



REQUEST FOR PROPOSALS

#RFP-2026-12

PROJECT: HEADQUARTERS LANDSCAPE MAINTENANCE

The Authority is issuing this Request for Proposals for landscapers to provide regular and ad hoc landscape maintenance of the Authority headquarters located at 33 Las Colinas Lane for a five-year term.

**PROPOSALS DUE: FRIDAY, NOVEMBER 13,
2026 by 3PM PACIFIC STANDARD TIME**

Request for Proposals Headquarters Landscape Maintenance

BACKGROUND & SCOPE OF WORK

PURPOSE OF REQUEST FOR PROPOSALS

The Santa Clara Valley Open Space Authority (Authority) is soliciting proposals from qualified Bidders with expertise in commercial landscape maintenance to provide ongoing landscape maintenance and perform ad hoc repairs and upgrades to the landscape at the Authority's headquarters location for a five-year term.

BACKGROUND

The Authority is an independent special district created on February 1, 1993, by an act of the Legislature and is governed by a seven-member elected board of directors. The Authority serves a large portion of Santa Clara County by protecting sensitive lands, preserving natural communities, and managing open space. The Authority has preserved over 30,000 acres, which include three preserves with over 30 miles of trail. Activities on the preserves include hiking, cycling, horseback riding, and nature study.

The Authority's headquarters is located at 33 Las Colinas Lane, San Jose CA 95119. The Authority's intention is to plant and maintain native and drought tolerant plantings in the landscape. The Authority also prioritizes water conservation in the headquarters landscape through proactive maintenance of the irrigation system.

A mandatory site visit will be held on October 28, 2026 at 11:00 a.m. Interested bidders must attend the site visit to inform their proposal. The site is located at 33 Las Colinas Lane, San Jose CA 95119. Please RSVP to Ivy Rylander at irylander@openspaceauthority.org by October 26, 2026 by 5:00 p.m.

OBJECTIVES

The objective for the services awarded through this RFP is to maintain the exterior landscape elements of the Authority's headquarters location at 33 Las Colinas Lane, San Jose CA through ongoing maintenance and ad hoc repair and replacement services.

SCOPE OF WORK

The Authority is seeking proposals from experienced landscape maintenance firms to maintain the exterior landscape elements of the Authority's headquarters location at 33 Las Colinas Lane, San Jose, CA. The scope of work is divided into two categories: first is the ongoing Maintenance Program Base Package and second is Ad Hoc Repair and Replacement Services.

Project tasks include but are not limited to:

A. Landscape Maintenance Program Base Package - This work is to be completed for a standard rate on a bi-weekly basis for a five-year term.

- a. Lawn Area & Planting Beds: Contractor will complete moving of turf on agreed upon schedule. Scheduled cuts missed due to inclement weather will be made up as soon as possible. Treatment of turf areas for damaging insect or disease and weed control will be the responsibility of the contractor. Contractor will neatly edge and trim around all plant beds, curbs, and trees to maintain a clean, well-groomed appearance. Open ground in planting beds will be treated by manual or chemical means to control weed growth. All debris from this work will be hauled away by vendor.
- b. Hardscape: All walks, asphalt, and other hardscape will be blown after maintenance is performed to maintain a clear, well-groomed appearance. Front above ground planters will be weeded on a regular basis. All debris from the work will be hauled away by vendor.
- c. Irrigation: Existing irrigation system shall be checked as needed to ensure working order and conform to the Authority's water management goals. Preventative maintenance will be done as needed to ensure that all zones are checked for operation and repairs are recommended for approval. Minor nozzle adjustments and timer adjustments will be performed with no additional charges.
- d. Tree & Shrub Maintenance: Pruning of trees and shrubs will be completed semi-annually. All debris from this work will be hauled away by vendor.
- e. Fertilization & Chemical Treatments: Shrubs and groundcover will be fertilized with a recommended analysis semi-annually. When fertilizer is applied to any ground, all sidewalks, roads, and curbs will be swept clean of granular fertilizer after applications to minimize staining. Contractor will maintain a log of all chemical applications on property and will have MSDS sheets available for each product used.

- f. Subcontractors: The Landscape Maintenance Program Base Package is to be completed by vendor directly, no sub-contracting will occur for this work.

B. Ad Hoc Repair and Replacement Services – Projects that may come up and will require separate estimating and approval before beginning.

- a. Irrigations Repair and Upgrades: Repairs for all items such as head replacement, broken lines, pumps, or timers will be performed upon the Authority's approval and billed accordingly. Upgrades or changes to irrigation method will be performed as a standalone project upon the Authority's approval and billed accordingly.
- b. Tree & Shrub Maintenance: Pruning projects above and beyond recurring needs will be performed upon the Authority's approval and billed accordingly. All debris from these projects will be hauled away by vendor.
- c. Planting Services: If new plantings are needed that work will be performed upon the Authority's approval and billed accordingly.
- d. Replanting of Lawn: If lawn area requires reseeding, or sodding, that work will be performed upon the Authority's approval and billed accordingly.
- e. Weed Block & Mulch: Installation and replacement of weed block and mulch will be completed upon the Authority's approval and billed accordingly.

