

**AGREEMENT BETWEEN
THE LOS ANGELES PUBLIC LIBRARY
AND
MARTINEZ LANDSCAPE CO., INC.
FOR
AS-NEEDED LANDSCAPE MAINTENANCE AND/OR REPAIRS**

This Agreement (hereinafter referred to as "Agreement") is made and entered into by and between the City of Los Angeles, a municipal corporation (hereinafter referred to as "City"), by and through the Board of Library Commissioners (hereinafter referred to as "Board" or "LIBRARY"), and Martinez Landscape Co., Inc., (hereinafter referred to as "CONTRACTOR"). City and CONTRACTOR shall be referred to hereinafter individually as a "Party" and collectively as the "Parties".

WHEREAS, The LIBRARY owns various facilities throughout the City of Los Angeles and is responsible for the landscape maintenance and/or repairs of the grounds and infrastructure. The LIBRARY ensures that branch libraries within their respective communities are well maintained, clean, safe and represent the city in a positive manner; and

WHEREAS, On May 20, 2021, the Board of Recreation and Park Commissioners awarded a contract to CONTRACTOR based on a RFQ process conducted by the Department of Recreation and Parks (RAP) staff and on July 15, 2021, executed Contract No. 3822 for a term of three (3) years; and

WHEREAS, On July 28, 2022, the Board found, in accordance with Charter Sections 1022 and 371(e)(10) and Los Angeles Administrative Code Section 10.15(a)(10), that the services to be provided are professional, expert, and technical services of a temporary and occasional nature and that is more economical and feasible to have this work performed by an independent contract than by City employees; and that the LIBRARY is able to enter into a contract with the CONTRACTOR pursuant to Charter Section 371(e)(8) and Los Angeles Administrative Code Section 10.15(a)(8) as the contract is based on RAP Contract No. 3822, which is current and in effect, and meets the needs of the LIBRARY. No amount of work will be guaranteed and the work shall be awarded on an as-needed basis; and

WHEREAS, On July 28, 2022, the Board approved the award and execution of an Agreement between the LIBRARY and CONTRACTOR with a term to end on July 14, 2024, and a contract amount not to exceed \$1,000,000 per fiscal year (July 1 – June 30), to allow the CONTRACTOR to provide as-needed landscape maintenance and/or repairs services at the seventy-two (72) branch libraries; and

WHEREAS, Funds are available to compensate CONTRACTOR for the services in accordance with this Agreement:

NOW, THEREFORE, in consideration of the promises, and of the mutual covenants and agreements herein contained, the Parties hereto agree as follows:

I.0 DOCUMENTS

This Agreement shall be composed of the following documents which shall be made a part hereof as though fully set forth herein:

- I.1 The Agreement.
- I.2 Standard Provisions for City Contracts (Rev. 10/21 [V.4]), which is attached hereto and incorporated herein by reference as Exhibit A.
- I.3 List of Branch Libraries, which is attached hereto and incorporated herein by reference as Exhibit B.

2.0 ORDER OF PRECEDENCE

This Agreement contains the full and complete Agreement between the Parties. No verbal agreement or conversation with any officer or employee of either Party shall affect or modify any of the terms and conditions of this Agreement. Resolution of any conflicting provisions in the documents constituting this Agreement shall be resolved by considering the documents according to the following order of precedence:

- 2.1 The Agreement.
- 2.2 Standard Provisions for City Contracts (Rev. 10/21 [V.4]) (Exhibit A).
- 2.3 List of Branch Libraries (Exhibit B).

3.0 INDEMNIFICATION AND INSURANCE REQUIREMENTS

The insurance and indemnification provisions shall be applicable and required by the Standard Provisions for City Contracts (Rev. 10/21 [V.4]) (Exhibit A).

4.0 TERM OF AGREEMENT

The term of this Agreement shall begin on the date of execution and shall end on July 14, 2024, unless terminated sooner in accordance with Section 9 ("Termination") of this Agreement.

