

**GROUNDS MAINTENANCE SERVICES  
FOR  
MIAMI LAKES OPTIMIST PARK & ROYAL OAKS PARK  
2018-16**



**The Town of Miami Lakes Council:**

**Mayor Manny Cid  
Vice Mayor Frank Mingo  
Councilmember Luis Collazo  
Councilmember Timothy Daubert  
Councilmember Ceasar Mestre  
Councilmember Marilyn Ruano  
Councilmember Nelson Rodriguez**

Alex Rey, Town Manager  
The Town of Miami Lakes  
6601 Main Street  
Miami Lakes, Florida 33014

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## SECTION 1. GENERAL TERMS & CONDITIONS

### 1.01 DEFINITIONS

1. **Award** means that the Town Manager or Town Council, as applicable, has approved the award of a contract.
2. **Bid** means the Submittal tendered by a Bidder in response to this solicitation, which includes the price, authorized signature and all other information or documentation required by the Invitation to Bid ("ITB") at the time of submittal.
3. **Bid Form** means the form that contains the goods or services to be purchased and that must be completed and submitted with the Bid.
4. **Bidder** means any person, firm or corporation, or its duly authorized representative tendering a Submittal in response to this solicitation.
5. **Change Order** means a written document ordering a change in the Contract price or Contract time or a material change in the Work.
6. **Completion Time** means the number of calendar days specified for Final Completion of the Project.
7. **Cone of Silence** means the time period and method of communications as required by Section 2-11.1 of the Miami-Dade County Code, which state that the Cone of Silence shall be in effect from the date the ITB is issued until the Town Manager issues a written recommendation.
8. **Consultant** means a firm that has entered into a separate agreement with the Town for the provision of professional services.
9. **Contract** means the ITB, the addendum, and the Bid documents that have been executed by the Bidder and the Town subsequent to approval of award by the Town.
10. **Contract Documents** means the Contract as may be amended from time to time, and plans, specifications, addendum, clarifications, directives, Change Orders, payments and other such documents issued under or relating to the Contract.
11. **Contractor** means the Successful Bidder who is issued a Purchase Order, Contract, Blanket Purchase Order agreement, or Term Contract to provide goods or services to the Town and who will be responsible for the acceptable performance of any Work and for the payment of all legal debts pertaining to the Work under the Contract.
12. **Cure** means the action taken by the Contractor promptly, after receipt of written notice from the Town of a breach of the Contract Documents, which must be performed at no cost to the Town, to repair, replace, correct, or remedy all material, equipment, or other elements of the Work or the Contract Documents affected by such breach, or to otherwise make good and eliminate such breach.
13. **Cure Period** means the period of time in which the Contractor is required to remedy deficiencies in the Work or compliance with the Contract Documents after receipt of a written Notice to Cure from the Town identifying the deficiencies and the time to Cure.
14. **Days** mean calendar days unless otherwise specifically stated in the Contract Documents .
15. **Defective Work** means (a) Work that is unsatisfactory, deficient, or damaged, does not conform to the Contract Documents, or does not meet the requirements of any inspection, test or

approval, or (b) Work associated with punch list items that the Contractor fails to complete within a reasonable time after issuance of the punch list by the Program Manager.

16. **Field Directive** means a written directive to effect changes to the Work, issued by the Program Manager, Consultant or the Town Department Director that may affect the ITB Contract price or time.
17. **Inspector** means an authorized representative of the Town assigned to make necessary inspections of materials furnished by Design-Build Firm and of the Work performed by the Contractor. The Town, at its sole discretion may hire a professional consultant to perform the inspections.
18. **Materials** mean goods or equipment incorporated into the Work, or used or consumed in the performance of the Work.
19. **Notice of Award** means any correspondence from the Town that informs the successful bidder of a contract award for this ITB.
20. **Performance Work Standards (“PWS”)** means the minimum performance standards required for satisfactory performance of all the services required under this Contract, which are provided for in Section 3 of the Contract.
21. **Project** means a task or series of tasks that the Contractor must complete in accordance with the Contract Documents.
22. **Program Manager(s)** means the person(s) assigned by the Town Manager or designee to manage a service program under this Contract.
23. **Request for Information (RFI)** means a request from the Contractor seeking an interpretation or clarification relative to the Contract Documents. The RFI, which must be clearly marked RFI, must clearly and concisely set forth the issue(s) or item(s) requiring clarification or interpretation and why the response is required. The RFI must set forth the Contractor’s interpretation or understanding of the document(s) in question, along with the reason for such understanding.
24. **Subcontractor** means a person, firm or corporation having a direct contract with Contractor, including one who furnishes material, equipment or services necessary to perform the Work.
25. **Submittal** means the documents prepared and submitted by the Bidder in response to this ITB.
26. **Town** means the Town Council of the Town of Miami Lakes or the Town Manager, as applicable.
27. **Town Manager** means the duly appointed chief administrative officer of the Town of Miami Lakes or designee.
28. **Work/Services** as used herein refers to all reasonably necessary and inferable labor, material, equipment, and services, whether or not specifically stated, to be provided by the Contractor to fulfill its obligations under the Contract Documents.

## 1.02 GENERALLY

The employee(s) of the Contractor will be considered to be at all times its employee(s), and not employee(s) or agent(s) of the Town or any of its departments.

The Contractor agrees that the Contractor will at all times employ, maintain and assign to the performance of the Contract a sufficient number of competent and qualified professionals and other personnel to meet the requirements of the Work to be performed.

The Contractor agrees to adjust staffing levels or to replace any staff personnel if so requested by the Town Manager or designee, should the Town Manager or designee make a determination that said staffing is unacceptable or that any individual is not performing in a manner consistent with the requirements for such a position.

The Contractor represents that its staff personnel have the proper skills, training, background, knowledge, experience, rights, authorizations, integrity, character and licenses necessary to perform the Work, in a competent and professional manner.

The Contractor must at all times cooperate with the Town, or the Consultant (if any) and coordinate its respective Work efforts to most effectively and efficiently progress the performance of the Work.

The Town, the Consultant (if any) and other agencies authorized by the Town, must have full access to the Project site at all times.

The apparent silence of the Contract Documents as to any detail, or the apparent omission from them of a detailed description concerning any Work to be done and materials to be furnished, will be regarded as meaning that only best practices are to prevail and only materials and workmanship of the best quality are to be used in the performance of the Work.

### **1.03 RULES AND REGULATIONS**

The Contractor must comply with all laws and regulations applicable to provision of services specified in the Contract Documents. The Contractor must be familiar with all federal, state and local laws, rules, regulations, codes, and ordinances that affect the Work.

Where portions of the Work traverse or cross federal, state, county or local highways, roads, streets, or waterways, and the agency in control of such property has established standard specifications, rules or regulations governing items of Work that differ from these specifications, the most stringent specifications, rules and regulations will apply.

### **1.04 HOURS FOR PERFORMING WORK**

All Work must be performed in accordance with the Town's Noise Ordinance No. 04-50 unless specifically stated otherwise herein or in a Work Order. Work to be performed outside these hours will require the prior written approval of the Program Manager.

### **1.05 SUBCONTRACTORS**

No work under this contract may be subcontracted without the prior written approval of the Town Manager.

In the event subcontracts are approved, Contractor is solely responsible for all acts and omissions of its Subcontractors. Nothing in the Contract Documents creates any contractual relationship between any Subcontractor and the Town. Contractor is responsible for the timely payment of its Subcontractors and suppliers as required by Florida Statute Chapter 218.735. Failure to comply with these payment requirements will place the Contractor in default of the Contract.

Contractor must not employ any subcontractor against whom Town may have a reasonable objection.

Contractor must utilize the Subcontractors identified in its Bid submission. The replacement, addition, or deletion of any Subcontractor(s) will be subject to the prior written approval of the Program Manager.

## **1.06 CONSULTANT SERVICES**

The Town, at its sole discretion, may hire a Consultant who may serve as the Town's representative for the Contract. Where a Consultant has been identified, the Consultant and the Program Manager will both have authority to act on behalf of the Town to the extent provided for in the Contract Documents, and where such authority has been delegated in writing by the Town Manager.

## **1.07 AUTHORITY OF THE PROGRAM MANAGER(S)**

The Town Manager hereby authorizes the Program Manager(s) to determine, all questions of any nature whatsoever arising out of, under or in connection with, or in any way relating to or on account of the Work, and questions as to the interpretation of the Work to be performed under the Contract Documents. The Program Manager(s) may delegate some of the authority contained in this Article to a designee.

The Contractor is bound by all determinations or orders of the Program Manager(s) and must promptly respond to requests of the Program Manager(s), including the withdrawal or modification of any previous order, and regardless of whether the Contractor agrees with the Program Manager(s)'s determination or requests. Where requests are made orally, the Program Manager(s) will follow up in writing, as soon thereafter as is practicable.

The Program Manager(s) and/or designee(s) shall have authority to act on behalf of the Town to the extent provided for by the Contract Documents, unless otherwise modified in writing by the Town. All instructions to the Contractor will be issued in writing through the Town Manager, Program Manager(s) or designee(s).

The Program Manager(s) will not be responsible for the means, methods, techniques, sequences or procedures employed, or for safety precautions and programs in connection with the Work and will not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents.

All interpretations and recommendations of the Program Manager(s) and Consultant will be consistent with the intent of the Contract Documents.

Interpretation of the Contract terms and conditions will be issued by the Town's Procurement Manager.

The Program Manager(s) and/or designee(s) will have authority to reject Work that does not conform to the Contract Documents. Whenever, in their opinion, it is considered necessary or advisable to ensure the proper completion of the Work the Program Manager(s) or Consultant have authority to require special inspections or testing of the Work, whether or not such Work is fabricated, installed or completed.

The Program Manager(s)'s authority to act under this paragraph, or any decision made in good faith either to exercise or not to exercise such authority, shall not give rise to any duty or responsibility of the Program Manager(s) owed to the Contractor, any subcontractor, supplier or any of their agents, employees, or any other person performing any of the Work.

The Program Manager(s) is not responsible for the acts or omissions of the Contractor, any Subcontractor, or any of their agents or employees, or any other persons performing any of the Work.



**1.08 INDEPENDENT CONTRACTOR**

The Contractor is engaged as an independent business and agrees to perform Work as an independent contractor. In accordance with the status of an independent contractor, the Contractor covenants and agrees that the Contractor will conduct business in a manner consistent with that status, that the Contractor will not claim to be an officer or employee of the Town for any right or privilege applicable to an officer or employee of the Town, including, but not limited to: worker’s compensation coverage; unemployment insurance benefits; social security coverage; retirement membership, or credit.

**1.09 THIRD-PARTY BENEFICIARIES**

Neither Contractor nor Town intends to directly or substantially benefit a third party by this Contract. Therefore, the parties agree that there are no third-party beneficiaries to this Contract and that no third party will be entitled to assert a claim against either of them based upon this Contract.

**1.10 ASSIGNMENT OR SALE OF CONTRACT**

The performance of this Contract will not be transferred pledged, sold, delegated or assigned, in whole or in part, by the Contractor without the prior written consent of the Town. It is understood that a sale of the majority of the stock or partnership shares of the Contractor, a merger or bulk sale, an assignment for the benefit of creditors will each be deemed transactions that would constitute an assignment or sale hereunder. The Town may request any information it deems necessary to review any request for assignment or sale of the Contract.

The Contractor must notify the Program Manager prior to any Assignment of the Contract, which must be approved by the Town for the transfer of the Contract. The Town may, at its sole discretion, elect not to approve the transfer of the Contract, which will result in the Contract being terminated in accordance with the Termination for Convenience provision of the Contract. Any transfer without Town approval will be cause for the Town to terminate this Contract for default and the Contractor will have no recourse from such termination.

Nothing herein will either restrict the right of the Contractor to assign monies due to, or to become due or be construed to hinder, prevent or affect any assignment by the Contractor for the benefit of its creditors, made pursuant to applicable law.

**1.11 TIME FOR COMPLETION**

Time is of the essence with regard to completion of the Work to be performed under the Contract. Delays and extensions of time may be allowed only in accordance with the provisions of the Contract. The time allowed for completion is provided for in the Special Terms & Conditions.

**1.12 APPLICABLE LAW AND VENUE OF LITIGATION**

This Contract will be enforceable in Miami-Dade County, Florida, and if legal action is necessary by either party with respect to the enforcement of any or all of the terms or conditions the sole venue will be Miami-Dade County, Florida.

**1.13 NON-EXCLUSIVE CONTRACT**

This Contract shall not be deemed to create an exclusive relationship between the Town and the Contractor(s). The Town, in its sole discretion, reserves the right to perform, solicit or employ other parties or its own staff to perform Work or Services comparable to those covered herein.

**1.14 SEVERABILITY**

In the event any provision of the Contract Documents is determined by a Court of competent jurisdiction to be illegal or unenforceable, then such unenforceable or unlawful provision will be

excised from this Contract, and the remainder of the Contract Documents will continue in full force and effect. Notwithstanding the foregoing, if the result of the deletion of such provision will materially and adversely affect the rights of either party, such party may elect, at its option, to terminate the Contract in its entirety. An election to terminate the Contract based upon this provision must be made within seven (7) calendar days after the finding by the Court becomes final.

### **1.15 CONTRACT DOCUMENTS CONTAIN ALL TERMS**

The Contract Documents and all documents incorporated herein by reference contain all the terms and conditions agreed upon by the parties hereto, and no other agreement, oral or otherwise, regarding the subject matter of the Contract Documents will be deemed to exist or to bind any of the parties hereto, or to vary any of the terms contained herein.

### **1.16 ENTIRE AGREEMENT**

The Contract Documents, as they may be amended from time to time, represent the entire and integrated Contract between the Town and the Contractor and supersede all prior negotiations, representations or agreements, written or oral. This Contract may not be amended, changed, modified, or otherwise altered in any respect, at any time after the execution hereof, except by a written document executed with the same formality and equal dignity herewith. Waiver by either party of a breach of any provision of the Contract Documents will not be deemed to be a waiver of any other breach of any provision of the Contract Documents.

### **1.17 INTENTION OF THE TOWN**

It is the intent of the Town to describe in the ITB the Work to be completed in accordance with all codes and regulations governing all the Work to be performed under this Contract. Any work, labor, materials and/or equipment that may reasonably be inferred from the Contract as being required to produce the intended results must be supplied by Contractor whether or not specifically called for in the Contract Documents. Where words, which have well-known technical or trade meanings are used to describe Work, materials or equipment, such words will be interpreted in accordance with that meaning. Reference to standard specifications, manuals, or codes of any technical society, organization or association, or to the laws or regulations of any governmental authority, whether such reference be specific or by implication, will mean the latest standard specification, manual, code or laws or regulations in effect at the time of opening of Bids and Contractor must comply therewith. Town will have no duties other than those duties and obligations expressly set forth within the Contract Documents.