C. Personnel/Other Requirements

- a. Contractor will provide all labor, transportation, and supervision necessary to perform the work described in this RFP.
- b. All field personnel will be equipped with all necessary supplies, tools, parts, and equipment, and trained to perform work in a safe manner.
- c. Personnel will be licensed for all applicable maintenance functions, including any pesticide or herbicide applications, as required by law.
- d. Any damaged caused by Contractor personnel shall be repaired promptly at no cost to the Authority.
- e. Subcontractors are only permitted for Ad Hoc Maintenance projects that may come up. If Subcontractors are used, they must comply with all Public Works requirements in the State of California, including registration with the Department of Industrial Relations.

SUBMISSION, REVIEW & SPECIAL CONDITIONS

REQUIRED INFORMATION

1. A fee proposal stating the monthly cost for the Landscape Maintenance Program Base Package. Additional fee schedule that details hourly rates for qualified staff to perform the tasks described in the Ad Hoc Repair and Replacement Services.
 - a. All fees proposed should include any anticipated or planned cost of living adjustments over the five-year term.
2. A detailed description of Bidder's experience in commercial landscape maintenance, repair, and upgrades.
3. A list of at least three (3) clients (include names of contact persons, telephone numbers, brief description of the work performed) for whom the Bidder has performed services similar to those required by this RFP.
4. Review sample contract and provide a statement that indicates agreement to its terms including the insurance requirements. (See Attachment A.)
5. Proposal must include proof of registration 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 sections 1771.1(a)]. 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. This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

PREPARATION OF RESPONSES

All responses to the items in the REQUIRED INFORMATION section must be answered fully and must be able to be substantiated by the Bidder.

KEY DATES*

Event	Tentative Date
Request For Proposals Issuance	Fri 10/9/2026
Mandatory Site Visit	Wed 10/28/2026 at 11:00 a.m.
Last Day to Submit Questions	Wed 11/4/2026 at 5:00 p.m.
Final Addenda Issued	Friday 11/6/2026 by 5:00 p.m.
Proposals Due	Friday 11/13/2026
Bid Opening	Friday 11/13/2026 at 3pm via Zoom Register to join bid opening here
Award Bid	12/10/2026

* Dates subject to change

SUBMISSION OF RESPONSES

Proposals must be delivered by email (with attachments, if any) to the following email address: proposals@openspaceauthority.org, with the following language in the subject line of the email "Attention: RFP-2026-12 re: Headquarters Landscape Maintenance"

The Authority cautions Bidders to assure actual delivery of emailed responses directly to the address noted above by the established deadline. File attachments recommended to be under 10MB; emails with attachments greater than 20MB may not be successfully delivered. A response received by the Authority after the established deadline will not be considered.

Proposals will be received only at the email address identified above. All proposals must be received by email only by the Authority prior to 3:00 p.m. November 13, 2026.

A. Email ONLY. Mail and facsimile responses will not be considered. Proposals will NOT be accepted via fax, mail, or by courier. Late responses will not be considered. Bidders shall have sole responsibility for delivery of responses on time and to the proper email address.

B. Response Format:

To facilitate the analysis of responses to this Request for Proposals, Bidders are required to prepare their responses in accordance with the instructions outlined in this section. Bidders whose responses deviate from these instructions may be considered non-responsive and may be disqualified at the discretion of the Authority.

Responses should be prepared as simply as possible and provide a straightforward, concise description of the Bidder's capabilities to satisfy the requirements of this Request for Proposals. Emphasis should be concentrated on accuracy, completeness, and clarity of content. All parts, pages, figures and tables should be numbered and clearly labeled. No page limit, however, responses should be comprehensive, succinct and direct. Font size should be no less than 11 points.

The responses should be organized into the following major sections:

1. PROPOSED FEE SCHEDULE

The Bidder must include pricing for all proposed services and include a breakdown of costs (by hourly, by monthly, by task, by deliverable, etc.).

2. DESCRIPTION OF PROPOSED SERVICES

Proposal must address each of the tasks requested in the scope of work described above, and any additional tasks that may be necessary to accomplish the stated goals. The response should provide descriptions for how the Bidder intends to complete the work. The Authority prefers consolidated and comprehensive services for the entire scope of services.

3. DESCRIPTION OF EXPERIENCE

The Bidder must provide a description of experience, including detailed descriptions of Bidder's experience in commercial landscape maintenance and repair. Please do not include information on projects that are not similar in scope and character to the scope of work described in this RFP.

4. CLIENT REFERENCES

Firms should provide a list of at least three (3) clients (include names of contact persons, telephone numbers, brief description of the work performed) for whom the firm has performed services similar to those required by this RFP.

