

COMMISSION ON COMMUNITY INVESTMENT AND INFRASTRUCTURE

RESOLUTION NO. 15-2024

Adopted June 18, 2024

AUTHORIZING A FIFTH AMENDMENT TO THE PERSONAL SERVICES CONTRACT WITH FORSTER & KROEGER LANDSCAPE MAINTENANCE, INC., A CALIFORNIA CORPORATION, TO EXTEND THE TERM ON A MONTH-TO-MONTH TO MONTH BASIS FOR A PERIOD NOT TO EXCEED SIX MONTHS, TO DECEMBER 31, 2024, AND INCREASE THE CONTRACT AMOUNT BY UP TO \$56,172, FOR A TOTAL AGGREGATE AMOUNT NOT TO EXCEED \$701,372, FOR LANDSCAPE MAINTENANCE SERVICES IN COMMUNITY FACILITIES DISTRICT NO. 1 (SOUTH BEACH); FORMER RINCON POINT-SOUTH BEACH REDEVELOPMENT PROJECT AREA

WHEREAS, The Redevelopment Agency of the City and County of San Francisco (“Former Agency”) established Community Facilities District No.1 (South Beach) (“CFD No. 1”) in 1988 by Agency Resolution Nos. 186-88 through 191-88 pursuant to the Mello-Roos Community Facilities Act of 1982. CFD No. 1 authorized special taxes on real property in the CFD No. 1 area, which is bounded Embarcadero, Beale, Bryant, Federal, Brannan, CP Kelly and Townsend Streets. This area is the South Beach portion of the Rincon Point-South Beach Redevelopment Project Area (“Project Area”), which expired in January 2021. CFD No. 1, however, extends indefinitely beyond the expiration of the Project Area; and,

WHEREAS, The special taxes are required to be used for the purposes of funding construction and maintenance of certain improvements including four plazas, streetscape improvements, and irrigation and lighting systems as authorized under Section 53313 of the California Government Code and the Local Goals and Policies for Community Facilities District (Former Agency Resolution No. 79-2008 (July 15, 2008)); and,

WHEREAS, In forming CFD No. 1 and funding its facilities and services, the Former Agency Commission acted as the legislative body for CFD No. 1 and exercised state authority under the Mello-Roos Act and not under the Community Redevelopment Law; and,

WHEREAS, Pursuant to California Health and Safety Code §§ 34170 et seq. (the “Redevelopment Dissolution Law”) and San Francisco Ordinance No. 215-12 (October 4, 2012) (establishing the Successor Agency Commission (“Commission”) and delegating to it state authority under the Redevelopment Dissolution Law), the Successor Agency to the Redevelopment Agency of the City and County of San Francisco (“Successor Agency”) is administering the Former Agency’s obligations concerning community facilities districts, including CFD No. 1; and,

WHEREAS, By Resolution No. 37-2017 (October 3, 2017), the Commission authorized the selection, pursuant to a competitive solicitation process, of Forster & Kroeger Landscape Maintenance, Inc., a California Corporation (“Contractor”) to provide landscape maintenance services to CFD No. 1; and authorized the Executive Director to enter into a Personal Services Contract (“Contract”) with Contractor to provide said services for an initial three-year term beginning November 1, 2017 and one three-year option to extend, ending October 31, 2023 (“Term”); and,

WHEREAS, The Commission has authorized four previous amendments to the Contract, by Resolution No. 25-2020 (October 6, 2020), Resolution No. 14-2023 (May 2, 2023), Resolution No. 29-2023 (October 3, 2023), and Resolution 01-2024 (January 16, 2024) to adjust the total expenditure authority under the Contract to a cumulative amount not-to-exceed \$645,200 and to extend the Term to June 30, 2024 (“Extended Term”); and,

WHEREAS, On March 7, 2024, OCII issued a request for proposals for a new contract to provide landscape maintenance and related services at CFD No.1 (“RFP”). The RFP included a clarified Scope of Services compared to previous RFPs, including administering the performance of specified deferred maintenance and repairs to CFD 1 Facilities (“Capital Repairs”), as well as applying California Public Contract Code requirements to certain larger repair projects performed within CFD 1. Staff received five complete proposals to the RFP by the April 22, 2024 proposal submittal deadline; and,

WHEREAS, The OCII evaluation committee interviewed the five proposers during the last week of May 2024 and the first week of June 2024. The evaluation committee will complete its work prior to the end of June 2024 and submit ranked scores and a recommendation to the Executive Director for final approval. After the Executive Director approves and finalizes the selection, staff will negotiate a contract with the selected proposer and present the selected contractor and contract to the Commission for approval; and,

