

COUNTY OF MONTEREY STANDARD AGREEMENT

This **Agreement** is made by and between the County of Monterey, a political subdivision of the State of California (hereinafter "County") and:

Smith & Enright Landscaping, Inc.

_____ (hereinafter "CONTRACTOR").

In consideration of the mutual covenants and conditions set forth in this Agreement, the parties agree as follows:

1.0 GENERAL DESCRIPTION:

The County hereby engages CONTRACTOR to perform, and CONTRACTOR hereby agrees to perform, the services described in **Exhibit A** in conformity with the terms of this Agreement. The goods and/or services are generally described as follows:

Provide: Landscape and Open Maintenance Services for County Service Area (CSA) 15 - Toro Park & Serra Village

2.0 PAYMENT PROVISIONS:

County shall pay the CONTRACTOR in accordance with the payment provisions set forth in **Exhibit A**, subject to the limitations set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of: \$ 146,670

3.0 TERM OF AGREEMENT:

3.01 The term of this Agreement is from July 15, 2022 to July 14, 2025, unless sooner terminated pursuant to the terms of this Agreement. This Agreement is of no force or effect until signed by both CONTRACTOR and County and with County signing last, and **CONTRACTOR may not commence work before County signs this Agreement.**

3.02 The County reserves the right to cancel this Agreement, or any extension of this Agreement, without cause, with a thirty day (30) written notice, or with cause immediately.

4.0 SCOPE OF SERVICES AND ADDITIONAL PROVISIONS:

The following attached exhibits are incorporated herein by reference and constitute a part of this Agreement:

Exhibit A Scope of Services/Payment Provisions

Exhibit B Other: Incorporation of RFP # 10835, Addendum No. 1 to RFP # 10835, and Proposal Documents on file with the Department of Public Works, Facilities, & Parks

5.0 PERFORMANCE STANDARDS:

- 5.01 CONTRACTOR warrants that CONTRACTOR and CONTRACTOR's agents, employees, and subcontractors performing services under this Agreement are specially trained, experienced, competent, and appropriately licensed to perform the work and deliver the services required under this Agreement and are not employees of the County, or immediate family of an employee of the County.
- 5.02 CONTRACTOR, its agents, employees, and subcontractors shall perform all work in a safe and skillful manner and in compliance with all applicable laws and regulations. All work performed under this Agreement that is required by law to be performed or supervised by licensed personnel shall be performed in accordance with such licensing requirements.
- 5.03 CONTRACTOR shall furnish, at its own expense, all materials, equipment, and personnel necessary to carry out the terms of this Agreement, except as otherwise specified in this Agreement. CONTRACTOR shall not use County premises, property (including equipment, instruments, or supplies) or personnel for any purpose other than in the performance of its obligations under this Agreement.

6.0 PAYMENT CONDITIONS:

- 6.01 Prices shall remain firm for the initial term of the Agreement and, thereafter, may be adjusted annually as provided in this paragraph. The County does not guarantee any minimum or maximum amount of dollars to be spent under this Agreement.
- 6.02 Negotiations for rate changes shall be commenced, by CONTRACTOR, a minimum of ninety days (90) prior to the expiration of the Agreement. Rate changes are not binding unless mutually agreed upon in writing by the County and the CONTRACTOR.
- 6.03 Invoice amounts shall be billed directly to the ordering department.
- 6.04 CONTRACTOR shall submit such invoice periodically or at the completion of services, but in any event, not later than 30 days after completion of services. The invoice shall set forth the amounts claimed by CONTRACTOR for the previous period, together with an itemized basis for the amounts claimed, and such other information pertinent to the invoice. The County shall certify the invoice, either in the requested amount or in such other amount as the County approves in conformity with this Agreement and shall promptly submit such invoice to the County Auditor-Controller for payment. The County Auditor-Controller shall pay the amount certified within 30 days of receiving the certified invoice.

7.0 TERMINATION:

- 7.01 During the term of this Agreement, the County may terminate the Agreement for any reason by giving written notice of termination to the CONTRACTOR at least thirty (30) days prior to the effective date of termination. Such notice shall set forth the effective date of termination. In the event of such termination, the amount payable under this Agreement shall be reduced in proportion to the services provided prior to the date of termination.

- 7.02 The County may cancel and terminate this Agreement for good cause effective immediately upon written notice to CONTRACTOR. "Good cause" includes the failure of CONTRACTOR to perform the required services at the time and in the manner provided under this Agreement. If County terminates this Agreement for good cause, the County may be relieved of the payment of any consideration to CONTRACTOR, and the County may proceed with the work in any manner, which County deems proper. The cost to the County shall be deducted from any sum due the CONTRACTOR under this Agreement.
- 7.03 The County's payments to CONTRACTOR under this Agreement are funded by local, state and federal governments. If funds from local, state and federal sources are not obtained and continued at a level sufficient to allow for the County's purchase of the indicated quantity of services, then the County may give written notice of this fact to CONTRACTOR, and the obligations of the parties under this Agreement shall terminate immediately, or on such date thereafter, as the County may specify in its notice, unless in the meanwhile the parties enter into a written amendment modifying this Agreement.

8.0 INDEMNIFICATION:

CONTRACTOR shall indemnify, defend, and hold harmless the County, its officers, agents, and employees, from and against any and all claims, liabilities, and losses whatsoever (including damages to property and injuries to or death of persons, court costs, and reasonable attorneys' fees) occurring or resulting to any and all persons, firms or corporations furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims, liabilities, and losses occurring or resulting to any person, firm, or corporation for damage, injury, or death arising out of or connected with the CONTRACTOR's performance of this Agreement, unless such claims, liabilities, or losses arise out of the sole negligence or willful misconduct of the County. "CONTRACTOR's performance" includes CONTRACTOR's action or inaction and the action or inaction of CONTRACTOR's officers, employees, agents and subcontractors.

9.0 INSURANCE REQUIREMENTS:

- 9.01 **Evidence of Coverage:** Prior to commencement of this Agreement, the Contractor shall provide a "Certificate of Insurance" certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, the Contractor upon request shall provide a certified copy of the policy or policies.

This verification of coverage shall be sent to the County's Contracts/Purchasing Department, unless otherwise directed. The Contractor shall not receive a "Notice to Proceed" with the work under this Agreement until it has obtained all insurance required and the County has approved such insurance. This approval of insurance shall neither relieve nor decrease the liability of the Contractor.

- 9.02 **Qualifying Insurers:** All coverage's, except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A- VII, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by the County's Purchasing Manager.

