

**CITY OF CORONA  
MAINTENANCE/GENERAL SERVICES AGREEMENT  
WITH HARDY AND HARPER  
(CONCRETE AND ASPHALT MAINTENANCE REPAIR SERVICES)**

**1. PARTIES AND DATE.**

This Agreement is made and entered into this 15th day of November, 2017 ("Effective Date") by and between the City of Corona, a municipal corporation organized under the laws of the State of California with its principal place of business at 400 South Vicentia Avenue, Corona, California 92882 ("City") and Hardy and Harper, Inc., a California Corporation with its principal place of business at 1312 E. Warner Ave., Santa Ana, CA 92705 ("Contractor"). City and Contractor are sometimes individually referred to as "Party" and collectively as "Parties" in this Agreement.

**2. RECITALS.**

**2.1 Contractor.**

Contractor desires to perform and assume responsibility for the provision of certain maintenance or other general services required by the City on the terms and conditions set forth in this Agreement. Contractor represents that it is experienced in providing Concrete and Asphalt Maintenance Repair services to public clients, that it and its employees or subcontractors have all necessary licenses and permits to perform the Services in the State of California, and that is familiar with the plans of City. Contractor shall not subcontract any portion of the work required by this Agreement, except as expressly stated herein, without prior written approval of City. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement.

**2.2 Project.**

City desires to engage Contractor to render such services for the Concrete and Asphalt Maintenance Repair services project ("Project") as set forth in this Agreement.

**2.3 Corona Utility Authority.**

Contractor understands that the City has entered into a Water Enterprise Management Agreement and a Wastewater Enterprise Management Agreement, both dated as of February 6, 2002, with the Corona Utility Authority ("CUA") for the maintenance, management and operation of those utility systems (collectively, the "CUA Management Agreements"). To the extent that this Agreement is deemed to be a "material contract" under either of the CUA Management Agreements, City enters into this Agreement on behalf of the CUA and subject to the terms of the applicable CUA Management Agreement(s).

### **3. TERMS.**

#### **3.1 Scope of Services and Term.**

3.1.1 General Scope of Services. Contractor promises and agrees to furnish to the City all labor, materials, tools, equipment, services, and incidental and customary work necessary to fully and adequately supply the professional Concrete and Asphalt Maintenance Repair services or other general services necessary for the Project (“Services”). The Services are more particularly described in Exhibit “A” attached hereto and incorporated herein by reference. All Services shall be subject to, and performed in accordance with, this Agreement, the exhibits attached hereto and incorporated herein by reference, and all applicable local, state and federal laws, rules and regulations.

3.1.2 Term. The term of this Agreement shall be from November 15, 2017 to June 30, 2019 (“Term”), unless earlier terminated as provided herein. Contractor shall complete the Services within the Term of this Agreement, and shall meet any other established schedules and deadlines. The Parties may, by mutual, written consent, extend the Term of this Agreement one or more times by executing a written amendment pursuant to Section 3.5.8 below (each a “Renewal Term”).

#### **3.2 Responsibilities of Contractor.**

3.2.1 Control and Payment of Subordinates; Independent Contractor. The Services shall be performed by Contractor or under its supervision. Contractor will determine the means, methods and details of performing the Services subject to the requirements of this Agreement. City retains Contractor on an independent contractor basis and not as an employee. Contractor retains the right to perform similar or different services for others during the Term of this Agreement. Any additional personnel performing the Services under this Agreement on behalf of Contractor shall also not be employees of City and shall at all times be under Contractor’s exclusive direction and control. Contractor shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law. Contractor shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers’ compensation insurance.

3.2.2 Schedule of Services. Contractor shall perform the Services within the Term of this Agreement, in accordance with the Schedule of Services set forth in Exhibit “B” attached hereto and incorporated herein by reference, and in accordance with any other completion schedule or milestones which may be separately agreed upon in writing by the Parties. Contractor represents that it has the professional and technical personnel required to perform the Services in conformance with such conditions. In order to facilitate Contractor’s conformance with the Schedule, City shall respond to Contractor’s submittals in a timely manner. Upon request of City, Contractor shall provide a more detailed schedule of anticipated performance to meet the Schedule of Services.

3.2.3 Conformance to Applicable Requirements. All Services performed by Contractor shall be subject to the approval of City.

3.2.4 City's Representative. The City hereby designates Tom Moody, Assistant General Manager, or his or her designee, to act as its representative for the performance of this Agreement ("City's Representative"). City's Representative shall have the power to act on behalf of the City for all purposes under this Agreement. Contractor shall not accept direction or orders from any person other than the City's Representative or his or her designee.

3.2.5 Contractor's Representative. Contractor hereby designates Steve Kirschner, Project Manager, or his or her designee, to act as its representative for the performance of this Agreement ("Contractor's Representative"). Contractor's Representative shall have full authority to represent and act on behalf of the Contractor for all purposes under this Agreement. The Contractor's Representative shall supervise and direct the Services, using his best skill and attention, and shall be responsible for all means, methods, techniques, sequences and procedures and for the satisfactory coordination of all portions of the Services under this Agreement.

3.2.6 Coordination of Services. Contractor agrees to work closely with City staff in the performance of Services and shall be available to City's staff, consultants and other staff at all reasonable times.