5. STATEMENT OF AGREEMENT WITH TERMS OF CONTRACT

The Bidder must provide a statement that indicates agreement to the terms of the contract including an agreement to meet the insurance requirements.

6. DIR REGISTRATION

Proposal must include proof of registration 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)].

7. PREVAILING WAGES

As required by law, the Contractor shall pay all workers California prevailing wages for each trade or classification on the job during the term of this project. These rates include employer payments for health and welfare, pension, vacation, travel time, subsistence pay and apprenticeship or training. Prevailing wage information can be found at the following website: <http://www.dir.ca.gov/dlsr/DPreWageDetermination.htm>.

- C. No Deviation: Any deviation from the requirements listed below may result in the response being considered non-responsive, thus eliminating a Bidder from further consideration.

SELECTION CRITERIA

The Authority will award the contract to the lowest responsible bidder. The lowest bid shall be the lowest price listed for the Landscape Maintenance Program Base Package.

A. Responsive Bid

The Authority will award the contract to the lowest responsible bidder submitting a responsive bid. A responsive bid is one that conforms to the material terms of the bid package.

B. Responsible Bidder

The Authority establishes bidder responsibility pursuant to the Public Contract Code. Public Contract Code § 1103 defines “responsible bidder” as “a bidder who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity, and experience to satisfactorily perform the public works contract.”

ADDENDA

Authority will post any addenda on Authority’s website. Bidders shall be responsible for ensuring that all addenda are included in their responses.

REJECTION OF RESPONSES

The Authority may reject any proposal if:

1. The Bidder fails to respond to the RFP Required Information, or otherwise comply with the format and submission required set forth in this RFP, or
2. The Bidder misstates or conceals any material fact in the response.

The Authority may reject all nonconforming, non-responsive or conditional proposals, and may waive any minor informalities or irregularities in any proposal and at the Authority's sole discretion. The Authority may reject all bids.

BIDDER QUESTIONS

Any questions about this RFP shall be submitted in writing to proposals@openspaceauthority.org on or before 5:00 p.m. on 11/4/2026. Agency will post written responses to questions and email answers to Bidders no later than 5:00 p.m. on 11/6/2026. Responses may be posted incrementally as received.

PUBLIC RECORDS LAW

Pursuant to the California Public Records Act (California Government Code Section 6250 and following), public records are open to inspection at all times during the office hours of the Authority and every person has a right to inspect any public record or request copies of public records. All submitted responses are public records and are subject to public disclosure pursuant to the California Public Records Act.

ACCEPTANCE

Submission of any response indicates acceptance of the conditions contained in this Request for Proposals.

RESPONSE COSTS

Those submitting responses do so entirely at their own expense. The Authority will not be responsible for reimbursement to any individual or firm for any costs incurred in preparing or submitting responses, providing additional information when requested by the Authority, or for participating in any selection interviews or meetings.

NON-DISCRIMINATION

No person shall be excluded from participation in, denied any benefits or otherwise discriminated against in connection with the award and performance of any contract on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, sexual orientation, age (over 40), military and veteran status of any person, or any other non-merit factor unrelated to job duties and protected by law.

List of Attachments

Attachment A –Contract Template

CONTRACT FOR SERVICES

THIS AGREEMENT is entered into between the Santa Clara Valley Open Space Authority (hereinafter "Authority") and [INSERT NAME] (hereinafter "Contractor") and sets forth the terms of this Agreement. Authority and Contractor are collectively referred to as the "Parties." This Agreement is effective upon full execution of this Agreement by the Parties. In consideration of the mutual covenants, terms, conditions, and restrictions contained herein, and pursuant to the laws of the State of California, the parties agree as follows:

1. Scope of the Agreement

- a. During the term of this Agreement, Contractor shall provide the (OPTION 1) services set forth in the Scope of Work, attached hereto as Exhibit A and hereby incorporated by reference. Such services may also be referred to as "Project" or the "work" herein. However, if any provision or term of Exhibit A conflicts with any provision or term of this Agreement, the provisions and terms of this Agreement shall prevail and supersede any inconsistent provisions or terms in Exhibit A. (OR OPTION 2) following services:

2. Payment

- a. Payment for Services. [(OPTION 1) Authority shall pay for services and reimbursable expenses in a total amount of \$ XX upon completion of the services to the satisfaction of Authority and delivery of the work product. (OR OPTION 2) Authority shall pay for services performed in accordance with this Agreement according to the fee schedule and any reimbursable expenses contained in Exhibit B. Contractor shall invoice Authority monthly. (OR OPTION 3) Authority shall pay for services performed in accordance with this Agreement at an hourly rate of \$ XX, and reimbursable expenses in the amount of \$ XX. Contractor shall invoice Authority monthly.
- b. [(OPTIONAL) Reimbursement of Expenses. All expenses incurred as part of this Agreement will be reimbursed at actual cost.
- c. (OPTIONAL) Maximum Payment. Contractor agrees that fees and any reimbursable expenses to complete the services promised under this Agreement shall not exceed a maximum of \$ XX.
- d. Audit of Records. Contractor shall maintain complete and accurate records of all payrolls, expenditures, disbursements and other cost items charged to Authority or establishing the basis for an invoice, for a minimum of four (4) years from the date of final payment to Contractor. All such records shall be clearly identifiable. Contractor shall allow an Authority representative to inspect, examine, copy and audit such records during regular business hours upon 24 hours' notice.

