



REPORT TO MAYOR AND CITY COUNCIL

AGENDA ITEM

TO: THE HONORABLE MAYOR
AND CITY COUNCIL

DATE: February 5, 2008

SUBJECT: Spring Lake LLD Landscape Maintenance Contract

Report in Brief

An RFP (No.07-08-101) for the maintenance of public landscaping in Spring Lake Lighting and Landscape District (LLD) was advertised in November 2007. Ten proposals were received and opened on December 20, 2007. Machado Landscape submitted the lowest bid of \$2,577.00 per month to maintain approximately 371,000 square feet of completed landscaping in Spring Lake. The bid was deemed responsive and the contractor responsible.

Staff recommends that the City Council authorize the City Manager to execute a Contract with Machado Landscape Construction and Maintenance in the amount of \$2,557.00 per month and allow for additional landscaping to be added to the contract at similar rates for newly landscaped areas accepted into the LLD.

Background

The Parks and Recreation Department contracts with a landscape maintenance firm for maintenance of the miscellaneous public landscape sites in Woodland, such as East Street, Gibson Road, Pioneer, Main Street, City Hall, Police Station, City Library and several other landscaped areas in the public right-of-way. Sunworld Landscaping won the bid for these areas in June 2007, but was unable to offer competitive landscape maintenance fees for the public landscapes being added to the Spring Lake LLD. It was decided to develop a Request for Proposals for landscape maintenance specifically for the Spring Lake LLD in order to obtain more competitive rates.

Discussion

Ponticello Enterprises, who has developed and coordinated landscape maintenance RFP's several times for the City, developed the landscape maintenance RFP specifically for Spring Lake. The RFP was advertised to solicit bids and award a new contract. A total of ten competitive proposals were received as summarized in the attachment. The lowest bid proposal, submitted by Machado Landscape, represents a significant reduction in landscape maintenance cost in the LLD. Machado landscaping has met the requirements for bidding, insurance, and licensing.

Machado Landscaping has demonstrated a good understanding of City requirements for landscape maintenance as they are currently under contract to maintain Fire Station 1, 2, & 3. A check with the Fire Department found that Machado has been performing well. Machado has been in business for over 23 years in Woodland and once held the contract for landscape maintenance of several City facilities.

Machado is also contracted with Yolo County, maintaining the landscaping at all County facilities. County representatives are very pleased with Machado's work, finding them responsive, reasonable, and economical. Machado's recent bid for the County work was considerably lower than all others received which was initially a concern for the County. All concerns have been relieved as Machado has proved fully capable over the past year.

Fiscal Impact

The funding for this contract is paid with Spring Lake LLD funds. The Machado Landscape maintenance contract for Spring Lake is \$2,080 per month below the original engineers estimate for the 371,000 square feet currently maintained in the LLD. The maintenance contract with Machado will reduce the estimated costs by \$24,960 per year.

Public Contact

Posting of the City Council agenda.

Recommendation for Action

Staff recommends that the City Council authorize the City Manager to execute a Contract with Machado Landscape Construction and Maintenance in the amount of \$2,557.00 per month and allow for additional landscaping to be added to the contract at similar rates for newly landscaped areas accepted into the LLD.

Prepared by: Kent Perkes
Park Planner/Acting Parks Superintendent

Reviewed by: Daniel W. Gentry, Director
Parks and Recreation Department

Joan Drayton
Finance Director

Mark G. Deven
City Manager

Attachments:
Bid Results
Professional Service Agreement

**CITY OF WOODLAND BID NO. 07-08-101
 LANDSCAPE MAINTENANCE RFP for the SLSP AREA
 BID OPENING - THURSDAY, DECEMBER 20, 2007 at 2:00 P.M.**

CONTRACTOR	<u>MODE II</u> <u>TOTAL</u>
Machado Landscape	\$2,557.00 per month
Innovative Maintenance Solutions, Inc.	\$3,705.00 per month
Procida Landscape, Inc.	\$4,081.00 per month
Sun World	\$4,365.00 per month
GP Landscape	\$4,823.00 per month
Botanica Landscapes	\$5,270.85 per month
Coast Landscape Management	\$5,563.00 per month
Landscapes by Stentzel	\$7,088.00 per month
Professional Landscape Solutions, Inc.	\$7,230.00 per month
Empire Landscaping	\$7,950.00 per month

OPENED BY: Ana Gonzalez

READ BY: Ana Gonzalez

WITNESSED BY: Kent Perkes

**CITY OF WOODLAND
PROFESSIONAL SERVICES AGREEMENT
FOR
SPRINGLAKE SPECIFIC PLAN LANDSCAPE MAINTENANCE SERVICES**

This Agreement is entered into this ____ day of _____, 2008, by and between the City of Woodland, a California municipal corporation ("City"), and Machado Construction Landscape and Maintenance, a Sole Ownership ("Contractor").