### **1.18 PRIORITY OF PROVISIONS**

If there is a conflict or inconsistency between any term, statement requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into the Contract Documents by reference and a term, statement, requirement, the specifications or any plans, or provision of the Contract Documents the following order of precedence will apply:

1. In the event of conflicts in the Contract Documents the priorities stated below will govern;
2. Revisions and Change Orders to the Contract will govern over the Contract;
3. The Contract Documents will govern over the Contract;
4. The Special Conditions will govern over the General Conditions of the Contract; and
5. Addendum to an ITB will govern over the ITB.

In the event that Drawings and specifications are provided with the Contract the priorities stated below will govern:

1. Scope of Work and Specifications will govern over Plans and Drawings;
2. Schedules, when identified as such will govern over all other portions of the Plans;
3. Specific notes will govern over all other notes, and all other portions of the Plans, unless specifically stated otherwise;
4. Larger scale drawings will govern over smaller scale drawings;
5. Figured or numerical dimensions will govern over dimensions obtained by scaling; and
6. Where provisions of codes, manufacturer's specifications or industry standards are in conflict, the more restrictive, strict, or higher quality will govern.

### **1.19 ROYALTIES AND PATENTS**

All fees, royalties, and claims for any invention, or pretended inventions, or patent of any article, material, arrangement, appliance, or method that may be used upon or in any manner be connected with the Work or appurtenances, are hereby included in the prices stipulated in the Contract for said Work.

### **1.20 PURCHASE AND DELIVERY, STORAGE AND INSTALLATION**

All materials must be F.O.B. delivered and included in the cost of the Work. The Contractor is solely responsible for the purchase, delivery, off-loading and installation of all equipment and material(s). Contractor must make all arrangement for delivery. Contractor is liable for replacing and damaged equipment or material(s) and filing any and all claims with suppliers. All transportation must comply with all federal, FDOT, Miami-Dade County, and Town rules and regulations.

No materials will be stored on site without the prior written approval, using the appropriate Town form, by the Program Manager. The Town's Forms are available on the Town's website.

### **1.21 OWNERSHIP OF THE WORK**

The Contractor is solely responsible for all Work, until final acceptance of the Work. Contractor is liable for all damage, theft, maintenance, and safety until such time as the Town accepts the Work and pays the final invoice.

### **1.22 TOWN LICENSES, PERMITS AND FEES**

In accordance with the Public Bid Disclosure Act, 218.80, Florida Statutes, each license, permit, or fee the Contractor will have to pay the Town before or during the Work or the percentage method or unit method of all licenses, permits and fees required by the Town and payable to the Town by virtue of the Work as part of the Contract are as follows:

1. Contractor must have and maintain during the term of this Contract all appropriate Town licenses. Fees for which must be paid in full in accordance with the Town's Fee structure for such licenses. THERE WILL NOT BE ANY PERCENTAGE REDUCTION OR WAIVING OF TOWN LICENSE FEES.
2. During the performance of this Contract there may be times when the Contractor will be required to obtain a Town permit for such Work. It is the responsibility of the Contractor to ensure that he has the appropriate Town permits to perform such work as may become necessary during the performance of the Work. Any fees related to Town required permits in connection with this Contract will be the responsibility of the Contractor and will be reimbursed by the Town.

Licenses, permits, and fees that may be required by County, State or Federal entities are not included in the above list.

**1.23 TAXES**

Contractor must pay all applicable sales, consumer, use and other taxes required by law. Contractor is responsible for reviewing the pertinent state statutes involving state taxes and complying with all requirements.

Contractor shall include all sales and other taxes for which it is liable in its Bid price.

**1.24 REMOVAL OF UNSATISFACTORY PERSONNEL**

Contractor must at all times enforce strict discipline and good order among its employees and subcontractors at the Project(s) site(s) and must not employ on any Work any unfit person or anyone not skilled in the Work to which they are assigned.

The Town may make written request to the Contractor for the prompt removal and replacement of any personnel employed or retained by the Contractor, or any or Subcontractor engaged by the Contractor to provide and perform services or Work pursuant to the requirements of the Contract Documents. The Contractor must respond to the Town within five (5) calendar days of receipt of such request with either the removal and replacement of such personnel or written justification as to why that may not occur. The Town will make the final determination as to the removal of unsatisfactory personnel from the Work. The Contractor agrees that the removal of any of such individual(s) does not require the termination or demotion of said individual(s).

**1.25 COMPLIANCE WITH APPLICABLE LAWS**

The Contractor must comply with the most recent editions and requirements of all applicable laws, rule, regulations, codes, and ordinances of the Federal government, the State of Florida, Miami-Dade County, and the Town.

**1.26 NONDISCRIMINATION, EQUAL EMPLOYMENT OPPORTUNITY, & ADA**

Contractor will not unlawfully discriminate against any person, will provide equal opportunities for employment, and comply with all applicable provisions of the Americans with Disabilities Act in its performance of the Work under the Contact. Contractor will comply with all applicable federal, State of Florida, Miami-Dade County, and Town rules regulations, laws, and ordinance as applicable.

**1.27 NOTICES**

Whenever either party desires to give written notice to the other relating to the Contract, such must be addressed to the party for whom it is intended at the place specified below; and the place for giving the notice will remain until it has been changed by written notice in compliance with the provisions of this Article. Notice will be deemed given on the date received or within 3 days of mailing, if mailed through the United States Postal Service. Notice will be deemed given on the date sent via e-mail or facsimile. Notice will be deemed given via courier/delivery service upon the initial delivery date by the courier/delivery service. For the present, the parties designate the following as the respective places for giving of notice:

For Town:

Mr. Alex Rey  
Town Manager  
Town of Miami Lakes  
6601 Main Street  
Miami Lakes, Florida 33014  
[reya@miamilakes-fl.gov](mailto:reya@miamilakes-fl.gov)

Raul Gastesi  
Town Attorney  
Town of Miami Lakes  
6601 Main Street  
Miami Lakes, Florida 33014  
[rgastesi@miamilakes-fl.gov](mailto:rgastesi@miamilakes-fl.gov)

For Contractor:

(To Be Determined)

Space intentionally left blank

During the Work the Contractor must maintain continuing communications with designated Town representative(s). The Contractor must keep the Town fully informed as to the progress of the Work under the Contract.

## **1.28 INDEMNITY & INSURANCE**

### **1.28-1 INDEMNIFICATION**

The Contractor must indemnify and hold harmless the Town, its officers, agents and employees from and against all liability, claims, damages, losses and expenses, including reasonable attorney's fees and costs at both trial and appellate levels arising out of or resulting from the performance of the Work under this Contract, caused by negligence, recklessness, intentional misconduct, or any act or omission of the Contractor or anyone directly or indirectly employed by Contractor or anyone for whose acts Contractor may be liable. The Contractor expressly understands and agrees that any insurance protection required by this Contract or otherwise provided by Contractor will in no way limit the responsibility to indemnify, keep and save harmless and defend the Town or its officers, employees, agents and instrumentalities as herein provided.

The Contractor agrees and recognizes that the Town will not be held liable or responsible for any claims which may result from any actions or omissions of the Contractor in which the Town participated either through review or concurrence of the Contractor's actions. In reviewing, approving or rejecting any submissions by the Contractor or other acts of the Contractor, the Town in no way assumes or shares any responsibility or liability of the Contractor or Subcontractor, under this Contract. The Contractor will defend the Town or provide for such defense at its own expense, at the Town's option.

This indemnification obligation will survive the expiration or termination of this Contract.

The Town has provided specific consideration for the indemnification of \$10.00 from the sums due to the Contractor under this Contract.

### **1.28-2 CONTRACTOR'S RESPONSIBILITY FOR DAMAGES TO THE WORK**

Contractor accepts full responsibility for Work against all losses or damages of whatever nature sustained until acceptance by Town Manager or designee, and must promptly repair or replace, at no additional cost to the Town any Work, materials, equipment, or supplies damaged, lost, stolen, or destroyed from any cause whatsoever.

Contractor is full responsible for Work against all losses or damages of whatever nature sustained until acceptance by Town, and must promptly repair or replace, at no additional cost to the Town any Work, materials, equipment, or supplies damaged, lost, stolen, or destroyed from any cause whatsoever.

### 1.28-3 DEFENSE OF CLAIMS

Should any claim be made, or any legal action brought in any way relating to the Work under the Contract, the Contractor will diligently render to the Town all assistance which the Town may require of the Contractor.

### 1.28-4 INSURANCE

Without limiting any of the other obligations or liabilities of Contractor, the Contractor must secure and maintain throughout the duration of this Contract, insurance of such type and in such amounts necessary to protect its interest and the interest of the Town against hazards or risks of loss as specified below. The underwriter of such insurance must be qualified to do business in the State of Florida, be rated "B" as to management and "Class V" as to strength or better as rated by the latest edition of Best's Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey, or its equivalent, The insurance carrier must have agents upon whom service of process may be made in the State of Florida. The insurance coverage will be primary insurance with respect to the Town, its officials, employees, agents and volunteers. Any insurance maintained by the Town will be in excess of the Contractor's insurance and will not contribute to the Contractor's insurance. The insurance coverages must include a minimum of:

a. *Worker's Compensation and Employer's Liability Insurance:*

Coverage to apply for all employees for statutory limits as required by the State of Florida's Statutory Workers' Compensation Law and all applicable Federal laws. The policy(ies) must include Employer's Liability with minimum limits of \$500,000 each accident and a waiver of subrogation.

b. *Comprehensive Business Automobile and Vehicle Liability Insurance:*

This insurance must be written in comprehensive form and must protect the Contractor and the Town against claims for injuries to members of the public and/or damages to property of others arising from the Contractor's use of motor vehicles or any other equipment and must cover operation with respect to onsite and offsite operations and insurance coverage must extend to any motor vehicles or other equipment irrespective of whether the same is owned, non-owned, or hired. The limit of liability must not be less than \$500,000 per occurrence, combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability Policy, without restrictive endorsement, as filed by the Insurance Services Office.

c. *Commercial General Liability ("CGL"):*

This insurance must be written in comprehensive form and must protect the Contractor and the Town against claims arising from injuries to members of the public or damage to property of others arising out of any act or omission to act of the Contractor or any of its agents, employees, or subcontractors. The limit of liability must not be less than \$1,000,000 per occurrence, combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a primary and non-contributory basis and with a coverage form no more restrictive than the latest edition of the Commercial General Liability Policy, without restrictive endorsements, as filed by the Insurance Services Office, and must include: (1) Premises and/or Operations; (2) Independent contractors and Products and/or completed Operations; (3) Broad Form Property Damage, Personal Injury and a Contractual Liability Endorsement, including any hold harmless and/or indemnification agreement.

(i) Products and/or Completed Operations for contracts with an Aggregate Limit of **One Million Dollars (\$1,000,000)** per project. Contractor must maintain in force until at least three years after completion of all Work required under the Contract, coverage for Products and Completed Operations, including Broad Form Property Damage.

(ii) Personal and Advertising Injury with an aggregate limit of **One Million Dollars (\$1,000,000)**.

(iii) CGL Required Endorsements:

- Employees included as insured
- Contingent Liability/Independent Contractors Coverage
- Contractual Liability
- Waiver of Subrogation
- Premises and/or Operations
- Explosion, Collapse and Underground Hazards (if not specifically covered under the policy)
- Loading and Unloading
- Mobile Equipment (Contractor's Equipment) whether owned, leased, borrowed or rented by Contractor or employees of the Contractor.

*d. Certificate of Insurance*

Contractor must provide the Town Manager or designee with Certificates of Insurance for all required policies within fifteen (15) days of notification of a conditional award by the Town. The Certificates of Insurance must not only name the types of policy(ies) provided, but also must specifically cite this Contract and must state that such insurance is as required by this Contract. The Town reserves the right to require the Contractor to provide a certified copy of such policies, upon written request by the Town. Each policy certificate must be endorsed with a provision that not less than thirty (30) calendar days' written notice must be provided to the Town before any policy or coverage is cancelled, restricted, or a material change is made. Acceptance of the Certificate(s) is subject to approval of the Town Manager or designee.

*e. Additional Insured*

The Town is to be specifically included as an Additional Insured for the liability of the Town resulting from operations performed by or on behalf of Contractor in performance of this Contract. The Town must be named as additional insured under the CGL, business automobile insurance and umbrella policies. Town must be named as an additional insured under Contractor's insurance, including that applicable to the Town as an Additional Insured, must apply on a primary basis and any other insurance maintained by the Town will be in excess of and will not contribute to Contractor's insurance. Contractor's insurance must contain a severability of interest provision providing that, except with respect to the total limits of liability, the insurance must apply to each Insured or Additional Insured in the same manner as if separate policies had been issued to each.

All deductibles or self-insured retentions must be declared to and be approved by the Town Manager. The Contractor will be responsible for the payment of any deductible or self-insured retention in the event of any claim.

## 1.29 PUBLIC RECORDS

### 1.29-1 ACCESS, REVIEW AND RELEASE OF RECORDS

Town will have the right to inspect and copy, at Town's expense, the books, records, and accounts of Contractor which relate in any way to the Contract. The Contractor agrees to maintain an accounting system that provides for accounting records that are supported with adequate documentation and adequate procedures for determining allowable costs.

*f. Public Records*

Bidder affirms, by virtue of bidding, that its Bid is a public record, and the public will have access to all documents and information pertaining to the bid and the solicitation, subject to the provisions of Chapter 119, Florida Statutes. Bidder acknowledges that the Town may provide public access to or provide copies of all documents subject to disclosure under applicable law. If the Project is funded by grants, either partially or fully, records will be made available to the granting agency in accordance with that agency's requirements, when necessary.

Bidder is responsible for claiming applicable exemptions to disclosure as provided by Chapter 119, Florida Statutes, in its Bid by identifying the materials to be protected and providing a reason for why such exclusion from public disclosure is necessary and legal.

*g. Retention and Transfer of Public Records*

Upon termination by the Town or final completion of the Contract the Contractor must, in accordance with Section 119.0701 of the Florida Statutes, transfer to the Town, at no cost, all public records in possession of the Contractor and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All public record stored electronically must be provided in .pdf format or another format acceptable to the Town. Any payments due the Contractor will not be made until the Town receives the public records. Failure to return such documents will result in the documents being subject Chapter 119 of the Florida Statutes

The Contractor must comply with the applicable provisions of Chapter 119, Florida Statutes and Town will have the right to immediately terminate this Contract for the refusal by the Contractor to comply with Chapter 119, Florida Statutes. The Contractor must retain all other records associated with this Contract for a period of five (5) years from the date of termination.

**Should the Contractor have any questions related to the application of Chapter 119, Florida Statutes, to the Contractor's duty to provide public records relating to this Contract, contact the Town's custodian of public records at the Office of the Town Clerk 6601 Main Street, Miami Lakes, Florida 33014 either in writing to by telephone at (305) 364-6100 or [clerk@miamilakes-fl.gov](mailto:clerk@miamilakes-fl.gov).**

## 1.30 CONTRACT MODIFICATION AND DISPUTE PROCESS

### 1.30-1 CHANGE ORDERS

Without invalidating the Contract Documents, and without notice to any Surety, the Town reserves the right to make increases, decreases or other changes in the character or quantity of the Work under the Contract Documents as may be considered necessary or desirable to



complete the Work in a manner satisfactory to the Town. The Town reserves the right to order changes which may result in additions to or reductions from the amount, type or value of the Work shown in the Contract, and which are within the general scope of the Contract Documents, and all such changes will be authorized only by a Change Order approved in advance, and issued in accordance with provisions of the Town.

