

SECTION I GENERAL TERMS AND CONDITIONS

THESE INSTRUCTIONS ARE STANDARD FOR ALL BID COMMODITIES/SERVICES ISSUED BY THE CITY OF COCONUT CREEK. THE CITY OF COCONUT CREEK MAY DELETE, SUPERSEDE OR MODIFY ANY OF THESE STANDARD INSTRUCTIONS FOR A PARTICULAR CONTRACT BY INDICATING SUCH CHANGE IN SPECIAL INSTRUCTIONS TO BIDDERS OR IN THE BID SHEETS. ANY AND ALL SPECIAL TERMS AND CONDITIONS THAT MAY VARY FROM THE GENERAL TERMS AND CONDITIONS SHALL HAVE PRECEDENCE. BIDDER AGREES THAT THE PROVISIONS INCLUDED WITHIN THIS INVITATION FOR BIDS SHALL PREVAIL OVER ANY CONFLICTING PROVISION WITHIN ANY STANDARD FORM CONTRACT OF THE BIDDER REGARDLESS OF ANY LANGUAGE IN BIDDER'S CONTRACT TO THE CONTRARY.

INSTRUCTIONS TO BIDDERS:

1. **Defined Terms**

Terms used in this contract document are defined and have the meaning assigned to them. The City will use the following definitions in its general terms and conditions, special terms and conditions, technical specifications, instructions to bidders, addenda and any other document used in the bidding process. The terms may be used interchangeably by the City: IFB or RFP; Bid or Proposal; Bidder, Proposer, or Seller; Contractor or Consultant; Contract, Award, Agreement or Purchase Order.

Bid: A price and terms quote received in response to an IFB.

Bidder: Person or firm submitting a bid directly to the City as distinct from a sub-contractor, who submits a bid to the Bidder.

City: Refers to the City of Coconut Creek, a municipal corporation of the State of Florida.

Change Order: A written signed and approved document by the City Manager or designee ordering a change in the contract price or contract time or a material change in work.

Contractor: Successful Bidder or Proposer who is awarded a purchase order, award contract, blanket purchase order agreement, or term contract to provide goods or services to the City. Also referred to as the "Successful Bidder".

Contract: A deliberate verbal or written agreement between two (2) or more competent parties to perform or not to perform a certain act or acts, including all types of

agreements, regardless of what they may be called, for the procurement or disposal of equipment, materials, supplies, services or construction. Contract shall be inclusive of the term "Agreement" unless stated otherwise.

Contract Administrator: The City will designate a Contract Administrator whose principle duties shall be liaison with awarded Proposer, coordinate all work under the contract, assure consistency and quality of awarded Proposer's performance, and schedule and conduct Contractor performance evaluations, and review and route for approval all invoices for work performed or items delivered.

Consultant: Successful Bidder or Proposer who is awarded a contract to provide professional services to the City.

First Ranked Proposer: That Proposer, responding to a City RFP, whose proposal is deemed by the City, the most advantageous to the City after applying the evaluation criteria contained in the RFP.

Invitation for Bids (IFB): When the City is requesting bids from qualified Bidders.

Proposer: Person or firm submitting a proposal.

Proposal: A proposal received in response to an RFP.

Request for Proposals (RFP): When the City is requesting proposals from qualified Proposers.

Responsible Bidder: A person who has the capability in all respects to perform in full the contract requirements, as stated in the bid

document, and the integrity and reliability that will assure good faith performance.

Responsive Bidder: A person whose bid conforms in all material respects to the terms and conditions included in the bid document.

Seller: Successful Bidder or Proposer who is awarded a purchase order or contract to provide goods or services to the City.

Successful Bidder: means the best, qualified, responsible and responsive Bidder to whom the City (on the basis of City's evaluation as hereinafter provided) makes an award

2. Cone of Silence

2.1 "Cone of Silence" means a prohibition on any communication regarding a particular Request for Proposals (RFP), Request for Qualifications (RFQ), Invitation for Bid (IFB), or other competitive solicitation between:

- (a) Any person who seeks an award therefrom, including a potential vendor or vendor's representative, and
- (b) The City Commission, City Attorney, City Manager, and all City employees, and any non-employees appointed to evaluate or recommend selection in such procurement process.

The Cone of Silence shall not apply to communications with the Procurement Official to obtain clarification or information concerning the subject solicitation. Any such contact with anyone other than the Procurement Official may be considered grounds for disqualification. The City shall not be responsible for oral interpretations given by any City employee or its representative. For purposes of this section, "vendor's representative" means an employee, partner, director, or officer of a potential vendor, or consultant, lobbyist, or actual or potential subcontractor or subconsultant of a vendor, or any other individual acting through or on behalf of any person seeking an award.

2.2 The Cone of Silence shall be applicable to each RFP, RFQ, IFB, or other competitive solicitation during the solicitation and review of responses. At

the time of issuance of the solicitation, the Procurement Official shall include in any advertisement and public solicitation for goods and services a statement disclosing the requirements of this section.

2.3 The Cone of Silence shall terminate at the time the City awards or approves a contract, votes to reject all bids or responses, or otherwise takes action which ends the solicitation and review process.

2.4 Nothing contained herein shall prohibit any potential vendor or vendor's representative from:

- (a) Making public presentations at duly noticed pre-bid conferences or at meetings before a duly noticed Selection Committee;
- (b) Communicating with the City Commission during any duly noticed public meeting;
- (c) Communicating verbally or in writing with any City employee or official for the limited purpose of seeking clarification or additional information, when such employee is specifically designated in the applicable RFP, RFQ, IFB, or other competitive solicitation documents;
- (d) Communicating in writing with the Procurement Official or other staff person specifically designated in the procurement document.

The potential vendor or vendor's representative shall deliver a copy of any such written communication to the Office of the City Clerk, who shall make copies available to the public upon request. The written communication shall include a reference to the RFP, RFQ, IFB, or other competitive bid document number.

2.5 Any violation of this rule shall be investigated by the Procurement Official and the City Attorney's Office and/or the City Manager's Office and may result in disqualification of said violating potential vendor or any recommendation for award, or any RFP award, or IFB, or RFQ award to said violating potential vendor or vendor's representative being deemed void or voidable. The potential vendor or

vendor's representative determined to have violated this rule, shall be subject to penalties up to and including debarment. In addition, to any other penalty provided by law, violation of this rule by a City employee shall subject the employee to disciplinary action up to and including termination.

3. Bid Forms

- 3.1 Solicitations downloaded from the eBid System shall not contain any alteration to the document posted other than entering data in spaces provided or including attachments as necessary. By submission of a response, Bidder affirms that no alteration of any kind has been made to this solicitation.
- 3.2 The bid forms must be used by the Bidder. Failure to do so may cause the bid to be rejected. The forms shall be submitted in good order and all blanks must be completed.
- 3.3 The bid forms shall be signed by one duly authorized to do so and in cases where the bid is signed by a deputy or subordinate, the principal's proper written authority to such deputy or subordinate must accompany the bid.
- 3.4 Bids by corporations must be executed in the corporate name by the President or other corporate officers accompanied by evidence of authority to sign.
- 3.5 Bids by partnerships must be executed in the partnership name and signed by a general partner whose title must appear under the signature.

4. Sub-Contractors

- 4.1 Sub-Contractors Terms
The Contractor agrees to bind specifically every sub-contractor to the applicable terms and conditions of the contract documents for the benefit of the City.
- 4.2 Sub-Contractors Agreement
All work performed for the Contractor by a sub-contractor shall be pursuant to an appropriate agreement between the Contractor and the sub-contractor.

5. Qualifications of Bidders

- 5.1 Bids will only be considered from firms normally engaged in providing the types of commodities/services specified herein. The City reserves the right to inspect the Bidder's facilities, equipment, personnel, and organization at any time, or to take any other action necessary to determine Bidder's ability to perform. The Purchasing Official reserves the right to reject bids where evidence or evaluation is determined to indicate inability to perform.
- 5.2 No bid will be accepted from, nor will any contract be awarded to any person who is in arrears to the City, upon any debt or contract, or who is a defaulter, as surety or otherwise, upon any obligation to City, or who is deemed responsible or unreliable by the City.
- 5.3 As part of the bid evaluation process, City may conduct a background investigation including a record check by the Coconut Creek Police Department. Bidder's submission of a bid constitutes acknowledgment of the process and consent to such investigation. City shall be the sole judge in determining Bidder's qualifications.

6. Specifications

- 6.1 The apparent silence of the Specifications as to any detail, or the apparent omission from the Specifications of a detailed description concerning any point, shall be regarded as meaning that only material and workmanship of the finest quality are to be used. All interpretations of the Specifications shall be made on the basis of this statement.
- 6.2 For the purpose of evaluation, the Bidder must indicate any variance or exceptions to the stated Specifications no matter how slight. Deviations should be explained in detail. Absence of variations and/or corrections will be interpreted to mean that the Bidder meets all the Specifications in every respect.
- 6.3 Any manufacturers' names, trade names, brand names, information and/or catalog numbers used herein are for the purpose of describing and establishing a general standard of

quality, performance and characteristics and are not intended to limit or restrict competition. The Bidder may offer any brand which meets or exceeds the Specifications for any item(s). If bids are based on equivalent products, indicate on the Bid Form the manufacturer's name and catalog number. Bidder shall submit with his bid complete and descriptive literature and/or specifications. The Bidder should also explain in detail the reason(s) why and submit proof that the proposed equivalent will meet the Specifications and not be considered an exception thereto. The determination of equivalency shall rest solely with the City. If Bidder fails to name a substitute, it will be assumed that Bidder is bidding on and will be required to furnish commodities identical to bid standards.

- 6.4 If the model number for the make specified in the bid document is incorrect, or no longer available and replaced with an updated model with new specifications, the Bidder shall enter the correct model number on the bid form. In the case of an updated model with new specifications, Bidder shall provide adequate information to allow the City to determine if the model bid meets the City's requirements.

7. Addendum

- 7.1 If the Bidder should be in doubt as to the meaning of any of the bid documents, or is of the opinion that the plans and/or specifications contains errors, contradictions or reflect omissions, Bidder shall submit a written request directed to the Purchasing and Contracts Division to be forwarded to the appropriate person or department for interpretations or clarification. Interpretations or clarifications deemed necessary by the Purchasing and Contracts Division in response to such questions will be issued on official addendum.
- 7.2 The issuance of written addendum is the only official method whereby interpretation, clarification, changes or additional information can be given. If any addendum is issued, the City will attempt to notify all known prospective Bidders. Addenda to the solicitation will be posted on the eBid System. It is the

Bidder's responsibility to check the eBid System or contact the Purchasing Official prior to the bid submittal deadline to ensure that the Bidder has a complete, up-to-date package.

