

TOWN OF CUTLER BAY

**PUBLIC WORKS DEPARTMENT
REQUEST FOR PROPOSALS
RFP No. 20-04**



TREE PLANTING PROGRAM

PROPOSAL DUE DATE AND TIME:

TBA at TBA

“MANDATORY” PRE-RFP RESPONSE MEETING:

TBA at TBA

TOWN OF CUTLER BAY
RFP NO. 20-04
TREE PLANTING PROGRAM

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**TOWN OF CUTLER BAY
RFP # 20-01
TREE PLANTING PROGRAM**

ADVERTISEMENT FOR PROPOSALS

The Town of Cutler Bay is requesting proposals from qualified proposers to provide for the “TREE PLANTING PROGRAM” for the Town of Cutler Bay. **Interested proposers should visit the Town’s website at www.cutlerbay-fl.gov to obtain the Request for Proposal package. Packages may also be picked up during normal business hours at the office of the Town Clerk, Debra E. Eastman, MMC, located at:**

**Town of Cutler Bay
10720 Caribbean Blvd., Suite 105
Cutler Bay, FL 33189**

Sealed submittals including one (1) original and three (3) copies, and one (1) readable/reproducible flash drive completely duplicating the original proposal of the submittals must be received no later than **TBA** on **TBA** and be clearly marked on the outside, “**RFP No. 20-04 TREE PLANTING PROGRAM**”, by **Debra E. Eastman, MMC, Town Clerk, Town of Cutler Bay, 10720 Caribbean Blvd., Suite 105, Cutler Bay, Florida, 33189.**

A Mandatory Pre-RFP Meeting will be held on **TBA at **TBA** in the Town Hall Council Chambers, 10720 Caribbean Blvd., Cutler Bay, Florida 33189.**

Late Submittals and facsimile submissions will not be considered. The proposer shall bear all costs associated with the preparation and submission of the proposal.

Women/Minority Owned and Emerging Small Businesses are invited to submit bids on this project.

Pursuant to Town Code Chapter 24, Article II, Section 24-228 of the Town Charter, public notice is hereby given that a “Cone of Silence” is imposed concerning the Town’s competitive purchasing process, which generally prohibits communications concerning the RFP from the time of advertisement of the RFP until such time as the Town Manager makes a written recommendation to the Town Council concerning the competitive purchase transaction. Please see the detailed specifications for the public solicitation for services for a statement fully disclosing the requirements of the “Cone of Silence”.

Pursuant to Section 4-19 of the Town Code; Section 7.6 of the Town Charter, vendors of the Town are required to disclose any campaign contributions to the Town Clerk, and each vendor must do so prior to and as a condition of the award of any Town contract to the vendor. Please see the detailed specifications of this solicitation for further details.

The Town of Cutler Bay reserves the right to accept or reject and/or all proposals or parts of proposals, to workshop or negotiate any and all proposals, to waive irregularities, and to request re-proposals on the required materials or services, or take any other such actions that may be deemed in the best interest of the Town.

Rafael G. Casals, ICMA-CM, CFM
Town Manager



TOWN OF CUTLER BAY
RFP No. 20-04
TREE PLANTING PROGRAM

SECTION I
INTRODUCTION

The Town of Cutler Bay (the “Town”), a municipality located in Miami-Dade County, Florida, desires to receive proposals for the selection of a contractor to provide Town-wide TREE PLANTING PROGRAM.

The Town intends to execute an agreement with a selected Contractor to provide such services.

1. SCHEDULE OF EVENTS

No	Event	Date*	Time* (EST)
1	Advertisement/ Distribution of RFP & Cone of Silence Begins	TBA	TBA
2	<u>Mandatory</u> Pre-RFP Response Meeting 10720 Caribbean Blvd., Council Chambers Cutler Bay, Florida 33189	TBA	TBA
3	Deadline to Submit Questions	TBA	TBA
4	Deadline for Town Responses to Questions	TBA	TBA
5	Deadline to Submit RFP-Response	TBA	TBA
6	Evaluation of Proposals	TBA Through TBA	TBA to TBA
7	Announcement of selected Contractors/Cone of Silence Ends	TBA	TBA

*The Town reserves the right to change the scheduled dates and time.

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1.1 Defined Terms

Terms used in these Instructions to Proposers are defined and have the meaning assigned to them. The term "Proposer" means one who submits a proposal directly to the Town as distinct from a Sub-Contractor, who submits a proposal to the Proposer. The term "Successful Proposer" means the best, qualified, responsible and responsive Proposer to whom the Town (on the basis of Town's evaluation as hereinafter provided) makes an award. The term "Town" refers to the Town of Cutler Bay, a municipal corporation of the State of Florida. The term "Proposal Package" includes all items as listed and identified in Section IV. The term "Contractor" shall mean the individual(s) or firm to whom the award is made or also referred to as the Successful Proposer. The term "Contractor Administrator" shall mean the Town Manager or his designee.

2. GENERAL

The following instructions are given for the purpose of guiding Proposers in properly preparing their proposals. These instructions have equal force and weight with other portions of the specifications and strict compliance is required with all the provisions contained herein.

3. PROPOSAL REQUIREMENTS

3.1 Scope of Services Proposed

Clearly describe how contractor will perform the scope of services proposed including a work plan including an explanation of methodology to be followed to perform the services required of this proposal.

3.2 Proposer Qualifications

This section of the proposal should give a description of the proposer, including the size, range of activities, and number of years of relative experience with large accounts. Particular emphasis should be given as to how the firm-wide experience and expertise in this type of project will be brought to bear on the proposed project. This section must also identify the contact person and telephone number.

3.3 Proposal Package

All proposals shall be submitted on the Town provided Proposal Package forms. Failure to do so may cause the proposal to be rejected. All blanks on the proposal forms must be completed. For further information as to the Instructions to Proposers or the Proposal Package contact Debra E. Eastman, MMC, Town Clerk at (305) 234-4262 or Email: deastman@cutlerbay-fl.gov.

3.4 Acknowledgment of Agreement Terms

An acknowledgement of the acceptance of the terms of the Agreement should be included as a part of Proposal. Any exceptions to terms of this Agreement should be included in the exceptions section of the Proposal.

4. MANDATORY PRE-PROPOSAL CONFERENCE AND SITE INSPECTION

All Proposers or their representatives are required to attend a Mandatory Pre-RFP Meeting on **TBA**, at **TBA**, Town Hall, Council Chambers (Suite 115), 10720 Caribbean Blvd., Cutler Bay, Florida. This information session presents an opportunity for the Proposers to clarify any concerns regarding the proposal requirements. Questions regarding the site and specifications will be answered, and Proposers will be able to familiarize themselves with conditions that may affect the proposal prices.

All Proposers shall be held responsible at this time to fully investigate the scope of work to be undertaken based on the Special Conditions and Proposal Detail Requirements included.

5. SUBMISSION OF PROPOSAL

Sealed submittals including one (1) original and three (3) copies, and one (1) readable/reproducible flash drive completely duplicating the original proposal of the submittals shall be submitted no later than **TBA** at **TBA** to the Office of the Town Clerk, Town Hall, 10720 Caribbean Blvd., Suite 105, Florida 33189, in a sealed envelope which must be plainly marked on the outside:

“TREE PLANTING PROGRAM”
RFP No. 20-04

Town of Cutler Bay
Office of the Town Clerk
10720 Caribbean Blvd., Suite 105
Cutler Bay, Florida 33189

Proposals will be publicly opened and read. All Proposers and their representative are invited to be present. Proposals shall be typed or printed in ink. Use of erasable ink is **not** permitted. All blanks on the proposal form(s) must be completed. Names must be typed or printed below the signature. Facsimile proposals will **not** be accepted.

It shall be the sole responsibility of the Proposer to ensure that the sealed proposal is submitted by the time and date specified. Any proposal received after the appointed time, whether by mail or otherwise, shall **not** be accepted under any circumstances. Such proposals will be returned to the vendor unopened. Any uncertainty regarding the time a proposal is received shall be resolved against the Proposer.

Only one (1) proposal from any individual, firm, partnership, or corporation, under the same or different names, will be considered. If the Town determines that any Proposer has interest in more than one (1) proposal for work contemplated; all proposals in which such a Proposer is interested will be rejected. Proposer by submitting this proposal certifies that this proposal is made without previous understanding, agreement or connection with any person, firm or corporation making a proposal for the same material, supplies, equipment or services and is in all respects, fair and without collusion of fraud.

6. POINT OF CONTACT

Any inquiries concerning clarifications of solicitation or for additional information shall be submitted in writing to Debra E. Eastman, MMC – Town Clerk, Email: deastman@cutlerbay-fl.gov on or before **TBA** at **TBA**. The Town shall **not** be responsible for oral interpretations given by any Town employee or its representative.

7. EVALUATION METHOD AND CRITERIA

Proposals will be evaluated in accordance with weighted criteria listed below:

	<u>Maximum Points</u>
References (Relevant experience)	10
Scope of Services / Plan	15
Proposer Qualifications	25
Cost	<u>50</u>
Total	100

These weighted criteria are provided to assist the Proposers in the allocation of their time and efforts during the submission process. The criteria also guide the Selection Committee during the short-listing and final ranking of Proposers by establishing a general framework for those deliberations.

Short listed proposals may be selected for an interview prior to a recommendation being presented to the Town Council. As the best interest of the Town may require, the right is reserved to reject any and all proposals or waive any minor irregularity or technicality in proposals received. The Town will determine which Proposers are “responsible and responsive”.

8. DESCRIPTION OF EVALUATION CRITERIA(S):

REFERENCES (Relevant Experience) (10 POINTS): As part of the proposal evaluation process, the Town will conduct an investigation of references, including a record check or consumer affairs complaints. Proposer’s submission of a proposal constitutes acknowledgment of the process and consent to investigate. The Town is the sole judge in determining Proposers qualifications.

SCOPE OF SERVICES (15 POINTS): Each proposer will be evaluated on their approach on how the scope of services will be met and the operational plan. A work plan including an explanation of methodology to be followed to perform the services required in the proposal. Information regarding the level of staff to be assigned to contract must also be included.

PROPOSER QUALIFICATION (25 POINTS): Each proposer shall give a description of the firm, including the size, range of activities, and the number of years with relative experience with governmental accounts. Particular emphasis should be given as to how the firm-wide experience and expertise in this type of project will be brought to bear on the proposed project. The firm should also submit proof of insurance as a part of the qualifications portion of their proposal.

COST (50 POINTS): Each proposer shall provide unit pricing, including a lump sum for mobilization and demobilization, in the Proposal Form included in this RFP.