5.0 RESPONSIBILITIES OF CONTRACTOR

CONTRACTOR shall provide landscape maintenance and/or repair services for the seventy-two (72) Branch Libraries, listed on Exhibit B ("List of Branch Libraries"), as follows:

5.1 Conduct of Operations

- A. Landscape maintenance duties include, but are not limited to, the following: mowing of lawns; pruning of shrubs and bushes; stump removal; tree trimming and/or removal; irrigation installation, replacement or repairs; and, removal of trash and debris.
- B. At all times, work must conform to all current, relevant Federal, State and Local Municipal Building Codes which may include, but is not

limited to, the California "Green Book" Building Codes, Universal Building and Plumbing Codes, and the Los Angeles City Building and Plumbing Codes.

- C. The CONTRACTOR shall endeavor to maintain good public relations at all times. Any work awarded under this Contract shall be conducted in a manner that will cause the least possible interference with or annoyance to LIBRARY patrons or LIBRARY employees.
- D. A qualified supervisor shall be present and readily available to City personnel and the public during hours of operation at each work site. The site supervisor shall be available to LIBRARY's Representative or designee at all times during normal working hours. Avoiding contact with the LIBRARY's Representative or designee may result in suspension of work awarded under this Contract without extension of any such work.
- E. CONTRACTOR's working hours must coincide with those of the LIBRARY working hours (Monday through Saturday, 7:00 am – 5:00 pm, excluding City holidays). The LIBRARY must first approve any deviation from these hours and/or holidays.
- F. The CONTRACTOR shall carefully protect from damage all existing trees, shrubs, plants, fences, and other features, as well as structures, fixtures, equipment, signage and property. The CONTRACTOR shall be liable for any and all damage(s) caused by its work to such trees, shrubs, plants, other growth and features, structures, fixtures, equipment, signage or property. All damaged trees, shrubs, plants, other growth and features, and property shall be replaced or restored to their original condition, to the satisfaction of the LIBRARY's Representative or designee, at CONTRACTOR's expense.
- G. At all times, traffic control measures should conform to the Work Area Traffic Control Handbook, latest edition, published by Building New, Inc. Pedestrian and vehicular traffic shall be allowed to pass through the work area only under conditions of safety and with as little inconvenience and delay as possible. CONTRACTOR shall provide and maintain adequate barricades and warning devices. Flag persons shall be stationed as reasonably necessary for the safety of persons and vehicles.
- H. The roads and pathways shall be left free of debris at the close of each day's operation.
- I. CONTRACTOR shall be responsible for all safety requirements and certifications in accordance with CAL-OSHA rules and regulations. It shall be the CONTRACTOR's responsibility to assess the work location and implement safety controls and procedures that are compliant with

Title 8 of the California Code of Regulations. All projects will be awarded to CONTRACTOR as a "Single Employer" in accordance with CAL-OSHA classifications. CONTRACTOR will be responsible and have full control over all construction activities as well as safety requirements thereof, for each as-needed project awarded under this Contract.

- J. CONTRACTOR shall notify the LIBRARY's Representative or designee at least twenty-four (24) hours prior to starting any work under this Contract.
- K. If the CONTRACTOR, after having officially started any work under this Contract, should discontinue work for any reason, CONTRACTOR shall notify the LIBRARY's Representative or designee in writing of CONTRACTOR's intent to do so, and shall further notify the LIBRARY's Representative or designee in writing of the date of re-starting operations.
- L. All work shall be awarded under this Contract shall be completed to the satisfaction of the LIBRARY's Representative or designee. Work will be considered complete only when signed off by the LIBRARY's Representative or designee. Work shall be performed to the specifications as determined by the LIBRARY.
- M. Failure to comply with any requirement contained herein may result in suspension of work awarded under this Contract.
- N. The LIBRARY's Representative or designee must approve any request for sub-contracting of work prior to such subcontracting.
- O. CONTRACTOR shall provide equipment and personnel for all tasks for all project work awarded under this Contract.
- P. CONTRACTOR shall with all applicable provisions of the Labor Code of the State of California relating to Public Works wages, including any prevailing wage requirements.
- Q. The Project Bid Process in Section 6 ("Project Bid Process") of this Agreement will be utilized to select specific CONTRACTORS for specific landscape maintenance and/or repairs projects during the term of this Agreement.

5.2 Inspections

- A. CONTRACTOR shall correct all substandard work as informed of in writing by the LIBRARY Representative, or designee. CONTRACTOR will correct such substandard work within five (5) working days and contact the LIBRARY's Representative, or designee, to verify such correction.

