

**AGREEMENT WITH DIVERSIFIED WATERSCAPES, INC.
TO PROVIDE LAKE, STREAM, AND POND MAINTENANCE SERVICES**

THIS AGREEMENT is made and entered into on this 21st day of February, 2023 by and between Diversified Waterscapes, Inc. ("Consultant"), and the City of Santa Ana, a charter city and municipal corporation organized and existing under the Constitution and laws of the State of California ("City").

RECITALS

- A. As set forth in Request for Proposal ("RFP") No. 22-093, the City desires to retain a Consultant having special skill and knowledge in the field of: lake, stream, and pond maintenance; biological augmentation; fisheries management; pump installation and repair; fountains and aeration systems; water quality survey and monitoring; sedimentation analysts; shoreline repair; and aquatic treatment products that are formulated to be environmentally safe, biodegradable, and not-toxic to aquatic environments and safe to handle to improve water clarity and quality.
- B. Consultant represents that it is able and willing to provide such services to the City.
- C. In undertaking the performance of this Agreement, Consultant represents that it is knowledgeable in its field and that any services performed by Consultant under this Agreement will be performed in compliance with such standards as may reasonably be expected from a professional consulting firm in the field.

NOW THEREFORE, in consideration of the mutual and respective promises, and subject to the terms and conditions hereinafter set forth, the parties agree as follows:

1. SCOPE OF SERVICES

Consultant shall perform all services described in the "Scope of Work" section that was included in "Attachment 1" of RFP No. 22-093, which is attached hereto and fully incorporated herein by this reference as **Exhibit A**. Consultant and City shall further perform all services described in Consultant's proposal which is attached hereto and fully incorporated herein by this reference as **Exhibit B**.

2. COMPENSATION

- a. City agrees to pay, and Consultant agrees to accept as total payment for its services for City, the amount of \$127,572.00 per year, or \$10,631.00 per month, as further described and identified in Consultant's "Pricing Proposal" which is attached hereto and fully incorporated herein by this reference as **Exhibit C**. An annual contingency in an amount not to exceed \$50,000.00 per year will be available, at the City's sole discretion, for on-call and/or emergency services, as well as for extra work and/or repairs to be performed by Consultant. The total amount to be expended during the term of this Agreement shall not exceed \$887,860.00.

- b. Payment by City shall be made within forty-five (45) days following receipt of proper invoice evidencing work performed, subject to City accounting procedures. Payment need not be made for work which fails to meet the standards of performance set forth in the Recitals which may reasonably be expected by City.

3. TERM

This Agreement shall commence on February 21, 2023 for a three (3) year term ending on February 20, 2026 with the option for the City to grant up to two (2), one-year extensions of the Agreement, exercisable by a writing by the City Manager and the City Attorney, unless terminated earlier in accordance with Section 15, below.

4. INDEPENDENT CONTRACTOR

Consultant shall, during the entire term of this Agreement, be construed to be an independent contractor and not an employee of the City. This Agreement is not intended nor shall it be construed to create an employer-employee relationship, a joint venture relationship, or to allow the City to exercise discretion or control over the professional manner in which Consultant performs the services which are the subject matter of this Agreement; however, the services to be provided by Consultant shall be provided in a manner consistent with all applicable standards and regulations governing such services. Consultant shall pay all salaries and wages, employer's social security taxes, unemployment insurance and similar taxes relating to employees and shall be responsible for all applicable withholding taxes.

5. OWNERSHIP OF MATERIALS

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 Consultant under this Agreement ("Documents & Data"). Consultant shall require all subcontractors to agree in writing that City is granted a non-exclusive and perpetual license for any Documents & Data the subcontractor prepares under this Agreement. Consultant represents and warrants that Consultant has the legal right to license any and all Documents & Data. Consultant makes no such representation and warranty in regard to Documents & Data which were provided to Consultant by the City. City shall not be limited in any way in its use of the Documents and Data at any time, provided that any such use not within the purposes intended by this Agreement shall be at City's sole risk.

6. INSURANCE

Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the Consultant, his agents, representatives, employees or subcontractors.

A. Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than **\$2,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.

2. **Automobile Liability:** Insurance Services Office Form Number CA 0001 covering any auto (Code 1), or if Consultant has no owned autos, hired (Code 8) and non-owned (Code 9) autos, with limit no less than **\$1,000,000** per accident for bodily injury and property damage.

3. **Workers' Compensation** insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than **\$1,000,000** per accident for bodily injury or disease.

4. **Contractors Pollution Liability and/or Errors & Omissions** applicable to the work being performed, with a limit no less than **\$2,000,000** per claim or occurrence and **\$2,000,000** aggregate per policy period of one year. If the Consultant maintains broader coverage and/or higher limits than the minimums shown above, the City requires and shall be entitled to the broader coverage and/or the higher limits maintained by the Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

5. Self-Insured Retentions

Self-insured retentions must be declared to and approved by the City. The City may require the Consultant or Consultant to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or City.

B. Other Insurance Provisions

The General Liability, Automobile Liability, Contractors Pollution Liability, and/or Asbestos Pollution policies are to contain, or be endorsed to contain, the following provisions:

1. The City, its officers, officials, employees, and volunteers are to be covered as additional insureds with respect to liability arising out of work or operations performed by or on behalf of the Consultant including materials, parts or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Consultant's insurance (at least as broad as ISO Form CG 20 10, CG 11 85 or both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 forms if later revisions used).

2. For any claims related to this project, the Consultant's insurance coverage shall be primary insurance coverage at least as broad as ISO CG 20 01 04 13 as respects the City, its officers, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, agents, or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.

3. Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the City.

C. The Automobile Liability policy shall be endorsed to include Transportation Pollution Liability insurance, covering materials to be transported by Consultant pursuant to the contract. This coverage may also be provided on the Consultants Pollution Liability policy.

D. If General Liability, Contractors Pollution Liability and/or Asbestos Pollution Liability and/or Errors & Omissions coverages are written on a claims-made form:

1. The retroactive date must be shown, and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.
3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the contract effective date, the Consultant must purchase an extended period coverage for a minimum of five (5) years after completion of contract work.
4. A copy of the claims reporting requirements must be submitted to the City for review.
5. If the services involve lead-based paint or asbestos identification / remediation, the Consultants Pollution Liability shall not contain lead-based paint or asbestos exclusions. If the services involve mold identification / remediation, the Consultants Pollution Liability shall not contain a mold exclusion and the definition of "Pollution" shall include microbial matter including mold.

E. Acceptability of Insurers

Insurance is to be placed with insurers authorized to conduct business in the state with a current A.M. Best rating of no less than A:VII if admitted in the State of California.

F. Verification of Coverage

Consultant shall furnish the City with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause) and a copy of the Declarations and Endorsement Page of the CGL policy listing all policy endorsements to City before work begins. However, failure to obtain the required documents prior to the work beginning shall not waive the Consultant's obligation to provide them.

The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

G. Waiver of Subrogation

Consultant hereby grants to City a waiver of subrogation which any insurer may acquire against City, its officers, officials, employees, and volunteers, from Consultant by virtue of the payment of any loss. Consultant agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Consultant, its employees, agents, and subcontractors.

H. Subcontractors

Consultant shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Consultant shall ensure that City is an additional insured on insurance required from subcontractors. For CGL coverage subcontractors shall provide coverage with a format least as broad as CG 20 38 04 13.