3.2.7 Standard of Care; Performance of Employees. Contractor shall perform all Services under this Agreement in a skillful and competent manner, consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Contractor represents and maintains that it is skilled in the professional calling necessary to perform the Services. Contractor agrees that all employees and subcontractors shall have sufficient skill and experience to perform the Services assigned to them. Finally, Contractor represents that it, its employees and subcontractors shall have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services, including a City Business License, and that such licenses and approvals shall be maintained throughout the Term of this Agreement. As provided for in the indemnification provisions of this Agreement, Contractor shall perform, at its own cost and expense and without reimbursement from the City, any services necessary to correct errors or omissions which are caused by the Contractor's failure to comply with the standard of care provided for herein. Any employee of the Contractor or its sub-contractors who is determined by the City to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any employee who fails or refuses to perform the Services in a manner acceptable to the City, shall be promptly removed from the Project by the Contractor and shall not be re-employed to perform any of the Services or to work on the Project.

3.2.8 Disputes. Should any dispute arise respecting the true value of any work done, of any work omitted, or of any extra work which Contractor may be required to do, or respecting the size of any payment to Contractor during the performance of this Contract, Contractor shall continue to perform the Work while said dispute is decided by the City. If Contractor disputes the City's decision, Contractor shall have such remedies as may be provided by law.

**3.2.9 Laws and Regulations; Employee/Labor Certifications.** Contractor shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Project or the Services, including all Cal/OSHA requirements, and shall give all notices required by law. Contractor shall be liable for all violations of such laws and regulations in connection with Services. If the Contractor performs any work or Services knowing them to be contrary to such laws, rules and regulations and without giving written notice to the City, Contractor shall be solely responsible for all costs arising therefrom. City is a public entity of the State of California subject to certain provisions of the Health & Safety Code, Government Code, Public Contract Code, and Labor Code of the State. It is stipulated and agreed that all provisions of the law applicable to the public contracts of a municipality are a part of this Contract to the same extent as though set forth herein and will be complied with. These include but are not limited to the payment of prevailing wages, the stipulation that eight (8) hours' labor shall constitute a legal day's work and that no worker shall be permitted to work in excess of eight (8) hours during any one calendar day except as permitted by law. Contractor shall defend, indemnify and hold City, its officials, directors, officers, employees and agents free and harmless, pursuant to the indemnification provisions of this Agreement, from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules or regulations.

**3.2.9.1 Employment Eligibility; Contractor.** By executing this Agreement, Contractor verifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time. Such requirements and restrictions include, but are not limited to, examination and retention of documentation confirming the identity and immigration status of each employee of the Contractor. Contractor also verifies that it has not committed a violation of any such law within the five (5) years immediately preceding the date of execution of this Agreement, and shall not violate any such law at any time during the Term of the Agreement. Contractor shall avoid any violation of any such law during the Term of this Agreement by participating in an electronic verification of work authorization program operated by the United States Department of Homeland Security, by participating in an equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, or by some other legally acceptable method. Contractor shall maintain records of each such verification, and shall make them available to the City or its representatives for inspection and copy at any time during normal business hours. The City shall not be responsible for any costs or expenses related to Contractor's compliance with the requirements provided for in Section 3.2.9 or any of its sub-sections.

**3.2.9.2 Employment Eligibility; Subcontractors, Sub-subcontractors and Consultants.** To the same extent and under the same conditions as Contractor, Contractor shall require all of its subcontractors, sub-subcontractors and consultants performing any work or Services relating to the Project or this Agreement to make the same verifications and comply with all requirements and restrictions provided for in Section 3.2.9.1.

**3.2.9.3 Employment Eligibility; Failure to Comply.** Each person executing this Agreement on behalf of Contractor verifies that they are a duly authorized officer of Contractor, and understands that any of the following shall be grounds for the City to terminate the Agreement for cause: (1) failure of Contractor or its subcontractors, sub-subcontractors or consultants to meet any of the requirements provided for in Sections 3.2.9.1 or 3.2.9.2; (2) any misrepresentation or material omission concerning compliance with such requirements (including in those verifications provided to the Contractor under Section 3.2.9.2); or (3) failure to immediately remove from the Project any person found not to be in compliance with such requirements.

**3.2.9.4 Labor Certification.** By its signature hereunder, Contractor certifies that it is aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and agrees to comply with such provisions before commencing the performance of the Services.

**3.2.9.5 Equal Opportunity Employment.** Contractor represents that it is an equal opportunity employer and it shall not discriminate against any subconsultant, employee or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination. Contractor shall also comply with all relevant provisions of City's Minority Business Enterprise program, Affirmative Action Plan or other related programs or guidelines currently in effect or hereinafter enacted.

**3.2.9.6 Air Quality.** Contractor must fully comply with all applicable laws, rules and regulations in furnishing or using equipment and/or providing services, including, but not limited to, emissions limits and permitting requirements imposed by the South Coast Air Quality Management District (SCAQMD) and/or California Air Resources Board (CARB). Although the SCAQMD and CARB limits and requirements are more broad, Contractor shall specifically be aware of their application to "portable equipment", which definition is considered by SCAQMD and CARB to include any item of equipment with a fuel-powered engine. Contractor shall indemnify City against any fines or penalties imposed by SCAQMD, CARB, or any other governmental or regulatory agency for violations of applicable laws, rules and/or regulations by Contractor, its subcontractors, or others for whom Contractor is responsible under its indemnity obligations provided for in this Agreement.