RECITALS

A. Contractor desires to perform and assume responsibility for the provision of professional Landscape Maintenance Services required by the City on the terms and conditions set forth in this Agreement.

B. Contractor has presented a bid proposal in response to the City of Woodland Parks & Recreation Bid No. 07-08-101 (release bid date of 11/29/07), and has been deemed qualified to provide such services to the City as identified in the bid proposal, dated December 20, 2007, (attached hereto and incorporated herein as Exhibit "I") and is duly licensed, qualified and experienced to perform those services.

C. Contractor agrees it has satisfied itself by its own investigation and research regarding the conditions affecting the work to be done and labor and materials needed, and that its decision to execute this Agreement is based on such independent investigation and research.

D. City desires to engage Contractor to render such services as set forth in this Agreement.

AGREEMENT

1. SCOPE OF SERVICES.

1.1 General Scope of Services. Contractor promises and agrees to furnish to the City all labor, materials, tools, equipment, services and incidental and customary work necessary to fully and adequately supply the necessary professional landscape maintenance services ("Services"). The Services are more particularly described in Exhibit "I."

2. SCHEDULE OF SERVICES.

2.1 Schedule of Services. The term of this Agreement shall be from February 1, 2008 to January 31, 2010, unless earlier terminated as provided herein. The City shall have the unilateral option, at its sole discretion, to extend this agreement for one additional calendar year.

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2.2 Extension of Time. Contractor may, for good cause, request extensions of time to perform the Services required hereunder. Such extensions shall be authorized in advance by the City in writing and shall be incorporated in written amendments to this Agreement.

3. FEES AND PAYMENTS.

3.1 Compensation. Contractor shall be paid monthly, for completion of the services and areas identified, under this Agreement at the unit prices set forth in the Bid Form Exhibit "G." The total compensation shall not exceed Two Thousand Five Hundred Fifty Seven dollars (\$2,557.00) without City's prior written approval. Extra Work may be authorized, as described below, and if authorized, will be compensated at the rates and manner set forth in this Agreement.

3.2 Payment of Compensation. Contractor shall submit to City a monthly itemized 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. City shall, within forty-five (45) days of receiving such statement, review the statement and pay all approved charges thereon. The maximum interest rate paid on any overdue invoices owed to the Contractor shall be 0.833% per month or 10% per year.

3.3 Extra Work. At any time during the term of this Agreement, City may request that Contractor perform Extra Work. As used herein, "Extra Work" means any work which is determined by City to be necessary for the proper completion of the Project, but which the parties did not reasonably anticipate would be necessary at the execution of this Agreement. Contractor shall not perform, nor be compensated for, Extra Work without written authorization from City's Representative.

4. CHANGES.

4.1 The Parties may, from time to time, request changes in the scope of the Services of Contractor to be performed hereunder. Such changes, including any increase or decrease in the amount of Contractor's compensation and/or changes in the schedule must be authorized in advance by the City in writing. Mutually agreed changes shall be incorporated in written amendments to the Agreement.

5. RESPONSIBILITIES OF CONSULTANT.

5.1 Independent Contractor; Control and Payment of Subordinates. Contractor enters into this Agreement as an independent contractor and not as an employee of the City. Contractor shall have no power or authority by this Agreement to bind the City in any respect. Nothing in this Agreement shall be construed to be inconsistent with this relationship or status. All employees, agents, contractors or subcontractors hired or retained by the Contractor are employees, agents, or subcontractors of the Contractor and not of the City. The City shall not be obligated in any way to pay any wage claims or other claims made against Contractor by any

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such employees, agents, or subcontractors, or any other person resulting from performance of this Agreement.