8. Prices Bid

- 8.1 Prices shall be shown in both unit amounts and extensions whenever applicable. In the event of discrepancies existing between unit amounts and extension or totals, unit amounts shall govern.
- 8.2 Discrepancies in the multiplication of units of work and unit prices will be resolved in favor of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum.
- 8.3 All applicable discounts shall be included in the bid price for materials and services and will be considered as determining factors in recommending an award in case of tie bids. Discounts extended to City shall include but not be limited to those discounts normally extended to governmental agencies as well as the private sector.
- 8.4 Chain discounts are not acceptable and will not be considered in determining an award. Bidders may bid only one (1) discount for each item on the bid form. Firm discounts and prices are to be quoted for the term of the contract.
- 8.5 Bidder warrants by virtue of bidding that prices, terms and conditions in the bid will be firm for acceptance for a period of ninety (90) calendar days from the date of bid opening unless otherwise stated by the City.
- 8.6 The bid price shall include all permit fees, royalties, license fees and other costs arising from the use of such design, device or materials in any way involved in the work as well as all costs of packaging, transporting and delivery to the designated location within the City of Coconut Creek.
- 8.7 All prices quoted shall be F.O.B. destination, freight prepaid (Bidder pays and bears freight charges, Bidder own goods in transit and files any claims),

unless otherwise stated in Special Conditions.

9. Examination of Bid Documents

- 9.1 Before submitting a bid, each Bidder must (a) examine the bid documents thoroughly; (b) consider federal, state, county, and local laws, ordinances, rules and regulations that may in any manner affect cost, progress, performance, or provision of the commodities and/or services; (c) study and carefully correlate Bidder's observations with the bid documents, and (d) notify the Purchasing and Contracts Division of all conflicts, errors, and discrepancies in the bid documents. Failure to familiarize himself/herself with applicable laws will in no way relieve him/her from responsibility.
- 9.2 The submission of a bid will constitute an incontrovertible representation by Bidder that Bidder has complied with every requirement of the bid document, that without exception, the bid is premised upon performing the services and/or furnishing the commodities and materials and such means, methods, techniques, sequences or procedures as may be indicated in or required by the bid documents, and that the bid documents are sufficient in scope and detail to indicate and convey understanding of all terms and conditions of performance and furnishing of the goods and/or services.

10. Modification and Withdrawal of Bids

- 10.1 Proposals may be modified or withdrawn **prior** to the due date for submitting electronic proposals. Proposals may be retracted from the eBid System. Retracting a response allows the Consultant to change all or part of the response that was previously submitted. Retracting a response **does** not delete the response currently entered; however, by retracting your response, it is no longer submitted. You must click "Submit Response" on the Response Submission Tab for your retracted bid to be submitted again.
- 10.2 Withdrawal of a proposal will not prejudice the rights of a Consultant to submit a new proposal prior to the

proposal opening date and time. No proposal may be withdrawn or modified after the date of proposal opening has passed.

- 10.3 If within twenty-four (24) hours after proposals are opened, and Consultant files a duly signed, written notice with the Purchasing Office, and within five (5) calendar days thereafter demonstrates to the reasonable satisfaction of City, by clear and convincing evidence, that there was a material and substantial mistake in the preparation of its proposal, or that the mistake is clearly evident on the face of the proposal, but the intended correct proposal is not similarly evident, Consultant may withdraw its proposal and any bid security will be returned, if applicable.

11. Submission and Receipt of Bids

To receive consideration, bids must be received prior to the due date and time. Unless otherwise specified, Bidders should use the bid forms provided in the bid document. Any erasures or corrections on the bid must be initialed by Bidder. All information submitted by the Bidder shall be printed, typewritten or filled in with pen and ink before electronic submission. Bids shall be signed in ink. When a particular IFB or RFP requires physical copies of bids or proposals they may be included in a single envelope or package properly sealed and identified. Bids will be electronically unsealed in the presence of Bidders, the public, and City staff. Bidders and the public are invited and encouraged to attend bid openings, but are not required. Bids will be tabulated and made available on the eBid System for review by Bidders and the public in accordance with applicable regulations.

12. Acceptance or Rejection of Bids

- 12.1 Bidder warrants, by virtue of bidding, his bid and the prices quoted in his bid will be firm for acceptance by the City for a period of ninety (90) calendar days from the date of bid opening, unless otherwise stated in the bid document. However, any bid may be electronically retracted up until the time set for bid opening. Any bids not so electronically retracted shall upon opening, constitute an irrevocable offer for goods and services until accepted by City Commission Award.

12.2 A Bidder may not withdraw his bid before the expiration of ninety (90) calendar days from the date of bid opening. A Bidder may withdraw his bid after the expiration of ninety (90) calendar days from the date of bid opening by delivering written notice of withdrawal to the Purchasing Official prior to award of contract by the City of Coconut Creek.

12.3 The City reserves the right to reject the bid of any Bidder if the City believes that it would not be in the best interest of the City to make an award to that Bidder, whether because the bid is not responsive or the Bidder is unqualified or fails to meet any other pertinent standard or criteria established by the City.

12.4 The City of Coconut Creek reserves the right to waive formalities in any bid and further reserves the right to take any other action that may be necessary in the best interest of the City. The City further reserves the right to reject any or all bids, with or without cause, to waive technical errors and informalities or to accept the bid which in its judgment, best serves the City of Coconut Creek.

13. Opening of Bids

Responses will be electronically unsealed and publicly read aloud on the date, time, and location specified in the bid document. A tabulation will be made available on the eBid System in accordance with applicable regulations.

14. Award of Contract

14.1 If the contract is to be awarded, it will be awarded to the most responsible and responsive Bidder for the base bid whose evaluation by City indicates to City that the award will be in the best interests of the City and not necessarily to the lowest Bidder.

14.2 Criteria utilized by City for determining the most responsive Bidder includes, but is not limited to the following:

- (a) Ability of Bidder to meet published specifications.
- (b) Bidder's experience and references including, but not

limited to, the reputation, integrity, character, efficiency, experience, skill, ability, and business judgment of the Bidder, the quality of performance of Bidder under previous contracts, any subcontractors and other persons providing labor or materials to Bidder.

(c) Bidder's qualifications and capabilities, including but not limited to, the size, financial history, strength and stability of the business to perform the work of the contract, the possession of necessary facilities and equipment and the quality, availability and adaptability thereof to the particular use(s) required.

(d) Whether Bidder can perform the contract promptly or with the time specified without delay or interference.

(e) Previous and existing compliance by Bidder with laws, ordinances, and regulations relating to the commodities or services.

(f) Price.

14.3 If applicable, the Bidder to whom award is made shall execute a written contract prior to award by the City Commission. If the Bidder to whom the first award is made fails to enter into a contract as herein provided, the contract may be let to the next ranked Bidder who is responsible and responsive in the opinion of the City.

15. Contractual Agreement

The terms, conditions, and provisions in the bid document shall be included and incorporated in the final contract. The order of precedence will be bid document and response, contract, and general law. Any and all legal action necessary to enforce a contract will be interpreted according to the laws of Florida.

16. Taxes

The City of Coconut Creek is exempt from all Federal Excise and Florida Sales Taxes on direct purchase of tangible property. An exemption certificate will be provided where applicable upon request. Contractors doing business with the City shall not be exempted from paying sales tax to their suppliers for

materials to fulfill contractual obligations with the City, nor shall a Contractor be authorized to use the City's Tax Exemption Number in securing such materials.

17. Estimated Quantities/Warranties of Usage

No warranty is given or implied by the City as to any components listed in the bid document and are considered to be estimates for the purpose of information only. The City reserves the right to accept all or any part of the bid and to increase or decrease quantities of Bidder's bid to meet additional or reduced requirements of the City.

18. Samples and Demonstrations

Samples or inspection of product may be requested to determine suitability. Unless otherwise specified in the Special Terms and Conditions, samples shall be requested after the date of bid opening, and if requested should be received by the City within seven (7) working days of request. Samples, when requested, must be furnished free of expense to the City and if not used in testing or destroyed, will upon request of the Bidder, be returned within thirty (30) days of bid award at Bidder's expense. When required, the City may request full demonstrations of units prior to award. When such demonstrations are requested, the Bidder shall respond promptly and arrange a demonstration at a convenient location. Failure to provide samples or demonstrations as specified by the City may result in rejection of a bid.

19. Delivery

Time will be of the essence for any orders placed as a result of this bid document. The City reserves the right to cancel any orders, or part thereof, without obligation if delivery is not made in accordance with the schedule specified by the Bidder and accepted by the City.

20. Verbal Instructions Procedure

No negotiations, decisions, or actions shall be initiated or executed by the Contractor as a result of any discussions with any member of the City Commission or its Staff, all other City employees, and any non-employee appointed to evaluate or recommend selection in the procurement process. Only those communications which are assigned by a person designated as authorized to bind the Contractor, will be recognized by the City as duly authorized expressions on behalf of Contractors.

21. References

As part of the bid evaluation process, the City may conduct an investigation of references, including a record check and/or consumer affairs complaints. Bidder's submission of a bid constitutes acknowledgment of the process and consent to investigate. The City is the sole judge in determining Bidders qualifications.

22. Costs Incurred by Bidders

All expenses involved with the preparation/and or presentation and submission of bids to the City, or any work performed in connection therewith, shall be the sole responsibility of the Bidder(s) and shall not be reimbursed by the City.

23. Permits, Fees and Notices (If Applicable)

23.1 The Contractor shall at his own expense obtain all necessary permits, pay all licenses, fees and taxes, required to comply with all local ordinances, county, state and federal laws, rules and regulation applicable to business to be carried on under the contract.

23.2 All City of Coconut Creek review fees, application fees, permit fees or inspection fees are waived as per Ordinance No. 139-94. All county, state or federal fees and permits shall be applied for and paid by the Bidder as necessary. Bidder must provide City with copy(s) of valid licensing by county/city agency for this type of work.

23.3 It is the Bidder's responsibility to have and maintain appropriate Certificate(s) of Competency and submit state registration (if required) for the work to be performed and valid for the jurisdiction in which the work is to be performed for all persons (including subcontractors) working on the project for whom a Certificate of Competency is required.

24. Penalties for Misrepresentation

Any material misrepresentation in the Contractor's response could result in termination of the Agreement, or any other appropriate administrative sanctions and/or legal actions.

25. Restriction on Disclosure and Use of Data

All proposals received by the City will become the sole property of the City. Confidential financial information obtained by the City from

a Bidder is exempt from public disclosure to the extent allowed by law.

26. Exceptions to the Bid

Bidders must clearly indicate any exceptions they wish to take to any of the terms in this bid, and outline what alternative is being offered. The City, at its sole and absolute discretion, may accept or reject the exceptions. In cases in which exceptions are rejected, the City may require the Bidder to furnish the services or goods originally described, or negotiate an alternative acceptable to the City.

27. Cancellation for Unappropriated Funds

The obligation of the City for payment to a Contractor is limited to the availability of funds appropriated in a current fiscal period, and continuation of the contract into a subsequent fiscal period is subject to appropriation of funds, unless otherwise authorized by law.

