

RESOLUTION NO. 2016-22

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA APPROVING AMENDMENT NO. 3 TO AGREEMENT BETWEEN THE CITY OF MARINA AND NEW IMAGE LANDSCAPE COMPANY OF GILROY, CALIFORNIA, TO EXTEND THE CONTRACT AGREEMENT TO THE END OF FISCAL YEAR 16/17 AND INCREASE THE COMPENSATION TO THE CONTRACTOR BY \$660 AND AUTHORIZE THE CITY MANAGER TO EXECUTE AMENDMENT NO. 3 ON BEHALF OF THE CITY SUBJECT TO FINAL REVIEW AND APPROVAL BY THE CITY ATTORNEY

WHEREAS, at the regular meeting of February 20, 2008, the City Council adopted Resolution No. 2008-28, awarding the bid for landscape maintenance services at Locke-Paddon Park and the Marina Library to Commercial Environment Landscape (CEL) of Gilroy, California, and;

WHEREAS, on August 6, 2013, the City provided a 30-day Notice of Termination of the Agreement with CEL per section 7 of the Contract Agreement. Since that time, the Public Works Division has provided nominal maintenance services till the time when a new maintenance contract could be provided, and;

WHEREAS, at the special meeting of June 15, 2010, the City Council adopted Resolution No. 2012-164, determine that New Image Landscaping with a bid of \$17,520, is the lowest responsive and responsible bidder for the contract for landscape maintenance services and on that basis awards the contract for those services to New Image Landscaping of Fremont, California for the Monterey Bay Estates, Seabreeze, Marina Woods, and Cypress Cove II Landscape and Lighting Maintenance Districts and the Locke Paddon Community Facilities District and authorizing City Manager to execute the Agreement on behalf of City subject to final review and approval by the City Attorney, and;

WHEREAS, at the regular meeting of August 6, 2014, the City Council adopted Resolution No. 2014-90, approving Amendment No. 1 to the Agreement between City of Marina and New Image Landscape Company of Fremont, California, to extend the amended contract two years and decrease the compensation payable to the Contractor by \$3,240.00, and;

WHEREAS, at the regular meeting of October 21, 2014, the City Council adopted Resolution No. 2014-113, approving Amendment No. 2 to the Agreement between City of Marina and New Image Landscape Company of Fremont, California, to increase the compensation payable to the Contractor by \$6,540 for landscape maintenance of the Marina Branch Library, and;

WHEREAS, the scope of work for the landscape maintenance services includes three Landscape Maintenance Districts, one Community Facility District and the Marina Branch Library. The current amended contract expired on June 30, 2016, and;

WHEREAS, to continue with the reduced costs of Monterey Bay Estates and the forecasted budget approved for Fiscal Year 2015/16, staff recommends extending the Agreement with New Image Landscape Company to the end of Fiscal Year 16/17 in conformance with section A2.20 of the contract specifications, and;

WHEREAS, should the City Council approve this request, the total compensation payable to New Image Landscape Company under the Agreement would be increased by \$660 to an annual total of \$21,480 (\$1,790 per month).

NOW, THEREFORE BE IT RESOLVED that the City Council of the City of Marina does hereby:

1. Approve Amendment No. 3 to the Agreement between City of Marina and New Image Landscape Company of Fremont, California, to extend the contract agreement to the end of Fiscal Year 16/17 and increase the compensation payable to the Contractor by \$660, and;
2. Authorize the City Manager to execute Agreement Amendment No. 3 on behalf of the City subject to final review and approval by the City Attorney.

PASSED AND ADOPTED, by the City Council of the City of Marina at a regular meeting duly held on the 17th day of February 2016, by the following vote:

AYES: COUNCIL MEMBERS: Amadeo, Brown, Morton, O'Connell, Delgado

NOES: COUNCIL MEMBERS: None

ABSENT: COUNCIL MEMBERS: None

ABSTAIN: COUNCIL MEMBERS: None

Bruce C. Delgado, Mayor

ATTEST:

Anita Sharp, Deputy City Clerk

**AMENDMENT NO. 3
TO AGREEMENT FOR LANDSCAPE MAINTENANCE DISTRICTS
LANDSCAPE MAINTENANCE SERVICES PROJECT**

This Amendment No. 3 ("Amendment No. 3") to the Agreement for Landscape Maintenance Districts Landscape Maintenance Services Project by and between the City of Marina, a California charter city, hereinafter referred to as "City," and New Image Landscape Company, of Fremont, California, hereinafter referred to as "Contractor" is made and entered into as of the _____ day of _____ 2016.

In consideration of the mutual promises contained herein, City and Contractor agree that the Terms and Conditions set forth herein are incorporated into the Agreement for Landscape Maintenance Services between City and Contractor dated November 9, 2012 (the "Agreement") as amended on August 6, 2014 ("Amendment No. 1"), and as amended on November 21, 2014 ("Amendment No. 2). Only the provisions of the numbered sections of said Agreement which are being modified hereby are included in this Amendment No. 3, and all other terms and conditions of said Agreement shall remain unchanged.

1. The Third Section of the Agreement is replaced in its entirety to read as follows:

“THIRD: That said Contractor, from and after the date of Amendment No. 3, agrees to receive and accept the following price as full compensation for furnishing all materials and for doing all the work embraced and contemplated in this Agreement and as set forth below, also, for all loss or damage arising out of the nature of said work, or from the action of the elements or from any unforeseen difficulties or obstructions which may arise or be encountered in the prosecution of the work until the acceptance thereof by the City of Marina and for all risk connected with the work, and for well and faithfully completing the work, and the whole thereof, in the manner and according to the said Plans and Specifications and the provisions of this Agreement, and the requirements of the Engineer under them, to wit: The price as set forth below for the work to be constructed and completed under this Agreement.

