

RIVERSIDE COUNTY TRANSPORTATION COMMISSION

DATE:	November 9, 2011
TO:	Riverside County Transportation Commission
FROM:	Patricia Castillo, Capital Projects Manager
THROUGH:	Anne Mayer, Executive Director
SUBJECT:	Agreement with Tropical Plaza Nursery, Inc. to Provide Landscape Maintenance Services at the Five Commission-Owned Commuter Rail Stations and Perris Transit Center

STAFF RECOMMENDATION:

This item is for the Commission to:

- 1) Award Agreement No. 11-24-145-00 to Tropical Plaza Nursery, Inc. (Tropical) to perform landscape maintenance and repair services at the five Commission-owned commuter rail stations for a three-year term, and two one-year options to extend the agreement, in the amount of \$918,590, plus a contingency amount of \$91,859, for a total amount not to exceed \$1,010,449; and
- 2) Authorize the Chair, pursuant to legal counsel review, to execute the agreement, including option years, on behalf of the Commission.

BACKGROUND INFORMATION:

The Commission owns and operates five commuter rail stations – Downtown Riverside, La Sierra, North Main Corona, Pedley, and West Corona – and the Perris Transit Center located in Riverside County. Station landscape maintenance services are essential to preserve and maintain the Commission’s property investments.

To accomplish these objectives, routine landscape maintenance and on-call services are required to maintain all plant materials, provide pest control, maintain and repair irrigation systems, and provide light construction for landscape areas.

In January 2008, the Commission approved the current landscape maintenance contract with Tropical. This current contract expires on December 31, 2011.

The selected contractor will be required to provide a landscape maintenance crew to perform the duties described above. Alternatively, on-call maintenance and repair will be used on an as needed basis for special repairs and emergency situations.

Under Commission supervision, full time maintenance services will be conducted at each station for a fixed price during the term of the agreement. On-call services will be based on the successful contractor's proposed fixed labor rates, material costs, and associated markup.

Procurement Process

The Commission generally utilizes the low bid methodology for scopes of services that are complete and clearly delineated, where price is the only relevant factor that could distinguish qualified firms. The low bid procurement precludes Commission staff from considering a vendor's approach to performing the required services with any potential bidder. A negotiated procurement, or request for proposals (RFP), affords staff the opportunity to evaluate and discuss price and other technical factors with proposers. Technical factors include a firm's staffing capacity, performance history, qualifications, experience, and other relevant considerations in the procurement process. Accordingly, staff issued RFP No. 11-24-145-00 to secure services from a qualified firm to provide landscape maintenance services for the Commission-owned commuter rail stations.

The RFP was released by staff and advertised on July 22. The weighted factor method of source selection was determined by staff to be the most appropriate for this procurement, as it allows the Commission to identify the most advantageous proposal with price and other technical factors considered. Non-price factors used to evaluate the proposers under this RFP included elements such as experience, qualifications of the firms and personnel, and the firms' relative ability to respond to the requirements set forth under the terms of the RFP. Price comprised 35% of the maximum possible points under the evaluation criteria.

A pre-proposal conference was held at the Downtown Riverside Station on August 16 and eleven firms attended. Commission staff responded to all questions submitted by potential proposers prior to the August 23 deadline. Six firms – Campesino Landscape, Inc., CTAI Pacific Greenscape, Marina Landscape, Inc., Mariposa Landscape, Inc., Pino Landscape, and Tropical Plaza Nursery, Inc. – submitted responsible and responsive proposals prior to the September 8 deadline date. Utilizing the evaluation criteria set forth in the RFP, the six firms were evaluated and scored by an evaluation committee comprised of Commission and Bechtel staff.

Based on the foregoing procurement process, the respective evaluation ranking, inclusive of pricing, is as follows:

Firm	Overall Rank	Price Rank
Tropical Plaza Nursery, Inc.	1	3 - \$ 918,590
Marina Landscape, Inc.	2	1 - \$ 886,884
Mariposa Landscapes, Inc.	3	4 - \$ 1,085,908
Pino Landscape	4	5 - \$ 1,124,462
Campesino Landscape, Inc.	5	2 - \$ 900,994
CTAI Pacific Greenscape	6	6 - \$ 1,537,448

Tropical offered the most advantageous combination of relevant qualifications, experience, approach, understanding, and pricing. The technical, non-price factors that earned Tropical the highest score were related to its past performance based on experience, qualifications, and reference checks. Pricing was evaluated based upon the firms' fixed monthly maintenance fee and fixed labor rates for on-call services.

Based on the stated criteria, Tropical earned the highest evaluation score. Accordingly, the evaluation committee recommends the award of Agreement No. 11-24-145-00 to Tropical for landscape maintenance services at the five Commission-owned commuter rail stations and the Perris Transit Center for a three-year term, plus two one-year options to extend the agreement, in the amount of \$918,590, plus a contingency amount of \$91,859, for a total amount not to exceed \$1,010,449.

Tropical's rates are considered fair and reasonable based upon adequate price competition and the historical cost paid for comparable services by the Commission.

The Commission's standard form professional services agreement will be entered into with Tropical subject to any changes approved by the Executive Director, and pursuant to legal counsel review.

Financial Information					
In Fiscal Year Budget:	Yes N/A	Year:	FY 2011/12 FY 2012/13 +	Amount:	\$ 92,000 \$918,449
Source of Funds:	LTF			Budget Adjustment:	No N/A
GL/Project Accounting No.:	244001 73312 00000 0000 103 24 73301 244002 73312 00000 0000 103 24 73301 244003 73312 00000 0000 103 24 73301 244004 73312 00000 0000 103 24 73301 244006 73312 00000 0000 103 24 73301 244010 73312 00000 0000 103 24 73301				
Fiscal Procedures Approved:	<i>Theresa Irwin</i>			Date:	10/17/11

Attachment: Agreement with Tropical Plaza Nursery, Inc.

**RIVERSIDE COUNTY TRANSPORTATION COMMISSION
AGREEMENT FOR ROUTINE AND ON-CALL
MAINTENANCE SERVICES
WITH
TROPICAL PLAZA NURSERY, INC.**

1. PARTIES AND DATE.

This Agreement is made and entered into this ____ day of _____, 2011, by and between the RIVERSIDE COUNTY TRANSPORTATION COMMISSION (the "Commission") and TROPICAL PLAZA NURSERY, INC., a California corporation ("Contractor").

2. RECITALS.

2.1 Commission is the Transportation Commission for the County of Riverside and organized under the laws of the State of California with the power to contract for services necessary to achieve its purpose.

2.2 Commission owns and operates five (5) "Metrolink" commuter rail stations (Downtown Riverside, La Sierra, North Main Corona, Pedley, and West Corona) and the Perris Transit Center (the "Commuter Rail Stations"), the addresses and descriptions of which are set forth in Exhibit "A", attached hereto and incorporated herein by reference.

2.3 On or about July 20, 2011 Commission issued a Request for Proposals No. 11-24-145-00 ("RFP"), pursuant to which Commission sought proposals from contractors to provide routine and on-call landscape maintenance services for the Commuter Rail Stations.

2.4 Contractor desires to perform and assume responsibility for the provision of certain routine and on-call landscape maintenance services required by Commission on the terms and conditions set forth in this Agreement and, for the on-call portions of the services, in the task order(s) to be issued pursuant to this Agreement and executed by the Commission and Contractor ("Task Order").

2.5 The work generally includes the complete landscape maintenance of the Commuter Rail Stations including, but not limited to, controlling plant, disease and pests, irrigation material, maintaining and repairing irrigation systems, removing trash and debris, and other maintenance required to maintain the Commuter Rail Stations in a safe attractive and useable condition. Contractor represents that it is a professional Contractor,

experienced in providing routine and on-call landscape maintenance services to public clients, and is familiar with the plans of Commission.

