barred as to such claims.
19. **PAYMENT BY DISTRICT.** Payment by the District pursuant to this Agreement does not represent that the District has made a detailed examination, audit, or arithmetic verification of the documentation submitted for payment by the Service Provider, made an exhaustive inspection to check the quality or quantity of the services performed by the Service Provider, made an examination to ascertain how or for what purpose the Service Provider has used money previously paid on account by the District, or constitute a waiver of claims against the Service

Provider by the District. The District may in its sole discretion withhold payments or seek reimbursement from the Service Provider for expenses, miscellaneous charges, or other liabilities or increased costs incurred or anticipated by the District which are the fault of or as result of work performed or negligent conduct by or on behalf of the Service Provider. Upon five (5) day written notice to the Service Provider, the District shall have the right to estimate the amount of expenses, miscellaneous charges, or other liabilities or increased costs and to cause the Service Provider to pay the same; and the amount due the Service Provider under this Agreement or the whole or so much of the money due or to become due to the Service Provider under this Agreement as may be considered reasonably necessary by the District shall be retained by the District until such expenses, miscellaneous charges, or other liabilities or increased costs shall have been corrected or otherwise disposed of by the Service Provider at no expense to the District. If such expenses, miscellaneous charges, or other liabilities or increased costs are not corrected or otherwise disposed of at no expense to the District prior to completion date of the Agreement, the District is authorized to pay for such expenses, miscellaneous charges, or other liabilities or increased costs from the amounts retained as outlined above or to seek reimbursement of same from the Service Provider. It is the express intent of the parties to this Agreement to protect the District from loss because of conduct by or on behalf of the Service Provider.

20. **COMPLIANCE WITH PREVAILING WAGE LAWS (IF APPLICABLE)**

- a. Service Provider acknowledges and agrees that it is the sole and exclusive responsibility of Service Provider to: (a) ensure that all persons and/or entities (including, but not limited to, Service Provider or Subcontractors) who provide any labor, services, equipment and/or materials (collectively, "Services") in connection with any work shall comply with the requirements of California's and any other prevailing wage laws ("PWL") to the extent such laws are applicable and (b) determine whether any Services are subject to the PWL by obtaining a determination by means that do not involve the District.

- b. Certified Payrolls. Service Provider acknowledges and agrees that it is the sole and exclusive responsibility of the Service Provider to insure that all certified payrolls are provided to the District. Service Provider shall submit certified payrolls electronically via the software LCPtracker.
- (1) LCPtracker is a web-based system, accessed on the World Wide Web by a web browser. Service Provider will be given a Log-On identification and password to access the San Diego Unified Port District's reporting system upon Service Provider's request.
  - (2) The use of LCPtracker by the Service Provider is mandatory. Access to LCPtracker will be provided at no cost to the Service Provider.
  - (3) In order to utilize LCPtracker, the Service Provider needs a computer and internet access. A digital camera and a scanner may be useful. For more information, go to [www.lcptracker.com](http://www.lcptracker.com). To Login, go to [www.lcptracker.net](http://www.lcptracker.net) and from the homepage, select LOGIN and enter the Username and Password that will be provided to you by the District upon Service Provider's request.
  - (4) Use of the system will entail data entry of weekly payroll information including; employee identification, labor classification, total hours worked and hours worked on this project, wage and benefit rates paid etc. The Service Provider's payroll and accounting software might be capable of generating a 'comma delimited file' that will interface with the software.
  - (5) Service Provider must require all lower-tier sub participants the mandatory requirement to use LCPtracker to provide any required labor compliance documentation. Lower-tier sub participants will

be given a Log-On identification and password from the Service Provider.

- (6) Training options can be provided to the Service Provider upon request.

21. **SERVICE PROVIDER/CONTRACTOR REGISTRATION PROGRAM (IF APPLICABLE)**

- a. In accordance with the provisions of Labor Code section 1771.1. (a) A contractor or subcontractor shall not be qualified to bid on; be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, as defined in this chapter, unless currently registered and qualified to perform public work pursuant to Section 1725.5. It is not a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded.
- b. No contractor or subcontractor may be listed on a bid proposal for a public works project (submitted on or after March 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)].
- c. No contractor or subcontractor may be awarded a contract for public work on a public works project (awarded on or after April 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5.



- d. This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.
22. **CAPTIONS.** The captions by which the paragraphs of this Agreement are identified are for convenience only and shall have no effect upon its interpretation.
23. **EXECUTIVE DIRECTOR'S SIGNATURE.** It is an express condition of this Agreement that said Agreement shall not be complete nor effective until signed by either the Executive Director (President/CEO) or Authorized Designee on behalf of the District and by Authorized Representative of the Service Provider.
- a. Submit all correspondence regarding this Agreement to:
- Paige Scott, Assistant Director  
General Services  
San Diego Unified Port District  
1400 Tidelands Ave  
National City, CA 91950  
Tel. 619-686-8169  
Email: pscott@portofsandiego.org
- b. The Service Provider's Authorized Representative assigned below has the authority to authorize changes to the scope, terms and conditions of this Agreement:
- Randy Bates, Chief Operating Officer & Chairman of the Board  
NatureScape Services, Inc.  
8575 Aero Drive  
San Diego, CA 92123  
Tel. 619-261-7195  
Email: randy@naturescapeinc.us

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- c. Written notification to the other party shall be provided, in advance, of changes in the name or address of the designated Authorized Representative.

