

## CITY OF MENIFEE

### CONTRACTOR AGREEMENT

#### CIP 19-16: LAZY CREEK RECREATION CENTER FURNITURE & INSTALLATION SERVICES

THIS CONTRACTOR AGREEMENT ("Agreement") is made and effective this \_\_\_\_\_ day of \_\_\_\_\_, 2021 ("Effective Date") by and between the CITY OF MENIFEE, a California municipal corporation, ("City") and **PACIFIC OFFICE INTERIORS**, a California S Corporation ("Contractor"). City and Contractor may sometimes herein be referred to individually as a "Party" and collectively as the "Parties."

#### SECTION 1. SERVICES.

Subject to the terms and conditions set forth in this Agreement, Contractor shall provide to City the services described in the Scope of Services, attached hereto as Exhibit A and incorporated herein by this reference (the "Services"). Contractor will perform subsequent task orders as requested by the Contract Administrator (as defined below), in accordance with the Scope of Services. In the event of a conflict in or inconsistency between the terms of this Agreement and Exhibit A, this Agreement shall prevail.

1.1 Term of Services. The term of this Agreement shall begin on **November 17, 2021** and shall end on **June 30, 2022** unless the term of this Agreement is otherwise terminated or extended as provided for in Section 8. The time provided to Contractor to complete the Services required by this Agreement shall not affect City's right to terminate this Agreement, as provided for in Section 8.

1.2 Standard of Performance. Contractor represents and warrants that Contractor is a provider of first class work and services and Contractor is experienced in performing the Services contemplated herein and, in light of such status and experience, Contractor shall perform the Services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which Contractor is engaged in the geographical area in which Contractor practices its profession and to the sole satisfaction of the Contract Administrator.

1.3 Assignment of Personnel. Contractor shall assign only competent personnel to perform the Services pursuant to Agreement. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires the reassignment of any such persons, Contractor shall, immediately upon receiving notice from City of such desire of City, reassign such person or persons.

1.4 Time. Contractor shall devote such time to the performance of the Services pursuant to this Agreement as may be reasonably necessary to satisfy Contractor's obligations hereunder.

1.5 Authorization to Perform Services. Contractor is not authorized to perform any of the Services or incur any costs whatsoever under the terms of this Agreement until receipt of authorization from the Contract Administrator.

1.6 Covid-19 Safety. If Contractor enters City property or meets in person with City employees during the performance of the Services, Consultant shall comply with all State, County, and local emergency orders, directives, protocols, and best practices related to the COVID-19 pandemic, including, but not limited to: (A) wearing facial coverings, (B) maintaining adequate physical distancing when possible, (C) regular hand washing, and (D) regular hand sanitizing.

## **SECTION 2. COMPENSATION.**

City hereby agrees to pay Contractor a sum not to exceed **ONE HUNDRED THIRTY THOUSAND DOLLARS AND ZERO CENTS DOLLARS (\$130,000.00)** notwithstanding any contrary indications that may be contained in Contractor's proposal, for the Services to be performed and reimbursable costs incurred under this Agreement. In the event of a conflict between this Agreement and Exhibit A, regarding the amount of compensation, this Agreement shall prevail. City shall pay Contractor for the Services rendered pursuant to this Agreement at the time and in the manner set forth herein. The payments specified below shall be the only payments from City to Contractor for the Services rendered pursuant to this Agreement. Contractor shall submit all invoices to City in the manner specified herein. Except as specifically authorized in advance by City, Contractor shall not bill City for duplicate services performed by more than one person.

2.1 Invoices. Contractor shall submit invoices monthly during the term of this Agreement, based on the cost for the Services performed and reimbursable costs incurred prior to the invoice date. Invoices shall contain the following information:

- a. Serial identifications of progress bills; i.e., Progress Bill No. 1 for the first invoice, etc.;
- b. The beginning and ending dates of the billing period;
- c. A "Task Summary" containing the original contract amount, the amount of prior billings, the total due this period, the balance available under this Agreement, and the percentage of completion;
- d. At City's option, for each item in each task, a copy of the applicable time entries or time sheets shall be submitted showing the name of the person performing the Services, the hours spent by each person, a brief description of the Services, and each reimbursable expense;
- e. The total number of hours of work performed under this Agreement by Contractor and each employee, agent, and subcontractor of Contractor performing the Services hereunder necessary to complete the Services described in Exhibit A;
- f. Receipts for expenses to be reimbursed;

g. The Contractor Representative's signature

Invoices shall be submitted to:

City of Menifee  
Attn: Accounts Payable  
29844 Haun Road  
Menifee, CA 92586

2.2 Monthly Payment. City shall make monthly payments, based on invoices received, for the Services satisfactorily performed, and for authorized reimbursable costs incurred. City shall have thirty (30) days from the receipt of an invoice that complies with all of the requirements above to pay Contractor.

2.3 Final Payment. City shall pay the last five percent (5%) of the total amount due pursuant to this Agreement within sixty (60) days after completion of the Services and submittal to City of a final invoice, if all of the Services required have been satisfactorily performed.

2.4 Total Payment. City shall not pay any additional sum for any expense or cost whatsoever incurred by Contractor in rendering the Services pursuant to this Agreement. City shall make no payment for any extra, further, or additional service pursuant to this Agreement.