The Town as part of their evaluation may perform an inspection of the Proposer’s facilities. The Selection Committee, Town Manager, or his designee as part of their evaluation may perform this inspection. The Selection Committee may perform a second pre-award inspection of the Successful Proposer’s facilities and any technical advisors they deem necessary, prior to the award of a Contract.

The term facilities as used in this Solicitation shall include, but shall not be limited to, all properties operated by the Proposer, all equipment used in the performance of business by the Proposer, and/or any other evidence, tangible or intangible, that the Town may deem necessary to substantiate the technical and other qualifications, and the abilities of the Proposer to perform the Services.

The inspection may include, but not be limited to, appearance and cleanliness of facilities, appearance and cleanliness of equipment, “road worthiness” of vehicles, appearance and visibility of all signage on vehicles, and possession and distribution of mandatory equipment. Vehicles may be inspected for compliance with State of Florida Statutes, as well as applicable County and Town Ordinances. Additionally, inspection may include verification of some of the (physical) minimum requirements for Proposers. Additionally, the Town reserves the right to perform such inspections on the Successful Proposer as often as it deems necessary, to ensure proper performance of the proposed Contract.

The Town may require short-listed Proposer’s to perform an oral presentation in support of their Proposal or to exhibit or otherwise demonstrate the information contained therein. This presentation or demonstration may be performed before the Selection Committee or the Town Manager. If required, Proposers will be notified in writing prior to the date of such a presentation.

9. CLARIFICATION AND ADDENDUM(S)

If any person contemplating submitting a proposal under this RFP is in doubt as to the true meaning of the specifications or other documents or any part thereof, the proposer must submit to the Town of Cutler Bay, Town Clerk, Debra E. Eastman, MMC on or **TBA** at **TBA**, a request for clarification via fax (305) 234-4251 or Email: deastman@cutlerbay-fl.gov. All such requests for clarification must be made in writing and the person submitting the request will be responsible for its timely delivery.

Any interpretation of the RFP, if made, will be made only by Addendum duly issued by the Town’s Clerk. A copy of such Addendum will be posted on the Town’s website under RFP’s. However, it is the proposer’s responsibility to ensure that it has received and reviewed all addenda prior to submitting the bid and the Town shall not be responsible for failure to send addenda to proposers receiving the RFP. Proposers should acknowledge receipt of all addenda in the space designated on the proposal form. In the event of conflict with the original Contract Documents, addenda shall govern all other Contract Documents to the extent specified. Subsequent addenda shall govern over prior addendum only to the extent specified.

10. ACCEPTANCE OR REJECTION OF PROPOSALS

All proposals submitted shall be valid for a period of sixty (60) calendar days from the day of the proposal opening. However, any proposal may be withdrawn up until the time set for proposal opening. Any proposals not so withdrawn shall upon opening, constitute an irrevocable offer for goods and services until accepted by the Town Council’s Award.

Reasonable efforts will be made to either award the Contract(s) or reject all proposals within sixty (60) calendar days after proposal opening date. A Proposer may not withdraw his proposal before the expiration of sixty (60) days from the date of proposal opening. A Proposer may withdraw his proposal after the expiration of sixty (60) days from the date of proposal opening by delivering written notice of withdrawal to the Town Manager’s Office prior to award of contract by the Town’s Council.

The Town reserves the right to accept or reject any and/or all proposals or parts of proposals, to waive any informality, irregularities, or technicalities, to re-advertise for proposals, or take any other actions that may be deemed to be in the best interests of the Town. The Town also reserves the right to award the Contract on a split order basis, group by group, or item by item, or such combination as will best serve the interests of the Town, unless otherwise stated. The Town also reserves the right to waive minor variations to the specifications (interpretation of such to be made by the applicable department personnel). Final determination and award of contract(s) shall be made by the Town Council. In addition, each proposer agrees to waive any claim it has or may have against the Town and the respective employees, arising out of or in connection with the administration, evaluation, or recommendation of any proposal.

11. BID BOND

Each Proposal must be accompanied by a Bid Bond or Cashiers Check, in an amount of **Five Thousand and NO/100 (\$5,000)**. All Bid Bonds shall be valid for a period of at least ninety (90) days from the proposal submission date. The Bid Bonds for all unsuccessful Proposals shall be returned after the 90-day period. The purpose of the bid bond is to ensure that proposals are honored and that they remain valid for the required period. Accordingly, bid bonds are subject to forfeiture any time proposers refuse to honor their proposals for at least sixty (60) days after proposal opening.

12. PERFORMANCE AND PAYMENT BOND

Within ten (10) working days following notice of award by the Town, the successful Proposer shall furnish to the Town of Cutler Bay, a Performance Bond in the amount of **Fifty Thousand and NO/100 (\$50,000.00)** to the Town for the period of the contract (to be determined at the time of award). The Performance and Payment Bond can be in the form of a Cashier's Check, made payable to the Town of Cutler Bay (Please note that Cashier's Checks will be deposited into an escrow account for the term of the contract); a bond written by a surety company authorized to do business in the State of Florida and shall comply with State Statute 287.0935; or an Irrevocable Letter of Credit. If the latter is chosen, it must be written on a bank located in Miami-Dade County, be in the amount of the contract and should clearly and expressly state that it cannot be revoked until express written approval has been given by the Town of Cutler Bay. The Town, to draw on same, would merely have to give written notice to the bank with a copy to the successful contractor.

12.1 Attorney's-in-fact, who signs the Proposal Bond, Performance Bond and Payment Bond, must file with such Bonds, certified copies of their current power of attorney to sign such Bonds. All Bonds must be countersigned by an agent of the Surety licensed in the State of Florida, with a copy of the agent's current identification card, as issued by the State of Florida Insurance Commissioner, attached hereto.

12.2 Proposer must submit Bond forms attached hereto or such other acceptable bond forms as approved by the Town, in its sole discretion.

13. AWARD OF CONTRACT

Once the proposals are opened, a Selection Committee will evaluate the proposals and a recommendation will then be presented to the Town Manager. It is the Town's intent to award the contract to one (1) Proposer.

The Contract will be awarded only to a responsible Proposer(s) licensed and qualified by experience to do the work specified. The Proposer shall submit, prior to award of Contract, satisfactory evidence of his experience in similar work and that he is fully prepared with the necessary organization, capital, and equipment to complete the scope of work. Proposer shall be insured, licensed and certified by all applicable local, county and state agencies.

The Proposer warrants to the Town that it is not insolvent, it is not in bankruptcy proceedings or receivership, nor is it engaged in or threatened with any litigation, arbitration or other legal or administrative proceedings or investigations of any kind which would have an adverse effect on its ability to perform its obligations under the Contract.

This signed proposal is considered an offer on the part of the Proposer, which offer shall be considered accepted upon approval by the Town Council. Within five (5) business days after receiving Notice of Award the Successful Proposer shall submit a revised Certificate of Insurance naming the Town as additional insured for all liability policies.

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

14. CONTRACT TERM/ PRICES SHALL BE FIXED AND FIRM FOR THE EACH ONE (1) YEAR TERM OF THE CONTRACT

The initial Contract Term shall be for four (4) years, with the Town's option to renew annually not to exceed a maximum three (3) additional years. At its sole discretion, the Town shall have an option to renew this Agreement upon the same terms and conditions for up to three (3) additional years (the "Option"). This Option may be exercised at the sole discretion of the Town Manager. Such extension shall be effective upon receipt of a written notice from the Town Manager to the Contractor received no later than thirty (30) days prior to the date of termination.

If the Proposer is awarded a contract under this RFP solicitation, the prices quoted by the Proposer on the Proposal Form shall remain fixed and firm during the initial one (1) year term of the Contract; provided however, that the Proposer may offer incentive discounts from the fixed price to the Town at any time during the contractual term. At the start of each renewal year the Contractor may request a price increase not to exceed the Bureau of Labor Statistics (www.bls.gov CPI-U index for Miami-Dade County). The Town will evaluate such request to determine if an increase should be approved. Any such increase will not exceed three (3%) percent per request per one (1) year contract term.

15. PERMITS, FEES AND NOTICES

The Successful Proposer shall at his own expense obtain all necessary permits, pay all licenses, fees and taxes, required to comply with all local ordinances, state and federal laws, rules and regulations applicable to business to be carried on under this Contract.

All county, state or federal fees and permits shall be applied for and paid by the Proposer as necessary. Proposer must provide Town with copy(s) of valid licensing by state/county agency for this type of work.

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

16. NEGOTIATIONS

The Town reserves the right to enter into Contract negotiations with the selected Proposer. If the Town and the selected Proposer cannot negotiate a successful contract, the Town may terminate such negotiations and begin negotiations with the next selected Proposer, reject all proposals or re-advertise the contract. No Proposer shall have any rights against the Town arising from such negotiations.

17. LAWS/ORDINANCES

The Proposer shall observe and comply with all federal, state, local and municipal laws, ordinances, rules and regulations that would apply to this Contract. Failure to familiarize himself/herself with applicable laws will in no way relieve him/her from responsibility.

18. ERRORS AND OMISSIONS

The Town is not required to accept any request by any Proposer to correct errors or omissions in any calculations or price, after proposal is submitted. Proposals which are incomplete, unbalanced, conditional or obscure or which contain additions not called for, erasures, alterations, or irregularities of any kind or which do not comply with the request for proposals and Instructions to Proposers may be rejected at the option of the Town. The Town does, however, have the option to waive technicalities and request further information or clarification.

19. WARRANTIES OF USAGE

No warranty is given or implied by the Town as to any components listed in this Request for Proposals and are considered to be estimates for the purpose of information only. The Town reserves the right to accept all or any part of the proposal and to increase or decrease locations of Proposers proposal to meet additional or reduced requirements of the Town.

20. ASSIGNMENT

Neither party to the Contract shall assign the Contract or subcontract as a whole without the written consent of the other, nor shall the Contractor assign any monies due or to become due to him, without the previous written consent of the Town Manager or his designee.

21. COLLUSION

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

22. CONE OF SILENCE

Notwithstanding any other provision of these specifications, the provisions of Town "Cone of Silence" are applicable to this transaction. The entirety of these provisions can be found in the Town Code Chapter 24, Article II, Section 24-228 of the Town Charter. The "Cone of Silence," as used herein, means a prohibition on any communication regarding a particular Request for Proposal ("RFP"), Request for Qualification ("RFQ") or bid, between:

A potential vendor, service provider, proposer, bidder, lobbyist, or consultant; and

The Town Council, Town's professional staff including, but not limited to, the Town Manager and his or her staff, any member of the Town's selection or evaluation committee.