5.2 Conformance to Applicable Requirements. All work prepared by Contractor shall be subject to the approval of City.

5.3 Project Manager. The Contractor shall designate a project manager who at all times shall represent the Contractor before the City on all matters relating to this Agreement. The project manager shall continue in such capacity unless and until he or she is removed at the request of the City, is no longer employed by Contractor or replaced with the written approval of the City which shall not be unreasonably withheld.

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

5.5 Warranty. Contractor agrees and represents that it is qualified to properly provide the Services set forth in Exhibit "I" in a manner which is consistent with the generally accepted standards of Contractor's profession. Contractor further represents and agrees that it will perform said Services in a legally adequate manner in conformance with applicable federal, state and local laws and guidelines.

5.6 Interest in Contract. Contractor covenants that neither it, nor any of its employees, agents, and subcontractors has any interest, nor shall they acquire any interest, direct or indirect, in the subject of the Contract, nor any other interest which would conflict in any manner or degree with the performance of its services hereunder.

Contractor shall make all disclosures required by the City's conflict of interest code in accordance with the category designated by the City, unless the City Manager determines in writing that Contractor's duties are more limited in scope than is warranted by the category designated by the City code and that a narrower disclosure category should apply. Contractor also agrees to make disclosure in compliance with the City conflict of interest code if, at any time after the execution of this agreement, City determines and notifies Contractor in writing that Contractor's duties under this agreement warrant greater disclosure by Contractor than was originally contemplated. Contractor shall make disclosures in the time, place and manner set forth in the conflict of interest code and as directed by the City.

6. INSURANCE.

6.1 Time for Compliance. Contractor shall not commence Services under this Agreement until it has provided evidence satisfactory to the City 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 provided evidence satisfactory to the City that the subcontractor has secured all insurance required under this section.

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6.2 Types of Required Coverages. As a condition precedent to the effectiveness of this Agreement for work to be performed hereunder and without limiting the indemnity provisions of the Agreement, the Contractor in partial performance of its obligations under such Agreement, shall procure and maintain in full force and effect during the term of the Agreement, the following policies of insurance.

6.2.1 Commercial General Liability: Commercial General Liability Insurance which affords coverage at least as broad as Insurance Services Office "occurrence" form CG 0001, with minimum limits of at least \$1,000,000 per occurrence. Defense costs shall be paid in addition to the limits.

The policy shall contain no endorsements or provisions limiting coverage for (1) products and completed operations; (2) contractual liability; (3) third party action over claims; or (4) cross liability exclusion for claims or suits by one insured against another.

6.2.2 Automobile Liability: Automobile Liability Insurance with coverage at least as broad as Insurance Services Office Form CA 0001 covering "Any Auto" (Symbol 1) with minimum limits of \$1,000,000 each accident.

6.2.3 Workers' Compensation: Workers' Compensation Insurance, as required by the State of California and Employer's Liability Insurance with a limit of not less than \$1,000,000 per accident for bodily injury and disease.

6.2.4 Contractors Pollution Liability: Contractors Pollution Liability Insurance covering all of the contractor's operations to include onsite and offsite coverage for bodily injury (including death and mental anguish), property damage, defense costs and cleanup costs with minimum limits of \$5 million per loss and \$10 million total all losses. Non-owned disposal site coverage shall be provided if handling, storing or generating hazardous materials or any material/substance otherwise regulated under environmental laws/regulations.

If coverage is written on a claims-made basis, the retroactive date shall precede the effective date of the initial Agreement and continuous coverage will be maintained or an extended reporting period will be exercised for a period of at least three (3) years from termination or expiration of this Agreement.

6.3 Endorsements.

6.3.1 The policy or policies of insurance required by Sections 6.2.1 Commercial General Liability and 6.2.2 Automobile Liability and 6.2.4 Contractor's Pollution Liability shall be endorsed to provide the following:

6.3.1.1 Additional Insured: The indemnified parties shall be additional insureds with regard to liability and defense of suits or claims arising out of the performance of the Agreement. Additional Insured Endorsements shall not (1) be restricted to "ongoing operations"; (2) exclude "contractual liability"; (3) restrict

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coverage to “sole” liability of Contractor; or (4) contain any other exclusions contrary to the Agreement.

6.3.1.2 Primary Insurance and Non-Contributing Insurance: This insurance shall be primary and any other insurance, deductible, or self-insurance maintained by the indemnified parties shall not contribute with this primary insurance.