- B. A qualified supervisor shall be present onsite and readily available to City personnel should LIBRARY request an inspection of work performed.

6.0 PROJECT BID PROCESS

The following is the process that the LIBRARY will utilize to select specific CONTRACTORS for specific landscape maintenance and/or repair services during the term of this Agreement:

- 6.1 LIBRARY, on an as-needed basis, will issue a written Notice of Available Work to all applicable CONTRACTORS for specific projects. The Notice of Available Work will include, at minimum, the following: scope of work and or work specifications; LIBRARY expectations; work location(s); project bid requirements and evaluation criteria; CONTRACTOR response due date and time; and, other pertinent information the LIBRARY deems necessary.
- 6.2 CONTRACTORS interested will respond with a written project proposal that meets the requirements of the Notice of Available Work.
- 6.3 LIBRARY will review the submitted responses and select the CONTRACTOR that best meets the evaluation criteria stated in the Notice of Available Work.
- 6.4 LIBRARY will issue a written Notice to Proceed to the selected CONTRACTOR which will authorize CONTRACTOR to begin work and specify a "Not to Exceed" compensation amount based on the CONTRACTOR's response. The CONTRACTOR shall complete the work within the timeframe indicated on the Notice to Proceed.
- 6.5 Any revisions to compensation, timeframe, or to the specific project must be approved in writing by the LIBRARY Representative, or designee, and memorialized on a Supplemental Notice to Proceed.
- 6.6 The LIBRARY reserves the right to not issue and/or to cancel or rescind any Notice of Available Work or Notice to Proceed or Supplemental Notice to Proceed at any time.

7.0 PAYMENT

The amount payable to CONTRACTOR for materials and services during the term of this Agreement shall be as proposed in the CONTRACTOR's response to any Notice of Available Work as described in Section 6 ("Project Bid Process") of this Agreement, which shall not exceed the proposed cost of CONTRACTOR's response to the Notice of Available Work. Any potential cost increase or cost overrun must be approved in writing by the City Librarian or designee prior to incurring such cost.

The LIBRARY's obligation to make payments under this Agreement shall be limited to the current appropriation(s) for this Agreement. If the LIBRARY appropriates additional funds for this Agreement, the LIBRARY's payment obligations shall be expanded to the extent of such appropriation(s), subject to the terms and conditions of the Agreement.

No amount of work or compensation is guaranteed in this Agreement. The amount of materials and services to be acquired from the CONTRACTOR will not exceed \$1,000,000 per fiscal year (July 1 – June 30).

8.0 BILLING AND INVOICES

8.1 CONTRACTOR shall submit itemized invoices to LIBRARY, indicating therein the services performed for which payment is requested. Payment of all invoices shall be subject to review and approval of LIBRARY management, which shall not be unreasonably withheld.

8.2 To ensure that services provided under personal services agreements are measured against services as detailed in this Agreement, the Controller of the City of Los Angeles has developed a policy requiring that specific supporting documentation be submitted with invoices. CONTRACTOR is required to submit invoices that conform to City Standards and include, at a minimum, the following information:

A. Name and address of Contractor

B. Name and address of City Department being billed (Library Department)

C. Date of invoice and period covered

D. Agreement Number or Authority Number

E. Description of completed task and amount due for task

F. Remittance address

8.3 All invoices shall be submitted on CONTRACTOR's letterhead, contain CONTRACTOR's official logo, or other unique and identifying information such as the name and address of CONTRACTOR. Invoices shall be submitted to the LIBRARY by CONTRACTOR within thirty (30) days of service or monthly. Invoices are considered completed when appropriate documentation or services provided are signed off as satisfactory by the LIBRARY Representative listed in Section 13.0 ("Agreement Representatives") of this Agreement. If invoice is insufficient or unsatisfactory, the LIBRARY's Representative shall inform CONTRACTOR of any defect within ten (10) business days of receipt of the invoice from CONTRACTOR, and CONTRACTOR shall have five (5)

business days to provide a corrected invoice to the LIBRARY. Satisfactory invoices shall be paid by the LIBRARY no later than sixty (60) days after receipt by the LIBRARY.

