

CITY OF DANA POINT

AGENDA REPORT

Reviewed By:	
DH	<u>X</u>
CM	<u>X</u>
CA	—

DATE: JULY 16, 2013

TO: CITY MANAGER/ HONORABLE MAYOR AND CITY COUNCIL

FROM: KEVIN EVANS, DIRECTOR OF COMMUNITY SERVICES AND PARKS
BRIAN MCCLURE, PARKS MANAGER

SUBJECT: APPROVAL OF TREE TRIMMING CONTRACT WITH WEST COAST ARBORISTS

RECOMMENDED ACTION:

That the City Council (1) approve staff's request to piggyback on the City of Costa Mesa's competitive bid process for tree maintenance services; (2) award a five year contract to West Coast Arborists in an amount not to exceed the Council approved budget for tree maintenance and (3) authorize the City Manager to execute the agreement.

BACKGROUND:

In order to save valuable staff time, many cities are piggybacking on the competitive bid process of other municipalities. Piggybacking, also known as cooperative purchasing, allows municipalities to purchase products or contract for services at lower costs by using the same contract for a vendor that was used by any other governmental agency. The process helps to reduce administrative and product costs, and increase efficiencies by providing local authorities an alternative to conducting their own bidding process. The City of Dana Point's attorneys have reviewed the piggyback clause and found that it meets our competitive bid requirements. Staff has reviewed a number of recently bid tree trimming contracts and decided that the most competitive unit prices belonged to the City of Costa Mesa.

On December 16, 2011, the City of Costa Mesa released a Notice of Request for Proposals (RFP) for tree maintenance services. In compliance with the Public Contracts Code, the RFP was properly advertised and the tree trimming proposals were due on February 2, 2012. Costa Mesa received proposals from three contractors. An evaluation committee was created to review the proposals based on qualifications of the entity, approach to providing the requested services and price proposal. The evaluation committee determined WCA to be the most qualified contractor based on the established criteria.

The City of Dana Point has over 8,000 street trees estimated to be worth over \$27 million. The City provides tree maintenance services by contracting with experienced, professional tree maintenance firms to accomplish the work in a cost-effective and timely manner. The City budgeted \$400,000 in FY 2013/14 for the tree maintenance program and \$450,000 for FY 2014/15.

West Coast Arborists, Inc. has a twenty-five year track record of working for more than 100 California municipalities. They have an outstanding reputation and Dana Point has received excellent service during their twelve year tenure.

STRATEGIC PLAN IMPLEMENTATION:

In compliance with the Strategic Plan Initiative to maintain, modernize and beautify the City’s infrastructure and neighborhoods, this effort’s goal is to properly maintain the existing trees along the City’s streets and in the parks.

FISCAL IMPACT:

Included in the City Council approved Fiscal Year 2013/14 budget are sufficient funds to cover this maintenance contract.

SUPPORTING DOCUMENTS:

PAGE NO.

A. Contract with West Coasts Arborists, Inc	3
B. City of Costa Mesa Fee Schedule	11

Supporting Document ACITY OF DANA POINT
CONTRACT AGREEMENT
FOR**TREE TRIMMING SERVICES FOR ALL CITY OWNED TREES**

IN THE CITY OF DANA POINT

This Contract Agreement is made and entered into for the above-stated project this
16th day of July, 2013, BY AND BETWEEN the City of Dana
Point, as CITY, and West Coast Arborist, as CONTRACTOR.

WITNESSETH that CITY and CONTRACTOR have mutually agreed as follows:

ARTICLE I

The contract documents for the aforesaid project shall consist of this Agreement, the Proposal, the General Specifications (Ex. A hereto), the Landscape Maintenance Services Specifications General Provisions (Ex. B hereto), the Landscape Maintenance Services Special Provisions and attachments A through E (Ex. C hereto) and required insurance certificates. All of the provisions of said contract documents are made a part hereof as though fully set forth herein.

ARTICLE II

For and in consideration of the payments and agreements to be made and performed by CITY, CONTRACTOR agrees to furnish all materials and perform all work required for the above-stated project, and to fulfill all other obligations as set forth in the aforesaid Contract Documents.