WHEREAS, Staff are proposing to amend the existing Contract to extend the term on a month-to-month basis for a period not to exceed six months, to December 31, 2024, and a commensurate increase in expenditure authority of up to \$56,172 (which includes an \$9,362 monthly service charge for up to six months), for a cumulative total contract expenditure authority of \$701,372. This will allow OCII to retain maintenance services at CFD 1 while completing the evaluation process, recommending a responsive proposal to the Executive Director and submitting a proposed contract to the Commission for approval; and,

WHEREAS, The Contractor’s performance under the Contract has been satisfactory and the Contractor is not in default under the terms of the Contract; and,

WHEREAS, A fifth amendment to the Contract (“Fifth Amendment”) is necessary to authorize the additional six months of the Extended Term and a commensurate increase in cumulative total contract expenditure authority to \$701,372; and,

WHEREAS, Authorization of the Fifth Amendment is categorically exempt from the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines Section 15301(h), because it authorizes funding for the continued operation, repair, maintenance or minor alteration of existing community facilities or topographical features with negligible or no expansion of existing uses and will not independently result in a significant physical effect on the environment; now therefore, be it,

RESOLVED, The Commission authorizes the Executive Director to execute a Fifth Amendment to the Personal Services Contract for landscape maintenance services in Community Facilities District No. 1 (South Beach) with Forster & Kroeger Landscape Maintenance, Inc., a California Corporation, substantially in the form attached as Exhibit A for this action and approved by the Successor Agency’s General Counsel, authorizing the addition of up to six months to the Extended Term (for four months plus two one-month options at the discretion of the Executive Director) and a commensurate increase in expenditure authority of up to \$56,172 (which includes an \$9,362 monthly service charge for up to six months), for a cumulative total contract expenditure authority of \$701,372 that is funded solely from special taxes levied under the Mello-Roos Community Facilities Act.

I hereby certify that the foregoing resolution was adopted by the Commission at its meeting of June 18, 2024.



Commission Secretary

Exhibit A: Fifth Amendment to the Personal Services Contract with Forster & Kroeger Landscape Maintenance, Inc.

Exhibit A

**Fifth Amendment to the Personal Services Contract
with Forster & Kroeger Landscape Maintenance, Inc.**

OFFICE OF COMMUNITY INVESTMENT AND INFRASTRUCTURE/
SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY AND
COUNTY OF SAN FRANCISCO

FIFTH AMENDMENT TO THE PERSONAL SERVICES CONTRACT

This FIFTH AMENDMENT to the Personal Services Contract (“**Fifth Amendment**”) is entered into as of June __, 2024 (the “**Effective Date**”) by and between the OFFICE OF COMMUNITY INVESTMENT AND INFRASTRUCTURE/SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO, a public body, organized and existing under the laws of the State of California (“**OCII**”), and Forster & Kroeger Landscape Maintenance, Inc, a California Corporation (“**Contractor**”).

RECITALS

This Fifth Amendment is made with reference to the following facts and circumstances:

A. Community Facilities District No.1 (South Beach) (“**CFD No. 1**”) was established in 1988 by the former Redevelopment Agency of the City and County of San Francisco (“**Former Agency**”) Resolution Nos. 186-88 through 191-88 pursuant to the Mello-Roos Act to fund construction and maintenance of certain improvements including plazas, streetscape improvements, and lighting and irrigation systems within the boundaries of the CFD No. 1 geographic area, which is bounded by Embarcadero, Beale, Bryant, Federal, Brannan, CP Kelly and Townsend Streets and located in the South Beach portion of the Rincon Point-South Beach Redevelopment Project Area. The CFD No. 1 improvements are a highly visible amenity for the area and represent a significant capital investment to the property owners and OCII.

B. OCII has responsibility for providing landscape maintenance services within the CFD No. 1 area. The Successor Agency Commission (“**Commission**”) first approved a personal services contract with Forster & Kroeger Landscape Maintenance, Inc., a California Corporation (“**Contractor**”), to provide landscape maintenance services to CFD No.1 on October 3, 2017, by Resolution No. 37-2017, and approved a first amendment to the contract on October 6, 2020 by Resolution No. 17-2020, second amendment to the contract on May 2, 2023 by Resolution No. 14-2023, third amendment to the contract on October 3, 2023 by Resolution No. 29-2023, and fourth amendment to the contract on January 16, 2024 by Resolution 01-2024 (as amended, the “**Current Contract**”).