The Cone of Silence shall be imposed upon each RFQ, RFP and bid after the advertisement of said RFQ, RFP, or bid. The Cone of Silence shall terminate at the beginning of the Town Council meeting at which time the Town Manager makes his or her written recommendation to the Town Council. However, if the Town Council refers the Manager's recommendation back to the Manager or staff for further review, the Cone of Silence shall be re-imposed until the meeting at which the Manager's subsequent recommendation is before the Town Council.

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The Cone of Silence shall not apply to:

- 1) oral communications at pre-bid conferences;
- 2) oral presentations before selection or evaluation committees;
- 3) public presentations made to the Town Council during any duly noticed public meeting;
- 4) communication in writing at any time with any Town employee, unless specifically prohibited by the applicable RFQ, RFP or bid documents. The proposer shall file a copy of any written communication with the Town Clerk. The Town Clerk shall make copies available to any person upon request;
- 5) communications regarding a particular RFQ, RFP or bid between a potential vendor, service provider, proposer, bidder, lobbyist or consultant and the Town's Purchasing Agent or Town employee designated responsible for administering the procurement process for such RFQ, RFP or bid, provided the communication is limited strictly to matters of process or procedure already contained in the corresponding solicitation document;
- 6) communications with the Town Attorney and his or her staff;
- 7) duly noticed site visits to determine the competency of proposers regarding a particular bid during the time period between the opening of bids and the time the Town Manager makes his or her written recommendation;
- 8) any emergency procurement of goods or services pursuant to Town Code;
- 9) responses to the Town's request for clarification or additional information;
- 10) contract negotiations during any duly noticed public meeting;
- 11) communications to enable Town staff to seek and obtain industry comment or perform market research, provided all communications related thereto between a potential vendor, service provider, proposer, bidder, lobbyist, or consultant and any member of the Town's professional staff including, but not limited to, the Town Manager and his or her staff are in writing or are made at a duly noticed public meeting.

Please contact the Town Attorney at (305) 854-0800 for any questions concerning the Cone of Silence compliance. Violation of the Cone of Silence by a particular proposer shall render any RFQ award, RFP award or bid award to said proposer voidable by the Town Council and/or Town Manager.

23. CAMPAIGN FINANCE RESTRICTIONS ON VENDORS

Pursuant to Town Code Chapter 24, Article II, Section 24-228 of the Town Charter, vendors of the Town are required to disclose any campaign contributions to the Town Clerk, and each vendor must do so prior to and as a condition of the award of any Town contract to the vendor.

23.1 VENDORS' CAMPAIGN CONTRIBUTION DISCLOSURE

1. General requirements:

- (A) Any vendor required to disclose campaign contributions pursuant to the Charter of the Town, as may be amended, shall file a written disclosure with the Town Clerk, stating all contributions made that were accepted by an elected official, the official to whom they were made and the date they were made. The Town Clerk may develop a form to be used by vendors for such disclosure.
- (B) The disclosure shall be filed prior to and as a condition of the award of any Town contract to the Vendor.
- (C) The Town Clerk shall inform the Council of any disclosures which were made in relation to any items before the Council prior to the hearing on the item or prior to the award of the contract.

- (D) If an existing vendor makes a contribution, the vendor must report the same to the clerk within ten (10) days of its acceptance or prior to being awarded any additional contract or renewal, whichever occurs first.
- (E) The Town Clerk shall file a quarterly report with the Council, which lists all the vendor disclosures in the quarter.

2. Disqualification

- (A) As per Section 7.6 of the Town Charter, if a Vendor of products or services who directly or through a member of the person's immediate family or through a political action committee or through any other person makes a campaign contribution to a Town candidate and fails to disclose it then he/she/it shall be barred from selling any product or service to the town for a period of two years following the swearing in of the subject elected official.

24. LOBBYIST REGISTRATION

Proposers must also comply with all Town Charter sections and Code Provisions that pertain to lobbyists, including Section 7.6 of the Town Charter and implementing ordinance(s), including Sec. 2-11(s) of the Town Code and Ordinance 07-02. Please contact the Town Clerk at (305) 234-4262 for additional information. Proposers shall complete a "Lobbyist Registration for Oral Presentation" form and all persons listed thereon shall be considered to be registered only for the purposes of the oral presentation, if any. Lobbyists are required to register and pay applicable fees prior to engaging in any other lobbying activity.

END OF SECTION

SECTION II SPECIAL CONDITIONS

1. INSURANCE REQUIREMENTS

Throughout the term of this Contract, Successful Proposer and/or any and all subcontractors or anyone directly or indirectly employed by either of them shall maintain in force at their own expense, insurance as follows:

1.1 Commercial General Liability

Commercial General Liability coverage with limits of liability of not less than a \$1,000,000 per Occurrence combined single limit for Bodily Injury and Property Damage. This Liability Insurance shall also include Completed Operations and Product Liability coverages and eliminate the exclusion with respect to property under the care, custody and control of Contractor. The General Aggregate Liability limit (except for Products/Completed Operations) shall be in the amount of \$2,000,000.

1.2 Workers' Compensation

Workers Compensation and Employer's Liability insurance, to apply for all employees for statutory limits as required by applicable State and Federal laws. The policy(ies) must include Employer's Liability with minimum limits of \$1,000,000.00 each accident. No employee, subcontractor or agent of the Contractor shall be allowed to provide Work pursuant to this Contract who is not covered by Worker's Compensation insurance.

1.3 Business Automobile Liability

Business Automobile Liability with minimum limits of \$1,000,000 per Occurrence combined single limit for Bodily Injury and Property Damage. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability policy, without restrictive endorsements, as filed by the Insurance Services Office, and must include Owned, Hired, and Non-Owned Vehicles.

1.4 General

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

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

Liability policies shall be endorsed to provide the following:

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

All policies shall be endorsed to provide thirty (30) days prior written notice of cancellation, non-renewal or reduction in coverage or limits to:

Town of Cutler Bay
Attention: Town Clerk's Office
10720 Caribbean Blvd., Suite# 105
Cutler Bay, Florida 33189

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

Certificates of Insurance, in form and evidencing all required insurance and endorsements, shall be submitted with the Proposers Proposal Package. If Proposer is Successful Proposer, then prior to commencement of Contract, Proposer must submit revised Certificate of Insurance naming the Town of Cutler Bay as additional insured for all liability policies.

1.5 Insurance Company and Agent

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

2. SAFETY

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

The Town reserves the right but is not obligated to make safety inspections at any time the Successful Proposer is on Town property and to ensure safety rules are not being violated.

To the extent applicable, the Successful Proposer must also comply with Chapter 487, Florida Statutes. Any items which are delivered from an Agreement resulting from this Proposal must be accompanied by a Material Safety Data Sheets (MSDS). The MSDS sheets must be maintained by the user agency and consist of written, electronic, or printed material concerning an agricultural pesticide that sets forth the following information:

- a) The chemical name and the common name of the agricultural pesticide.
- b) The hazards or other risks in the use of the agricultural pesticide, including:

1. The potential for fire, explosions, corrosiveness, and reactivity.
2. The known acute health effects and chronic health effects of exposure to the agricultural pesticide, including those medical conditions that are generally recognized as being aggravated by exposure to the agricultural pesticide.
3. The primary routes of entry and symptoms of overexposure.
 - a) The proper handling practices, necessary personal protective equipment, and other proper or necessary safety precautions in circumstances that involve the use of or exposure to the agricultural pesticide, including appropriate emergency treatment in case of overexposure.
 - b) The emergency procedures for spills, fire, disposal, and first aid.
 - c) A description of the known specific potential health risks posed by the agricultural pesticide, which is written in lay terms and is intended to alert any person who reads the information.
 - d) The year and month, if available, that the information was compiled and the name, address, and emergency telephone number of the manufacturer responsible for preparing the information.

2.1 Occupational Health and Safety

In compliance with Chapter 442, Florida Statutes, any items included in the latest edition of "Florida Substance List" which are delivered from a Contract resulting from this Proposal must be accompanied by a Material Safety Data Sheets (MSDS) The MSDS sheets must be maintained by the user agency and must include the following information:

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

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

3. CARE AND SAFETY

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

4. TRAFFIC CONTROL AND PROTECTION

Maintenance of traffic must conform to the current edition of the Florida Department of Transportation (FDOT) Roadway and Traffic Design Standards Indexes (600 Series), the Standard Specifications for Road and Bridge Construction and the Manuals on Uniform Traffic Control Devices, as a minimum criterion. The Successful Proposer shall be responsible for the plans for traffic control around or through work sites and shall be developed with safety as the primary concern. The plans shall include protection at work site when work is in progress and when operations have been halted (such as during the night). Provisions for the protection of work crews, traffic control personnel, pedestrians and motorists shall be addressed. In all cases the operation plan for traffic control and protection shall include provisions for the following:

- a) Advance warning
- b) Clear view of work site
- c) Roadway delineation
- d) Regulatory information
- e) Hazard warning
- f) Barriers
- g) Pedestrians safety
- h) Access
- i) Location of vehicle and equipment
- j) Night safety
- k) Personnel
- l) Traffic control and protection devices (see the Florida Department of Transportation Manual on Traffic Controls and Safe Practices for Street and Highway Construction, Maintenance and Utility Operations.)

5. DAMAGES, VANDALISM AND THEFT

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

6. SUB-CONTRACTORS

6.1 Sub-Contractors Terms

The Contractor agrees to bind specifically every sub-contractor to the applicable terms and conditions of the Contract Documents for the benefit of the Town.

6.2 Sub-Contractors Agreement

Written approval by the Town Manager or his designee will be required, prior to hiring any subcontractor. All work performed for the Contractor by a sub-contractor shall be pursuant to an appropriate agreement between the Contractor and the Sub-contractor.

7. PUBLIC ENTITY CRIMES STATEMENT

A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a proposal on a contract with a public entity for the construction or repair of a public building or public work, may not submit proposals on leases of real property to a public entity, may not be awarded or perform work as a Contractor, supplier, subcontractor, or consultant under a contract with any public entity and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

8. DRUG-FREE WORKPLACE PROGRAMS

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

9. PERFORMANCE BOND

Simultaneous with the delivery of the executed contract to the Town, the Contractor shall furnish to the Town an executed performance bond in the amount of **Fifty Thousand and NO/100 (\$50,000.00)**, as security for the faithful performance of the contract and for the payment of all persons performing labor and/or furnishing materials in connection therewith. It shall be submitted on forms provided. The condition of this obligation is such that, if the Contractor shall promptly and faithfully perform said contract, make payments to all claimants for all labor and material used or reasonably required for use in the performance of the contract, and shall fully indemnify and save harmless the owner for all costs and damages he may suffer by reason of failure so to do, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

10. INSPECTION, DIRECTION, AND PAYMENT

10.1 Direction

The work will be conducted under the general direction of the Town Manager or his designee, and is subject to inspection by his appointed inspectors to insure compliance with the terms of the Contract. No inspector is authorized to change any provision of the specifications without written authorization of the Town Manager or his designee nor shall the presence of an inspector relieve the Contractor from any requirements of the Contract.