3. Time for Performance

Contractor's work shall be scheduled and performed to meet agreed-upon deadlines. The term of this Agreement shall end (OPTION 1:) on or before [INSERT END DATE], unless abandoned as provided in section 5 below. The time for performance may not be extended without Authority's express written approval. (OR OPTION 2:) when the services described herein are completed, unless abandoned as provided in section 5 below.

4. Standard of Performance

Services shall be performed by Contractor in accordance with generally accepted professional practices and principles and in a manner consistent with the level of care and skill ordinarily exercised under similar conditions by members of Contractor's profession currently practicing in California.

5. Abandonment of Project

Authority shall have the right to abandon or indefinitely postpone ("abandonment") the project that is the subject matter of this Agreement and the services hereunder, or any portion thereof, at any time. In such event, Authority shall give written notice of such abandonment. In the event of abandonment prior to completion of the project, Contractor shall cease work immediately. All charges incurred up to the time of notice of abandonment, together with any other charges outstanding at the time of termination, shall be payable by Authority within 30 days following submission of a final statement by Contractor and shall be considered as full payment due hereunder. However, Authority may condition payment of such compensation upon Contractor's delivery to Authority of any or all work product generated by Contractor pursuant to this Agreement.

6. Contractor as Independent Contractor

At all times during the term of this Agreement, it is expressly agreed that in the performance of the services necessary to carry out this Agreement, Contractor shall be an independent contractor and shall not be an employee of Authority. It is agreed that Authority is interested only in the results obtained and that Contractor shall perform as an independent contractor with sole control of the manner and means of performing the services required under this Agreement. Authority shall have the right to control Contractor only insofar as the results of Contractor's services rendered pursuant to this Agreement; however, Authority shall not have the right to control the means by which Contractor accomplishes the results required under this Agreement. Contractor has and shall retain the right to exercise full control and supervision of the services, and full control over the employment, direction, compensation and discharge of all persons assisting Contractor in the performance of Contractor's services hereunder. Contractor shall be solely responsible for all matters relating to the payment of Contractor's employees, including compliance with social security, withholding, and all other regulations governing such matters, and shall be solely responsible for Contractor's own acts and this of Contractor's subordinates, subcontractors, agents, and employees. Contractor is responsible for all insurance and all taxes, charges, fees, benefits or contributions required to be paid or withheld on behalf of Contractor, including, but not limited to, compliance with social security, withholding, and all other regulations governing such matters. Contractor is not entitled to any employee benefits. Contractor shall exonerate, indemnify, defend, and hold harmless Authority (which shall include,

without limitation, its officers, agents, employees and volunteers) from and against any and all federal, state, and local taxes, charges, fees, or contributions required to be paid with respect to Contractor and Contractor's officers, employees and agents engaged in the performance of this Agreement (including, without limitation, unemployment insurance, social security and payroll tax withholding).

7. Non-Discrimination

During and in relation to the performance of this Agreement, Contractor agrees as follows. Contractor shall not discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex (including pregnancy, childbirth, breastfeeding or related medical conditions), gender, gender identity, gender expression, sexual orientation, age (over 40), military and veteran status of any person, or any other non-merit factor unrelated to job duties and protected by law. Contractor shall not discriminate on the basis of the above characteristics against any employee or applicant for employment who has, perceives he or she has, or is associated with a person who has, or is perceived to have any of the above characteristics. Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex (including pregnancy, childbirth, breastfeeding or related medical conditions), gender, gender identity, gender expression, sexual orientation, age (over 40), military and veteran status of any person, or any other non-merit factor unrelated to job duties and protected by law. Such action shall include, but not be limited to, the following: employment, terms, conditions or privileges of employment, promotion, demotion or transfer, recruitment advertising, layoffs or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Furthermore, Contractor shall include this requirement in any and all sub-contracts it enters into in any way related to this Agreement. Nothing in this section shall prohibit Contractor from applying a bona fide occupational qualification, or any other exception established by the California Fair Employment and Housing Act under Government Code Section 12940.