9.03 **Insurance Coverage Requirements:** Without limiting CONTRACTOR’s duty to indemnify, CONTRACTOR shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:

Commercial General Liability Insurance: including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broad form Property Damage, Independent Contractors, Products and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

(Note: any proposed modifications to these general liability insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)

Requestor must check the appropriate Automobile Insurance Threshold:

Requestor must check the appropriate box.

Agreement Under \$100,000 Business Automobile Liability Insurance: covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit for Bodily Injury and Property Damage of not less than \$500,000 per occurrence.

Agreement Over \$100,000 Business Automobile Liability Insurance: covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit or Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

(Note: any proposed modifications to these auto insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)

Workers’ Compensation Insurance: if CONTRACTOR employs others in the performance of this Agreement, in accordance with California Labor Code section 3700 and with Employer’s Liability limits not less than \$1,000,000 each person, \$1,000,000 each accident and \$1,000,000 each disease.

(Note: any proposed modifications to these workers’ compensation insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)

Professional Liability Insurance: if required for the professional services being provided, (e.g., those persons authorized by a license to engage in a business or profession regulated by the California Business and Professions Code), in the amount of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate, to cover liability for malpractice or errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a “claims-made” basis rather than an occurrence basis, the CONTRACTOR shall, upon the expiration or earlier termination of this Agreement, obtain extended reporting coverage (“tail coverage”) with the same liability limits. Any such tail

coverage shall continue for at least three years following the expiration or earlier termination of this Agreement.

(Note: any proposed modifications to these insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)

9.04 **Other Requirements:**

All insurance required by this Agreement shall be with a company acceptable to the County and issued and executed by an admitted insurer authorized to transact Insurance business in the State of California. Unless otherwise specified by this Agreement, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three years following the date CONTRACTOR completes its performance of services under this Agreement.

Each liability policy shall provide that the County shall be given notice in writing at least thirty days in advance of any endorsed reduction in coverage or limit, cancellation, or intended non-renewal thereof. Each policy shall provide coverage for Contractor and additional insureds with respect to claims arising from each subcontractor, if any, performing work under this Agreement, or be accompanied by a certificate of insurance from each subcontractor showing each subcontractor has identical insurance coverage to the above requirements.

Commercial general liability and automobile liability policies shall provide an endorsement naming the County of Monterey, its officers, agents, and employees as Additional Insureds with respect to liability arising out of the CONTRACTOR'S work, including ongoing and completed operations, **and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by the County and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by the CONTRACTOR'S insurance.** The required endorsement form for Commercial General Liability Additional Insured is ISO Form CG 20 10 11-85 or CG 20 10 10 01 in tandem with CG 20 37 10 01 (2000). The required endorsement form for Automobile Additional Insured endorsement is ISO Form CA 20 48 02 99.

Prior to the execution of this Agreement by the County, CONTRACTOR shall file certificates of insurance with the County's contract administrator and County's Contracts/Purchasing Division, showing that the CONTRACTOR has in effect the insurance required by this Agreement. The CONTRACTOR shall file a new or amended certificate of insurance within five calendar days after any change is made in any insurance policy, which would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this Agreement, which shall continue in full force and effect. CONTRACTOR shall always during the term of this Agreement maintain in force the insurance coverage required under this Agreement and shall send, without demand by County, annual certificates to County's Contract Administrator and County's Contracts/Purchasing Division. If the certificate is not received by the expiration date, County shall notify CONTRACTOR and CONTRACTOR shall have five calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by CONTRACTOR to maintain such insurance is a default of

this Agreement, which entitles County, at its sole discretion, to terminate this Agreement immediately.

10.0 **RECORDS AND CONFIDENTIALITY:**

- 10.1 **Confidentiality:** CONTRACTOR and its officers, employees, agents, and subcontractors shall comply with any and all federal, state, and local laws, which provide for the confidentiality of records and other information. CONTRACTOR shall not disclose any confidential records or other confidential information received from the County or prepared in connection with the performance of this Agreement, unless County specifically permits CONTRACTOR to disclose such records or information. CONTRACTOR shall promptly transmit to County any and all requests for disclosure of any such confidential records or information. CONTRACTOR shall not use any confidential information gained by CONTRACTOR in the performance of this Agreement except for the sole purpose of carrying out CONTRACTOR's obligations under this Agreement.
- 10.2 **County Records:** When this Agreement expires or terminates, CONTRACTOR shall return to County any County records which CONTRACTOR used or received from County to perform services under this Agreement.
- 10.3 **Maintenance of Records:** CONTRACTOR shall prepare, maintain, and preserve all reports and records that may be required by federal, state, and County rules and regulations related to services performed under this Agreement. CONTRACTOR shall maintain such records for a period of at least three years after receipt of final payment under this Agreement. If any litigation, claim, negotiation, audit exception, or other action relating to this Agreement is pending at the end of the three-year period, then CONTRACTOR shall retain said records until such action is resolved.
- 10.4 **Access to and Audit of Records:** The County shall have the right to examine, monitor and audit all records, documents, conditions, and activities of the CONTRACTOR and its subcontractors related to services provided under this Agreement. Pursuant to Government Code section 8546.7, if this Agreement involves the expenditure of public funds in excess of \$10,000, the parties to this Agreement may be subject, at the request of the County or as part of any audit of the County, to the examination and audit of the State Auditor pertaining to matters connected with the performance of this Agreement for a period of three years after final payment under the Agreement.
- 10.5 **Royalties and Inventions:** County shall have a royalty-free, exclusive and irrevocable license to reproduce, publish, and use, and authorize others to do so, all original computer programs, writings, sound recordings, pictorial reproductions, drawings, and other works of similar nature produced in the course of or under this Agreement. CONTRACTOR shall not publish any such material without the prior written approval of County.

11.0 NON-DISCRIMINATION:

- 11.1 During the performance of this Agreement, CONTRACTOR, and its subcontractors, shall not unlawfully discriminate against any person because of race, religious creed, color, sex, national origin, ancestry, physical disability, mental disability, medical condition, marital status, age (over 40), sexual orientation, or any other characteristic set forth in California Government code § 12940(a), either in CONTRACTOR's employment practices or in the furnishing of services to recipients. CONTRACTOR shall ensure that the evaluation and

treatment of its employees and applicants for employment and all persons receiving and requesting services are free of such discrimination. CONTRACTOR and any subcontractor shall, in the performance of this Agreement, fully comply with all federal, state, and local laws and regulations which prohibit discrimination. The provision of services primarily or exclusively to such target population as may be designated in this Agreement shall not be deemed to be prohibited discrimination.