The Contractor is required to provide the Program Manager with a detailed Change Proposal Request ("CPR") or Request for Change Order ("RCO"), utilizing the Town's standard form, which must include requested revisions to the Contract, including but not limited to adjustments in this Contract Price and Contract Time. The Contractor is required to provide sufficient data in support of the cost proposal demonstrating its reasonableness. In furtherance of this obligation, the Town may require that the Contractor submit any or all of the following: a cost breakdown of material costs, labor costs, labor rates by trade, and Work classification and overhead rates in support of Contractor's CPR/RCO. The Contractor's CPR/RCO must include any schedule revisions and an explanation of the cost and schedule impact of the proposed change on the Project. If the Contractor fails to notify the Program Manager of any schedule changes associated with the proposed change, it will be deemed to be an acknowledgment by Contractor that the proposed work will not have any scheduling consequences.

Any changes to the Contract must be contained in a written Change order, using the Town's Change Order Form, executed by the both parties. However, under circumstances determined necessary by the Town, a Change Order may be issued unilaterally by Town.

In the event a satisfactory adjustment cannot be reached and a Change Order has not been issued or time is of the essence, the Town reserves the right, at its sole option to direct the Contractor to proceed on a time and materials basis or make such arrangements as may be deemed necessary to complete the proposed additional Work.

Where the Town directs the Contractor to proceed on a time and materials basis, Contractor must maintain detailed records of all labor and material costs for review by the Town.

For all Change Orders the Contractor will be entitled to a combined profit and overhead rate for Change Orders that will not be in excess of ten (10%) percent inclusive of all direct/indirect costs including labor, material, and equipment costs, unless the Procurement Manager determines that the complexity and risk of the Change Order work is such that an additional factor is appropriate.

The final amount to be paid to the Contractor for Change Order Work is subject to negotiation between the Town and the Contractor.

Failure by the Contractor to proceed with Change Order Work when so directed by the Town Manager or designee may result in the Contractor being found in default of the Contract.

Contractor must utilize the Town's standard requests for change orders and change order forms unless otherwise specifically approved by the Town's Procurement Manager. The Town's Forms are available on the Town's website.

### 1.30-2 FORCE MAJEURE

Should any failure to perform on the part of Contractor be due to a condition of Force Majeure as that term is interpreted under Florida law, then, the Town may allow an extension of time reasonably commensurate with the cause of such failure to perform or cure.

If the Contractor is delayed in performing any obligation under the Contract Documents due to a force majeure condition, the Contractor must request a time extension from the Town within two

(2) working days of said Force Majeure occurrence. Any time extension will be subject to mutual agreement and will not be cause for any claim by the Contractor for extra compensation unless additional services are required by the Town. A Force Majeure event **does not include** inclement weather except for significant weather events that adversely impact the critical path of the Project Schedule, if required, or completion of the work, and **does not include** the acts or omissions of Subcontractors or suppliers.

### 1.30-3 EXTENSION OF TIME

Any reference in this Article to the Contractor will be deemed to include suppliers, and permitted Subcontractors, whether or not in privity of contract with the Contractor for the purpose of this Article.

If the Contractor is delayed at any time during the progress of the Work beyond the time frame or date provided for Final Completion by the neglect or failure of the Town or by a Force Majeure, then the Contract Time set forth in the Contract will be extended by the Town subject to the following conditions:

1. The cause of the delay arises after issuance of the NTP and could not have been anticipated by the Contractor by reasonable investigation before proceeding with the Work;
2. The Contractor demonstrates that the completion of the Work will be actually and necessarily delayed;
3. The effect of such cause cannot be avoided or mitigated by the exercise of all reasonable precautions, efforts and measures whether before or after the occurrence of the cause of delay.

A delay meeting all the conditions of the above, will be deemed an Excusable Delay.

The Town reserves the right to rescind or shorten any extension previously granted if subsequently, the Program Manager determines that any information provided by the Contractor in support of a request for an extension of time was erroneous; provided however, that such information or facts, if known, would have resulted in a denial of the request for an Excusable Delay. Notwithstanding the above, the Program Manager will not rescind or shorten any extension previously granted if the Contractor acted in reliance upon the granting of such extension and such extension was based on information which, although later found to have been erroneous, was submitted in good faith by the Contractor.

The request for an Excusable Delay must be made within five (5) calendar days after the time when the Contractor knows or should have known of any cause for a specific event, for which it may claim an extension of time and must provide any actual or potential basis for an extension of time, identifying such causes and describing, as fully as practicable at that time, the nature and expected duration of the delay and its effect on the completion of that part of the Work identified in the request. The Program Manager may require the Contractor to furnish such additional information or documentation, as the Program Manager will reasonably deem necessary or helpful in considering the requested extension.

The Contractor will not be entitled to an extension of time unless the Contractor affirmatively demonstrates that it is entitled to such extension.

The Program Manager will endeavor to review and respond to the Contractor's request for Excusable Delays in a reasonable period of time; however, the Contractor is obligated to continue to perform the Work required regardless of whether the Program Manager has issued a decision or whether the Contractor agrees or disagrees with that decision.

With regard to an injunction, strike or interference of public origin which may delay the Project, the Contractor must promptly give the Program Manager a copy of the injunction or other orders and copies of the papers upon which the same was granted. The Town must be afforded the right to intervene and become a party to any suit or proceeding in which any such injunction has been obtained and move to dissolve the same or otherwise, as the Town may deem proper.

Where the Contractor is delayed for any period of time by two or more of the causes mentioned in Article 1.30-4, Excusable Delay, Non-Compensable, the Contractor will not be entitled to a separate extension for each one of the causes, only one period of extension will be granted for the delay.

Any extension of time granted by the Town will be processed through the Change Order provisions of the Contract.

The permitting of the Contractor to proceed with the Work subsequent to the date specified in the Contract (as such date may have been extended by a change order), the making of any payment to the Contractor, the issuance of any Change Order, will not waive the Town's rights under the Contract, including but not limited to the assessment of liquidated damages or declaring Contractor in default.

#### 1.30-4 EXCUSABLE DELAY, NON-COMPENSABLE

Excusable Delay is delay caused by either of the following: (i) circumstances that could not be foreseen and are beyond the reasonable control of Contractor, its subcontractors, or suppliers; or (ii) joint or concurrent action by Contractor, its subcontractors, suppliers or vendors and the Town. Then Contractor will be entitled only to a time extension and no compensation for the delay.

Contractor is entitled to a time extension of the Contract time for each day the Work is delayed due to Excusable Delay. Contractor must document its claim for any time extension as provided in Article 1.30-5.

Failure of Contractor to comply with Article 1.30-5, as to any particular event of delay will be deemed conclusively to constitute a waiver, abandonment or relinquishment of any and all claims resulting from that particular event of delay.

#### 1.30-5 CLAIMS

Contractor will only be entitled to submit a claim after submitting its request for additional compensation or time in accordance with Articles 1.30-3 and 1.30-4 of the Contract and the request(s) have been denied or the Contractor does not agree with the decision of the Town.

Any claim for a change in the Contract time for completion of any Work, the Contract Term, or Contract price must be made by written notice by Contractor to the Town representatives identified in Article 1.27 within the timeframe established in Article 1.30-4, effective with the commencement of the event giving rise to the claim stating the general nature and cause of the claim. Thereafter, within twenty (20) calendar days of the termination of the event giving rise to the claim, written notice of the extent of the claim with supporting information and documentation must be provided unless the Procurement Manager allows an additional period of time to ascertain more accurate data in support of the claim. The written notice must be accompanied by Contractor's written notarized statement that the adjustment(s) claimed is the entire adjustment to which the Contractor has reason to believe it is entitled as a result of the occurrence of said event. All claims and disputes will be determined in accordance with the

Contract. It is expressly and specifically agreed that any and all claims for changes to the Contract will be waived if not submitted in strict accordance with the requirements of this Article.

The Town may require the Contractor to submit its claim utilizing a specific format or forms to facilitate the Town's evaluation of the claim. The Town at its sole discretion may require that additional documentation or information be provided by the Contractor to assist in its review and evaluation of the claim.

The Contract time will be extended in an amount equal to time lost on critical Work items due to delays beyond the control of and through no fault or negligence of Contractor if a claim is made as provided in this Article. Such delays include, but are not be limited to, acts or neglect by any separate contractor employed by Town, fires, floods, labor disputes beyond the control of the Contractor, epidemics, abnormal weather conditions (if applicable), or acts of God.

The Contractor will not be entitled to an increase in the Contract price or payment or compensation of any kind from the Town for direct, indirect, consequential, impact or other costs, expenses or damages, including but not limited to costs of acceleration or inefficiency, arising because of delay, disruption, interference or hindrance from any cause whatsoever, whether such delay, disruption, interference or hindrance be it reasonable or unreasonable, foreseeable or unforeseeable, avoidable or unavoidable. Contractor will only be entitled to an extension of the Contract Time for completion of the Work, as the sole and exclusive remedy for such resulting excusable delay.

The Contractor agrees to make no claim for damages for delay of any kind in the performance of the Contract Documents whether occasioned by any act or omission of the Town or any of its representatives and the Contractor agrees that any such claim will be compensated solely by an extension of time to complete performance of the Work due to an Excusable Delay as defined in Articles 1.30-3, and Article 1.30-4. The Contractor alone specifically assumes the risk of such delays, including, without limitation: delays in processing or approving any submittals to the Town or by the Town, or the failure to render determinations, approvals, replies, inspections, in a timely manner. Contractor will not receive monetary compensation for Town delay(s).

Failure of Contractor to comply with this Article as to any particular event of claim will be deemed conclusively to constitute a waiver of any and all claims resulting from that particular event.

#### 1.30-6 DISPUTES AND MEDIATION

In an effort to avoid litigation when possible, the Town and Contractor understand and agree that all disputes based upon an alleged violation of the terms of this Contract by the Town shall be submitted for resolution in the manner prescribed in this Article.

Initial effort(s) should be made by the Contractor to resolve any issues with the Town representative(s) it works with in the coordination and performance of the Work.

Should the initial efforts at resolution not end in a mutual resolution then the Contractor will notify the Town's Procurement Manager in writing of the claim or dispute.

The Contractor shall submit its dispute in writing, with all supporting documentation, to the Procurement Manager. Upon receipt of said notification the Procurement Manager shall review the issues relative to the claim or dispute and issue a written finding.

Should the Contractor and the Procurement Manager fail to resolve the claim or dispute the Contractor shall appeal the Procurement Manager's written finding to the Town Manager within five (5) calendar days of receiving notice of the written finding. Failure to submit such appeal in

the stated timeframe of the written finding shall constitute acceptance of the finding by the Contractor. Upon receipt of said notification the Town Manager shall review the issues relative to the claim or dispute and issue a written finding.

Appeal to the Town Manager for his/her resolution, is required prior to Contractor being entitled to seek judicial relief in connection therewith. Should the Contractor be entitled to compensation hereunder, the Town Manager's decision may be subject to approval by the Town Council. Contractor shall not be entitled to seek judicial relief unless:

- i. it has first received Town Manager's written decision, approved by the Town Council if applicable, or
- ii. a period of sixty (60) days has expired after submitting to the Town Manager a detailed statement of the dispute, accompanied by all supporting documentation, or a period of (90) days has expired where Town Manager's decision is subject to Town Council for approval; or
- iii. Town has waived compliance with the procedure set forth in this Article by written instrument(s) signed by the Town Manager.

In the event the determination of a dispute under this Article is unacceptable to either party hereto, the party objecting to the determination must notify the other party in writing within fourteen (14) calendar days of receipt of the written determination. The notice must state the basis of the objection and must be accompanied by a statement that any Contract price or Contract time adjustment claimed is the entire adjustment to which the objecting party has reason to believe it is entitled to as a result of the determination. Within sixty (60) calendar days after completion of the Work or expiration of the Contract Term, the parties shall participate in mediation to address all objections to any determinations hereunder and to attempt to prevent litigation. A certified Mediator, who the parties find mutually acceptable, will conduct any mediation proceedings in Miami-Dade County, State of Florida. The costs of a certified Mediator shall be shared on a 50/50 basis. Should claim or dispute not be resolved in mediation, the parties retain all their legal rights and remedies provided under State law. A party objecting to a determination specifically waives all of its rights provided hereunder, including its rights and remedies under State law, if said party fails to comply in strict accordance with the requirements of this Article.

#### 1.30-7 CONTINUING THE WORK

Contractor must continue to perform all Work under the Contract Documents during all disputes or disagreements with Town, including disputes or disagreements concerning a request for a Change Order and no Work must not be delayed or postponed pending resolution of any disputes or disagreements.

#### 1.30-8 FRAUD AND MISREPRESENTATION

The Town may terminate this Contract or any other contracts with the Town with any person, individual, corporation, entity, or affiliate that attempts to meet its contractual obligations with the Town through fraud, misrepresentation or material misstatement. Such person, individual, corporation, entity, or affiliate will be responsible for all direct or indirect costs associated with termination or cancellation.

#### 1.30-9 STOP WORK ORDER

The Town may, at any time, by written order to the Contractor, require the Contractor to stop all, or any part, of the Work for a period of up to ninety (90) days (or any lesser period), commencing

no sooner than the date the order is delivered to the Contractor, and for any further period to which the parties may agree. Any such order will be specifically identified as a "Stop Work Order" issued pursuant to this paragraph. Within the period of ninety (90) days (or the lesser period specified) after a Stop Work Order is delivered to the Contractor, or within any extension to which the parties have agreed the Town will either:

1. Cancel the Stop Work Order; or
2. Terminate the Work covered by such order as provided in Article 1.30-3, Termination for Convenience.

If a Stop Work Order issued under this Article is canceled or the period of the order or any extension thereof expires, the Contractor must resume the Work without compensation to the Contractor for such suspension other than extending the time to complete any Work under the Contract or extending the Contract Term to the extent that, in the opinion of the Program Manager, the Contractor may have been delayed by such suspension. In the event the Project Manger determines that the suspension of Work was necessary due to Contractor's defective or incorrect Work, unsafe Work conditions caused by the Contractor, or any other reason caused by Contractor's fault or omission, the Contractor will not be entitled to an extension of time or Contract Term or (Time) as a result of the issuance of a Stop Work Order.

Suspension of the Work caused by a threatened or actual storm event, regardless of whether the Town has directed such suspension, will entitle the Contractor to additional Contract time as non-compensable, Excusable Delay, and will not give rise to a claim for compensable delay.