**SAN DIEGO UNIFIED PORT DISTRICT****NATURESCAPE SERVICES, INC.**

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Marcus J. Cromartie  
Director, General Services

*Randy Bates*

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Randy Bates  
Chief Operating Officer &  
Chairman of the Board

Approved as to form and legality:  
GENERAL COUNSEL

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By: Assistant/Deputy

A manually signed copy of this Agreement transmitted by email or any other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

## **ATTACHMENT A SCOPE OF SERVICES**

### **San Diego Unified Port District**

#### **A. General Information**

Service Provider shall provide full-service park maintenance at Ruocco Park (Park). The Park is a public park within the City of San Diego and is open from 6:30 a.m. to 10:30 p.m. daily.

The Park overlooks San Diego Bay at 585 Harbor Lane, at the corner of West Harbor Drive and Pacific Highway. The Park has a multi-purpose open space with grass areas for recreational activities of approximately nine-tenths of an acre in size and is used for permitted events. The Park has public restroom facilities of approximately 2,025 square feet in size which include spaces for storage and potential concession with infrastructure hookups, and electrical outlet supply. The Park has a designated parking lot and off-street parking that shall be maintained to the same standards as the Park.

Other park amenities include: 2 drinking fountains, 1 water spigot, 2 bicycle racks, 19 trash receptacles, 6 picnic tables, 65 benches, site lighting and lighting columns ranging from 12 to 15 feet in height and parking areas. Exhibit A, Site Map, shows the areas of Ruocco Park that Service Provider will be responsible for maintaining.

Service Provider shall provide all labor, materials, supervision, equipment and all related incidentals required to perform full-service facility preventive and routine maintenance at the Park to meet District needs.

Service Provider shall report any damaged, defaced or vandalized fixtures, amenities and/or signage to the District Representative. The District will inspect the reported damage and determine if replacement is necessary. The District shall maintain responsibility for the repairs or replacement of those items determined by the District to be beyond the scope of this Agreement.

Service Provider is responsible for the cost of all waste and material disposal related to this Agreement. Full service routine maintenance shall include the maintenance of lawns and landscaping, trees, signs, irrigation systems, pest and rodent control, graffiti removal, litter pickup and removal, recyclable collection and reporting, public restrooms, park benches and picnic tables, power washing, hardscape, storm drain inlets and storm drain filters. Service Provider shall be responsible for having all necessary maintenance equipment available at all times.

Service Provider shall move, cover or protect any structures or equipment that may be damaged during maintenance of the Park. Bicycle paths, pedestrian walks, and sidewalks shall be kept free of materials, equipment and debris. Safe

pedestrian access through the work site shall be maintained. Service Provider shall remove from Tidelands all materials, tools, equipment, trash, debris and coverings upon completion of services. Service Provider shall not permit debris and waste material generated from all operations to enter into storm water conveyance system. Service Provider shall maintain site safety at all times. Service Provider shall obtain any permits required to perform these services at no additional costs to the District.

While working on District property, the Service Provider's employees shall wear uniforms with company name and logo. Service Provider's vehicles shall be clearly marked with company name and logo.

## **B. Safety**

Service Provider shall abide by all local, state, federal, Cal/OSHA, OSHA, and District safety codes, policies, and procedures. Service Provider will be responsible for fines incurred if not in compliance with OSHA standards. Before the start of work, Service Provider shall post signs and provide barricades to safely protect the public. Service Provider shall remove all signs and barricades at the completion of the service. Service Provider shall follow current Caltrans traffic control guidelines when performing service as applicable. Service Provider shall provide required submittals to the District Representative as listed in the Submittal Section of this Scope of Services.

1. Service Provider shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the services provided.
2. Service Provider shall give notices and comply with all applicable laws and regulations of any public body having jurisdiction for the safety of persons or property to protect them from damage, injury or loss, and shall erect and maintain all necessary safeguards for such safety and protection.
3. Material usage shall be accomplished with strict adherence to California Division of Industrial Safety, or other governing regulations, and all manufacturers' warnings and application instructions listed on the Safety Data Sheet and on the product container label.
4. Injury & Illness Prevention Program (IIPP): Service Provider shall prepare and submit to the District's Representative, one (1) copy of their IIPP that addresses all the actions necessary to establish a safe working environment, prior to the commencement of on-site service. It is the Service Provider's responsibility to take all reasonable precautions to ensure the safety of the public and its employees and to comply with all

federal, state, and local regulations. It is the Service Provider's responsibility to establish and maintain safe onsite working conditions for the duration of the project.