I. Special Risks or Circumstances

City reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

7. INDEMNIFICATION

Consultant agrees to defend, and shall indemnify and hold harmless the City, its officers, agents, employees, contractors, special counsel, and representatives from liability: (1) for personal injury, damages, just compensation, restitution, judicial or equitable relief arising out of claims for personal injury, including death, and claims for property damage, which may arise from the negligent operations of the Consultant, its subcontractors, agents, employees, or other persons acting on its behalf which relates to the services described in section 1 of this Agreement; and (2) from any claim that personal injury, damages, just compensation, restitution, judicial or equitable relief is due by reason of the terms of or effects arising from this Agreement. This indemnity and hold harmless agreement apply to all claims for damages, just compensation, restitution, judicial or equitable relief suffered, or alleged to have been suffered, by reason of the events referred to in this Section or by reason of the terms of, or effects, arising from this Agreement. The Consultant further agrees to indemnify, hold harmless, and pay all costs for the defense of the City, including fees and costs for special counsel to be selected by the City, regarding any action by a third party challenging the validity of this Agreement, or asserting that personal injury, damages, just compensation, restitution, judicial or equitable relief due to personal or property rights arises by reason of the terms of, or effects arising from this Agreement. City may make all reasonable decisions with respect to its representation in any legal proceeding. Notwithstanding the foregoing, to the extent Consultant'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 Consultant.

8. INTELLECTUAL PROPERTY INDEMNIFICATION

Consultant shall defend and indemnify the City, its officers, agents, representatives, and employees against any and all liability, including costs, for infringement of any United States' letters patent, trademark, or copyright infringement, including costs, contained in the work product or documents provided by Consultant to the City pursuant to this Agreement.

9. RECORDS

Consultant shall keep records and invoices in connection with the work to be performed under this Agreement. Consultant shall maintain complete and accurate records with respect to the costs incurred under this Agreement and any services, expenditures, and disbursements charged to the City for a minimum period of three (3) years, or for any longer period required by law, from the date of final payment to Consultant under this Agreement. All such records and invoices shall be clearly identifiable. Consultant shall allow a representative of the City to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement during regular business hours. Consultant shall allow inspection of all work, data, documents, proceedings, and activities related to this Agreement for a period of three (3) years from the date of final payment to Consultant under this Agreement.

10. CONFIDENTIALITY

If Consultant receives from the City information which due to the nature of such information is reasonably understood to be confidential and/or proprietary, Consultant agrees that it shall not use or disclose such information except in the performance of this Agreement, and further agrees to exercise the same degree of care it uses to protect its own information of like importance, but in no event less than reasonable care. "Confidential Information" shall include all nonpublic information. Confidential information includes not only written information, but also information transferred orally, visually, electronically, or by other means. Confidential information disclosed to either party by any subsidiary and/or agent of the other party is covered by this Agreement. The foregoing obligations of non-use and nondisclosure shall not apply to any information that (a) has been disclosed in publicly available sources; (b) is, through no fault of the Consultant disclosed in a publicly available source; (c) is in rightful possession of the Consultant without an obligation of confidentiality; (d) is required to be disclosed by operation of law; or (e) is independently developed by the Consultant without reference to information disclosed by the City.

11. CONFLICT OF INTEREST CLAUSE

Consultant covenants that it presently has no interests and shall not have interests, direct or indirect, which would conflict in any manner with performance of services specified under this Agreement.

12. NON-DISCRIMINATION

Consultant shall not discriminate because of race, color, creed, religion, sex, marital status,

sexual orientation, gender identity, gender expression, gender, medical conditions, genetic information, or military and veteran status, age, national origin, ancestry, or disability, as defined and prohibited by applicable law, in the recruitment, selection, teaching, training, utilization, promotion, termination or other employment related activities or any services provided under this Agreement. Consultant affirms that it is an equal opportunity employer and shall comply with all applicable federal, state and local laws and regulations.

13. EXCLUSIVITY AND AMENDMENT

This Agreement represents the complete and exclusive statement between the City and Consultant, and supersedes any and all other agreements, oral or written, between the parties. In the event of a conflict between the terms of this Agreement and any attachments hereto, the terms of this Agreement shall prevail. This Agreement may not be modified except by written instrument signed by the City and by an authorized representative of Consultant. The parties agree that any terms or conditions of any purchase order or other instrument that are inconsistent with, or in addition to, the terms and conditions hereof, shall not bind or obligate Consultant or the City. Each party to this Agreement acknowledges that no representations, inducements, promises or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which is not embodied herein.

14. ASSIGNMENT

Inasmuch as this Agreement is intended to secure the specialized services of Consultant, Consultant may not assign, transfer, delegate, or subcontract any interest herein without the prior written consent of the City and any such assignment, transfer, delegation or subcontract without the City's prior written consent shall be considered null and void. Nothing in this Agreement shall be construed to limit the City's ability to have any of the services which are the subject to this Agreement performed by City personnel or by other Contractors retained by City.