10.2 Inspection

The Town's Public Works Director or designee representative will make final inspection of the work covered by this Contract when it is completed and finished in all respects in accordance with specifications and must be approved before payment is made. Failure in the Contractor's responsibility as outlined will result in payment withholding until compliance is received and approval granted.

10.3 Payment

Contractor shall submit invoices on or about the first of each month for work completed in the previous month under provision of this Contract. Invoices will be verified by checking them against GPS Reports provided by the contractor and included debris dump tickets. The Town shall pay the Contractor pursuant to the Florida Prompt Payment Act.

END OF SECTION

SECTION III DETAILED SPECIFICATIONS

1. SCOPE OF SERVICES

The Contractor must furnish all labor, materials, equipment, and supervision required to deliver, furnish and install trees throughout the Town for the Town's Tree Planting Program. Work includes but is not limited to installing trees, staking/guying, root barriers (where the Work Order requires installation), planting soil, tree removals/relocations, stump and root removals, mulching, grading, herbicide treatment, watering, fertilizing, weed removal, grow-in period maintenance (for installed trees), removal and disposal as applicable to the work required by the Work Order, as stated in Sections 2, 3, and 4 below.

The delivery locations will be stated in each Work Order issued under the Contract and will be confirmed via field verification/inspection with the Town.

- 1.1** The Town of Cutler Bay is requesting sealed proposals from qualified Proposers, to provide high quality tree installation of Town Owned and Maintained Facilities, Right-of-Ways, and Swales.

The scope of services generally consists of furnishing all labor, supplies, equipment, tools, service and supervision necessary to perform and maintain the work necessary as directed by the Public Works Director or his designee per work order, conducive with a safe, neat, and clean environment

2. GENERAL REQUIREMENTS

All work areas shall be maintained according to the following standards for tree maintenance services including the proper disposal of debris generated by operation. The work shall be assigned as per work order as directed by the Public Works Director or his designee. The following is a detailed listing of general requirements that must be included in base bid unless specified as a "separate billing" item:

- 2.1** To provide experienced personnel under competent supervision to perform all labor required by this Contract in a safe and workmanlike manner.
- 2.2** All equipment shall be maintained in an efficient and safe operating condition while performing work under the contract. Equipment shall have proper safety devices maintained at all times while in use. If equipment does not contain proper safety devices and/or is being operated in an unsafe manner, the Town may direct the Contractor to remove such equipment and/or the operator until the deficiency is corrected to the satisfaction of the Town. The Contractor shall be responsible and liable for injury to persons caused by the operation of the equipment.
- 2.3** The President/Chief Operating Officer of the contracting firm must be available to attend bi-weekly meetings with the Public Works Director or his designee.
- 2.4** To provide a written schedule of tree planting activities in advance of the first day of each month.
- 2.5** The Contractor will be responsible for replacement of any sprinkler heads lost or damaged in any way. Replacement of sprinkler heads shall be compatible to existing system. Any other damage to lines, valves or other components caused by the Contractor shall be the sole responsibility of the Contractor to repair or replace with identical parts and in a timely manner shall be submitted as a "separate billing" item.

- 2.6 Any damages to the road, facilities, sewers, utilities, irrigation system, plant material or vegetation caused by the Contractor shall be repaired at the expense of the Contractor to the satisfaction of the Town. Failure to restore said damages within three (3) business days following notification shall result in a deduction from the next invoice of the Town's expenses incurred by the Town for labor, material, or equipment to restore the property to its original condition.
- 2.7 The Contractor shall purchase sufficient magnetic signs, as directed by the Public Works Director, which shall be placed on all vehicles performing work within the Town (two signs per vehicle).
- 2.8 The Contractor must have an on staff Certified Arborist or a subcontractor, who is in good standing with the National Arborist Association (NAA), or International Society of Arboriculture (ISA).

2.9 Maintenance of Traffic

Any Work performed in the public right-of-way will require the prior approval of the appropriate public agencies. These public agencies include, but are not limited to, the Town, Miami-Dade County Public Works Department, and FDOT. Contractor will not be entitled to any additional compensation for Work performed in the public right-of-way, except for the cost of any required use of police officers, which reimbursement is addressed in Article 4.8.

Prior to commencing any Work the Contractor must install warning signs and any other warning and safety devices advising motorist and pedestrians of Work being performed. All signs must be temporary and must be removed at the end of the day or at the end of the completion of the Work, whichever is shorter.

The following guidelines must be followed during each maintenance operation:

1. When no lanes are blocked:
 - a. All Contractor vehicles must have beacons and flashes on.
 - b. "MEN WORKING" signs must be set up before starting operations.
 - On two lane roads: one (1) sign must be posted at each end of site, for each direction of travel (total of two (2) signs).
 - On four lane roads two (2) signs at each end of site (one on median and one on shoulder) for each direction of travel (total of four (4) signs).
 - Orange safety cones must be set at edges of travel lanes in the immediate area of work.
 - c. Vehicles will be parked next to median at the transition area of left turn lanes. Orange traffic cones must be placed from the start of transition of the left turn lane to the front of vehicle at fifteen feet (15') intervals.
2. When a lane is to be blocked:
 - a. No traffic lane may be blocked for any period between the hours of 7:00 to 10:00 AM and 3:30 to 7:00 PM.
 - b. No traffic lanes may be blocked for a period longer than fifteen (15) minutes, unless a Maintenance of Traffic (M.O.T.) Plan has been approved at least twenty-four (24) hours in advance.
 - c. A traffic lane may be blocked for up to fifteen (15) minutes, if necessary. However, the following M.O.T. must be followed:
 - Flagmen must be posted at the edge of the travel lane at least five hundred (500) feet prior to start of transition.

- There must be a minimum of two hundred (200) feet transition with traffic cones, prior to lane closure. It is recommended that vehicle-blocking lane have a flashing arrow board.

Failure by the Contractor to comply with the Maintenance of Traffic requirements will result in the Town issuing a stop work order until corrective action is taken. The Contractor will not be entitled to any additional time resulting in any delays due to issuance of a stop work order.

2.10 Reimbursement for use of Police Officers

Where a permit or the Town requires the Contractor to use a police officer(s) during the performance of the Work the Town will make every effort to furnish police officers at no cost to the Contractor. Where the Town is not able to provide the required police officers the Town will reimburse the Contractor based on the actual cost to the Contractor and the cost is not included in the unit price per item. To be reimbursed the Contractor must submit a copy of documentation substantiating both the cost as well as proof of payment.

2.11 Hours for Performing Work

The Contractor must perform all Work based on the hours stated as follows, unless specifically stated otherwise in a Work Order:

- Residential: 8am-5pm - Monday-Friday
- Residential: 10am-4pm - Saturday
- Commercial: 8am-5pm - Monday-Saturday

Any Work to be performed outside these hours will require the prior written approval of the Public Works Director or his designee. A Work Order may establish different working hours than those stated herein.

2.12 Compensation

Contractor will provide the Town with an invoice within thirty (30) days of the date the Work was accepted under a Work Order, using the invoice form provided by the Town.

The Town will take action to pay, reject or make partial payment on an invoice in accordance with the Florida Local Government Prompt Payment Act. No payments will be due or payable for Work not performed or materials not furnished or where the Work has not been accepted by the Town. If there is a dispute with regard to an invoice, the Town will pay the amount not in dispute and reject the remainder that is in dispute.

The Contractor will be compensated at the unit prices specified in the Contract.

2.13 Estimated Quantities

Any quantities provided are solely estimates of what the Town anticipates its need to be for the initial term of the Contract. Any stated quantities do not reflect the actual quantities to be ordered and the Town has not established any minimum quantities. The Town reserves the right, at its sole discretion to make adjustment to quantities. The failure of the Town to order any minimum quantities will not form any basis for a claim by the Contractor for lost work or profits.

2.14 Purchase and Delivery Storage and Installation

All materials must be F.O.B. delivered with the cost of delivery included in the unit price. The Contractor will be solely responsible for the purchase, delivery, and installation of all material. Contractor will make all arrangement for delivery including the proper protection and transportation of the all Trees. Contractor will be liable for replacing and damaged materials and filing any and all claims with suppliers. All transportation must comply with all federal, FDOT, Miami-Dade County, and Town rules and regulations.

All trees shall be labeled by size and scientific plant name as listed in the current edition of Index of Garden Plants: The New Royal Horticultural Society Dictionary. Labels shall be attached securely to all plants, bundles, and containers of plant materials when delivered. Labels are to be durable and legible, with information given in weather resistant ink or embossed process lettering.

All trees and materials, shipments, and deliveries shall comply with state and federal laws and regulations governing the inspection, shipping, selling, and handling of plant stock. A certificate of inspection, or copy thereof, for injurious insects, plant diseases, and other plant pests shall accompany each shipment or delivery of plant material. The certificate shall bear the name and address of the source of stock.

The Contractor is responsible for the protection of all tree and planting material from adverse weather conditions, damage, deterioration, as well as maintain their health and appearance during storage. At the time of delivery, the Town may reject any plant material not meeting acceptable standards or have been damaged during delivery. The Town is the sole judge of the acceptability of the stock delivered at any time.

The delivery locations will be stated in each Work Order issued under the Contract.

2.15 Work Orders

The Town will issue a Work Order for each Project. Contractor must not commence any delivery or plantings without receiving a written Work Order from the Town. The Work Order will include the number and type of Trees or materials to be delivered and/or installed, the location(s) of installation and any other information necessary to complete the work at a Work site. The Work Order may also stipulate the hours during which work can be performed if the hours are outside the standard working hours specified in the Contract.

2.16 Substitutions

The Contractor may request the Town to approve substitution where the specified materials are not available. Such requests must be submitted in writing to the Project Manager in advance with enough information to evaluate the substitution. The Contractor must provide the substitute materials Tree designation, type, grade, quality, and size. Acceptance of substitutions will be at the sole discretion of the Town. The Town may require an adjustment in price based on any proposed substitution.

2.17 Request for Information

The Contractor must submit a Request for Information (RFI) where the Contractor believes that the Contract Document's specifications are unclear or conflict. All requests must be submitted in a manner that clearly identifies the specification section or drawing detail, if furnished, where clarification or interpretation is being requested. As part of the RFI, Contractor must include its recommendation for resolution. The Town will respond in writing.

2.18 Warranty

All Trees must have a one (1) year warranty from the date of final acceptance of installation. The Contractor must provide a written warranty for each planting, which must provide details as to the location of the planting, materials planted, and the effective date of the warranty.