### **3.2.10 Insurance.**

**3.2.10.1 Time for Compliance.** Promptly following the Effective Date of this Agreement, but in no event before Contractor commences any Services under this Agreement, Contractor shall provide evidence satisfactory to the City that it has secured all insurance required under this section. In addition, Contractor shall not allow any subcontractor to commence work on any subcontract until it has provided evidence satisfactory to the City that the subcontractor has secured all insurance required under this section. Failure to provide and maintain all required insurance shall be grounds for the City to terminate this Agreement for cause.

3.2.10.2 Minimum Requirements. Contractor shall, at its expense, procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Agreement by the Contractor, its agents, representatives, employees or subcontractors. Contractor shall also require all of its subcontractors to procure and maintain the same insurance for the duration of the Agreement. Such insurance shall meet at least the following minimum levels of coverage:

(A) Minimum Scope of Insurance. Coverage shall be at least as broad as the latest version of the following: (1) *General Liability*: Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001); (2) *Automobile Liability*: Insurance Services Office Business Auto Coverage form number CA 0001, code 1 (any auto); and (3) *Workers' Compensation and Employer's Liability*: Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

(B) Minimum Limits of Insurance. Contractor shall maintain limits no less than: (1) *General Liability*: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with general aggregate limit is used including, but not limited to, form CG 2503, either the general aggregate limit shall apply separately to this Agreement/location or the general aggregate limit shall be twice the required occurrence limit; (2) *Automobile Liability*: \$1,000,000 per accident for bodily injury and property damage; and (3) *Workers' Compensation and Employer's Liability*: Workers' Compensation limits as required by the Labor Code of the State of California. Employer's Liability limits of \$1,000,000 per accident for bodily injury or disease.

3.2.10.3 Insurance Endorsements. The insurance policies shall contain the following provisions, or Contractor shall provide endorsements on forms supplied or approved by the City to add the following provisions to the insurance policies:

(A) General Liability. The general liability policy shall include or be endorsed (amended) to state that: (1) the City, its directors, officials, officers, employees, agents, and volunteers shall be covered as additional insured with respect to the Services, work or operations performed by or on behalf of the Contractor, including materials, parts or equipment furnished in connection therewith; and (2) the insurance coverage shall be primary insurance as respects the City, its directors, officials, officers, employees, agents, and volunteers, or if excess, shall stand in an unbroken chain of coverage excess of the Contractor's scheduled underlying coverage. Any insurance or self-insurance maintained by the City, its directors, officials, officers, employees, agents, and volunteers shall be excess of the Contractor's insurance and shall not be called upon to contribute with it in any way.

(B) Automobile Liability. The automobile liability policy shall include or be endorsed (amended) to state that: (1) the City, its directors, officials, officers, employees, agents, and volunteers shall be covered as additional insureds with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by the Contractor or for which the Contractor is responsible; and (2) the insurance

coverage shall be primary insurance as respects the City, its directors, officials, officers, employees, agents, and volunteers, or if excess, shall stand in an unbroken chain of coverage excess of the Contractor's scheduled underlying coverage. Any insurance or self-insurance maintained by the City, its directors, officials, officers, employees, agents, and volunteers shall be excess of the Contractor's insurance and shall not be called upon to contribute with it in any way.

(C) Workers' Compensation and Employer's Liability Coverage. The insurer shall agree to waive all rights of subrogation against the City, its directors, officials, officers, employees, agents, and volunteers for losses paid under the terms of the insurance policy which arise from work or Services performed by the Contractor.

(D) All Coverages. Each insurance policy required by this Agreement shall be endorsed to state that: (A) coverage shall not be suspended, voided, reduced or canceled except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City; and (B) any failure to comply with reporting or other provisions of the policies, including breaches of warranties, shall not affect coverage provided to the City, its directors, officials, officers, employees, agents, and volunteers.

3.2.10.4 Separation of Insureds; No Special Limitations. All insurance required by this section shall contain standard separation of insureds provisions. In addition, such insurance shall not contain any special limitations on the scope of protection afforded to the City, its directors, officials, officers, employees, agents, and volunteers.

3.2.10.5 Deductibles and Self-Insurance Retentions. Any deductibles or self-insured retentions must be declared to and approved by the City.

3.2.10.6 Acceptability of Insurers. Insurance is to be placed with insurers which are satisfactory to the City and which meet either of the following criteria : (1) an insurer with a current A.M. Best's rating no less than A:VII and licensed as an admitted insurance carrier in California; or (2) an insurer with a current A.M. Best's rating no less than A:X and authorized to issue the required policies in California.

3.2.10.7 Verification of Coverage. Contractor shall furnish City with original certificates of insurance and endorsements effecting coverage required by this Agreement on forms satisfactory to the City. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf, and shall be on forms provided by the City if requested. All certificates and endorsements must be received and approved by the City before any Services commence. The City reserves the right to require complete, certified copies of all required insurance policies, at any time.

3.2.10.8 Reporting of Claims. Contractor shall report to the City, in addition to Contractor's insurer, any and all insurance claims submitted by Contractor in connection with the Services under this Agreement.

3.2.11 Safety. Contractor shall execute and maintain its work and Services so as to avoid injury or damage to any person or property. In carrying out its Services, the Contractor

shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the Services and the conditions under which the Services are to be performed.

### 3.2.12 Bonds.

3.2.12.1 Performance Bond. If required by law or otherwise specifically requested by City in Exhibit "C" attached hereto and incorporated herein by reference, Contractor shall execute and provide to City concurrently with this Agreement a Performance Bond in the amount of the Total Compensation indicated in this Agreement, and in a form provided or approved by the City. If such bond is required, no payment will be made to Contractor until it has been received and approved by the City.

