

AGREEMENT FOR CITRUS FARMING SERVICES

This agreement for citrus farming services (“Agreement”) is made and entered into this 20th day of December, 2011 (“Effective Date”), by and between the City of Redlands, a municipal corporation (“City”), and Larry Jacinto Farming (“Contractor”). City and Contractor are sometimes individually referred to herein as a “Party” and, together, as the “Parties.”

In consideration of the mutual promises contained herein, City and Contractor agree as follows:

ARTICLE 1 - ENGAGEMENT OF CONTRACTOR

- 1.1 City hereby retains Contractor to perform citrus farming services for the City’s 16 individual citrus groves located at various sties throughout the City of Redlands.
- 1.2 Contractor and its subcontractors shall possess all appropriate State contractors’ licenses required for the work to be performed in connection with the Services, and shall not be debarred pursuant to Labor Code sections 1777.1 and 1777.7.

ARTICLE 2 - RESPONSIBILITIES OF CONTRACTOR

- 2.1 The farming services which Contractor shall perform are more particularly described in Contractor’s proposal and the Contract Documents for City’s “Care, Maintenance and Harvest of the City owned Citrus Groves” project (“Services”) which are attached hereto as Exhibit “A,” and incorporated herein by this reference.
- 2.2 Contractor shall comply with all applicable Federal, State and local laws and regulations in the performance of the Services including, but not limited, to all applicable Labor Code and prevailing wage laws commencing at Labor Code section 1770 et seq. and non-discrimination laws, including the Americans With Disabilities Act. Pursuant to Labor Code section 1773.2, copies of the prevailing rates of per diem wages as determined by the Director of the California Department of Industrial Relations for each craft, classification or type of worker needed to undertake the Services are on file at City’s Administrative Services Department, located at the Civic Center, 35 Cajon Street, Suite 10 (Mailing: P.O. Box 3005), Redlands, California 92373.
- 2.3 Contractor acknowledges that if it violates the Labor Code provisions relating to prevailing wage, that City may enforce such provisions by withholding contract payments to Contractor or its subcontractors pursuant to Labor Code section 1771.6.
- 2.4 If Contractor executes an agreement with a subcontractor to perform work on the Services, Contractor shall comply with Labor Code sections 1775 and 1777.7, and shall provide the subcontractor with copies of the provisions of Labor Code sections 1771, 1775, 1776, 1777.5, 1813 and 1815. Contractor acknowledges that the statutory provisions establishing penalties for failure to comply with state wage and hour laws and to pay prevailing wages may be enforced by City pursuant to Labor Code sections 1775 and 1813.

- 2.5 Contractor and its subcontractors shall comply with the provisions of Labor Code section 1776 regarding payroll records maintenance, certifications, retention and inspection.
- 2.6 Contractor acknowledges that eight (8) hours constitutes a legal day's work pursuant to Labor Code section 1810.
- 2.7 Contractor shall comply with the provisions of Labor Code section 1777.5 as to apprenticeships, and Labor Code sections 1771, 1775, 1776, 1777.5 1813 and 1815.

ARTICLE 3 - PERIOD OF SERVICE

- 3.1 Contractor shall commence the Services within ten (10) days from City's delivery to Contractor of a written "Notice to Proceed."
- 3.2 The term of the Agreement shall be for a period of four (4) years commencing on the Effective Date of this Agreement.

ARTICLE 4 - PAYMENT AND NOTICE

- 4.1 City shall pay Contractor the sum as specified as complete compensation for the Services performed by Contractor.
- 4.2 All notices shall be made in writing and shall be given by personal delivery or by mail. Notices sent by mail shall be addressed as follows:

City:

Fred Cardenas
Quality of Lie Director
City of Redlands
P.O. Box 3005
Redlands, CA 92373

Contractor:

Larry Jacinto
Larry Jacinto Farming
PO Box 275
Mentone, CA 92359

When so addressed, such notices shall be deemed given upon deposit in the United States mail; in all other instances, notices, bills and payments shall be deemed given at the time of actual delivery. Changes may be made in the names and addresses of the person to whom notices are to be given by giving notice pursuant to this section 4.2.

ARTICLE 5 - INSURANCE AND INDEMNIFICATION

- 5.1 Contractor's Insurance to be Primary. All insurance required by this Agreement shall be maintained by Contractor for the duration of the Services, and shall be primary with

respect to City and non-contributing to any insurance or self-insurance maintained by City.