ARTICLE III

CONTRACTOR agrees to receive and accept the prices set forth in the Proposal as full compensation for furnishing all materials, performing all work, and fulfilling all obligations hereunder. Said compensation shall cover all expenses, losses, damages, and consequences arising out of the nature of the work during its progress or prior to its acceptance including those for well and faithfully completing the work and the whole thereof in the manner and time specified in the aforesaid contract documents; and also including those arising from actions of the elements, unforeseen difficulties or obstructions encountered in the prosecution of the work, suspension or discontinuance of the work, and all other unknowns or risks of any description connected with the

work. Said compensation shall not exceed _____ \$400,000 _____, provided that the City Manager or his designee may approve additional payment not-to-exceed 10 percent (10%) of this amount for change orders and for contingencies.

ARTICLE IV

CITY hereby promises and agrees to employ, and does hereby employ, CONTRACTOR to provide the materials, do the work and fulfill the obligations according to the terms and conditions herein contained and referred to, for the prices aforesaid, and hereby contracts to pay the same at the time, in the manner, and upon the conditions set forth in the contract documents.

The CONTRACTOR shall keep itself informed of State and Federal laws and regulations which in any manner affect those employed by it or in any way affect the performance of its service pursuant to this Contract. The CONTRACTOR shall at all times observe and comply with all such laws and regulations. The CITY, and its officers, employees, and agents shall not be liable at-law or in-equity occasioned by failure of the CONTRACTOR to comply with this Section.

The CONTRACTOR assures CITY that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. §§ 12101 et seq.)

ARTICLE V

CONTRACTOR acknowledges the provisions of the State Labor Code requiring 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 certifies compliance with such provisions.

CONTRACTOR further acknowledges the provisions of the State Labor Code requiring every employer to pay at least the minimum prevailing rate of per diem wages for each craft classification or type of worker needed to execute this Contract as determined by the Director of Labor Relations of the State of California.

ARTICLE VI

CONTRACTOR hereby agrees to comply with the State Labor Code and acknowledges that, in accordance with Labor Code Section 3700, he/she/it will be required to secure the payment of compensation to his/her/its employees.

ARTICLE VII

CONTRACTOR acknowledges that, in accordance with Labor Code Section 1777.5, he/she/it will be held responsible for compliance with the provisions of this Section for all apprentice-able occupations.

ARTICLE VIII

CONTRACTOR hereby waives for himself/herself/itself and for CONTRACTOR's Subcontractors any right CONTRACTOR may now or in the future possess in relation to this Contract and these Contract Documents and the work thereunder, to utilize the provisions of Civil Code Section 47(b) in any action, proceeding, or prosecution pursuant to California False Claims Act, Government Code Section 12650 *et seq.*

ARTICLE IX

CONTRACTOR acknowledges and agrees that CONTRACTOR must have all appropriate CONTRACTOR's licenses. CONTRACTOR further warrants and represents that he/she/they has/have the appropriate CONTRACTOR's license to pursue the work hereunder. CONTRACTOR's failure to have or maintain all appropriate licenses during the entire term of this Contract, or any period thereof, shall be cause for the immediate and summary termination of this Contract by CITY. CONTRACTOR shall be liable for all CITY's costs to complete the work and this Contract.

ARTICLE X

Hazardous Waste or Other Unusual Conditions. If the Contract involves digging trenches or other excavations that extend deeper than four feet (4') below the surface, CONTRACTOR shall promptly, and before the following conditions are distributed, notify CITY, in writing, of any:

- A. **Hazardous Waste.** Material that CONTRACTOR believes may be material that is hazardous waste, as defined in Health and Safety Code Section 25117, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law.
- B. **Differing Conditions.** Subsurface or latent physical conditions at the site differing from those indicated.
- C. **Unknown Physical Conditions.** Unknown physical conditions at the site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in work of the character provided in the Contract.

CITY shall promptly investigate the conditions, and if it finds that the conditions do materially so differ, or do involve hazardous waste, and cause a decrease or increase in CONTRACTOR's costs of, or the time required for, performance of any part of the work shall issue a change order under the procedures described in this Contract.

In the event that a dispute arises between CITY and CONTRACTOR whether the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in the CONTRACTOR's cost of, or time required for, performance of any part of the work, CONTRACTOR shall not be excused from any scheduled completion date provided for by

the Contract, but shall proceed with all work to be performed under the Contract. CONTRACTOR shall retain any and all rights provided either by Contract or by law which pertain to the resolution of disputes and protests between the contracting parties.

