

AGREEMENT

between

THE CITY OF COCONUT CREEK

and

POTTER'S PROFESSIONAL LAWN CARE, INC (PRIMARY FOR FACILITIES & PARKS)

(SECONDARY FOR MEDIANS & RIGHTS-OF-WAY)

for

LANDSCAPE MAINTENANCE SERVICES

RFP NO. 09-04-19-09

THIS AGREEMENT is made and entered into this 24th day of October, 2019 by and between the City of Coconut Creek, a municipal corporation, with principal offices located at 4800 West Copans Road, Coconut Creek, FL 33063 (the "City") and Potter's Professional Lawn Care, Inc. with offices located at 377 SW 14th Avenue, Pompano Beach, FL 33069 (the "Vendor") to provide Landscape Maintenance Services pursuant to RFP No. 09-04-19-09.

Now therefore, in consideration of the mutual covenants hereinafter set forth, the City and Vendor agree as follows:

1) The Contract Documents

The contract documents consist of this Agreement, conditions of the contract of RFP No. 09-04-19-09, all addenda issued prior to execution of this Agreement, and any subsequent properly executed amendments to any of the aforementioned documents. These contract documents form the Agreement, and all are as fully a part of the Agreement if attached to this Agreement or repeated herein. In the event of a conflict between the aforementioned documents, this Agreement will control, followed by the RFP documents, and addenda, in that order.

2) The Work

The Vendor shall perform all work for the City required by the contract documents and RFP No. 09-04-19-09, as set forth below:

- a) Vendor shall furnish all labor, materials, and equipment necessary as indicated in the specifications herein.
- b) Vendor shall supervise the work force to ensure that all workers conduct themselves and perform their work in a safe and professional manner. Vendor shall comply with all OSHA safety rules and regulations in the operation of equipment and in the performance of the work. Vendor shall at all times have a competent supervisor on the job site to enforce these policies and procedures at the Vendor's expense.
- c) Vendor shall provide the City with seventy-two (72) hours written notice prior to the beginning of work under this Agreement and prior to any schedule change with the exception of changes caused by inclement weather.
- d) Vendor shall comply with any and all Federal, State, and local laws and regulations now in effect, or hereinafter enacted during the term of this Agreement, which are applicable to the Vendor, its employees, agents or subcontractors, if any, with respect to the work and

services described herein. The Vendor/Contractor further warrants that there has been no violation of copyrights or patent rights either in the United State of America or in foreign countries in connection with the work of the contract.

- e) The Primary Vendor shall be the initial firm contacted by the City. The Secondary Vendor will be utilized in instances where the scope of the event merits additional resources to assist the Primary Contractor, or if the Primary Contractor is unavailable.

3) **Contract Price**

The Agreement shall be performed in current funds with pricing pursuant to Exhibit "A" - Schedule of Proposal Prices and as per the approved budget.

4) **Contract Term**

Vendor shall enter into a six (6) month probationary period beginning November 1, 2019. The initial Agreement period shall be for four (4) years commencing on November 1, 2019.

5) **Contract Extension**

The City reserves the right to extend the Agreement for two (2) additional one (1) year periods, providing both parties agree to the extension; all the terms, conditions and specifications remain the same; and such extension is approved by the City. Vendor shall give written notice to the City not less than ninety (90) days prior to renewal date of any adjustment in the initial Contract amount. Agreement renewal shall be based on satisfactory performance, mutual acceptance, and determination that the Contract is in the best interest of the City.

In the event services are scheduled to end because of the expiration of this contract, the Vendor shall continue the service upon the request of the Contract Administrator. The extension period shall not extend for more than ninety (90) days beyond the expiration date of the existing contract. The Vendor shall be compensated for the service at the rate(s) in effect when the City invokes this extension clause.

6) **Conditions for Emergency/Hurricane or Disaster**

It is hereby made a part of this agreement that before, during and after a public emergency, disaster, hurricane, flood or other substantial loss that the City of Coconut Creek shall require a "first priority" basis for goods and services. It is vital and imperative that the majority of citizens are protected from any emergency situation which threatens public safety and health, as determined by the City Manager. Awarded Vendor/Contractor agrees to rent/sell/lease all goods and services to the City or other governmental entities, as opposed to a private citizen or corporation, on a first priority basis. The City expects to pay a fair and reasonable price for all products/services in the event of a disaster, emergency or hurricane. Awarded Vendor/Contractor shall furnish a twenty-four (24) hour telephone number in the event of such an emergency.