28. Independent Contractor

The Contractor is an independent Contractor under this Agreement. Personal services provided by the Bidder shall be by employees of the Contractor and subject to supervision by the Contractor, and not as officers, employees, or agents of the City. Personnel policies, tax responsibilities, social security, health insurance, employee benefits, procurement policies unless otherwise stated in the bid document, and other similar administrative procedures applicable to services rendered under this contract shall be those of the Contractor.

29. Job Site Safety

The Successful Proposer shall be solely and completely responsible for conditions of the job site, including safety of all persons (including employees) and property during performance of the work. This requirement shall apply continuously and not be limited to normal working hours. Safety provisions shall conform to U.S. Department of Labor (OSHA), Florida Department of Labor (DOL), and all other applicable federal, state, county, and local laws, ordinances, codes, and regulations. Where any of these are in conflict, the more stringent requirement shall be followed. The Successful Proposer's failure to thoroughly familiarize himself with the aforementioned safety provisions shall not relieve him from compliance with the obligations and penalties set forth therein.

The City reserves the right, but is not obligated to make safety inspections at any time the

Successful Proposer is on City property and to ensure safety rules are not being violated.

30. Occupational Health and Safety

In compliance with Title 29 *CFR (Code of Federal Regulations)*, Section 1910.1200, any Hazardous Chemical items which are delivered from a Contract resulting from this Proposal must be accompanied by a Material Safety Data Sheet (MSDS). The MSDS sheets must be maintained by the user agency and must include the following information:

- a) The chemical name and the common name of the toxic substance.
- b) The hazards or other risks in the use of the toxic substance, including:
 - 1) The potential for fire, explosion, corrosiveness, and reactivity;
 - 2) The known acute and chronic health effects of risks from exposure, including the medical conditions which are generally recognized as being aggravated by exposure to the toxic substance; and
 - 3) The primary routes of entry and symptoms of overexposure.
- c) The proper precautions, handling practices, necessary personal protective equipment, and other safety precautions in the use of or exposure to the toxic substances, including appropriate emergency treatment in case of overexposure.
- d) The emergency procedure for spill, fire, disposal, and first aid.
- e) A description in lay terms of the known specific potential health risks posed by the toxic substances intended to alert any person reading this information.
- f) The year and month, if available, that the information was compiled and the name, address, and the emergency telephone number of the manufacturer responsible for preparing the information.
- g) All substances shall remain in manufacturer's container with manufacturer's labeling.

ALL TOXIC SUBSTANCES MUST BE LABELED FOR IDENTIFICATION IN ACCORDANCE WITH OSHA STANDARDS.

31. Conflict of Interest

The award of any contract hereunder is subject to the provisions of Chapter 112, *Florida Statutes*. Bidders must disclose with their bid the name of any officer, director, partner, proprietor, associate or agent who is also an officer or employee of the City or any of its agencies. Further, all Bidders must disclose the name of any officer or employee of the City who owns, directly or indirectly, an interest of five percent (5%) or more in the Bidder's firm or any of its branches or affiliate companies.

32. Indemnity/Hold Harmless

The parties agree that one percent (1%) of the total compensation paid to Contractor for the work of the contract shall constitute specific consideration to Contractor for the indemnification to be provided under the Contract. The Contractor shall indemnify and hold harmless the City Commission, the City of Coconut Creek, and its agents and employees from and against all claims, damages, losses and expenses including attorney's fees arising out of or resulting from the performance of the work provided that any such claim, damage, loss or expense (1) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the work itself) including the loss of use resulting therefrom, and (2) is caused in whole or in part by any negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder.

In any and all claims against the City, or any of their agents or employees by any employee of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under this Paragraph shall not be limited in any way by any limitation on this amount or type of damages compensation or benefits payable by or for the Contractor or any subcontractor under Workers' Compensation Acts, Disability Benefit Acts or other Employee Benefit Acts. Nothing in this section shall affect the immunities of the City pursuant to Chapter 768, *Florida Statutes*, as amended from time to time, nor shall it constitute an agreement by

the City to indemnify Contractor, its officers, employers, subcontractors or agents against any claim or cause of action.

33. Public Entity Crimes Statement

Pursuant to Paragraph 2(a) of Section 287.133, *Florida Statutes*, a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid for a contract to provide any goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and, may not transact business with any public entity in excess of the threshold amount provided in Section 287.017 for Category TWO (\$35,000) for a period of thirty-six (36) months from the date of being placed on the convicted vendor list.

34. Public Records

Consultant shall keep such records and accounts and require any and all Consultants and sub consultants to keep records and accounts as may be necessary in order to record complete and correct entries as to personnel hours charged to the project and any expenses for which Consultant expects to be reimbursed. Such books and records will be available at all reasonable times for examination and audit by City and shall be kept for a period of three (3) years after the completion of all work to be performed pursuant to this Agreement. Incomplete or incorrect entries in such books and records will be grounds for City's disallowance of any fees or expenses based upon such entries.

City is a public agency subject to Chapter 119, *Florida Statutes*. To the extent Consultant is a Consultant acting on behalf of the City pursuant to Section 119.0701, *Florida Statutes* as may be amended from time to time, Consultant shall comply with all public records laws in accordance with Chapter 119, *Florida Statute*. In accordance with state law, Consultant agrees to:

- a) Keep and maintain all records that ordinarily and necessarily would be required by the City in order to perform the services.
- b) Upon request from the City's custodian of public records, provide the City with a

copy of the requested records or allow the records to be inspected or copies within a reasonable time at a cost that does not exceed the costs provided in Chapter 119, Florida Statute, or as otherwise provided by law.

- c) Ensure that public records that are exempt or confidential and exempt from public records disclosure are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the contract if the Consultant does not transfer the records to the City.
- d) Upon completion of the services within this Agreement, at no cost, either transfer to the City all public records in possession of the Consultant or keep and maintain public records required by the City to perform the services. If the Consultant transfers all public records to the City upon completion of the services, the Consultant shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Consultant keeps and maintains public records upon completion of the services, the Consultant shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.
- e) **IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLA. STAT., TO THE VENDOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CITY'S CUSTODIAN OF PUBLIC RECORDS AT 954-973-6774, PublicRecords@coconutcreek.net, 4800 West Copans Road, Coconut Creek, FL 33063.**

If Consultant does not comply with this Section, the City shall enforce the Agreement provisions in accordance herewith and may unilaterally cancel this Agreement in accordance with state law.

35. Drug-Free Workplace Programs

Preference shall be given to businesses with Drug-Free Workplace Programs. Whenever two (2) or more bids which are equal with respect to price, quality and service are received by the City for the procurement of commodities or contractual services, a bid received from a business that completes the attached Drug-Free Workplace form certifying that it is a Drug-Free Workplace shall be given preference in the award process.

36. Collusion

The Bidder certifies that its bid is made without previous understanding, agreement, or connection either with any previous firms or corporations offering a bid for the same items, or with the City. The Bidder also certifies that its bid is in all respects fair, without outside control, collusion, fraud, or otherwise illegal action.

37. Audit Rights

The City reserves the right to audit the records of the Contractor for the commodities and/or services provided under the contract at any time during the performance and term of the contract and for a period of five (5) years after completion and acceptance by the City. If required by the City, the Contractor agrees to submit to an audit by an independent certified public accountant selected by the City. The Contractor shall allow the City to inspect, examine and review the records of the Contractor in relation to this contract at any and all times during normal business hours during the term of the contract.

38. Patents and Royalties

The Contractor, without exception, shall indemnify and save harmless the City of Coconut Creek and its employees from liability of any nature and kind, including cost and expenses for or on account of any copyrighted, patented or un-patented invention, process, or article manufactured or used in the performance of the contract, including its use by the City of Coconut Creek. If the Contractor uses any design, device, or materials covered by letters, patent or copyright, it is mutually agreed and understood without exception that the bid prices shall include all royalties or costs arising from the use of such design, device, or materials in any way involved in the work.

39. Purchase by Other Governmental Agencies

If the Bidder is awarded a contract as a result of this bid document, he will, if he has sufficient capacity or quantities available,

provide to other governmental agencies, so requesting, the products or services awarded in accordance with the terms and conditions of the bid document and resulting contract. Prices shall be F.O.B. delivered to the requesting agency.

40. Assignment and Sub-Letting

No assignment of this contract or any right occurring under this contract shall be made, in whole or in part, by the 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 Contractor.

41. Venue

The parties waive the privilege of venue and agree that all litigation between them in the state courts shall take place exclusively in the Seventeenth Judicial Circuit Court in and for Broward County, Florida and that all litigation between them in the federal courts shall take place exclusively in the United States District Court for the Southern District of Florida.

42. Gratuities and Kickbacks

42.1 Gratuities: It is unethical for any person to offer, give, or agree to give any employee or for any employee to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, audit, or in any other advisory capacity in any proceeding or application, request for ruling, determination claim or controversy, or other particular matter, pertaining to any program requirement or an Agreement or subcontract, or to any solicitation or proposal therefore.

42.2 Kickbacks: It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a Sub-contractor under a Contract to Contractor or higher tier sub-contractor any person associated therewith, as an inducement of the award of a subcontract or order.

42.3 Contract Clause: The prohibition against gratuities and kickbacks prescribed in this section shall be conspicuously set forth in every Contract and subcontract and solicitation therefore.

43. Protest Process

Any bidder, proposer, or offeror who is aggrieved in connection with the solicitation or award of a contract must contact the Procurement Officer listed in the solicitation in writing (email or fax are acceptable) by filing a notice of protest within three (3) working days after the posting of the notice of intent to award on the City's eBid System. A formal written protest must be filed within five (5) working days after filing the notice of protest.

The formal written protest must be either, hand-delivered and date and time stamped by the Office of the City Clerk, or sent via Certified U.S. mail, return-receipt requested. Failure to file a notice of protest and formal written protest within the time-frames specified herein shall constitute a full waiver of all rights to protest the City's decision regarding the award.

- (a) Only a bidder, proposer or offeror whose bid or proposal is timely received and fully complies with all terms and conditions of the bid or proposal may protest an award.
- (b) The formal written protest shall state in detail the specific facts and laws or ordinances upon which the protest of the proposed award is based and shall include all pertinent documents and evidence.
- (c) Upon receipt of a formal written protest, the City may stop award proceedings until resolution of the protest; however, the award proceedings shall not be stopped if the City Manager decides the award must continue without delay in order to avoid an immediate and serious danger to public health, safety, or welfare.
- (d) Any and all costs incurred by a protesting party in connection with the protest process pursuant to this section shall be the sole responsibility of the protesting party.

All protests shall be reviewed and evaluated administratively and a decision, in writing shall be forwarded to the protesting party within ten

(10) working days of receipt of the formal written protest. If the protesting party does not agree with the administrative decision, they may appeal the decision in writing to the City Manager or designee within five (5) working days of receipt of the administrative decision. The appeal must be either, sent Certified U.S. mail return-receipt requested or hand-delivered and date and time stamped by the Office of the City Clerk. The decision of the City Manager or designee will be final.