ARTICLE XI

Any notices which either party may desire to give to the other party under this Contract must be in writing and may be given either by (i) personal service, (ii) delivery by a reputable document delivery service, such as but not limited to, Federal Express, which provides a receipt showing date and time of delivery, or (iii) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below or at any other address as that party may later designate by notice:

To CITY: CITY OF DANA POINT
Attention: City Clerk
33282 Golden Lantern # 203
Dana Point, CA 92629

To CONTRACTOR: West Coast Arborists
Attention: Patrick Mahoney
2200 East Burton Street
Anaheim, CA 92806

ARTICLE XII

The CITY and CONTRACTOR understand and agree that the laws of the State of California shall govern the rights, obligations, duties, and liabilities of the parties to this Contract and also govern the interpretation of this Contract. Any litigation concerning this Contract shall take place in the municipal, superior, or federal district court with jurisdiction over the CITY.

ARTICLE XIII

Nothing contained in this Contract shall create any contractual relationship between any Subcontractor and the CITY. CONTRACTOR covenants and agrees that he/she has made himself/herself aware of Public Contract Code Sections 4100 *et seq.* pertaining to the identification and use of Subcontractors in the bid submitted and CONTRACTOR is fully aware and knowledgeable of the liability to the CONTRACTOR for violations of said Sections of the Public Contract Code.

ARTICLE XIV

CONTRACTOR is and shall at all times remain as to the CITY a wholly independent contractor. The personnel performing the services under this Contract on behalf of CONTRACTOR shall at all times be under CONTRACTOR's exclusive direction and control. Neither CITY nor any of its officers, employees, or agents shall have control over the conduct of CONTRACTOR or any of CONTRACTOR's officers, employees, or agents, except as set forth in this Contract.

CONTRACTOR shall not at any time or in any manner represent that it or any of its officers, employees, or agents are in any manner officers, employees, or agents of the CITY. CONTRACTOR shall not incur or have the power to incur any debt, obligation, or liability whatever against CITY, or bind CITY in any manner.

No employee benefits shall be available to CONTRACTOR in connection with the performance of this Contract. Except for the fees and other payments paid to CONTRACTOR as provided in the Contract, CITY shall not pay salaries, wages, or other compensation or indemnification to CONTRACTOR for injury or sickness arising out of performing services hereunder.

ARTICLE XV

CONTRACTOR shall hold harmless, defend at its own expense, and indemnify City and all of its officers, agents and employees against any and all liability, claims, losses, damages or expenses, including reasonable attorney's fees, that arise out of, pertain to, and/or relate to, directly or indirectly, in whole or in part, the negligence, recklessness, or willful misconduct of Contractor, any sub-contractor, anyone directly or indirectly employed by them, or anyone that they control, or its officers, agents or employees, in rendering services under this Contract Agreement; excluding, however, such liability, claims, losses, damages or expenses arising from City's sole negligence or willful acts.

ARTICLE XVI

CONTRACTOR agrees to endorse general and umbrella liability coverage required herein to include the City as additional insured under the insurance coverage required here using standard ISO endorsement number CG 20 10 attached to an ISO-CGL policy with an edition date of 1991 or earlier and which does not limit the scope of coverage for the additional insured to vicarious liability or to the additional insured's supervision of a given project and which allows coverage to apply to the additional insured to the full extent provided by the policy. In no event will the CONTRACTOR use an additional insured endorsement with an edition date of 1993 or later. CONTRACTOR also agrees to require all contractors, subcontractors and anyone else involved in any way with the project contemplated by this Contract Agreement to do likewise.

ARTICLE XVII

This Contract is entered into for the sole benefit of CITY and CONTRACTOR, and their successors, transferees, and assigns. No other person shall have any right of action based upon any provision of this Contract and no third party beneficiaries shall be created thereby.

ARTICLE XVIII

If any term, provision, condition, or covenant of this Contract, or the application thereof to any party or circumstances, shall to any extent be held invalid or unenforceable, the remainder of the instrument, or the application of such term, provision, condition, or covenant to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be

affected thereby, and each term and provision of the Contract as amended shall be valid and enforceable to the fullest extent permitted by law.