## C. Environmental

1. All San Diego Port District Tidelands are regulated under Regional Water Quality Control Board Order No. R9-2013-0001, National Pollutant Discharge Elimination System (NPDES) Permit No. CAS0109266, waste Discharge Requirements for Discharges of Urban Run-off from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds of the County of San Diego, the Incorporated Cities of San Diego county, and the San Diego Unified Port (Municipal Permit), as adopted, amended, and/or modified. The Municipal Permit prohibits any activities that could degrade storm water quality. All service to be completed as part of the Agreement must comply with all Municipal Permit requirements and District direction related to permitted activities including the following requirements:
  - a. No discharges of any material may enter the storm drain system or receiving water (San Diego Bay) including water, wash water, dust, petroleum products, soil or debris. Service Provider must immediately remove any such material that inadvertently enters the storm drain system and immediately notify District staff.
  - b. If any activity could potentially release materials to the storm drain system or the bay, the District Representative must be notified prior to activity and appropriate protection of the storm drain system shall be implemented as described in the California Stormwater Best Management Practices Handbooks developed by the California Stormwater Quality Association ([www.cabmphandbooks.com](http://www.cabmphandbooks.com)), or the US EPA's Preliminary Data Summary of Urban Stormwater Best Management Practices ([www.epa.gov/waterscience/guide/stormwater/](http://www.epa.gov/waterscience/guide/stormwater/)). All storm drain protection systems must minimize the discharge of pollutants and be adequately maintained.
  - c. Any materials being stored which could release constituents by wind or run-off transport shall be protected by overhead cover, secondary containment, tarpaulins, or other appropriate methods.
  - d. Best Management Practices (BMPs) must be implemented to prevent water, wash water, and/or debris from being tracked or transported off of the service site.

- e. Any fuel products, lubricating fluids, grease or other products and/or waste released from Service Provider's vehicles or equipment, shall be collected and disposed of immediately in accordance with state, federal, and local laws.
- f. All job-site waste materials will be properly disposed of at the completion of service including unsalvageable materials that may have been in the storm drain conveyance system.
- g. Service Provider shall ensure that all employees are trained on the nature and implementation of the special provisions outlined above. This training shall include identifying the location of the storm drains on the job site, highlighting the proximity of the bay and the direct connection between the storm drain and the bay, and identifying all BMPs to be implemented to prevent the discharge of pollutants to the storm drain conveyance system or the bay.

District Environmental and Land Use Management staff may conduct a storm water inspection to verify that BMPs are properly implemented at any time during the project. Additional BMPs may be recommended or required to eliminate or prevent discharges to the stormwater conveyance system or the receiving water.

**Environmentally Preferable Products** - In alignment with the District's Green Port Policy, the District will strive to minimize environmental impacts directly attributable to operations on San Diego Bay and the tidelands. In alignment with this Policy, the District has established criteria for the procurement of environmentally preferable products.

Accordingly, where practicable and cost effective, Service Provider shall use cleaning and disinfecting products that meet Green Seal certification at all District facilities. All cleaning and power washing products claiming Green Seal certification, shall be required to bear this certification. Products recognized by the Environmental Protection Agency's (EPA) Safer Detergents Stewardship Initiative or the Design for the Environment Program are not required to be Green Seal certified. More information is available at [www.greenseal.org](http://www.greenseal.org) and [www.epa.gov/dfe](http://www.epa.gov/dfe). Germicidal detergents needed to perform services under this Agreement are not required to be Green Seal certified. Service Provider shall only use District approved equipment, materials, and supplies and shall comply with the District's Environmental Sustainability Policy. Accordingly, where practicable and cost effective, Service Provider shall use products that meet Green Seal certification for all services rendered under this Agreement. All products claiming Green Seal certification shall be required to bear this certification. More information is available at [www.greenseal.org](http://www.greenseal.org) and [www.epa.gov/dfe](http://www.epa.gov/dfe).

The District may permit the substitution or addition of environmentally preferable products when such products are readily available at a competitive cost and

satisfy the District's performance needs. The District may choose to provide any environmentally preferable products for Service Provider's use during services rendered under this Agreement.

#### **D. Execution**

1. **Task Authorization:** As-Needed Additional Park maintenance services shall be undertaken by the Service Provider only upon issuance of a Task Authorization issued by the District for said services. The Service Provider shall not perform services until the District Representative provides a written Task Authorization specifically indicating the scope and negotiated cost for the maintenance services. A Task Authorization shall not be considered effective until the form has been signed by the District. The District does not guarantee a minimum or total amount of As-Needed Additional services against this agreement.

Service Provider shall be compensated and reimbursed by District for approved materials, supplies and incidentals to support ***As-Needed Additional park maintenance only***, as substantiated by the supplier's receipts. Supplier's material receipts shall be attached to corresponding monthly invoice and submitted to the District for payment.

2. **Power Washing**

Service Provider shall perform all power washing necessary to maintain the cleanliness of all hardscape, walkways, buildings, tables, benches, fixtures and parking areas. All hardscape, walkways, buildings, tables, benches, fixtures and parking lot shall be kept clean of all foreign matter, debris and stains. Service Provider must use only the minimum amount of water necessary to perform power washing, shall not use soap or chemicals, and shall prohibit all wash waters and wash debris from entering any part of the storm drain system or reaching San Diego Bay. Service Provider shall collect and remove all waste water with squeegees, brooms, berms, dikes, and wet vacuums. Collected waste water shall be disposed of in accordance with all applicable Federal, State and local regulations. Service Provider shall clean up all work areas before leaving the job site. Power washing shall be used only when other means of cleaning are insufficient and should be scheduled for early morning or evening hours unless directed otherwise by the District Representative.

3. **Trash, Litter and Recyclables Removal**

Service Provider shall provide staffing levels and equipment necessary to provide trash, litter and recyclables removal services. Service Provider shall empty trash and recycling receptacles and change liners. Trash, litter and recyclables pickup shall be performed throughout the Park, including restrooms, landscaped areas, planter beds, turf, hardscapes, sidewalks,

water conveyance band and parking areas. Service Provider shall adjust service levels to maintain litter removal dependent on seasonal area usage and in response to public events.