Any person who files a formal written protest shall post with the Chief Procurement Officer, at the time of filing the formal written protest a cashier's check made payable to the City of Coconut Creek in an amount equal to one percent (1%) of the City's estimate of the total amount of the contract or \$5,000.00, whichever is less.

If the decision of the City Manager or designee upholds the action taken by the City, then the deposit becomes non-refundable and the City shall retain the deposit as payment for a portion of the cost and expense, including but not limited to, time spent by City staff in responding to the protest and in conducting the evaluation of the protest. If the decision of the City Manager or designee does not uphold the action taken by the City, then the City shall return the amount of the cashier's check to the person or entity filing the protest.

44. Confidential and/or Proprietary Information

In accordance with Section 119.07(1)(a), Florida Statutes as amended from time to time, and except as may be provided by other applicable state and federal law, the Request for Qualifications and the responses thereto are in the public domain. However, Proposers are requested to specifically identify in the submitted proposal any financial information considered confidential and/or proprietary which may be considered exempt under Florida Statute Section 119.071.

45. Anti-Discrimination

That proposer shall for itself, its personal representatives, successors in interests, assigns, subcontractors, and sub-lessees, as a part of the consideration hereof, hereby covenant and agree that:

- a) No person on the ground of race, color, religion, sex, national origin, age, marital status, political affiliation, familial status, disability, sexual orientation, pregnancy, or gender identity or

expression, or veteran or service member status shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of or performance of services described herein; and

- b) Proposer, its personal representatives, successors in interests, assigns, subcontractors, and sub-lessees shall not discriminate against any employee or applicant for employment to be employed in the performance of this Agreement with respect to hiring, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment because of race, color, religion, sex, national origin, age, marital status, political affiliation, familial status, disability, sexual orientation, pregnancy, gender identity or expression, or veteran or service member status.

That in the event of a proven breach of the above non-discrimination covenant, the City shall have the right to terminate the Agreement as if this Agreement had never been made.

46. Default

46.1 Termination

Termination for Cause: Immediate

In the event the Contractor defaults in or violates any of the terms, obligations, restrictions or conditions of this contract, the City may, upon written notice to the Contractor, terminate this contract effective immediately upon receipt of notice. The notice for immediate termination shall state the date of termination and Contractor shall discontinue all work under this contract on that date. In the event of immediate termination by the City shall have all legal and equitable remedies available to it, and may hold the Contractor liable for any and all damages sustained by the City arising out of such default, including but not limited to costs of re procurement and cover.

Termination for Cause: Time to Correct

In the event the Contractor defaults in or violates any of the terms, obligations, restrictions or conditions of this contract, the City may, upon written notice to the Contractor, set forth the reason(s) for said

termination and state a reasonable time-frame, not to exceed five (5) calendar days, for the Contractor to correct the conditions to the satisfaction of the City. In the event the Contractor has failed to correct the conditions(s) of the default or the default is not remedied to the satisfaction and approval of the City within the time-frame prescribed, the City may terminate the contract effective immediately as provided above. If Contractor requests a hearing before the City Manager within the time-frame prescribed for correction, the City Manager may extend such time for correction to accommodate such hearing. Notwithstanding the above, the City shall have all legal and equitable remedies available to it, including, but not limited to termination of the Contract in which case the Contractor shall be liable for any and all damages arising from the default and breach of the contract.

Termination for Convenience of City

Upon thirty (30) calendar days written notice to the Contractor, the City may without cause and without prejudice to any other right or remedy, terminate the contract for the City's convenience whenever the City determines that such termination is in the best interest of the City. Where the contract is terminated for the convenience of the City the notice of termination to the Contractor must state that the contract is being terminated for the convenience of the City under the termination clause and the extent of termination. The Contractor shall discontinue all work on the appointed last day of service.

SECTION II SPECIAL TERMS AND CONDITIONS

1. Point of Contact

To ensure fair consideration for all Proposers, the City prohibits communication to or with any department, elected official or employee during the submission process, other than the Purchasing Analyst, regarding the requirements for this submittal. Any such contact may be considered grounds for disqualification. The City shall not be responsible for oral interpretations given by any City employee or its representative.

All inquiries concerning clarifications of this solicitation or for additional information shall be submitted in writing by email or submitted through the eBid System.

Submit To: Lorie Messer
Email: Lmesser@coconutcreek.net

All responses to questions/clarifications will be sent to all prospective Proposers in the form of an addendum. Such contact is to be for clarification purposes only. Material changes, if any, to the scope of services, or bid procedures will only be transmitted electronically through the eBid System.

2. Mandatory Pre-Proposal Conference

All Proposers or their representatives are required to attend a mandatory pre-proposal meeting on Wednesday, August 28, 2019 at 2:00 P.M., at the Coconut Creek Government Center, 4800 West Copans Road, Coconut Creek, Florida 33063. This information session presents an opportunity for the Proposers to clarify any concerns regarding proposal requirements. Questions regarding the site and specifications will be answered and Proposers will be able to familiarize themselves with conditions that may affect the proposal price.

The Proposer shall make careful examination of the project site, shall familiarize himself with existing conditions, and shall satisfy himself as to the quantity and quality of materials and workmanship required for the work. Submission of a proposal will be construed that the Proposer is acquainted sufficiently with the work to be performed. He shall carefully and thoroughly examine the contract documents before submitting a proposal.

Note: Failure to attend the mandatory pre-proposal meeting will automatically result in your proposal not being considered and deemed nonresponsive.

2.1 Site Inspection - Contractor

It shall be the full responsibility of the Proposer to visit and inspect the proposed sites as shown herein prior to the submission of a proposal. No variation in price or conditions shall be permitted based on a claim of ignorance.

Submission of a response is evidence that the Proposer has familiarized himself with the nature and extent of the work, and the equipment, materials, and labor requirements. Should the Proposer see any problem, the Proposer is to bring the problem to the attention of the Buyer immediately.

2.2 Site Inspection - City

All work shall be conducted under the general direction of the Public Works Department and is subject to inspection by the appointed inspectors to ensure compliance with the terms of the contract. No inspector is authorized to change any provision of the specifications without written authorization from the Public Works Director or designee nor shall the presence or absence of an inspector relieve the Contractor from any requirements of the

contract. Less than satisfactory site inspections may result in deductions from invoice payment as indicated in the Detailed Requirements – Scope of Services.

3. Minimum Qualification Requirements

- 3.1 The work shall be performed by a licensed landscape contractor and crew with at least five (5) years of verifiable full-time experience with landscape maintenance work of similar scope and cost, preferably with experience in a government setting.
- 3.2 Proposer shall be licensed to conduct business in the State of Florida, and bonded for a period of not less than five (5) years.

4. Proposal Format

The proposal shall contain three (3) sections:

Section 1: Qualifications and Experience

- Clearly describe the ability to perform the scope of services proposed including a work plan with an explanation of the methodology to be followed to perform the services required of this proposal.
- Provide resume and fact sheet for firm indicating how it meets the Minimum Qualification requirements stipulated above.
- Provide resumes for all of firm's management and supervisors that will be used in providing the services specified herein.
- Include a list of awards or recognitions obtained, bonding capabilities, fieldwork capabilities and any other items of interest to support any claim of excellence.
- Provide copies of required licenses and certifications:
 1. Florida Certified Commercial Turf and Ornamental Pesticide Applicator License
 2. Class A Broward County Tree Trimmer License
 3. ISA Arborist Certification
 4. FDOT Approved Intermediate Maintenance of Traffic Certification or higher.

Note: The Proposer must also be prepared to submit on the City's request, within seven (7) calendar days of the request, further evidence as to the qualifications such as financial data, previous experience, and/or evidence of legal qualifications to perform the work.

Section 2: Resources and Availability

- Describe the firm's management plan to be used, staffing configuration and safety protocols.
- Proposer shall submit a complete listing of all equipment that will be used in the performance of a Contract resulting from this Proposal and at the disposal of the Proposer's Firm.

Section 3: References

- Proposer shall provide a list of at least five (5) clients that Proposer has provided similar services in the past three (3) years, at least two (2) of which are governmental entities. For each client reference include:
 - Project name and location
 - Scope of services provided

- Cost of project
- Contact person, title, business address, telephone and fax number, and email address
- Start and completion date of the contract

Note: Proposer is responsible for verifying correct phone numbers, email address and current contract information. Failure to provide accurate data may result in the reference not being considered.

5. Bid Bond

Each Proposal must be accompanied by a Bid Bond or Cashier's Check, in an amount no less than five percent (5%) of the proposal amount. All Bid Bonds shall be valid for a period of at least ninety (90) days from the proposal submission date. The Bid Bonds for all unsuccessful Proposals shall be returned within thirty (30) business days after Notice of Award of Contract.

Bid Bonds shall be submitted by the due date and time stated herein, in a sealed envelope to the Office of the City Clerk. The sealed envelope shall include the solicitation name and RFP number.

6. Performance Bond

Simultaneous with the delivery of the executed contract to the City, the successful Contractor shall furnish to the City an executed performance bond in the amount equal to one-hundred percent (100%) of the contract value, as security for the faithful performance of the contract and for the payment of all persons performing labor and/or furnishing materials in connection therewith. It shall be submitted on forms provided. The condition of this obligation is such that, if the Contractor shall promptly and faithfully perform said contract, make payments to all claimants for all labor and material used or reasonably required for use in the performance of the contract, and shall fully indemnify and save harmless the owner for all costs and damages he may suffer by reason of failure so to do, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

7. Performance Bond Letter of Eligibility

Proposer shall submit with proposal a letter of eligibility stating Proposer is able to furnish a Performance Bond if awarded the contract. The letter of eligibility shall be executed by a surety company of recognized standing, authorized to do business in the State of Florida and having a resident agent.

8. Competency of Proposers

Proposals shall be considered only from firms that have five (5) or more years' experience in providing products and services similar to those specified herein and that are presently or recently engaged in the provision of these services. It may be necessary to produce evidence that they have established a satisfactory record of performance for a reasonable period of time.

9. 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 Proposer 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 Proposer shall furnish a twenty-four (24) hour telephone number in the event of such an emergency.

10. Performance

It is the intention of the City to obtain the products and services as specified herein from a source of supply that will give prompt and convenient service. The awarded Proposer must be able to perform as required under the scope of services. Any failure of Contractor to comply with these conditions may be cause for terminating any resulting contract immediately upon notice by the City. The City reserves the right to obtain these products from other sources, when necessary, should Contractor be unable to perform on a timely basis and such delay may cause harm to the using department or City residents.

11. Schedule of Events

The City will use the following tentative time schedule in the selection process. The City reserves the right to change and/or delay scheduled dates.