In no event shall Contractor submit any invoice for an amount in excess of the maximum amount of compensation provided above either for a task or for the entirety of the Services performed pursuant to this Agreement, unless this Agreement is modified in writing prior to the submission of such an invoice.

2.5 Hourly Fees. Fees for the Services performed by Contractor on an hourly basis shall not exceed the amounts shown on the fee schedule included with Exhibit A.

2.6 Reimbursable Expenses. Reimbursable expenses are included within the maximum amount of this Agreement.

2.7 Payment of Taxes. Contractor is solely responsible for the payment of employment taxes incurred under this Agreement and any federal or state taxes.

2.8 Payment upon Termination. In the event that City or Contractor terminates this Agreement pursuant to Section 8, City shall compensate Contractor for all outstanding costs and reimbursable expenses incurred for Services satisfactorily completed and for reimbursable expenses as of the date of written notice of termination. Contractor shall maintain adequate logs and timesheets in order to verify costs and reimbursable expenses incurred to that date.

### **SECTION 3. FACILITIES AND EQUIPMENT.**

Except as otherwise provided, Contractor shall, at its sole cost and expense, provide all facilities and equipment necessary to perform the services required by this Agreement. In no event shall City be required to furnish any facility that may involve incurring any direct expense,

including but not limited to computer, long-distance telephone or other communication charges, vehicles, and reproduction facilities.

#### **SECTION 4. INSURANCE REQUIREMENTS.**

Before beginning any work under this Agreement, Contractor, at its own cost and expense, shall procure the types and amounts of insurance checked below and provide Certificates of Insurance, indicating that Contractor has obtained or currently maintains insurance that meets the requirements of this section and which is satisfactory, in all respects, to City. Contractor shall maintain the insurance policies required by this section throughout the term of this Agreement. The cost of such insurance shall be included in Contractor's compensation. Contractor shall not allow any subcontractor, consultant, or other agent to commence work on any subcontract until Contractor has obtained all insurance required herein for the subcontractor(s) and provided evidence thereof to City. Verification of the required insurance shall be submitted and made part of this Agreement prior to execution. Contractor acknowledges the insurance policy must cover inter-insured suits between City and other Insureds.

4.1 Workers' Compensation. Contractor shall, at its sole cost and expense, maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Contractor pursuant to the provisions of the California Labor Code. Statutory Workers' Compensation Insurance and Employer's Liability Insurance shall be provided with limits of not less than ONE MILLION DOLLARS (\$1,000,000.00) per accident, ONE MILLION DOLLARS (\$1,000,000.00) disease per employee, and ONE MILLION DOLLARS (\$1,000,000.00) disease per policy. In the alternative, Contractor may rely on a self-insurance program to meet those requirements, but only if the program of self-insurance complies fully with the provisions of the California Labor Code. Determination of whether a self-insurance program meets the standards of the California Labor Code shall be solely in the discretion of the Contract Administrator. The insurer, if insurance is provided, or Contractor, if a program of self-insurance is provided, shall waive all rights of subrogation against City and its officers, officials, employees, and authorized volunteers for loss arising from the Services performed under this Agreement.

4.2 Commercial General and Automobile Liability Insurance.

a. Commercial General Liability. Contractor, at its own cost and expense, shall maintain commercial general liability insurance for the term of this Agreement on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than TWO MILLION DOLLARS (\$2,000,000.00) per occurrence. If a general aggregate limit is used, either the general aggregate limit shall apply separately to the Services to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from the Services contemplated under this Agreement.

b. Automobile Liability. Contractor, at its own cost and expense, shall maintain automobile liability insurance for the term of this Agreement covering any auto (Code

1), or if Contractor has no owned autos, hired (Code 8), and non-owned autos (Code 9), with limit no less than ONE MILLION DOLLARS (\$1,000,000.00) per occurrence, combined single limit coverage, for risks associated with the Services contemplated by this Agreement, TWO MILLION DOLLARS (\$2,000,000.00) general aggregate, and TWO MILLION DOLLARS (\$2,000,000.00) products/completed operations aggregate. If an Automobile Liability Insurance form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the Services to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from the Services contemplated under this Agreement, including the use of hired, owned, and non-owned automobiles.

c. Minimum scope of coverage. Commercial general coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 0001. Automobile coverage shall be at least as broad as Insurance Services Office Automobile Liability form CA 0001 Code 2, 8, and 9. No endorsement shall be attached limiting the coverage.

d. Additional requirements. Each of the following shall be included in the insurance coverage or added as a certified endorsement to the policy:

a. The insurance shall cover on an occurrence or an accident basis, and not on a claims-made basis.

b. Any failure of Contractor to comply with reporting provisions of the policy shall not affect coverage provided to City and its officers, employees, agents, and volunteers.