6.3.1.3 Severability: In the event of one insured, whether named or additional, incurs liability to any other of the insureds, whether named or additional, the policy shall cover the insured against whom claim is or may be made in the same manner as if separate policies had been issued to each insured, except that the limits of insurance shall not be increased thereby.

6.3.1.4 Cancellation: The policy shall not be canceled or the coverage suspended, voided, reduced or allowed to expire until a thirty (30) day prior written notice of cancellation has been served upon the City except ten (10) days prior written notice shall be allowed for non-payment of premium.

6.3.1.5 Duties: Any failure by the named insured to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the indemnified parties.

6.3.1.6 Applicability: That the coverage provided therein shall apply to the obligations assumed by the Contractor under the indemnity provisions of the Agreement, unless the policy or policies contain a blanket form of contractual liability coverage.

6.3.2 The policy or policies of insurance required by Section 6.2.3 Workers’ Compensation shall be endorsed, as follows:

6.3.2.1 Waiver of Subrogation: A waiver of subrogation stating that the insurer waives all rights of subrogation against the indemnified parties.

6.3.2.2 Cancellation: The policy shall not be canceled or the coverage suspended, voided, reduced or allowed to expire until a thirty (30) day prior written notice of cancellation has been served upon the City except ten (10) days prior written notice shall be allowed for non-payment of premium.

6.4 Deductible. Any deductible or self-insured retention must be approved in writing by the City and shall protect the indemnified parties in the same manner and to the same extent as they would have been protected had the policy or policies not contained a deductible or self-insured retention.

6.5 Evidence of Insurance. The Contractor, concurrently with the execution of the Agreement, and as a condition precedent to the effectiveness thereof, shall deliver either certified

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copies of the required policies, or original certificates and endorsements on forms approved by the City. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. At least fifteen (15) days prior to the expiration of any such policy, evidence of insurance showing that such insurance coverage has been renewed or extended shall be filed with the City. If such coverage is cancelled or reduced, Contractor shall, within ten (10) days after receipt of written notice of such cancellation or reduction of coverage, file with the City evidence of insurance showing that the required insurance has been reinstated or has been provided through another insurance company or companies.

6.6 Failure to Maintain Coverage. Contractor agrees to suspend and cease all operations hereunder during such period of time if the required insurance coverage is not in effect and evidence of insurance has not been furnished to the City. The City shall have the right to withhold any payment due Contractor until Contractor has fully complied with the insurance provisions of this Agreement.

In the event that the Contractor's operations are suspended for failure to maintain required insurance coverage, the Contractor shall not be entitled to an extension of time for completion of the Work because of production lost during suspension.

6.7 Acceptability of Insurers. Each such policy shall be from a company or companies with a current A.M. Best's rating of no less than A:VII and authorized to do business in the State of California, or otherwise allowed to place insurance through surplus line brokers under applicable provisions of the California Insurance Code or any federal law.

6.8 Insurance for Subcontractors. All subcontractors shall be included as additional insureds under the Contractor's policies, or the Contractor shall be responsible for causing subcontractors to purchase the appropriate insurance in compliance with the terms of this Agreement, including adding the City as an Additional Insured to the subcontractor's policies.

7. OWNERSHIP OF MATERIALS AND CONFIDENTIALITY.

7.1 Documents & Data; Licensing of Intellectual Property. This Agreement creates a non-exclusive and perpetual license for City to copy, use, modify, reuse or sublicense any and all copyrights, designs and other intellectual property embodied in plans, specifications, studies, drawings, estimates 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 City is granted a non-exclusive and perpetual license for any Documents & Data the subconsultant prepares under this Agreement. Contractor represents and warrants that Contractor has the legal right to license any and all Documents & Data. Contractor makes no such representation and warranty in

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regard to Documents & Data which were prepared by design professionals other than Contractor or provided to Contractor by the City.

City shall not be limited in any way in its use or modification of the Documents and Data at any time, provided that any such use or modification not within the purposes intended by this Agreement shall be at City's sole risk.

7.2 Confidentiality. All Documents & Data are confidential and Contractor agrees that they shall not be made available to any individual or organization without the prior written approval of the City, except by court order.

8. ACCOUNTING RECORDS.

8.1 Maintenance and Inspection. Contractor shall maintain and make available for inspection by the City and its auditor's accurate records of all its costs, disbursements and receipts with respect to any work under this Agreement. Such inspections may be made during regular office hours at any time until one (1) year after the final payments under this Agreement are made to the Contractor.