Twenty One Thousand Four Hundred Eighty Dollars per Year
(\$ 21,480.00)
Payable at the rate of
One Thousand Seven Hundred and Ninety Dollars per Month
(\$1,790.00)

Unless otherwise provided, the term of this Agreement shall begin on the date of its full execution and shall expire on June 30, 2017, unless extended by amendment or terminated earlier as provided in the City of Marina Specifications for the Landscape Maintenance Services.

All other aspects of the Agreement will remain unchanged.

EXHIBIT A

IN WITNESS WHEREOF, Contractor and the City by their duly authorized representatives, have executed this Amendment No. 3 on the date first set forth above at Marina, California.

CITY OF MARINA

CONTRACTOR

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

By: _____
City Clerk

Approved as to form:

By: _____
City Attorney

February 8, 2016

Item No. **8g(3)**

Honorable Mayor and Members
of the Marina City Council

City Council Meeting
of February 17, 2016

**CITY COUNCIL CONSIDER ADOPTING RESOLUTION NO. 2015-,
APPROVING AMENDMENT NO. 3 TO AGREEMENT BETWEEN
CITY OF MARINA AND NEW IMAGE LANDSCAPE COMPANY OF
FREMONT, CALIFORNIA, TO EXTEND THE CONTRACT
AGREEMENT TO THE END OF FISCAL YEAR 16/17 AND INCREASE
THE COMPENSATION TO THE CONTRACTOR BY \$660 AND
AUTHORIZE THE CITY MANAGER TO EXECUTE AMENDMENT
NO. 3 ON BEHALF OF THE CITY SUBJECT TO FINAL REVIEW AND
APPROVAL BY THE CITY ATTORNEY**

REQUEST:

It is requested that the City Council consider:

1. Adopting Resolution No. 2016-___, approving Amendment No. 3 to the Agreement between City of Marina and New Image Landscape Company of Fremont, California, to extend the contract agreement to the end of Fiscal Year 16/17 and increase the compensation payable to the Contractor by \$660, and;
2. Authorize the City Manager to execute Amendment No. 3 on behalf of the City subject to final review and approval by City Attorney.

BACKGROUND:

At the regular meeting of February 20, 2008, the City Council adopted Resolution No. 2008-28, awarding the bid for landscape maintenance services at Locke-Paddon Park and the Marina Library to Commercial Environment Landscape (CEL) of Gilroy, California.

On August 6, 2013, the City provided a 30-day Notice of Termination of the Agreement with CEL per section 7 of the Contract Agreement. Since that time, the Public Works Division has provided nominal maintenance services till the time when a new maintenance contract could be provided.

At the special meeting of June 15, 2010, the City Council adopted Resolution No. 2012-164, determine that New Image Landscaping with a bid of \$17,520, is the lowest responsive and responsible bidder for the contract for landscape maintenance services and on that basis awards the contract for those services to New Image Landscaping of Fremont, California for the Monterey Bay Estates, Seabreeze, Marina Woods, and Cypress Cove II Landscape and Lighting Maintenance Districts and the Locke Paddon Community Facilities District and authorizing City Manager to execute the Agreement on behalf of City subject to final review and approval by the City Attorney.

At the regular meeting of August 6, 2014, the City Council adopted Resolution No. 2014-90, approving Amendment No. 1 to the Agreement between City of Marina and New Image

Landscape Company of Fremont, California, to extend the amended contract two years and decrease the compensation payable to the Contractor by \$3,240.00.

At the regular meeting of October 21, 2014, the City Council adopted Resolution No. 2014-113, approving Amendment No. 2 to the Agreement between City of Marina and New Image Landscape Company of Fremont, California, to increase the compensation payable to the Contractor by \$6,540 for landscape maintenance of the Marina Branch Library.

ANALYSIS:

The scope of work for the landscape maintenance services includes three Landscape Maintenance Districts, one Community Facility District and the Marina Branch Library. The current amended contract expired on June 30, 2016.

To continue with the reduced costs of Monterey Bay Estates and the forecasted budget approved for Fiscal Year 2015/16, staff recommends extending the Agreement with New Image Landscape Company for one year in conformance with section A2.20 of the contract specifications, which reads as follows:

A2.20 Extension of Contract

This Agreement may be extended upon written agreement of both parties. Contractor requesting a price increase tied to the SF/Bay Area Consumer Price Index (CPI) may be required to prepare a written schedule for the price increase, which shall be approved by the City and made a part of A3 - Proposal Form.

The proposed Amendment No. 3 would extend the contract expiration to June 30, 2017 (“EXHIBIT A”). The contract costs will increase by the approved CPI as detailed below.

FISCAL IMPACT:

Should the City Council approve this request, the total compensation payable to New Image Landscape Company under the Agreement would be increased by \$660 to an annual total of \$21,480 (\$1,790 per month).

The increases to each individual account per month shall be as follows:

City of Marina - CPI Increase - 2016	Current	Amend. No. 3
1. Cypress Cove II LMD	\$ 430	\$ 445
2. Seabreeze LMD	\$ 175	\$ 180
3. Monterey Bay Estates LMD	\$ 380	\$ 390
4. Locke-Paddon CFD	\$ 205	\$ 210
5. Marina Branch Library	\$ 545	\$ 565
	\$ 1,735	\$ 1,790

CONCLUSION:

This request is submitted for City Council consideration and possible action.

Respectfully submitted,

Edrie Delos Santos, P.E.
Senior Engineer, Engineering Division
Community Development Department
City of Marina

REVIEWED/CONCUR:

Nourdin Khayata, PE
Acting City Engineer
City of Marina

Theresa Szymanis, AICP CTP
Acting Director
Community Development Department
City of Marina

Layne P. Long
City Manager
City of Marina