Service Provider shall be responsible for removing all trash, litter, and recyclables off Tidelands on a daily basis or as required.

Service Provider shall be responsible for separating out trash from recycling in all bins, daily, and shall ensure that all litter and trash collected be disposed of in the correct bin. Recycling must not be comingled with non-recyclable items. Service Provider shall develop and provide a monthly recycling report to the District, which captures the tonnage of recycling collected monthly. The report shall also include a profile of the recycling collected and shall identify the percentage of each type of recyclable items.

If Service Provider fails to perform trash, litter, and recycling removal, District shall retain the right to perform trash and litter removal with its own labor force. The fully burdened labor cost incurred by the District shall be deducted from the following month's invoice.

Service Provider shall replenish and maintain all doggy pot stations within the areas and replace damaged stations. Replacement of stations and parts for damaged doggy pot stations shall be the responsibility of the District. Service Provider shall notify the District Representative of damages to the doggy pot stations immediately upon discovery.

#### **4. Graffiti Removal**

Service Provider shall maintain the Park in a manner to be free of graffiti at all times. Service Provider shall remove graffiti using one of the three approved methods: 1) chemical cleaning, 2) power washing, or 3) painting. The Service Provider shall move, cover, or protect adjacent surfaces, structures, or equipment that may be damaged during graffiti removal.

- a. Chemical Cleaning - Service Provider must ensure that the cleaning solvents used do not damage or remove the underlying paint. Service Provider shall clean up all work areas before leaving the job site.
- b. Power washing - Service Provider may use a power washer to remove graffiti. Service Provider shall ensure that the power washing does not damage the surface nor remove the underlying paint. Collected waste water shall be disposed of in accordance with all applicable Federal, State and local regulations. Service Provider shall clean up all work areas before leaving the job site.



- c. Painting - Service Provider may paint over graffiti that cannot be removed using the chemical cleaning or power washing methods.

Service Provider shall paint all surfaces to match existing paint colors. Service Provider shall ensure that all work is squared off and uniform with existing paint. All paint shall match original paint codes as provided by the District. All surfaces that do require paint shall be covered and protected against over-spray. Service Provider shall clean up the work area before leaving the job site.

**5. Storm Water Inlet Filter Maintenance**

Inspect all drainage devices in ground cover areas and remove silt, leaves or other foreign material from inlets.

**6. Plumbing**

Services shall include performing inspections and notifying the District Representative of any discrepancies or water interruptions.

**7. Electrical / Lighting Maintenance**

Services shall include inspection of all electrical components and fixtures to include: hand dryers, irrigation controllers, in- ground lighting, walkway lighting, and lighting fixtures, ballasts, lenses, outlets, service covers on light poles and any other undefined electrical components. Service Provider shall notify District Representative of any discrepancies immediately.

**8. Signage Maintenance**

Services shall include maintenance and replacement of worn or damaged signage including any repair to the mosaic park sign. All signage shall be inspected and cleaned. Service provider shall notify the District Representative of any signs that may require replacement. The District will provide replacement signs to Service Provider for installation.

**9. Fence Maintenance**

Services shall include the inspection, maintenance, painting and repairs of worn or damaged fences to maintain the fences in their original condition and in a safe operating condition.

## **10. Public Restroom Maintenance**

Services shall include maintenance, restocking, and cleaning of public restrooms, and drinking fountains to maintain cleanliness during Park operating hours and during all special events. All walls, interior floors, ceilings, partitions, doors, equipment, mirrors and fixtures shall be kept free of all foreign matter. Floors shall be mopped dry leaving no puddles, wet or slippery conditions. Toilet bowls, sinks, and urinals shall be kept in proper working condition and maintained in serviceable condition at all times. Floor and fixture surfaces shall be kept free of uratic build-up. Floor drains shall be kept clear and free of debris at all times.

Service Provider shall unlock public restroom at Park opening at 6:30 a.m. and lock at Park closure at 10:30 p.m., 7 days a week, 365 days per year.

## **11. General Tree Care**

All trees are to be maintained in a shape as close to their natural form as possible. Service Provider shall not use climbing spikes, spurs, climbing gaffs or any devices that may injure the trees. Trees shall be pruned in a manner that will not impair the health of each tree. No tree limbs shall be flush cut; no stubs shall be left; and no topping, heading, or pollarding of trees will be permitted. Any tree determined to be in danger of falling or having its crown drop to the ground shall be reported immediately to the District Representative.

### **a. Tree Pruning**

Deciduous species shall be pruned during the winter months.

Evergreen species shall be pruned during the months of September and October to prepare them for the windy season.

Pruning of newly planted trees should be limited to corrective pruning. Ornamental and street trees in common areas shall conform to the requirements of: (1) this Scope of Services; (2) current American National Standards Institute (ANSI) standards, Standard Practices for Tree, Shrub and other Woody Plant Maintenance; and (3) the International Society of Arboriculture Tree Pruning Guidelines, 2001.

Service Provider shall remove overhanging branches from streets, sidewalks, and parkways. Branches overhanging streets shall be removed to a height of 15 feet above the adjacent curb. Branches overhanging sidewalks and parkways shall be removed to a height of 9 feet above the pavement. Service Provider shall prune trees adjacent to structures by 5 feet in all directions and provide

clearance so that all signs, street poles, and light poles are not obstructed from view or line of sight.