The Contractor will be responsible for the replacement of all trees and other plantings under the warranty, which are damaged or die as a result of "Acts of God" including but not limited to; hail, lightning, sustained winds that exceed hurricane force (75 MPH) measured ten feet above the ground, and lethal yellowing.

The Contractor will be responsible for periodically inspecting the trees and other plantings under warranty and identifying any replacements that may be required. Where the Contractor identifies the need for such replacements the Contractor must notify the Town's representative in writing, within seven (7) days of such determination.

The Town reserves the right of inspection at any time and the Town may hire its own arborist to conduct inspections during the warranty period.

2.19 Replacements During Warranty Period

The Town will notify the Contractor in writing of any trees, planting or other Work, which does not appear to be healthy or requires replacement. The Contractor must, within seven (7) days notify the Project Manager of the conditions of the tree, planting, or Work, state the action that will be taken, and the timeframe in which such action will be taken. Replacement of trees and other plantings is required when it is determined that:

1. Tree or planting is not in a healthy growing condition and the tree or planting will not meet the minimum quality indicated in the specifications prior to the expiration of the warranty period.
2. Not at the "Florida No. 1" quality level at the end of the guarantee period.
3. The tree or planting is dead.

The Town and the Contractor will agree upon the time in which replacements under warranty will occur. The agreed upon time frame(s), which should not exceed 10 days may be extended in writing by the Town due to seasonal conditions, availability, preparation time such as root pruning, etc.

All Replacement trees must be of the same or better species, quality and grade as that of the original specifications of the tree to be replaced. In no case will replacements be smaller than the original size. Any substitutions must be approved by the Town's representative in writing in advance.

All Work replaced under warranty must be warranted for a one (1) year period from the date of acceptance of installation.

Should the Town determine that no replacement will be made, or the Contractor fails to replace the tree in a timely manner the price previously paid for the tree will be deducted from any monies due the Contractor.

NOTE: Payment in full for the Work does not constitute a waiver of the Warranty.

2.20 Inspection of Trees, Mulch, and Other Materials

The Town may, at its sole option, inspect Trees at the growing site prior to delivery or at the installation site prior to installation. Contractor must notify the Town's representative at least 48 hours prior to delivery of any Trees. The Town does not waive any of its subsequent rights should it elect not to inspect the Trees prior to installation. The Town reserves the right to inspect, tag, and approve the selection of trees at their place of growth. A Contractor's representative shall be present if the Town requests to select the trees.

Contractor shall furnish a written list of the proposed sources of nursery stock to allow the Town to conduct inspection prior to selection and/or delivery of materials. Such a list shall be furnished with completed bid documents. Such list may not be altered without the Town's written approval.

The Contractor will be responsible for the replacement of all Work, materials or equipment stolen from site until final acceptance of installation.

2.21 Access to Water and Utilities

The Town may at its sole discretion provide access to Town utilities and/or water should such be available at the Work site. However, the Contractor is responsible to ascertain the location and accessibility of any utilities and potable water sources necessary to perform the Work.

The Contractor is responsible for providing all power for the performance of the Work, including the use of a generator. The use of a generator may be subject to the prior approval of the Town's representative should the Work be in a primarily residential neighborhood.

The Contractor is responsible for distribution of water to the areas of planting. If there is no source of potable water available at the job site approved for use, then the Contractor will be responsible for bringing in a water truck or tank for hand watering. If during the planting, water availability previously agreed to, is curtailed, the Contractor must notify, in writing within 24 hours, the Town of the condition and, if the Contractor deems necessary, his or her intent to cease work until water is restored. For trees already installed prior to cut-off of water availability, the Contractor will continue to be responsible for providing water as required by specifications.

Contractor must provide the Program Manager with a scheduling for the watering of all trees and palms previously planted that are within the required watering period. The watering schedule must be provided on a monthly basis with the Contractor's invoice.

2.22 Staging Site

The Contractor is solely responsible for making all arrangements for any staging site(s) that may be necessary for the performance of the Work and the Contractor will be responsible for all site security and any loss, damage or theft to its equipment and materials. The Town at its sole discretion may make a staging site available for use by the Contractor. If such site is made available by the Town, the Town assumes no responsibility or liability and the Contractor will be responsible for any loss, damage or theft to its equipment and materials. The Contractor will also be responsible for restoring the site to its pre-existing condition prior to the Contractor's use of the site.

2.23 Substantial Completion and Final Acceptance of Planting

Upon written notice from the Contractor that the Work at a site is complete and ready for inspection the Contractor must notify the Town's representative requesting that a substantial completion inspection be performed. The Town representative will make the arrangement for the inspection and notify the Contractor in writing of the time and date

Based on the substantial completion inspection, the Town will determine. (1) The Work meets all of the Contract Documents requirements and should be inspected, or (2) Work does not meet all of the requirements of the Contract Documents and requires corrective action.

Where the Town determines that the Work does not meet the requirements of the Contract Documents the Town will prepare a "punch list" that identifies all of the Work corrective Work that must be performed for the Town to accept the Work. The Town and the Contractor will determine a timeframe for completion of all of the corrective Work. Upon completion of the punch list the Contractor will request that another substantial completion inspection be conducted. Failure of the Contractor to complete the punch list work may result in the Town finding the Contractor in default. The Town may, at its sole discretion elect to complete or have completed the punch list Work by others should the Contractor fail to meet the stipulated timeframe. Should the Town elect to take such action any costs incurred by the Town will be deducted from any payments due the Contractor.

The Contractor will be notified in writing of the final acceptance of all Work.

2.24 Ownership of the Work

The Contractor will be solely responsible for all Work, including Trees, planting materials, supplies, and or equipment prior to final written acceptance. Contractor will be liable for all damage, theft, maintenance, health and safety until such time as the Town issues final acceptance. The Contractor is responsible for the protection, and maintenance of all of its own tools, equipment, and vehicles.

2.25 Final Clean Up

Upon acceptance of the work and before final acceptance and final payment are made, the Contractor must remove from the site all machinery and equipment, and discard all rubbish, etc. Contractor must repair or replace in an acceptable manner private or public property which may have been damaged or destroyed due to his operations. The Project site must be left in a neat presentable condition. Material cleaned from the site and deposited on adjacent property will not be considered as having been disposed of in an acceptable manner.

2.26 In addition to the requirements of Article 2.20 the Contractor will be responsible for the disposal of all waste and other objectionable material created through planting operations and landscape construction, which must be removed completely on a daily basis from the Work site(s) or as directed by the Town. Any paved areas including curbs and sidewalks which have been strewn with soil, sod waste, fertilizer or other waste must be thoroughly swept. The Town is not required to supply areas or facilities for storage or removal of waste on-site.

All excess fill must be removed and disposed of from the Work site(s) at no additional cost to the Town. The Town Manager or designee may elect to keep any excess fill and may direct the Contractor to move the excess fill to another Town site. The Town will compensate the Contractor for the additional fill at its direct cost.

3. TREE PLANTING SPECIFICATIONS

3.1 General

- a. The Work includes, but not be limited to, furnishing material, root pruning and Tree relocations where required, layout, requesting utility locations/markings, protection to the public, maintenance of traffic, excavation, installation, backfilling, fertilizing, mulching, staking and guying where required, watering, pruning, weeding, mowing, cleanup, maintenance and warranty.
- b. Excavation Related to Inadequate Drainage: Some or all Work areas may contain existing materials such as, but not limited to, concrete, peat layer, limerock, and it may even be compacted. This material and any compacted material may interfere with adequate vertical drainage or proper Tree survival and growth. Removal of this material, in order to have adequate vertical drainage, is part of the Work. Therefore, the subsurface investigations and examinations are necessary in order to determine the extent of removal and excavation required above and beyond the minimum requirements indicated in these specifications, under the heading of "Excavation of Tree Holes", which is in Article 3.14. Compensation for any removal and excavation required above and beyond the minimum requirements indicated, including any additional planting soil needed in order to fill the larger excavated area, are included in the Contract prices. The Contractor will not be entitled to additional compensation for this Work.

3.2 Certified Arborist

All tree planting, removal, or relocations must be performed under the direction and supervision of an ISA certified arborist ("Arborist"). The Contractor must make the Arborist available for tree health inspections and tree maintenance recommendations when requested by the Town.

3.3 Quality Assurance

- a. Standards
 1. Authority for Nomenclature, Species, Etc.
 - i. All Trees must conform to the names given in "Standardized Tree Names," 1942 edition, prepared by the American Joint Committee on Horticultural Nomenclature and in the current edition of Index of Garden Plants: The New Royal Horticultural Society Dictionary. Names of varieties not included therein conform generally with names accepted in the South Florida nursery trade.
 2. Grade Standards
 - i. All Trees must be nursery grown and must comply with all required inspections, grading standards and Tree regulations as set forth in the latest edition of the Florida Department of Agriculture's "Grades and Standards for Nursery Plants, Part 1 and Part 2", the specification as described in the American Standard of Nursery Stock, ANSI Z60.1, Current Edition or with any superseding specifications that may be called for on the plans or in the specifications and as established by the Turfgrass Producers Association of Florida, Inc. All Trees not listed in the "Grades and Standards for Nursery Plants," must conform to a Florida No. 1 as to: (1) health and vitality, (2) condition of foliage, (3) root system, (4) freedom from pest or mechanical damage, and (5) heavily branched and densely foliated according to the accepted normal shape of the species or sport.

- ii. Exception to "Grades and Standards": Any section of Florida Department of Agriculture's "Grades and Standards" which allows nails or spikes in the trunks of trees or palms are excluded from these specifications. These specifications prohibit nails and spikes in trunks.
- iii. All Trees and related materials must be free of noxious weeds both above and below ground, including nut grass.