ARTICLE XIX

This Contract may be executed in multiple counterparts, each of which so fully executed counterpart shall be deemed an original. No counterpart shall be deemed an original or deemed or presumed delivered unless and until the counterpart executed by the other party to this Contract is in the physical possession of the party seeking enforcement thereof.

ARTICLE XX

This Contract contains the complete, final, entire, and exclusive agreement between the parties with respect to the subject matter hereof, and no waiver, alteration, or modification of any of the modification, amendment, or alteration in violation hereof shall be void.

ARTICLE XXI

CONTRACTOR affirms that the signatures, titles and seals set forth hereinafter in execution of this Contract Agreement represent all individuals, firm members, partners, joint venturers, and/or corporate officers having principal interest herein.

IN WITNESS WHEREOF the parties hereto for themselves, their heirs, executors, administrators, successors, and assigns do hereby agree to the full performance of the covenants herein contained and have caused this Contract Agreement to be executed in duplicate by setting hereunto their names, titles, hands, and seals this ____ day of _____, 2013.

CONTRACTOR: _____

(Title)

Contractor's License No. _____ Class _____

Federal Tax Identification No. _____

CONTRACTOR'S SIGNATURE MUST BE NOTARIZED. SEE FOLLOWING PAGE FOR NOTARY ACKNOWLEDGEMENT.

CITY OF DANA POINT

By: _____
Doug Chotkevys, City Manager

ATTEST:

By: _____
Kathy M.Ward, City Clerk

APPROVED AS TO FORM:

By: _____
Patrick Munoz, City Attorney

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA }
 }
COUNTY OF _____ }

On _____, 2013 before me, _____, personally appeared
or ___ proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within
instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her
signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.
(Notary Seal)

WITNESS my hand and official seal.

Notary Public

OPTIONAL INFORMATION

*Though law does not require the data below, it may prove valuable to persons relying on the document and could
prevent fraudulent reattachment of this form.*

CAPACITY CLAIMED BY SIGNER

DESCRIPTION OF ATTACHED DOCUMENT

Individual
 Corporate Officer

Title
 Partners Limited
 General

Title of type of document

Other

Number of Pages

Signer is representing:
Name of person or entity

Date of Document

Signer(s) other than named above

Supporting Document B

COST PROPOSAL:

The undersigned proposes to furnish all materials, supplies, equipment and/or services set forth herein, subject to all conditions outlined in the RFP, at prices indicated below:

<u>Hardwood Tree Trimming:</u>	<u>Unit Price in Figures</u>
Full prune Hardwood tree	
0" - 6" Diameter Standard Height	\$ 38.00
7" - 12" Diameter Standard Height	\$ 58.00
13" - 18" Diameter Standard Height	\$ 58.00
19" - 24" Diameter Standard Height	\$ 58.00
25" - 30" Diameter Standard Height	\$ 98.00
31" - 36" Diameter Standard Height	\$ 98.00
36"+ Diameter Standard Height	\$ 98.00
Crown restoration/ Crown Reduction (any size)	\$ 148.00
Crown Raise/Clearance Prune Hardwood tree	
0" - 6" Diameter Standard Height	\$ 28.00
7" - 12" Diameter Standard Height	\$ 38.00
13" - 18" Diameter Standard Height	\$ 38.00
19" - 24" Diameter Standard Height	\$ 38.00
25" - 30" Diameter Standard Height	\$ 58.00
31" - 36" Diameter Standard Height	\$ 58.00
36"+ Diameter Standard Height	\$ 58.00
Grid Prune (no more than 15% foliage removed)	\$ 46.00
 <u>Palm Tree Trimming:</u>	
Prune Date Palm (Phoenix spp.)	\$ 98.00
Clean Trunk for Date Palm (Phoenix spp.)	\$ 190.00
Prune Fan Palm (Washingtonia spp.)	\$ 48.00
Clean Trunk for Fan Palm (Washingtonia spp.)	\$ 190.00
Prune all other Palm Species	\$ 48.00

Root Pruning: Annual total estimated cost includes the cost for all labor, materials, permits, special equipment, licenses, hauling and disposal fees necessary to complete the contract requirements. Root pruning and installation shall be done on an "as needed" basis per Department's requirement.