#### 4.3 DOES NOT APPLY TO CIP 19-16: LAZY CREEK RECREATION CENTER FURNITURE & INSTALLATION SERVICES

#### 4.4 All Policies Requirements.

a. Acceptability of insurers. All insurance required by this Section is to be placed with insurers with a Bests' rating of no less than A:VII and admitted in California.

b. Verification of coverage. Prior to beginning the Services under this Agreement, Contractor shall furnish City with Certificates of Insurance, additional insured endorsement or policy language granting additional insured status complete certified copies of all policies, including complete certified copies of all endorsements. All copies of policies and certified endorsements shall show the signature of a person authorized by that insurer to bind (**CIP 19-16: LAZY CREEK RECREATION CENTER FURNITURE & INSTALLATION SERVICES**). The name and address for Additional Insured endorsements, Certificates of Insurance and Notice of Cancellation is: City of Menifee, 29844 Haun Road, Menifee, CA 92586. City must be endorsed as an additional insured for liability arising out of ongoing and completed operations by or on behalf of Contractor..

c. Notice of Reduction in or Cancellation of Coverage. Contractor shall provide written notice to City within ten (10) working days if: (1) any of the required insurance

policies is terminated; (2) the limits of any of the required policies are reduced; or (3) the deductible or self insured retention is increased.

d. Additional insured; primary insurance. City and its officers, employees, agents, and authorized volunteers shall be covered as additional insureds with respect to each of the following: liability arising out of the Services performed by or on behalf of Contractor, including the insured's general supervision of Contractor; products and completed operations of Contractor, as applicable; premises owned, occupied, or used by Contractor; and automobiles owned, leased, or used by Contractor in the course of providing the Services pursuant to this Agreement. The coverage shall contain no special limitations on the scope of protection afforded to City or its officers, employees, agents, or authorized volunteers. The insurance provided to City as an additional insured must apply on a primary and non-contributory basis with respect to any insurance or self-insurance program maintained by City. Additional insured status shall continue for one (1) year after the expiration or termination of this Agreement or completion of the Services.

A certified endorsement must be attached to all policies stating that coverage is primary insurance with respect to City and its officers, officials, employees, and volunteers, and that no insurance or self-insurance maintained by City shall be called upon to contribute to a loss under the coverage.

e. Deductibles and Self-insured Retentions. Contractor shall obtain the written approval of City for the self-insured retentions and deductibles before beginning any of the Services.

During the term of this Agreement, only upon the prior express written authorization of the Contract Administrator, Contractor may increase such deductibles or self-insured retentions with respect to City, its officers, employees, agents, and volunteers. The Contract Administrator may condition approval of an increase in deductible or self-insured retention levels with a requirement that Contractor procure a bond guaranteeing payment of losses and related investigations, claim administration, and defense expenses that is satisfactory in all respects to each of them.

f. Subcontractors. Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and certified endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

g. Variation. The Contract Administrator may, but is not required to, approve in writing a variation in the foregoing insurance requirements, upon a determination that the coverage, scope, limits, and forms of such insurance are either not commercially available, or that City's interests are otherwise fully protected.

4.5 Remedies. In addition to any other remedies at law or equity City may have if Contractor fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may, at its sole option, exercise any of the following remedies, which are alternatives to other remedies City may have and are not the exclusive remedy for Contractor's breach:

- a. Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under this Agreement;
- b. Order Contractor to stop work under this Agreement or withhold any payment that becomes due to Contractor hereunder, or both stop work and withhold any payment, until Contractor demonstrates compliance with the requirements hereof; and/or
- c. Terminate this Agreement.

## **SECTION 5. INDEMNIFICATION.**

To the fullest extent permitted by law, Contractor shall indemnify, protect, defend (with counsel selected by City), and hold harmless City, and any and all of its officers, employees, officials, volunteers, and agents from and against any and all claims, losses, costs, damages, expenses, liabilities, liens, actions, causes of action (whether in tort, contract, under statute, at law, in equity, or otherwise) charges, awards, assessments, fines, or penalties of any kind (including reasonable consultant and expert fees and expenses of investigation, costs of whatever kind and nature and, if Contractor fails to provide a defense for City, the legal costs of counsel retained by City) and any judgment, where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, the performance of this Agreement by Contractor or by any individual or entity for which Contractor is legally liable, including but not limited to officers, agents, employees or subcontractors of Contractor.

The provisions of this Section 5 do not apply to claims occurring as a result of City's sole or active negligence. The provisions of this Section 5 shall not release City from liability arising from gross negligence or willful acts or omissions of City or any and all of its officers, officials, employees, and agents acting in an official capacity.

## **SECTION 6. STATUS OF CONTRACTOR.**

6.1 Independent Contractor. At all times during the term of this Agreement, Contractor shall be an independent contractor and shall not be an employee of City. City shall have the right to control Contractor only insofar as the results of the Services rendered pursuant to this Agreement and assignment of personnel pursuant to Subparagraph 1.3; however, otherwise City shall not have the right to control the means by which Contractor accomplishes the Services rendered pursuant to this Agreement. The personnel performing the Services under this Agreement on behalf of Contractor shall at all times be under Contractor's exclusive direction and control. Contractor shall not at any time or in any manner represent that it or any of its officers, employees, or agents is in any manner officers, officials, employees, or agents of City. Contractor shall not incur or have the power to incur any debt, obligation, or liability whatever against City, or bind City in any manner. Except for the fees paid to Contractor as provided in this Agreement, City shall not pay salaries, wages, or other compensation to Contractor for performing the Services hereunder for City. City shall not be liable for compensation or indemnification to Contractor for injury or sickness arising out of performing the Services hereunder. Notwithstanding any other City, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Contractor and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to any compensation, benefit, or any incident of employment by City,

including but not limited to eligibility to enroll in the California Public Employees Retirement System ("PERS") as an employee of City and entitlement to any contribution to be paid by City for employer contributions and/or employee contributions for PERS benefits.