2.6 Commission desires to engage Contractor to render routine and on-call landscape maintenance services for the Commuter Rail Stations. Routine landscape maintenance services shall be as set forth in Exhibit "A", attached hereto and incorporated herein by reference. On-call landscape maintenance services shall be ordered by Task Order(s) to be issued pursuant to this Agreement for future projects as set forth herein. The routine services set forth in Exhibit "A" and each individual project ordered under a Task Order shall be referred to, herein, collectively, as the "Project".

3. TERMS.

3.1 General Scope of Services. Contractor promises and agrees to furnish to Commission all labor materials, tools, equipment, services, and incidental and customary work, as necessary, to fully and adequately provide the routine landscape maintenance services for the Commuter Rail Stations as set forth in Exhibit "A" and any on-call landscape maintenance services for the Commuter Rail Stations required by Commission, as shall be set forth in a Task Order, collectively referred to herein as the "Services". On-call Services shall be more particularly described in the individual Task Orders issued by the Commission's Executive Director or designee. No on-call Services shall be performed unless authorized by a fully executed Task Order in the form attached hereto as Exhibit "D". All Services shall be subject to, and performed in accordance with this Agreement, the relevant Task Order, the exhibits attached hereto and incorporated herein by reference, and all applicable local, state and federal laws, rules and regulations.

3.2 Term. The term of this Agreement shall be three (3) years, commencing on the date first set forth above, unless earlier terminated as provided herein. The Commission shall have the right, in its sole discretion, to extend the term for two (2) additional one (1) year periods. Contractor shall complete the Services within the term of this Agreement and shall meet any other established schedules and deadlines set forth in any Task Order. All applicable indemnification provisions of this Agreement shall remain in effect following the termination of this Agreement.

3.3 Schedule of Services. Contractor shall perform the routine landscape maintenance Services expeditiously, within the term of this Agreement, and in accordance with the schedule set forth in Exhibit "B" attached hereto and incorporated herein by reference. Contractor shall perform any on-call Services in accordance with the schedule that shall be set forth in the Task Order (collectively, "Schedule of Services"). **Contractor shall be required to commence work on a Task Order within five (5) days of receiving a fully executed Task Order.** Contractor represents that it has the professional and technical personnel required to perform the Services in conformance with such conditions. In order to facilitate Contractor's conformance with each Schedule, the Commission shall respond to Contractor's submittals in a timely manner. Upon the Commission's request, Contractor shall provide a more detailed schedule of anticipated performance to meet the relevant Schedule of Services.

3.4 Independent Contractor; Control and Payment of Subordinates. The Services shall be performed by Contractor under its supervision. Contractor will determine the means, method and details of performing the Services subject to the requirements of this Agreement. Commission retains Contractor on an independent contractor basis and Contractor is not an employee, agent or representative of Commission. Contractor retains the right to perform similar or different services for others during the term of this Agreement. Any additional personnel performing the Services under this Agreement on behalf of Contractor shall not be employees of Commission and shall at all times be under Contractor's exclusive direction and control. Contractor shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law. Contractor shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, and workers' compensation insurance.

3.5 Conformance to Applicable Requirements; Incorporation of Documents; Interpretation. All work shall be subject to the approval of Commission. The RFP, and the Contractor's response thereto, are incorporated into this Agreement by reference. In the event of any conflict or inconsistency between the terms of this Agreement, any Task Order, the exhibits attached to this Agreement, or any provision of the RFP, or the Contractor's response thereto, the order of interpretation shall be as follows: (1) this Agreement; (2) a Task Order issued pursuant to this Agreement; (3) the exhibits attached to this Agreement; (4) the RFP; and (5) the Contractor's response to the RFP.

3.6 Substitution of Key Personnel Contractor has represented to Commission that certain key personnel will perform and coordinate the Services under this Agreement. Should one or more of such personnel become unavailable, Contractor may substitute other personnel of at least equal competence and experience upon written approval of Commission. In the event that Commission and Contractor cannot agree as to the substitution of key personnel, Commission shall be entitled to terminate this Agreement for cause, pursuant to provisions of Section 3.16 of this Agreement. The key personnel for performance of this Agreement are as follows: Leslie T. Fields, or as otherwise specified in the relevant Task Order.

3.7 Commission's Representative. Commission hereby designates the Executive Director, or his or her designee, to act as its representative for the performance of this Agreement ("Commission's Representative"). Commission's Representative shall have the power to act on behalf of Commission for all purposes under this Agreement. Commission's Representative shall also review and give approval, as needed, to the details of Contractor's work as it progresses. Contractor shall not accept direction from any person other than Commission's Representative or his or her designee.

3.8 Contractor's Representative. Contractor hereby designates Leslie T. Fields, or his designee, to act as its representative for the performance of this Agreement

("Contractor's Representative"). Contractor's Representative shall have full authority to represent and act on behalf of the Contractor for all purposes under this Agreement. The Contractor's Representative shall supervise and direct the Services, using his best skill and attention, and shall be responsible for all means, methods, techniques, sequences and procedures and for the satisfactory coordination of all portions of the Services under this Agreement and as described in the relevant Task Order.

3.9 Coordination of Services. Contractor agrees to work closely with Commission staff in the performance of Services and shall be available to Commission's staff, consultants and other staff at all reasonable times.

3.10 Standard of Care; Licenses. Contractor shall perform the Services under this Agreement in a skillful and competent manner, consistent with the standard generally recognized as being employed by professionals in the same discipline in the State of California. Contractor represents and maintains that it is skilled in the professional calling necessary to perform the Services. Contractor warrants that all employees and subcontractors shall have sufficient skill and experience to perform the Services assigned to them. Finally, Contractor represents that it, its employees and subcontractors have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services and that such licenses and approvals shall be maintained throughout the term of this Agreement. Contractor shall perform, at its own cost and expense and without reimbursement from Commission, any Services necessary to correct errors or omissions which are caused by the Contractor's failure to comply with the standard of care provided for herein, and shall be fully responsible to the Commission for all damages and other liabilities provided for in the indemnification provisions of this Agreement arising from the Contractor's errors and omissions. Any employee of Contractor or its subcontractors who is determined by the Commission to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any employee who fails or refuses to perform the Services in a manner acceptable to the Commission, shall be promptly removed from the Project by the Contractor and shall not be re-employed to perform any of the Services or to work on the Project.

3.11 Laws and Regulations. Contractor shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Project or the Services, including all Cal/OSHA requirements, and shall give all notices required by law. Contractor shall be liable for all violations of such laws and regulations in connection with Services. If the Contractor performs any work knowing it to be contrary to such laws, rules and regulations and without giving written notice to Commission, Contractor shall be solely responsible for all costs arising therefrom. Contractor shall defend, indemnify and hold Commission, its officials, directors, officers, employees and agents free and harmless, pursuant to the indemnification provisions of this Agreement, from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules or regulations.

3.12 Insurance.

3.12.1 Time for Compliance. Contractor shall not commence work under this Agreement until it has provided evidence satisfactory to the Commission that it has secured all insurance required under this section. In addition, Contractor shall not allow any subcontractor to commence work on any subcontract until it has secured all insurance required under this section.