#### 1.30-10 MATERIALITY AND WAIVER OF BREACH

Town and Contractor agree that each requirement, duty, and obligation set forth in the Contract Documents is substantial and important to the formation of the Contract Documents and, therefore, is a material term hereof. The Town's failure to enforce any provision of the Contract Documents will not be deemed a waiver of such provision or modification of the Contract Documents. A waiver of any breach of a provision of the Contract Documents will not be deemed a waiver of any subsequent breach and will not be construed to be a modification of the terms of the Contract Documents.

#### 1.30-11 TIME IN WHICH TO BRING ACTION AGAINST THE TOWN

In the event the Contractor may be deemed to have a cause of action against the Town, no action will lie or be maintained by the Contractor against the Town upon any claim arising out of or based upon the Contract Documents by reason of any act or omission or requirement of the Town or its agents, unless such action is commenced within six (6) months after the date of issuance of a final payment under the Contract, or if the Contract is terminated under the provisions of the Contract, unless such action is commenced within six (6) months after the date of such termination by the Town.

#### 1.30-12 CONTRACT EXTENSION

The Town reserves the right to extend the Contract for up to ninety (90) calendar days beyond the original Contract period, inclusive of any Options to Renew exercised by the Town. In such event, the Town will notify the Contractor in writing of such extensions.

## 1.31 EARLY TERMINATION & DEFAULT

### 1.31-1 SET-OFFS, WITHHOLDING, AND DEDUCTIONS

The Town may set-off, deduct or withhold from any payment due the Contractor, such sums as may be specifically allowed in the Contract or by applicable law including, without limitation, the following:

1. Any amount of any claim by a third party;
2. Any Liquidated Damages, and/or;
3. Any unpaid legally enforceable debt owed by the Contractor to the Town.

The Town will notify the Contractor in writing of any such withholdings.

Any withholding, which is ultimately held to have been wrongful, will be paid to the Contractor in accordance with the Local Government Prompt Payment Act

### 1.31-2 CONTRACTOR DEFAULT

#### a. *Event of Default*

An event of default means a breach of the Contract by the Contractor. Without limiting the generality of the foregoing and in addition to those instances referred to herein as a breach, an Event of Default, includes but is not limited to, the following:

1. The Contractor has not performed the Work in a timely manner;
2. The Contractor has refused or failed to supply properly skilled staff or provided sufficient quantities of staff to perform the Work;
3. The Contractor has failed to make prompt payment to Subcontractors or suppliers for any services, materials, or supplies provided to Contractor;
4. The Contractor has become insolvent or has assigned the proceeds received for the benefit of the Contractor's creditors, or the Contractor has taken advantage of any insolvency statute or debtor/creditor law or if the Contractor's affairs have been put in the hands of a receiver;
5. The Contractor has failed to obtain the approval of the Town where required by the Contract Documents;
6. The Contractor has failed in the representation of any warranties stated herein;
7. When, in the opinion of the Town, reasonable grounds for uncertainty exist with respect to the Contractor's ability to perform the Work.

#### b. *Notice of Default – Opportunity to Cure*

Where an Event of Default ("Default") occurs under the Contract, the Town may at its sole discretion notify the Contractor, specifying the basis for such Default, and advising the Contractor that such Default must be cured within a time frame specified by the Town; or, the Contract with the Town may be terminated. The Town is under no obligation to issue such notification. The Town may grant an extension to the cure period if the Town deems it appropriate and in the best interest of the Town, without waiver of any of the Town's rights hereunder. The Town, at its sole discretion, may have a default corrected by its own forces or another contractor and any such costs incurred will be deducted from any sums due the Contractor under any contract with the Town.

The Town Manager or designee may also suspend any payment or part thereof or order a Work stoppage until such time as the issue(s) concerning compliance are resolved.

c. *Termination for Default*

Where a Default is not cured within the time specified to cure the Default, the Town Manager in addition to all remedies available by law, may immediately, upon written notice to Contractor, terminate this Contract. Contractor understands and agrees that termination of this Contract under this Article will not release Contractor from any obligation accruing prior to the effective date of termination.

In the event of termination by the Town Manager or designee, the Town Manager or designee may immediately take possession of all applicable documentation and data, material, equipment, and supplies to which it is entitled to under the Contract or by law.

Where the Town erroneously terminates the Contract for default, the terminations will be converted to a Termination for Convenience, and the Contractor will have no further recourse of any nature for wrongful termination.

1.31-3 TERMINATION FOR CONVENIENCE

In addition to cancellation or termination as otherwise provided for in the Contract, the Town may at any time, in its sole discretion, with or without cause, terminate the Contract by written notice to the Contractor. Such Written Notice will state the date upon which Contractor must cease all Work under the Contract, and if applicable vacate the Project(s) site(s).

Upon receipt of such notice, unless otherwise directed by the Town, the Contractor must Stop all Work on the date specified in the notice (“the Effective Date”);

1. Take such action as may be necessary for the protection and preservation of the Town’s materials and property;
2. Cancel all cancelable orders for materials and equipment;
3. Remove all materials, supplies or equipment that may be used by the Contractor on other work;
4. Assign to the Town and deliver to the Town, at a site(s) specified by the Town, any non-cancelable orders for materials and equipment that can not otherwise be used by the Contractor on other work;
5. Take no action that will increase the amounts payable by the Town under the Contract Documents; and take reasonable measures to mitigate the Town’s liability under the Contract Documents; and
6. All documents, including electronic documents, related to Work authorized under the Contract, whether finished or not, must be turned over to the Town. Failure to timely deliver the documentation will be cause to withhold any payments due without recourse by Contractor until all documentation is delivered to the Town.

In the event that the Town exercises its right to terminate the Contract pursuant to the Contract Documents, the Town will pay the Contractor for the actual cost, or the fair and reasonable value, as substantiated by invoice documentation, of any non-cancelable material(s) and equipment that cannot be used elsewhere by the Contractor in the performance of its work.

In no event, will any payments under this Paragraph exceed the maximum cost set forth in the Contract and the amount due hereunder may be offset by payments made to the Contractor or



any claims made against the Contractor. Contractor will not be entitled to lost profits, overhead or consequential damages as a result of a Termination for Convenience.

**1.31-4 REMEDIES AVAILABLE TO THE TOWN**

The Town may avail itself of each and every remedy stated in the Contract Documents or existing at law or in equity. The exercise or the beginning of the exercise, of one remedy will not be deemed a waiver of the right to exercise, at the same time or thereafter, of any other remedy.

**1.31-5 FUNDS AVAILABILITY**

Funding for this Contract is contingent on the availability of funds and the Contract is subject to amendment or termination due to lack of funds, reduction of funds and/or change in regulations, upon thirty (30) days notice.

**1.32 EXECUTION IN COUNTERPARTS**

This Agreement, and any amendment hereto, may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement. Delivery of an executed counterpart of a signature page to this Agreement by electronic transmission shall be effective as delivery of an original executed counterpart of this Agreement.

**END OF SECTION**

## **SECTION 2. SPECIAL TERMS & CONDITIONS**

### **2.01 PERFORMANCE BASED CONTRACTING OVERVIEW**

The award(s) made under this RFP will be a Performance Based Contract(s), meaning that the RFP and resulting contract include specific quality standards based on measurable outcomes of the services rendered rather than direct performance processes, methods, and procedures. Section 3 of the Contract, Performance Work Standards (“PWS”), are used to describe the Scope of Services to be performed and the minimum quality levels to be met by the Contractor. It places the responsibility for how the PWS are accomplished on the Contractor. However, the PWS may in some instance contain specific requirements as to what can or cannot be done to meet the minimum quality levels of the PWS.

This enables the Contractor to deliver the required Services by following its own best practices. The primary focus is on the end results, thereby allowing the Contractor flexibility to adjust its processes, as necessary, during the Contract term, in ways that are predicated on continuing to provide the service at or above the minimum quality levels established in the PWS.

### **2.02 SCOPE OF SERVICES**

The Contractor must provide all personnel, equipment, tools, supervision, and other items and services both necessary and incidental to ensure that ground maintenance services, and custodial services as applicable, are performed at the Miami Lakes Optimist Park and Royal Oaks Park in a manner that will maintain green spaces with healthy Turf, shrubs, and plants and present a clean, neat, and professional appearance in all outdoor and indoor areas. The Work includes, but is not limited to, maintenance and repair of grounds, landscaping, irrigation systems, tree water sprout removal up to 8 ft. high, shrub pruning, planting, fertilization, clean-up of litter and debris inclusive of leaves, landscaping operations, changing exterior trash liners and dog waste receptacles and other related services as required to provide comprehensive grounds maintenance services in accordance with the minimum quality levels established in the PWS.

In addition, the Work includes facility set-up and breakdown for ongoing programs at the Park facilities according to Town provided diagrams for scheduled activities, and special events. This shall also include the setting up and breakdown of miscellaneous items needed for programs such as soccer goals, corner flags, baseball/softball bases and pitching rubbers, temporary fencing, rope, installation of netting (batting cages, hit down areas, basketball hoop, soccer goal, tennis court), and furniture according to Town provided schedules of activities and special events.

The Contractor shall be fully responsible for providing customer services, quality control and all other services necessary to perform the Work. The Contractor shall maintain a presence at each property and provide supervision during park operating hours. Unless otherwise specified, the Contractor shall determine how often the Work is performed, how much labor is needed to perform the tasks, what methods will be used to complete the Work, and which supplies, materials and equipment are needed. The Services provided shall meet or exceed the minimum quality levels established in the PWS.

Evaluations of the Contractor’s Work shall be based on the performance standards established in the PWS and inspected in accordance with the Town’s Quality Assurance Surveillance Plan (“QASP”). A Performance Requirement Summary Table has been included in Exhibit B to provide an overview of the PWS, as well as provide an easy reference to portions of the Contract.

### **2.03 CONTRACT TERM**

The Contract will become effective on the date it is executed by both parties and must remain in effect for a term of thirty-six (36) months from the date of execution unless extended in accordance with Subsection Contract Term Extension Incentive below. In no event must the Contract remain effective for longer than sixty (60) months from the date of execution. No Work must commence until a written Notice to Proceed is issued.

#### 2.03-1 CONTRACT TERM EXTENSION INCENTIVE

As an incentive to fully meet Town service expectations, the Contractor shall be granted a one (1) month extension of the Contract term, beyond thirty-six (36) months, for each month that the Contractor meets all the PWS established in the Contract. The Contract Term Extension Incentive provision will become effective six (6) months from the commencement of the Work.

Each extension must be issued through the Change Order process in accordance with the terms of this Contract. This provision may extend the term of the Contract up to a maximum term of sixty (60) months. In no event shall the incentive provision extend the Contract beyond the sixty (60) month maximum term.

### **2.04 ADDITIONAL SERVICES**

The Town may request Contractor to perform Additional Services for which prices are not established in the Contract. In such circumstances, the Town will provide a written request to the Contractor that will include the work to be performed and the information to be provided by the Contractor. Contractor will provide the Program Manager with a work order proposal (“Work Order Proposal”) for review. Upon acceptance of the Work Order Proposal, which may be revised through negotiations, the Program Manager must issue a Work Order for the Contractor to perform the additional Work.

Additional Services may be utilized for grounds maintenance services not covered as Basic or Supplemental Services, such as planting additional and/or transplanting flowers, additional watering, leaf pick-up, soil amendments, grading and leveling of grounds, shrubs, hedges, replacement of flowers damaged by a third party, and janitorial services for Town facilities. These services will be requested in writing in accordance with the procedures set forth in Section 2.05, Work Orders, below.

### **2.05 WORK ORDERS**

The Town must issue a Work Order for all Additional Services to be performed by the Contractor. Upon receipt of a request for additional Work from the Program Manager, the Contractor must prepare a Work Order Proposal. Work Order Proposals must use a time and materials basis unless otherwise approved by the Program Manager. The Work Order Proposal must include the following:

- A detailed description of the work to be performed, and if required, the method(s) to be used in performing the work;
- Information on materials to be used including any mark-up details and MSDS data sheets;
- Number of hours, hourly rate, and total cost per classification of personnel to be used based on the hourly rates contained in the Contract. Should a classification or hourly rate not exist, the additions must be subject to the approval of the Program Manager, and the classification or hourly rate will be added to the Contract through a Change Order;
- Timeframe for completion of the work from the issuance of a Notice to Proceed by the Town; and

- Description and cost of any specialized equipment to be used for the work. (Such cost is only permissible where the Contractor must rent the equipment. Cost will be reimbursed at actual cost to the Contractor.)

## **2.06 CONTRACT SURVEILLANCE**

The Town will execute a Quality Assurance Surveillance Plan (“QASP”) outlining the surveillance techniques, resident input, and levels of inspection deemed appropriate to assure Contract compliance. The most current QASP is incorporated into the Contract Documents by reference as though fully set forth herein. The Town may change surveillance methods or levels of inspection at any time.

If Non-Compliant Work is identified, through random or unannounced inspections, or any other circumstance in which the Town becomes aware of Non-Compliant Work, the Contractor will be notified in writing within two (2) business days and provided a copy of the inspection report. Where possible, Contractor must correct all Non-Compliant Work within two (2) business days, during which time the Contractor must not be assessed any payment reduction. Failure to correct the Non-Compliant Work must result in the Town assessing a payment reduction for each day the Non-Compliant Work remains out of compliance with the PWS. The payment reduction will be assessed against the Contractor’s monthly invoice, accruing from the date of notification of the Non-Compliant Work through issuance of a notification of compliance, excluding those instances where the Town has provided a grace period for the Contractor to correct the Work and the Contractor has corrected the Work within the grace period.

In addition to random or unannounced inspections, the Town will conduct planned inspections within the first 15 days of each month, which will be conducted prior to the Contractor submitting its monthly invoice. The Town may provide the Contractor an opportunity to correct any Non-Compliant Work or the Town will assess a payment reduction for the Unsatisfactory Work.

When either planned or unplanned inspection efforts identify Non-Compliant Work or Unsatisfactory Work, the Contractor will be notified per the procedure set forth above and the Town will conduct a subsequent inspection to ensure compliance. The Town will incur additional administrative expenses for the additional time required to re-inspect Contractor Work. The Town must assess a payment reduction of \$250.00 to cover the administrative expenses associated with each re-inspection effort regardless of time period; such reduction will be in addition to other payment reductions that may apply per the Contract. The Contractor will be assessed the administrative fee in accordance with the Payment Reduction provisions of the appropriate PWS.

## **2.07 UNSATISFACTORY WORK**

Contractor must be notified in writing by the Program Manager of all Unsatisfactory Work. Where possible, the Program Manager will provide the Contractor an opportunity to correct all such Work prior to the assessment of any payment reduction, if such Work is brought into compliance with the Performance Standards within two (2) business days of notification. Should the Contractor bring the Work into compliance within this timeframe, no payment reduction will be assessed other than the \$250.00 reduction to cover the Town’s administrative costs.

## **2.08 WARRANTY**

Contractor warrants that all Work will be performed in accordance with the requirements of the Contract Documents. Where the Town determines that the Work has not been performed in accordance with the requirements of the Contract, the Contractor must correct the Work at no cost to the Town and/or the Town may reduce payments in accordance with the applicable Payment Reduction provisions of the PWS.