15. TERMINATION

This Agreement may be terminated by the City upon thirty (30) days written notice of termination. In such event, Consultant shall be entitled to receive and the City shall pay Consultant compensation for all services performed by Consultant prior to receipt of such notice of termination, subject to the following conditions:

- a. As a condition of such payment, the Executive Director may require Consultant to deliver to the City all work product(s) completed as of such date, and in such case such work product shall be the property of the City unless prohibited by law, and Consultant consents to the City's use thereof for such purposes as the City deems appropriate.
- b. Payment need not be made for work which fails to meet the standard of performance specified in the Recitals of this Agreement.

16. WAIVER

No waiver of breach, failure of any condition, or any right or remedy contained in or granted by the provisions of this Agreement shall be effective unless it is in writing and signed by the party waiving the breach, failure, right or remedy. No waiver of any breach, failure or right, or remedy shall be deemed a waiver of any other breach, failure, right or remedy, whether or not similar, nor shall any waiver constitute a continuing waiver unless the writing so specifies.

17. JURISDICTION - VENUE

This Agreement has been executed and delivered in the State of California and the validity, interpretation, performance, and enforcement of any of the clauses of this Agreement shall be determined and governed by the laws of the State of California. Both parties further agree that Orange County, California, shall be the venue for any action or proceeding that may be brought or arise out of, in connection with or by reason of this Agreement.

18. PROFESSIONAL LICENSES

Consultant shall, throughout the term of this Agreement, maintain all necessary licenses, permits, approvals, waivers, and exemptions necessary for the provision of the services hereunder and required by the laws and regulations of the United States, the State of California, the City of Santa Ana and all other governmental agencies. Consultant shall notify the City immediately and in writing of its inability to obtain or maintain such permits, licenses, approvals, waivers, and exemptions. Said inability shall be cause for termination of this Agreement.

19. NOTICE

Any notice, tender, demand, delivery, or other communication pursuant to this Agreement shall be in writing and shall be deemed to be properly given if delivered in person or mailed by first class or certified mail, postage prepaid, or sent by fax or other telegraphic communication in the manner provided in this Section, to the following persons:

To City:

Clerk of the City Council
City of Santa Ana
20 Civic Center Plaza (M-30)
P.O. Box 1988
Santa Ana, CA 92702-1988
Fax: 714- 647-6956

With courtesy copies to:

Nabil Saba, P.E.
Executive Director, Public Works Agency
City of Santa Ana
20 Civic Center Plaza (M-21)
P.O. Box 1988
Santa Ana, California 92702
Fax:

To Consultant:

Patrick Simmsgeiger
President
Diversified Waterscapes, Inc.
27324 Camino Capistrano, Suite 213
Laguna Niguel, California 92766
Phone: 949-582-5414
Fax: 949-582-5420

A party may change its address by giving notice in writing to the other party. Thereafter, any communication shall be addressed and transmitted to the new address. If sent by mail, communication shall be effective or deemed to have been given three (3) days after it has been deposited in the United States mail, duly registered or certified, with postage prepaid, and addressed as set forth above. If sent by fax, communication shall be effective or deemed to have been given twenty-four (24) hours after the time set forth on the transmission report issued by the transmitting facsimile machine, addressed as set forth above. For purposes of calculating these time frames, weekends, federal, state, County or City holidays shall be excluded.

20. MISCELLANEOUS PROVISIONS

- a. Each undersigned represents and warrants that its signature herein below has the power, authority and right to bind their respective parties to each of the terms of this Agreement, and shall indemnify City fully, including reasonable costs and attorney's fees, for any injuries or damages to City in the event that such authority or power is not, in fact, held by the signatory or is withdrawn.
- b. The Agreement is the final and complete agreement and any prior or contemporaneous agreements for similar services between the parties is superseded by this Agreement. This shall not apply where the Parties are currently engaged and Consultant is providing services not contemplated by this Agreement.
- c. All Exhibits referenced herein and attached hereto shall be incorporated as if fully set forth in the body of this Agreement.