3.12.2 Minimum Requirements. Contractor shall, at its expense, procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Agreement by the Contractor, its agents, representatives, employees or subcontractors. Contractor shall also require all of its subcontractors to procure and maintain the same insurance for the duration of the Agreement. Such insurance shall meet at least the following minimum levels of coverage:

(A) Minimum Scope of Insurance. Coverage shall be at least as broad as the latest version of the following: (1) *General Liability*: Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001); (2) *Automobile Liability*: Insurance Services Office Business Auto Coverage form number CA 0001, code 1 (any auto); and (3) *Workers' Compensation and Employer's Liability*: Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

(B) Minimum Limits of Insurance. Contractor shall maintain limits no less than: (1) *General Liability*: \$2,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with general aggregate limit is used, either the general aggregate limit shall apply separately to this Agreement/location or the general aggregate limit shall be twice the required occurrence limit; (2) *Automobile Liability*: \$1,000,000 per accident for bodily injury and property damage; and (3) *if Contractor has an employees, Workers' Compensation and Employer's Liability*: Workers' Compensation limits as required by the Labor Code of the State of California. Employer's Practices Liability limits of \$1,000,000 per accident.

3.12.3 Insurance Endorsements. The insurance policies shall contain the following provisions, or Contractor shall provide endorsements on forms approved by the Commission to add the following provisions to the insurance policies:

(A) General Liability. The general liability policy shall be endorsed to state that: (1) the Commission, its directors, officials, officers, employees and agents shall be covered as additional insureds with respect to the Services or operations performed by or on behalf of the Contractor, including materials, parts or equipment furnished in connection with such work; and (2) the insurance coverage shall be primary insurance as respects the Commission, its directors, officials, officers, employees and agents, or if excess, shall stand in an unbroken chain of coverage excess of the Contractor's scheduled underlying coverage. Any insurance or self-insurance maintained

by the Commission, its directors, officials, officers, employees and agents shall be excess of the Contractor's insurance and shall not be called upon to contribute with it in any way.

(B) Automobile Liability. The automobile liability policy shall be endorsed to state that: (1) the Commission, its directors, officials, officers, employees and agents shall be covered as additional insureds with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by the Contractor or for which the Contractor is responsible; and (2) the insurance coverage shall be primary insurance as respects the Commission, its directors, officials, officers, employees and agents, or if excess, shall stand in an unbroken chain of coverage excess of the Contractor's scheduled underlying coverage. Any insurance or self-insurance maintained by the Commission, its directors, officials, officers, employees and agents shall be excess of the Contractor's insurance and shall not be called upon to contribute with it in any way.

(C) Workers' Compensation and Employers Liability Coverage. The insurer shall agree to waive all rights of subrogation against the Commission, its directors, officials, officers, employees and agents for losses paid under the terms of the insurance policy which arise from work performed by the Contractor.

(D) All Coverages. Each insurance policy required by this Agreement shall be endorsed to state that: (A) coverage shall not be suspended, voided or canceled except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the Commission; and, (B) any failure to comply with reporting or other provisions of the policies, including breaches of warranties, shall not affect coverage provided to the Commission, its directors, officials, officers, employees and agents.

3.12.4 Deductibles and Self-Insurance Retentions. Any deductibles or self-insured retentions must be declared to and approved by the Commission. If the Commission does not approve the deductibles or self-insured retentions as presented, Contractor shall guarantee that, at the option of the Commission, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Commission, its directors, officials, officers, employees and agents; or, (2) the Contractor shall procure a bond guaranteeing payment of losses and related investigation costs, claims and administrative and defense expenses.

3.12.5 Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating no less than A:VIII, licensed to do business in California, and satisfactory to the Commission.

3.12.6 Verification of Coverage. Contractor shall furnish Commission with original certificates of insurance and endorsements effecting coverage required by this Agreement on forms satisfactory to the Commission. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements must be received and approved

by the Commission before work commences. The Commission reserves the right to require complete, certified copies of all required insurance policies, at any time.

3.13 Safety. Contractor shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, the Contractor shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be performed. Safety precautions as applicable shall include, but shall not be limited to: (A) adequate life protection and life saving equipment and procedures; (B) instructions in accident prevention for all employees and subcontractors, such as safe walkways, scaffolds, fall protection ladders, bridges, gang planks, confined space procedures, trenching and shoring, equipment and other safety devices, equipment and wearing apparel as are necessary or lawfully required to prevent accidents or injuries; and (C) adequate facilities for the proper inspection and maintenance of all safety measures.

3.14 Fees and Payment.

3.14.1 Compensation. Contractor shall receive compensation, including authorized reimbursements, for all Services rendered under this Agreement at the rates set forth in Exhibit "C" attached hereto and incorporated herein by reference. The total compensation to be provided under this Agreement, including all Task Orders issued pursuant to this Agreement shall not exceed Five Hundred Forty Five Thousand Thirty Four Dollars (\$545,034). The total compensation per Task Order shall be set forth in the relevant Task Order, and shall not exceed said amount without the written approval of the Commissioner's Executive Director.

3.14.2 Payment of Compensation. Contractor shall submit to Commission a monthly statement which indicates work completed and hours of Services rendered by Contractor. The statement shall describe the amount of Services and supplies provided since the initial commencement date, or since the start of the subsequent billing periods, as appropriate, through the date of the statement. Commission shall, within forty-five (45) days of receiving such statement, review the statement and pay all approved charges thereon.

3.14.3 Reimbursement for Expenses. Contractor shall not be reimbursed for any expenses unless authorized in writing by Commission.

3.15 Accounting Records. Contractor shall maintain complete and accurate records with respect to all costs and expenses incurred and fees charged under this Agreement. All such records shall be clearly identifiable. Contractor shall allow a representative of Commission during normal business hours to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement. Contractor shall allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of three (3) years from the date of final payment under this Agreement.

3.16 Termination of Agreement.

3.16.1 Grounds for Termination. Commission may, by written notice to Contractor, terminate the whole or any part of this Agreement at any time and without cause by giving written notice to Contractor of such termination, and specifying the effective date thereof. Upon termination, Contractor shall be compensated only for those services which have been fully and adequately rendered to Commission through the effective date of the termination, and Contractor shall be entitled to no further compensation. Contractor may not terminate this Agreement except for cause.

3.16.2 Effect of Termination. If this Agreement is terminated as provided herein, Commission may require Contractor to provide all finished or unfinished Documents and Data, as defined below, and other information of any kind prepared by Contractor in connection with the performance of Services under this Agreement. Contractor shall be required to provide such document and other information within fifteen (15) days of the request.

3.16.3 Additional Services. In the event this Agreement is terminated in whole or in part as provided herein, Commission may procure, upon such terms and in such manner as it may determine appropriate, services similar to those terminated.

3.17 Delivery of Notices. All notices permitted or required under this Agreement shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

CONTRACTOR:
Tropical Plaza Nursery, Inc.
9642 Santiago Boulevard
Villa Park, CA 92861-2521
Attn: Leslie T. Fields

COMMISSION:
Riverside County
Transportation Commission
4080 Lemon Street, 3rd Floor
Riverside, CA 92501
Attn: Executive Director

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

3.18 Ownership of Materials/Confidentiality.

3.18.1 Documents & Data. This Agreement creates an exclusive and perpetual license for Commission to copy, use, modify, reuse, or sub-license any and all copyrights and designs embodied in plans, specifications, studies, drawings, estimates, materials, data and other documents or works of authorship fixed in any tangible medium of expression, including but not limited to, physical drawings or data magnetically or otherwise

recorded on computer diskettes, which are prepared or caused to be prepared by Contractor under this Agreement (“Documents & Data”).

Contractor shall require all subcontractors to agree in writing that Commission is granted an exclusive and perpetual license for any Documents & Data the subcontractor prepares under this Agreement.