**b. Palm Tree Pruning**

Service Provider shall remove dead fronds and frond butts (petioles) from the base of the tree trunk to a height at which the lowest remaining row of green fronds is at horizontal. Palm species shall be pruned to keep them free of dead or diseased growth and to ensure pedestrian safety.

Service Provider shall also remove seed clusters, husks, sheaths, and any weed growth. Fronds overhanging streets shall be removed to a height of 15 feet above the adjacent curb. Fronds overhanging sidewalks and parkways shall be removed to a height of 9 feet above the pavement. Trees shall be pruned to clear adjacent structures by 5 feet. Trees shall be pruned to provide clearance so that all signs, street poles, and luminaries are not obstructed from view or line of site.

**c. Tree Replacement**

Any tree that appears to have more than one-half (1/2) of its foliage in a declining state shall be brought to the attention of the District Representative immediately. Replacement plants shall be of a size, condition and variety acceptable to the District Representative. The cost for tree replacement shall be paid by the District unless the District Representative has determined the Service Provider to be negligent. If negligence is determined, the cost for tree replacement shall be borne by the Service Provider.

**d. Tree Removal**

Tree removal shall include removal and disposal of the tree or trees, including, stump, root ball, root barrier, irrigation well, and irrigation bubbler (cap lateral 12" to 15" below grade). If it is the decision of the District Representative that a removed tree is not to be replaced, the area will be filled in with the same plants, ground cover, or turf as appears adjacent to the removed area. Service Provider shall repair, at their own expense, any damage to existing area or trees caused by their operation.

**e. Certified Arborist Services**

Service Provider shall provide the services of an ISA Certified Arborist for the purpose of providing pruning techniques, tree-soil-

water relations, tree nutrition and fertilization, and tree planting and establishment.

**f. Inspections & Report**

Service Provider shall complete a Quarterly Tree Maintenance Report and submit an electronic copy to the District Representative. The report shall include work completed, problems encountered and the corrective action.

**12. Landscaping (Excluding Turf and Trees)**

**a. Pruning**

Service Provider shall remove dead or damaged portions of all plants. Service Provider shall maintain proper natural pruning of all plants.

Pruning shall be performed using best management practices so that plants do not develop stray and undesirable growth and retain natural appearance.

**b. Plant Removal and Replacement**

Service Provider shall be responsible for the purchase and replacement in kind of any plant that may be damaged as the result of carelessness or use of improper pruning procedure. Any shrub that appears to be declining, not as a result of the Service Provider's actions, shall be brought to the attention of the District Representative immediately. The District shall acquire and furnish replacement plants for planting by the Service Provider.

The District shall maintain responsibility for the purchase of all replacement plants that are damaged or destroyed by vehicle accident or other causes by the public. Service Provider planting shall be at no additional cost to the District.

**c. Plant Fertilization**

Service Provider shall fertilize plants in accordance with best management practices to maintain healthy plant growth using approved commercial grade fertilizers. If fertilizer granules are used, Service Provider shall remove granules immediately following fertilization from adjacent hardscape surfaces

d. **Mulching**

Service Provider shall replace all mulch as necessary, at a minimum semi-annually. Service Provider shall keep the mulch clean and free of weeds and debris. The cost for mulch shall be paid by the District unless the District Representative has determined the Service Provider to be negligent. Service Provider shall spread mulch at no additional cost to the District.

13. **Weed Control**

Service Provider shall keep all turf areas, parking areas, landscape, hardscape, tree wells, flower and shrub areas free of weeds throughout the Park at all times. For the purpose of this Agreement, a weed shall be considered as any undesirable or misplaced plant. The use of any chemicals for weed control shall be done by a State Licensed Pest Control Operator who shall follow all guidelines governing licensing requirements and all other applicable regulations.

14. **Pest Control**

Service Provider shall utilize standard industry best Integrated Pest Management practices using California Department of Food and Agriculture (CDFA) approved materials and methods.

Service Provider shall comply with all rules and regulations of the Department of Food and Agriculture, the Department of Health, the Department of Industrial Relations and all other agencies which govern the use of pesticides required in the performance of work. Service Provider shall furnish the District Representative a current registered copy of the County of San Diego certificate which permits application of pesticides. Service Provider shall submit monthly pesticide usage report to the County of San Diego as required and furnish an electronic copy to the District Representative.

15. **Turf Maintenance**

Service Provider shall be aware of the appropriate water requirements and mowing heights for Tiffgren Hybrid Bermuda.

a. **Lawn Mowing, Edging and Trimming**

Lawn areas shall be mowed with reel type mowers. Mowers shall be maintained so as to provide a uniform level cut without ridges or depressions. Acceptable mowing heights shall not exceed 5/8 inch.

b. **Lawn Dethatching**

Lawn areas shall be dethatched annually in April/ May.

c. **Lawn Aeration**

Lawn aeration shall be performed annually in conjunction with lawn dethatching. Service Provider shall promptly remove aeration cores from lawn areas. Minimum depth of aeration shall be four (4) inches.

d. **Lawn Fertilization**

Service Provider shall fertilize turf in accordance with best management practices to maintain healthy turf growth, using approved commercial grade fertilizers. If fertilizer granules are used, Service Provider shall remove granules immediately following fertilization from adjacent hardscape surfaces.

e. **Turf Replacement**

The Service Provider shall provide all labor and materials required for re-sodding of any failing lawn areas.