## **SECTION 7. LEGAL REQUIREMENTS.**

7.1 Governing Law. The laws of the State of California shall govern this Agreement.

7.2 Compliance with Applicable Laws. Contractor and any subcontractor shall comply with all applicable local, state, and federal laws and regulations applicable to the performance of the work hereunder. Contractor shall not hire or employ any person to perform work within City or allow any person to perform the Services required under this Agreement unless such person is properly documented and legally entitled to be employed within the United States. Any and all work subject to prevailing wages, as determined by the Director of Industrial Relations of the State of California, will be the minimum paid to all laborers, including Contractor's employee and subcontractors. It is understood that it is the responsibility of Contractor to determine the correct scale. The State Prevailing Wage Rates may be obtained from the California Department of Industrial Relations ("DIR") pursuant to California Public Utilities Code, Sections 465, 466, and 467 by calling 415-703-4774. Appropriate records demonstrating compliance with such requirement shall be maintained in a safe and secure location at all times, and readily available at City's request. Contractor shall indemnify, defend, and hold City and its elected and appointed boards, members, officials, officers, agents, representatives, employees, and volunteers harmless from and against any liability, loss, damage, cost or expenses (including but not limited to reasonable attorneys' fees, expert witness fees, court costs, and costs incurred related to any inquiries or proceedings) arising from or related to (i) the noncompliance by Contractor or any party performing the Services of any applicable local, state, and/or federal law, including, without limitation, any applicable federal and/or state labor laws (including, without limitation, the requirement to pay state prevailing wages and hire apprentices); (ii) the implementation of Section 1781 of the Labor Code, as the same may be amended from time to time, or any other similar law; and/or (iii) failure by Contractor or any party performing the Services to provide any required disclosure or identification as required by Labor Code Section 1781, as the same may be amended from time to time, or any other similar law. It is agreed by the Parties that, in connection with performance of the Services, including, without limitation, any and all public works (as defined by applicable law), Contractor shall bear all risks of payment or non-payment of prevailing wages under California law and/or the implementation of Labor Code Section 1781, as the same may be amended from time to time, and/or any other similar law. Contractor acknowledges and agrees that it shall be independently responsible for reviewing the applicable laws and regulations and effectuating compliance with such laws. Contractor shall require the same of all subcontractors.

7.3 Licenses and Permits. Contractor represents and warrants to City that Contractor and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required to practice their respective professions. Contractor represents and warrants to City that Contractor and its employees, agents, and subcontractors shall, at their sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals that are legally required to practice their respective professions. In addition to the foregoing, Contractor and any subcontractors shall obtain and maintain during the term of this Agreement valid Business Licenses from City.



## **SECTION 8. TERMINATION AND MODIFICATION.**

8.1 Termination. City may cancel this Agreement at any time and without cause upon written notification to Contractor.

8.2 Termination by Contractor. Contractor may cancel this Agreement upon 30 days' written notice to City.

8.3 Consequences of Termination. In the event of termination, Contractor shall be entitled to compensation for the Services performed up to the date of termination; City, however, may condition payment of such compensation upon Contractor delivering to City any or all documents, photographs, computer software, video and audio tapes, and other materials provided to Contractor or prepared by or for Contractor or City in connection with this Agreement.

8.4 Extension. City may, in its sole and exclusive discretion, extend the end date of this Agreement beyond that provided for in Subsection 1.1. Any such extension shall require a written amendment to this Agreement, as provided for herein. Contractor understands and agrees that, if City grants such an extension, City shall have no obligation to provide Contractor with compensation beyond the maximum amount provided for in this Agreement. Similarly, unless authorized by the Contract Administrator, City shall have no obligation to reimburse Contractor for any otherwise reimbursable expenses incurred during the extension period.

8.5 Amendments. The Parties may amend this Agreement only by a writing signed by all the Parties.

8.6 Assignment and Subcontracting. City and Contractor recognize and agree that this Agreement contemplates personal performance by Contractor and is based upon a determination of Contractor's unique personal competence, experience, and specialized personal knowledge. Moreover, a substantial inducement to City for entering into this Agreement was and is the professional reputation and competence of Contractor. Contractor may not assign this Agreement or any interest therein without the prior written approval of the Contract Administrator. Contractor shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors noted in Contractor's proposal, without prior written approval of the Contract Administrator. In the event that key personnel leave Contractor's employ, Contractor shall notify City immediately.

8.7 Survival. All obligations arising prior to the expiration or termination of this Agreement and all provisions of this Agreement allocating liability between City and Contractor shall survive the expiration or termination of this Agreement.

8.8 Options upon Breach by Contractor. If Contractor materially breaches any of the terms of this Agreement, City's remedies shall include, but not be limited to, any or all of the following:

- a. Immediately terminate this Agreement;
- b. Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Contractor pursuant to this Agreement;

c. Retain a different Contractor to complete the Services described in Exhibit A; and/or

d. Charge Contractor the difference between the cost to complete the Services described in Exhibit A that is unfinished at the time of breach and the amount that City would have paid Contractor pursuant to Section 2 if Contractor had completed the Services.