Contractor represents and warrants that Contractor has the legal right to grant the exclusive and perpetual license for all such Documents & Data. Contractor makes no such representation and warranty in regard to Documents & Data which were prepared by design professionals other than Contractor or provided to Contractor by the Commission.

Commission shall not be limited in any way in its use of the Documents & Data at any time, provided that any such use not within the purposes intended by this Agreement shall be at Commission’s sole risk.

3.18.2 Intellectual Property. In addition, Commission shall have and retain all right, title and interest (including copyright, patent, trade secret and other proprietary rights) in all plans, specifications, studies, drawings, estimates, materials, data, computer programs or software and source code, enhancements, documents, and any and all works of authorship fixed in any tangible medium or expression, including but not limited to, physical drawings or other data magnetically or otherwise recorded on computer media (“Intellectual Property”) prepared or developed by or on behalf of Contractor under this Agreement as well as any other such Intellectual Property prepared or developed by or on behalf of Contractor under this Agreement.

The Commission shall have and retain all right, title and interest in Intellectual Property developed or modified under this Agreement whether or not paid for wholly or in part by Commission, whether or not developed in conjunction with Contractor, and whether or not developed by Contractor. Contractor will execute separate written assignments of any and all rights to the above referenced Intellectual Property upon request of Commission.

Contractor shall also be responsible to obtain in writing separate written assignments from any subcontractors or agents of Contractor of any and all right to the above referenced Intellectual Property. Should Contractor, either during or following termination of this Agreement, desire to use any of the above-referenced Intellectual Property, it shall first obtain the written approval of the Commission.

All materials and documents which were developed or prepared by the Contractor for general use prior to the execution of this Agreement and which are not the copyright of any other party or publicly available and any other computer applications, shall continue to be the property of the Contractor. However, unless otherwise identified and stated prior to execution of this Agreement, Contractor represents and warrants that it has

the right to grant the exclusive and perpetual license for all such Intellectual Property as provided herein.

Commission further is granted by Contractor a non-exclusive and perpetual license to copy, use, modify or sub-license any and all Intellectual Property otherwise owned by Contractor which is the basis or foundation for any derivative, collective, insurrectional, or supplemental work created under this Agreement.

3.18.3 Confidentiality. All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other Documents and Data either created by or provided to Contractor in connection with the performance of this Agreement shall be held confidential by Contractor. Such materials shall not, without the prior written consent of Commission, be used by Contractor for any purposes other than the performance of the Services. Nor shall such materials be disclosed to any person or entity not connected with the performance of the Services or the Project. Nothing furnished to Contractor which is otherwise known to Contractor or is generally known, or has become known, to the related industry shall be deemed confidential. Contractor shall not use Commission's name or insignia, photographs of the Project, or any publicity pertaining to the Services or the Project in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of Commission.

3.19 Cooperation; Further Acts. The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as may be necessary, appropriate or convenient to attain the purposes of this Agreement.

3.20 Attorney's Fees. If either party commences an action against the other party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing party in such litigation shall be entitled to have and recover from the losing party reasonable attorney's fees and costs of such actions.

3.21 Indemnification. Contractor shall defend, indemnify and hold Commission, its directors, officials, officers, employees, consultants, agents and volunteers free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury, in law or equity, to property or persons, including wrongful death, in any manner arising out of or incident to any alleged negligent acts, omissions or willful misconduct of Contractor, its officials, officers, employees, agents, subcontractors and consultants arising out of or in connection with the performance of the Services, the Project, this Agreement, or any Task Order, including without limitation the payment of all consequential damages and attorneys fees and other related costs and expenses. Contractor shall defend, at Contractor's own cost, expense and risk, any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against Commission or its directors, officials, officers, employees, consultants, agents and volunteers. Contractor shall pay and satisfy any judgment, award or decree that may be rendered against Commission or its directors, officials, officers, employees, consultants, agents and volunteers, in any such suit, action or other legal proceeding.

Contractor shall reimburse Commission and its directors, officials, officers, employees, consultants, agents and/or volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Contractor's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by Commission or its directors, officials, officers, employees, consultants, agents and volunteers. Notwithstanding the foregoing, to the extent Contractor's Services are subject to Civil Code Section 2782.8, the above indemnity shall be limited, to the extent required by Civil Code Section 2782.8, to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor.

3.22 Entire Agreement. This Agreement, including the attached exhibits, contains the entire Agreement of the parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements. This Agreement may only be modified by a writing signed by both parties.

3.23 Governing Law. This Agreement shall be governed by the laws of the State of California. Venue shall be in Riverside County.

3.24 Time of Essence. Time is of the essence for each and every provision of this Agreement.

3.25 Commission's Right to Employ Other Contractors. The Commission reserves the right to employ other Contractors in connection with this Project.

3.26 Successors and Assigns. This Agreement shall be binding on the successors and assigns of the parties, and shall not be assigned by Contractor without the prior written consent of Commission.

3.27 Prohibited Interests.

3.27.1 Solicitation. Contractor warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this Agreement. Further, Contractor warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Contractor, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, Commission shall have the right to rescind this Agreement without liability.

3.27.2 Conflict of Interest. For the term of this Agreement, no member, officer or employee of Commission, during the term of his or her service with Commission, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

3.28 Subcontracting. Contractor shall not subcontract any portion of the work or Services required by this Agreement, except as expressly stated herein, without

prior written approval of the Commission. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement.

3.29 Prevailing Wages. Contractor is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 1600, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on "public works" and "maintenance" projects. Since the Services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and since the total compensation is \$1,000 or more, Contractor agrees to fully comply with such Prevailing Wage Laws. Commission shall provide Contractor with a copy of the prevailing rates of per diem wages in effect at the commencement of this Contract. Contractor shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request, and shall post copies at the Contractor's principal place of business and at the project site. Contractor shall defend, indemnify and hold the Commission, its elected officials, officers, employees and agents free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

3.30 Payroll Records. In accordance with the requirements of California Labor Code Section 1776, Contractor shall keep accurate payroll records which are either on forms provided by the Division of Labor Standards Enforcement or which contain the same information required by such forms. Responsibility for compliance with California Labor Code Section 1776 shall rest solely with Contractor, and Contractor shall make all such records available for inspection at all reasonable hours.

3.31 Labor Certification. By its signature hereunder, Consultant certifies that it is aware of the provisions of Section 3700 of the California 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 agrees to comply with such provisions before commencing the performance of the Services.

3.32 Equal Opportunity Employment. Contractor represents that it is an equal opportunity employer and it shall not discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination. Contractor shall also comply with all relevant provisions of Commission's Disadvantaged Business Enterprise program, Affirmative Action Plan or other related Commission programs or guidelines currently in effect or hereinafter enacted.

3.34 Employment of Apprentices. This Agreement shall not prevent the employment of properly indentured apprentices in accordance with the California Labor Code, and no employer or labor union shall refuse to accept otherwise qualified employees as indentured apprentices on the work performed hereunder solely on the ground of race,

creed, national origin, ancestry, color or sex. Every qualified apprentice shall be paid the standard wage paid to apprentices under the regulations of the craft or trade in which he or she is employed and shall be employed only in the craft or trade to which he or she is registered.

If California Labor Code Section 1777.5 applies to the Services, Contractor and any subcontractor hereunder who employs workers in any apprenticeable craft or trade shall apply to the joint apprenticeship council administering applicable standards for a certificate approving Contractor or any subcontractor for the employment and training of apprentices. Upon issuance of this certificate, Contractor and any subcontractor shall employ the number of apprentices provided for therein, as well as contribute to the fund to administer the apprenticeship program in each craft or trade in the area of the work hereunder.