**16. Irrigation System**

a. **Lawn and Landscape Irrigation**

Irrigation of lawn and landscape areas shall be accomplished through the use of existing automatic sprinkler systems. Frequency of irrigation shall be conducted to assure the proper growth and maintenance of landscape. Service Provider must follow all state and local water restrictions and water conservation measures. Irrigation systems shall be deactivated by the direction of the District Representative to accommodate District approved events.

b. **Irrigation System Inspection and Maintenance**

Service Provider shall maintain all irrigation systems in full and proper operation. Service Provider shall perform periodic inspections on systems for malfunctions using the installed controllers and not the bleed device on the valve.

c. **System Operation**

The controllers shall be operated between the hours of 10:30 p.m. and 6 a.m., unless otherwise approved by District Representative. System testing is to be carried out during daylight or regular

working hours. The Service Provider shall turn off irrigation systems at times when suspension of irrigation is desirable to conserve water while remaining within the guidelines for best horticulture maintenance practices.

#### **E. Scheduled Work and Response Times**

Service Provider shall provide Park maintenance Services that meet the following response times:

1. Scheduled Work - Service Provider shall provide District Representative with a detailed written schedule of work monthly.
2. If Service Provider fails to perform debris pickup and removal, District shall retain the right to perform debris pickup and removal with its own labor force. The fully burdened labor cost incurred by the District shall be deducted from the following month's billing.
3. As-Needed Additional Maintenance Services - Service Provider shall provide As-Needed Additional services in accordance with the written Task Authorization notification. Service Provider shall have an answering service, cell phone, or office personnel available during normal business hours to receive service request notifications.
4. Rework - The District Representative shall inspect the quality of work and if required, Service Provider shall correct the work deficiencies at no additional costs to the District.

#### **F. Submittals**

1. Materials - Service Provider shall submit, for District Representative's acceptance, a list of all material proposed to be used under this Agreement.
2. Permits - Whenever and/or wherever traffic control is required for public safety and convenience, Service Provider shall obtain a City Traffic Control Permit(s) for the Park Maintenance Services. Service Provider shall also obtain all other permits incidental to the service, or made necessary by its operation, including those permits required for night service, overload and equipment, and pay all fees and costs incurred for and by the permit requirements. However, Service Provider shall not be entitled to reimbursement from the District for said fees and costs.
3. Equipment List - Service Provider shall submit for District Representative's approval, a list of all motorized equipment proposed for use under this

Agreement. No motorized equipment shall be used by Service Provider under this Agreement until the equipment is approved in writing by the District Representative.

4. Safety Data Sheet (SDS) - Service Provider shall furnish three (3) copies of the SDS for all chemicals used on District properties.
5. Injury and Illness Prevention Program (IIPP) - Service Provider shall provide one (1) copy of the IIPP that addresses all the actions necessary to establish a safe working environment.

#### **G. Security Background Check and Badging**

The District may require Service Provider's personnel to pass a security background check and wear a badge while on District property. Service Provider's personnel who do not initially pass the security check, or who subsequently have their security clearance withdrawn for any reason, shall not service in support of this Agreement.

The District reserves the right to limit the number of employees for security background check and badging. Service Provider shall submit to the District Representative within a minimum of 72 hours a list of employees with security and badging clearance and maintain an updated list. Service Provider shall return all badges of terminated or terminating employees within 72 hours of notice.

Service Provider shall comply with all local, state, federal, and District codes, policies and procedures. Service Provider shall abide by all security requirements incidental to the service or made necessary by its operation.

#### **H. Deductions**

If Service Provider fails to meet a response time or fails to perform a service, Service Provider agrees to a five percent (5%) deduction off the monthly or Task Authorization invoice. If the failed service is the result of District Operations beyond the Service Provider's control, no deduction will be applied. Deductions will be at the discretion of the District Representative based on validation of the circumstances and will be communicated through a Letter of Cure.



## **I. Billing and Tracking**

Billing and tracking thru electronic methods is the preferable method. Invoices shall be emailed to [GS\\_Invoices@portofsandiego.org](mailto:GS_Invoices@portofsandiego.org). Invoices shall be submitted within 5 business days for monthly service fees and within 7 days of the completion for work performed under a Task Authorization.

All invoice error issues must be resolved within one billing cycle. Charges that are brought to District's attention after thirty (30) days may be denied at no risk to the District. No additional fuel surcharges or administration fees will be allowed, and the entire invoice will be returned until corrected. Revised invoices are to be resubmitted with new invoice date.

**ATTACHMENT B  
COMPENSATION & INVOICING  
San Diego Unified Port District**

**1. COMPENSATION**

a. For the satisfactory performance and completion of the services under this Agreement, District shall pay Service Provider compensation as set forth hereunder.

(1) Service Provider shall be compensated and reimbursed by District on the basis of invoices submitted each month for services performed during the preceding month. Invoice(s) shall be on a Fixed Fee basis.