## **2.09 RESTRICTION ON PARKING**

Where parking areas must be blocked off to perform the Work, the Contractor can post “No Parking” notices or similar signs twenty-four (24) hours in advance of the Work. Barricades may also be used to block the spaces the day before the Work is to be performed.

## **2.10 TRAINING**

Contractor must provide all required training to its employees performing Work under this Contract. Employees must be provided training commensurate with the Work they will be performing. At a minimum, employees should receive the following training:

- Training on all tools used in the Work
- Work practices
- OSHA safety procedures and equipment

Contractor must provide proof of training of the workers who will perform Work upon the request of the Program Manager. Where the Contractor replaces or adds workers to perform Work, the Contractor must provide proof of training prior to the worker performing any Work. The Program Manager may direct the Contractor to remove any worker for whom the training documentation has not been provided.

## **2.11 REIMBURSEABLE EXPENSES**

Copies of receipts for all materials purchased for the Work. All reimbursable expenses must receive prior written approval from the Program Manager before the expense is incurred. Reimbursable expenses must only apply to additional work issued under Articles 2.05, Work Orders and for permits issued for M.O.T. Reimbursable expenses must not be reimbursed to the Contractor without evidence that the requested reimbursement amount does not exceed the direct cost to the Contractor.

**END OF SECTION**

## SECTION 3. PERFORMANCE WORK STANDARDS

### 3.01 DESCRIPTION OF SERVICES

#### 3.01-1 MOWING

Properly maintained grass and vegetation provides a pleasing appearance and proper ground cover for athletic turf/recreational areas are essential elements of a healthy community. More vitally, it presents less chance of defects and potential safety problems, including a reduction in possible injuries during recreational activities, as a result of improperly maintained turf and athletic fields.

All Turf must remain at a uniform height. Turf cutting is to be accomplished free of scalping, rutting, bruising, uneven and rough cutting. If this occurs, the Contractor may be asked to re-cut the area(s), as determined by the Program Manager, at no additional cost to the Town.

Contractor must address leaves on the ground at the time of mowing and the associated cost must be included in the cost of mowing.

Contractors must be responsible for the removal of water-sprouts/suckers growing from trees in areas where ground maintenance is being conducted, up to the height of 8 feet.

The Contractor's M&S Plan must include the grass cutting and mowing schedule, including the minimum number of mowing cuts required by the PWS.

The standards for mowing are:

- a. Turf must be cut on approximately 23 acres of Turf located in the Town's Miami Lakes Optimist Park and 18 acres of Turf located at Royal Oaks Park as indicated in Exhibit A.
- b. Contractor must perform a minimum of 104 cuts per year for all Bermuda and Seashore Paspalum turf areas, 36 cuts per year for all St. Augustine turf areas, and 42 cuts per year at all Bahia grass areas, which will be compensated in accordance with the prices contained in the Price Proposal. Any additional cuts required to meet the Performance Standards must be performed at no additional cost to the Town.
- c. The common types of turf varieties found in the parks are Bermuda, Seashore Paspalum, St. Augustine and Bahia grass. The heights established below will promote a healthy Turf and will provide for a neat and professional appearance. All Turf areas must look well-manicured at all times. The ranges for the Turf, which vary by season are:
  - i. **Winter Months (Oct 31 – Apr. 30<sup>th</sup>)** –
    - Bahia grass/St. Augustine – 4" to 5"
    - Bermuda/Seashore Paspalum – 1.5" to 2"
  - ii. **Summer Months (May 1<sup>st</sup> – Oct 31)** –
    - Bahia grass/St. Augustine – 3" to 4.5"
    - Bermuda/Seashore Paspalum – 1" to 1.5"
- d. There must never be visible rows or clumps of Turf clippings allowed to remain on Turf areas that have been cut. Grass clippings may be mulched to remove clumping or reduce visibility, or the clippings must be removed from the site. No Turf clippings or trimming

must be left in any of the flower beds, mulched areas, or paved areas. Sidewalks and other paved areas must be swept or vacuumed free of any resulting dirt and debris.

- e. Turf must be free of bare ground, which is defined as any single area of five (5) square feet without vegetation. During performance of the Work, Contractor must identify areas that are becoming bare and report such findings to the Program Manager in writing upon identification. Bare grass areas must be restored, and reseeded or re-sodded and soil conditions improved at no cost to the Town. All stones and rubbish that appear on the surfaces must be removed. The areas must be seeded after grading and sufficiently watered to promote growth. Areas damaged by disease, vehicular traffic, removal of vegetation, erosion or construction, must be restored and reseeded as approved by the Program Manager to match the existing Turf. The type of grass seed to be used is to be based upon the amount of shade and soil as analyzed by approved testing methods. The Contractor must perform soil testing and sampling at the Program Manager's request, which must be conducted by a college or university with a specialty in land management or a commercial soil laboratory; such tests are the responsibility of the Contractor.
- f. Slope Turf height must not exceed the heights and bare area requirements established above, excluding seed stalks allowed to remain by the Program Manager.
- g. Vendor must have the capability to provide fraze mowing at intervals requested by the Town to provide optimum turf health and reduce the need for re-sodding.

### 3.01-2 EDGING

- a. Sidewalks, driveways, curbs, and other concrete or asphalt edges located in the Parks must be edged concurrently (same day) with each mowing cycle. Edging height must match surrounding area Turf heights and must be neat and clean, providing a clear zone free of scalping, rutting, bruising, uneven or rough cutting. All sidewalks, driveways, street edges, curbs, and other paved areas must be edged to maintain a clear zone immediately adjacent to paved surfaces and to provide uniform edge lines. In addition, the following edging standards have been established:
  - Edging must be performed at the same time as mowing and must be cut to the same height standards established for Turf Mowing Heights.
  - No vegetation or debris may encroach onto the curb or sidewalk for more than 3" for more than 10 continuous feet.
  - No deviation of soil height of more than 4" above or 2" below the top of curb or sidewalk, may exist for more than 10 continuous feet.
  - No vegetation may encroach more than 3" over the curb or sidewalk for more than 10 continuous feet.
  - No grass, vegetation, or debris may encroach within 3" onto a bike path for more than 10 continuous feet.
  - No encroachment of vegetation more than 3" over mulch on trees and landscape beds.
- b. This Work involves approximately 45,227 linear feet of sidewalks, driveways, and curbs at Miami Lakes Optimist Park and 47,216 linear feet of sidewalks, driveways, and curbs at Royal Oaks Park.

- c. Edging may be accomplished by mechanical (cutting or trimming by machine) and/or chemical control. The use of any chemicals must be subject to the approval of the Program Manager in accordance with the requirements of the Contract Documents.
- d. The contractor is to ensure that proper attention is given where tree roots are in close proximity to curbs and sidewalks. Extreme care must be exercised to prevent damage to concrete during the edging process.

### 3.01-3 LINE TRIMMING

Turf must be line trimmed, using line trimming or other standard industry practices or sprayed in a manner that does not leave dead or dying grass in areas around trees, shrubs, buildings, fences, light poles, sign posts, fire hydrants, picnic tables, benches, parking lot bumper blocks, boulders, or other fixed obstacles. Line Trimming must be performed concurrently (same day) as Turf mowing. Trimming height must match surrounding area Turf heights. This task must be completed for all areas within the Parks abutting sidewalks, landscaping, trees or other such areas that require line trimming. All areas must be trimmed concurrent with mowing. Trimming around trees should be done so as to leave a neat tree ring appearance. Trees or shrubs damaged as a result of line trimming must be replaced or repaired by the Contractor. If vegetation should die or become unhealthy due to line trimming damage, the Contractor will be responsible for repairing or replacing the damaged vegetation with vegetation of the same size and type. Vegetation replacement must occur within fifteen (15) days of noticed damage.

Repair or replacement required as result of the Contractors Work must be completed by Contractor at no cost to the Town.

Trimming must be done in such a way as to avoid damaging the trunk, bark, or roots of trees and shrubs. All cuttings must be removed after trimming.

### 3.01-4 LANDSCAPING

All Landscaping must be maintained in a healthy, neat, and attractive condition and must be maintained in accordance with the American Society of Landscape Architect's standards.

There is an estimated 2,005 linear feet of Landscaping at Miami Lakes Optimist Park and 4,908 linear feet at Royal Oaks Parks (inclusive of Butterfly Garden).

Contractor must fertilize, water (as necessary), trim, mow, eliminate weeds, add or replace mulch around all landscaping and flower beds located within the Parks, and repair or replace damaged or dead Landscaping. Dying or dead shrubs, hedges, plants and flowers must be replaced at no cost to the Town unless the condition of the landscaping is due to an outside third party, force majeure, or directly by the Town's representatives. Examples include damage due to vehicular accidents, third party pruning, hurricanes, etc.

Shrubs must be pruned to enhance their beauty and health and to maintain their natural growth characteristics, including height and shape.

The Contractor must maintain existing flowerbeds. Regular maintenance includes weeding, fertilization, and watering as necessary during dry periods. Grass and weeds must not be permitted to grow above the flower beds; and all flowers must be kept trimmed from curbs, sidewalks, streets and/or parking areas.

Contractor must maintain at least two inches (2") of mulch around all trees, landscaping and flower beds, which must extend two feet (2') from the base of the landscaping. Contractor must



replace the mulch twice per year as part of the M&S Plan. The annual replacement of mulch must be compensated in accordance with the cost(s) established in the Contract. The Program Manager must have the discretion to postpone or eliminate a replacement cycle(s).

### 3.01-5 WEED CONTROL

The Contractor must perform weed control to prevent the encroachment of weeds into established Turf and Landscaping, including grass areas, around trees, shrubs, hedges, flower beds, sidewalks, fencing, paved areas, gutters, drains, concrete areas, etc.

- a. Landscaping, including all Flower beds, must receive weed control to eliminate unsightly and/or noxious weeds. All flowerbeds are to be maintained free of weeds and grass.
- b. All ditch lines must be line trimmed and weeded to prevent tall weeds or grass from showing above ditch. The Contractor must trim and/or mow as far over the edge of the ditch line as possible to prevent this occurrence.
- c. Weed control must be performed to eliminate grass and weeds in cracks and joints within or along sidewalks, jogging path, curbs, parking lots, fences, in expansion joints, etc. At no time must there be any visible weeds left to die in sidewalk cracks, curbs, flower beds, mulched areas, parking blocks and parking lots/areas, or fences.
- d. If herbicides are used, weeds are not to be left, to-die or dead, in mulched areas or flower beds, creating an unsightly appearance.
- e. All vines growing along or on fences must be removed unless the Program Manager directs in writing that they are to remain in a specific area.
- f. Turf must be free of the following, or similar, undesired vegetation alone or in combination and as further identified in the IFAS Extension Book "Weeds of Southern Turfgrasses" from the University of Florida:
  1. Annual, Purple, and Yellow Sedge
  2. Broomsedge
  3. Castor Bean
  4. Cogon grass
  5. Crowsfoot
  6. Dogfennel
  7. Goosegrass
  8. Johnsongrass
  9. Maiden Cane
  10. Ragweed
  11. Rhodesgrass
  12. Sandspur
  13. Spanish Needle
  14. Tropical Soda Apple
  15. Vaseygrass
  16. White Clover
  17. Dollarweed
  18. Florida Pusley, Largeflower Pusley

### 3.01-6 LITTER/DEBRIS REMOVAL

Litter removal from the Parks is performed for aesthetic and safety reasons. It is desired to present a pleasing appearance and environment to the patrons of our parks as well as to motoring and pedestrian traffic within the Town, but it is more important to provide safety. Litter in the Parks is to be removed prior to mowing or edging in order to reduce the possibility of hazards to those using the Parks, the motorists, pedestrians, and the equipment operators.

The Contractor must perform litter and debris removal in all areas where Work is performed. Contractor's responsibilities include, but are not limited to, the removal and disposal of all natural debris, (tree limbs, leaves, fallen trees, dry brush, dead animals, etc.), and man-made debris (tires, tire pieces, lumber, building materials, furniture, household items, vehicle parts, metal junk, packaging materials, campaign/advertising or other signs and postings, etc.). Leaves must be removed from all Turf areas, gutters, sidewalks, pathways, and paved areas.

Contractor must sweep all driveways, parking areas and sidewalks where Turf cuttings and trimmings are evident as well as any dirt or stones resulting from the Work and remove the trimmings, dirt, and stones from the premises.

Contractor must properly dispose of all litter and debris at off-site locations in accordance with existing local, state, and federal regulations. Town dumpsters or other containers are not to be used for disposal of any litter, debris or Turf trimmings.

Contractor must notify the Program Manager of any debris or any other situation(s) that create a Hazardous Condition. Failure to report a Hazardous Condition must result in a reduction in payment in accordance with Article 3.08, Payment Reduction.

### 3.01-7 IRRIGATION SYSTEM MAINTENANCE

The Contractor must be responsible for the complete management, operation and maintenance of all irrigation systems. Exhibit H indicates the location of irrigation systems.

Within thirty (30) days of Contract execution, the Contractor must complete an assessment to determine what repairs are required at each Project Site to bring each Irrigation System to full operation. This assessment will provide a detailed breakdown by Project Site of the repair work required and the cost of repair.

Contractor will be responsible for each Irrigation System once it is fully operational. The Contractor must ensure that the Irrigation Systems are maintained in good working order and in operating condition at all times. Contractor will be reimbursed for the purchase of materials only, at actual cost to the Contractor, without mark up, to maintain the Irrigation System except where the repair or replacement results from damage caused by the Contractor. Any damages resulting from accidents, vandalism, or an Act of God are reimbursable to the Contractor on a materials basis only. Under no circumstances will the Town will reimburse Contractor for mark-up on material cost.

Contractor is required to submit a monthly wet-check report to the Program Manager to ensure the proper coverage is being achieved and must utilize this wet-check report to propose necessary repairs.

### 3.01-8 IRRIGATION

All improved and existing areas must receive sufficient amounts of water to Flower beds, Turf and Landscaping, as necessary to present a uniform green color without browning or barren areas resulting from lack of water.

### 3.01-9 PEST IDENTIFICATION & CONTROL

The Contractor must provide two (2) blanket applications of insecticide/mole cricket control (Chipco Choice variety preferred with fire ant control) in granular form for all turf areas on an annual basis. Contractor must provide the Program Manager with a list of all pesticides, including an MSDS data sheet for each pesticide, to be used for Work under this contract within ten (10) days of contract execution.

While Contractor does not have the responsibility for the control of disease(s) outside the blanket applications described above, during performance of the Work, Contractor must identify any disease(s) and/or pest infestation(s) and report such findings to the Program Manager in writing. The Project Manger may request that the Contractor develop a disease or pest management plan ("DPMP") for approval. The DPMP, if necessary, will require the approval of the Program Manager. The Contractor's DPMP must establish the strategy and methods for performing the work in a safe, effective, and environmentally sound manner. If the Program Manager authorizes the Contractor to implement the DPMP, it will be done through a Work Order and must be considered an Additional Service.