The parties expressly understand that the responsibility for compliance with provisions of this Section and with Sections 1777.5, 1777.6 and 1777.7 of the California Labor Code in regard to all apprenticeable occupations lies with Contractor.

3.35 No Waiver. Failure of Commission to insist on any one occasion upon strict compliance with any of the terms, covenants or conditions hereof shall not be deemed a waiver of such term, covenant or condition, nor shall any waiver or relinquishment of any rights or powers hereunder at any one time or more times be deemed a waiver or relinquishment of such other right or power at any other time or times.

3.36 Eight-Hour Law. Pursuant to the provisions of the California Labor Code, eight hours of labor shall constitute a legal day's work, and the time of service of any worker employed on the work shall be limited and restricted to eight hours during any one calendar day, and forty hours in any one calendar week, except when payment for overtime is made at not less than one and one-half the basic rate for all hours worked in excess of eight hours per day ("Eight-Hour Law"), unless Contractor or the Services are not subject to the Eight-Hour Law. Contractor shall forfeit to Commission as a penalty, \$50.00 for each worker employed in the execution of this Agreement by him, or by any subcontractor under him, for each calendar day during which such workman is required or permitted to work more than eight hours in any calendar day and forty hours in any one calendar week without such compensation for overtime violation of the provisions of the California Labor Code, unless Contractor or the Services are not subject to the Eight-Hour Law.

3.37 Survival. All rights and obligations hereunder that by their nature are to continue after any expiration or termination of this Agreement, including, but not limited to, the indemnification and confidentiality obligations, shall survive any such expiration or termination.

3.38 No Third Party Beneficiaries. There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

3.39 Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

3.40 Incorporation of Recitals. The recitals set forth above are true and correct and are incorporated into this Agreement as though fully set forth herein.

[Signatures on following page]

**SIGNATURE PAGE
TO
RIVERSIDE COUNTY TRANSPORTATION COMMISSION AGREEMENT
FOR
ROUTINE AND ON-CALL LANDSCAPE MAINTENANCE SERVICES WITH
TROPICAL PLAZA NURSERY, INC.**

IN WITNESS WHEREOF, the parties hereto have executed the Agreement on the date first herein above written.

**RIVERSIDE COUNTY
TRANSPORTATION COMMISSION**

**TROPICAL PLAZA
NURSERY, INC.**

By: _____
Gregory S. Pettis, Chair

By: _____

Its: _____

APPROVED AS TO FORM:

ATTEST:

By: _____
Best Best & Krieger LLP
General Counsel

By: _____

Its: Secretary

EXHIBIT "A"
SCOPE OF SERVICES
[to be inserted]

LANDSCAPE MAINTENANCE STATEMENT OF WORK

I. BACKGROUND

A. Introduction

The Contractor shall provide at his own risk and cost all labor, materials, tools, equipment, transportation, hauling, dumping, fertilizers, insecticides, chemicals and incidentals necessary to perform landscape maintenance work as directed herein.

The Contractor shall provide complete landscape maintenance of the following properties: the Riverside Downtown Station, La Sierra Station, West Corona Station, Pedley Station, Perris Transit Center and North Main Corona Station (referred to as the Annex). The landscape maintenance work shall also include controlling plant, disease and pests, irrigation material, maintaining and repairing irrigation systems; removing trash and debris; and other maintenance required to maintain the work sites in a safe attractive and useable condition. The Contractor shall maintain all plant material in a safe, attractive and useable condition.

B. Locations

Riverside Downtown Station	4066 Vine Street, Riverside
La Sierra Station	10903 Indiana Ave., Riverside
West Corona Station	155 Auto Center Drive, Corona
Pedley Station	6001 Pedley Road, Riverside
North Main Corona Station	250 E. Blaine St. Corona
Perris Transit Center	121 S. C Street, Perris

C. General Description of Work

The maintenance shall include, but not be limited to, the following:

- Pruning shrubbery;
- Mowing and trimming;
- Shaping and training of trees;
- Tree pruning;
- Shrubs and ground cover - Maintenance and Replacement of dead/dying plants;
- Removing and controlling weeds;
- Controlling plant diseases and pests;
- Irrigation materials;
- Maintaining and repairing irrigation systems;
- Removing trash and debris from planter areas and parking lot;
- Placement and maintenance of Mulch and weed barrier;
- Rodent Control;
- Miscellaneous light construction in landscaping areas (sawcuts, concrete, removal and/or installation of signage/fencing/railings)
- Other maintenance required to maintain the work sites in a safe, attractive and useable condition.

The Contractor shall maintain all plant material in good condition within accepted horticultural standards for growth, color, and appearance. A detail description of the maintenance required is included in the following pages.

II. SCHEDULING OF WORK

- A. The Contractor shall accomplish all routine landscape maintenance required under this Agreement between the hours of 6:00 a.m. and 6:00 p.m. Monday through Friday. The Property Administrator may grant, on an individual basis, permission to perform maintenance at other hours. No maintenance functions that generate excess noise, which would cause annoyance to residents of any area, shall be commenced before 8:00 a.m. The Contractor shall establish a schedule of routine work to be followed in the performance of this Agreement. A copy of this schedule shall be provided to and approved by the Commission prior to the performance of any work required by these specifications, and any changes in scheduling shall be reported in writing, to the Property Administrator.
- B. The Contractor shall conduct the work at all times in a manner so as not to interfere with pedestrian traffic on adjacent sidewalks or vehicular traffic on adjacent streets. In addition, a special notification listing exact starting dates for renovation, pruning and other infrequent operations shall be furnished to the Property Administrator at least five (5) working days in advance of performing these activities.
- C. Contractor shall notify the onsite station security when they arrive at the site to start work and when they finish work.
- D. Contractor's Maintenance Supervisor shall meet once a month with the Property Administrator to discuss the maintenance activities, contract status, condition of the Stations, reoccurring maintenance problems, problem areas, recommendations to minimize maintenance activities, recommendations to reduce water usage, project costs, and schedule.
- E. The Contractor shall provide, on an annual basis, a written schedule detailing the fertilization periods and dates as required by the routine maintenance for ground cover, shrub and tree care. Routine Maintenance Sections A, B, and C of this Scope.

III. WORK FORCE

- A. The Contractor is expected to improve upon the appearance of the landscaped areas.
- B. The Contractor shall insure that all work is supervised by Contractor employed supervisory personnel who are technically qualified and possess management skills. The supervisory personnel must be able to communicate clearly with the Property Administrator and field staff. The supervisory personnel, who are listed by the Contractor to accompany the field crews on a regular basis, are expected to perform the necessary management duties along with various landscape maintenance activities.
- C. The Contractor shall identify an irrigation specialist who will be responsible for identifying and making the necessary irrigation repairs. The individual proposed shall be listed by their Prevailing Wage Rate Labor Classification.

- D. The Contractor shall insure that all work is performed by fully qualified, experienced personnel, directly employed by the Contractor.
- E. The Contractor shall be responsible for the skills, methods, appearance and action of Contractor's uniformed employees and for all work done. The Contractor's employees shall be U.S. Citizens or legal residents.
- F. The Contractor shall perform the work provided for in this Agreement under the direction of the Property Administrator or his or her designated representative. The Property Administrator or his or her representative may make inspections at any time and may request that the Contractor perform additional work or services to bring Contractor's performance to the level required by the Agreement.
- G. The Contractor shall correct discrepancies and deficiencies in the work as soon as practical after being notified by the Property Administrator, and in accordance with the terms and requirements of the Agreement.
- H. The Contractor shall provide a three (3) member full time 5 day/week mow crew.
- I. The Contractor shall provide one (1) full time qualified sprinkler specialist that can alternatively function as a mow crew member.