(a) Each invoice for Scheduled Monthly Services shall include:

Date work performed;  
Description of the work performed;  
Total Invoice Amount

(b) Each invoice for As-Needed Additional Services shall include:

Date work performed;  
Task Authorization Number;  
Description of the work performed;  
Direct Costs;  
Total Invoice Amount

(2) Services shall be invoiced in accordance with the following **Fee Schedule**:

Term	Dates of Term	Fixed Monthly Amount	Number of Months	Total Amount per Year
1	7/01/20-6/30/21	\$ 9,500.00	12	\$ 114,000.00
2	7/01/21-6/30/22	\$ 9,785.00	12	\$ 117,420.00
3	7/01/22-6/30/23	\$ 10,078.55	12	\$ 120,942.60
4	7/01/23-6/30/24	\$ 10,380.90	12	\$ 124,570.80
5	7/01/24-6/30/25	\$ 10,692.32	12	\$ 128,370.84
Total Fixed Fees, Terms 1 through 5				\$ 605,241.24
1-5	As-Needed Additional Services (maximum allocation)			\$ 100,000.00
Total Agreement Value (not-to-exceed amount)				\$ 705,241.24

- (a) **Deductions.** If Service Provider fails to meet a response time or fails to perform a service, Service Provider agrees to a five percent (5%) deduction off the monthly or Task Authorization invoice. If the failed service is the result of District Operations beyond the Service Provider's control, no deduction will be applied. Deductions will be at the discretion of the District Representative based on validation of the circumstances and will be communicated through a Letter of Cure.
- (b) Fee(s) for As-Needed Additional Services shall be negotiated between District and Service Provider and authorized via applicable Task Authorization(s).

b. **Reimbursable Expenses**

Sub-Contractor Costs	0% mark-up
Direct Costs	At Cost (zero mark-up)

**Note:** Reimbursement for other costs in excess of \$50.00 shall require the advance written approval by District's Project Manager. All other project related direct costs shall require appropriate documentation for reimbursement.

2. **INVOICING**

- a. **Payment Documentation.** As a prerequisite to payment for services, Service Provider shall invoice District for services performed and for reimbursable expenses authorized by this Agreement, accompanied by such records, receipts and forms as required.
- b. Service Provider shall include the following information on each invoice submitted for payment by District, in addition to the information required in Section 1, above:
  - 1) Agreement No. 220-2019MA
  - 2) If applicable, the Task Authorization(s) (TA) number being charged.
  - 3) The following certification phrase, with printed name, title and signature of Service Provider's project manager or designated representative:
 

"I certify under penalty of perjury that the above statement is just and correct according to the terms of Document No. \_\_\_\_\_, and that payment has not been received."
  - 4) Dates of service provided
  - 5) Date of invoice
  - 6) A unique invoice number

- c. District shall, at its discretion, return to Service Provider, without payment, any invoice, which has been submitted without the above information and certification phrase.
- d. Invoices shall be emailed to: GS\_Invoices@portofsandiego.org or mailed to General Services Department, Attn: Invoice Processing Center, San Diego Unified Port District, 1400 Tidelands Ave, National City, CA 91950.
- e. Should District contest any portion of an invoice, that portion shall be held for resolution, but the uncontested balance shall be processed for payment. District may, at any time, conduct an audit of any and all records kept by Service Provider for the Services. Any overpayment discovered in such an audit may be charged against the Service Provider's future invoices and any retention funds.
- f. Service Provider shall submit all invoices within thirty (30) days of completion of work represented by the request and within sixty (60) days of incurring costs to be reimbursed under the Agreement. Payment will be made to Service Provider within thirty (30) days after receipt by District of a proper invoice.

**EXHIBIT A**  
**TASK AUTHORIZATION FORM**  
**San Diego Unified Port District**



**(DEPARTMENT NAME)**  
*San Diego Unified Port District*  
*P.O. Box 120488*  
*San Diego, CA 92112-0488*  
*(619) 686-\_\_\_\_*  
*Fax (619) 725-\_\_\_\_*

**TASK AUTHORIZATION NO. \_**

(Date)

(Name)

(Title)

(Name of Company)

(Address)

(City, State, Zip)

Email:

**Subject: Task Authorization for Agreement No. \_ - 20\_**  
 (Agreement Title)

You are authorized to proceed with the work described in this correspondence, in an amount not to exceed \$\_\_\_\_\_. This Task Authorization is in accordance with the terms of the subject agreement. **Please cite TA #\_** on invoice(s) for this Task.

**TASK DESCRIPTION**

1.	Requestor:		4.	WBS or IO/ Cost Center:	
2.	Date of Request:		5.	Task Start Date:	
3.	Task Budget:	\$	6.	Task End Date:	
7.	<b>Task Title:</b>				

8. **Scope of Services.**

**9. Contractor Staffing (If applicable)**

<b>Name</b>	<b>Classification</b>	<b>Hours</b>
	Staff as needed per Agreement rates	

**10. List of Sub-Contractors (If applicable)**

<b>N/A</b>

11. Please acknowledge acceptance of this Task Authorization by signing below and returning via mail to \_\_\_\_\_, Contracts Administrator, at the address above.

**APPROVALS****Service Provider:**

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Firm: \_\_\_\_\_

Date: \_\_\_\_\_

**Project Manager:**

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: Project Manager

Date: \_\_\_\_\_

**Manager:**

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: Manager

Date: \_\_\_\_\_

**Director/Chief Engineer:**

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: Director/Chief Engineer

Date: \_\_\_\_\_

## EXHIBIT B

### CERTIFICATE OF INSURANCE

#### San Diego Unified Port District

By signing this form, the authorized agent or broker **certifies** the following:

- (1) The Policy or Policies described below have been issued by the noted Insurer(s) [Insurance Company(ies)] to the Insured and is (are) in force at this time.
- (2) As required in the Insured's agreement(s) with the District, the policies include, or have been endorsed to include, the coverages or conditions of coverage **noted on page 2 of this certificate**.
- (3) Signed copies of **all** endorsements issued to effect require coverages or conditions of coverage are attached to this certificate.