Contractor must only use those pesticides that comply with the provisions of the Federal Insecticide, Fungicide, and Rodenticide Pesticide Control Act of 1996, 7 U.S.C. §136 et seq, and any regulations issued thereunder. Any treatment that may damage any portion of grounds must be performed in accordance with federal and state regulations. Any pesticides must be applied by Florida licensed and certified personnel.

Should the Contractor fail to report any disease(s) of pest infestation(s) that result in damage to the Park or Roadway areas under the responsibility of the Contractor, the Contractor must replace or repair such damage, including but not limited to; re-sodding of areas, replacement of shrubs or bushes, etc.

### 3.01-10 FERTILIZING

The Contractor shall perform an effective commercial fertilizer program that shall include fertilizing four times (4x) per year for St. Augustine/Bahia grass and twelve times (12x) per year for Bermuda grass and Seashore Paspalum turf areas. Fertilizers must be approved in advance by the Program Manager and shall be applied in accordance with the manufacturer's instructions. Contractor must erect any signage required by the manufacturer's instructions or other applicable law. The type and amount of fertilizer applied shall be based on results of soil test(s). Soil test(s) shall be conducted by a college or university with a specialty in land management or a commercial soil laboratory; such tests are the full responsibility of the Contractor. Soil test(s) must be scheduled with and conducted in the presence of the Program Manager.

Contractor must notify the Program Manager one (1) week in advance of fertilizing so that the Program Manager can make any necessary changes to Town operations or activities.

Contractor must maintain records of all fertilizer usage on a Contractor provided form. This form must be filled out as fertilizing operations are performed, and all entries must be available for inspection upon request from the Program Manager.

Contractor must apply the scheduled fertilizing in accordance with the M&S Plan. The Contractor must be compensated in accordance with the prices established in the Contract, after the Program Manager accepts the fertilizing Work. The Program Manager, in consultation with the Contractor, may postpone or cancel a scheduled application of fertilizer. The Town must only pay the

Contractor when the fertilizer is applied. The forms documenting the application must be submitted with the Contractor's invoice for the same period.

Contractor may need to apply additional fertilization in some areas of the Work during the year to control weed growth and/or promote the health of the Turf. Such application(s) of fertilizer must be performed at no additional cost to the Town.

Fertilizer must be delivered in the original, unopened containers bearing the manufacturer's chemical analysis, name, trade name, trademark, and indication of conformance to state and federal laws. In lieu of containers, fertilizer may be furnished in bulk if accompanied by a certificate indicating the above information with each delivery.

### 3.01-11 HERBICIDES

Contractor may use selective herbicides to kill all weeds and foreign grasses in the performance of the Work. Use and application must be in strict compliance with the manufacturer's label directions.

Contractor must only utilize herbicides registered by the EPA and the Florida Department of Agriculture and Consumer Service's Bureau of Pesticides. The use and application of any pesticides must comply with Chapter 487 of the Florida Statutes and Chapter 5E-2 of the Florida Administrative Code.

The Contractor must be required to obtain the prior written approval of the Program Manager prior to the use of any pesticide(s). Any proposed changes in approved herbicide usage must be submitted for the Program Manager's approval at least five (5) working days in advance of the anticipated usage.

Contractor must maintain records of all herbicide usage on a Contractor provided form. This form must be filled out as weed control operations are performed, and all entries must be available for inspection upon request from the Program Manager.

### 3.01-12 ATHLETIC FIELD/TURF MAINTENANCE

All areas must be inspected on a daily basis and any large stones, ruts holes, or "bowled out" areas shall be removed and/or repaired immediately.

Contractor shall layout and paint all lines, emblems, lettering, numbering, and logos as needed for the sports, typically soccer and flag football, utilizing these fields. Field usage changes several times throughout the year, and the Contractor shall be responsible for all field layout and painting at the direction of the Program Manager. Contractor shall be responsible for purchasing all field marking paint and field layout material. Certified marking paint shall be used for all lines, emblems, lettering, numbering and logos on turf areas, and more than one color paint may be required.

Contractor must adhere to field schedules provided. All fields must be prepared appropriately and on-time in accordance to the field schedules provided by the Program Manager, or Town's representative.

### 3.01-13 TOPDRESSING

Contractor must complete topdressing to all Bermuda and Seashore Paspalum turf areas twice (2x) per year; however, periodic topdressing may be required when necessary to maintain proper field level.

Topdressing material shall be a mixture similar to the profile of the soil below the turf, as determined by soil analysis. Material shall be applied to all athletic turf field areas at a ¼" depth for proper coverage.

### 3.01-14 AERATION, VERTICUTTING, SLICING

Core and/or deep tine aeration must be performed at all Bermuda and Seashore Paspalum turf areas at least once per month (twelve times per year) to provide proper air and water exchange for maximum growth potential and health of all turf. In areas with noticeable compaction and wear additional aerification will be required. Aeration shall result in a hole depth of 4-6 inches with average spacing of 16 holes per square foot with a. PTO driven aerator or similar preferred. Tow behind rollers for aeration cannot be utilized unless authorized by the Town in writing.

Verticutting must be performed at all Bermuda and Seashore Paspalum turf areas once a year and thatch build-up needs to be monitored and alleviated when necessary. Dethatching should be maintained at a depth of ¼"-1/2" inch of depth and thatch shall be collected and disposed of by the Contractor.

Spiking or slicing shall be performed at all Bermuda and Seashore Paspalum turf areas once per year. Slicing should be completed at a depth of ½"-1" inch.'

### 3.01-15 BASEBALL/SOFTBALL FIELD MAINTENANCE (MIAMI LAKES OPTIMIST PARK ONLY)

At Miami Lakes Optimist Park, the Contractor shall be responsible for the inspection, maintenance, upkeep and repair of all skinned areas including home plate/batter's box, pitcher's mounds, base paths and warning tracks. The program will be designed to provide consistent playing conditions, with the safety of the athletes as the top priority.

Skinned areas shall be inspected on a daily basis and any large stones or clumping material, ruts, holes, wet areas, dry areas, soft and/or hard spots, "bowled out" areas shall be removed and/or repaired.

Skinned areas shall be scarified, dragged and watered until the desired texture is achieved. Maintain a proper level of calcide or conditioner on the skinned areas at all times.

Condition clay infields with Turface or a comparable quality product approved by the Program Manager at least once a year. Conditioner shall be applied at a ¼" depth per application.

The Contractor shall install and properly align home plates, pitcher's rubbers, bases, anchors, fencing and backstops that the Town shall provide.

On game days, the Contractor shall line the fields and install equipment as needed at least one hour prior to game time. Schedules will be provided by the Town.

Skinned areas shall be lined with marble dust, and turf areas shall be lined with certified field marking paint.

### 3.01-16 BATTING CAGE/BULLPEN/HIT-DOWN AREA MAINTENANCE (MIAMI LAKES OPTIMIST PARK ONLY)

The Contractor shall be responsible for the inspection, maintenance, upkeep and repair of all batting cage/bullpen/hit-down areas including but not limited to, netting, turf, and skinned areas.

Skinned areas shall be inspected on a daily basis and any large stones or clumping material, ruts, holes, wet areas, dry areas, soft and/or hard spots, "bowled out" areas shall be removed and/or repaired.

Skinned areas shall be scarified, dragged and watered until the desired texture is achieved. Maintain a proper level of calcide or conditioner on the skinned areas at all times.

### **3.02 DELIVERABLES**

#### **3.02-1 MAINTENANCE & SERVICE PLAN**

The Contractor must prepare two (2) Maintenance and Service Plans (“M&S”) establishing programs of inspections and maintenance for meeting each the GMS and CSS of the Contract Documents. The Contractor must submit the M&S for the first twelve (12) months of the Contract term to the Program Manager(s) within fourteen (14) days of the execution of the Contract, for review and acceptance. Should the Program Manager(s) recommend or require revisions, the Contractor must make the necessary revisions and resubmit a revised M&S to the Program Manager(s) within seven (7) days. Thereafter, the Contractor must submit another M&S to the Program Manager(s) sixty (60) days prior to the start of each twelve (12) month period.

The M&S must:

- Outline the Contractor’s overall strategy for providing the Services contained in the Contract Documents;
- Establish the Contractor’s program of inspections and maintenance for each Contract year, to include a month to month breakdown by Task;
- Project a level of unscheduled work (including re-work);
- Document basis for the Contractor’s Annual Execution Plan – i.e., the Contractor’s schedule of activities and resources (labor and material) to accomplish the Contractor’s service program;
- Include a budget estimate for each month;
- Provide the Contractor’s standard operating procedures, emergency operating procedures, safety plan, and contingency plans, when applicable;
- Detail a communication plan, including points of contact, phone numbers, email addresses, etc., to be used by the Program Manager(s) or on-site designated Town personnel to address issues, coordination of the Town, service calls, additional work, or other needs as they arise;
- Provide Contractor’s plan for responding to services calls, including those that require an immediate or 24-hour response;
- Identify any sites/areas that cannot be brought to the GMS without replacement of the Turf; and
- Identify the areas that require re-sodding to be brought to the GMS and the associated cost for completing the Work.

Once accepted, the Contractor’s M&S Plan will provide the baseline for tracking the Work and expenditures against the Contract and for evaluating performance in accordance with the Contract Documents.

#### **3.02-2 QUALITY CONTROL PLAN**

Within fourteen (14) days of the execution of the Contract, the Contractor must submit a Quality Control Plan (“QCP”) to the Program Manager(s) for review and acceptance. The rationale underpinning the QCP is that the Contractor is responsible for Quality Control. All methods, procedures, and forms must support this rationale. The QCP must clearly identify how the Contractor will monitor its own Work to ensure that the Work is performed and meets the GMS established in the Contract. The QCP must provide for the inspection and assessment of the

quality and progress of the Work at each park where Work is being performed. The QCP must be designed to keep the Contractor's management and the Town informed of all issues affecting quality, to include timely and effective corrective action for all deficiencies. These inspections must be in addition to the requirement for daily supervision. The QCP records must, in part, consist of checklists of inspections and must indicate the nature, frequency and number of observations made, number and type of deficiencies found, and the nature of corrective action taken as appropriate. At a minimum the QCP must address the following:

- An inspection system that is tailored to the different Tasks and Sites covered under the GMS;
- A system for identifying and correcting deficiencies in the quality of the Work before the level of performance falls below the minimum standards established in the GMS and/or Town Inspectors or the Program Manager(s) independently identify the deficiencies;
- A system to ensure that the Contractor's employees are notified of deficiencies, that the noted deficiencies are corrected (if possible), and that the employees are counseled/retrained as necessary to ensure that deficiencies do not recur;
- A system that provides the Program Manager(s) access to all Contractor documentation, reports, and files (to include any forms on which quality control inspections are documented) with respect to Contractor quality control inspections and any corrective action taken;
- If the Contractor has a corporate/home office, how it will provide Contract support, services, and controls; and  
The identity of all personnel who will be performing quality control inspections by name and title, and verification that the person who actually performed the Work must not perform quality control inspections.

Where the QCP is returned by the Program Manager(s) for revisions or corrections, the Contractor must resubmit the QCP within seven (7) days of receipt from the Program Manager(s), with requested revisions or corrections. The Contractor must not implement any changes to its approved QCP prior to review and acceptance by the Program Manager(s).

The Contractor must perform quality control inspections by qualified personnel (i.e. personnel knowledgeable of all technical aspects of the Work, which would allow identification/discovery of improperly performed services) and provide documentation of the inspection results to the Program Manager(s) on a monthly basis. The documentation must be signed and dated by the inspector at the time the inspection is completed. All completed inspection reports must be submitted to the Program Manager(s).

### 3.02-3 WEEKLY WORK PLAN

Concurrent with the submission of the M&S, the Contractor must submit a work plan for the initial two weeks of Work. Subsequently, the Contractor must provide a Work Plan every Thursday to the Program Manager, which will reflect the Work to be performed during the next week, broken down by Site(s) and Task, and day(s) of the week the Work will be performed.

### 3.02-4 MONTHLY REPORT

The Contractor must furnish a monthly report ("Report") to the Program Manager no later than the fifteenth (15<sup>th</sup>) of each month that must consist of five (5) parts, broken down as follows:

#### Part 1

Prior month's Basic Services activities accomplished, identified by park or roadway and must include the date(s) the Work was performed.

Part 2

Prior month's Supplemental Services activities accomplished, identified by park or roadway, the date(s) the Work was performed and the cost(s) associated with the Work.

Part 3

Prior month's Re-Work activities accomplished, identified by park or roadway, the date(s) the Work was performed.

Part 4

Prior month's Additional Services activities accomplished, identified by park or roadway, the date(s) the Work was performed.

Part 5

Prior month's inspections conducted under the QCP. This Part of the Report must include the following details:

- a. Dates of inspections
- b. Name and signature of inspector
- c. Location of the inspection
- d. Work inspected
- e. Locations found to be in compliance with the Performance Standards
- f. Locations found to be non-compliant
  - i. Deficiencies found per location
  - ii. Actions taken to correct deficiencies
  - iii. Actions taken to mitigate future occurrences of the deficiencies

Part 6

Prior month's review or "wet check" of total irrigation system to ensure full coverage.

Contractor must provide Program Manager with a hard copy and/or electronic copies of all forms and documents prepared as a part of the Quality Management Plan monitoring.

**3.02-5 EMERGENCY RESPONSE PLAN**

The Contractor must prepare and furnish to the Program Manager for review and acceptance an Emergency Response Plan ("ERP") within thirty (30) days after execution of the Contract. The ERP must outline the Contractor's response procedures in the event of an emergency, damage, or adverse weather conditions including hurricanes, rain, or flooding. The ERP must address the Contractor's coordination procedures with the Town.

The ERP must include a provision for cooperating with the Town to furnish Contractor's forces to supplement the Town's staff in hurricane preparedness, evacuation plans, and hurricane disaster response of the disaster event within the project limits. Upon request by the Program Manager, the Contractor must include pricing for services that are typically required in response to emergency events in the ERP. In the event that services or equipment are required by the Town for emergency preparation response, such services and equipment will be deemed as Additional Services and paid for in accordance with the terms of this Contract.



### **3.02-6 CONTACT INFORMATION FOR PERSONNEL**

The Contractor must furnish a list containing the contact information, *i.e.* name, phone number, email address, etc., for the Contractor's Program Manager and Field Supervisor to the Town's Program Manager within five (5) days of Contract execution. Additionally, the Contractor must provide a list naming all personnel that have cleared the background check required under Article 3.05-5 and will be performing services under this Contract within fourteen (14) days of Contract execution.

### **3.03 LABOR, EQUIPMENT & MATERIALS**

The Contractor must furnish all labor, material, equipment, and supplies of the size and type customarily used for grounds maintenance, needed for the performance of the Work. All power operating equipment, trucks, lawn mowers, tractors, etc., and all hand or vehicular tools must be operated within the safety parameters as defined by the manufacturer and OSHA; and, must be carefully maintained and operated with proper safety guards and devices and with discretion when near the public and vehicular traffic.