8. Indemnification

- a. Contractor agrees to indemnify, hold harmless, defend and protect Authority, its directors, officers, officials, employees, agents and invitees, from and against any and all claims, losses, damages, demands, liabilities, suits, costs, expenses (including attorneys' fees), penalties, judgments, or obligations whatsoever arising out of, pertaining or relating to the negligence, omission, recklessness or willful misconduct of Contractor, its employees, subcontractors, or agents, or on account of the performance or character of the Services or in any way related to activity conducted by Contractor, except for any such claim resulted from the sole negligence or the intentional and willful misconduct of Authority, its officers, directors, agents or employees. The provisions of this section shall survive the termination or expiration of this Agreement. It is understood that the duty of Contractor to indemnify and hold harmless includes the duty to defend as set forth in section 2778 of the California Civil Code. Acceptance of insurance certificates and endorsements required under this Agreement does

not relieve Contractor from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply whether or not such insurance policies shall have been determined to be applicable to any of such damages or claims for damages.

b. The provisions of this section shall survive the termination or expiration of this Agreement.

9. Insurance

a. Contractor shall procure and keep in force during the term of this Agreement, at Contractor's own cost and expense, the following policies of insurance with companies licensed to do business in the State of California, which are rated at least "A" or better by A.M. Best Company and which are acceptable to Authority:

- i) If Contractor has and will have employees during the term of this Agreement, Workers' Compensation Insurance as required by law with limits of **\$1,000,000**;
- ii) Comprehensive or Commercial General Liability Insurance, which shall be occurrence coverage, in the minimum amount of **\$1,000,000 per occurrence, \$2,000,000** aggregate, combined single limit, including coverage for (a) bodily injury, (b) personal injury, (c) broad form property damage, (d) contractual liability, and (e) cross-liability;
- iii) Business Automobile Liability Insurance for each of Contractor's vehicles used in the performance of this Contract, including owned, non-owned (e.g., owned by Contractor's employees), leased or hired vehicles, in the minimum amount of **\$1,000,000** per occurrence for bodily injury and property damage; and
- iv) **Professional Liability Insurance (or Errors and Omissions Insurance) in the minimum amount of \$1,000,000. The policy must contain a cross liability or severability of interest clause. If the policy is on a claims-made basis, coverage must extend to a minimum of three (3) years beyond completion of the services provided pursuant to this Agreement. If coverage is cancelled or non-renewed, and not replaced with another claims made policy form with a "retroactive date" prior to this Agreement's effective date, Contractor shall purchase "extended reporting" coverage for a minimum of three (3) years after completion of the services provided pursuant to this Agreement.**

All required insurance shall be placed with California-admitted insurers. Upon request, Contractor shall provide to Authority proof of insurance or proof of renewal of each insurance policy at least thirty (30) days prior to the expiration of the insurance policy as long as this Agreement remains in effect.

Contractor certifies that Contractor is aware of the provisions of Section 3700 of the California Labor Code, which requires every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code. Contractor shall comply with the provisions of Section 3700 of the Labor Code before commencing the performance of the work under this Agreement.

In the event that any coverage required under the Agreement is reduced, limited, or materially affected in any other manner, Contractor shall provide written notice to Authority at Contractor's earliest possible opportunity and in no case later than five days after Contractor is notified of the change in coverage.

In the case of the breach of any provision of this section, Authority may, at Authority's option: (1) take out and maintain, at the expense of Contractor, such types of insurance in the name of Contractor as Authority may deem; (2) order Contractor to stop work under the Agreement until Contractor complies with the insurance requirements required by this Agreement; or (3) terminate this Agreement.

b. Other Insurance Provisions. The policies shall include or be endorsed to include, but not limited to, the following provisions:

- i) Authority, its officers, officials, employees and volunteers are to be covered as additional insureds as respects: liability arising out of activities performed by or on behalf of Contractor; products and completed operations of Contractor, premises owned, occupied or used by Contractor, or automobiles owned, leased, hired or borrowed by Contractor. The coverage shall contain no special limitations on the scope of the protection afforded to Authority, its officers, officials, employees or volunteers, and no endorsement shall be attached limiting the coverage. Contractor shall furnish Authority with certificates of insurance and with original endorsements effecting coverage required by this clause.
- ii) Contractor's insurance coverage shall be primary insurance as respects Authority, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by Authority, its officers, officials, employees or volunteers shall be in excess of Contractor's insurance and shall not contribute to it.
- iii) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to Authority, its officers, officials, employees or volunteers.
- iv) Contractor's insurance shall 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.

10. Prevailing Wage and Public Works Contract Compliance

Compliance Monitoring and Enforcement by the DIR. No contractor or subcontractor may be listed on a bid proposal for a public works project or awarded a contract for public work unless

registered with the Department of Industrial Relations as a Public Works Contractor. This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. A copy of Contractor's (and all subcontractors') Public Works Contractor Registration is attached hereto as Exhibit XX. Contractor shall maintain current and valid Public Works Contractor Registration throughout the duration of this Agreement.