12.0 COMPLIANCE WITH TERMS OF STATE OR FEDERAL GRANTS:

If this Agreement has been or will be funded with monies received by the County pursuant to a contract with the state or federal government in which the County is the grantee, CONTRACTOR will comply with all the provisions of said contract, to the extent applicable to CONTRACTOR as a subgrantee under said contract, and said provisions shall be deemed a part of this Agreement, as though fully set forth herein. Upon request, County will deliver a copy of said contract to CONTRACTOR, at no cost to CONTRACTOR.

13.0 COMPLIANCE WITH APPLICABLE LAWS:

13.1 CONTRACTOR shall keep itself informed of and in compliance with all federal, state, and local laws, ordinances, regulations, and orders, including but not limited to all state and federal tax laws that may affect in any manner the Project or the performance of the Services or those engaged to perform Services under this AGREEMENT as well as any privacy laws including, if applicable, HIPAA. CONTRACTOR shall procure all permits and licenses, pay all charges and fees, and give all notices require by law in the performance of the Services.

13.2 CONTRACTOR shall report immediately to County's Contracts/Purchasing Officer, in writing, any discrepancy or inconsistency it discovers in the laws, ordinances, regulations, orders, and/or guidelines in relation to the Project of the performance of the Services.

13.3 All documentation prepared by CONTRACTOR shall provide for a completed project that conforms to all applicable codes, rules, regulations, and guidelines that are in force at the time such documentation is prepared.

14.0 INDEPENDENT CONTRACTOR:

In the performance of work, duties, and obligations under this Agreement, CONTRACTOR is always acting and performing as an independent contractor and not as an employee of the County. No offer or obligation of permanent employment with the County or County department or agency is intended in any manner, and CONTRACTOR shall not become entitled by virtue of this Agreement to receive from County any form of employee benefits including but not limited to sick leave, vacation, retirement benefits, workers' compensation coverage, insurance or disability benefits. CONTRACTOR shall be solely liable for and obligated to pay directly all applicable taxes, including federal and state income taxes and social security, arising out of CONTRACTOR's performance of this Agreement. In connection therewith, CONTRACTOR shall defend, indemnify, and hold County harmless from any and all liability which County may incur because of CONTRACTOR's failure to pay such taxes.

15.0 NOTICES:

Notices required under this Agreement shall be delivered personally or by first-class, postage pre-paid mail to the County and CONTRACTOR'S contract administrators at the addresses listed below:

FOR COUNTY:	FOR CONTRACTOR:
Dalia Mariscal-Martinez, Management Analyst III	Selena Herrin, General Manager
Name and Title	Name and Title
1441 Schilling Place, South 2nd Floor Salinas, California, 93901-4527	540 Work Street, Suite C Salinas, California 93901
Address	Address
(831) 755-8966	(831) 758-6766
Phone:	Phone:

16.0 MISCELLANEOUS PROVISIONS.

- 16.01 **Conflict of Interest:** CONTRACTOR represents that it presently has no interest and agrees not to acquire any interest during the term of this Agreement, which would directly, or indirectly conflict in any manner or to any degree with the full and complete performance of the services required to be rendered under this Agreement.
- 16.02 **Amendment:** This Agreement may be amended or modified only by an instrument in writing signed by the County and the CONTRACTOR.
- 16.03 **Waiver:** Any waiver of any terms and conditions of this Agreement must be in writing and signed by the County and the CONTRACTOR. A waiver of any of the terms and conditions of this Agreement shall not be construed as a waiver of any other terms or conditions in this Agreement.
- 16.04 **Contractor:** The term "CONTRACTOR" as used in this Agreement includes CONTRACTOR's officers, agents, and employees acting on CONTRACTOR's behalf in the performance of this Agreement.
- 16.05 **Disputes:** CONTRACTOR shall continue to perform under this Agreement during any dispute.
- 16.06 **Assignment and Subcontracting:** The CONTRACTOR shall not assign, sell, or otherwise transfer its interest or obligations in this Agreement without the prior written consent of the County. None of the services covered by this Agreement shall be subcontracted without the prior written approval of the County. Notwithstanding any such subcontract, CONTRACTOR shall continue to be liable for the performance of all requirements of this Agreement.

- 16.07 **Successors and Assigns:** This Agreement and the rights, privileges, duties, and obligations of the County and CONTRACTOR under this Agreement, to the extent assignable or delegable, shall be binding upon and inure to the benefit of the parties and their respective successors, permitted assigns, and heirs.
- 16.08 **Headings:** The headings are for convenience only and shall not be used to interpret the terms of this Agreement.
- 16.09 **Time is of the Essence:** Time is of the essence in each and all of the provisions of this Agreement.
- 16.10 **Governing Law:** This Agreement shall be governed by and interpreted under the laws of the State of California; venue shall be Monterey County.
- 16.11 **Non-exclusive Agreement:** This Agreement is non-exclusive and both County and CONTRACTOR expressly reserve the right to contract with other entities for the same or similar services.
- 16.12 **Construction of Agreement:** The County and CONTRACTOR agree that each party has fully participated in the review and revision of this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendment to this Agreement.
- 16.13 **Counterparts:** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement.
- 16.14 **Authority:** Any individual executing this Agreement on behalf of the County or the CONTRACTOR represents and warrants hereby that he or she has the requisite authority to enter into this Agreement on behalf of such party and bind the party to the terms and conditions of this Agreement.
- 16.15 **Integration:** This Agreement, including the exhibits, represent the entire Agreement between the County and the CONTRACTOR with respect to the subject matter of this Agreement and shall supersede all prior negotiations, representations, or agreements, either written or oral, between the County and the CONTRACTOR as of the effective date of this Agreement, which is the date that the County signs the Agreement.
- 16.16 **Interpretation of Conflicting Provisions:** In the event of any conflict or inconsistency between the provisions of this Agreement and the Provisions of any exhibit or other attachment to this Agreement, the provisions of this Agreement shall prevail and control.
- 17.0 **CONSENT TO USE OF ELECTRONIC SIGNATURES.**
- 17.1 The parties to this Agreement consent to the use of electronic signatures via DocuSign to execute this Agreement. The parties understand and agree that the legality of electronic signatures is governed by state and federal law, 15 U.S.C. Section 7001 et seq.; California Government Code Section 16.5; and, California Civil Code Section 1633.1 et. seq. Pursuant to said state and federal law as may be amended from time to time, the parties to this Agreement hereby authenticate and execute this Agreement, and any and all Exhibits to this

Agreement, with their respective electronic signatures, including any and all scanned signatures in portable document format (PDF).

17.2 Counterparts.

The parties to this Agreement understand and agree that this Agreement can be executed in two (2) or more counterparts and transmitted electronically via facsimile transmission or by delivery of a scanned counterpart in portable document format (PDF) via email transmittal.