## **SECTION 9. KEEPING AND STATUS OF RECORDS.**

9.1 Records Created as Part of Contractor's Performance. All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form that Contractor prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of City. Contractor hereby agrees to deliver those documents to City upon the expiration or termination of this Agreement. It is understood and agreed that the documents and other materials, including but not limited to those described above, prepared pursuant to this Agreement are prepared specifically for City and are not necessarily suitable for any future or other use. Any use of such documents for other projects by City shall be without liability to Contractor. City and Contractor agree that, until final approval by City, all data, plans, specifications, reports, and other documents are confidential and will not be released to third parties without prior written consent of both Parties unless required by law.

### **9.2 DOES NOT APPLY TO STREET SWEEPING.**

9.3 Contractor's Books and Records. Contractor shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for the Services or expenditures and disbursements charged to City under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to Contractor under this Agreement. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible.

9.4 Inspection and Audit of Records. Any records or documents that Section 9.3 of this Agreement requires Contractor to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of City. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds TEN THOUSAND DOLLARS (\$10,000.00), this Agreement shall be subject to the examination and audit of the State Auditor, at the request of City or as part of any audit of City, for a period of three (3) years after final payment under this Agreement.

## **SECTION 10. MISCELLANEOUS PROVISIONS.**

10.1 Attorneys' Fees. If either Party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing Party shall be entitled to reasonable attorneys' fees and expenses including costs, in addition to any other relief to which that Party may be entitled; provided, however, that the attorneys' fees awarded pursuant to this Section shall not exceed the hourly rate paid by City for legal services multiplied by the reasonable number of hours spent by the prevailing Party in the conduct of the

litigation. The court may set such fees in the same action or in a separate action brought for that purpose.

10.2 Applicable Law; Venue. The internal laws of the State of California shall govern the interpretation and enforcement of this Agreement. In the event that either Party brings any action against the other under this Agreement, the Parties agree that trial of such action shall be vested exclusively in Riverside County.

10.3 Severability. If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.

10.4 Section Headings and Subheadings. The section headings and subheadings contained in this Agreement are included for convenience only and shall not limit or otherwise affect the terms of this Agreement.

10.5 No Implied Waiver of Breach. The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.

10.6 Successors and Assigns. The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the Parties.

10.7 Contractor Representative. All matters under this Agreement shall be handled for Contractor by Lindsay Anderson ("Contractor's Representative"). The Contractor's Representative shall have full authority to represent and act on behalf of 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.

10.8 City Contract Administration. This Agreement shall be administered by a City employee, Bryce Howell, Parks/Landscape Maintenance Manager ("Contract Administrator"). All correspondence shall be directed to or through the Contract Administrator or his designee. The Contract Administrator shall have the power to act on behalf of City for all purposes under this Agreement. Unless otherwise provided in this Agreement, Contractor shall not accept direction or orders from any person other than the Contract Administrator or his designee.

10.9 Notices. Any written notice to Contractor shall be sent to:

PACIFIC OFFICE INTERIORS  
ATTN: Lindsay Anderson  
5304 DERRY AVE. SUITE U  
AGOURA HILLS, CA 91301

Any written notice to City shall be sent to the Contract Administrator at:

City of Menifee  
29844 Haun Road  
Menifee, CA 92586  
Attn: Bryce Howell, Parks/Landscape Maintenance Manager

with a copy to:

City Clerk  
City of Menifee  
29844 Haun Road  
Menifee, CA 92586

**10.10 DOES NOT APPLY TO CIP 19-16: LAZY CREEK RECREATION CENTER  
FURNITURE & INSTALLATION SERVICES**

10.11 Rights and Remedies. Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the Parties are cumulative and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other Party.

10.12 Integration. This Agreement, including the scope of services attached hereto and incorporated herein as Exhibit A, represents the entire and integrated agreement between City and Contractor and supersedes all prior negotiations, representations, or agreements, either written or oral. The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either Party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

10.13 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

10.14 Execution of Contract. The persons executing this Agreement on behalf of each of the Parties hereto represent and warrant that (i) such Party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said Party, (iii) by so executing this Agreement, such Party is formally bound to the provisions of this Agreement, and (iv) that entering into this Agreement does not violate any provision of any other Agreement to which said Party is bound.

10.15 Nondiscrimination. Contractor covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that in the performance of this Agreement there shall be no discrimination against or segregation of, any person or group of persons on account of any impermissible classification including, but not limited to, race, color, creed, religion, sex, marital status, sexual orientation, national origin, or ancestry.

10.16 No Third Party Beneficiaries. With the exception of the specific provisions set forth in this Agreement, there are no intended third-party beneficiaries under this Agreement and no such other third parties shall have any rights or obligations hereunder.

10.17 Nonliability of City Officers and Employees. No officer, official, employee, agent, representative, or volunteer of City shall be personally liable to Contractor, or any successor in interest, in the event of any default or breach by City or for any amount which may become due to Contractor or to its successor, or for breach of any obligation of the terms of this Agreement.