3.2.12.2 Payment Bond. If required by law or otherwise specifically requested by City in Exhibit "C" attached hereto and incorporated herein by reference, Contractor shall execute and provide to City concurrently with this Agreement a Payment Bond in the amount of the Total Compensation indicated in this Agreement, and in a form provided or approved by the City. If such bond is required, no payment will be made to Contractor until it has been received and approved by the City.

3.2.12.3 Bond Provisions. Should, in City's sole opinion, any bond become insufficient or any surety be found to be unsatisfactory, Contractor shall renew or replace the affected bond within 10 days of receiving notice from City. In the event the surety or Contractor intends to reduce or cancel any required bond, at least thirty (30) days prior written notice shall be given to the City, and Contractor shall post acceptable replacement bonds at least ten (10) days prior to expiration of the original bonds. No further payments shall be deemed due or will be made under this Agreement until any replacement bonds required by this section are accepted by the City. To the extent, if any, that the Total Compensation is increased in accordance with the Agreement, the Contractor shall, upon request of the City, cause the amount of the bonds to be increased accordingly and shall promptly deliver satisfactory evidence of such increase to the City. To the extent available, the bonds shall further provide that no change or alteration of the Agreement (including, without limitation, an increase in the Total Compensation, as referred to above), extensions of time, or modifications of the time, terms, or conditions of payment to the Contractor, will release the surety. If the Contractor fails to furnish any required bond, the City may terminate this Agreement for cause.

3.2.12.4 Surety Qualifications. The bonds must be provided by a surety which is satisfactory to the City and which meets either of the following criteria: (1) a surety with a current A.M. Best's rating no less than A:VII and licensed as an admitted surety insurer in California; or (2) a surety with a current A.M. Best's rating no less than A:X and authorized to issue the required bonds in California. If a surety does not meet these requirements, the insurer will be considered qualified if it is in conformance with Section 995.660 of the California Code of Civil Procedure, and proof of such is provided to the City.

3.2.13 Accounting Records. Contractor shall maintain complete and accurate records with respect to all costs and expenses incurred under this Agreement. All such records

shall be clearly identifiable. Contractor shall allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement. Contractor shall allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of three (3) years from the date of final payment under this Agreement.

### **3.3 Fees and Payments.**

3.3.1 Rates & Total Compensation. Contractor shall receive compensation, including authorized reimbursements, for all Services rendered under this Agreement at the rates set forth in Exhibit "C" attached hereto and incorporated herein by reference. The total compensation, including authorized reimbursements, shall not exceed Five Hundred and Twenty Five Thousand Dollars (\$525,000) ("Total Compensation") per fiscal year for Fiscal Years ending June 30, 2018 and June 30, 2019 without written approval of City's Representative. Extra Work may be authorized, as described below, and if authorized, will be compensated at the rates and manner set forth in this Agreement.

3.3.2 Payment of Compensation. Contractor shall submit to City a monthly itemized statement which indicates work completed and hours of Services rendered by Contractor. The statement shall describe the amount of Services and supplies provided since the initial commencement date, or since the start of the subsequent billing periods, as appropriate, through the date of the statement. City shall, within 30 days of receiving such statement, review the statement and pay all approved charges thereon.

3.3.3 Reimbursement for Expenses. Contractor shall not be reimbursed for any expenses unless authorized in writing by City.

3.3.4 Extra Work. At any time during the Term of this Agreement, City may request that Contractor perform Extra Work. As used herein, "Extra Work" means any work which is determined by City to be necessary for the proper completion of the Project, but which the Parties did not reasonably anticipate would be necessary at the execution of this Agreement. Contractor shall not perform, nor be compensated for, Extra Work without written authorization from City's Representative.

3.3.5 Prevailing Wages. Contractor is aware of the requirements of Chapter 1 (beginning at Section 1720 et seq.) of Part 7 of Division 2 of the California Labor Code, as well as Title 8, Section 16000 et seq. of the California Code of Regulations ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on "public works" and "maintenance" projects. If the Services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the Total Compensation is \$1,000 or more, Contractor and its subcontractors shall fully comply with the Prevailing Wage Laws for their employees and any others to whom such laws are applicable. Contractor and its subcontractors shall also be responsible for any and all violations and fines imposed on them pursuant to the Prevailing Wage Laws. Pursuant to SB 854, which amended the Prevailing Wage Laws, this Agreement would also be subject to compliance monitoring and enforcement by the California Department of Industrial Relations

("DIR"). Beginning April 1, 2015, no contractor or subcontractor may be awarded this Agreement unless registered with the DIR pursuant to Labor Code Section 1725.5. The City will report all necessary agreements to the DIR as required by the Prevailing Wage Laws. Contractor shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request, and shall post copies at the Contractor's principal place of business and at the Project site. It is most efficient for the Contractor to obtain a copy of the prevailing wages in effect at the commencement of this Agreement from the website of the Division of Labor Statistics and Research of the DIR located at [www.dir.ca.gov/dlsr/](http://www.dir.ca.gov/dlsr/). In the alternative, Contractor may obtain a copy of the prevailing wages from the City's representative. Contractor shall defend, indemnify and hold the City, its elected officials, officers, employees and agents free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

### **3.4 Termination of Agreement.**

3.4.1 Grounds for Termination. City may, by written notice to Contractor, terminate the whole or any part of this Agreement at any time and without cause by giving written notice to Contractor of such termination, and specifying the effective date thereof, at least seven (7) days before the effective date of such termination. Upon termination, Contractor shall be compensated only for those Services which have been adequately rendered to City, as well as any authorized reimbursable expenses, and Contractor shall be entitled to no further compensation. Contractor may not terminate this Agreement except for cause.

3.4.2 Effect of Termination. If this Agreement is terminated as provided herein, City may require Contractor to provide all finished or unfinished Documents and Data and other information of any kind prepared by Contractor in connection with the performance of Services under this Agreement. Contractor shall be required to provide such document and other information within fifteen (15) days of the request.

3.4.3 Additional Services. In the event this Agreement is terminated in whole or in part as provided herein, City may procure, upon such terms and in such manner as it may determine appropriate, services similar to those terminated.

### **3.5 General Provisions.**

3.5.1 Delivery of Notices. All notices permitted or required under this Agreement shall be given to the respective Parties at the following address, or at such other address as the respective Parties may provide in writing for this purpose:

**Contractor:**

Hardy and Harper  
1312 E. Warner Avenue  
Santa Ana, CA 92705  
Attn: Steve Kirschner, Vice President

**City:**

City of Corona  
 755 Public Safety Way  
 Corona, CA 92880  
 Attn: Tom Moody, Assistant General Manager

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the Party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

### 3.5.2 Indemnification.

3.5.2.1 Scope of Indemnity. To the fullest extent permitted by law, Contractor shall defend, indemnify and hold the City, its directors, officials, officers, employees, volunteers and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, to the extent arising out of, pertaining to, or incident to any alleged willful misconduct or negligent acts, errors or omissions of Contractor, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Contractor's Services, the Project or this Agreement, including without limitation the payment of all expert witness fees and attorneys fees and other related costs and expenses. Notwithstanding the foregoing, to the extent Contractor'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 Contractor.

3.5.2.2 Additional Indemnity Obligations. Contractor shall defend, with Counsel of City's choosing and at Contractor's own cost, expense and risk, any and all claims, suits, actions or other proceedings of every kind covered by Section 3.5.2.1 that may be brought or instituted against City or its directors, officials, officers, employees, volunteers and agents. Contractor shall pay and satisfy any judgment, award or decree that may be rendered against City or its directors, officials, officers, employees, volunteers and agents as part of any such claim, suit, action or other proceeding. Contractor shall also reimburse City for the cost of any settlement paid by City or its directors, officials, officers, employees, agents or volunteers as part of any such claim, suit, action or other proceeding. Such reimbursement shall include payment for City's attorney's fees and costs, including expert witness fees. Contractor shall reimburse City and its directors, officials, officers, employees, agents, and/or volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Contractor's obligation to indemnify shall survive expiration or termination of this Agreement, and shall not be restricted to insurance proceeds, if any, received by the City, its directors, officials officers, employees, agents, or volunteers.

3.5.3 Governing Law; Government Code Claim Compliance. This Agreement shall be governed by the laws of the State of California. Venue shall be in Riverside County. In addition to any and all contract requirements pertaining to notices of and requests for compensation

or payment for extra work, disputed work, claims and/or changed conditions, Contractor must comply with the claim procedures set forth in Government Code Sections 900 et seq. prior to filing any lawsuit against the City. Such Government Code claims and any subsequent lawsuit based upon the Government Code claims shall be limited to those matters that remain unresolved after all procedures pertaining to extra work, disputed work, claims, and/or changed conditions have been followed by Contractor. If no such Government Code claim is submitted, or if any prerequisite contractual requirements are not otherwise satisfied as specified herein, Contractor shall be barred from bringing and maintaining a valid lawsuit against the City.

3.5.4 Time of Essence. Time is of the essence for each and every provision of this Agreement.

3.5.5 City's Right to Employ Other Contractors. City reserves right to employ other contractors in connection with this Project.

3.5.6 Successors and Assigns. This Agreement shall be binding on the successors and assigns of the parties.

3.5.6.1 Subcontractors; Assignment or Transfer. Contractor shall not subcontract any portion of the Services required under this Agreement, except as expressly authorized herein, without the prior written approval of the City. Subcontracts, if any, shall include a provision making them subject to all provisions of this Agreement. Contractor shall also not assign, hypothecate or transfer, either directly or by operation of law, this Agreement or any interest herein without the prior written consent of the City. Any attempt to subcontract or take any other action not authorized herein shall be null and void, and any subcontractors, assignees, hypothecates or transferees shall acquire no right or interest by reason of such action.

3.5.6.2 Corona Utility Authority. To the extent that this Agreement is deemed to be a "material contract" under either of the CUA Management Agreements, Contractor has no right to terminate this Agreement, either with or without cause, based upon the existence or non-existence of either or both of the CUA Management Agreements. Therefore, if an applicable CUA Management Agreement expires or terminates for any reason, Contractor shall remain fully obligated to perform under this Agreement with the CUA or another third party contracted by the CUA for the maintenance, management and operation of the applicable utility system. .

3.5.7 Construction; References; Captions. Since the Parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party. Any term referencing time, days or period for performance shall be deemed calendar days and not work days. All references to Contractor include all personnel, employees, agents, and subcontractors of Contractor, except as otherwise specified in this Agreement. All references to City include its elected officials, officers, employees, agents, and volunteers except as otherwise specified in this Agreement. The captions of the various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content or intent of this Agreement.

3.5.8 Amendment; Modification. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

3.5.9 Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel or otherwise.

3.5.10 No Third Party Beneficiaries. Except to the extent expressly provided for in Section 3.5.6, there are no intended third party beneficiaries of any right or obligation assumed by the Parties.

3.5.11 Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

3.5.12 Prohibited Interests. Contractor maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this Agreement. Further, Contractor warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Contractor, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. Contractor further agrees to file, or shall cause its employees or subcontractors to file, a Statement of Economic Interest with the City's Filing Officer as required under state law in the performance of the Services. For breach or violation of this warranty, City shall have the right to rescind this Agreement without liability. For the Term of this Agreement, no member, officer or employee of City, during the term of his or her service with City, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

3.5.13 Cooperation; Further Acts. The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as may be necessary, appropriate or convenient to attain the purposes of this Agreement.

3.5.14 Attorney's Fees. If either Party commences an action against the other Party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing Party in such litigation shall be entitled to have and recover from the losing Party reasonable attorney's fees and all other costs of such action.

3.5.15 Authority to Enter Agreement. Contractor has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each Party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and bind each respective Party.

3.5.16 Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

3.5.17 Entire Agreement. This Agreement contains the entire Agreement of the Parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements. This Agreement may only be modified by a writing signed by both Parties.

**[SIGNATURES ON NEXT 2 PAGES]**

**CITY'S SIGNATURE PAGE FOR**  
**CITY OF CORONA**  
**MAINTENANCE/GENERAL SERVICES AGREEMENT**  
**WITH HARDY AND HARPER**  
**(CONCRETE AND ASPHALT MAINTENANCE REPAIR SERVICES)**

IN WITNESS WHEREOF, the Parties have entered into this Contract as of the date first written above.

**CITY OF CORONA**

By:

DocuSigned by:  
  
D649EFD916CF46C...  
Tom Moody  
General Manager

Reviewed By:

DocuSigned by:  
  
CFD9BDE2720747D...  
Ed Lockhart  
Maintenance Manager

Reviewed By:

DocuSigned by:  
  
BF7D56F8E2C447F...  
Cita Longworth  
Purchasing Manager

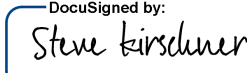
Attest:

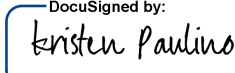
\_\_\_\_\_  
Lisa Mobley  
City Clerk

**CONTRACTOR'S SIGNATURE PAGE FOR**  
**CITY OF CORONA**  
**MAINTENANCE/GENERAL SERVICES AGREEMENT**  
**WITH HARDY AND HARPER**  
**(CONCRETE AND ASPHALT MAINTENANCE REPAIR SERVICES)**

IN WITNESS WHEREOF, the Parties have entered into this Contract as of the date first written above.

**HARDY AND HARPER, INC.**  
a California Corporation

By:   
1A28F1D1128545D...  
Steve Kirschner  
Vice President

By:   
83BF9A3A0FD84CB...  
Kristen Paulino  
Corporate Secretary

## EXHIBIT "A"

### SCOPE OF SERVICES

This scope of work establishes the requirements for providing Concrete and Asphalt Maintenance Repair Services to the City of Corona. The Contractor is required to meet all specifications listed herein. The Contractor shall fully and timely provide all deliverables described herein in strict accordance with the terms, covenants, and conditions of the Agreement. Contractor shall provide all labor, materials, equipment and mobilization to complete the services per linear foot for the City of Corona per geographic locations.

#### Asphalt Maintenance Services:

- A. Saw cut and remove temporary asphalt. Installation of hot patch and provide any necessary striping.

##### Square Foot Increments

|                      |
|----------------------|
| 1 to 100 SQ. FT.     |
| 101 to 250 SQ. FT.   |
| 251 to 1,000 SQ. FT. |
| Over 1,000 SQ. FT.   |

##### Thickness Increments

|        |
|--------|
| 4 inch |
| 6 inch |
| 5 inch |
| 6 inch |
| 8 inch |

- B. Asphalt grinding 1/10 ft. with overlay and provide any necessary striping.

Contractor shall provide pricing in increments per square foot.

##### Square Foot Increments

|                    |
|--------------------|
| 0 to 1,000 sq. ft. |
| Over 1,000 sq. ft. |

- C. Crack sealing of existing asphalt cracks.

Contractor shall provide pricing in increments per linear foot.

##### Linear Increments

|                    |
|--------------------|
| 1 to 500 LF        |
| 501 to 1,000 LF    |
| 1,001 to 5,000 LF  |
| 5,001 to 10,000 LF |
| Over 10,000 LF     |

**D. Manhole grading.**

- Adjust existing manhole 1/8" – 1/4" above grade.
- Remove existing manhole ring & cover, replace with new (including pouring concrete collar if needed).
- Excavate buried manhole up to 2' and raise to grade (including pouring concrete collar if needed).

**Concrete Maintenance Services:**

1. Removal of existing concrete.
  2. Flat concrete, curb & gutter work. Slot patching as needed.
  3. Irrigation repairs within the concrete replacement areas as needed.
  4. Root pruning of tree roots within concrete replacement areas as needed.
  5. Contractor shall remove and legally dispose of all residues from maintenance services.
- A. Flat concrete work 4 inch thick to 6 inch thick – Saw cut, removal, form, pour and finish

Contractor shall provide pricing in increments per square foot.

|                    |
|--------------------|
| 1 to 100 SQ. FT.   |
| 101 to 250 SQ. FT. |
| Over 250 SQ. FT.   |

- B. Curb and Gutter – Saw cut, removal, form, pour and finish work

Contractor shall provide pricing in increments per linear foot

|               |
|---------------|
| 1 to 100 LF   |
| 101 to 250 LF |
| Over 251 LF   |

**Mandatory Requirements**

- All contractors and their sub-contractors shall wear Hard Hats, Safety Vests and Goggles at all work sites.
- Contractors shall require each of his employees to wear basic public works working attire. Contractors Employees shall to wear uniforms at all times when working on City property which clearly identifies to the public the name of the Contractor responsible for the maintenance services and the employee's name.

- Contractors shall park his vehicles and equipment to comply with all safety standards of OSHA or CAL-OSHA.
- The Contractor shall abide by the provisions of the latest edition of the Work Area Traffic Control Handbook.
- The Contractor shall promptly clean all job sites when work is completed, generated from their operations and follow all City of Corona Best Management Practices for National Pollutant Discharge Elimination System (NPDES) regulations. The City of Corona NPDES regulations may be accessed at this link:  
<http://www.discovercorona.com/City-Departments/Public-Works/Development-and-Permits/NPDES-Useful-Links.aspx>

## **EXHIBIT “B” SCHEDULE OF SERVICES**

Contractor shall perform the Services within the Term of this Agreement, in accordance with the Schedule of Services set forth in Exhibit “B” and in accordance with any other completion schedule or milestones which may be separately agreed upon in writing by the Parties. Contractor represents that it has the professional and technical personnel required to perform the Services in conformance with such conditions. In order to facilitate Contractor’s conformance with the Schedule, City shall respond to Contractor’s submittals in a timely manner. Upon request of City, Contractor shall provide a more detailed schedule of anticipated performance to meet the Schedule of Services.

### **Asphalt Maintenance Services**

Contractor shall respond with a crew to begin work for emergency asphalt maintenance services within 24 hours of the City of Corona notifying the Contractor.

Contractor shall begin work for routine requests for service within five (5) working days of the initial notification/request.

### **Concrete Maintenance Services**

Contractor shall respond with a crew to provide emergency concrete repairs within two (2) working days of the City of Corona making the request for emergency services.

Contractor shall respond to routine requests for service within five (5) working days of the initial notification/request.

### **Work Notification**

The City of Corona shall provide an email notification identifying routine requests for work at various locations in the city. All locations will be marked and measured by the City. There will be an average of 14 locations for each repair request. The City reserves the right to increase the number of locations for each repair request.

Permissible work hours are 7am to 5pm Monday through Friday excluding City observed holidays. Any deviations will need to be pre-approved by the project manager.

## EXHIBIT "C" COMPENSATION

PURSUANT TO SECTION 3.2.12 ABOVE Each individual call-out under this Agreement is a separate project for purposes of the City's bidding and purchasing requirements, including, but not limited to, its bond requirements provided for in Civil Code Section 9550(a), which mandates that the City require a payment bond for certain public work projects involving an expenditure in excess of \$25,000.

The successful Contractor shall provide a 100% payment bond for all individual call-out projects for which a project work order has been issued by the City in excess of \$25,000. The payment bond shall be completed with the payment bond form provided by the City.

Whenever a bond is required by the City for an individual call-out project, the Contractor will be able to include the costs of the bonds for that individual call-out.

The surety supplying the bond must be an admitted surety insurer, as defined in Code of Civil Procedure Section 995.120, authorized to do business as such in the State of California and satisfactory to the City. The Payment (Labor and Materials) Bond shall be for one hundred percent (100%) of the total individual call-out project price.

| Asphalt Maintenance Services - Three (3) inch thick - Schedule A |                     |           |                 |            |
|--|---------------------|-----------|-----------------|------------|
| ITEM NO.   | ITEM DESCRIPTION    | EST. QTY. | UNIT OF MEASURE | UNIT PRICE |
| 1  | 1 to 100 SQ. FT.    | 1         | Square Foot     | \$14.00    |
| 2  | 101 to 250 SQ. FT.  | 1         | Square Foot     | \$11.00    |
| 3  | 251 to 1000 SQ. FT. | 1         | Square Foot     | \$6.00     |
| 4  | Over 1000 SQ FT     | 1         | Square Foot     | \$5.50     |
| Total of Unit Prices   |                     |           |                 | \$36.50    |
| Asphalt Maintenance Services - Four (4) inch thick - Schedule B  |                     |           |                 |            |
| ITEM NO.   | ITEM DESCRIPTION    | EST. QTY. | UNIT OF MEASURE | UNIT PRICE |
| 1  | 1 to 100 SQ. FT.    | 1         | Square Foot     | \$16.00    |
| 2  | 101 to 250 SQ. FT.  | 1         | Square Foot     | \$12.00    |
| 3  | 251 to 1000 SQ. FT. | 1         | Square Foot     | \$7.00     |
| 4  | Over 1000 SQ FT     | 1         | Square Foot     | \$6.00     |
| Total of Unit Prices   |                     |           |                 | \$41.00    |

| <b>Asphalt Maintenance Services - Five (5) inch thick - Schedule C</b>                        |                         |                  |                        |                   |
|---|-------------------------|------------------|------------------------|-------------------|
| <b>ITEM NO.</b>   | <b>ITEM DESCRIPTION</b> | <b>EST. QTY.</b> | <b>UNIT OF MEASURE</b> | <b>UNIT PRICE</b> |
| 1   | 1 to 100 SQ. FT.        | 1                | Square Foot            | <b>\$17.00</b>    |
| 2   | 101 to 250 SQ. FT.      | 1                | Square Foot            | <b>\$12.50</b>    |
| 3   | 251 to 1000 SQ. FT.     | 1                | Square Foot            | <b>\$8.00</b>     |
| 4   | Over 1000 SQ FT         | 1                | Square Foot            | <b>\$7.00</b>     |
| Total of Unit Prices  |                         |                  |                        | <b>\$44.50</b>    |
| <b>Asphalt Maintenance Services - Six (6) inch thick - Schedule D</b>                         |                         |                  |                        |                   |
| <b>ITEM NO.</b>   | <b>ITEM DESCRIPTION</b> | <b>EST. QTY.</b> | <b>UNIT OF MEASURE</b> | <b>UNIT PRICE</b> |
| 1   | 1 to 100 SQ. FT.        | 1                | Square Foot            | <b>\$19.00</b>    |
| 2   | 101 to 250 SQ. FT.      | 1                | Square Foot            | <b>\$15.00</b>    |
| 3   | 251 to 1000 SQ. FT.     | 1                | Square Foot            | <b>\$10.00</b>    |
| 4   | Over 1000 SQ FT         | 1                | Square Foot            | <b>\$9.00</b>     |
| Total of Unit Prices  |                         |                  |                        | <b>\$53.00</b>    |
| <b>Asphalt Maintenance Services - Eight (8) inch thick - Schedule E</b>                       |                         |                  |                        |                   |
| <b>ITEM NO.</b>   | <b>ITEM DESCRIPTION</b> | <b>EST. QTY.</b> | <b>UNIT OF MEASURE</b> | <b>UNIT PRICE</b> |
| 1   | 1 to 100 SQ. FT.        | 1                | Square Foot            | <b>\$20.00</b>    |
| 2   | 101 to 250 SQ. FT.      | 1                | Square Foot            | <b>\$16.00</b>    |
| 3   | 251 to 1000 SQ. FT.     | 1                | Square Foot            | <b>\$11.00</b>    |
| 4   | Over 1000 SQ FT         | 1                | Square Foot            | <b>\$10.00</b>    |
| Total of Unit Prices  |                         |                  |                        | <b>\$57.00</b>    |
| <b>Asphalt grinding 1/10 ft. w/ overlay &amp; provide any necessary striping – Schedule F</b> |                         |                  |                        |                   |
| <b>ITEM NO.</b>   | <b>ITEM DESCRIPTION</b> | <b>EST. QTY.</b> | <b>UNIT OF MEASURE</b> | <b>UNIT PRICE</b> |
| 1   | 1 to 1,000 SQ. FT.      | 1                | Square Foot            | <b>\$6.60</b>     |
| 2   | Over 1,000 SQ. FT.      | 1                | Square Foot            | <b>\$3.40</b>     |
| Total of Unit Prices  |                         |                  |                        | <b>\$10.00</b>    |
| <b>Crack sealing of existing asphalt cracks – Schedule G</b>                                  |                         |                  |                        |                   |
| <b>ITEM NO.</b>   | <b>ITEM DESCRIPTION</b> | <b>EST. QTY.</b> | <b>UNIT OF MEASURE</b> | <b>UNIT PRICE</b> |
| 1   | 1 to 500 LF.            | 1                | Linear Foot            | <b>\$12.00</b>    |
| 2   | 501 to 1,000 LF.        | 1                | Linear Foot            | <b>\$4.00</b>     |
| 3   | 1,001 to 5,000 LF.      | 1                | Linear Foot            | <b>\$1.50</b>     |
| 4   | 5,001 to 10,000 LF.     | 1                | Linear Foot            | <b>\$1.00</b>     |
| 5   | Over 10,000 LF.         | 1                | Linear Foot            | <b>\$0.80</b>     |
| Total of Unit Prices  |                         |                  |                        | <b>\$19.30</b>    |

| Manhole Adjustment – Schedule H   |                    |           |                 |            |
|-----------------------------------|--------------------|-----------|-----------------|------------|
| ITEM NO.                          | ITEM DESCRIPTION   | EST. QTY. | UNIT OF MEASURE | UNIT PRICE |
| 1                                 | Manhole Adjustment | 1         | Each            | \$900.00   |
| Flat Concrete Work – Schedule I   |                    |           |                 |            |
| ITEM NO.                          | ITEM DESCRIPTION   | EST. QTY. | UNIT OF MEASURE | UNIT PRICE |
| 1                                 | 1 to 100 SQ. FT.   | 1         | Square Foot     | \$35.00    |
| 2                                 | 101 to 250 SQ. FT. | 1         | Square Foot     | \$18.00    |
| 3                                 | Over 250 SQ. FT.   | 1         | Square Foot     | \$15.00    |
| Total of Unit Prices              |                    |           |                 | \$68.00    |
| Curb and Gutter Work – Schedule J |                    |           |                 |            |
| ITEM NO.                          | ITEM DESCRIPTION   | EST. QTY. | UNIT OF MEASURE | UNIT PRICE |
| 1                                 | 1 to 100 LF.       | 1         | Linear Foot     | \$65.00    |
| 2                                 | 101 to 250 LF.     | 1         | Linear Foot     | \$55.00    |
| 3                                 | Over 250 LF.       | 1         | Linear Foot     | \$48.00    |
| Total of Unit Prices              |                    |           |                 | \$168.00   |
| Grand Total                       |                    |           |                 | \$1,397.30 |