3. Requirements for Various Tree Designations

i. Balled and Burlapped (B&B) and Wire Balled and Burlapped (WB&B) Trees

- Only burlap and other wrapping materials made of natural, biodegradable materials must be used.
- These Trees must be properly protected until they are planted. The Tree must be handled only by both the trunk and rootball at the same time and not by the trunk only. Any B&B or WB&B Tree which shows evidence of having been handled by a method other than the method outlined above, and resulting in damage to the Tree such as a cracked or broken rootball or the roots that have been loosened within the ball, will be rejected.
- For Trees grown in soil of a loose texture, which does not readily adhere to the root system, especially in the case of large Tree material, wired B&B Trees must be used. For WB&B Trees, before the Tree is removed from the hole, hog wire with approximately 1- to 1 1/2-inch openings or a Kerr's wire basket (Vermeer standard, caretree standard, caretree truncated or clegg) must be placed around the burlapped ball and looped and tensioned until the burlapped ball is substantially packaged by the tightened wire netting, such as to prevent disturbing of the loose soil around the roots during handling.

b. Container-Grown Trees (CG):

1. It is preferable that all Trees under this Contract be field grown. In the instance that requested a Tree is not available as field grown, Container-Grown (CG) Trees may be used subject to the approval of the Town. Any Container-Grown (CG) Trees which have become "pot bound" or "root bound" for which the top system is out of proportion (larger) to the size of the container, will not be accepted.
2. CG Trees must not be removed from the can until immediately before planting, and with all due care to prevent damage to the root system.

c. Specimen Trees (Florida Fancy):

1. When specimen or Florida Fancy Trees are called for, they will be labeled as such on the plants and on Work Orders.

3.4 Trees

- a. All trees must be no less than Florida No. 1 equivalent, or better, at the time of installation and final acceptance.
- b. Habit of Growth: All trees must have a habit of growth that is normal for that species and must be sound, healthy, vigorous and free from insects, tree diseases and injuries.
- c. All Trees must be planted in accordance with ANSI A300 (Part 6), Planting and Transplanting Standards.

d. Measurement of Trees & Ground Cover

1. Trees and Ground Cover

- i. Rootball: Requirements for the measurement of rootball diameter and depth must comply with requirements as set forth in the latest edition of the Florida Department of Agriculture's "Grades and Standards for Nursery Plants, Part 1 and Part 2" and as listed herein.

CALIPER	MINIMUM BALL DIAMTER	MINIMUM ROOTBALL DEPTH
1" - 1.5"	16"	75% of diameter
1.5" - 1.75"	20"	65% of diameter
1.75" - 2"	22"	65% of diameter
2" - 2.5"	24"	65% of diameter
2.5" - 3.5"	26"	65% of diameter
3.5" - 4"	28"	65% of diameter
4" - 4.5"	30"	60% of diameter
4.5"- 5"	32"	60% of diameter
5"- 5.5"	34"	60% of diameter
5.5" or more	Increase in proportion	Up to 48", then decrease in proportion or larger size diameter

- ii. Height: The height of the tree will be measured from finish grade and continue up to where the main mass of the Tree uniformly ends. The height must not include any singular or isolated parts of the tree, such as leaves, shoots, branches, limbs or fronds, which extend out beyond the main mass of the Tree.
- iii. Width: The width of tree must be measured from one side of where the main mass uniformly ends and continue to the other side of where the main mass of the tree uniformly ends. The width must not include any singular or isolated parts of the tree, such as leaves, shoots, branches, limbs or fronds, which extend out beyond the main mass of the Tree.
- iv. Caliper: The caliper of tree trunks must be measured three feet (3') above the ground unless another method of measurement is indicated otherwise on the plans.
- e. All sizes shown for trees available as part of this Contract are to be considered as minimums. All trees must meet or exceed these minimum requirements for height, spread, etc. as indicated on the plans. When Tree sizes are specified as a range of size, installed material must average the mean of the range specified.
- f. Die-Back and Leaf-Drop: Tree showing signs of die-back or leaf-drop will not be accepted and must be removed from the project immediately if so directed by the Town. Therefore, any trees with tendencies toward leaf-drop or die-back must be root pruned early enough to provide a sound network of hair roots prior to relocation.

- g. Mechanical Destruction of Foliage: Mechanical destruction of foliage resulting from root pruning must not affect more than 10% of the total foliage prior to planting under a Work Order. Loss of foliage caused by seasonal change will be accepted.
- h. Spanish Moss: If Spanish Moss (*Tillandsia usneoides*) exists on trees, it must be completely removed prior to planting.
- i. Trees will not be accepted when the ball of earth surrounding its roots has been cracked, broken or otherwise damaged.
- j. Root pruning of Trees, when required by the Town, must be done a minimum of six (6) weeks or for a period as determined by the Town, prior to planting. Prior to root pruning, the Contractor must give 48-hour advance notice to the Town advising of the date to root prune any Tree. This will allow for any inspections during or after the root pruning, if necessary.

3.5 Transporting and Handling of Palms, Trees, and Container Materials

Transport material on vehicles large enough to allow Trees to be uncrowded. Cover to prevent wind damage during transit.

3.6 Topsoil and Sand

- a. Topsoil for use in preparing soil for backfilling tree pits must be twenty percent (20%) muck and eighty percent (80%) sand and be fertile, friable, and of a loamy character, without mixture of subsoil materials, and obtained from a well-drained, arable site. It must contain three (3) to five (5) percent decomposed organic matter and must be free from heavy clay, coarse sand, stones, lime, lumps, plants, roots or other foreign materials, or noxious weeds. It must not contain toxic substances, which may be harmful to Tree growth. Provide soil from ground that has never been stripped, with a slight acid reaction (5.0 to 7.0 pH) and without an excess of calcium or carbonate, delivered in a friable condition. See tree planting detail for extent of backfilling requirements.
- b. Sand must be coarse, clean, well-draining native sand. Contractor must submit results of soil tests for topsoil and sand proposed for use under this contract for approval by the Town.

3.7 Weed Barrier Cloth

Weed barrier cloth must be a woven, needle-punched polypropylene, 28 mil thickness, 22 x 11 substrate, with combined substrate and fiber weight of 4.8 ounces per square yard, 25 gallons per square foot per minute permeability, 2500 carbon arc hours UV protection, Pro 5 Weed Barrier by DeWitt or equal (1-800-888-9669).

3.8 Fertilizer

- a. Type of Fertilizer
 - 1. Trees, Shrubs, Groundcover & Sod: Must be a granular fertilizer having an analysis of 6-6-6 derived from the following sources:

Total Nitrogen		6.0%
Derived from activated sludge urea-form, sulfur-coated urea and potassium nitrate	0.75%	
Ammoniac	0.00%	
Water soluble	5.00%	
Water insoluble	0.25%	
Phosphoric Acid		6.0%
Derived from triple super phosphate		
Water soluble potash		6.0%
Derived from Sulfate of Potash Magnesium, Potassium Nitrate, Sulfate of Potash, and activated sludge		
Total Magnesium		2.41%
Water soluble: Derived from Sulfate of Potash Magnesium		
Total Manganese		0.77%
Derived from Manganous Oxide		
Total Boron		0.02%
Derived from Sodium Borate		
Total Copper		0.07%
Derived from Copper Oxide		
Total Zinc		0.08%
Derived from Zinc Oxide		
Total Iron		1.00%
Derived from Iron Oxide and Ferrous Sulfate		
Total Chlorine		2.00%

- b. Composition and Quality: All fertilizer must be uniform in composition and dry. Granular fertilizer must be free flowing and delivered in unopened bags. All bags, containers or boxes must be fully labeled with the manufacturer's analysis.
- c. All must comply with the State of Florida fertilizer laws.

3.9 Staking and Guying

- a. Staking and guying must not be attached to the trees with nails. Any method of staking and guying, other than those indicated in ANSI A300 (Part 6)-2012 Planting and Transplanting/2015 FOOT Design Standards where applicable must receive approval from the Town prior to their installation. Refer to the heading "Setting of Trees", as detailed in Article 3.15 for additional information.
- b. The Contractor is responsible for performing all staking and guying in accordance with all applicable regulation, ordinances and code requirements.

3.10 Tree Root Barriers

- a. 18" and 24" tree root barriers must be black, injection molded panels with a minimum of 0.080" wall thickness in modules 24" long; manufactured with a minimum 50% post-consumer recycled polypropylene plastic with added ultraviolet inhibitors. Each panel must have: not less than 4 molded integral vertical root deflecting ribs, a double top edge, a minimum of 9 anti-lift ground lock tabs and an integrated zipper joining system. 18" and 24" deep tree root barriers must be #UB 18-2 and #UB 24-2 by Deep Root Partners, LP or approved equal (1-800-458-7668).

- b. 36" and 48" tree root barriers must be black polyethylene extruded panels with added ultraviolet inhibitors and a minimum of 0.080" wall thickness in modules 24" long. Each panel must have: not less than 4 molded integral vertical root deflecting ribs, a double top edge, a minimum of 9 anti-lift ground lock tabs and a self-joining system. 36" and 48" deep tree root barriers must be #UB 36-2 and #UB 48-2 by Deep Root Partners, LP or approved equal (1-800-458-7668).
- c. When a tree is planned to be installed adjacent to public hardscape, i.e. sidewalk, street, a root barrier may be installed at the Town's request. The Contractor is responsible for installing all tree root barriers in accordance with the manufacturer installation standards.

3.11 Mulch

Mulch must be 100% Double Shredded Cypress Mulch, Grade A. Color to be selected by Town.

3.12 Grading

- a. It is the responsibility of the Contractor to provide the final grading so the final level for planting areas conforms to surrounding grades and is at the proper elevation with relation to sodded/grassy areas, sidewalks, paving, drain structures and other site conditions, unless indicated otherwise in the Work Order, that may include plans, drawings or sketches.
- b. Tree Areas Next to Pavement: All planting areas next to or in pavement areas, such as, but not limited to, curbs, roads drives, walks, terraces, decks and slabs must be set so that the top of the mulch is one-inch (1") below the top of the pavement area or as indicated otherwise in the Work Order, that may include plans, drawings or sketches, and the top of sod is one-inch (1") below top of pavement area, measured from the top of pavement to the top of grass blades after mowing.

3.13 Herbicide Treatment

In all areas infected with weed or grass growth, a systemic herbicide, such as "Roundup", must be applied per manufacturer's rates. When it has been established where work will be done, the systemic herbicide must be applied in accordance with manufacturer's labeling to kill all noxious growth. Contractor must schedule its Work to allow more than one application to obtain at least 98% kill of undesirable growth. Once the existing vegetation is dead, excavate and haul to a legal dumpsite the vegetation and the top two-inches (2") of existing soil/sand. The Contractor must exercise extreme care to prevent damage to desirable existing growth. If necessary, the Contractor must conduct a test to establish suitability of product and applicator to be used on this project, prior to execution of the full application.

Upon the request of the Program Manager, the Contractor must provide a schedule for herbicide treatment.

3.14 Preparation

- a. Utility Locates: Contractor must contact Sunshine State One Call at 811 to ensure that utility locates are performed before any digging is commenced by the Contractor.

- b. Staking Tree Locations: Stake or mark Tree I locations prior to Tree hole excavation, based on information from the plans.
- c. Contractor should reference 2015 FOOT Design Standards when preparing a site for planting, unless otherwise directed by the Town.
- d. Sub-surface Conditions: Some or all work areas may be compacted or contain existing material such as limerock which may interfere with adequate vertical drainage and/or proper Tree survival and growth and therefore removal of this material is part of the scope of work for the project. The Contractor is responsible for insuring adequate drainage in these areas and must remove this existing material, as required, by such means as auguring, drilling or rototilling. Therefore, the Contractor will be required to perform additional excavation on the holes for all trees. This additional excavation must be to a depth beyond the required excavation depth indicated below for the holes, in order to insure proper vertical drainage necessary for plan survival and growth.
- e. The Contractor must remove all existing concrete, asphalt concrete and rocks over four inches in diameter, above and below grade in planting pits, from areas to be landscaped.
- f. Excavation of Tree Holes
 - 1. General
 - i. Excavation of Tree holes must be roughly cylindrical in shape with the sides approximately vertical. The Town reserves the right to adjust the size and shape of the Tree hole and the location of the Tree in the hole to compensate for unanticipated structures or unanticipated factors which are a conflict.
 - ii. The excess excavated material from the Tree holes must not be used to backfill around the Tree. Such material must be disposed of offsite at the expense of the Contractor.
 - iii. Contractor must remove any existing roots that may impact the planting of a new tree.
 - 2. Trees
 - i. Depth of hole must be equal to the rootball depth plus eight (8") inches, unless further depth is required to provide adequate drainage as per Articles 3.1 and this Article.

3.15 Installation

- a. Setting of Trees
 - 1. Trees must be planted at their natural and original planting level prior to their placement on this project. When lowered into the hole, the Trees must rest on the prepared hole bottom such that the surface roots at the top of the rootball are level or slightly below the level of the surrounding final grade after settlement. The practice of plunging, burying or planting any Tree such that the surface roots at the top of the rootball are below the level of the surrounding final grade, will not be permitted unless it is indicated otherwise in these specifications, details or it is approved in writing by the Town prior to such action being taken. The trees must be set straight or plumb or normal to the relationship of their growth prior to transplanting. The Town reserves the right to realign any trees after it has been set.

2. Trees too large for hand handling, if moved by winch or crane, must be thoroughly protected from chain, rope or cable marks, girdling, bark slippage, limb breakage and any other damage that might occur by improper handling or negligence.
- b. Backfilling: Use soil prepared as described in this Section. Backfill the bottom two-thirds (2/3) of the planting hole and firmly tamp and settle by watering as backfilling progresses. After having tamped and settled the bottom two-thirds (2/3) of the hole, thoroughly puddle with water and fill remaining one third of the hole with planting soil, tamping and watering to eliminate air pockets.
- c. Apply fertilizer to trees three (3) weeks after planting.
- d. Contractor must, for fertilizer for large trees that requires five (5) pounds or more of fertilizer, Place fertilizer evenly spaced at the edge of the root ball into holes poked in the soil to a depth that allows the fertilizer to be poured below the root zone of adjacent shrubs and grass, to avoid burning of these Trees.
- e. Water Trees and sod thoroughly two days prior to applying fertilizer, and wash fertilizer off Tree leaves immediately after fertilizing.
- f. Mulch: Within 24 hours after planting, Contractor must apply mulch in the planted area(s). The mulch must be uniformly applied to a depth of approximately one inch, or other depth as indicated otherwise, over all shrub and ground cover areas, (except Wedelia) and in three-foot (3') diameter circles around trees and palms in sod areas. Keep mulch back one (1") inch from trunks or stems.
- g. Staking and Guying
 1. As detailed in in ANSI A300 (Part 6)-2012 Planting and Transplanting/2015 FDOT Design Standards where applicable.
 2. The Contractor must remove and dispose of materials when it is determined that sufficient time has elapsed for the roots to stabilize the Tree, and as approved by the Town.
- h. Watering After Planting
 1. Initially, water the Tree to develop uniform coverage and deep water penetration of at least six inches. Avoid erosion, puddling, and washing soil away from Tree roots.
 2. Provide continuous watering of Tree and sod after planting in order to achieve optimum growth conditions to establish the Tree. Water must be applied as necessary and the amount of water and frequency of watering must be based on the specific needs of each tree type, the time of year, amount of rainfall and other environmental conditions it is exposed to. This watering must begin after the Tree is planted and continue until final acceptance or for a minimum of sixty (60) consecutive calendar days, whichever is greater in time. All trees must be hand-watered during this period. Hand watering may be performed by truck or tank if water is not available at the site. Do not rely on any irrigation system that may be present to achieve this task. It may deliver the volume of water required, without flooding areas beyond where water is needed or over-watering other landscape material or it may not be operational. New sod that is needed as a result of the Work performed, must be of the St. Augustine variety, unless otherwise specified by the Town, and must be hand-watered on top immediately after placing and rolling, and once daily for one (1) week afterwards.

3. Canopy watering of existing, transplanted trees may be required at the discretion of the Town, using misting heads on PVC risers to cover entire canopy. Operate by hand or on a time clock to spray as required to keep soil at root ball from getting too wet.
- i. Pruning and Thinning
 1. All Work must be consistent with ANSI 300 Standards.
 2. The amount of general pruning and thinning must be limited to the minimum necessary to remove dead or injured twigs and branches and to compensate for the loss of roots as a result of transplanting operations. Pruning and thinning must be done in such a manner as not to change the natural habit or shape of a Tree. The Town must be contacted prior to performing any major pruning and thinning. The Town may elect to be present during any pruning and thinning.
 3. All broken or damaged roots must be cut off smoothly.
 4. "Hat racking" will only be allowed with the prior written approval of the Project Manager.
 - j. Weeding
 1. In the event that weeds or other undesirable vegetation becomes prevalent to such an extent that they threaten Tree, they must be removed. This condition will apply during the construction, maintenance and warranty periods.
 2. If necessary, the planting material, mulch, sand or planting soil must be replaced as needed to eliminate weeds or undesirable vegetation at the expense of the Contractor.
 - k. Removal of Tree Material
 1. All Trees to be removed must be removed completely, including the rootball, from the job or as directed by the Town. The remaining hole must be filled with suitable material or planting soil as directed by the Town.

3.16 Responsibility Prior to Final Acceptance

A. Maintenance Prior to Final Acceptance:

1. Maintenance will begin immediately after each Tree is planted and continue except for the watering indicated in the paragraph below. The watering must begin as indicated and must continue until completed, even if the indicated period goes beyond the time of final acceptance.
2. Tree maintenance includes watering, pruning, weeding, cultivating, repair of erosion, mulching, tightening and repairing of guys, stakes, braces, etc., replacement of sick or dead Trees, resetting Trees to proper grades or upright position, maintenance of the watering saucer, fertilizing, and all other care needed for proper growth of the Trees.
3. Immediately after planting, each Tree must be watered and the watering period must continue until final acceptance or for a minimum of 60 consecutive calendar days, whichever is greater in time. Refer to the section entitled "Watering" for additional requirements.

4. All Tree material must be weeded once a week. In the event that weeds or other undesirable vegetation becomes prevalent to such an extent that they threaten Tree material, the weeds must be removed as directed by the Town. If necessary, the Tree material, mulch, sand or planting soil must be replaced as needed to eliminate weeds or undesirable vegetation at the expense of the Contractor.
 5. Insecticides and Fungicides:
 - a. Contractor must apply all insecticides and fungicides as needed, for complete control of pests and diseases during the warranty period. The materials and methods must be in accordance with highest standard horticultural practices, and approved by the Town, prior to implementation.
 - b. When a chemical is being applied, the person using it must have in their possession, a specimen label and the Material Safety Data Sheet. Also, the chemical must be applied as indicated on the said labeling. Only products approved by the Federal Environmental Protection Agency are to be used. No products containing 2-4D must be used.
 - c. The spraying of insecticides and other such chemicals are to be confined to the individual Tree. Spraying techniques which may introduce the material being sprayed beyond the immediate area of the individual Tree, is strictly prohibited.
 - d. The implementation of control measures for pests and disease infestations must be in strict compliance with all federal and local regulations. Upon request, the Contractor must furnish documentation of such compliance.
 - e. All insecticides must be applied by an operator licensed pursuant to Chapter 487 of the Florida Statutes. The operator must have the license/certification in their possession when insecticides are being applied.
 6. Protection: Planted Trees must be protected against trespassing and damage. If any Trees become damaged or injured, they must be treated or replaced as directed and in compliance with the specifications at no additional cost to the Town. No Work is to be done within or over planting areas or adjacent to Trees without proper safeguards and protection.
 7. Keep sidewalks, curbs and gutters, drainage structures, driveways, parking areas, streets, terraces, decks and pavers free of Tree cuttings, debris and stains.
 8. Material rejected during the course of construction must be removed within ten (10) working days and replaced before an inspection for completion will be scheduled.
 9. If the Contractor fails to perform maintenance consistent with these specifications, as determined by Town then Town may perform any necessary maintenance and back-charge the Contractor for labor and materials.
- B. Survival and Conditions: The Contractor will be responsible for the proper maintenance and the survival and condition of all landscape items from the time a landscape item is installed until final acceptance.

- C. Replacement: Replacement of trees is the sole responsibility of the Contractor including the possible replacement of Tree material resulting from removal by theft or vandalism or acts of negligence on the part of others. All Tree material must be alive and in good growing condition for each specific kind of Tree at the time of final acceptance.
- D. Rating: The rating of Tree material according to Florida Grades and Standards must be equal to or better than that called for on the plans and in these specifications at the time of final acceptance.

3.17 Work to be Performed

- A. The Work to be done under this section of the specifications consists of furnishing all labor, machinery, tools, apparatus, means of transportation, supplies, equipment, materials, services and incidentals necessary to perform the following Work throughout the Town:
 - 1. Tree & Palm Removal and Disposal
 - i. Work includes stump and complete root system and ball removal, and disposal.
 - ii. For Trees and Palms in excess of 36", Work Order to detail specifications for removal/disposal inclusive of all Work to be performed, materials to be used and breakdown of costs.
 - 2. Stump Removal
 - i. Work includes root system and ball removal, and disposal.
 - 3. Tree Relocation
 - i. Work includes root severing, root ball protection, watering for six (6) weeks, 2 days per week pre-transplant, calling for locates, digging new planting site, and watering for eight (8) weeks, 2 days per week post-transplant.
 - ii. For relocation of Trees in excess of 18", Work Order to detail specifications for relocation inclusive of all Work to be performed, materials to be used and breakdown of costs.
 - 4. Grading
 - i. All plant material to be removed must be removed completely, including the rootball, and disposed of in accordance with the requirements of the Contract. The remaining hole must be filled with suitable material or planting soil as directed by the Town.
 - a. It is the responsibility of the Contractor to provide the final grading so the final level for planting areas conforms to surrounding grades and is at the proper elevation with relation to sodded/grassy areas, sidewalks, paving, drain structures and other site conditions, unless indicated otherwise in the Work Order, which may include plans, drawings or sketches.