- 8.4** Invoices and supporting documentation shall be prepared at the sole expense and responsibility of CONTRACTOR. The LIBRARY will not compensate CONTRACTOR for costs incurred in invoice preparation. The LIBRARY may request, in writing, changes to the content and format of the invoice and supporting documentation at any time. The LIBRARY reserves the right to request additional supporting documentation to substantiate costs at any time.

Invoices shall be submitted via hard copy to:

Los Angeles Public Library
Attention: Facility Planning and Maintenance (M/S 300)
630 West 5th Street
Los Angeles, CA 90071

Or via electronic mail to the Library Representative listed in Section 12.0 ("Contract Representatives") of this Agreement.

- 8.5** Failure to adhere to these procedures may result in nonpayment or non-approval of demands, pursuant to Charter Section 262(a), which requires the Controller to inspect the quality, quantity, and condition of services, labor, materials, supplies, or equipment received by any City office or department, and approves demands before they are drawn on the Treasury.

9.0 TERMINATION

Notwithstanding Section 4.0 ("Term of Agreement") of this Agreement, either Party may terminate this Agreement without cause on thirty (30) days written notice by personal delivery or by registered or certified mail, postage prepaid, return receipt requested, to the other Party. In the event of termination, CONTRACTOR shall be paid for satisfactory work completed under this Agreement through the effective date of termination.

10.0 OWNERSHIP

All documents and records (hereinafter collectively referred to as "documents") provided by LIBRARY to CONTRACTOR shall remain the property of LIBRARY and must be returned to LIBRARY upon termination of this Agreement or at the request of the LIBRARY. The provisions of this article shall survive the termination of this Agreement.

11.0 AMBIGUITY

Any ambiguity in this Agreement shall not be interpreted against any one Party by virtue of that Party being drafter of the Agreement.

12.0 CONTRACT REPRESENTATIVES

The following representative individuals and addresses shall serve as the place to which notices and other correspondence between the Parties shall be sent. LIBRARY and CONTRACTOR shall notify, in writing, the other Party of any changes in the following information within five (5) working days of such change.

CONTRACTOR'S REPRESENTATIVE

Name: Salvador Martinez
Title: President
Address: 12357 San Fernando Road
Sylmar, CA 91342
Telephone: (818) 364-9188
FAX: (818) 364-9958
Email: salvador@martinezlandscape.com
diana@martinezlandscape.com

LIBRARY'S REPRESENTATIVE

Name: Eloisa Sarao
Title: Director of Facility Planning and Maintenance
Address: 630 W. 5th Street
Los Angeles, CA 90071
Telephone: (213) 228-7463
FAX: (213) 228-7449
Email: esarao@lapl.org

Formal notices, demands and communications to be given hereunder by either Party must be made in writing and may be effected by personal delivery or by registered or certified mail, postage prepaid, return receipt requested and will be deemed communicated as the date of mailing.

If the name of the person designated to receive the notices, demands or communications or the address of such person is changed, written notice must be provided as described in this Agreement, within five (5) business days of such change.

13.0 INDEPENDENT CONTRACTOR

CONTRACTOR's relationship to LIBRARY in the performance of this Agreement is that of an independent CONTRACTOR and not as an agent or employee of City. Therefore, neither CONTRACTOR, nor any of its subcontractors, are entitled to any vacation, sick leave, Workers' Compensation, pension, or any other City benefits. CONTRACTOR's personnel performing services under this Agreement shall at all times be under CONTRACTOR's exclusive direction and control and shall be employees or subcontractors of CONTRACTOR and not of City. Further, CONTRACTOR shall pay all wages, salaries, and other amounts due its employees in connections with this Agreement and shall be responsible

for all related reports and obligations including but not limited to social security, income tax withholding, unemployment compensation, and workers' compensation.

14.0 RETENTION OF RECORDS

Except as otherwise expressly directed by City, CONTRACTOR shall maintain records, including records of financial transactions, pertaining to the performance of the Agreement, in their original form, in accordance with requirements prescribed by City. These records must be retained for a period of no less than forty-eight (48) months following final payment made by City hereunder, the expiration date of this Agreement, or the termination date of this Agreement, whichever occurs last. Records will be subject to examination and audit by authorized City personnel or by the City's representative at any time during the term of this Agreement or within the forty-eight (48) months following the final payment made by City hereunder, the expiration of this Agreement, or the termination date of this Agreement, whichever occurs last. CONTRACTOR shall provide any reports requested by City regarding performance of the Agreement.