Grid Pruning Designated districts are to be pruned in their entirety. This includes all small, medium, large hardwood trees and annual Palm tree pruning. Tree pruning will include crown cleaning, raising, and slight thinning in accordance with the standards set forth by the International Society of Arboriculture Pruning Standards (Best Management Practices), and the ANSI A300 Standards. Special projects that are difficult to access, that require the need for specialty equipment (i.e. 95-foot tower, crane, etc.) or pruning for aesthetics, crown reduction or crown restoration will fall under Crew Rental.

A) Root Pruning and installation of 12 inch root barrier:

\$ 7.00 per lineal foot

B) Root Pruning and installation of 18 inch root barrier:

\$ 15.00 per lineal foot

C) Root Pruning and installation of Biobarrier Product
depth will vary from 12" to 30" and could include
horizontal applications.

\$ 20.00 per lineal foot

Annual total estimated cost (A Total + B Total + C + Total) \$ 55.00

General Labor Rates

Hourly rate for 1 Groundperson	\$ <u>50.00</u>
Hourly rate for 1 Equipment Operator	\$ <u>50.00</u>
Hourly rate for 1 Trimmer	\$ <u>50.00</u>

Day Rate Service Crew:

Boom truck per eight (8) hour day to include a
chip body, low decibel chipper, 1 trimmer, 2 ground persons \$ 1,200.00

Tree Removal:

Tree and Stump removal per inch trunk Diameter at Standard Height (DSH)

		Removal Cost (Milled Urban Lumber)	Removal Cost (Standard Removal)
0" - 6"	DSH	\$ <u>20.00</u>	\$ <u>15.00</u>
7" - 12"	DSH	\$ <u>20.00</u>	\$ <u>15.00</u>
13" - 18"	DSH	\$ <u>35.00</u>	\$ <u>20.00</u>
19" - 24"	DSH	\$ <u>35.00</u>	\$ <u>20.00</u>
25" - 30"	DSH	\$ <u>35.00</u>	\$ <u>20.00</u>

31" - 36"	DSH	\$ <u>35.00</u>	\$ <u>20.00</u>
Over 36"	DSH	\$ <u>35.00</u>	\$ <u>20.00</u>

Stump grinding per stump diameter inch at grade \$ 8.00

Tree Planting (Unit Cost shall include tree + planting + double staked with 2" lodge poles)

15 Gallon (<i>tree + planting + double staked with 2" lodge poles</i>)	\$ <u>100.00</u>
24 inch Box (<i>tree + planting + double staked with 2" lodge poles</i>)	\$ <u>225.00</u>
36 inch Box (<i>tree + planting + double staked with 3" lodge poles</i>)	\$ <u>750.00</u>
48 inch Box (<i>tree + planting + double staked with 3" lodge poles</i>)	\$ <u>1,500.00</u>
Fan Palm per foot BTH (brown trunk height)	\$ <u>150.00</u>
Fan Palm 10-30 feet BTH (each)	\$ <u>2,500.00</u>

Tree Watering:

Watering of young trees, water truck/operator-per day	\$ <u>475.00</u>
Fully equipped 3 person crew called in for non-emergency service (Crew Rental/ Service Request):	\$ <u>150.00</u>

Emergency Services:

Fully equipped 3 person crew called in for emergency service:

During normal business hours	\$ <u>150.00</u>
After hours, weekends &/or holidays	\$ <u>240.00</u>

ISA Certified Arborist – per hour \$ 120.00

COOPERATIVE PURCHASING

It is intended that any other public agency (e.g., city, county district, public authority, public agency, municipality, and other political subdivision or public corporation) shall have the option to participate in any award made as a result of this solicitation at the same prices. The City shall incur no financial responsibility in connection with any purchase by another public agency. The public agency shall accept sole responsibility for placing orders and making payments to the vendor.

TERM

The CITY, at its option and with CONTRACTOR concurrence, may renew this contract for additional 3-year periods, in one year increments, on the same terms and conditions as provided herein. This option may be exercised only if the CONTRACTOR demonstrates superior performance in the provision of tree maintenance services during the prior five year contract term, assuming all of the annual renewal options were awarded.