Event	Date
RFP Available	August 18, 2019
Mandatory Pre-Proposal Meeting	August 28, 2019 at 2:00 PM
Last Date of Receipt of Questions	August 29, 2019 at 3:00 PM
Last Date of Receipt of Request for Approved Equals Form	N/A
Addendum Release (if required)	September 2, 2019
Proposals Due	September 4, 2019 at 9:00 AM
Compliance Review	September 5 – 9, 2019
Selection Committee Evaluations/Short List	September 18, 2019 at 2:00 PM
Oral Interviews/Selection of 1 st Ranked Proposer	TBD
Contract Negotiations with 1 st Ranked Proposer	TBD
Commission Award of Contract	October 10, 2019

12. Uncontrollable Circumstances ("Force Majeure")

The City and Contractor will be excused from the performance of their respective obligations under this agreement when and to the extent that their performance is delayed or prevented by any circumstances beyond their control including, fire, flood, explosion, strikes or other labor disputes, act of God or public emergency, war, riot, civil commotion, malicious damage, act or omission of any governmental authority, or delay or failure of service from a public utility needed for their performance, provided that:

- A. The non performing party gives the other party prompt written notice describing the particulars of the Force Majeure including, but not limited to, the nature of the occurrence and its expected duration, and continues to furnish timely reports with respect thereto during the period of the Force Majeure;
- B. The excuse of performance is of no greater scope and of no longer duration than is required by the Force Majeure;
- C. No obligations of either party that arose before the Force Majeure causing the excuse of performance are excused as a result of the Force Majeure; and
- D. The non performing party uses its best efforts to remedy its inability to perform. Notwithstanding the above, performance shall not be excused under this Section for a period in excess of two (2) months, provided that in extenuating circumstances, the City may excuse performance for a longer term. Economic hardship of the Contractor will not constitute Force Majeure. The term of the agreement shall be extended by a period equal to that during which either party's performance is suspended under this Section.

13. Proposal Submission

- 13.1 Proposer shall use the electronic eBid System to submit a response. **The proposal shall be signed by a representative who is authorized to contractually bind the Proposer. Proposer shall upload the response as one (1) file to the eBid System.** The maximum file size is 100 MB, however, that maximum applies to each file, not the Proposal itself. You are allowed an unlimited number of attachments with the 100 MB being the maximum file size.
- 13.2 Proposer's response shall not contain any alteration to the document posted other than entering data in spaces provided or including attachments as necessary. By submission of a response, Proposer affirms that a complete set of bid documents was obtained electronically from the eBid System and no alteration of any kind has been made to the solicitation.
- 13.3 All blanks on the proposal form(s) must be completed and notarized if applicable. Names must be typed or printed below the signature. Facsimile proposals will not be accepted.
- 13.4 Each Proposer for services further represents that the Proposer has examined and is familiar with the local conditions under which the work is to be done and has correlated the observations with the requirements of the contract documents.
- 13.5 Only one (1) proposal from any individual, firm, partnership, or corporation, under the same or different names, will be considered. Should it appear to the City that any Proposer is interested in more than one (1) proposal for work contemplated, all proposals in which such a Proposer is interested will be rejected. Proposer by submitting this proposal certifies that the proposal is made without previous understanding, agreement or connection with any person, firm or corporation making a proposal for the same material, supplies, equipment or services and is in all respects, fair and without collusion of fraud.
- 13.6 Each Proposer by signature and by submission of a response, represents that the Proposer has read and understands the contract documents, has completed all required fields and the proposal has been made in accordance therewith.
- 13.7 The submittal of a proposal by a Proposer will be considered by the City as constituting an offer by the Proposer to perform the required services at the stated prices.
- 13.8 All proposals received from Proposers in response to this Request for Proposals will become the property of City and will not be returned to the Proposers. In the event of Contract award, all documentation produced as part of the Contract shall become the exclusive property of the City.
- 13.9 As the best interest of the City may require, the right is reserved to reject any and all proposals or waive any minor irregularity or technicality in proposals received. The City will determine which Proposers are "responsible and responsive".

14. Evaluation Method and Criteria

The City will assemble a Selection Committee comprised of qualified City staff or other persons selected by the City. The selection of a Proposer with whom to contract shall be based on the proposal most advantageous to the City based on the "best value to the City" using the following criteria:

Criteria

- 1) Operational Plan for the City
- 2) Qualifications and Experience
- 3) Resources and Availability
- 4) Past Performance
- 5) Price

14.1 The above criterion is provided to assist the Proposers in the allocation of their time and efforts during the submission process. The criterion also guides the Selection Committee during the short-listing and final ranking of Proposers by establishing a general frame work for those deliberations. Past performance of Proposers services may also be included in determining recommendation for award. During the evaluation process, City reserves the right, where it may serve the City of Coconut Creek's best interest to request additional information or clarification from Proposers.

14.2 Each proposal will be evaluated individually and in the context of all other proposals. Proposals must be fully responsive to the requirements described in this RFP and to any subsequent requests for clarification or additional information made by the City through written addenda to this RFP. Proposals failing to comply with the submission requirements, or those unresponsive to any part of this RFP, may be disqualified. There is no obligation on the part of the City to award the proposal to the lowest priced Proposer, and the City reserves the right to award the contract to the Proposer submitting the best overall responsive proposal which is most advantageous and in the best interest of the City in achieving the study or project, and to waive any irregularity or technicality in the proposals received. The City shall be the sole judge of the proposals that offer the best value and the resulting agreement that is in its best interest and its decision shall be final.

14.3 While the City allows Proposers to take variances to the RFP terms, conditions, and specifications, the number and extent of variances taken will be considered in determining the Proposer who is most advantageous to the City.

15. Review of Proposals for Responsiveness

Each proposal will be reviewed to determine if the proposal is responsive to the submission requirements outlined in this RFP. A responsive proposal is one which follows the requirements of the RFP includes all documentation, is submitted in the format outlined in the RFP, is of timely submission, and has the appropriate signatures as required on each document. Failure to comply with these requirements may result in a proposal being deemed non-responsive.

16. Selection Process

The Selection Committee will evaluate all responsive proposals based upon the information and references contained in the proposals as submitted. The Selection Committee will rank (where one (1) is the highest ranking) all responsive proposals and determine a minimum of three (3), if more than three (3) proposals are responsive, to be finalists for further consideration. If less than three (3) responsive proposals are received, the Selection Committee will give further consideration to all responsive proposals.

Oral Presentations

The top three (3) short-listed Proposers/finalists may be required to provide an oral presentation in support of their proposals or to exhibit or otherwise demonstrate the information contained therein or by conference telephone call for clarification purposes only, prior to a recommendation being presented to the City Commission. The Proposer's manager assigned to this contract shall be the sole presenter(s). The Selection Committee will then re-rank the finalist's based on their proposal submission and presentation in accordance with the criteria listed herein. Should the City require

such oral presentation, the Proposer will be notified seven (7) days in advance to appear before the Selection Committee.

The first ranked Proposer resulting from this process will be recommended to the Coconut Creek City Commission for award. The recommended Proposer may be required to appear before the City Commission to answer questions for contract award.

17. Best and Final Offers

When in the best interest of the City, the Procurement Officer may request the submission of best and final offers. The request for best and final offers shall be in writing and shall establish a common date and time for the submission. Best and final offers shall be submitted only once; provided, however, the Procurement Officer may make a written determination that it is in the City's best interest to conduct additional discussions or change the City's requirements and require another submission of best and final offers. Otherwise, no discussion of or changes in the best and final offers shall be allowed prior to award. Vendors shall also be informed that if they do not submit a notice of withdrawal or another best and final offer, their immediate previous offer will be construed as their best and final offer.

18. Negotiations

Contract(s) may be awarded on the basis of initial offers received, without discussion. Therefore, each initial offer should contain the Proposer's best terms from a monetary and technical standpoint. Pursuant to Paragraph 5(b) of Section 287.055, Florida Statutes, the City, at its sole discretion, reserves the right to enter into contract negotiations with the number one ranked, responsive, responsible Proposer. If the City and said Proposer cannot negotiate a Successful Contract, the City may terminate said negotiations and begin negotiations with the number two ranked, responsive, responsible Proposer. This process will continue until a contract acceptable to the City has been executed or all proposals are rejected. No Proposer shall have any rights against the City arising from such negotiations or termination thereof.

19. Award of Contract

- 19.1 Responses will be electronically unsealed in a public forum and read aloud. A Selection Committee will evaluate the proposals based on the criteria stated herein. The City is the sole judge in evaluation considerations. The City reserves the right to award to one Proposer, to split the award among multiple Proposers or to not award this work, either in whole or in part. In addition, the City reserves the right to award a primary and secondary Contractor in one or more zones. The City's decision to make the award and which proposal is in the best interest of the City shall be final.
- 19.2 The Contract will be awarded only to a responsible and responsive Proposer(s) licensed and qualified by experience to do the work specified. The Proposer shall submit, prior to award of Contract, satisfactory evidence of his experience in like work and that he is fully prepared with the necessary organization, capital, and equipment to complete the scope of work. Proposer shall be insured, licensed, and certified by all applicable local, county, and state agencies.
- 19.3 All Proposers will be notified in writing when the City Commission makes an award. The Contract award, if any, shall be made to the Proposer whose proposal shall be deemed by the City Commission to be in the best interest of the City. The City Commission's decision of whether to make the award is in the best interest of the City and shall be final.
- 19.4 The Proposer warrants to the City that it is not insolvent, it is not in bankruptcy proceedings or receivership, nor is it engaged in or threatened with any litigation, arbitration or other

legal or administrative proceedings or investigations of any kind which would have an adverse effect on its ability to perform its obligations under the Contract.

- 19.5 This signed proposal is considered an offer on the part of the Proposer, which offer shall be considered accepted upon approval by the City Commission of Coconut Creek. Within ten (10) days after receiving Notice of Award, the Successful Proposer shall submit a revised Certificate of Insurance naming the City of Coconut Creek as additional insured for all liability policies for approval by the City's Risk Manager.

20. Contract Term

20.1 Performance Probation Period

Contractor shall enter into a six (6) month probationary period beginning October 2019. During this time, the Contractor's performance will be closely scrutinized by City staff. The City has the right to terminate the Agreement during the probationary period with or without cause, and this right shall be solely at the discretion of the City.

- 20.2 The initial contract period shall be for four (4) years. The City reserves the right to extend the contract 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. Successful Proposer 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. Contract renewal shall be based on satisfactory performance, mutual acceptance, and determination that the Contract is in the best interest of the City.

- 20.3 In the event services are scheduled to end because of the expiration of this contract, the Contractor 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 Contractor shall be compensated for the service at the rate(s) in effect when the City invokes this extension clause.

21. Price

Proposer shall quote a firm, fixed cost for the items listed in the Detailed Requirements - Scope of Services and shall submit prices electronically through the eBid System "Line Items" tab. Pricing shall include all costs associated with the project including labor, equipment, supplies, management, etc.