**Return this form to:**

**San Diego Unified Port District**  
**c/o Ebix BPO**  
**P.O. Box 100085 – 185**  
**Duluth, GA 30096 – OR –**  
**Email: [portofsandiego@ebix.com](mailto:portofsandiego@ebix.com)**  
**Fax: 1-866-866-6516**

Name and Address of Insured (Consultant)

SDUPD Agreement Number: \_\_\_\_\_

This certificate applies to all operations of named insureds on District property in connection with all agreements between the District and Insured.

CO LTR	TYPE OF INSURANCE	POLICY NO.	DATES	LIMITS
	<b>Commercial General Liability</b> <input type="checkbox"/> Occurrence Form <input type="checkbox"/> Claims-made Form Retro Date _____ <input type="checkbox"/> Liquor Liability Deductible/SIR: \$ _____		<b>Commencement Date:</b>  <b>Expiration Date:</b>	<b>Each Occurrence:</b> \$ _____  <b>General Aggregate:</b> \$ _____
	<b>Commercial Automobile Liability</b> <input type="checkbox"/> All Autos <input type="checkbox"/> Owned Autos <input type="checkbox"/> Non-Owned & Hired Autos		<b>Commencement Date:</b>  <b>Expiration Date:</b>	<b>Each Occurrence:</b> \$ _____
	<b>Workers Compensation – Statutory</b> Employer's Liability		<b>Commencement Date:</b>  <b>Expiration Date:</b>	E.L. Each Accident \$ _____ E.L. Disease Each Employee \$ _____ E.L. Disease Policy Limit \$ _____
	<b>Professional Liability</b> <input type="checkbox"/> Claims Made Retro-Active Date _____		<b>Commencement Date:</b>  <b>Expiration Date:</b>	Each Claim \$ _____ \$ _____
	<b>Excess/Umbrella Liability</b>		<b>Commencement Date:</b>  <b>Expiration Date:</b>	Each Occurrence: \$ _____ General Aggregate: \$ _____
<b>CO LTR</b>	<b>COMPANIES AFFORDING COVERAGE</b>			<b>A. M. BEST RATING</b>
A				
B				
C				
D				
<b>A. M. Best Financial Ratings of Insurance Companies Affording Coverage Must be A-VII or better unless approved in writing by the District.</b>				
Name and Address of Authorized Agent(s) or Broker(s)			E-mail Address:	
			Phone:	Fax Number:
			Signature of Authorized Agent(s) or Broker(s)	
			Date:	

**SAN DIEGO UNIFIED PORT DISTRICT**  
**REQUIRED INSURANCE ENDORSEMENT**

<b><u>ENDORSEMENT NO.</u></b>	<b><u>EFFECTIVE DATE</u></b>	<b><u>POLICY NO.</u></b>
<b>NAMED INSURED:</b>		
<b>GENERAL DESCRIPTION OF AGREEMENT(S) AND/OR ACTIVITY(IES):</b> All written agreements, contracts and leases with the San Diego Unified Port District and any and all activities or work performed on district premises		

**Notwithstanding any inconsistent statement in the policy to which this endorsement is attached or in any endorsement now or hereafter attached thereto, it is agreed as follows:**

1. The San Diego Unified Port District, its officers, agents, and employees are additional insureds in relation to those operations, uses, occupations, acts, and activities described generally above, including activities of the named insured, its officers, agents, employees or invitees, or activities performed on behalf of the named insured.
2. Insurance under the policy(ies) listed on this endorsement is primary and no other insurance or self-insured retention carried by the San Diego Unified Port District will be called upon to contribute to a loss covered by insurance for the named insured.
3. This endorsement shall include a waiver of transfer of rights of recovery against the San Diego Unified Port District ("Waiver of Subrogation").
4. The policy(ies) listed on this endorsement will apply separately to each insured against whom claim is made or suit is brought except with respect to the limits of the insurer's liability.
5. As respects the policy(ies) listed on this endorsement, with the exception of cancellation due to nonpayment of premium, thirty (30) days written notice by certified mail, return receipt requested, will be given to the San Diego Unified Port District prior to the effective date of cancellation. In the event of cancellation due to nonpayment of premium, ten (10) days written notice shall be given.

Except as stated above, and not in conflict with this endorsement, nothing contained herein shall be held to waive, alter or extend any of the limits, agreements or exclusions of the policy(ies) to which this endorsement applies.

\_\_\_\_\_  
(NAME OF INSURANCE COMPANY)

\_\_\_\_\_  
(SIGNATURE OF INSURANCE COMPANY AUTHORIZED REPRESENTATIVE)

**MAIL THIS ENDORSEMENT AND NOTICES OF CANCELLATION:**

San Diego Unified Port District  
c/o Ebix BPO  
P.O. Box 100085 – 185  
Duluth, GA 30096 – OR –  
Email to: [portofsandiego@ebix.com](mailto:portofsandiego@ebix.com)  
Fax: 1-866-866-6516