[signature page to follow]

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

ATTEST:

CITY OF SANTA ANA

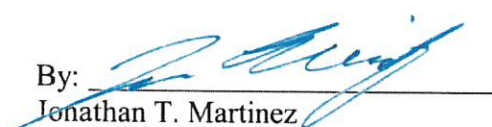
Norma Orozco
Acting Clerk of the Council

Kristine Ridge
City Manager

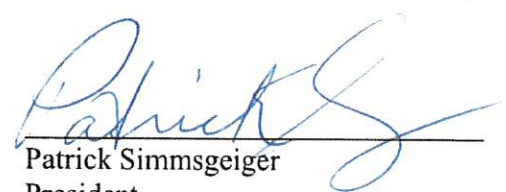
APPROVED AS TO FORM:

SONIA R. CARVALHO
City Attorney

DIVERSIFIED WATERSCAPES, INC.

By: 

Jonathan T. Martinez
Assistant City Attorney



Patrick Simmsgeiger
President

RECOMMENDED FOR APPROVAL:

Nabil Saba, P.E.
Executive Director Public Works Agency

EXHIBIT A
SCOPE OF SERVICES

**Appendix
ATTACHMENT 1
SCOPE OF WORK**

**CITY OF SANTA ANA
REQUEST FOR PROPOSALS
FOR
LAKE MANAGEMENT SERVICES
RFP NO. 22-093**

INTRODUCTION/BACKGROUND

The City of Santa Ana intends to retain Lake Management Services for Centennial Park Lake and Thornton Park Lake to provide the highest quality of service in maintaining a healthy aquatic environment.

Contractors must provide costs of each of the service categories described in the specifications. Contractors must also list all deviations from specifications, if any. The routine maintenance locations will service as the basis for the RFP. At the discretion of the Projects Manager or designee, or more designee, one of more optional add-on locations and specialized services may or may not be included in the agreement with contractor. In addition, the City at the discretion of the Projects Manager or designee, reserves the right to decrease the scope of work during the duration of the agreement.

The worksite locations are:

Centennial Lake 3000 W. Edinger Avenue, Santa Ana, CA 92704 **Exhibit A**

Thornton Lake 1801 W. Segerstrom Avenue, Santa Ana, CA 92704 **Exhibit B**

1. The work to be done consists of furnishing all materials, chemicals, equipment, tools, labor, and incidentals as required by the Agreement Documents for the above-stated services.
2. Preventative maintenance duties described in this Scope of Work are to be performed on the lake and pond at the following locations: Centennial Lake, 3000 W. Edinger Ave., Santa Ana, CA 92704, 9.5 acres, fresh water. **Exhibit A.** Thornton Park Lake, 1801 W. Segerstrom Avenue, Santa Ana, CA 92704, 2 acres, fresh water. **Exhibit B.**
3. Lake and Pond service shall be three (3) times per week. Each service visit by the Contractor will include the following:
 - Inspect the entire waterscape system;
 - Clean pump intake screens and skimmer baskets;
 - Remove all trash and debris within 20 feet of the Lake/Pond edge (including floating debris and bottom debris);
 - Inspect all Lake/Pond circulation equipment and aeration equipment for proper operation (notify City immediately if not operating properly);