17.3 Form: Delivery by E-Mail or Facsimile.

Executed counterparts of this Agreement may be delivered by facsimile transmission or by delivery of a scanned counterpart in portable document format (PDF) by e-mail transmittal, in either case with delivery confirmed. On such confirmed delivery, the signatures in the facsimile or PDF data file shall be deemed to have the same force and effect as if the manually signed counterpart or counterparts had been delivered to the other party in person.

***** THIS SECTION INTENTIONALLY LEFT BLANK *****

18.0 SIGNATURE PAGE.

IN WITNESS WHEREOF, County and CONTRACTOR have executed this Agreement as of the day and year written below.

COUNTY OF MONTEREY

By: _____
Contracts/Purchasing Officer
Date: _____
By: _____
Department Head (if applicable)
Date: _____

Approved as to Form
Office of the County Counsel
Leslie J. Girard, County Counsel

By: _____
Mary Grace Perry, Deputy
County Counsel
Date: 6/21/2022 | 11:58 AM PDT

Approved as to Fiscal Provisions
By: _____
Jennifer Forsyth
Auditor/Controller
Date: 6/16/2022 | 11:47 AM PDT

Approved as to Liability Provisions
Office of the County Counsel-Risk Manager
Leslie J. Girard, County Counsel-Risk Manager

By: _____
Risk Management
Date: _____

CONTRACTOR

Smith & Enright Landscaping, Inc.
Contractor/Business Name *

DocuSigned by:
By: _____
James Smith
(Signature of Chair, President, or Vice-President)
James Smith, President
Name and Title
Date: 6/14/2022 | 9:50 AM PDT

DocuSigned by:
By: _____
Richard Enright
(Signature of Secretary, Asst. Secretary, CFO, Treasurer, or Asst. Treasurer)
Richard Enright, Treasurer
Name and Title
Date: 6/14/2022 | 9:54 AM PDT

County Board of Supervisors' Agreement No. _____ approved on _____

*INSTRUCTIONS: If CONTRACTOR is a corporation, including non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two (2) specified officers per California Corporations Code Section 313. If CONTRACTOR is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managers. If CONTRACTOR is a partnership, the full legal name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. If CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement or Amendment to said Agreement.

- 1 Approval by County Counsel is required
2 Approval by Auditor-Controller is required
3 Approval by Risk Management is necessary only if changes are made in paragraphs 8 or 9

Smith & Enright Landscaping, Inc.
CSA 15 - Toro Park & Serra Village
Department of Public Works, Facilities & Parks

EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS

**To Agreement by and between
County of Monterey, hereinafter referred to as “County”
and
Smith & Enright Landscaping, Inc., hereinafter referred to as “CONTRACTOR”**

A. SCOPE OF SERVICES

A.1 CONTRACTOR shall provide services and staff, and otherwise do all things necessary for or incidental to the performance of work, as set forth below:

Provide landscape and open space maintenance services for County Service Area (CSA) 15 – Toro Park & Serra Village as further described in the tasks below.

1.1 MINI-PARK MAINTENANCE

1.1.1 CONTRACTOR shall maintain the four (4) mini-parks, sidewalks, entryways and frontage areas leading into the mini-parks in a park-like manner. The specific locations of the four (4) parks are located in the Toro Park Estates Subdivision as shown in the attached Appendix 2 - Work Location Maps.

1.1.2 The four (4) designated mini-parks are as follows:

- 1.1.2.1 Kelton Park
- 1.1.2.2 Ferdinand Park
- 1.1.2.3 Sutherland Park
- 1.1.2.4 Lopp Park

1.1.3 CONTRACTOR shall:

- 1.1.3.1 Regularly schedule turf-mowing operations as outlined in 1.1.5.
- 1.1.3.2 Trim trees, shrubbery and groundcover within the park as needed to sustain an attractive and healthy plant that is characteristic for the species.
- 1.1.3.3 Abate weeds around fence lines, signs, benches, play equipment and installed barriers.
- 1.1.3.4 Edge the sidewalks, entryways and frontage areas leading into the parks with an edging machine, such as a blade edger or equivalent, which cuts below the surface of the ground to a minimum depth of one (1) inch, but in no case, less than what is required to cut the plant or weed that is encroaching upon the sidewalk.
- 1.1.3.5 Abate weeds by either mechanical or chemical means. CONTRACTOR shall not substitute chemical weed abatement in place of the edging operation.
- 1.1.3.6 Fertilize turf.
- 1.1.3.7 Visually inspect the structural components of each park during the appointed task and notify the County if any component is in need of repair and/or maintenance.
- 1.1.3.8 Rake the depressed areas within each of the play equipment borders.

EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS

- 1.1.3.9 Re-level the areas to a common grade after each regularly scheduled turf grass mowing.
- 1.1.4 CONTRACTOR shall mow park all parks on Friday during the weekly or biweekly scheduled maintenance period, unless otherwise agreed upon by the County or due to extenuating circumstances such as inclement weather.
- 1.1.4.1 CONTRACTOR shall provide notice in writing by letter or email whenever any inclement conditions preclude mowing. CONTRACTOR shall not be paid for such canceled mowing.
- 1.1.4.2 CONTRACTOR shall work with County point of contact to reschedule a designated mowing day when scheduled Friday falls on a recognized holiday, such as Christmas or New Year's Day.
- 1.1.5 CONTRACTOR shall mow park turf grass on Fridays as follows:
- 1.1.5.1 Weekly: October, November, March, April, May, June, July, August, and September.
- 1.1.5.2 Bi-Weekly: December, January, and February
- 1.1.6 CONTRACTOR shall cut the turf grass at the lowest setting allowed by the mower to prevent a scalping condition of the turf grass.
- 1.1.7 CONTRACTOR shall establish a watering cycle that will sustain a healthy and functional landscape while- conserving water resources.
- 1.1.8 During the winter or rainy periods, CONTRACTOR may be asked to reduce the watering schedule to prevent over watering of the turf grass or to place the irrigation control system on a standby position.
- 1.1.9 CONTRACTOR shall, at each mini-park, implement regular inspections of all irrigation systems to identify readily apparent problems that will reduce system performance and overall irrigation efficiency. The inspection shall include, but not be limited to, obvious over-watering and/or under-watering, ponding, broken components, spray misdirected/overspray, sunken heads, heads not vertical, heads not operating properly, clogged nozzles/emitters, worn nozzles/emitters and unequal discharge rates. An inspection report shall be submitted to the County and shall include a description of recommended remedies to any problems.
- 1.1.10 CONTRACTOR shall do a walkover of the mini-park parcels immediately prior to the mowing operation and remove all litter material, including, but not limited to, bottles, cans and paper from the site.
- 1.1.11 CONTRACTOR shall leave, at the completion of the mowing operation, the surface of the parks free and clear of all large accumulations of grass clippings, and/or wet grass clumps leftover by the turf mowing equipment. CONTRACTOR

EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS

is encouraged to use mowing equipment that has a front or rear mounted grass catcher that is capable of removing such clipping.