10.18 No Undue Influence. Contractor declares and warrants that no undue influence or pressure is used against or in concert with any officer or employee of City in connection with the award, terms or implementation of this Agreement, including any method of coercion, confidential financial arrangement, or financial inducement. No officer or employee of City shall receive compensation, directly or indirectly, from Contractor, or from any officer, employee, or agent of Contractor, in connection with the award of this Agreement or any work to be conducted as a result of this Agreement.

10.19 No Benefit to Arise to City Employees. No member, officer, or employee of City, or their designees or agents, and no public official who exercises authority over or has responsibilities with respect to this Agreement during his/her tenure or for one (1) year thereafter, shall have any interest, direct or indirect, in any agreement or sub-agreement, or the proceeds thereof, for the Services to be performed under this Agreement.

[Signatures on Following Page]

IN WITNESS WHEREOF, the Parties hereto have executed and entered into this Agreement as of the Effective Date.

**CITY OF MENIFEE**

**CONTRACTOR**

\_\_\_\_\_  
Armando G. Villa, City Manager

\_\_\_\_\_  
Lindsay Anderson, Job Captain

Attest:

\_\_\_\_\_  
Sarah A. Manwaring, City Clerk

\_\_\_\_\_  
Stacy Fowler, Controller

Approved as to Form:

[Note: 2 officer's signatures required if Contractor is a corporation]

\_\_\_\_\_  
Jeffrey T. Melching, City Attorney

## **EXHIBIT A**

### **SCOPE OF SERVICES**

Contractor shall provide Furniture and Installation Services for CIP 19-16: Lazy Creek Recreation Center in the amount not to exceed **ONE HUNDRED THIRTY THOUSAND DOLLARS AND ZERO CENTS DOLLARS (\$130,000.00)** as further detailed in the following page(s).

# BUDGET

PROJECT NUMBFR	BUDGET DATED	EXPIRES
11350	11/9/2021	12/9/2021

PRESENTED FOR  
**Maritsa Ramirez**  
 City of Menifee  
 Lazy Creek Recreational Center  
 29844 Haun Road  
 Menifee, CA 92586

PRESENTED BY  
**Lindsay Anderson**  
 Pacific Office Interiors  
 5304 Derry Ave., Suite U  
 Agoura Hills, CA 91301

## BUILDING A

### RECEPTION (01)

1	14 weeks	Reception Desk	Element Reception Desk w/transactional counter	\$ 3,440.00	\$ 3,440.00
1	2 weeks	Task Chair	Novo Task Chair w/Height Adjustable Arms - Priced in Grade 3 Fabric	\$ 266.77	\$ 266.77
2	2 weeks	Lounge Chairs	Envoi Lounge Chair - Price in Grade 3 Fabric	\$ 648.61	\$ 1,297.22
1	10 weeks	2 Seater Lounge	Uptown 2-Seater Sofa w/Power - Priced in Grade 3 Fabric	\$ 2,036.16	\$ 2,036.16
1	10 weeks	Coffee Table	Kosa Oval Coffee Table - 36" x 22"	\$ 494.93	\$ 494.93
				<b>SUBTOTAL</b>	<b>\$ 7,535.08</b>

### OFFICE (02)

1	12 weeks	L-Shaped Desk	Staks L-Shaped Desk with storage and height adjustable table base	\$ 3,326.05	\$ 3,326.05
1	4 weeks	Workstations/Benching (30" x 60")	Prise Single Sided Benching (non height adjustable) - 3 users <b>*see alternate below*</b>	\$ 2,343.13	\$ 2,343.13
4	2 weeks	Task Chairs	Novo Task Chair w/Height Adjustable Arms - Priced in Grade 3 Fabric	\$ 266.77	\$ 1,067.08
1	2 weeks	Open Work Table	Tensor Table - Laminate Top w/Metal Base (30" x 72")	\$ 365.94	\$ 365.94
				<b>SUBTOTAL</b>	<b>\$ 7,102.20</b>