- 5.2 Workers' Compensation and Employer's Liability. Contractor shall secure and maintain Workers' Compensation and Employer's Liability insurance for its employees throughout the duration of the Services pursuant to Labor Code sections 3700 and 1860, in an amount which meets statutory requirements, with an insurance carrier acceptable to City. The insurance policy shall include a provision prohibiting the policy's modification or cancellation except upon thirty (30) days prior written notice to City. Contractor shall execute and deliver to City a Worker's Compensation Insurance Certification in the form attached hereto as Exhibit "B" prior to commencement of the Services.
- 5.3 Hold Harmless and Indemnification. Contractor shall indemnify, hold harmless and defend City and its elected officials, employees and agents from and against any and all claims, losses and liability, including attorneys' fees, arising from injury or death to persons or damage to property occasioned by any act or omission of Contractor, and its officers, employees and agents, in performing the Services.
- 5.4 Assignment. Contractor is expressly prohibited from assigning any of the work associated with the Services without the express prior written consent of City. In the event of mutual agreement by the Parties to assign a portion of the Services, Contractor shall add the assignee as an additional insured to its insurance policies and provide City with the insurance endorsements prior to any work being performed by the assignee. Assignment does not include printing or other customary reimbursable expenses that may be provided for in this Agreement.
- 5.5 Comprehensive General Liability Insurance. Contractor shall secure and maintain in force throughout the duration of the Services comprehensive general liability insurance, with carriers acceptable to City, with minimum coverage of One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) aggregate for public liability, property damage and personal injury. City shall be named as an additional insured and the insurance policy shall include a provision prohibiting its modification or cancellation except upon thirty (30) days prior written notice to City. A certificate of insurance and endorsements shall be delivered to City prior to commencement of the Services.
- 5.6 Business Auto Liability Insurance. Contractor shall have business automobile liability coverage, with minimum limits of One Million Dollars (\$1,000,000) per occurrence, combined single limit for bodily injury liability and property damage liability. This coverage shall include all consultant owned vehicles used on the Services, hired and non-owned vehicles, and employee non-ownership vehicles. City shall be named as an additional insured and the insurance policy shall include a provision prohibiting its modification or cancellation except upon thirty (30) days prior written notice to City. Certificate of insurance with endorsements shall be delivered to City prior to commencement of the Services.

ARTICLE 6 - GENERAL CONSIDERATIONS

- 6.1 In the event any action is commenced to enforce or interpret any of the terms or conditions of this Agreement the prevailing Party shall, in addition to any costs and other relief, be entitled to recover its reasonable attorneys' fees, including fees for the use of in-house counsel by a Party.
- 6.2 Contractor is, for all purposes under this Agreement, an independent contractor with respect to the Services and not an employee of City. All personnel employed by Contractor to perform the Services are for its account only, and in no event shall Contractor or any personnel retained by it be deemed to have been employed by City or engaged by City for the account of, or on behalf of, City. Nothing in this Agreement shall be considered to create the relationship of employer and employee between the Parties.
- 6.3 Unless earlier terminated as provided for below, this Agreement shall terminate upon completion and acceptance of the Services by City.
- 6.4 City may terminate this Agreement for any reason, at any time at its sole discretion, upon twenty (20) calendar days prior written notice to Contractor.
- 6.5 This Agreement, including the documents and exhibit incorporated by reference, represents the entire agreement and understanding between the Parties as to the matters contained herein and any other prior negotiations, proposals and verbal agreements relating to the subject matter hereof are superseded by this Agreement. Any amendment to this Agreement shall be in writing and approved by the City Council and signed by City and Contractor.
- 6.6 This Agreement shall be governed by and construed in accordance with the laws of the State of California.

IN WITNESS WHEREOF, duly authorized representatives of the Parties have signed in confirmation of this Agreement.

CITY OF REDLANDS

CONTRACTOR

By: _____
Pete Aguilar, Mayor

By: _____
Larry Jacinto

ATTEST:

By: _____
Sam Irwin, City Clerk

EXHIBIT "A"

WORKERS' COMPENSATION INSURANCE CERTIFICATION

Description of Contract: City of Redlands
Quality of Life Department
**CARE, MAINTENANCE AND HARVEST OF THE
CITY OWNED CITRUS GROVES**

Every employer except the State, shall secure the payment of compensation in one or more of the following ways:

- A By being insured against liability to pay compensation in one or more insurer duly authorized to write compensation insurance in this State.
- B By securing from the Director of Industrial Relations, a certificate of consent to self-insure, either as an individual employer or as one employer in a group of employers, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his or her employees.

I am aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code §1861).

Contractor

By: _____

_____ Date: