



961 Embarcadero Del Mar
Isla Vista, CA 93117
(805) 928-2017

AGREEMENT/CONTRACT

IMPORTANT NOTICE:

- This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.
- No contractor or subcontractor may be awarded a contract for public work on a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5.
- As required by law, the Contractor shall pay all workers California prevailing wages for each trade or classification on the job during the term of this project. These rates include employer payments for health and welfare, pension, vacation, travel time, subsistence pay and apprenticeship or training.
- Contractors and subcontractors are required to submit certified payroll records (CPRs) to the Labor Commissioner using DIR's electronic certified payroll reporting system.
 - Additionally, awarding agencies are not required to submit the notice of contract award through DIR's PWC-100 system on projects that fall within the small project exemption. The small project exemption applies for all public works projects that do not exceed:
 - \$25,000 for new construction, alteration, installation, demolition or repair
 - \$15,000 for maintenance
- For registration and other detailed information about compliance, visit <http://www.dir.ca.gov/Public-Works/Contractors.html>

AGREEMENT

1. **Project Name.** *Little Acorn Park Fence*

2. **Project Location:**

901 El Embarcadero Rd, Isla Vista, CA 93117
Parcel number: 75-211-09-10-11

3. **Parties.**

Isla Vista Recreation and Park District (District)
961 Embarcadero Del Mar
Isla Vista, CA 93117 (650)
805-968-2017

District Representative:

Rodney Gould
Project Manager
805-968-2014 Ext 27
rgould@ivparks.com

Contractor Name: KWC Services, Inc.

License Type and Number: Lic# 961042 General Contractor

Address: 6268 Stow Canyon Road Goleta CA 93117

Phone: (805) 448-3444 / (805) 350-8466

Email: Mike Weidl mweidl@live.com

4. **Scope of Work. (Owner Revised Specifications 5-14-2019, Order Changes Request)**

Little Acorn Park: Standard type removal of the old wood fencing at designated site. Haul away & dispose of removed fence and associated debris (west property line). Construct 6’-ft. Dog-ear cedar fencing using galvanized steel post supports. Approximately one hundred, and eighty-two (182’-ft.) total lineal feet. Includes wages “fence builder (carpenter)” prevailing wages.

MATERIALS AND METHODS

Metal posts: 2” Galvanized Steel posts, set in 24” concrete footings at 8’-ft. maximum spacing, unless stated otherwise.

Rails: 2x4” Redwood (nominal) 2 each per section.

Face boards: 1x6 cedar board (5/8 width) attached to rails edges butted using air-driven stainless steel ring shank nails.

IMPORTANT NOTICE:

- Portions of this project are located in an active park. Contractor is responsible for facilitating temporary closures and keeping all pedestrian walkways and play areas free of debris to ensure public safety. Failure to do so may result in District executing the work at Contractor's expense.

5. Contract Price. (Owner Revised Specifications 5-14-2019, Order Changes Request)

Upon Acceptance of the Work by District Representative, District agrees to pay Contractor as full compensation for the Work, the sum of \$8,859.00 as submitted in Contractor's Bid proposal. Partial payment shall not constitute final Acceptance of the Work or relieve Contractor of any obligations hereunder.

6. Term.

The Term of this Agreement shall commence on the date of execution hereof by the District's General Manager and shall end upon formal written Acceptance of the Work by same. Either party may terminate this Agreement with or without cause by providing 14 days' notice in writing to the other party. The District may terminate this Agreement at any time without prior notice in the event that Contractor commits a material breach of the terms of this Agreement. If the District elects to terminate the Agreement, it shall pay Contractor for services satisfactorily provided up to the effective date of termination, except that the District may deduct from that payment the amount of any costs the District incurred as a result of any breach of the Agreement.

7. Beginning and Completion of Work. (Owner Revised Specifications 5-14-2019, Order Changes Request)

Contractor shall provide District Representative with evidence of all required certificates and licenses within three (3) calendar days of the commencement of the Term of this Agreement. Contractor agrees that the Work shall be fully completed to District Representative's satisfaction by **June 8, 2019** unless otherwise extended by written approval from District based on weather related delays. Working hours are 7am-5pm, Monday through Saturday except when extended in writing by the District Representative. Written permission may be requested by notifying the District Representative at least (1) working days in advance.

8. Extensions, Delays.

The District Representative shall have sole discretion in the approval or denial of Contract time extensions. The Contractor may make written request to the District Representative for an extension of time to complete the Contract promptly following an occurrence of any one or more of the following:

- (1) Delay due to work by the District.

- (2) Labor dispute beyond the Contractor's control that affects work progress.
- (3) A natural disaster that the District Representative concludes substantially damages completed work or stored material (provided the Contractor's neglect did not contribute to the damage).
- (4) Unusual Inclement Conditions if an extended inclement weather season causes contract work delay.

9. Indemnification.

A. Contractor agrees to indemnify, hold harmless, defend and protect the District, its officers, directors, agents and employees from any and all claims, losses, damages, demands, liabilities, suits, costs, expenses (including all reasonable attorney's fees), penalties, judgments or obligations whatsoever in connection with any injury, death, or damage to any person or property or pecuniary or monetary loss that results from, arises out of, or in any way relates to the activities of the Contractor both on and off the project site, including but not limited to claims related to the presence, use or disposal of hazardous materials, except for injury or damage resulting from the sole negligence or willful misconduct of the District.

B. In the event a claim is made against the Contractor, its officers, directors, agents and/or employees or any action concerning this Contract, the Contractor shall immediately notify the District.

C. In the event that an apportionment of liability between the District and the Contractor is made by the judge in a court of competent jurisdiction, neither the District nor the Contractor shall request that apportionment of liability be determined by a jury. The Contractor shall be responsible to indemnify and hold harmless the District as set forth above, unless the court determines that the injury or damage resulted from the sole negligence or intentional and willful misconduct of the District.

D. The Contractor hereby waives all claims and recourse against the District, including the right of contribution for loss or damage to property, and hereby releases the District from any liability related to or in any way connected to the Contractor's activities or the Contractor's use of the project site, premises or facilities.

E. The Contractor and its subcontractors shall have sole responsibility for the safety of their equipment, property and personnel (including, but not limited to, employees, agents and officers from any and all injuries, death or damages.

10. Insurance.

A. General Insurance Requirements

Contractor shall provide, and keep in full force and effect during the Term of this Agreement, at Contractor's sole expense, policies of insurance with companies licensed

to do business in the State of California that are acceptable to District for the Coverages as more particularly set forth below. Contractor shall keep all required policies in full force and effect until final acceptance of the Work by District. Contractor shall supply District with a Certificate Insurance with endorsement, naming the Isla Vista Recreation and Park District as additionally insured for each policy. The Certificates of Insurance must be on a primary non-contributing basis in relationship to any other insurance available to District. The Certificate is subject to approval by the District and the requirement must be satisfied before a Notice to Proceed will be issued. District reserves the right to cancel the contract if these requirements are not met within 5 calendar days of the Notice of Award.

B. Specific Insurance Requirements.

(a) Workers' Compensation Employer's Liability coverage as required by statute, in full compliance with California Labor Code §3700, and containing a waiver of subrogation in favor of District. Contractor hereby acknowledges having read and understood the provisions of the California Labor Code §3700, which require every employer to be insured against liability for workers' compensation or that they undertake self-insurance in accordance with the provisions of that code, and Contractor agrees to comply with such provisions before commencing the Work. Contractor has executed **Attachment E** – Labor Code §1861 Workers Compensation Certificate, attached hereto and incorporated herein.

(b) Comprehensive or Commercial General Liability, including coverage for Bodily Injury and Property Damage in the amount of \$1,000,000.00 per occurrence and \$2,000,000 aggregate for all covered losses.

(c) Business Automobile Liability insurance with coverage evidencing “any auto” and with limits of no less than \$1,000,000.00 per occurrence.

(d) Subcontractor(s) Insurance Requirements. Contractor shall either require each subcontractor to procure and maintain during the life of its subcontract all insurance of the type and in the amounts specified above or insure the activities of subcontractor(s) under its own policy or policies.

11. Licensing.

Contractor:

Contractor must possess an appropriate license that is current and valid at the commencement of and throughout the Term of this Agreement. The License required by this Agreement is a *Type C-13 - Fencing Contractor License or General Contractors License*

Subcontractors:

Contractor must set forth the name, address, phone number, type and cost of work, and proof of required license for each subcontractor who will perform work or render services in any amount exceeding one-half percent (1/2%) of the total bid according to provisions of the California Public Contract Code §4100 through §4113.

Contractor has executed **Attachment F -Subcontractors**, attached hereto and incorporated herein.

12. **Non-Collusion Affidavit.**

Pursuant to California Public Contract Code Section 7106, Contractor has executed **Attachment C - Non-Collusion Affidavit**, attached hereto and incorporated herein.

13. **Change Orders.**

The District reserves the right to require alterations, additions to and/or deletions from the Work. If the District Representative determines that a change ordered by the District causes an increase or decrease in the Contractor's costs or time required for completing the Contract, appropriate adjustments to the Contract price and/or time shall be made. The Contractor shall not be entitled to any compensation for extra work or time to finish the Contract without a written directive from the District Representative. Attached hereto and incorporated herein as **Attachment G-1**, "Proposed Change Order" and as **Attachment G-2**, "Change Order", are the sole permitted forms for making a valid change order amendment to this Agreement. Contractor must submit a Proposed Change Order and receive a fully executed Change Order before this Agreement may be deemed so amended.

14. **Contract Documents.**

This Agreement with all attachments and Specifications, incorporated herein by reference, constitute the "Contract Documents" and together represent the entire, integrated Agreement as to the Work contracted for between the parties.

15. **District Representative.**

During the term of this Agreement, District Representative or his or her designee, is fully authorized to represent the District in all contractual matters. District Representative shall make all decisions as to the intent of the proposed work; the amount and quality of work performed and/or materials furnished; the manner and rate of work performed; the fulfillment of the Contract; and any compensation due to the Contractor. Disputes or claims between the Contractor and the District arising from this Agreement valued at \$75,000.00 or less shall be governed by the claims resolution procedures of California Public Contract Code Section 20104 *et seq.* The District Representative has the authority to reject any Work or material that does not conform with Contract requirements and to stop any and all Work deemed necessary for such rejection at no cost to the District. The District Representative is authorized to require Contractor to immediately correct any unsafe or unsuitable condition to the District Representative's satisfaction at the Contractor's expense.

The District Representative may furnish additional instructions needed for the proper execution of the Work. The District Representative has the authority to require minor field adjustments in the Work not involving extra cost. Contractor shall not modify contract items without the District Representative's approval.

16. Examination of Site and Contract Documents.

A. Fully informed execution of Agreement. By signing this Agreement, Contractor acknowledges having examined the Work site, compared the site with the Plans and Specifications, determined any site variations that affect the bid, and investigated the conditions of existing clearance, restrictions or limitations that affect access to the work. Contractor's failure to do any of the above shall not become a basis for a claim to additional monies or for an extension of time for performance hereunder. No allowance shall be made on behalf of the Contractor due to neglect, failure or error in acquainting itself with the project or any and all of the Contract Documents.

B. Contractor's Notice to Subcontractors. The Contractor's failure to provide all subcontractors with all information received during the pre-bid period shall not become a basis for monetary claim, extension of time, or change to Contract requirements.

17. Safety and Public Convenience.

The Contractor shall be responsible for initiating, maintaining and supervising suitable safety precautions and programs. All Work shall conform to the requirements of the California Administrative Code, Title 8, Industrial Relations, Division of Industrial Safety. The Contractor alone shall be responsible for responding to and final satisfaction of any and all claims of personal injury or property damage and for the violation of any safety or health laws. Contractor shall at all times ensure the least possible obstruction to traffic and other inconvenience to the general public.

18. Fire Hazards and Prevention.

Contractor shall be responsible for any fire ignited by the Contractor, employees, subcontractors, or equipment. Employees shall not be allowed to start fires. No open flames shall be permitted.

19. Protection of Work and Property.

The Contractor shall protect from damage or loss Contractor's work and existing District, private or public improvements or resources including vegetation, pathways, roadways, utilities, structures, and utilities not designated for removal. The Contractor shall repair or provide replacement for any such damage or loss to the satisfaction of the District Representative, at no cost to the District.

20. Equal Employment and Affirmative Action.

The Contractor and its subcontractors will comply with all applicable state equal employment opportunity and affirmative action laws throughout the term of this Agreement.

The Contractor hereby certifies that it will not unlawfully discriminate in its employment with regard to race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, sex, sexual orientation, or age; that all federal, state and local directives and executive orders regarding non-discrimination in employment will be complied with; and that the principle of equal opportunity in employment will be demonstrated positively and aggressively.

21. Prevailing Wages.

As required by law, the Contractor shall pay all workers California prevailing wages for each trade or classification on the job during the term of this Agreement. These rates include employer payments for health and welfare, pension, vacation, travel time, subsistence pay and apprenticeship or training. Prevailing wages and other important information is available on line at <http://www.dir.ca.gov/Public-Works/Contractors.html>

22. Inspection.

A. District Access. The District and its duly authorized agent(s) shall have unrestricted access to the Work whether it is in preparation or in progress. The District and its duly authorized agent(s) shall at all times reserve the right to inspect and/or test for compliance with the Contract Documents any or all materials and/or work provided to or installed in the Work. The Contractor shall provide safe and proper facilities for access and inspection.

23. Final Inspection and Acceptance of Work; Punch List.

A. When the Work is complete, Contractor shall request District Representative to make a final inspection of the Work. District shall make the final inspection within three (3) business days of such request. If the District determines that the Work has been completed and is acceptable, the District Representative shall formally Accept the Work in writing. Upon acceptance, the Contractor shall be relieved of maintaining and protecting the work unless specified otherwise. If the District determines that the Work is not complete or is unacceptable, the Contractor shall be notified in writing of the deficiencies and the Contractor shall again initiate the procedure for final inspection after such deficiencies are corrected.

B. The Work may be substantially completed and Accepted with a “punch” list, as determined by the District Representative. The punch list items must be completed prior to receiving final payment unless otherwise agreed in writing.

24. Notice.

Any notice required or desired to be given under this Agreement shall be in writing and may be given by (i) depositing such notice in the United States mail, registered or certified, return receipt requested, postage prepaid, addressed to a party at its address set forth above; (ii) transmitting such notice by means of Federal Express or similar overnight commercial

courier (“Courier”), postage paid and addressed to the other at its street address set forth below, or (iii) by personal delivery. Any notice given by Courier shall be deemed given on the date shown on the signed delivery receipt. Either party may, by written notice, change the address to which notices addressed to it shall thereafter be sent.

25. Miscellaneous.

A. Should any provision of this Agreement prove to be invalid or illegal, such invalidity or illegality shall in no way affect, impair or invalidate any other provision hereof, and such remaining provisions shall remain in full force and effect.

B. Any executed copy of this Agreement shall be deemed an original for all purposes.

C. This Agreement may be executed in counterparts, which counterparts shall together constitute one agreement if signed by both parties.

D. This Agreement shall be construed and enforced in accordance with the laws of the State of California.

E. The language of this Agreement shall be construed as a whole according to its fair meaning, and not strictly for or against either party.

F. Capitalized terms refer to the definition provided with its first usage in the Agreement. **H.** When the context of this Agreement requires, the neuter gender includes the masculine, the feminine, a partnership or corporation, trust or joint venture, and the singular includes the plural.

G. The terms “shall,” “will,” “must” and “agree” are mandatory. The term “may” is permissive.

H. When a party is required to do something by this Agreement, it shall do so at its sole cost and expense without right to reimbursement from the other party unless specific provision is made otherwise.

I. Where any party is obligated not to perform any act, such party is also obligated to restrain any others within its control from performing such act, including its agents, invitees, contractors, subcontractors and employees.

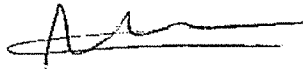
J. No responsibility either direct or implied will be assumed by the District for omissions or duplications to the Contractor or any subcontractors due to real or alleged error in arrangement of material in the Contract Documents.

Signature Page

Contractor:

Name and Title: KWC Services, Inc. Date: 05/19/19

(Please type or print)

Signature: 

Date Federal Employer I.D. Number: 45-2523296

License Number Expiration Date: 05/31/19

Fully executed at Isla Vista, California:

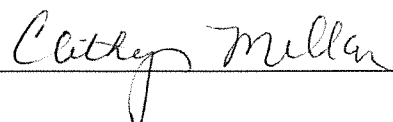
Isla Vista Recreation and Park District

Rodney Gould, General Manager

Signature:  Date: 5/29/19

Attest:

Cathleen Millar, District Clerk

Signature:  Date: 5/29/19

LIST OF SUBCONTRACTORS

(To be executed by Bidder and Submitted with Bid)

Contractor must set forth the name, address, phone number, type and cost of work, and proof of required license for each subcontractor who will perform work or render services in any amount exceeding one-half percent (1/2%) of the total bid according to provisions of the California Public Contract Code §4100 through §4113. Each subcontractor must be licensed by the State of California Department of Consumer Affairs for the portion of work they perform in accordance with Contractor's License Law. Please attach as many sheets as necessary.

Company Name: _____
Contact: _____
Address: _____
Phone Number: _____
Type of Work: _____
Cost of Work: _____
Required License Type and Number: _____

Company Name: _____
Contact: _____
Address: _____
Phone Number: _____
Type of Work: _____
Cost of Work: _____
Required License Type and Number: _____

Proposed Change Order

Proposed Change Order No. 1

Project: Little Acorn Park Fence Date Proposed: 05/11/19

Contractor: KWC Services, Inc.

The following Change is being considered for the Project. Contractor shall quote on this "Proposed Change Order" form, a proposed amendment to the Contract Price and to the Contract Term which would be required if the District were to order the proposed Change. **THIS DOCUMENT IS NOT AN ORDER FOR CHANGES TO THE CONTRACT.**

Describe Change here or attach description:

Per paragraph 13 of the main agreement we request the following changes to the contract:

Adjust KWC Services, Inc. contract to match the length of the fence - KWC will add 18 lineal feet to the contract to reflect the actual length of fence to be installed at \$48.00 per lineal foot

Fence boards to be 1x6x5/8 dog ear cedar, delete the 1x8x7/8 cedar - NO COST FACTOR

Add \$75.00 for stainless steel ring shank nail spec

Completion date to be adjusted to anticipated completion date by 06/08/19 - NO COST FACTOR

See Accompanying Change Order #1

District Representative: [Signature] General Manager 5/14/19
Signature Name/Title Date

Change Orders

Change Order No.1_____

Project Little Acorn Park Fence**Contractor** KWC Services, Inc.**Contract No.** Little Acorn Park Fence**Purchase Order No.** IVPRD**Date of Issue** 05/11/19

Contractor is directed to, and hereby agrees to, proceed promptly with the specific changes to the Work attached hereto and incorporated herein, in conformity with the Contract Documents:

The ADDITIONAL CHARGE or DEDUCTION for the above work	\$ 939.00	
The original Contract Sum was	\$ 7920.00	
Net change by previous Change Orders	\$ 0.00	
The Contract Sum prior to this Change Order was	\$ 7920.00	
The Contract Sum will be INCREASED by	\$ 939.00	
The new Contract Sum including this Change Order will be	\$ 8859.00	
The Contract Time will be increased by	13	days
The Completion Date as of the date of this Change Order is	06/08/19	

Contractor: KWC Services, IncDate: 05/11/19

District Representative: _____

Date: 5/14/19

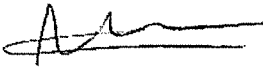
Attachment C

NON-COLLUSION AFFIDAVIT (To be executed by Bidder and Submitted with Bid)

State of California

County of Santa Barbara

(Name of party bidding) KWC Services, Inc., under penalty of perjury, deposes and says that he or she is of, the party making the foregoing bid that the bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the bid is genuine and not collusive or sham; that the bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that the bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the bid are true; and, further, that the bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid.

Signature:  Title: Secy Date: 5/19/19

Workers' Compensation Certificate

CA Labor Code 1861. Section 3700

I am aware of the provisions of Section 3700 of the CA 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 I will comply with such provisions before commencing the performance of the work of this contract.

[http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=LAB§ionNum=3700.](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=LAB§ionNum=3700)

Signature: _____ Date: _____