22. Cost Adjustments

- 22.1 Costs for all services purchased under this contract shall remain firm for the initial contract period. Costs for subsequent years and any extension term years shall be subject to an adjustment only if increases occur in the industry. However, unless very unusual and significant changes have occurred in the industry, such increases shall not exceed five percent (5%) per year or, whichever is less, the latest yearly percentage increase in the All Urban Consumers Price Index (CPI-U) (All Items), for the Miami-Ft. Lauderdale, FL area, as published by the Bureau of Labor Statistics, U.S. Department of Labor. The yearly increase or decrease in the CPI shall be the latest index published and available ninety (90) days prior to the end of the contract year then in effect compared to the index for the same month one (1) year prior. Any requested price increase shall be fully documented and submitted to the City at least ninety (90) days prior to the contract anniversary date. Any approved cost adjustments shall become effective upon the anniversary date of the contract. In the event the CPI or industry costs decline, the City shall have the right to

receive from the Contractor a reasonable reduction in costs that reflect such cost changes in the industry.

- 22.2 The City may, after examination, refuse to accept the adjusted costs if they are not properly documented, increases are considered to be excessive, or any decreases are considered to be insufficient. In the event the City does not wish to accept the adjusted prices and the matter cannot be resolved to the satisfaction of the City, the contract can be cancelled by the City upon giving thirty (30) days written notice to the Contractor.

23. Insurance Requirements

If the Contractor is required to go on to City property to perform work or services as a result of contract award, the successful Contractor and/or any and all subcontractors or anyone directly or indirectly employed by either of them throughout the term of the contract shall assume full responsibility and expense to obtain all necessary insurance as required by City.

The Contractor shall provide the Purchasing and Contracts Division original certificates of coverage prior to engaging in any activities under this contract. The Contractor's insurance is subject to the approval of the City's Risk Manager. Further modification of the insurance requirements may be made at the sole discretion of the City's Risk Manager if circumstances change or adequate protection of the City is not presented. Proposer, by submitting his proposal, agrees to abide by such modifications. Throughout the term of this Contract, Successful Proposer shall maintain in force at their own expense, insurance as follows:

23.1 Workers' Compensation

Statutory Limits of coverage to apply for all employees in compliance with all applicable State of Florida and federal laws. The policy must include Employers Liability with a limit of \$100,000.00 each accident.

Note: Proposers who are exempt from Florida's Workers' Compensation law must provide proof of such exemption issued by the Florida Department of Financial Services, Bureau of Workers' Compensation.

23.2 General Liability

Commercial General Liability insurance with limits not less than \$1,000,000.00 each occurrence combined single limit for Bodily Injury and Property Damage including coverage for premises/operations, contractual liability, personal injury, explosion, collapse, underground hazard, products/completed operations, broad form property damage, cross liability and severability of interest clause. This policy of insurance shall be written in an "occurrence" based format.

23.3 Automobile Liability

Comprehensive or Business Automobile Liability insurance with limits not less than \$500,000.00 each occurrence combined single limit for Bodily Injury and Property Damage including coverage's for owned, hired, and non-owned vehicles and/or equipment as applicable. This policy of insurance shall be written in an "occurrence" based format.

23.5 General

Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit and provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general annual aggregate limit shall be double the occurrence limits specified above.

Should any required insurance lapse during the Contract term, requests for payments originating after such lapse shall not be processed until the City receives satisfactory evidence of reinstated coverage as required by this Contract, effective as of the lapse date. If insurance is not reinstated, City may, at its sole option terminate this Agreement effective on the date of such lapse of insurance.

Auto Liability and General Liability policies shall be endorsed to provide the following:

- a) Name as Additional Insured the City of Coconut Creek and its Officers, Agents, Employees and Commission Members.
- b) That such insurance is primary to any other insurance available to the additional insured with respect to claims covered under the policy and that insurance applies separately to each insured against whom claims are made or suit is brought, but the inclusion of more than one insured shall not operate to increase the insurer's limit of liability.

All policies shall be endorsed to provide sixty (60) days prior written notice of cancellation, non-renewal or reduction in coverage or limits to:

City of Coconut Creek – Purchasing and Contracts Division
4800 West Copans Road
Coconut Creek, Florida 33063

The issuing agency shall include full name, address and telephone number in each insurance certificate issued.

Certificates of Insurance, in form and evidencing all required insurance and endorsements, shall be submitted with the Proposer's Proposal response. If Proposer is Successful Proposer, then prior to commencement of Contract, Proposer must submit a revised Certificate of Insurance naming the City of Coconut Creek as Additional Insured for all liability policies.

23.6 Insurance Company and Agent

All insurance policies herein required of the Successful Proposer shall be written by a company with a A.M. Best rating of A-VII or better that is duly authorized and licensed to do business in the State of Florida and shall be executed by agents, thereof that are duly licensed as agents in said state.

Note: A copy of **any** current Certificate of Insurance shall be included with your proposal.

24. Dispute Resolution

24.1 Dispute Resolution Process

- a) All claims, disputes and controversies arising out of or related to the performance, interpretation, application or enforcement of this Agreement, including but not limited to claims for payment and claims for breach of this Agreement, shall be settled internally with the City Manager or designee.
- b) In the event a dispute cannot be settled through the chain of command set forth in this section, all claims, disputes and controversies shall be referred to mediation before initiation of any adjudicative action or proceeding at law or in equity, unless it shall be unreasonable to do so or an emergency situation or necessity dictates

otherwise. All applicable statutes of limitations and defenses based on the passage of time shall be tolled while the mediation process is pending. The parties will take all reasonable measures necessary to effectuate such tolling.

- c) Either party may initiate the mediation process by delivering written notice to the other party that sets forth with particularity the nature of the party's claim or demand, the authority for making the claim or demand, a proposed remedy, the nature and extent of any monetary claim, and a request for mediation. The Contractor and City shall then participate fully in the mediation process and conscientiously attempt to resolve their dispute. The mediation shall be conducted in Broward County, Florida, in accordance with the Florida Supreme Court's mediation rules, within sixty (60) days after the joint selection of a certified civil mediator who is mutually acceptable to both parties. If a dispute is not resolved pursuant to mediation within sixty (60) days after the initiation of the mediation conference, either party to the dispute may elect to resolve the dispute by initiating litigation in a court of competent jurisdiction in Broward County, Florida, after providing ten (10) days' advance written notice to the other party.
- d) The parties agree that any claim filed in state or federal court concerning this Agreement shall be heard by a judge, sitting without a jury. THE CITY AND THE CONTRACTOR HEREBY KNOWINGLY, VOLUNTARILY, AND PERMANENTLY WAIVE ANY RIGHT THEY MAY HAVE TO A JURY TRIAL CONCERNING THE PERFORMANCE, INTERPRETATION, APPLICATION, OR ENFORCEMENT OF THIS AGREEMENT.

25. Scrutinized Companies pursuant to Section 287.135 and 215.473

Contractor must certify that the company is not participating in a boycott of Israel. Contractor must also certify that Contractor is not on the Scrutinized Companies that Boycott Israel list, not on the Scrutinized Companies with Activities in Sudan List, and not on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or has been engaged in business operations in Cuba or Syria. Subject to limited exceptions provided in state law, the City will not contract for the provision of goods or services with any scrutinized company referred to above. Contractor must submit the certification that is attached to this contract. Submitting a false certification shall be deemed a material breach of contract. The City shall provide notice, in writing, to the Contractor of the City's determination concerning the false certification. The Contractor shall have five (5) days from receipt of notice to refute the false certification allegation. If such false certification is discovered during the active contract term, the Contractor shall have ninety (90) days following receipt of the notice to respond in writing and demonstrate that the determination of false certification was made in error. If the Contractor does not demonstrate that the City's determination of false certification was made in error then the City shall have the right to terminate the contract and seek civil remedies pursuant to Section 287.135, Florida Statutes, as amended from time to time.

26. Inspection, Direction, and Payment

- 26.1** The work will be conducted under the general direction of the Public Works Director or designee, and is subject to inspection by his appointed inspectors to insure compliance with the terms of the Contract.
- 26.2** Contractor shall submit invoice monthly in equal amounts. The City shall pay the Contractor the amount due within thirty (30) days after approval of said invoice by the Public Works Director or designee.

- 26.3** If, at any time during the Contract, the City shall not approve or accept the Contractor's work performance, and an agreement cannot be reached between the City and the Contractor to resolve the problem to the City's satisfaction, the City shall negotiate with the Contractor on a payment for the services provided.
- 26.4** The City of Coconut Creek, without invalidating the Contract may make changes to increase or decrease services and/or locations as required. Such work shall be executed under the conditions of the original Contract.
- 26.5** It shall be the responsibility of the Successful Contractor to repair, rebuild or restore to its former condition, any and all portions of existing utilities, structures, equipment, appurtenances or facilities which may be disturbed or damaged due to Contractor's neglect or maintenance operations.

27. Supervision

- 27.1** Vendor shall provide proper supervision of staff including having a designated supervisor on all work sites at all times.
- 27.2** Supervisor/Forman shall be capable of communicating with Contract Administrator in English at all times at every site.

28. Safety, Traffic Control, and Protection

The Contractor shall exercise the greatest of caution and care in servicing each site so as not to be or create a hazard which may affect the health, safety and welfare of users of the site or those surrounding, abutting or passing, and so as not to cause or inflict damage to any portion of the site and the area abutting and surrounding. The Contractor shall be responsible for all damages to persons and/or property occurring in the course of or resulting from his work, and shall be responsible for all repair, restoration, replacement and/or restitution for said damages at the Contractor's sole expense.

Contractor shall adhere to all applicable OSHA Standards while performing work within the City. In addition, the following safety requirements shall apply to any work performed under this Agreement:

- 28.1** Federal, State and Local environmental regulations shall be followed to minimize the possibility of air, water and soil contamination or other undesirable results. Additionally, all work in public right-of-ways shall be performed in accordance with a Florida Department of Transportation, Broward County and/or City approved maintenance of traffic (MOT) plan. The costs related to any and all materials required for said traffic regulation shall be included. Access and passage by all vehicular and pedestrian traffic shall be maintained while work under this Agreement is being performed.
- 28.2** Proposer shall have staff that is directly responsible for placement of work zone traffic control devices for minor work zone setups that include any of the activities required in the Scope of Services.
- 28.3** No work shall be allowed until approved traffic controls are in place. The Successful Proposer shall not be allowed to work until all controls are found to be in compliance and equipment is secured properly.
- 28.4** All workers must wear an ANSI approved Class I, II, or III high visibility lime green or orange safety vest when conducting maintenance operations within public rights-of-way and medians.

- 28.5 All workers performing overhead maintenance operations shall wear hard hats conforming to ANSI Z89.1 standards. Use of hard hats shall be mandatory when performing tree pruning operations.
- 28.6 All temporary traffic control devices and signage shall be set in accordance with an approved MOT plan and shall be in strict conformance with the most recent edition of the Manual on Uniform Traffic Control Devices (MUTCD) as published by the United States Department of Transportation (USDOT).

29. Vehicles and Equipment

Contractor, at its sole cost and expense, shall furnish and maintain all vehicles and equipment as is considered reasonably necessary to perform the work in an acceptable manner to the City and at a satisfactory rate of progress. The vehicles and equipment shall be maintained in a safe and efficient working condition throughout the term of the Contract and any renewal period. Contractor shall establish a regular preventative maintenance program for all equipment and shall maintain records of preventative maintenance and other maintenance repairs to the equipment. Contractor shall be responsible for initiating, maintaining and supervising all maintenance programs, safety precautions and programs, in connection with the work and services performed hereunder. Contractor shall establish reasonable procedures and programs to prevent property loss or damage and/or personal injury to persons, including, but not limited to, employees performing such work and all other persons who may be affected hereby.