### TECH ROOM (03)

2	10 weeks	Bar Height Tables	Eleven Wood Bar Height Table (96" x 36" x 42"H)	\$ 3,139.00	\$ 6,278.00
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4	6 weeks	Power Modules	Power Modules for Bar Height Tables (2 per table)	\$ 548.25	\$ 2,193.00
12	2 weeks	Bar Height Stools	Mika Wire Rod Stool - Plastic Shell *see alternate below*	\$ 167.61	\$ 2,011.32
4	2 weeks	Lounge Chairs	Envoi Lounge Chair - Price in Grade 3 Fabric	\$ 648.61	\$ 2,594.44
1	10 weeks	Coffee Table	Kosa Oval Coffee Table - 36" x 22"	\$ 494.93	\$ 494.93
1	6 weeks	Whiteboard	Wall Mounted - 32" x 48"	\$ 205.11	\$ 205.11
1	6 weeks	Tackboard (Bulletin Board)	Wall Mounted Tackboard - 36" x 48" Priced in Grade B Fabric	\$ 325.64	\$ 325.64
			<b>SUBTOTAL</b>		<b>\$ 14,102.44</b>
<b>MULTI-PURPOSE ROOM #3 (04)</b>					
4	2 weeks	Ottomans	Nano Diamond Shape Ottoman - Price in Grade 3 Fabric	\$ 282.68	\$ 1,130.72
2	15 weeks	3 Seater Lounge	Uptown 3-Seater Sofa w/Power - Priced in Grade 3 Fabric	\$ 2,556.31	\$ 5,112.62
2	2 weeks	Lounge Chairs	Envoi Lounge Chair - Price in Grade 3 Fabric	\$ 648.61	\$ 1,297.22
1	6 weeks	Tackboard (Bulletin Board)	Wall Mounted Tackboard - 36" x 48" Priced in Grade B Fabric	\$ 325.64	\$ 325.64
1	10 weeks	Table Tennis Table	Riff Table Tennis	\$ 3,952.13	\$ 3,952.13
3	10 weeks	Bar Height Tables	Eleven Wood Bar Height Table (96" x 36" x 42"H)	\$ 3,139.00	\$ 9,417.00
12	2 weeks	Bar Height Stools	Mika Wire Rod Stool - Plastic Shell *see alternate below*	\$ 167.61	\$ 2,011.32
			<b>SUBTOTAL</b>		<b>\$ 23,246.65</b>
<b>BUILDING B</b>					
<b>MULTI-PURPOSE ROOM #1 (13)</b>					
6	2 weeks	6' Rectangluar Training Table	Ocala Desk - Flip Top (30" x 72")	\$ 360.64	\$ 2,163.84
5	5 weeks	60" Round Tables	Jive Collaborative Tables - 60" Round on Casters. These are <b>not</b> flip top.	\$ 455.55	\$ 2,277.75
50	2 weeks	Stacking Chairs	Sprout Wire Rod Plastic Chair *see alternates below*	\$ 76.22	\$ 3,811.00
1	2 weeks	Stacking Chair Rack	Stacking Rack for Seating	\$ 147.63	\$ 147.63
			<b>SUBTOTAL</b>		<b>\$ 8,400.22</b>
<b>MULTI-PURPOSE ROOM #2 (14)</b>					
6	2 weeks	6' Rectangluar Training Table	Ocala Desk - Flip Top (30" x 72")	\$ 360.64	\$ 2,163.84
5	5 weeks	60" Round Tables	Jive Collaborative Tables - 60" Round on Casters. These are <b>not</b> flip top.	\$ 455.55	\$ 2,277.75



50	2 weeks	Stacking Chairs	Sprout Wire Rod Plastic Chair <b>*see alternates below*</b>	\$ 76.22	\$ 3,811.00
1	2 weeks	Stacking Chair Rack	Stacking Rack for Seating	\$ 147.63	\$ 147.63
				<b>SUBTOTAL</b>	<b>\$ 8,400.22</b>
<b>OUTDOOR PATIO (#18)</b>					
6	4 weeks	Outdoor Tables w/Seating 4	Demi-Sec 30" Square Table	\$ 1,011.50	\$ 6,069.00
24	8 weeks	Outdoor Patio Chairs	Sole Outdoor Chair	\$ 104.75	\$ 2,514.00
				<b>SUBTOTAL</b>	<b>\$ 8,583.00</b>
				Product Total	\$ 92,216.24
				Estimated Design Services	\$ 3,780.00
				Estimated Project Management Services	\$ 1,575.00
				Estimated Delivery and Installation	TBD
				Sales Tax (8.75%)	\$ 8,537.48
			<b>TOTAL EST. PROJECT COST</b>	<b>\$</b>	<b>106,108.72</b>
Thank You for Your Business.					
Pacific Office Interiors   5304 Derry Ave., Suite U Agoura Hills, CA 91301   (818) 735-0333   poi.bz					
<b>ALTERNATES</b>					
1	2 weeks	Stacking Chairs	Mika Wire Rod - Plastic Shell Only	\$ 112.11	\$ 112.11
1	2 weeks	Stacking Chairs	Mika Wire Rod - Plastic Shell w/Seat Pad in Grade 3 Fabric	\$ 165.39	\$ 165.39
1	2 weeks	Bar Height Stools	Mika Wire Rod - Plastic Shell w/Seat Pad in Grade 3 Fabric	\$ 217.56	\$ 217.56
1	12 weeks	Benching Stations	Height Adjustable Benching Solution w/privacy screens and mobile pedestal for each user - 4 users	\$ 7,107.90	\$ 7,107.90
1	9 weeks	Lounge Chair	Cosima Lounge Chair - Priced in Grade 3 Fabric	\$ 1,501.13	\$ 1,501.13
1	10 weeks	Round Tables	60" Round Tables w/Casters	\$ 1,098.65	\$ 1,098.65
1	6 weeks	Table Tennis Table	Table Tennis	\$ 10,206.80	\$ 10,206.80
1	14 weeks	Stackable Outdoor Table	31.5" Moon Square Table	\$ 391.64	\$ 391.64
1	4 weeks	Rectangular Training Table	36" x 72" Flip Top Training Table	\$ 755.88	\$ 755.88
1	2 weeks	Rectangular Training Table	30" x 60" Flip Top Training Table	\$ 333.75	\$ 333.75
1	14 weeks	Outdoor Tables w/Seating 4	Cortina Stackable 30" x 48" Rectangular Table	\$ 991.43	\$ 991.43
1	8 weeks	Mobile Power Module	USB / Receptacle Plug	\$ 149.21	\$ 149.21
1	8 weeks	Power Supply Tower	Mobile Power Supply Tower	\$ 604.15	\$ 604.15
1	8 weeks	Lounge Chair	Gogo Lounge Chair - priced in Grade 3 Fabric	\$ 764.51	\$ 764.51