- a. *License.* Under California Business and Professions Code § 7000 et seq., commonly known as the "Contractors' State License Law", Contractor must possess an appropriate license that is current and valid at the commencement of and throughout the Term of this Agreement. This Agreement prohibits contractors or subcontractors who are ineligible under Labor Code §§ 1777.1 and 1777.7 to perform any work on this project. The License required by this Agreement: Class C – Specialty Contractor. This Contractor's license number is:
- b. *Wages.* As required by law, Contractor shall pay all workers not less than the general prevailing rate of per diem wages for each trade or classification for the job during the term of this Agreement. These rates include, but are not limited to, employer payments for health and welfare, pension, vacation, travel time, subsistence pay and for apprenticeship and training obligations. The current issue of the Director of the Department of Industrial Relations for the State of California general prevailing wage rates for straight time, overtime, Saturday, Sunday, and Legal Holidays is herein incorporated as part of this Contract. Holiday wage rates shall apply to holidays recognized in the collective bargaining agreement of the particular craft or classification concerned. Any and all revisions to the general prevailing wage rates that take effect during the Contract shall be adopted as part of this Contract. Contractor shall post Prevailing Wage Rates on job site. Copies of the general prevailing wage rates are on file and available for review on request at Authority's principal office: 33 Las Colinas Lane, San Jose, CA 95119. For those crafts or job classifications requiring special prevailing wage determinations, please contact the Division of Labor Statistics and Research, Prevailing Wage Unit, P.O. Box 603, San Francisco, CA 94101, (415) 703-4281. The Contractor and any subcontractor under the contractor shall, as a penalty to the Authority, forfeit not more than two hundred dollars (\$200) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rates as determined by the Director of the Department of Industrial Relations for the work or craft in which the worker is employed for any public work done under the contract by the Contractor or, except as provided in subdivision (b) of Labor Code § 1775, by any subcontractor under the Contractor pursuant to Labor Code § 1775.
- c. *Claims Against the Authority and Indemnification.* Authority will not recognize any claim for additional compensation because of payment by Contractor of any wage above the general prevailing wage rates. The possibility of wage increases is an element to be considered by Contractor in determining its bid and may not under any circumstance form the basis of a claim against Authority. Contractor hereby agrees, on behalf of itself and any subcontractors, to indemnify, hold harmless and defend the Authority against any claim for damages, compensation, fines, penalties or other amounts arising out of the failure or

alleged failure of the Contractor or any of its subcontractors to pay prevailing wages as required by law or to comply with the other applicable provisions of Labor Code Section 1720 et seq. and implementing regulations of the Department of Industrial Relations in connection with the Project.

- d. *Skilled Workers.* Contractor and all subcontractors shall only employ workers suitably skilled in the Work. Anyone employed by Contractor to work on the Project, or any subcontractor, who in the opinion of the Authority is incompetent, disorderly, or otherwise acts improperly, after written notification, shall be dismissed from the Project and not further employed on any part of the Work.
- e. *Character of Workers.* Anyone employed by Contractor to work on the services required of this Agreement, or any subcontractor, who in the opinion of the Authority is incompetent, disorderly, or otherwise acts improperly, after written notification, shall be dismissed and not further employed on any part of the services set forth in the Scope of Work.
- f. *Lawful Working Day.* Work performed by workers more than eight (8) hours during any one (1) calendar day and more than forty (40) hours in any one (1) calendar week may only be permitted pursuant to the overtime provisions of Labor Code § 1815 and then only upon such terms, conditions and requirements as provided and fixed by law. The Contractor or subcontractor shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit twenty-five dollars (\$25) for each worker employed in the execution of the contract by the respective contractor or subcontractor for each calendar day during which the worker is required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week in violation of the Labor Code §§ 1810-1815.
- g. *Apprenticeship Standards.* Contractor shall comply fully with the requirements of California Labor Code § 1777.5 regarding employment of registered apprentices. If Contractor willfully fails to comply with this code section, Contractor may be denied the right to bid on any Authority contract for a period of one (1) year from the date of non-compliance determined by the California Division of Apprenticeship Standards. When Authority receives from the Division notice that Contractor is not in compliance with apprenticeship standards, Authority shall withhold from Contract payments the amount of the civil penalty imposed by the Division, which funds may be released to Contractor upon order of the Administrator or upon completion of the Contract.
- h. *Workers' Compensation.* Each contractor to whom a public works contract is awarded shall sign and file with the Authority the following certification prior to performing the work of the contract: "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 performance of the work of this contract."

Contractor shall execute such certificate, attached hereto and incorporated herein as Exhibit B, pursuant to Labor Code §1861.

- i. *Payroll Record Requirements.* Contractor and each subcontractor shall keep verified and certified payroll records showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week and the actual per diem wages paid to each journeyman, apprentice, worker or other employee employed on the Project and each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury pursuant to the requirements set forth under California Labor Code § 1776. Payroll records shall be certified and shall be available for inspection at all reasonable hours by the Authority and a copy shall be made available for inspection or furnished to the employee, the employee's authorized representative, the Authority, the California Division of Labor Standards Enforcement and the California Division of Apprenticeship Standards upon request. Unless required to be furnished directly to the Labor Commissioner in accordance with paragraph (3) of subdivision (a) of Section 1771.4, the certified payroll records shall be on forms provided by the Division of Labor Standards Enforcement or shall contain the same information as the forms provided by the division. The payroll records may consist of printouts of payroll data that are maintained as computer records, if the printouts contain the same information as the forms provided by the division and the printouts are verified in the manner specified in subdivision (a) of Labor Code § 1776.