- 1.1.12 CONTRACTOR shall not leave the surface of the parks with a windrow effect of grass clippings or a visible accumulation of grass clippings after each mowing operation. The County retains the discretion to determine the degree to which the grass clippings must be removed; however, the County will make a reasonable judgment on the extent of grass clipping removal.
- 1.1.13 CONTRACTOR shall empty trash cans weekly on Friday from each park.
 - 1.1.13.1 CONTRACTOR shall work with County point of contact to reschedule a designated trash pick-up day when scheduled Friday falls on a recognized holiday, such as Christmas or New Year's Day.
- 1.1.14 CONTRACTOR shall place appropriately sized trash liners in the trashcans after trash has been removed.
- 1.1.15 CONTRACTOR shall visually inspect the trashcans during the weekly/bi-weekly mowing operation to make sure the cans and lids are secure. Damaged, missing trashcans, or missing trashcan lids shall be reported to the County's point of contact.
- 1.1.16 CONTRACTOR shall maintain the frontage areas between the sidewalks and Portola Drive at Kelton Park, Sutherland Park and Lopp Park as part of the park maintenance during each mowing operation.
- 1.1.17 CONTRACTOR shall provide mini-park maintenance weekly during the months of March, April, May, June, July, August, September, October, and November and bi-weekly during the months of December, January, and February during the Agreement period as outlined in the attached Appendix 1 - Landscape Maintenance Pricing Schedule.

1.2 MAINTENANCE OF GREENBELT AND OPEN SPACE AREAS

- 1.2.1 CONTRACTOR shall maintain the native grasses and vegetation in the greenbelt and open space areas located in the Toro Park Estates, Serra Village, Toro Creek Estates, and Toro Sunshine Subdivisions. The specific locations of the greenbelt and open space areas are shown in the attached Appendix 2 - Work Location Maps.
- 1.2.2 Greenbelt and open space maintenance shall include, but is not limited to:
 - 1.2.2.1 Native grass mowing.
 - 1.2.2.2 Weed abatement along residential fence lines, drip lines of trees and shrubs, entry signs, and installed barriers.

EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS

- 1.2.2.3 Pickup and removal of litter.
- 1.2.2.4 Maintenance of sidewalks and entryways leading into the open space areas, including, but not limited to, shrubs planted between the sidewalks and curb, along residential fence and property lines.
- 1.2.3 CONTRACTOR shall, during each of the regularly scheduled mowing periods, mow native grasses to a height of approximately three (3) inches.
- 1.2.4 CONTRACTOR shall do a walkover of the areas immediately prior to mowing and remove all downed limbs less than four (4) feet long and eight (8) inches in diameter that will interfere with the mowing operation.
- 1.2.5 CONTRACTOR shall pick up and remove all litter material, including, but not limited to, bottles, cans and paper, before mowing.
- 1.2.6 CONTRACTOR shall edge the sidewalks and entryways leading into the open space areas with an edging machine, such as a blade edger or equivalent, which cuts below the surface of the ground to a minimum depth of one (1) inch, but in no case, less than what is required to cut the plant or weed that is encroaching upon the sidewalk.
- 1.2.7 CONTRACTOR, in the course of vegetation maintenance and clearance along the sidewalks and entryways leading into the greenbelt and open space areas, shall:
 - 1.2.7.1 Prune all trees and/or shrubs planted between the sidewalks and residential fence lines to a minimum of eight (8) feet and thin all trees and/or shrubs in a manner that does not create canopy effect.
- 1.2.8 CONTRACTOR shall, after each daily increment of edging before continuing on to the next segment of sidewalk maintenance, sweep, blow free or remove all weed debris and/or dirt that accumulates on the sidewalks as a result of the edging.
- 1.2.9 CONTRACTOR shall remove all plant debris from the site immediately after the task has been completed.
- 1.2.10 CONTRACTOR may, on occasion, need to remove a major accumulation of plant or other waste material that will interfere with the mowing operation and is not included in this scope. A quote shall be submitted to the designated County contact. Work shall not begin until work is approved a written Notice to Proceed (NTP) is issued by the County.
- 1.2.11 CONTRACTOR shall provide greenbelt and open space maintenance four (4) times during the Agreement period as outlined in the attached Appendix 1 - Landscape Maintenance Pricing Schedule.

EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS

1.2.12 CONTRACTOR shall complete work within a two (2)-week period for the open space mowing operation from the NTP date given to CONTRACTOR by the County.

1.2.12.1 Failure to complete the work within a two (2)-week timeframe shall result in a reduction of payment by twenty five percent (25%) for this service and the subsequent payment shall only be paid upon full completion of the work.

1.3 MAINTENANCE OF SIDEWALKS AND PLANT MATERIALS ALONG PORTOLA DRIVE

1.3.1 CONTRACTOR shall maintain the sidewalks and trim the plant material along the entire length of Portola Drive in Serra Village and Toro Parks Estates to the extent that the sidewalks cross over the greenbelt areas as shown on Appendix 2 - Work Location Maps.

1.3.2 CONTRACTOR, in the course of sidewalk maintenance, shall:

1.3.2.1 Edge the entire length of the sidewalks along Portola Drive with an edging machine, such as a blade edger or equivalent, which cuts below the surface of the ground to a minimum depth of one (1) inch, but in no case, less than what is required to cut the plant or weed that is encroaching upon the sidewalk.

1.3.2.2 Sweep, blow free or remove the weed debris and/or dirt that accumulates on the sidewalks as a result of the edging operation from the sidewalk after each daily increment of edging before continuing on to the next segment of sidewalk maintenance.

1.3.2.3 Remove all accumulated plant debris and/or dirt from overhanging trees or animal casting, not associated with the edging operation.

1.3.3 CONTRACTOR shall provide sidewalk maintenance four (4) times during the Agreement period as outlined in the attached Appendix 1- Landscape Maintenance Schedule.

1.3.4 CONTRACTOR, in the course of plant material maintenance and clearance, shall:

1.3.4.1 Prune all trees and/or shrubs planted between the sidewalks and residential fence lines to a minimum height of eight (8) feet and thin all trees and/or shrubs in a manner that does not create a canopy effect.

1.3.4.2 Prune any plant material that is found to be encroaching onto the sidewalk tread width, providing a clearance of twelve (12) inches on either side of the sidewalk unless otherwise directed by the County.