15.0 NO THIRD-PARTY BENEFICIARIES

Nothing herein is intended to create a third-party beneficiary in any subcontractor. The City has no obligation to any subcontractor. No privity is created with any subcontractor by this Agreement. Even if the CONTRACTOR uses subcontractors, CONTRACTOR remains responsible for complete and satisfactory performance of the terms of this Agreement.

16.0 CONFIDENTIALITY

All data, documents, records, recorded testimony, audiotapes, videotapes, materials, products, technology, computer programs, specifications, manuals, business plans, software, marketing plans, financial information, and other information disclosed or submitted orally, in writing, or by any other media, to CONTRACTOR by the City, and other documents to which the CONTRACTOR has access during the term of this Agreement are confidential information ("Confidential Information").

The CONTRACTOR agrees that both during and after the term of this Agreement, City's Confidential Information shall be considered and kept as the private and privileged records of City and will not be divulged to any person, firm, corporation, or other entity except on the prior direct written authorization of City or as required by law.

17.0 CONTRACTOR'S INTERACTION WITH THE MEDIA

CONTRACTOR shall refer all inquiries from the news media to LIBRARY, shall immediately contact LIBRARY to inform LIBRARY of the inquiry, and shall comply with the procedures of City's Public Affairs staff regarding statements to the media relating to this Agreement or CONTRACTOR's services hereunder.

18.0 REQUIREMENTS APPLY TO ALL SUBCONTRACTORS

The CONTRACTOR will ensure that the requirements of Sections 16.0 (“Confidentiality”) and 17.0 (“CONTRACTOR’s Interaction with the Media”) are provided to and apply to all subcontractors of this Agreement.

19.0 CONTINUED REQUIREMENTS

The requirements of this Sections 16.0 (“Confidentiality”), 17.0 (“CONTRACTOR’s Interaction with the Media”), and 18.0 (“Requirements Apply to all Subcontractors”) survive termination of the Agreement.

20.0 NON-EXCLUSIVE AGREEMENT

Nothing in this Agreement shall be construed to mean that CONTRACTOR providing services to LIBRARY shall be the exclusive provider of such services. The LIBRARY retains the right to engage the services of and purchase materials from other CONTRACTORS during the term of this Agreement and therefore, the LIBRARY cannot estimate nor guarantee the volume or amount of work to be received by CONTRACTOR under this Agreement.

21.0 BORDER WALL BID DISCLOSURE

CONTRACTOR shall comply with Los Angeles Administrative Code (“LAAC”) Section 10.50 *et seq.*, “Disclosure of Border Wall Contracting.” LIBRARY may terminate this Contract at any time if LIBRARY determines that CONTRACTOR failed to fully and accurately complete the required affidavit and disclose all Border Wall Bids and Border Wall Contracts, as defined in LAAC Section 10.50.1. The required affidavit must be submitted online at www.rampla.org.

22.0 ENTIRE AGREEMENT

This Agreement, and any attachments or documents incorporated herein by inclusion or by reference, constitutes the complete and entire Agreement between the Parties and supersedes any prior representation, understandings, communications, commitments, agreements, or proposals, oral or written. No verbal agreement or conversation with any officer or employee of either party will affect or modify any of the terms and conditions of this Agreement. This Agreement is executed in three (3) duplicate originals, each of which is deemed to be an original.

(SIGNATURE PAGE TO FOLLOW)

CONTRACT/AGREEMENT NO. _____

IN WITNESS THEREOF, the Parties hereto have caused this Agreement to be executed by their respective duly authorized representatives.

By _____
BÍCH NGỌC CAO
President
Board of LIBRARY Commissioners

By _____
SALVADOR MARTINEZ
President
Martinez Landscape Co., Inc.

Date _____

Date _____

APPROVED AS TO FORM:

ATTEST:

MICHAEL N. FEUER, City Attorney

By _____
BASIA JANKOWSKI
Deputy City Attorney

By _____
RAQUEL BORDEN
Executive Assistant

Date _____

Date _____

ATTEST:

HOLLY L. WOLCOTT, City Clerk

By: _____

Date: _____