### **3.04 GENERAL LABOR/SUPERVISION**

The Contractor shall be fully responsible for providing customer service and quality control at both parks. The Contractor shall maintain a presence at each property and provide supervision during park operating hours.

In addition, the Work shall include general labor/miscellaneous tasks such as, but not limited to: facility set-up and breakdown for ongoing programs at the Park facilities according to Town provided diagrams for scheduled activities and special events; the setting up and breakdown of miscellaneous items needed for programs such as but not limited to, soccer goals, corner flags, baseball/softball bases and pitching rubbers, temporary fencing, rope, installation of netting (batting cages, hit down areas, basketball hoop, soccer goal, tennis court) according to Town provided schedules of activities and special events; removal of graffiti within 24 hours upon detection; minor touch-up painting; minor repairs; pressure cleaning of the marina/floating dock area, tennis courts, pavilion areas and hardscapes; wipe down and disinfect playground areas, assistance with moving items within the park property less than 25 lbs; turning on/off park lights; opening/closing the park facilities.

### **3.05 PERSONNEL REQUIREMENTS/QUALIFICATIONS**

#### **3.05-1 GENERAL**

The Contractor must manage the total Work effort associated with the Services required to assure fully adequate and timely completion of these Services in accordance with the PWS. Such management includes, but is not limited to, planning, scheduling, report preparation, establishing and maintaining records, and quality control. All staff dedicated to Work under this Contract must be employees of Contractor. The Contractor must provide staff with the necessary management expertise to assure the performance of the required Work; and, trained and experienced field and office personnel who meet established standards to effectively perform the Services required and who exhibit capability to perform with minimum supervision. It is the Town's preference that turnover be kept to a minimum with personnel to ensure a continuity of operations through the Contract term.

#### **3.05-2 HOURS FOR PERFORMING THE WORK**

Contractor shall ensure a staff presence is maintained at Royal Oaks Park & Miami Lakes Optimist Park. Staffing levels are to be determined by the Contractor to ensure sufficient staffing is

maintained to meet the requirements of the PWS. All Work shall be performed between the hours of 7:00am and 10:00pm, Monday through Sunday. The Town shall not be liable for any overtime costs for any staff working in excess of eight (8) hours per day or forty (40) hours per week, unless otherwise approved by the Town.

### 3.05-3 PROGRAM MANAGER

The Program Manager must have full authority on a day-to-day basis to act on behalf of the Contractor on all matters pertaining to the performance of the Work under this Contract including authority to accept and sign for notice of deductions, inspections reports and all other correspondence on behalf of Contractor. The Program Manager must be available to discuss Contract matters and performance issues with the Program Manager during regular Town business hours and within one (1) hour during other times. This can be accomplished in person, or by telephone, as appropriate depending on the circumstances. Therefore, the Contractor must provide to the Program Manager the contact information (i.e. phone, email address, cell phone, etc.) for the Program Manager and an alternate individual, within five (5) days of execution of the Contract. The Contractor must provide an updated list no less than five (5) days of any changes of the Program Manager or contact information provided.

### 3.05-4 FIELD SUPERVISOR

The Contractor must provide a qualified on-site full-time working Field Supervisor to manage Contractor's personnel at the Work sites. This person (and their substitute) must have full authority to act for the Contractor on all matters relating to the daily performance of the Work at the Work site(s). The Field Supervisor must be the central point of contact in the field for the Town; and, must effectively communicate in English. The Field Supervisor must understand and be able to fulfill, completely and clearly, the Performance Standards and reporting requirements of the Contract. A résumé for the Field Supervisor must be submitted with the Contractor's deliverables and must include all contact information for the Field Supervisor (i.e. telephone, email address, cell phone, etc.). The Field Supervisor must have a minimum of three (3) years of experience as a grounds maintenance supervisor on contracts of similar size, scope, and complexity, and must remain on-site at all times while Work is being performed under the Contract. When the on-site working Field Supervisor is absent for the day or for an extended period (more than 4 hours), the Program Manager must be notified and the Contractor must appoint a qualified substitute. Within five (5) days of execution of the Contract, the Contractor must provide the Program Manager with a cellular phone number for the Field Supervisor where he/she can be reached at all times.

### 3.05-5 PERSONNEL QUALIFICATIONS

The Contractor must furnish sufficient competent and qualified personnel to perform all Work specified in the Contract. Contractor must perform a background check on all proposed personnel in accordance with Administrative Order 07-01 and only those individuals must be authorized to work under this Contract. The Contractor must submit to the Program Manager within fourteen (14) days of the execution of the Contract, a list of all personnel proposed to work under the Contract and who have passed the background check. The list must be updated immediately when changes occur.

### 3.05-6 UNIFORM/APPEARANCE

Contractor personnel located at Work sites must present a neat appearance and must wear distinct clothing bearing the Contractor's name for easy identification. All Contractor employees,

including the Field Supervisor, must wear a distinctive, neat, and freshly laundered uniform, which the Contractor must supply at no cost to the employee. The uniform color, color combination, and design shall be subject to Town approval. The following clothing types are not to be worn: tube tops, tank tops, shorts, leotards, sandals, cutoffs, multicolored pants/shorts, items in disrepair, or any other inappropriate or offensive clothing as determined by the Program Manager to be unacceptable for representing the Town. The Program Manager may request the removal of any employee not properly uniformed.

### 3.05-7 STANDARDS OF CONDUCT

The Contractor must maintain satisfactory standards of employee competency, conduct, appearance, and integrity, and must take such disciplinary action against his/her employees, as necessary. Each Contractor employee is expected to adhere to standards of conduct that reflect credit on themselves, their employer, the community, and the Town. Being that the Contractor will be visible at all times to the public during the performance of its duties under the Contract, the Contractor should ensure its employees continue to adhere to standards of conduct while on breaks. Contractor's employees must schedule breaks to avoid disruptions in service and ensure Contractor continues to meet staffing requirements at all times. Contractor's employees must not sleep or lay down in public view at any time during the Work. If any of Contractor's employees are found sleeping or laying down in public view by Town staff, or if such activity is reported by the public and verified by the Town, the Town may impose a performance penalty of \$250 per occurrence assessed to the Contractor.

### 3.05-8 ALCOHOL & CONTROLLED SUBSTANCES

Contract employees must not possess, distribute, consumer, use or cause to be used, any controlled substance or alcohol on the Work sites. Any Contractor employee under the influence of alcohol or a controlled substance must not be permitted to perform any Work under the Contract. Any Contractor or Contractor employee found to be in violation of this requirement will be permanently prohibited from performing any Work under this Contract. Actions taken under this Article must not relieve the Contractor of the obligation to provide sufficient personnel to perform adequate and timely Service as required in this Contract.

### 3.05-9 EMPLOYEE SAFETY REQUIREMENTS

The Contractor must require their employees to comply with the instructions pertaining to conduct, safety and health regulations forming a part of this Contract. All equipment operators must wear safety protection equipment required or recommended by the equipment manufacturer and OSHA; and, all power operating equipment, truck, hand, mechanical or vehicular tools, etc. must be operated within the safety parameters defined by OSHA. Equipment must be carefully maintained and operated with proper safety guards and devices installed and fully operational and with discretion when near pedestrians or vehicles. All employees **must wear a safety vest** when working by roads and in areas with vehicular traffic.

### 3.05-10 EMPLOYEE TRAINING/OPERATING OF EQUIPMENT

The Contractor must ensure that all employees have been properly trained, certified, and/or licensed to operate power equipment, power and mechanical tools, mowers, trucks, and etc., and must maintain records of all training, qualifications and certifications to be made available for the Town's review upon request. The Contractor must provide training to all employees, at the Contractor's expense, to ensure the competencies in performing tasks are met to prevent the endangerment of personnel or the public. At no time must the safeguards on lawn mower, edger,

weed eater or any other power equipment with factory installed safety measures be altered, turned off or used improperly. All safeguards must be in place and operational at all times. Employees must not be permitted to use radios, cell phones, texting devices, mp3 players, or other media devices, while operating equipment and may be subject to removal from the Work site for repeated violations. Employees are prohibited from smoking cigarettes, electronic or otherwise, during performance of the Work under this Contract.

### **3.06 REPAIR OF DAMAGED AREAS**

Areas damaged by contractor vehicles, erosion, drought or pest(s)/disease(s) must be seeded, sprigged, or sodded to meet the standards of surrounding areas. Other vegetation areas must be repaired to match the surrounding area, if damaged.

### **3.07 EMERGENCY & SPECIAL SERVICES**

Upon notification by the Program Manager, through the issuance of a Work Order, the Contractor must perform emergency or special grounds maintenance required in areas covered under the Contract. Upon notification of an emergency, the Contractor must respond to the Program Manager within two (2) hours to meet with the Program Manager or Procurement Manager and initiate emergency services. Upon receiving direction by the Project or Procurement Manager, Contractor personnel must begin emergency work within two (2) hours. The Program Manager will notify the Contractor twenty-four (24) hours prior to the need for special services or as soon as a special services requirement is known.

### **3.08 PAYMENT REDUCTIONS**

#### **3.08-1 REDUCTIONS FOR NON-COMPLIANT/UNSATISFACTORY WORK**

All Work is subject to inspection by the Program Manager, Inspector, or other authorized Town representative. As a result of these inspections, resident input, or any other notification of quality issues the Town may receive, Work is found to be non-compliant with the PWS, inclusive of the permissible Acceptable Quality Levels ("AQL"), the Town may reduce payments to the Contractor by an amount equal to the value of the Unsatisfactory or Non-Compliant Work. The Program Manager will determine the appropriate reduction using the procedures provided for in Article 2.06, Contract Surveillance and this Article. Reductions may be deducted from any payment due the Contractor. In the event the Contractor disagrees with the Program Manager as to any reduction, such disagreement must be subject to Article 1.30-6, Disputes and Mediation.

#### **3.08-2 PAYMENT ADJUSTMENTS**

The Program Manager will inform the Contractor, in writing, of all Non-Compliant or Unsatisfactory Work that has not been corrected within the two (2) day requirement by delivering a Notification of Adjustment that provides details, including the type(s) and dollar amount(s) of proposed reductions.

The Contractor may, within ten (10) working days of receipt of the Notification of Adjustment, present to the Program Manager a written objection to the adjustment containing specific reasons why any or all of the proposed reductions are not justified. Written objections must be supported by specific facts that justify reconsideration and/or adjustment of the reduction amount. Failure to respond to a Notification of Adjustment will be interpreted to mean that the Contractor accepts the deduction as proposed.

All or a portion of the final payment may be delayed or withheld until the Program Manager makes a final decision on any pending proposed reduction(s).

### 3.08-3 REDUCTIONS

Inspection sheets prepared by Town inspectors must identify Work inspected and indicate if the Work meets the Performance Standards. Any Work identified that is not performed in accordance with the Performance Standards is subject to the application of payment Reductions.

The Reduction rate for the Work will be calculated using the fixed monthly rate established in the Contract for the type(s) of Work performed.

Example of Reduction Rate Calculation:

#### **Mowing:**

Note: Where possible, the calculation should be based on an acre to acre calculation. However, where this is not possible, the acreage should be converted to square yards, with 1 acre equal to 43,560 square feet.

1. Total Work site area to be mowed is 2 acres
2. Total area/percentage not meeting Performance Standard: 0.5 acres or 25%
3. Monthly rate for mowing of Work site area inspected: \$400
4. Payment reduction for Work site:  $\$400 \times 25\% = \$100$

#### **Shrubs/Hedges:**

Note: Can also be calculated on linear feet for continuous lengths of hedges.

1. Total Work site number of shrubs/hedges to be maintained: 30
2. Total number of hedges not meeting Performance Standard: 5
3. Total cost to maintain shrubs/hedges at Work site area: \$150
4. Cost per shrub/hedge:  $\$150/30 = \$5$
5. Payment reduction for Work site:  $\$5 \times 5 = \$25$

#### **Application of Reductions**

- a. The Town may assess payment reductions for any Non-Compliant or Unsatisfactory Work against any outstanding payment due the Contractor.
- b. The Town may assess a fee of \$250.00 for each re-inspection where Work is identified as Non-Compliant or Unsatisfactory Work and a re-inspection is required. Such fee is assessed as Liquidated Damages to offset the administrative costs to the Town to conduct the inspection and any necessary re-inspection.
- c. The Town may deduct \$250.00 for each QCP inspection it performs if the Contractor does not submit a QCP to the Town as Work not performed by the Contractor.
- d. The Town may retain up to 20% of any or all outstanding invoices for Work performed due to the Contractor's failure to provide any required Deliverable or Report required by the Contract Documents. The Town must release the funds upon compliance with the requirements of the Contract Documents. Should any retainage remain at the end of the Contract, the Town must retain the funds based on the Work not being performed in accordance with the Contract Documents. The Program Manager must notify the Contractor of all monies withheld under this Article.

**SIGNATURE PAGE FOLLOWS**

**CONTRACT EXECUTION FORM**

This Contract 2018-16 made this \_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_ in an amount not to exceed \$ \_\_\_\_\_ by and between the Town of Miami Lakes, Florida, hereinafter called the "Town," and \_\_\_\_\_, hereinafter called the "Contractor."

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

Attest:

**TOWN OF MIAMI LAKES**

By: \_\_\_\_\_  
Gina Inguanzo, Town Clerk

By: \_\_\_\_\_  
Alex Rey, Town Manager

Legal Sufficiency:

By: \_\_\_\_\_  
Raul Gastesi, Town Attorney

Date: \_\_\_\_\_

Signed, sealed and witnessed in the presence of:

As to the Contractor:

\_\_\_\_\_  
(Contractor's Name)

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

(\* ) In the event that the Contractor is a corporation, there shall be attached the original of the corporate resolution in the form contained in this Section, of the board of the corporation, authorizing the officer who signs the Contract to do so in its behalf.

**CORPORATE RESOLUTION**

WHEREAS, \_\_\_\_\_, Inc. desires to enter into a contract with the Town of Miami Lakes for the purpose of performing the work described in the contract to which this resolution is attached; and

WHEREAS, the Board of Directors at a duly held corporate meeting has considered the matter in accordance with the By-Laws of the corporation;

Now, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS that the \_\_\_\_\_,  
(type title of officer)

\_\_\_\_\_, is hereby authorized  
(type name of officer)

and instructed to enter into a contract, in the name and on behalf of this corporation, with the Town of Miami Lakes upon the terms contained in the proposed contract to which this resolution is attached and to execute the corresponding performance bond.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Corporate Secretary

(Corporate Seal)

## **EXHIBIT A – MLOP & ROP DESCRIPTIONS & MAPS**



## Exhibit A

### Park Descriptions

#### **Miami Lakes Optimist Park**

Miami Lakes Optimist Park is a 30 acre multi-purpose athletic park with four (4) soccer fields; two (2) football fields which also serve as seven (7) baseball diamonds (6 skinned, 1 grass infield); four (4) full court basketball courts; four (4) tennis courts; three (3) batting cages with lighting; two(2) bullpens with lighting; 2,400 square foot clubhouse building with two (2) restrooms and concession area; 600 square foot restroom building; 2,200 square foot maintenance facility; 305 parking spaces (295 regular spaces and 10 handicap spaces); perimeter fencing; lighting for fields, parking lots, and walking paths; marina/dock area; playground area; three (3) shaded picnic shelters; concrete and asphalt walkways; one 50 horsepower irrigation pump; multiple species of park grasses, trees, and plant material.