1.3.4.3 Prune all plant material according to accepted and best landscape maintenance practices.

1.3.4.4 Immediately remove all cut limbs that have the potential to cause injury to persons using the normal tread width of the sidewalks.

1.3.4.5 Sweep, blow free or remove the weed debris and/or dirt that accumulates on the sidewalks as a result of the edging operation from the sidewalk after each

EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS

daily increment of edging before continuing on to the next segment of sidewalk maintenance.

1.3.4.6 Remove all accumulated plant debris and/or dirt from overhanging trees or animal casting, not associated with the plant maintenance and clearance.

1.3.4.7 Remove all plant debris from the site immediately after the task has been completed.

1.3.5 CONTRACTOR shall provide plant material maintenance four (4) times during the Agreement period as outlined in the attached Appendix 1 - Landscape Maintenance Pricing Schedule.

1.4 MAINTENANCE OF TOREADOR MEDIAN ISLAND

1.4.1 CONTRACTOR shall maintain the Toreador Median Island in a weed free condition.

1.4.2 CONTRACTOR shall:

1.4.2.1 Thoroughly weed the median island by mechanical means. At the discretion of the County, CONTRACTOR may apply an appropriate chemical herbicide for maintenance purposes.

1.4.2.2 Prune the existing plant material and underbrush during the maintenance period to keep the plants from protruding beyond the median island curb line.

1.4.2.3 Remove dead or dying underbrush as required during the maintenance period.

1.4.2.4 Remove all plant debris from the site immediately after the task has been completed.

1.4.2.5 Prune all plant material according to accepted and best landscape maintenance practices.

1.4.3 CONTRACTOR shall provide maintenance of the Toreador Median Island four (4) times during the AGREEMENT period as outlined in the attached Appendix 1 - Landscape Maintenance Schedule.

1.5 SIDEWALK WEED CONTROL THROUGH CHEMICAL APPLICATION

1.5.1 CONTRACTOR shall maintain the edges of sidewalks along Portola Drive in Toro Park Estates, and curbs along open spaces in Serra Village through one (1) chemical application of a twelve (12)-month extended control herbicide.

1.5.2 CONTRACTOR shall advise the County as to the most appropriate time to apply the herbicides.

1.5.3 CONTRACTOR shall notify the County a minimum of seven (7) days in advance of the chemical applications.

EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS

- 1.5.3.1 CONTRACTOR's failure to submit such written notification shall be grounds for non-payment for this service.
- 1.5.3.2 CONTRACTOR shall secure confirmation from County that written notice was properly delivered to County prior to making the chemical applications.
- 1.5.4 CONTRACTOR shall apply the chemical herbicides on both sides of the sidewalks, in Toro Park Estates and Serra Village, that are located within the County's greenbelt area.
 - 1.5.4.1 The application of chemical herbicide between the sidewalk and road shall be a uniform wide of twelve (12) inches from the edge of the sidewalk.
 - 1.5.4.2 The application of chemical herbicide between the sidewalk and the fence lines shall be the full width of the open space.
- 1.5.5 CONTRACTOR shall apply the selected chemical in accordance with the manufacturer's recommendations and will exercise due caution and care when applying the chemicals in and around public places.
- 1.5.6 CONTRACTOR shall possess a valid Pest Control Operators license as issued by the Department of Pesticide Regulation, State of California, during the term of this Agreement. CONTRACTOR shall perform all safety functions in accordance with these regulations.

1.6 TURF FERTILIZATION APPLICATIONS

- 1.6.1 CONTRACTOR shall fertilize all parks in CSA 15 on a scheduled basis to provide for a healthy and viable turf growing condition. CONTRACTOR shall fertilize the parks through two (2) applications that are acceptable to the County and consistent with best management practices for turf fertilization.
- 1.6.2 CONTRACTOR shall:
 - 1.6.2.1 Use an all-purpose turf fertilizer, such as 21-7-14, in the first application, in accordance with the manufacturer's recommendations. CONTRACTOR shall advise the County as to the most appropriate time to apply the fertilizer.
 - 1.6.2.2 Use an appropriate fertilizer that continues to provide for a healthy and viable turf growing condition in the second application, in accordance with the manufacturer's recommendations. CONTRACTOR shall advise the County as to the most appropriate time to apply the fertilizer.
- 1.6.3 CONTRACTOR shall submit a written schedule that lists the type and brand name of fertilizer to be used and the date when the fertilizer will be applied.
- 1.6.4 CONTRACTOR shall notify the County a minimum of seven (7) days in advance of the fertilizer application.

EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS

1.6.4.1 Failure to submit such written notification shall be grounds for non-payment for this service. It shall be the responsibility of the CONTRACTOR to secure confirmation from County that written notice was properly delivered to County prior to making the fertilizer applications.

1.6.5 CONTRACTOR shall apply the selected turf fertilizer in accordance with the manufacturer's recommendations and shall exercise due caution and care when applying chemicals in and around public places.

1.7 IRRIGATION SYSTEM MAINTENANCE

1.7.1 CONTRACTOR shall regularly monitor, test and insure proper time clock operations on irrigation system components of the four mini-parks (Kelton, Ferdinand, Sutherland and Lopp Parks) and the open-spaced component of Serra Village.

1.7.2 CONTRACTOR shall monitor the irrigation sprinkler system to ensure watering times are properly programmed to use the least amount of water necessary based on seasonal requirements. Sprinkler heads shall be adjusted to maximize the effective use of water on landscaping and to minimize overflow onto sidewalk, roadways, and other non-turf areas.

1.7.3 CONTRACTOR shall notify County of any minor maintenance work identified as being necessary as a result of inspections, including a proposed cost of repair. Upon written approval of County CONTRACTOR shall complete all minor maintenance work identified as being necessary as a result of inspections or, otherwise, brought to the attention of the CONTRACTOR. Such maintenance work shall include but shall not be limited to replacement of broken or defective irrigation pipe sections, sprinkler heads, timers or minor valves.

1.8 WORKMANSHIP

1.8.1 All work shall be performed in a professional manner by skilled, experienced workers and be familiar with all best management practices for landscape maintenance.

1.8.2 Employees shall be in uniform or other identifying attire, with clearly designated vehicle bearing the company name.

1.9 ADDITIONAL WORK PROVISIONS

1.9.1 The County shall pay for all utilities. The County will arrange for access to water and power, if required. 1.9.2 CONTRACTOR shall furnish all labor and equipment required to fulfill the Agreement at no additional expense to the County.

EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS

1.9.3 Emergency Work:

1.9.3.1 The County, occasionally, when authorizing emergency work that affects the health and safety of the local residents, requires additional work to be performed and/or materials to be purchased and is not within the scope of this Agreement. Such authorization for services may include, but is not limited to:

- 1.9.3.1.1 Tree and brush trimming/removal;
- 1.9.3.1.2 Debris removal including dump fees; and
- 1.9.3.1.3 Installation of minor structural projects and landscape improvements and enhancements to the open space area.