IV. MATERIALS

- A. The Contractor shall submit a list to the Property Administrator of all materials that the Contractor proposes to use in the execution of the Services including a Material Safety Data Sheet. The list shall include the chemical analysis, recommended usage and any other pertinent data by the manufacturer of the material. The Property Administrator before use of any product shall approve such list.
- B. The following shall apply to the material indicated:
 - 1. Fertilizers shall be complete, furnishing the required percentage of nitrogen, phosphoric acid and potash to keep lawns, trees, shrubs and other plants in a healthy and vigorous growing condition.
 - 2. Insecticides, fungicides, herbicides and rodenticides shall be of the best quality obtainable, properly labeled with guaranteed analysis, and brought to the job site in the manufacture's original container.
 - 3. Tree stakes, tree ties and guy wires shall be of materials matching those existing in the work site or as specified by the Property Administrator.
 - 4. Replacement trees, shrubs, ground cover and other plants shall be of a size, condition and variety specified by the Property Administrator.
 - 5. Prior to planting the Property Administrator shall review and approve replacement plant materials.

V. ROUTINE MAINTENANCE

All routine maintenance shall be performed to the satisfaction of the Property Administrator. Routine maintenance shall include but not be limited to the following services.

A. GROUND COVER CARE

1. Edging and detailing

- a. Ground cover beds shall be maintained within their intended bounds, and edged or detailed every two (2) weeks.
- b. Ground cover shall not be permitted to encroach into lawns, shrubs, adjacent desirable bare areas, wall fixtures, furniture, etc. All sites shall be cleaned following each edging/detailing, including streets (when applicable).

2. Fertilization

All ground cover beds shall be fertilized using a complete or approved fertilizer (such as, 16-6-8 Turf Supreme) four (4) times per year. The rate of application shall be two (2) pounds of actual nitrogen per 1,000 square feet. The Property Administrator may request proof of application in the form of empty fertilizer bags at any time.

3. Renovation

All ground cover beds shall be thinned and pruned for the health of the planting and the appearance of the site, and at such other times when directed by the Property Administrator.

4. Cultivation or Mulch

All bare soil or open areas shall be covered by a minimum of two (2) inches of mulch. Areas around plants shall be cultivated every two (2) weeks.

5. Replanting

The Contractor shall be responsible for the complete removal and replacement of ground cover, at Contractor's own expense, for any ground cover requiring replacement through normal attrition or due to infestation or to negligence resulting from Contractor's failure to provide maintenance in accordance with the provisions of this agreement.

6. Watering

All ground cover shall be properly irrigated to maintain a healthy condition as determined by Property Administrator.

B. SHRUB CARE

All shrubs growing in the work areas shall be pruned as required, to maintain plants in a healthy growing condition and to maintain plant growth within reasonable bounds to prevent encroachment of passageways, walks, streets, view of signs or in any manner

deemed objectionable by the Property Administrator. Dead or damaged limbs or branches shall be made clean with sharp pruning tools with no projections or stubs remaining. Pruning shall be done in a manner to permit plants to grow naturally in accordance with their normal growth characteristics except box hedging may be required on some shrubs, as designated by the Property Administrator. Shear hedging or severe pruning of plants, unless authorized by the Property Administrator, shall not be permitted. Should the Contractor shear hedge or severely prune plants and disfigure or damage the plants, the Contractor shall be responsible to replace those plants with like kind and size as determined by the Property Administrator.

1. Fertilization

All shrubs shall be fertilized using a complete or approved fertilizer (such as, 16, 6, and 8) four (4) times per year. The rate of application shall be two (2) pounds of actual nitrogen per 1,000 square feet.

2. Watering

All shrubs shall be properly irrigated to maintain a healthy condition.

3. Replanting

The Contractor shall be responsible for the complete removal and replacement of shrubs, at Contractor's own expense, for any shrubs requiring replacement through normal attrition or due to infestation or to negligence resulting from Contractor's failure to provide maintenance in accordance with the provisions of this agreement.

C. TREE CARE

All trees located on the station grounds are included in routine maintenance and are apart of this Agreement.

1. Pruning

- a. All trees within the scope of work shall be maintained to keep the natural integrity and shapes of the trees. This work shall be accomplished in a manner, which will ensure that each individual tree is pruned.
- b. Regarding Rail Stations all trees should be pruned clear of the Rail right-of-way.
- c. The Contractor shall remove or prevent encroachment where it blocks vision, CCTV camera view or is considered undesirable by the Property Administrator. Low branches overhanging sidewalks, driveway lanes and parking areas shall be removed to a height of nine (9) feet above grade. Young trees needing pruning, training, and shaping to develop caliper and a strong structural framework shall allow low branching laterals and or appropriate sucker growth to remain on a continuing basis as needed according to the Property Administrator.

2. Staking, Tying and Guying

All trees requiring staking shall be securely staked at all times with approved stakes and rubber cinch ties. Rubber hoses and wire will not be permitted. All stakes shall be set perpendicular to prevailing winds unless designated otherwise by the Property Administrator. Tree stakes shall also be set a consistent distance away from the trunk of the tree (minimum six (6) inches) to reduce abrasion and cell elongation. The tops of all tree stakes shall be removed approximately three (3) inches above the highest tie to reduce abrasion of main or lateral branches of the tree.

3. Fertilization

All trees shall be fertilized using a complete or approved fertilizer a minimum of one (1) time per year.

4. Watering

All trees shall be properly irrigated to maintain a healthy condition as determined by the Property Administrator.

5. Safety Hazard

The Contractor shall bring to the attention of the Property Administrator within twenty-four (24) hours any tree displaying, root heaving or girdling (either by roots or a foreign material), leaning, broken or hanging limbs, or any other reason posing a potential safety hazard.

6. Replanting

The Contractor shall be responsible for the complete removal and replacement of any and all trees as necessary, as determined by the Property Administrator, including but not limited to, girdling trees with string trimmers or tree ties, improper planting of new trees, improper pruning techniques which disfigure or destroy the trees' natural integrity and shape, or failure to detect and prevent treatable diseases and insect infestations. Replacement shall be made by the Contractor in the kind and size of trees determined by the Property Administrator.

D. WEEDS, DISEASE AND PEST CONTROL

1. Weed Control

All landscape and hardscape areas within the specified scope of work (including, but not limited to, shrub and ground cover, planters, tree wells, ornamental bark or rock areas, asphalt or concrete areas) shall be kept free of weeds at all times. The complete removal of all weed growth shall be accomplished on a continuing basis. Weeds shall be controlled by hand, weed barrier, and approved chemical methods.

2. Disease and Pest Control

a. The Contractor shall regularly inspect all landscaped areas for presence of disease, insect or rodent infestation. The Contractor shall advise the Property Administrator within four (4) days after detection of disease, insect or rodent infestation, and the action to be taken. Upon approval of the Property Administrator, the Contractor shall

implement approved control measures, following all federal, state, county, and municipal laws, regulations and ordinances required for the approved work.

- b. Approved control measures shall be continued until the disease, insect or rodent is controlled to the satisfaction of the Property Administrator. The Contractor shall utilize all safeguards necessary during disease, insect or rodent control operations to ensure safety of the public and the employees of the Contractor.