C. OCII and Contractor now wish to extend the term of the Current Contract and increase the contract budget to accommodate this extension. Thus, the parties now seek to enter into this Fifth Amendment to extend the term on a month-to-month basis for a period not to exceed six months, to December 31, 2024, and increase the Budget of the Contract by a total of up to \$56,172, which includes the total monthly service charge of \$9,362 (comprising the \$8,012 monthly service charge and the monthly trash removal charge of \$1,350), bringing the total Budget to \$701,372, upon the basis of the terms, covenants, and conditions set forth below. Together, the Current Contract and this Fifth Amendment comprise the “**Contract.**”

AGREEMENT

NOW, THEREFORE, OCII and the Contractor agree as follows:

1. The Current Contract shall be amended as follows:

Section 2. Time of Completion subsection C is amended as follows:

C. Additional Short-Term Extension. Under the Current Contract, OCII and the Contractor have extended the term until June 30, 2024. Under this Fifth Amendment, the Contract is extended, on a month-to-month basis at the option of the Executive Director of OCII, for a period not to exceed up to six eight months, to December 31, 2024, on all of the same terms and conditions, subject to early termination upon written notice to Contractor not later than 15 days prior to ~~each~~ the first of the month.

Section 3A. Compensation is amended as follows:

A. Compensation:

The maximum amount payable under this Contract is SEVEN HUNDRED ONE THOUSAND AND THREE HUNDRED SEVENTY-TWO DOLLARS (\$701,372)~~SIX HUNDRED AND FORTY FIVE THOUSAND TWO HUNDRED DOLLARS (\$645,200)~~. Payment shall be made according to the schedule and terms described herein.

<u>Year</u>	<u>Date</u>	<u>Monthly</u>	<u>Annual</u>
Year 1	11/1/2017-10/31/2018	\$6,725	\$80,700
Year 2	11/1/2018-10/31/2019	\$6,907	\$82,884
Year 3	11/1/2019-10/31/2020	\$7,025	\$84,300
Year 4	11/1/2020-10/31/2021	\$7,236*	\$86,829*
Year 5	11/1/2021-10/31/2022	\$7,453*	\$89,434*
Year 6	11/1/2022-10/31/2023	\$7,676*	\$92,117*
Year 7	11/1/2023-06/30/2024 (8 months)	\$8,012 [†]	\$24,036 [†]
<u>Year 7/8</u>	<u>7/1/2024-12/31/2024 (6 months)</u>	<u>\$9,362[†]</u>	<u>\$56,172[†]</u>

Extension 7/1/2024~~11/01/23~~ until termination \$9,362~~8,012~~[†]

Contingency for change orders (payable only to the extent of any change orders) \$64,840

Total (up to) \$701,372,645,200

* = approximation

† = or prorated amount for applicable portion of month

At the conclusion of each 12-month service period there will be an annual Consumer Price Index (“CPI”) change in the compensation paid to Contractor. The chart above shows approximations for Years 4, 5 and 6 assuming an annual 3% increase. The actual Years 4, 5 and 6 annual compensations (to be prorated and paid monthly) will be calculated using the 12-month percent change in CPI-U for All Urban Consumers published by the U.S. Bureau of Labor Statistics for August.

All expenses of Contractor are included in the amounts payable pursuant to **Attachment B, Budget**, and no expenses shall be reimbursed separately. Contractor will submit monthly billing invoices to OCII. OCII staff will review and approve these invoices for payment.

a. The first sentence of **ATTACHMENT B: BUDGET** is amended as follows:

The maximum amount payable under this contract is \$701,372,645,200.

2. Miscellaneous

- a. This Fifth Amendment constitutes a part of the Contract and any reference to the Contract shall be deemed to include a reference to the Current Contract as amended by this Fifth Amendment.
- b. Except as otherwise amended hereby, all terms, covenants, conditions and provisions of the Contract shall remain in full force and effect.
- c. The Fifth Amendment shall be binding upon and inure to the benefit of the successors and assigns for OCII and the Contractor, subject to the limitations set forth in the Contract.
- d. This Fifth Amendment may be executed in any number of counterparts, all of which, together, shall constitute the original agreement.

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IN WITNESS WHEREOF OCII and Contractor have executed this Fifth Amendment as of the date first above written.

FORSTER & KROEGER LANDSCAPE
MAINTENANCE, INC., a California corporation

By: _____
Raul Garcia
President
Federal Tax Identification No. 68-0407551

SUCCESSOR AGENCY TO THE
REDEVELOPMENT AGENCY OF THE CITY
AND COUNTY OF SAN FRANCISCO, a public
body, organized and existing under the laws of the
State of California

By: _____
Thor Kaslofsky
Executive Director

APPROVED AS TO FORM:

By: _____
James B. Morales
General Counsel

Authorized by Resolution No. _____-2024, adopted _____, 2024.