County and CONTRACTOR shall negotiate all costs related to the above items prior to the approval of the emergency work/project. Payment shall be made through a separate Purchase Order (PO).

A.2 CONTRACTOR shall produce the following deliverables (written reports, etc.) by the dates indicated below:

Deliverable	Due Date
Completed backflow prevention device reports required by Cal Water for annual inspections w	Annually As Requested

All written reports required under this Agreement shall be delivered electronically and in hardcopy to the following individual and in accordance with the schedule above.

Mitchell Vernon, Project Manager I
 County of Monterey, Department of Public Works, Facilities, & Parks
 1441 Schilling Place, South 2nd Floor
 Salinas, California 93901-4527
 Email: VernonM@co.monterey.ca.us

B. PAYMENT PROVISIONS

B.1 COMPENSATION/PAYMENT

County shall pay an amount not to exceed **\$146,670**, for the performance of all things necessary for or incidental to the performance of work as set forth in the Scope of Services. CONTRACTOR's compensation for services rendered shall be based on the following rates in Appendix 1 – Landscape Maintenance Pricing Schedule or in accordance with the following terms:

No travel reimbursement shall be allowed during this Agreement.

EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS

CONTRACTOR agrees that pursuant to Labor Code Section 1771, not less than general prevailing rate of per diem wages shall be paid to all workers employed on any public work projects in excess of one thousand dollars (\$1,000).

Sales Tax rate as per current California State Board of Equalization City and County Sales Tax rates.

CONTRACTOR warrants that the cost charged for services under the terms of this Agreement are not in excess of those charged to any other client for the same services performed by the same individuals.

B.2 CONTRACTOR'S BILLING PROCEDURES

Invoices under this Agreement shall be submitted monthly and promptly, and in accordance with Section 6, "Payment Conditions", of the Agreement. All invoices shall reference the Multi-Year Agreement (MYA) number, Project name, and/or services, and associated Delivery Order (DO) number, and an original hardcopy shall be sent to the following address or via email to PWFP-Finance-AP@co.monterey.ca.us:

County of Monterey
Department of Public Works, Facilities, & Parks (PWFP) – Finance Division
1441 Schilling Place, South 2nd Floor
Salinas, California 93901-4527

Any questions pertaining to invoices under this Agreement shall be directed to the PWFP Finance Division at (831) 755-4800 or via email to: PWFP-Finance-AP@co.monterey.ca.us.

County may, in its sole discretion, terminate the Agreement or withhold payments claimed by CONTRACTOR for services rendered if CONTRACTOR fails to satisfactorily comply with any term or condition of this Agreement.

No payments in advance or in anticipation of services or supplies to be provided under this Agreement shall be made by County.

County shall not pay any claims for payment for services submitted more than twelve (12) months after the calendar month in which the services were completed.

DISALLOWED COSTS: CONTRACTOR is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its subcontractors.

EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS**APPENDIX 1 - LANDSCAPE MAINTENANCE PRICING SCHEDULE**

ITEM	JOB DESCRIPTION	FREQUENCY	TOTAL COST
1.1	Mini-Park Maintenance	<u>Weekly</u> October, November, March, April, May, June, July, August and September <u>Bi-Weekly</u> December, January, and February	\$1,295.- p/mo
		Subtotal	\$ 15,540.-
1.2	Maintenance of Greenbelt and Open Space Areas	Four (4) times per year: March, May, June, and October <i>(Dates may be adjusted depending on seasonal conditions)</i>	\$ 5,985.-
		Subtotal	\$ 23,940.-
1.3	Maintenance of Sidewalks and Plant Materials along Portola Drive	Four (4) times per year: March, May, June, and October <i>(Dates may be adjusted depending on seasonal conditions)</i>	\$1,130.-
		Subtotal	\$ 4,520.-
1.4	Maintenance of Toreador Median Island	Four (4) times per year: March, May, June, and October <i>(Dates may be adjusted depending on seasonal conditions)</i>	\$ 130.-
		Subtotal	\$ 520.-
1.5	Sidewalk Weed Control Through Chemical Application	One (1) time per year: March <i>(Dates may be adjusted depending on seasonal conditions and Contractor recommendation)</i>	\$1,530.-
		Subtotal	\$ 1,530.-
1.6	Turf Fertilization	Two (2) times per year: April and October <i>(Dates may be adjusted depending on seasonal conditions and Contractor recommendation)</i>	\$ 920.-
		Subtotal	\$ 1,840.-
1.7	Irrigation System Maintenance	As Needed	\$1,000.00
		Subtotal	\$ 1,000.00
		TOTAL COST	\$ 48,890.-

EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS

APPENDIX 2

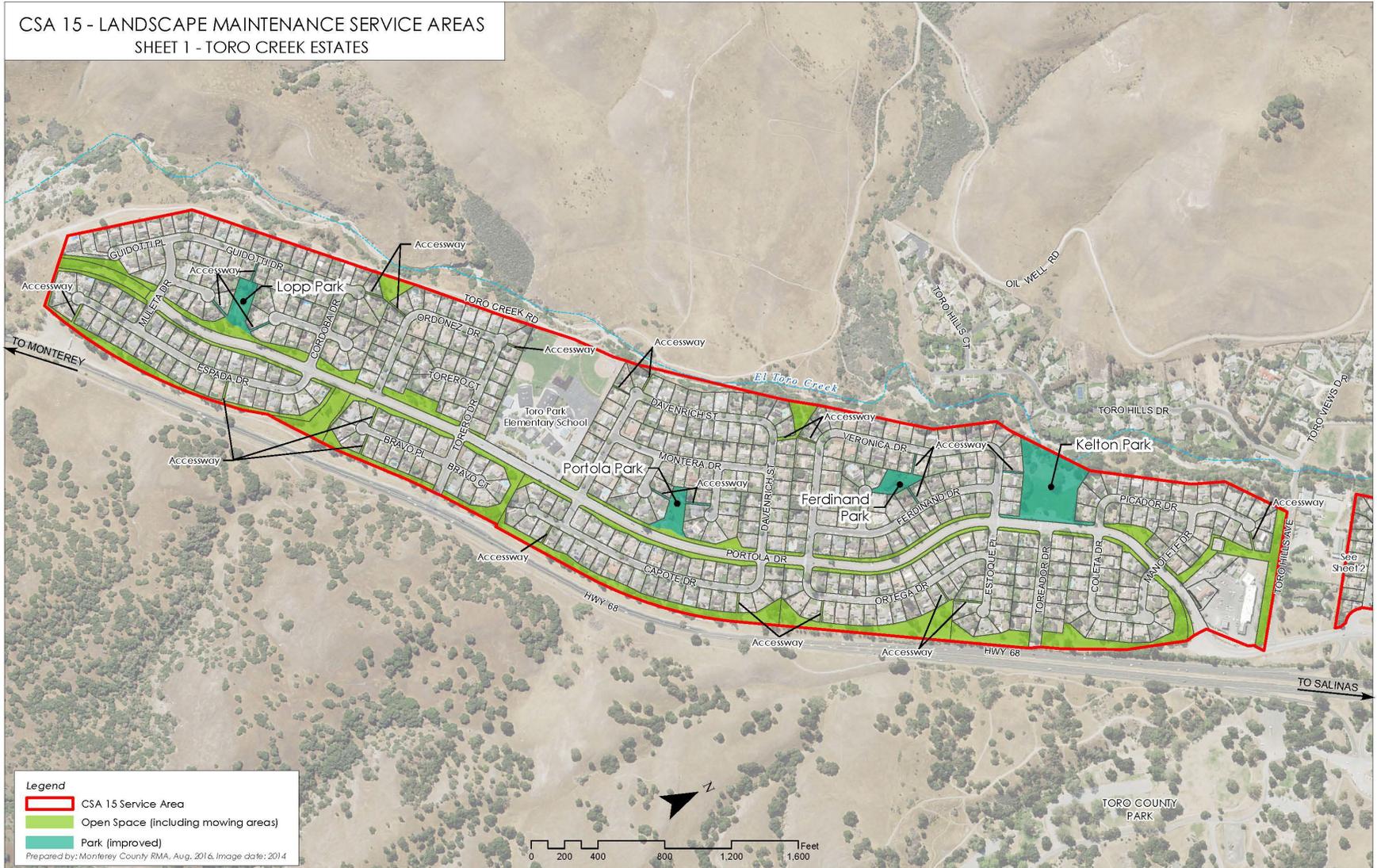
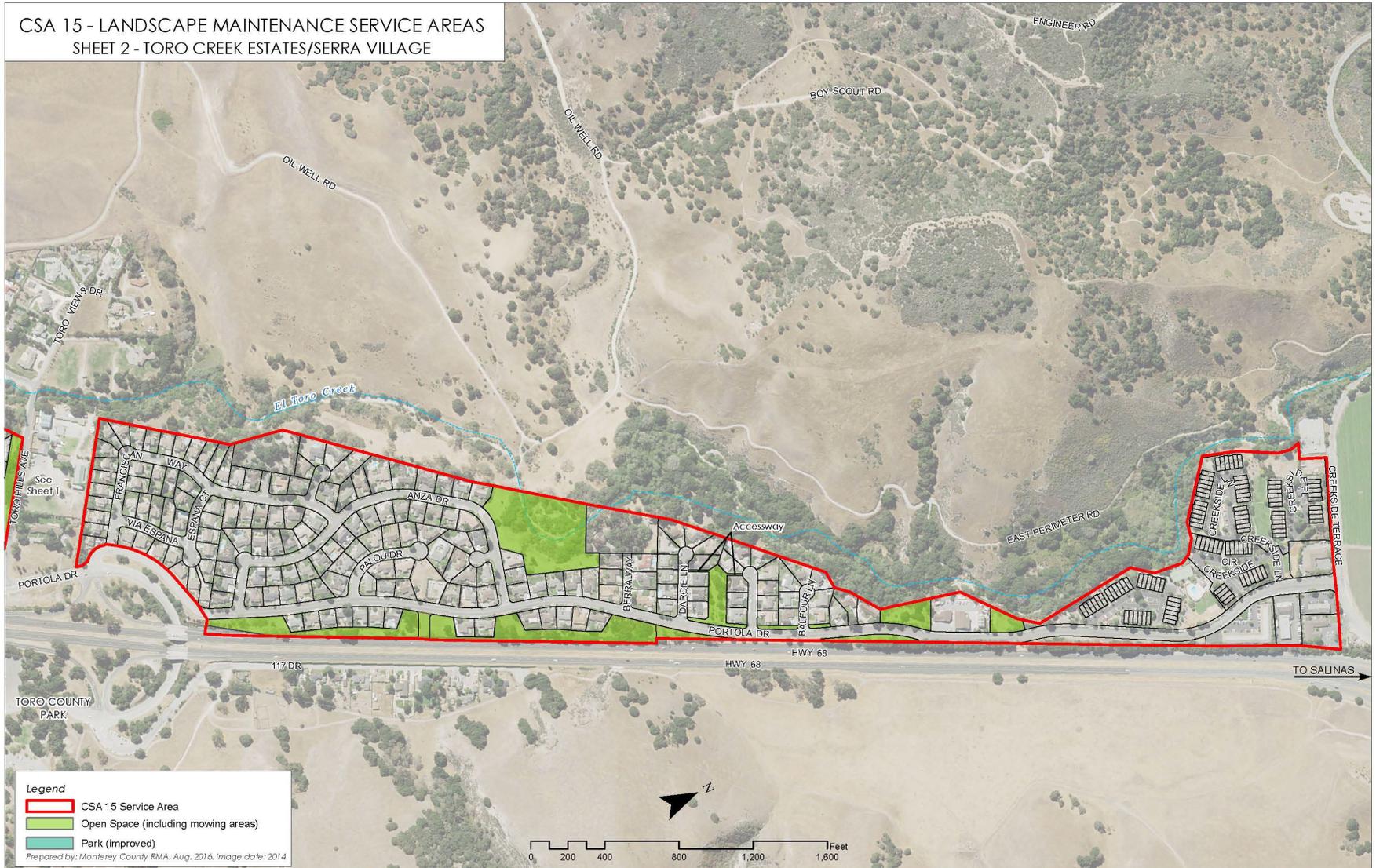


EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS



**EXHIBIT B – INCORPORATION OF RFP #10835, ADDENDUM NO 1 TO RFP #10835,
AND PROPOSAL DOCUMENTS**

The County invited submittals to Request for Proposals (RFP) through RFP #10835, to provide landscape and open space maintenance services for County Service Area (CSA) 15 – Toro Park & Serra Village. Smith & Enright Landscaping, Inc. submitted a responsive and responsible Proposal to perform the services listed in RFP #10835. County selected Smith & Enright Landscaping, Inc. to provide these landscape and open space services for CSA 15 – Toro Park & Serra Village.

RFP #10835, including Addendum No. 1 to RFP #10835, and the Proposal submitted by Smith & Enright Landscaping, Inc. are hereby incorporated into this Agreement by this reference.