E. GENERAL MAINTENANCE AND CLEAN-UP

1. The Contractor shall collect all clippings, trimmings, cuttings, rubbish and debris at all work sites and dispose of same in a lawful manner at the Contractor's expense.
2. All trash and debris shall be removed from all work sites as work is being performed.
3. The Contractor shall rake, hand remove, or vacuum leaves that are not absorbed by planting. This shall be done as often as required to maintain a neat appearance, or prevent plants from being smothered by seasonal leaf drop.
4. After heavy windstorms, the entire area shall be cleaned of litter, fallen branches, etc., which are in excess of normal amounts.
5. The Contractor shall keep sidewalks and paved areas in the medians swept and cleaned of any dirt or soil that might be washed from adjacent slopes or planted areas.
6. The Contractor shall provide limited construction services necessary to fully perform necessary landscape related work (sawcuts, concrete, signage, railings, etc.)
7. The Contractor shall provide limited design oversight and consultation services as needed and subject to assent by the contractor.
8. The Contractor shall update all as-built drawing and electronic files at least annually to reflect all new and relocated landscape-related facilities.
9. The Contractor shall remove all leaves that have fallen and or accumulated in the parking lot curb corners and in the parking lot drain inlets.

F. OTHER REQUIREMENTS

1. Replacement of Plant Material
 - a. The Contractor shall notify the Property Administrator within four (4) days of the loss of plant material due to any cause.
 - b. The Contractor shall remove shrub or ground cover, which is damaged or lost due to any cause at no cost.
 - c. The Contractor shall replace, at Contractor's own expense, any ground cover, trees, shrubs, or other plant material requiring replacement through normal attrition or due to infestation or to negligence resulting from Contractor's failure to provide maintenance in accordance with the provisions of this agreement. The size and

species of replacement shrubs or ground cover plants shall be consistent with the original landscape plan. The Property Administrator shall approve any exceptions.

- d. It is the intention of the Property Administrator to require a high level of quality in landscape maintenance compatible with standard practice.
- e. In order to ensure maximum healthy growth and overall aesthetic appearance of planting in the work area, it may be desirable to replace certain plants. The Property Administrator shall determine the necessity or desirability of such plant replacement.

2. Inspection

The Property Administrator or his or her designee shall inspect the work area to ensure adequacy of maintenance and that methods of performing the work are in compliance with the contract. However, this shall not be construed to relieve the Contractor of the duty to provide continuous inspection of the work area. The Contractor shall correct discrepancies and deficiencies in the work immediately as determined by the Property Administrator.

Contractor shall work with the Property Administrator to develop an Inspection Checklist that will be used by the Property Administrator to document conformance or non-conformance of the Contractor's work. This checklist will be provided to the Contractor to identify areas requiring corrective action.

3. Emergency Service

Twenty-four (24) hours per day, seven (7) days per week, the Contractor shall be able to receive and respond to the Property Administrator or his or her designee's call for emergency service. Response time shall be less than two (2) hours to remove or eliminate a public safety hazard. Contractor shall provide the Property Administrator with a local telephone number where Contractor can be contacted twenty-four (24) hours per day, seven (7) days per week.

4. New Maintenance Areas

Additional routine maintenance may be required as set forth in the contract. Payment for add-on maintenance shall be based on the square footage of added area.

G. IRRIGATION SYSTEM MAINTENANCE

1. General Responsibilities

- a. Irrigation shall be done by the use of automatic sprinkler systems where available and operable; however, failure of the existing irrigation system to provide full and proper coverage shall not relieve the Contractor of the responsibility to provide adequate irrigation with full and proper coverage to all areas in the work site.
- b. Newly planted trees, shrubs, and ground cover shall receive special attention until these plants are established. Adequate water shall be applied to promote normal healthy growth. Proper berms or basins shall be maintained during the establishment period.

- c. Any damages to public or private property resulting from excessive irrigation water or irrigation water runoff shall be charged against the Contractor's payment unless immediate repairs are made by the Contractor to the satisfaction of the Property Administrator.
- d. The Contractor shall make whatever adjustments necessary to prevent excessive overspray/runoff into street right-of-ways or other areas not intended to receive irrigation. If overspray/runoff cannot be controlled by adjustments to the sprinklers, the contractor shall notify the Property Manager and recommend a replacement sprinkler which will reduce or eliminate the overspray/runoff. The Contractor shall replace the sprinkler at the direction of the Property Administrator.

2. Operation of Automatic Irrigation Controllers

Where the operation of automatic irrigation controllers is required, the Contractor shall:

- a. Not duplicate any code key furnished for access and operation of the controller.
- b. Surrender all keys at the end of the Contract period, or at any time deemed necessary by the Property Administrator.
- c. Protect the security of the property by keeping controller cabinet and building doors locked at all times.
- d. Not use premises behind locked areas for storage of materials, supplies or tools, except as approved by the Property Administrator.
- e. Program normal irrigation between the hours of 10:00 p.m. and 4:00 a.m.

3. Water Conservation

The Contractor shall turn off the irrigation system during periods of rainfall and times when suspension of irrigation is desirable to conserve water while remaining within the guidelines of good horticulturally acceptable maintenance practices. When the Property Administrator acknowledges the necessity to turn on the water once again, all controllers shall be activated within twenty-four (24) hours. Contractor shall perform all services in a manner which conserves the use of water whenever possible to the extent that such conservation does not interfere with the Contractor's maintenance obligations.

4. Inspection and Reporting

- a. The Contractor shall physically inspect (by manual or semi-automatically running the Controller) the operation of all systems on a weekly basis. The Contractor shall maintain all sprinkler systems in such a way as to guarantee proper coverage and full working capability, and make whatever adjustments necessary to prevent excessive overspray/runoff into street right-of-ways or other areas not intended to receive irrigation overspray/runoff.
- b. A visual inspection of all irrigated areas shall occur, more often, but not less than one (1) time per week. All areas receiving marginal coverage shall be irrigated by a

- portable irrigation method. The Contractor shall furnish all hoses, nozzles, sprinklers, etc., necessary to accomplish this supplementary irrigation. Care shall be exercised to prevent a waste of water, erosion, and/or detrimental seepage into existing underground improvements or structures.
- c. Contractor shall clean and re-set any spray nozzles that have an erratic spray. Any dirt/silt and debris shall be removed, cleaned & reset.
 - d. Any damage to irrigation system components listed below, resulting from vandalism, vehicle damage, tree roots or old age shall be repaired or replaced as part of irrigation system maintenance. The replacement irrigation components shall be new and have the greatest durability and life span available. If the Contractor is aware of a newer technology, which would result in a benefit to the project i.e. longer life, increased durability, less overspray, better coverage, reduced water usage, reduced maintenance, then it should be proposed to the Property Administrator for review and approval prior to installation:

Irrigation System Components

Sprinklers – all types, pop up, bubbler, impacts etc.

Sprinkler components

Riser Pipes – all components i.e. Elbows, Tees, Reducers, Marlex, Slip Fix, Nipples, Couplers, adapters, etc.

Lateral Lines

Control wires

Valve Boxes

Hose bibs / quick connects

H. SAFETY

1. Contractor shall execute and maintain its work so as to avoid injury or damage to any person or property.
2. Contractor shall submit to RCTC their company Safety Plan prior to work.
3. Contractor shall ensure that their employees are provided with and utilize the proper Personal Protective Equipment (PPE) while performing the work.
4. Contractor shall designate at least one (1) Safety Representative acceptable to RCTC, provided that acceptance may be withdrawn at any time, who shall be responsible for ensuring that the Work is performed in accordance with the requirements set forth in the Contract, the Contractor's Safety Plan, and all applicable laws and regulations.
5. Contractor shall have at least one individual on site who is First Aid and CPR trained. The individual shall be identified and the contractor will provide copies of their safety training certifications.
6. The Contractor shall post and ensure all employees are aware of the name, location, phone numbers of local doctors, hospitals, ambulance services, and emergency services that they contact in the event of an on-site emergency.