- Provide routine maintenance of Lake/Pond mechanical equipment (circulation pumps, aeration pumps, and diffusers);
 - Monitor Lake/Pond water conditions and provide required water treatments (both chemical and manual).
 - For Emergency Repairs or Extra Work – Sediment Removal to be performed on an as-needed or emergency basis as determined by the City
4. Contractor shall supply and apply all required labor, materials/chemicals to maintain and promote a healthy and aesthetically acceptable Lake/Pond condition at all times (provide labels and Safety Data Sheets for all materials to be used).
 5. Contractor shall provide aquatic vegetation and algae control measures to maintain an aesthetically acceptable condition at all times.
 6. Contractor shall notify the City representative immediately of any abnormal water condition.
 7. Contractor shall provide insect control measures to manage the aquatic borne insect population at an acceptable level at all times.
 8. Contractor shall provide a monthly report of the services performed and chemicals applied and a general observation of the Lake/Pond water condition.
 9. Contractor shall provide a weekly schedule showing proposed service days and approximate time of arrival for each service. The schedule shall be delivered via e-mail to the City Maintenance Superintendent.
 10. It is the responsibility of the Contractor to notify the City when any equipment is faulty or in need of repair, or if the Lake/Pond water chemistry is in a condition deemed hazardous and/or unsightly. The City has the option, to use City staff, the contractor, or another contractor to perform repairs.
 11. Additional work for emergency repairs or extra work may be requested by the City, at the rate shown in the Fee Schedule.
 12. Contractor shall meet a minimum of one time per month with a designated City representative, to review performance and Lake/Pond conditions.

EXHIBIT B

CONSULTANT'S PROPOSAL

Thank you, City of Santa Ana, for the opportunity to present this proposal/contract for the use of DWI's management system in your aquatic environment. Listed below are the measures that will be taken to ensure complete and proper water conditioning. These are the terms and conditions of our agreement, and are based on our extensive experience with pond and lake management.

1. Diversified Waterscapes, Inc. agrees to:

A. Water Maintenance

1. Furnish all labor and equipment necessary to maintain proper water conditioning under normal conditions (*), all provided by a company that is a CLM – Certified Lake Manager.
(*) Abnormal conditions are circumstances such as torrential storms, extraordinarily high winds, access to waterscape(s) restricted and/or denied by customer (e.g., overseeding) or landscapers/tree trimmers overloading systems with debris, fallen trees, landslides, wash out from irrigation, etc.
2. Perform, in a timely manner, all examinations needed to ensure that the water content meets all appropriate and relevant quality standards, and where needed. Establish goals and direction pertaining to water clarity, movement mechanics, etc. through periodic inspections and meetings while working directly with management/board.
3. Furnish and apply all water-related algaecides (to control or eradicate algae; EXCLUSION: GOLDEN ALGA AND LYNGBYA), dyes (bring the water to an appealing more natural color), clarifiers (group together suspended solids), herbicides (control of pond weeds and other growths; EXCLUSION: SONAR HERBICIDE), fungicides, beneficial bacteria and enzymes (necessary for breaking down organic contaminants, enhancing natural bacteria, water clarity and quality) to correct and balance the water. Remove any growth deemed harmful to the lake/pond, liner or lake/pond environment via chemicals or physical removal.
4. Communicate with Management regularly. Seek approval from Management on any expenses outside of the contracted amount.

B. Equipment Maintenance

1. Perform, in a timely manner, all examinations needed to ensure that all equipment is operating properly and where needed perform all maintenance required to ensure that equipment continues to operate properly and safely (NOTE: Equipment "repairs" are extra).
2. Check voltage, amps, control boxes, wiring to each pump system once a month. Start equipment to check for noise, heat and/or vibration.
3. Clean vaults/pump enclosures as needed.
4. Check and tighten all electrical connections.
5. Lubricate all pumps and motors as per manufacturer's specification and adjust shaft seals (if applicable) for water leakage as needed.
6. Inspect air filters for each compressor (if applicable).
7. Check sump pumps for proper operation (if applicable).
8. Communicate with Management regularly. Seek approval from Management on any expenses outside of the contracted amount.

C. Furnish Documentation

1. Furnish evidence of insurance from our carriers.
2. Furnish proof of legal and proper licenses as Aquatic Pesticide Applicators and Landscape Contractors.
3. Upon written request from customer, DWI will supply maintenance records to designated area/agent.

2. Customer agrees to:

- A. Purchase separately: any additional aquatic plants; removal/trimming of excessive aquatic plants; and filtration systems or physical ornamental pond repair (including physical modification of systems; concrete, pipeline or liner repairs).
- B. Purchase separately any pump, electrical or mechanical (equipment replacement, plumbing repair work, etc.).
- C. Purchase separately professional consultation and testimony.
- D. Purchase separately any repair or maintenance required as the result of an act of God, vandalism or war.
- E. Remove overgrowth of landscape foliage, trees, etc. which can overload the aquatic system with debris resulting in extra fees for cleaning and removal.


