

**COMMISSION ON COMMUNITY INVESTMENT AND INFRASTRUCTURE**

**RESOLUTION NO. 25 – 2020**

*Adopted October 6, 2020*

**AUTHORIZING A FIRST AMENDMENT TO THE PERSONAL SERVICES CONTRACT WITH FORSTER & KROEGER LANDSCAPE MAINTENANCE, INC., A CALIFORNIA CORPORATION, TO INCREASE THE CONTRACT EXPENDITURE AUTHORITY BY \$276,668 FOR A TOTAL EXPENDITURE AUTHORITY NOT TO EXCEED \$551,104 TO PROVIDE CONTINUED LANDSCAPE MAINTENANCE SERVICES IN COMMUNITY FACILITIES DISTRICT NO. 1 (SOUTH BEACH); 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 expires in January 2021. CFD No. 1, however, extends 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 exercised state authority under the Mello-Roos Act and not under the Community Redevelopment Law; and,

WHEREAS, As the successor in interest to the Former Agency, the Successor Agency to the Redevelopment Agency of the City and County of San Francisco, commonly known as the Office of Community Investment and Infrastructure, (the “Successor Agency” or “OCII”) is the administrator of CFD No.1 and has responsibility for providing landscape maintenance services to CFD No. 1; and,

WHEREAS, On October 3, 2017, pursuant to a competitive solicitation process, OCII entered into a personal services contract (“Contract”) with Forster & Kroeger Landscape Maintenance, Inc., a California Corporation (“Contractor”) to provide landscape maintenance services to CFD No. 1 for an initial three-year term beginning November 1, 2017 and ending October 31, 2020 (“Initial Term”), and one three-year option to extend, beginning November 1, 2020 and ending October 31, 2023 (“Extension Term”); and,

WHEREAS, The Contract provided for expenditure authority not to exceed \$274,436, including \$249,436 for regular landscape maintenance services and expenditure authority for a \$25,000 contingency for extra work on an as-needed basis. The Contract provided for a schedule of payment for Years 1, 2 and 3 of the Contract, with approximate three percent annual increases; and,

WHEREAS, The Initial Term expenditure for Years 1, 2 and 3 for regular landscaping was \$247,884. Actual annual increases in regular landscape maintenance services were calculated using the annual 12-month percentage change in the Consumer Price Index for All Urban Consumers (“CPI-U”) published by the US Bureau of Labor Statistics for August. The amount expended for contingency during the Initial Term was \$9,840. Together, these amounts total \$257,724 in expended authority, leaving \$16,712 in unspent authority available for use in the Extension Term; and,

WHEREAS, The Contractor’s performance has been satisfactory and, under the authority of the Executive Director and pursuant to the Contract, the Successor Agency is prepared to exercise its option to extend the term of the Contract for the Extension Term upon the approval of additional funding; and,

WHEREAS, The cost for Years 4, 5 and 6 regular landscaping services to be provided in the Extension Term is estimated to be \$268,380 for Years 4 through 6, and the expenditure authority needed for contingency is \$25,000, for an estimated total of \$293,380; and,

WHEREAS, The Contract’s not-to-exceed expenditure authority of \$274,436 funded the Initial Term of the Contract but is not sufficient to fund the Extension Term. The Contract must be amended to allow for landscape maintenance services to continue throughout the Extension Term (“First Amendment”) (Exhibit A); and,


WHEREAS, The approximate additional expenditure authority required for the Extension Term is \$276,668, including \$266,828 for Years 4, 5 and 6 regular landscape maintenance, and an additional expenditure authority of \$9,840 for contingency. Together, the expended authority of \$257,724, the remaining \$16,712 in unspent authority available for use in the Extension Term, and the \$276,668 additional expenditure authority needed for the Extension Term total \$551,104; and,

WHEREAS, The \$551,104 expenditure authority, authorized by the Contract, as amended by the First Amendment, will be funded by Community Facilities District No. 1 special taxes; and,

WHEREAS, Authorization of the First Amendment is categorically exempt from the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines Section 15301(h), because it authorizes budget 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 amend the Personal Services Contract with Forster & Kroeger Landscape Maintenance, Inc., a California Corporation, for landscape maintenance services in Community Facilities District No. 1 (South Beach) to authorize an increase in the Contract expenditure authority by \$276,668 for an aggregate amount not-to-exceed \$551,104, substantially in the form approved by the Successor Agency's General Counsel.

I hereby certify that the foregoing resolution was adopted by the Commission at its meeting of October 6, 2020.



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Commission Secretary

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

**Exhibit A**  
**First 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

FIRST AMENDMENT TO THE PERSONAL SERVICES CONTRACT

This FIRST AMENDMENT to the Personal Services Contract (“**First Amendment**”) is entered into as of \_\_\_\_\_ (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, corporate and politic (“**OCII**” or “**Successor Agency**”), and Forster & Kroeger Landscape Maintenance, Inc, a California Corporation (“**Contractor**”).

**RECITALS**

This First 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. 186-188 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 is 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 the Office of Community Investment and Infrastructure (“**OCII**”), as the successor agency to the Former Agency.

B. OCII has responsibility for providing landscape maintenance services within the CFD No. 1 area. On October 3, 2017, OCII approved a personal services contract (“**Original Contract**”) with Forster & Kroeger Landscape Maintenance, Inc., a California Corporation (“**Contractor**”) to provide landscape maintenance services to CFD No.1 for an initial three-year term, with one three-year option to extend, for a total not-to-exceed expenditure authority of \$274,436.

C. The initial term of the Original Contract began on November 1, 2017 and ends on October 31, 2020 (“**Initial Term**”). The three-year extension term begins on November 1, 2020 and ends on October 31, 2023 (“**Extension Term**”). Concurrently with approval of funding for the Extension Term, OCII will exercise its option to extend the Contract. The \$274,436 Original Contract expenditure authority covered the Initial Term’s costs. The total not-to-exceed amount of

the Original Contract is not sufficient to cover the budget for the Extension Term. An amendment to the Contract is necessary to allow the Contractor to continue to provide landscaping maintenance services to CFD No. 1 during the Extension Term (“**First Amendment**”).

D. The Original Contract will continue to require landscaping maintenance services over the Extension Term. Therefore, OCII and Contractor seek to enter into this First Amendment to increase the not-to-exceed expenditure authority of the Contract upon the basis of the terms, covenants, and conditions set forth below. Together, the Original Contract and this First Amendment comprise the “**Contract**”.

### **AGREEMENT**

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

1. The Original Contract shall be amended as follows:
  - a. Section 3A. Compensation is deleted in its entirety and replaced with the following:

A. Compensation:

The maximum amount payable under this Contract is FIVE HUNDRED FIFTY-ONE THOUSAND ONE HUNDRED AND FOUR DOLLARS (\$551,104). Payment shall be made according to the schedule and terms described herein.

<b>Year</b>	<b>Date</b>	<b>Monthly</b>	<b>Annual</b>
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*

Contingency for change orders (payable only to the extent of any change orders)	\$34,840
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Total	\$551,104
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\* = approximation

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.

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

The maximum amount payable under this contract is ~~\$551,104~~<sup>\$274,436</sup>.

2. Miscellaneous

- a. This First Amendment constitutes a part of the Contract and any reference to the Contract shall be deemed to include a reference to the Contract as amended by this First 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 First 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 First 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 First 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: \_\_\_\_\_  
Nadia Sesay  
Executive Director

APPROVED AS TO FORM:

By: \_\_\_\_\_  
James B. Morales  
General Counsel

Authorized by Resolution No. \_\_\_\_\_, adopted \_\_\_\_\_.