7. Contractor shall comply with the requirements of the specifications relating to safety measures applicable in particular operations or kinds of work.
8. In carrying out its Work, the Contractor shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the Work and the conditions under which the Work is to be perform.

I. STORM WATER POLLUTION PREVENTATION PROGRAM (SWPPP)

1. Contractor shall ensure that all employees are trained and are aware of the following Site Specific Storm Water Pollution Prevention Requirements:
 - a. No discharge of fertilizers, pesticide, and wastes into street or storm drains;
 - b. No blowing or sweeping debris into street or storm drains;
 - c. No hosing down of the parking lot;
 - d. No vehicle washing or maintenance on site;
 - e. Close dumpster lids at all time;
 - f. No disposing of wash water into street or storm drains.
 - g. Remove all foreign objects (leaves, cans, cigarette butts, paper etc.) from in front of drainage inlets and gutter areas.
2. The Contractor must provide annual refresher training at its own cost on the Site Specific Storm Water Pollution Prevention Requirements.
3. The Contractor shall document the training on a Site Specific Storm Water Pollution Prevention Training Log and provide it annually to RCTC.

J. CHEMICALS TO BE USED

1. Contractor shall provide a list of all chemicals that are proposed to be used on the project for review and approval, prior to use of the chemicals.
2. Contractor shall provide Material Safety Data Sheets (MSDS) for all chemicals that are to be used on the project.
3. Contractor shall ensure the field crews carry copies of the MSDS for all chemicals they have while on-site.
4. Contractor is encouraged to use Bio-degradable or environmentally friendly chemicals.
5. Contractor shall ensure that all employees are properly trained in the use and handling of the approved cleaning products/chemicals.
6. Contractor shall ensure that all employees utilize the proper Personal Protective Equipment (PPE) as specified by the chemical or the Contractor's safety plan, whichever is most stringent.

K. OTHER IRRIGATION REPAIRS - Task Order Based Work

Any damage to irrigation system components listed below, resulting from vandalism, vehicle damage, tree roots or old age shall be brought to the attention of the Property Administrator for disposition. Repair or replacement of these items will be based on the unit and labor costs consistent with this Agreement and as approved through the issuance of a Task Order:

Irrigation System Components shall include:

- Main Line
- Valves
- Irrigation Controllers
- Irrigation Controller Cabinet
- Electrical Power connection to Controller Cabinet

L. NEW LANDSCAPING-Task Order Based Work

1. Contractor shall replace existing landscaping with drought resistant vegetation and features upon direction from RCTC.
2. Contractor shall implement all modified landscaping plans upon direction from RCTC.
3. Contractor shall install modified irrigation systems upon direction from RCTC.
4. Contractor shall be able to modify planting areas and provide hardscape or safe pedestrian access with sidewalks upon direction from RCTC.

End of Statement of Work

EXHIBIT "B"

SCHEDULE OF SERVICES

[to be inserted]

EXHIBIT "C"

COMPENSATION

[to be inserted]

APPENDIX 'H'
PROPOSAL PRICING FORM

REQUEST FOR PROPOSALS NO. 11-24-145-00

1. Maintenance Services (Monthly – Fixed Fee)

	1/1/12-12/31/12	1/1/13-12/31/13	1/1/14-12/31/14	1/1/15-12/31/15	1/1/16-12/31/16
DT Riverside	\$ 4,246 /mo	\$ 4,246 /mo	\$ 4,246 /mo	\$ 4,373 /mo	\$ 4,373 /mo
Pedley	\$ 710.00 /mo	\$ 710.00/mo	\$ 710.00 /mo	\$ 731.00 /mo	\$ 731.00 /mo
La Sierra	\$ 2,830 /mo	\$ 2,830 /mo	\$ 2,830 /mo	\$ 2,914 /mo	\$ 2,914 /mo
W. Corona	\$ 2,927 /mo	\$ 2,927 /mo	\$ 2,927 /mo	\$ 3,014 /mo	\$ 3,014 /mo
N. Main Corona (incl. parking structure)	\$ 2,262 /mo	\$ 2,262 /mo	\$ 2,262 /mo	\$ 2,329 /mo	\$ 2,329 /mo
Perris	\$ 1,319 /mo	\$ 1,319 /mo	\$ 1,319 /mo	\$ 1,358 /mo	\$ 1,358 /mo

2. Labor Rate(s) for On-Call Repair Services

Estimated annual number of hours for on-call repairs: 400 hours.

	1/1/12-12/31/12	1/1/13-12/31/13	1/1/14-12/31/14	1/1/15-12/31/15	1/1/16-12/31/16
Supervisor	\$ 42.00 /hr	\$ 42.00 /hr	\$ 42.00 /hr	\$ 42.00 /hr	\$ 42.00 /hr
Irrigation Tech.	\$ 37.00 /hr	\$ 37.00 /hr	\$ 37.00 /hr	\$ 37.00 /hr	\$ 37.00 /hr
Foreman	\$ 22.00 /hr	\$ 22.00 /hr	\$ 22.00 /hr	\$ 22.00 /hr	\$ 22.00 /hr
Laborer	\$ 20.00 /hr	\$ 20.00 /hr	\$ 20.00 /hr	\$ 20.00 /hr	\$ 20.00 /hr

The hourly rates quoted shall include all direct and indirect costs, including labor charges **in accordance with the established general prevailing wage rate requirements**, trucks, equipment, tools, overhead, travel, depreciation, all other expense and profit. Labor hours shall be charged on the basis of actual time spent on each job, not on a portal-to-portal basis, and shall be computed to the nearest one-quarter (1/4) hour

3. Materials/New Equipment Mark-Up

Parts Pricing- Contractors Cost Plus Indicated %	1 st Year	2 nd Year	3 rd Year	4 th Year	5 th Year
	15 %	15 %	15 %	15 %	15 %

Contractor will be reimbursed for Materials on the basis of actual invoice cost to the Contractor plus the percentage of mark-up or discount quoted on this Proposal Pricing Form. Contractor shall provide with his invoice a copy of the supplier's invoice for all materials used in carrying out the various tasks issued under this contract, in order to substantiate costs incurred for work approved by the Commission under this agreement. In no case will the Commission consider a vendor whose mark-up on such materials exceeds 15% of its actual cost.

Are there any additional and/or incidental costs necessary in order to fully comply with the procurement of equipment/parts?

If "yes," please provide a complete and comprehensive listing of all such costs:

N/A

4. Equipment Rates or On-Call Services

Equipment		
Bucket Truck	\$ 75.00 /hr	\$ 600 /day
Scissor Lift	\$ 65.00 /hr	\$ 520 /day
Other / Chipper	\$ 50.00 /hr	\$ 400 /day
Other / Bob Cat	\$ 50.00 /hr	\$ 400 /day
Other / Dump Truck	\$ 72.00 /hr	\$ 576 /day



Leslie T. Fields, President

September 14, 2011

Tropical Plaza Nursery, Inc.

EXHIBIT "D"

SAMPLE TASK ORDER FORM

RIVERSIDE COUNTY TRANSPORTATION COMMISSION

TASK ORDER

Task Order No. _____

Agreement No. _____

Contractor: _____

The Contractor is hereby authorized to perform the following work subject to the provisions of the Agreement identified above:

List any attachments: (Please provide if any.)

Dollar Amount of Task Order: Not to exceed \$_____,_____.00

Completion Date: _____, 201__

The undersigned Contractor hereby agrees that it will provide all equipment, furnish all materials, except as may be otherwise noted above, and perform all services for the work above specified in accordance with the Contract identified above and will accept as full payment therefore the amount shown above.

Riverside County Transportation Commission

Contractor

Dated: _____

Dated: _____

By: _____

By: _____

Title: _____

Title: _____