Contractor shall submit weekly or monthly certified payroll records to the Department of Industrial Relations either electronically. Contractor may submit monthly certified payroll records using Department of Industrial Relations Form A-1-131 in lieu of submitting electronic certified payroll records if (a) the project qualifies for a “small project” exemption under Labor Code § 7125.5(f), or (b) Authority determines Contractor lacks the resources or capacity to submit electronic payroll forms. Contractor shall submit certified payroll records to Authority within 10 days of a request for submittal by the Authority.

Contractor shall retain copies of certified payroll records for four years after the audit year in which wages were paid, or until the expiration of all applicable statute of limitations period(s), whichever is later.

Except as provided in subdivision (f) of Labor Code § 1776, any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by the Authority or the Division of Labor Standards Enforcement shall be marked or obliterated to prevent disclosure of an individual's name, address, and social security number. The name and address of the contractor awarded the contract or the subcontractor performing the contract shall not be marked or obliterated.

- j. *Complaint that Employee Paid Less than Prevailing Wage.* If a complaint is filed with Authority or the Division of Labor Standards Enforcement alleging that Contractor or subcontractor has paid less than prevailing wage on the Project, Authority shall withhold from

payment to Contractor an amount equal to one hundred and twenty-five percent (125%) of the amount claimed until the allegation is settled.

- k. *Substitution of securities for withheld funds.* Pursuant to Public Contract Code § 22300, Contractor may substitute securities in place of retained funds withheld by the Authority to ensure performance of the contract. At the request and expense of the Contractor, securities equivalent to the amount withheld shall be deposited with the public agency, or with a state or federally chartered bank in this state as the escrow agent, who shall then pay those moneys to the contractor. Upon satisfactory completion of the contract, the securities shall be returned to the contractor. Contractor may request an alternative to such substitution pursuant to Public Contract Code § 22300(b).
- l. *Claims.* Public Contract Code § 9204 applies to any claim by a contractor within the meaning of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code who has entered into a direct contract with a public entity for a public works project, which means the erection, construction, alteration, repair, or improvement of any public structure, building, road, or other public improvement of any kind. For purposes of this section a “claim” means: (A) A time extension, including, without limitation, for relief from damages or penalties for delay assessed by a public entity under a contract for a public works project. (B) Payment by the public entity of money or damages arising from work done by, or on behalf of, the contractor pursuant to the contract for a public works project and payment for which is not otherwise expressly provided or to which the claimant is not otherwise entitled. (C) Payment of an amount that is disputed by the public entity.

11. Documents, Materials and Records the Property of Authority

All documents, materials, and records of a finished nature, including but not limited to final plans, specifications, video or audio tapes, photographs, computer data, software, reports, maps, electronic files and films, and any final revisions, prepared or obtained in the performance of this Agreement (collectively “work product”), shall be delivered to and become the property of Authority without restriction or limitation on their use. All documents and materials of a preliminary nature, including but not limited to notes, sketches, preliminary plans, computations and other data, and any other material referenced in this section, or prepared or obtained in the performance of this Agreement, shall be made available, upon request, to Authority at no additional charge and without restriction or limitation on their use. Upon Authority’s request, Contractor shall execute appropriate documents to assign to the Authority the copyright or trademark to work product created pursuant to this Agreement. Contractor shall return all Authority’s property in Contractor’s control or possession immediately upon termination.

12. Assignment

A substantial inducement to Authority for entering into this Agreement is the professional reputation and competence of Contractor. Contractor shall not assign or otherwise transfer any rights, duties, obligations or interest in this Agreement or arising hereunder to any persons or entities whatsoever without the prior written consent of Authority and any attempt to assign or transfer without such prior written consent shall be void and shall terminate this Agreement.

Consent to any single assignment or transfer shall not constitute consent to any further assignment or transfer.

13. Subcontractor

- a. Contractor will perform the work personally or through Contractor's employees. Contractor may subcontract work only as specified in this Agreement or upon prior approval of Authority. If subcontracting of work is permitted, Contractor shall pay subcontractor within ten (10) days of receipt of payment by Authority for work performed by a subcontractor and billed by Contractor.
- b. Authority is an intended beneficiary of any work performed by the subcontractor for purposes of establishing a duty of care between the subcontractor and Authority.

14. Conflict of Interest

Contractor warrants and covenants that Contractor presently has no interest in, nor shall any interest be hereinafter acquired in, any matter which will render the services required under the provisions of this Agreement a violation of any applicable state, local, or federal law. In the event that any conflict of interest should nevertheless hereinafter arise, Contractor shall promptly notify Authority of the existence of such conflict of interest so that Authority may determine whether to terminate this Agreement. Contractor further warrants its compliance with the Political Reform Act (Government Code § 81000 et seq.) respecting this Agreement.