EXHIBIT C
PRICING PROPOSAL

PRICING PROPOSAL

- I. **Equipment:**
All equipment furnished by **Diversified Waterscapes, Inc.**
- II. **Usage Required:**
To be determined by field analysis and visual inspection.
- III. **Cost of Program:**
\$10,631 per month.
- IV. **Additional Provisions:**
- A. Regular service calls will be made **3 days per week each lake, Thornton and Centennial.**
 - B. Emergency call outs will be billed at **\$185.00 per hour (2-hour minimum)** Portal to Portal and any interruptions to technicians on the property, including responses to numerous emails from homeowners and/or board members, will be billed accordingly.
 - C. Extra Work for repairs or replacement of equipment will be submitted in writing on a Proposal and must be signed (by an agent designated with the authority to sign) before the work can be scheduled/commence. Labor for Extra Work will be billed at **\$185.00 per hour/per Technician.**
 - D. DWI will attend up to two (2) Board of Directors meetings per year or property walk-throughs as deemed reasonable by DWI at no extra charge. DWI's attendance shall be based upon a beforehand agreed upon time and date. Unless specified beforehand, DWI's time limit for meeting attendance is 30-45 minutes from the specified start time.

The undersigned warrants that he/she is authorized to execute this contract on behalf of the PROPERTY OWNER, PROPERTY MANAGER/AGENT and ASSOCIATION, as indicated below.

CUSTOMER



Jorge Acevedo - Project Manager
City of Santa Ana –
Thornton Lake & Centennial Lake

DIVERSIFIED WATERSCAPES INC:



Patrick Simmsgeiger
President & Certified Lake Manager

Date: 1/31/23

This proposal is valid for thirty (30) days from this date – 10/20/22

ROUTINE MAINTENANCE PRICING

CENTENNIAL LAKE

Certification – I certify that I have read, understand and agree to the terms and condition of this Request for Proposals. I have examined the Scope of Services and am familiar with the scope of work locations. I am familiar with all the existing conditions and limitation that may impact work requests. I understand and agree that I am responsible for reporting any errors, omission or discrepancies to the City for clarification prior to the submission of my proposal.

Proposal Item Price- Pricing shall be based on a unit cost for services described in Scope of Work. Fe must be inclusive of all costs, including but not limited to, direct and indirect costs for labor, overhead, incidental supplies, travel, mileage, and fuel. Any special material will be purchased by the contractor only after discussed and authorized by the City Projects manager or designee in writing.

LINE	DESCRIPTION	UNIT QUANTITY	UNIT PRICE	EXTENDED TOTAL PRICE
1	Weekly Service (3 visits per week)	Monthly	\$6,995.00	\$83,940.00
2	Labor	Hourly rate	\$95.00	\$ N/A
3	Materials- Contractor cost from supplier (invoice provided for reimbursement)			

ROUTINE MAINTENANCE PRICING

THORNTON LAKE

Certification – I certify that I have read, understand and agree to the terms and condition of this Request for Proposals. I have examined the Scope of Services and am familiar with the scope of work locations. I am familiar with all the existing conditions and limitation that may impact work requests. I understand and agree that I am responsible for reporting any errors, omission or discrepancies to the City for clarification prior to the submission of my proposal.

Proposal Item Price- Pricing shall be based on a unit cost for services described in Scope of Work. Fe must be inclusive of all costs, including but not limited to, direct and indirect costs for labor, overhead, incidental supplies, travel, mileage, and fuel. Any special material will be purchased by the contractor only after discussed and authorized by the City Projects manager or designee in writing.

LINE	DESCRIPTION	UNIT QUANTITY	UNIT PRICE	EXTENDED TOTAL PRICE
1	Weekly Service (3 visits per week)	Monthly	\$3,636.00	\$43,632.00
2	Labor	Hourly rate	\$95.00	\$ N/A
3	Materials- Contractor cost from supplier (invoice provided for reimbursement)			