- 29.1 All maintenance vehicles shall be equipped with full functioning and visible rotating/strobe lights that shall be utilized at all times while conducting maintenance operations within the road right-of-way. All vehicles shall be appropriately and visibly marked with the company name and phone number.
- 29.2 All vehicles and equipment which remain stationary within fifteen feet (15') of the roadway edge for two or more minutes shall be coned off with no less than two (2) traffic cones (one at the front traffic side of the vehicle and one at the rear traffic side of the vehicle). The placement and number of cones to be utilized shall be sufficient to provide maximum safety based on the classification of road, speed limit, number of lanes, and in accordance with accepted national standards.
- 29.3 No overnight parking of vehicles on City property without obtaining authorization in writing from the Contract Administrator.

30. Hours of Operation and Holidays

All maintenance shall be performed in accordance with Contractor's approved time schedule, submitted after Notice of Award. The following limitations shall apply, and may only be modified if requested in writing and approved by the Public Works Director or designee:

- 30.1 Extreme caution must be used when parks are occupied. Heavily used parks shall be serviced on weekdays only, and work completed prior to 5:00 PM, unless otherwise authorized in writing by the City.
- 30.2 Work on school facilities and adjacent school zones shall be performed between the hours of 8:30 AM and 1:30 PM on school days and no work shall be performed when children are present.

- 30.3 Special attention will be given to specified areas, as established by the City, prior to national holidays to ensure that the City is at its best during these times. Contractor will check area two (2) days prior to the holiday and verify that maintenance has been properly performed.

31. Damages

Extreme care shall be taken by Contractor to safeguard all existing facilities, site amenities, utilities, irrigation systems, windows, and vehicles on or around the job site. Contractor shall not park any vehicles or equipment on swales or other grassed areas at any time. Damage to public and/or private property shall be the responsibility of the Contractor and shall be repaired and/or replaced at no additional cost to the City. The Contractor shall use all means to protect existing objects, structures and vegetation designated to remain. In the event of damage, the Contractor shall immediately make all repairs, replacements and dressings to damaged materials, to the approval of the City, at no additional cost to the City.

Damage to landscape material due to any cause shall be immediately corrected by Contractor. This includes up righting and staking any fallen or leaning trees and palms; removal of dead or damaged material; and minor grading and replacement of sod displaced by vehicles. Any pits left from tree removal shall be filled with good soil and sod laid to match existing grade. (Contractor must contact City designee within twenty four (24) hours of such repairs.)

Contractor is responsible for replacement of all damaged sod at Contractor's cost and City shall not be financially responsible for replacement of sod damaged by Contractor either due to Contractor's operations or negligence in properly performing the requirements of these specifications, including but not limited to, failure to adhere to fertilization and pest control schedules. If sod replacement is not complete within one week of written notification, City may replace and deduct the cost of replacement from the next monthly payment application.

Contractor shall also replace any landscape, irrigation, or structures damaged by Contractor or any authorized subcontractors or due to neglect to perform these specifications. If the Contractor fails to repair damages or replace the damaged item the City shall charge cost of all labor and materials required to complete reinstallation, to maintenance contractors. (Contractor will be notified prior to replacement of repair by City designee).

32. Warranty

Contractor shall replace any dead, dying, or infested plant materials including shrubs, hedges, trees, and groundcovers installed by Contractor for a period of one year from the date of installation provided the condition of said plant materials is not directly related to vandalism, vehicular accident, or negligence on the part of the City.

33. Damages, Vandalism, and Theft

In the event the Contractor discovers or is made aware of damages, vandalism or theft at a site specified herein, the Contractor, shall immediately notify the City of same, and shall file a police report of the occurrence.

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SECTION III DETAILED REQUIREMENTS – SCOPE OF SERVICES

1. Overview and Definitions

Contractor hereby agrees to provide landscape maintenance to medians, facilities and parks at specific locations as described in Exhibit “A” and “B” attached hereto and in accordance with all articles of this RFP. The work consists of furnishing all labor, materials, equipment, tools, permitting, service and supervision necessary to properly complete the work in a safe, effective, and efficient manner.

Definitions

The following words, terms and phrases, when used in this Contract, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

ANSI: American National Standards Institute.

Debris and Litter: Objects that are unsightly or present obstacles to mowing and other grounds maintenance operations including but not limited to, rocks in lawn areas, wind and storm damage items; paper, glass, trash, or debris deposited or blown onto the sites; palm fronds and tree limbs; and illegally posted signs within the public rights-of-way, are to be removed and disposed of by Contractor, at Contractor’s expense.

Edging: The cutting of overhanging or overgrown vegetation away from a hard surface such as curbing, sidewalks, driveways, roadways, etc., and/or the maintenance of a defined manicured edge around tree rings, landscape borders, monuments, signs, or other physical elements protruding from the landscape maintenance area.

FDOT: Florida Department of Transportation

Irrigation: All of the plumbing and electrical devices involved in the distribution of irrigation water. The plumbing begins at, lateral lines and ends at sprinkler head. The electrical begins at, and includes, the electrical controller (including box) and ends with the electrical solenoid on a valve or sprinkler head.

SDS: Safety Data Sheet

Mulch: Shall mean shredded wood product except for Cypress tree. Mulch shall be red in color unless otherwise directed by the City. All mulch shall be substantially free of noxious weed seeds, coarse materials, and objectionable foreign matter

OSHA: Occupational Safety and Health Administration.

Pest Control: The use of integrated pest management techniques to control outdoor pests such as weeds, rodents, insects and plant diseases.

Safety: Freedom from the occurrence or risk of injury, danger, or loss.

Scope of Work: The work under this Agreement shall consist of the supervision, materials, equipment, labor and all other items necessary to complete said work.

Shrub: A woody plant of relatively low height, distinguished from a tree by usually having several stems rather than a single trunk.

Trimming: The cutting of grass and weeds in areas that are inaccessible to mowers due to obstacles.

Weed: Any plant growing where it is not desired. Plants such as, but not limited to: clover, dandelions, purslane, chickweed, plantain, knot weed, black medic, and volunteer trees are also considered weeds. Grass in plant, rock and shrub beds, cracks in sidewalks, streets and parking lots is also a weed.

2. Mowing Specifics

- 2.1 Mowing shall be performed in a manner consistent with landscape maintenance industry standards that ensures smooth surface appearance without scalping or leaving any uncut grass.
- 2.2 All mowing equipment must be equipped with adjustable and functional discharge chutes. Discharge chutes shall be angled downward as necessary to prevent the discharge of clippings or other generated debris into pedestrian areas, roadways, or other areas that may cause damage or injury to persons or property. Discharge chutes shall be adjusted downward at a minimum 35 degree angle from horizontal when conducting mowing operations along medians and roadway edges.
- 2.3 All mowers must be adjustable and adjusted to the proper cutting height and level for the kind of grass and current condition of the turf. Mower blade height adjustment is to be measured from a level floor surface to the parallel and level plane of the mower blade.
- 2.4 All mower blades are to be sharp enough to cut, rather than to tear grass blades.
- 2.5 All litter and debris is to be removed from turf before mowing to avoid shredding that will damage turf appearance, or items that may be propelled by mower blades.
- 2.6 Mowing will be done carefully so as not to damage tree bark, tree supports or shrubs, intrude into ground cover beds, damage sodded berms, sprinkler heads, valves, manifolds, time clocks, curbs, or other items within or adjacent to the maintenance area.
- 2.7 Grass clippings or debris caused by mowing or trimming shall be removed from adjacent walks, streets, drives, gutters, and curbs or surfaces on the same day as mowed or trimmed. Nothing shall be allowed to stay in the vicinity of a storm water inlet/catch basin(s) nor be allowed to enter into any inlet, catch basin or body of water. Failure to follow these requirements may result in termination of the Agreement.
- 2.8 Mowing will not be done when weather or conditions will result in damaged turf or uneven cutting.
- 2.9 Grass shall not be mowed lower than three (3) inches in height. Cut heights should be set to remove half (1/2) of the blade height, not to exceed three quarter (3/4) of the blade height, with an average maintained height of three (3) to four (4) inches.
- 2.10 Excess clippings shall be spread out or removed as appropriate from right-of-way turf areas when they cause an unsightly appearance as determined by the City or may restrict the

regeneration of the turf below. Under no circumstances are excess clippings to be placed on, near or in a catch basin or water body.

3. Mowing Frequencies

- 3.1 Grass shall be mowed thirty-two (32) times annually based on a frequency of three (3) times per month, in the months of March through October and two (2) times per month, in the months of November through February.
- 3.2 In the months which mowing occurs two (2) times per month, such mowing shall occur on the fifteenth (15th) day and thirtieth (30th) day of the month. Contractor shall be given three (3) days to complete the work.
- 3.3 In the months which mowing occurs three (3) times per month, such mowing shall occur on the tenth (10th) day, twentieth (20th) day and thirtieth (30th) day of the month. Contractor shall be given three (3) days to complete the work.
- 3.4 Dog Parks shall be mowed only on Tuesdays three (3) times per month in the summer months of March through October and two (2) times in the months of November through February.

4. Trimming and Edging

4.1 Trimming

Grass shall be trimmed during, or as an immediate operation following, mowing. Trimming may be accomplished by fish line, cutting hand or hand powered shears or rotary nylon machines. Grass will be trimmed at the same height as adjacent turf is mowed, and as needed to remove all grass leaves from around all obstacles and vertical surfaces in the turf such as posts, trees, walls, cement medians. Berms shall be trimmed with a small trim mower only. Contractor shall use special care when trimming around trees to limit damage to bark surface and/or the living cambium layer beneath, and when trimming around sprinkler heads and other irrigation system fixtures to assure their proper water delivery function.

4.2 Edging

Mechanical edging of all turf edges abutting sidewalks, and flush paved surfaces, such as road curbs, and drives as well as irrigation and electrical valve boxes, enclosed areas such as scoreboard electrical boxes, generator enclosures, and dumpster areas will be done during or as an immediate operation following the mowing for the cycle as follows: turf will be edged approximately eighteen (18) inches outside and around all trees that are in lawn areas, or as directed by City designee. Turf will be edged approximately ten (10) inches out from the drip line of shrubs and hedges. Turf edging at shrub beds, flower beds, ground cover beds, hedges, or around trees (where "edging" rather than "trimming" is directed) shall be edged with a manual or mechanical edger to a neat vertical uniform line. Chemical edging shall **not** be used unless approved by City. Any use of chemical edging will be considered by City on a case by case basis.

Dirt and debris produced by edging or trimming will be removed and swept from adjacent hard surfaces during or as an immediate operation following the mowing.