7) **Independent Contractor**

This Agreement does not create an employee/employer relationship between the Parties. It is the intent of the Parties that the Vendor/Contractor is an independent Vendor/Contractor under this Agreement and not the City's employee for any purposes, including but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, the State Worker's Compensation Act, and the State Unemployment Insurance law. The Vendor/Contractor shall retain sole and absolute discretion in the judgment of the manner and means of carrying out Vendor's/Contractor's activities and responsibilities hereunder provided, further that administrative procedures applicable to services

rendered under this Agreement shall be those of Vendor/Contractor, which policies of Vendor/Contractor shall not conflict with City, State, or United States policies, rules or regulations relating to the use of Vendor's/Contractor's funds provided for herein. The Vendor/Contractor agrees that it is a separate and independent enterprise from the City, that it had full opportunity to find other business, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the work. This Agreement shall not be construed as creating any joint employment relationship between the Vendor/Contractor and the City and the City will not be liable for any obligation incurred by Vendor/Contractor, including but not limited to unpaid minimum wages and/or overtime premiums.

8) Assignment and Subcontracting

No assignment of this Agreement or any right occurring under this Agreement shall be made, in whole or in part, by the Vendor/Contractor without the express written consent of the City Commission which consent shall not be unreasonably withheld. In the event of any assignment, the assignee shall assume the rights, duties and responsibilities of the Vendor/Contractor.

9) Notice

Whenever either party desires or is required under this Agreement to give notice to any other party, it must be given by written notice, sent by registered United States mail, with return receipt requested, addressed to the party for whom it is intended at the following addresses. Notice shall be deemed received by the party for whom it is intended after the USPS certified mail process is completed and/or hand delivery.

CITY

City Manager
City of Coconut Creek
4800 West Copans Road
Coconut Creek, FL 33063
With a copy to the City Attorney at the same address.

VENDOR

Nina S. Potter Fernandez, President
Potter's Professional Lawn Care, Inc.
377 SW 14th Avenue
Pompano Beach, FL 33069
Phone: 954-946-7544
Fax: 954-943-2819
Email: nina@potterslawn.com

10) Agreement Subject to Funding

This Agreement shall remain in full force and effect only as long as the expenditures provided for in the Agreement have been appropriated by the City Commission of the City of Coconut Creek in the annual budget for each fiscal year of this Agreement, and is subject to termination without any penalty due to lack of funding.

11) Venue

This Agreement shall be governed by the laws of the State of Florida as now and hereafter in force. The venue for actions arising out of this Agreement is situated exclusively in the Seventeenth Judicial Circuit Court in and for Broward County, Florida or the United States District Court for the Southern District of Florida.

12) **Signatory Authority**

The Vendor shall provide the City with copies of requisite documentation evidencing that the signatory for Vendor has the authority to enter into this Agreement.

13) **Severability; Waiver of Provisions**

Any provision in this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provisions in any other jurisdiction. The non-enforcement of any provision by either party shall not constitute a waiver of that provision nor shall it affect the enforceability of that provision or of the remainder of this Agreement.

14) **Merger; Amendment**

This Agreement constitutes the entire Agreement between the Vendor and the City, and negotiations and oral understandings between the parties are merged herein. This Agreement can be supplemented and/or amended only by a written document executed by both the Vendor and the City.

15) It is acknowledged that each party to this Agreement had the opportunity to be represented by counsel in the preparation of this Agreement and accordingly the rule that a contract shall be interpreted strictly against the party preparing same shall not apply herein due to the joint contributions of both parties.

REMAINDER OF PAGE LEFT INTENTIONALLY BLANK

IN WITNESS WHEREOF, the parties have made and executed this Agreement on the respective dates under each signature. CITY OF COCONUT CREEK, through its City Manager or designee and Potter's Professional Lawn Care, Inc., signing by and through Nina S. Potter Fernandez, President duly authorized to execute same.