Recreation programs at MLOP are mainly provided through that certain License and Use Agreement with The Optimist Club of Miami Lakes, Inc. (the "Optimist Club"). Current recreation programs offered at the park through the Optimist Club are: fall/winter and spring youth baseball/softball program (August-May), after-school youth baseball program (year-round), youth basketball program (May-August), and youth tackle football program (August-October). The Town does enter into additional use agreements with other entities for recreation programs depending on facility/field availability.

Park hours are 7am-10pm, seven days per week, Mondays-Sundays, unless otherwise posted or directed by the Town. The hours of the Clubhouse vary depending on scheduled programming. Typical operating hours are from 7am-10pm Monday-Thursday, 7am-4pm on Fridays, and as programmed on Saturdays and Sundays.

#### **Royal Oaks Park**

Royal Oaks Park is a 21.52 acre park with four (4) soccer/football fields; 2,091 square foot restroom/concession building including a 20x13 square foot storage unit; 171 space parking lot (163 regular spaces and 8 handicap spaces); 4 foot high perimeter fencing encompassed by a 4 ft high Ficus hedge; lighting for fields, parking lots, entrance road and walking paths; four (4) shaded picnic shelters; concrete and asphalt walkways; 1,350 square foot precast concrete paver plaza, butterfly garden, perimeter berm, one 20 horsepower irrigation pump and one 5 horsepower jockey; multiple species of park grasses, trees, and plant material.

In addition, Royal Oaks Park features an 8,000 square foot LEED Certified Royal Oaks Park Community Center. This facility features restrooms, kitchen area, 4 multipurpose rooms, administrative offices, and storage areas.

Current recreation programs offered at ROP are: Miami Lakes Soccer Club Recreation/Travel Leagues (August-May) and the Optimist Club youth tackle football program (August-October). The Town does enter into additional use agreements with other entities for recreation programs depending on facility/field availability. The Community Center will feature several daily community programs, camps, special events, and Town Council meetings.

Park hours are 7am-10pm, seven days per week, Mondays-Sundays, unless otherwise posted or directed by the Town. The hours of the Community Centers vary depending on scheduled programming. Typical

operating hours are from 7am-10pm Monday-Thursday, 7am-4pm on Fridays, and as programmed on Saturdays and Sundays.

## Park Maps

### Miami Lakes Optimist Park



# Royal Oaks Park



## **EXHIBIT B – PERFORMANCE WORK STATEMENT SUMMARY**

**Exhibit B**  
**Performance Requirement Summary Table**

Work Task	Article No.	Standard	Adjusted Quality Level (AQL)	Outcome
Turf Mowing	3.01-1	[REDACTED]	• Park Mowing – 98%	Provides for a pleasing appearance as well as proper recreational ground cover. Turf shall be uniform in height & free of scalping, rutting, bruising, uneven & rough cutting.
	3.01-1c	Bermuda/Seashore Paspalum Turf cut between 1" to 2" year round and Bahia/St. Augustine Turf 3"-4.5" in summer and 4"-5" in winter.		
	3.01-1d	No evidence of clumping or visible rows of clippings		
	3.01-1e	No bare areas greater than 5 sq. feet	95%	Bare areas restored thorough reseeding or re-sodding.
Slope Mowing	3.01-1f	Height shall not exceed for Bahia/St. Augustine Turf 3"-4.5" in summer and 4"-5" in winter..	98%	Turf shall be uniform in height & free of scalping, rutting, bruising, uneven & rough cutting. Helps protect against slope defects.
Edging	3.01-2	<ul style="list-style-type: none"> <li>• Edging shall be performed as at the same time as mowing and shall be cut to the same height standards established for Turf Mowing Heights.</li> <li>• No encroachment of vegetation or debris onto the curb or sidewalk for more than 6" for more than 10 continuous feet.</li> <li>• No encroachment of vegetation more than 6" over the curb or sidewalk for more than 10 continuous feet.</li> <li>• No encroachment of grass, vegetation, or debris within 3" onto a bike path for more than 10 continuous feet.</li> <li>•</li> </ul>	100%	Neat, clean hard/soft edges, uniform in height with all paved areas clear of vegetative growth.
Trimming	3.01-3	<ul style="list-style-type: none"> <li>• Edging shall be performed as at the same time as mowing and shall be cut to the same height standards established for Turf Mowing Heights.</li> <li>• Contractor shall avoid damage to plants, shrubs, hedges, etc.</li> <li>• Cuttings will be removed after trimming</li> </ul>	100%	Helps maintain the health of landscaping and provides and clean neat appearance.
Landscaping	3.01-4	<ul style="list-style-type: none"> <li>• Fertilize, water (as necessary), trim, eliminate weeds, add or replace mulch around all Landscaping and flower beds.</li> <li>• Repair or replace damaged or dead Landscaping.</li> <li>• Shrubs, hedges, and plants shall be pruned as required to maintain their</li> </ul>	<p><b><u>First 6 Months</u></b> 85%</p> <p><b><u>After 6 Months</u></b> 95%</p>	Healthy plants, shrubs & hedges that provide a neat and attractive appearance.

		<p>natural growth characteristics, including height and shape.</p> <ul style="list-style-type: none"> <li>• Maintain Landscaping, which includes planting, weeding, fertilization, and watering as necessary during dry periods.</li> <li>• Grass and weeds shall not be permitted to grow above the flower beds; and all flowers shall be kept trimmed from curbs, sidewalks, streets and/or parking areas.</li> <li>• Contractor shall maintain at least 3” of mulch around all Landscaping and flower beds, which shall extend 2’ from the base of the Landscaping.</li> <li>• Contractor shall replace mulch once per year.</li> </ul>		
Weed Control	3.01-5	<ul style="list-style-type: none"> <li>• Turf and Landscaping shall be free of weeds &amp; grass.</li> <li>• Weeds in ditches shall not show above ditch lines.</li> <li>• Weeds shall be eliminated from all cracks, joints along jogging paths, curbs, parking lots, fences, expansion joints, etc.</li> <li>• If herbicides are used weeds will not be left to die in mulched areas or flower beds.</li> <li>• All vines along fences shall be removed.</li> </ul>	<p><b>First 3 Month</b></p> <ul style="list-style-type: none"> <li>• Park Mowing – 50%</li> </ul> <p><b>3<sup>rd</sup>-6<sup>th</sup> Month</b></p> <ul style="list-style-type: none"> <li>• Park Mowing – 75%</li> </ul> <p><b>After 6 Months</b></p> <ul style="list-style-type: none"> <li>• Park Mowing – 95%</li> </ul>	Weed-free turf, hardscape and landscaping
Litter/Debris Removal	3.01-6	<ul style="list-style-type: none"> <li>• Maintain park litter free throughout park operating hours</li> <li>• Remove Litter/Debris prior to mowing, edging &amp; trimming.</li> <li>• Remove Turf cuttings &amp; trimming from driveways, parking lots, sidewalks, etc.</li> <li>• Dispose of Litter/Debris off-site in accordance with applicable laws.</li> </ul>	95%	Litter-free Turf and Landscape areas
Irrigation System Maintenance	3.01-7	Maintain irrigation systems in good working order & operating condition at all times.	90%	Fully operating irrigation system providing sufficient water to Turf & Landscaping
Pest Identification & Control	3.01-9	<ul style="list-style-type: none"> <li>• Identify pests and development of DPMP for pest control</li> <li>• Apply two (2) blanket applications of insecticide mole cricket control</li> <li>• Maintain turf and landscape mole cricket and pest free</li> </ul>	95%	A pest-free Turf and Landscape
Fertilizing	3.01-10	Perform fertilizer program 4 x per year based on soil sample analysis for Bahia/St. Augustine and 12 x per year for Bermuda/Seashore Paspalum Turf	100%	Ensure healthy Turf and Landscaping
Herbicides	3.01-11	Use herbicides to kill weeds and other foreign grasses as detected	100%	Ensure weed-free health Turf and Landscaping

Athletic Field/Turf Maintenance	3.01-12	<ul style="list-style-type: none"> <li>All areas shall be inspected on a daily basis and any large stones, ruts, holes, or "bowled out" areas shall be removed and/or repaired immediately.</li> <li>Contractor shall layout and paint all lines, emblems, lettering, numbering, and logos as needed for the sports, typically soccer and flag football, utilizing these fields. Field usage changes several times throughout the year, and the Contractor shall be responsible for all field layout and painting at the direction of the Program Manager.</li> <li>Contractor must adhere to field schedules provided. All fields must be prepared appropriately and on time in accordance to the field schedules provided by the Town's Representative.</li> </ul>	100%	Safe turf playing surface free of holes, ruts, stones and fields painted in accordance to schedules provided
Topdressing	3.01-13	<ul style="list-style-type: none"> <li>Topdressing shall be completed twice a year; however, periodic topdressing may be applied when necessary to maintain proper field level.</li> <li>Topdressing material shall be a mixture similar to the profile of the soil below the turf as determined by soil analysis. Material shall be applied to all athletic turf field areas at an average of ¼" depth for proper coverage.</li> </ul>	100%	Topdressing material shall be applied at to all Bermuda and Seashore Paspalum turf areas at ¼" depth
Aeration, Verticutting, Slicing	3.01-14	<ul style="list-style-type: none"> <li>Core aeration must be performed at all Bermuda and Seashore Paspalum turf areas at least once per month (twelve times per year). In areas with noticeable compaction and wear additional aerification will be required. Aeration shall result in a hole depth of 3-4 inches with average spacing of 16 holes per square foot.</li> </ul>	100%	<ul style="list-style-type: none"> <li>Aeration shall result in a hole depth of 4-6 inches with average spacing of 16 holes per square foot on all Bermuda/Seashore Paspalum areas.</li> <li>Verticutting dethatching should be maintained at a depth of ¼"-1/2" inch of depth and thatch</li> </ul>

		<ul style="list-style-type: none"> <li>• Verticutting must be performed at all Bermuda and Seashore Paspalum turf areas once a year and thatch build-up needs to be monitored and alleviated when necessary. Dethatching should be maintained at a depth of ¼"-1/2" inch of depth and thatch shall be collected and disposed of by the Contractor.</li> <li>• Spiking or slicing shall be performed at all Bermuda and Seashore Paspalum turf areas once per year. Slicing should be completed at a depth of ½"-1" inch.</li> </ul>		<p>shall be collected and disposed of on all Bermuda/Seashore Paspalum areas.</p> <ul style="list-style-type: none"> <li>• Slicing should be completed at a depth of ½"-1" inch on all Bermuda/Seashore Paspalum areas.</li> </ul>
Baseball/Softball Field Maintenance- MLOP ONLY	3.01-15	<ul style="list-style-type: none"> <li>• At Miami Lakes Optimist Park, the Contractor shall be responsible for the inspection, maintenance, upkeep and repair of all skinned areas including home plate/batter's box, pitcher's mounds, base paths and warning tracks. The program will be designed to provide consistent playing conditions, with the safety of the athletes as the top priority.</li> <li>• Skinned areas shall be inspected on a daily basis and any large stones or clumping material, ruts, holes, wet areas, dry areas, soft and/or hard spots, "bowled out" areas shall be removed and/or repaired.</li> <li>• Skinned areas shall be scarified, dragged and watered until the desired texture is achieved. Maintain a proper level of calcide or conditioner on the skinned areas at all times.</li> <li>• Condition clay infields with Turface or a comparable quality product approved by the Program Manager at least once a year. Conditioner shall be applied at a ¼" depth per application.</li> </ul>	100%	<ul style="list-style-type: none"> <li>• Baseball/Softball fields will be at an optimal playing condition with the safety of the athletes a top priority free of holes, ruts, stones.</li> <li>• Clay Infields shall maintain conditioner at a ¼" depth when applied.</li> <li>• Fields will be properly lined and equipment set up for games as listed in the Town provided schedule.</li> </ul>



		<ul style="list-style-type: none"> <li>On game days, the Contractor shall line the fields and install equipment as needed at least one hour prior to game time. Schedules will be provided by the Town.</li> </ul>		
Batting Cage/Bullpen/Hit Down Areas-MLOP ONLY	3.01-16	<ul style="list-style-type: none"> <li>The Contractor shall be responsible for the inspection, maintenance, upkeep and repair of all batting cage/bullpen/hit-down areas including but not limited to, netting, turf, and skinned areas.</li> <li>Skinned areas shall be inspected on a daily basis and any large stones or clumping material, ruts, holes, wet areas, dry areas, soft and/or hard spots, "bowled out" areas shall be removed and/or repaired.</li> <li>Skinned areas shall be scarified, dragged and watered until the desired texture is achieved. Maintain a proper level of calcide or conditioner on the skinned areas at all times.</li> </ul>	100%	All batting cage, bullpen and hit down areas shall be free of large stones or clumping material, ruts, holes, wet areas, dry areas, soft and/or hard spots, "bowled out" areas
General Labor/Supervision	3.04	<ul style="list-style-type: none"> <li>The Contractor shall be fully responsible for providing customer service and quality control at both parks. The Contractor shall maintain a presence at each property and provide supervision during park operating hours.</li> </ul>	100%	There shall be a minimum of two (2) staff members at all times during park operating hours.
Repair of Damaged Areas	3.06	Areas damaged by Contractor's vehicles, erosion, drought or insect/diseases shall be re-seeded, sprigged or sodded to meet the standards of the surrounding areas	95%	Healthy turf in all green space areas

## **EXHIBIT C – CONTRACT DELIVERABLES**

## Exhibit C

### Contract Deliverables

The below table is provided as a guide to restate the items considered deliverables under the terms and conditions of the Contract; it is not an exhaustive list. Unless otherwise specified, the Contractor shall submit the items to the Program Manager by the "Required Date" specified. The Contractor is not relieved from "delivery" of items not included in the above schedule but specified elsewhere in this Contract.

<b>ARTICLE NO.</b>	<b>TITLE/DESCRIPTION</b>	<b>REQUIRED DELIVERY</b>
3.02-1	Maintenance & Services Plan	14 days after contract execution & 60 days prior to each option year
3.02-2	Quality Control Plan	14 days after Contract execution
3.01-9	List of Pesticides to be used under this Contract (including MSDS)	10 days after execution of the Contract
3.02-4	Monthly Reports	With each invoice
3.02-6	Personnel List	5 days after Contract execution.
3.02-2	QCP Reports	Upon request of the Program Manager
3.02-6	Contact information for Program Manager and Supervisor	5 days after execution of the Contract
3.01-7	Irrigation System Report	30 days after execution of the Contract

## **EXHIBIT D – PROPOSER’S SUBMITTAL**