9. SUBCONTRACTING.

9.1 Prior Approval Required. Contractor shall not subcontract any portion of the work required by this Agreement, except as expressly stated herein, without prior written approval of City. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement.

10. TERMINATION OF AGREEMENT.

10.1 Grounds for Termination. City may, by written notice to Contractor, terminate all 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, at least seven (7) days before the effective date of such termination. Upon termination, Contractor shall be compensated only for those Services which have been adequately rendered to City, and Contractor shall be entitled to no further compensation. Contractor may not terminate this Agreement except for cause.

10.2 Effect of Termination. If this Agreement is terminated as provided herein, City may require Contractor to provide all finished or unfinished Documents and Data 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.

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

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11. GENERAL PROVISIONS.

11.1 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:

City:

CITY OF WOODLAND
2001 East Street
Woodland, CA 9776
Attn: Kent Perkes, Parks and Recreation

Contractor:

MACHADO LANDSCAPE CONSTRUCTION AND
MAINTENANCE
35664 County Road 18A
Woodland California 95695
Attn: Gary Machado

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.

11.2 Indemnification. To the fullest extent permitted by law, Contractor shall defend, indemnify and hold the City, its elected officials, officers, employees, 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 the negligence, recklessness or willful misconduct of Contractor, its officials, officers, employees, agents, subcontractors, including without limitation the payment of all consequential damages and attorneys' fees and other related costs and expenses except such loss or damage which was caused by the active negligence, sole negligence, or willful misconduct of the City.

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 City, its elected officials, officers, employees, agents or volunteers. Contractor shall pay and satisfy any judgment, award or decree that may be rendered against City or its elected officials, officers, employees, agents or volunteers, in any such suit, action or other legal proceeding. Contractor shall reimburse City and its elected officials, officers, employees, agents

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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 the City, its elected officials, officers, employees, agents or volunteers.

11.3 Laws and Regulations. Contractor shall keep itself fully informed of and in compliance with all local, state and federal laws, rules, regulations and ordinances in any manner affecting the performance of the Project or the Services, including without limitation City business license requirements and all Cal/OSHA requirements, and shall give all notices required by law.

11.4 Prohibited Interests. Contractor covenants that neither it, nor any of its employees, agents, contractors or subcontractors has any interest, nor shall they acquire any interest, direct or indirect, in the subject of the Agreement, nor any other interest which would conflict in any manner or degree with the performance of the Services hereunder.

11.5 Equal Opportunity Employment. Contractor shall not engage in unlawful employment discrimination. Such unlawful employment discrimination includes, but is not limited to, employment discrimination based upon a person's race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, gender, citizenship or sexual orientation.

11.6 Labor Certification. By its signature hereunder, Contractor 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 Worker's 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.

11.7 Attorneys' 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 reasonable attorneys' fees and all other costs of such action.

11.8 Assignment or Transfer. Contractor shall not assign or transfer any interest in this Agreement whether by assignment or novation, without the prior written consent of the City, which will not be unreasonably withheld. Provided, however, that claims for money due or to become due Contractor from the City under this Agreement may be assigned to a financial institution or to a trustee in bankruptcy, without such approval. Notice of any assignment or transfer, whether voluntary or involuntary, shall be furnished promptly to the City.

11.9 Successors and Assigns. This Agreement shall be binding on the successors and assigns of the Parties.

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11.10 Amendment; Modification. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

11.11 Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel or otherwise.

11.12 Entire Agreement. This Agreement constitutes the entire agreement between the Parties relative to the Services specified herein. There are no understandings, agreements, conditions, representations, warranties or promises with respect to this Agreement, except those contained in or referred to in the writing.

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

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

11.15 Interpretation. Since the Parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party.

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

11.17 Authority to Enter Agreement. Each Party warrants that the individuals who have signed this Agreement have the legal power, right and authority to make this Agreement and bind each respective Party.

11.18 Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

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

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

CITY OF WOODLAND

MACHADO CONSTRUCTION LANDSCAPE
AND MAINTENANCE

By: _____
Mark G. Deven
City Manager

By: _____
Gary Machado

Attest:

By: _____
Sue Vannucci
City Clerk

Approved as to Form:

By: _____
Ann M. Siprelle
City Attorney