1	8 weeks	2 Seater Lounge	Gogo 2-Seater Sofa - priced in Grade 3 Fabric	\$ 1,047.53	\$ 1,047.53
1	10 weeks	Lounge Chair	Uptown Lounge Chair w/Power	\$ 1,622.57	\$ 1,622.57
1	10 weeks	2 Seater Lounge	Uptown 2-Seater Sofa w/Power	\$ 2,036.16	\$ 2,036.16
1	10 weeks	3 Seater Lounge	Uptown 3-Seater Sofa w/Power	\$ 2,556.31	\$ 2,556.31
1	9 weeks	Two-Seater Sofa	Cosima 2-Seater Sofa - Priced in Grade 3 Fabric	\$ 2,021.43	\$ 2,021.43
1	9 weeks	3-Seater Sofas	Cosima 3-Seater Sofa - Priced in Grade 3 Fabric	\$ 2,513.35	\$ 2,513.35
<b>NON CONTRACT ALTERNATES FOR OUTDOOR</b>					
1	16 weeks	Outdoor Dining Chair	Stampa Dining Chair	\$ 927.06	\$ 927.06
1	12 weeks	Outdoor Dining Chair	Bai Dining Chair - 4 Leg Base	\$ 532.35	\$ 532.35
1	12 weeks	Outdoor Dining Table	Torno Dining Table	\$ 1,032.35	\$ 1,032.35

Delivery and installation costs not reflected in itemized quote above, included in overall contract amount.

**RESOLUTION NO. 21-XXX**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENIFEE, CALIFORNIA,  
AMENDING THE FISCAL YEAR 2021/22 OPERATING BUDGET**

**WHEREAS**, the City of Menifee, California adopted a budget for the fiscal year 2021/22 with Resolution No. 21-1033 on June 2<sup>nd</sup>, 2021; and

**WHEREAS**, from time to time the City of Menifee receives unanticipated revenues, experiences unanticipated expenditures, and/or identifies alternative funding sources; and

**WHEREAS**, it is in the best interest of the citizens of the City of Menifee to allocate budget resources to continue the operations of the City of Menifee; and

**WHEREAS**, the City Council of the City of Menifee needs to amend the fiscal year 2021/22 budget as follows:

**AMENDMENTS TO ADOPTED BUDGET:**

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Quimby Fund 620 Adopted FY 2021/22 Revenue Budget: \$42,000

<b>CITY COUNCIL MEETING</b>	<b>DESCRIPTION</b>	<b>ACCOUNT #</b>	<b>AMOUNT</b>
		<b>TOTAL:</b>	<b>\$0</b>

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Amended Quimby Fund 620 Fund FY 2021/22 Revenue Budget: \$42,000

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Quimby Fund 620 Adopted FY 2021/22 Expenditure Budget: \$50,000

2. Record Appropriation(s):

<b>CITY COUNCIL MEETING</b>	<b>DESCRIPTION</b>	<b>ACCOUNT #</b>	<b>AMOUNT</b>
October 6, 2021	FY20/21 Budget Carry-Overs	620-xxxx-xxxxx	<b>\$295,885.79</b>
<b>November 3, 2021</b>	<b>CIP 17-01: Evans Park Design (Pump Track)</b>	<b>620-4555-58052</b>	<b>\$56,138</b>
<b>November 17, 2021</b>	<b>CIP 19-16: Lazy Creek Recreation Center (Furniture)</b>	<b>620-4555-58082</b>	<b>\$30,000</b>
		<b>TOTAL:</b>	<b>\$382,023.79</b>

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Amended Quimby Fund 620 FY 2021/22 Expenditure Budget: \$432,023.79

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Amending the Fiscal Year 2021/22 Quimby Fund 620 Budget  
Lazy Creek Recreation Center Furniture

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3. Record Transfer of Funds:

FROM ACCOUNT #	TO ACCOUNT #	AMOUNT
	<b>TOTAL:</b>	0

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NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MENIFEE DOES HEREBY RESOLVE AS FOLLOWS:

The annual budget for the Quimby Fund 620 for the City of Menifee for fiscal year 2021/22 is hereby increased and amended to reflect unanticipated revenues and expenditures as follows:

Revenues:

Quimby Fund 620 FY 2021/22 Budget	<u>\$40,000</u>
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Expenditures:

<b>CIP 19-16: Lazy Creek Recreation Center (Furniture)</b>	\$30,000
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Amended Quimby Fund 620 FY 2021/22 Budget	<u>\$432,023.79</u>
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**PASSED, APPROVED AND ADOPTED** this 17<sup>th</sup> day of November 2021.

\_\_\_\_\_  
Bill Zimmerman, Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Sarah A. Manwaring, City Clerk

\_\_\_\_\_  
Jeffrey T. Melching, City Attorney