5. **Trimming and Edging Frequencies**

5.1 **Level 1 (St. Augustine)**

Edging and trimming shall be done every time area is mowed.

5.2 **Level 2 (Bahia)**

Edging and trimming shall be done every other time area is mowed.

6. **Weed Control**

6.1 Weeds are to be mowed, trimmed or edged from turf areas as part of turf care operations. Weeds are to be manually or mechanically removed from shrub, hedge, ground cover or flower beds on the same frequency as edging and trimming.

6.2 Weeds are to be mechanically or chemically removed from walkways, walkway cracks, walkway/curb gutter expansion joints, pavers and along fence lines and cement noses of concrete medians with every mowing.

6.3 Contractor may use contact herbicides for killing spots of weeds in St. Augustine grasses, with written permission.

7. **Turf Fertilization**

Fertilization for all turf areas should be completed so as to provide one (1) pound of actual nitrogen per square feet of lawn area, for each application specified:

7.1 **St. Augustine Turf Fertilization**

St. Augustine turf fertilization, utilizing Lesco 16-4-8 or equivalent shall follow the schedule attached herein as Exhibit "D".

7.2 **St. Augustine Weed Control**

St. Augustine weed control utilizing Atrazine or equivalent shall follow the schedule attached herein as Exhibit "D".

7.3 **Fire Ant Control**

Fire ant control for all categories shall be done in accordance with the schedule attached herein as Exhibit "D".

7.4 **Disease Control**

Disease control in turf and shrub areas will be by identification and diagnosis and application of appropriate treatment as needed.

8. **Shrub and Hedge Care**

Shrubs shall be maintained in a healthy, growing correct-color condition and in the shape and area specified, or as specifically directed by City designee.

Contractor shall prune all shrubs and hedges including, but not limited to, the removal of dead and/or broken branches, suckers or sprouts, branches that may hang over walkways, grow through fences or obscure roadway vision. Pruning shall be performed to have shrubs appear orderly and neat at all times.

All pruning will be accomplished in accordance with standard industry practices using the appropriate pruning tools for the task at hand. Machetes and axes shall not be used in pruning operations.

9. Shrub and Groundcover Fertilization

Shrub and groundcover fertilization shall be fertilized in accordance with the schedule attached hereto as Exhibit "D", utilizing Lesco 8-10-10 mixture with microelements or equivalent at the rate of three quarter (3/4) pound of fertilizer per 100 square feet of shrub area.

10. Mulch

Mulch shall be added to all planting beds two (2) times per year except along greenways which shall be mulched one (1) time per year in accordance with the schedule attached hereto as Exhibit "D". Mulch shall be a minimum of three (3) inches thick after application. However, no mulch shall be placed around the immediate base of shrub stems or trees. Beds shall be clean of weeds before new mulch is applied. Beds may be cultivated to help achieve this depth prior to application of new mulch.

11. Tree Care

All tree work shall be supervised by an International Society of Arboriculture (ISA) or National Arborist Association (NAA) certified arborist. All work shall be performed in accordance with guidelines set forth in the latest editions of ANSI Z133.1 and ANSI A 300 (Safety and Pruning Standards) as published by the American National Standards Institute. Under all circumstances, this work should be performed so as to ensure the highest possible value for each tree is maintained, based on the International Society of Arboriculture (ISA) Standard Valuation Guidelines. Other Standards of practice as published by the United States Department of Agriculture, Florida Department of Agriculture and Consumer Services - Division of Forestry, and/or University of Florida/Florida Cooperative Extension Service - Institute of Food and Agriculture Sciences, may be referenced when local conditions are not specifically addressed by the NAA or ISA guidelines. All persons performing tree work within the City shall possess a valid Broward County issued Tree Trimmers License. Mulch shall not be placed closer than five (5) inches from the base of trees or palms.

11.1 Palm Trees

Dead fronds from palm trees shall be removed from the ground as they fall. Palms that do not self-prune (Sabal, Washingtonian, Queen, etc.) shall be thinned of dead or dying fronds once per year beginning May 1st and shall be completed by June 30th. With the exception of seed pods, no healthy green fronds are to be removed without prior City approval. All loose boots shall be removed from Sabal palms.

11.2 Shade Trees

Shade Trees shall be pruned to remove sucker growth and to maintain clear visibility between grade and a height of at least six (6) feet at all times. Trees in medians and swales shall be trimmed back so as to avoid contact with adjacent vehicular traffic. All damaged, dead or diseased limbs resulting from weather or pests shall be removed immediately.

11.3 Accent Trees

Accent Trees such as Cattley, Guava, Ligustrum and Oleander Standards, etc. shall be pruned by thinning to maintain shape of tree every other month.

11.4 Debris

All debris, limbs and fronds will be picked up the same day of pruning. Failure to pick up debris will result in a fee of two hundred dollars (\$200.00) per day, as long as debris remains. The parties agree that damages consequent to a breach of this section are not readily ascertainable at the time of execution of this agreement, and agree that two hundred dollars (\$200.00) per day is an amount proportionate to the cost incurred by the City as a

result of such breach. The parties agree that this amount is not intended as punitive damages.

12. Tree Fertilization

12.1 Shade Tree Fertilization

Shade trees (up to 3" caliper) shall be fertilized in accordance with the schedule attached herein as Exhibit "D" utilizing Lesco 8-10-10 mixture complete fertilizer with microelements or equivalent, at a rate of one (1) pound per caliper inch of trunk diameter at breast height (DBH).

12.2 Palm Tree Fertilization

Palms shall be fertilized in accordance with the schedule attached herein as Exhibit "D" utilizing Lesco 13-3-13 fertilizer containing microelements or equivalent at the rate of one (1) to five (5) pounds per palm, dependent on the trunk diameter, generally one-half (1/2) pounds per inch of trunk diameter.

13. Litter and Debris Control

13.1 Standard Services

- 13.1.1 Litter removal from turf areas and plant beds and designated right-of-way areas shall be complete prior to each mowing operation in the same day.
- 13.1.2 Litter is to be removed entirely from the sites and disposed of in accordance with City of Coconut Creek Ordinances at Contractor's expense (no dumping on City property shall be permitted).
- 13.1.3 The City reserves the right to maintain ownership of all shrub and tree trimmings, for mulch cultivation services. The Contractor shall be required to deliver said trimmings to the Public Works Department only if requested by the Landscaping Division, as part of services.
- 13.1.4 The City retains the right to request debris removal upon a finding by City staff that such services are necessary.

13.2 Storm and Hurricane Debris Removal

- 13.2.1 The Contractor shall make available to the City upon request, up to two (2) three (3)-man crews, including required equipment, for vegetative debris removal and/or the re-standing of trees when possible. These services shall be performed following significant weather events, at the City's discretion.
- 13.2.2 The Contractor shall make these services available to the City within twelve (12) hours, whereby the City maintains the right of refusal. In the event the City relinquishes this service, the City may later request such service upon reevaluation by City staff.

14. Chemical Pest Control

14.1 Turf Insect Control

Turf insect control shall be for specific insects identified by Contractor or City staff as problematic and treated on an as needed basis upon City authorization. Fire ant control shall be as defined in Section 7.3 above.

14.2 Shrub, Tree, Groundcover Insect Control

Shrub, tree and groundcover insect control shall be for specific insects identified by City staff as problematic and treated as needed upon City authorization. Some specific insects to be controlled are aphids, scale and grasshoppers.

14.3 General Use of Chemicals

- 14.3.1 All work involving the use of chemicals shall be in compliance with all federal, state and local laws and will be accomplished by or under the direction of a person holding a valid Florida Certified Pesticide Applicators License. Application shall be in strict accordance with all governing regulations.
- 14.3.2 SDS sheets for all proposed chemicals to include, commercial name, application rates and type of usage shall be submitted to the City designee for approval at the beginning of this Agreement. All proposed chemicals shall be approved by the Florida Department of Agriculture. No work shall begin until written approval of use is obtained from the City designee.
- 14.3.3 Chemicals shall only be applied by or under the supervision of those persons processing a valid Florida Certified Pesticide Applicators License. Applications shall be in strict accordance with all governing regulations.
- 14.3.4 Records must be kept and retained (with copies provided to the City in application report) as prescribed by law for the use of pesticides of all operations stating dates, times, methods of applications, chemical formulations, applicators names and weather conditions.
- 14.3.5 Chemicals shall be applied when air current are still and using methods preventing drifting onto adjacent property and preventing any toxic exposure to persons whether or not they are in or near the project. No spray applications are permitted when prevailing wind speeds exceed five (5) miles per hour.
- 14.3.6 Any soil, sod or plants contaminated or damaged by misuse of chemicals on the sites will be removed and replaced at Contractor's expense.

15. Additional Services

15.1 Sod Replacement

Contractor will replace and/or install sod for the City on an as-needed basis. Sod will be priced per square foot of sod and will include grading and installation.

15.2 Mowing

On occasion City may request Contractor to provide an additional mowing and/or bush hogging for a special event or other purpose. Any additional mowing and/or bush hogging shall be in accordance with the specifications above and shall be priced per acre.

15.3 Tree Removals

Contractor will supply labor and equipment for removal and disposal of trees as needed. Rate will be per tree removed. Three (3) size rates shall be provided, one for trees up to 15' in height, trees between 15' and 30' in height, and trees larger than 30' in height. All removals shall include stump grinding or stump removal where appropriate (as determined by City).

15.4 Tree Trimming/Shaping

Contractor shall trim and shape shade and palm trees in accordance with ANSI 300 standards and on an as needed basis as determined by City. Pricing shall be in four (4) categories: trees up to 10' canopy spread, trees between 10' and 25' canopy spread, trees greater than 25' canopy spread, and all palm trees.

15.5 Tree Standing

Upon request of City, Contractor shall re-stand, including guying and staking, any trees that are leaning or have fallen and are considered to be savable.

15.6 Additional Fertilization

Contractor shall apply additional fertilization to areas determined in need by the City. Price shall be per square foot of area fertilized.

15.7 Additional Pest Control

Contractor shall perform additional pest control to areas determined in need by the City. Price shall be per square foot of application area.

15.8 Additional Mulch

Contractor shall provide and install additional mulch to areas determined to be in need by City. When requested, mulch shall meet the same requirements as Section 10. above and shall be priced per cubic yard.

15.9 Storm and Debris Clean-Up

Debris shall be removed within the landscape maintenance areas described in Exhibit "A" after major storm events, including but not limited to hurricanes, tornados, etc. at the City's request, on a per cubic yard rate.

15.10 Irrigation Maintenance

Vendor shall perform maintenance to City irrigation system including but not limited to mainlines, valves, laterals, and sprinkler heads on an as needed basis. Vendor shall be paid on a per hour basis for each irrigation worker and a percentage markup for materials.

15.11 Hedging

A price for additional hedging shall be provided on a linear foot basis.

15.12 Plant Installation

Vendor shall provide a three person crew for plant installation projects on an hour basis per worker.

15.13 Weed Spraying

Vendor shall provide weed spraying on an hourly basis.