15. Compliance with Laws

In the performance of this Agreement, Contractor shall abide by and conform to any and all applicable laws of the United States and the State of California, and all ordinances, regulations, and policies of Authority and other local agency with jurisdiction. Contractor warrants that all work done under this Agreement will be in compliance with all applicable safety rules, laws, statutes, and practices, including but not limited to Cal/OSHA regulations. If a license, permit, or registration of any kind is required by law of Contractor, its employees, agents, or subcontractors to practice Contractor's profession, Contractor represents and warrants that such license has been obtained, is valid and in good standing, and Contractor shall keep it in effect at all times during the term of this Agreement.

16. Changes in Work

No payment for changed or additional work shall be made unless the changed or additional work has first been approved in writing by Authority and the Parties have agreed upon the appropriate adjustment, if any, to the payment schedule and maximum payment amount for the changed or additional work.

17. Accident Reports

Contractor shall immediately report (as soon as feasible, but not more than 24 hours) to Authority any accident or other occurrence causing injury to persons or property during the performance of this Agreement. If required by Authority, the report shall be made in writing and shall include, at

a minimum: (a) the names, addresses, and telephone numbers of the persons involved, (b) the names, addresses and telephone numbers of any known witnesses, (c) the date, time and description of the accident or other occurrence.

18. Default

In the event that Contractor defaults in any obligation of Contractor under this Agreement, or Contractor defaults in the performance of any of the terms and conditions of this Agreement, Authority may, at its option, declare this Agreement to be in default and, at any time thereafter, may do any one or more of the following: (1) enforce performance of the Agreement by Contractor; (2) terminate this Agreement; or (3) perform the obligations of Contractor, whereupon Contractor shall reimburse Authority for any amounts paid or expenses incurred by Authority in the performance of such obligations. The above remedies are in addition to any other remedies at law or equity Authority may have. Contractor shall pay or reimburse Authority for all of Authority's costs and expenses, incurred in enforcing its rights hereunder.

19. Notices

If either party shall desire or be required to give notice to the other, such notice shall be given in writing, and shall be: (1) personally delivered; (2) deposited in the United States mail, certified or registered, postage pre-paid, return receipt requested; or (3) sent electronically via email with a copy also deposited in the United States mail, First Class postage. Notice shall be addressed to the recipient as follows:

AUTHORITY: Santa Clara Valley Open Space Authority
33 Las Colinas Ln.
San Jose, CA 95119
Attention: [INSERT]
Email: [INSERT]

CONTRACTOR: [INSERT]
Attention: [INSERT]
Email: [INSERT]

Either party may change its address by giving notice to the other in the manner provided herein.

Contractor shall mail invoices to Authority at the above referenced address, but shall make invoices to the attention of "Accountant," or Contractor may email invoices to accountant@openspaceauthority.org.

20. Entire Agreement

This Agreement contains all of the agreements and understandings of the parties pertaining to the subject matter contained herein and supersedes all prior, contemporaneous agreements, representations and understandings of the parties. This Agreement cannot be amended or modified except by written agreement of all the parties.

21. Waiver

No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the Party making the waiver.

22. Severability

Should any part of this Agreement be declared by a final decision by a court to be unconstitutional, invalid, or beyond the authority of either of the Parties to enter into or carry out, such decision shall not affect the validity of the remainder of this Agreement, which shall continue in full force and effect, provided that the remainder of this Agreement, absent the unexcised portion, can be reasonably interpreted to give effect to the intentions of the Parties.

23. Interpretation

Section headings in this Agreement are used solely for convenience and shall be wholly disregarded in the construction of this Agreement.

24. Governing Law and Venue

This Agreement shall be construed and interpreted in accordance with the laws of the State of California. If any party herein initiates an action to enforce the terms hereof or declare rights hereunder, the parties agree that venue thereof shall be the County of Santa Clara, State of California.

25. Advice of Counsel

Both parties have had a full and complete opportunity to have the Agreement reviewed by legal counsel, and no presumption or rule that ambiguity shall be construed against the drafting party shall apply to the interpretation or enforcement of this Agreement.

26. Time of The Essence

Time is hereby expressly declared to be of the essence in this Agreement and of each and every provision thereof, and each such provision is hereby made and declared to be a material, necessary and essential part of this Agreement.

The signatories below warrant and represent that they have all legal authority and capacity to enter into this Agreement. **IN WITNESS WHEREOF**, Contractor and Authority hereby execute this Agreement.

[Signatures on Following Page]

**SANTA CLARA VALLEY
OPEN SPACE AUTHORITY**

Andrea Mackenzie
General Manager

Dated: _____

[INSERT NAME OF CONTRACTOR/BUSINESS]

[INSERT NAME]
[INSERT TITLE]

Dated: _____