CITY OF COCONUT CREEK

ATTEST:

Karen M Brooks 10/29/19
Karen M. Brooks, City Manager Date

Leslie Wallace May 10/29/19
Leslie Wallace May Date
City Clerk

Approved as to form and legal sufficiency:

Terrill C. Pyburn 10/28/19
Terrill C. Pyburn, City Attorney Date

[Vendor's Signature to Follow]

VENDOR

ATTEST:

[Handwritten Signature]

(Corporate Secretary)

POTTER'S PROFESSIONAL LAWN CARE INC

Company Name

[Handwritten Signature]

Signature of President/Owner

10/12/19
Date

NINA S POTTER REYNOLDS

Type/Print Name of Corporate Secy.

NINA S POTTER REYNOLDS

Type/Print Name of President/Owner

(CORPORATE SEAL)



CORPORATE ACKNOWLEDGEMENT

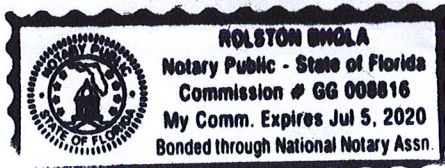
STATE OF FLORIDA:

:SS

COUNTY OF Polk

I HEREBY CERTIFY that on this day, before me, an Officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, personally appeared NINA S POTTER REYNOLDS of POTTER'S PROFESSIONAL LAWN CARE INC a FLORIDA Corporation, to me known to be the person(s) described in and who executed the foregoing instrument and acknowledged before me that he/she executed the same.

WITNESS my hand and official seal this 12 day of October, 2019.



[Handwritten Signature]

Signature of Notary Public
State of Florida at Large

Rolston Btola

Print, Type or Stamp
Name of Notary Public

- Personally known to me or
- Produced Identification

Type of I.D. Produced

- DID take an oath, or
- DID NOT take an oath.

CITY OF COCONUT CREEK
LANDSCAPE MAINTENANCE SERVICES
RFP NO. 09-04-19-09

EXHIBIT "A" SCHEDULE OF PROPOSAL PRICES

POTTER'S LAWN & LANDSCAPING (POTTER'S PROFESSIONAL LAWN CARE, INC)		
PRIMARY AWARD - FACILITIES & PARKS	UOM	UNIT
1.Landscape Maintenance Facilities & Parks	Per Month	\$ 43,352.00
2.Landscape Maintenance Facilities & Parks	Annual	\$ 520,224.00
3.Windmill Dog Parks - total of two (2) parks.	Each	\$ 500.00
4.Windmill Dog Parks -total of two (2) parks	Annual	\$ 16,000.00
SECONDARY AWARD - MEDIANS	UOM	UNIT
5.Landscape Maintenance: Medians	Per Month	\$ 32,671.00
6.Landscape Maintenance: Medians	Annual	\$ 392,052.00
7.Maintenance of 441 Median South of Sawgrass - When completed	Per Month	\$ 150.00
8.Maintenance of 441 Median South of Sawgrass - When completed	Annual	\$ 1,800.00
9.ADDITIONAL SERVICE AS NEEDED	UOM	UNIT
9.1.Sod Installation (St. Augustine)	Sq. Ft.	\$ 0.75
9.2.Sod Installation (Bahia)	Sq. Ft.	\$ 0.75
9.3.Additional Mowing including blowing, edging, weed whacking, etc.	Per acre	\$ 120.00
9.4.Tree Removal (up to 15' height)	Per tree	\$ 125.00
9.5.Tree Removal (> 15'to 30' height)	Per tree	\$ 425.00
9.6.Tree Removal (> 30' height)	Per tree	\$ 925.00
9.7.Tree Trimming / Shaping: Shade Trees - Canopy spread up to 10 ft.	Per tree	\$ 25.00
9.8.Tree Trimming / Shaping: Shade Trees - Canopy spread > 10 ft. to 25 ft.	Per tree	\$ 85.00
9.9.Tree Trimming / Shaping: Shade Trees - Canopy spread > 25 ft.	Per tree	\$ 150.00
9.10.Re-stand Trees	Per tree	\$ 175.00
9.11.Additional Fertilization	Sq. Ft.	\$ 0.00
9.12.Additional Pest Control	Sq. Ft.	\$ 0.00
9.13.Additional Mulch - Installed	Cu. Yd.	\$ 60.00
9.14.Storm Debris Removal - includes hauling disposal	Cu. Yd.	\$ 35.00
9.15.Hedging	Linear Ft.	\$ 0.30
9.16.Plant Installation - three (3) crew members	Hour	\$ 90.00
9.17.Weed Spraying	Hour	\$ 35.00
9.18.Irrigation Maintenance Technician	Hour	\$ 65.00