- b. Plant Areas Next to Pavement: All planting areas next to or in pavement areas, such as, but not limited to, curbs, roads drives, walks, terraces, decks and slabs must be set so that the top of sod is one-inch (1") below top of pavement area, measured from the top of pavement to the top of grass blades after mowing or as otherwise indicated in the Work Order.

5. Sod Installation

- i. New sod that is needed as a result of the Work performed, must be of the St. Augustine variety, unless otherwise specified by the Town, and must be hand-watered on top immediately after placing and rolling, and once daily for one (1) week afterwards.
- B. The Work includes, but not be limited to, tree removal, proper disposal methods meeting environmental standards, requesting utility locates/markings, tree relocation, protection to the public, maintenance of traffic, excavation, stump grinding, backfilling, cleanup, maintenance and guarantee. In cases where there is a utility conflict, the Contractor shall use all possible means and methods, inclusive of manual work such as hand digging, to perform the Work and avoid damage to utilities.
- C. All Work must be performed in strict accordance with ANSI Z 133.1 "Pruning, Trimming, Repairing, Maintaining and Removing Trees and Cutting Brush-Safety Requirements" with special emphasis given to the requirements that only qualified line-clearance tree trimmers be assigned to work where a potential electrical hazard exists.

4. CONTRACT PRICING

Contractor will be compensations based on the pricing established in this Section for the Work performed under a Work Order. The pricing for the Work under the Contract will be based on the following:

1. Furnish & Install
The Contractor is responsible for furnishing, delivery, installation and maintenance of the Trees.
2. Install Only
The Contractor is responsible for installation and maintenance of the Trees and will be compensated under the "Installation Only" category.
3. Delivery and Install
Contractor will be responsible for the pick-up and delivery of the Tree(s) from a third-party site, as well as installation and maintenance of the Trees
4. Stump Removal
Includes performing all work required by the Contract
5. Relocation
Includes performing all work required by the Contract
6. Root Barrier Installation
Includes root barrier material purchase, delivery and installation

END OF SECTION

**SECTION IV
PROPOSAL FORM**

**TOWN OF CUTLER BAY
RFP No. 20-04
TREE PLANTING PROGRAM**

UNIT PRICE AMOUNT

BASE PROPOSAL

The Contractor must furnish all labor, materials, equipment, and supervision required to deliver, furnish and install trees throughout the Town for the Town's Tree Planting Program. Work includes but is not limited to installing trees, staking/guying, root barriers (where the Work Order requires installation), planting soil, tree removals/relocations, stump and root removals, mulching, grading, herbicide treatment, watering, fertilizing, weed removal, grow-in period maintenance (for installed trees), removal and disposal as applicable to the work required by the Work Order, as stated in Sections 2, 3, and 4.

Total Annual Amount of Proposal: _____

Amount Written: _____

TREE RELOCATION

ITEM #	DESCRIPTION	DBH (Diameter at Breast Height)	UNIT COST
1	Tree Relocation	0"-6"	\$
2	Tree Relocation	>6"-12"	\$
3	Tree Relocation	>12"-18"	\$
Note: For Relocations in excess of 18" DBH requires a Work Order Proposal in accordance with the Contract Documents			
Total Amount: Tree Relocation			\$

ALL INCLUSIVE PURCHASE, DELIVERY, INSTALLATION, AND GROW IN MAINTENANCE OF FLOWERING TREES

ITEM #	DESCRIPTION, (BOTANICAL NAME, COMMON)	UNIT COST SIZE: 25 GAL. 10'H – 12'H	UNIT COST SIZE: 45 GAL. 12'H – 14'H
1	Bauhinia variegata candida, White Orchid Tree	\$	\$
2	Bombax ceiba, Silk Cotton Tree	\$	\$
3	Brachychiton acerifolia, Illawarra Flame Tree	\$	\$
4	Brya ebenus, Cocuswood	\$	\$
5	Bulnesia arborea, Verawood	\$	\$
6	Butea monosprema, Palash	\$	\$
7	Caesalpinia sp. Dwarf poinciana	\$	\$

ITEM #	DESCRIPTION, (BOTANICAL NAME, COMMON)	UNIT COST SIZE: 25 GAL. 10'H – 12'H	UNIT COST SIZE: 45 GAL. 12'H – 14'H
8	Caesalpinia granadillo, Bridalveil Tree	\$	\$
9	Cananga odorata, Cananga Tree	\$	\$
10	Cassia bakeriana, Pink Shower Tree	\$	\$
11	Cassia fistula, Golden Shower Tree	\$	\$
12	Cassia grandis, Pink Shower Tree	\$	\$
13	Cassia javanica, Java Cassia	\$	\$
14	Cassia surattensis, Glaucus cassia	\$	\$
15	Chorisia speciosa, Floss Silk Tree	\$	\$
16	Cordia sebestena, Orange Geiger	\$	\$
17	Delonix regia, Royal Poinciana	\$	\$
18	Eugenia sp., Stoppers/Surinam cherry	\$	\$
19	Lagerstroemia speciosa, Queen's Crape Myrtle	\$	\$
20	Lagerstroemia indica, Crape Myrtle	\$	\$
21	Magnolia grandifolia 'D.D. Blanchard', Southern Magnolia	\$	\$
22	Magnolia grandifolia 'Little Gem', Dwarf Southern Magnolia	\$	\$
23	Murraya paniculata, Orange jessamine	\$	\$
24	Myrica cerifera, Wax myrtle	\$	\$
25	Pachira aquatic, Water Chestnut	\$	\$
26	Plumeria rubra, Plumeria	\$	\$
27	Sideroxylon salicifolium, Willow Bustic	\$	\$
28	Spathodea campanulata, African tuliptree	\$	\$
29	Tabebuia caribaea, Yellow Tabebuia	\$	\$
30	Tabebuia heterophylla, Pink Tabebuia	\$	\$
31	Tabebuia impetiginosa, Purple Tabebuia	\$	\$
32	Tipuan tipu, Rosewood and Pride of Bolivia	\$	\$
33	Triplaris cumingiana, Ant Tree	\$	\$
Total Amount for Each Size:		\$	\$
Total Amount for All Sizes: All Inclusive Purchase, Delivery, Installation, and Grow in Maintenance of Flowering Trees		\$	

ALL INCLUSIVE PURCHASE, DELIVERY, INSTALLATION, AND GROW IN MAINTENANCE OF SMALL TREES

ITEM #	DESCRIPTION, (BONTANICAL NAME,COMMON) SMALL TREES	UNIT COST SIZE: 15 GAL. 5'H – 6'H	UNIT COST SIZE: 25 GAL. 8'H – 10'H	UNIT COST SIZE: 45 GAL. 10'H – 12'H
34	Canella winterana, Wild Cinnamon	\$	\$	\$
35	Chrysophyllum oliviforme, Satinleaf	\$	\$	\$
36	Conocarpus erectus var. sericeus, Silver Buttonwood	\$	\$	\$
37	Eriobotrya, japonica, Loquat	\$	\$	\$
38	Eugenia axillaris, White Stopper	\$	\$	\$
39	Eugenia rhombea, Red Stopper	\$	\$	\$
40	Ilex cassine, Dahoon Holly	\$	\$	\$
41	Ilex glabra, Inkberry	\$	\$	\$
42	Ilex x attenuata, East Palatka Holly	\$	\$	\$
43	Jatropha integrerrima, Jatropha Standard Red	\$	\$	\$
44	Ligustrum lucidum, Wax Privet	\$	\$	\$
45	Pinus elliotti var densa, South Florida Slash Pine	\$	\$	\$
Total Amount for Each Size:		\$	\$	\$
Total Amount for All Sizes: All Inclusive Purchase, Delivery, Installation, and Grow in Maintenance of Small Trees		\$		

ALL INCLUSIVE PURCHASE, DELIVERY, INSTALLATION, AND GROW IN MAINTENANCE OF CANOPY TREES

ITEM #	DESCRIPTION, (BONTANICAL NAME,COMMON) SHADE TREES	UNIT COST SIZE: 25 GAL. 10'H – 12'H	UNIT COST SIZE: 45 GAL. 12'H – 14'H	UNIT COST SIZE: 65 GAL. 14'H – 16'H
46	Bucida buceras var., Shady Lady Black Olive	\$	\$	\$
47	Busera Simaruba, Gumbo Limbo	\$	\$	\$
48	Calophyllum brasiliense, Brazilian Beautyleaf	\$	\$	\$
49	Chrysophyllum oliviforme, Satinleaf	\$	\$	\$
50	Coccoloba diversifolia, Pigeon Plum	\$	\$	\$
51	Coccoloba uvifera, Seagrape	\$	\$	\$
52	Conocarpus erectus var. sericeus, Silver Buttonwood	\$	\$	\$
53	Conocarpus erectus, Green Buttonwood	\$	\$	\$
54	Krugiodendron ferreum, Black ironwood	\$	\$	\$

ITEM #	DESCRIPTION, (BONTANICAL NAME,COMMON) SHADE TREES	UNIT COST SIZE: 25 GAL. 10'H – 12'H	UNIT COST SIZE: 45 GAL. 12'H – 14'H	UNIT COST SIZE: 65 GAL. 14'H – 16'H
55	Lysiloma bahamensis, Wild tamarind	\$	\$	\$
56	Lysiloma latisiliquum, Wild tamarind	\$	\$	\$
57	Lysiloma sabicu, Sabicu	\$	\$	\$
58	Magnolia grandifolia 'D.D. Blanchard', Southern Magnolia	\$	\$	\$
59	Manilakara roxburghiana, Minusops	\$	\$	\$
60	Myrcianthes fragrans, Simpson Stopper	\$	\$	\$
61	Norohnia emarginata, Madagascar Olive	\$	\$	\$
62	Pinus elliotti var densa, South Florida Slash Pine	\$	\$	\$
63	Peltophorum pterocarpum, Yellow poinciana	\$	\$	\$
64	Pongamia pinnala, Pongam	\$	\$	\$
65	Quercus laurifolia, Laurel Oak	\$	\$	\$
66	Quercus virginiana, Live Oak	\$	\$	\$
67	Simarouba glauca, Paradise Tree	\$	\$	\$
68	Swietenia mahagoni, Mahogani	\$	\$	\$
69	Tamarindus indica, Tamarind	\$	\$	\$
70	Taxodium distichum, Bald Cypress	\$	\$	\$
Total Amount for Each Size:		\$	\$	\$
Total Amount for All Sizes: All Inclusive Purchase, Delivery, Installation, and Grow in Maintenance of Canopy Trees		\$		

ALL INCLUSIVE PURCHASE, DELIVERY, INSTALLATION, AND GROW IN MAINTENANCE OF SABAL PALM TREES WITH GREY WOOD			
ITEM #	DESCRIPTION, (BONTANICAL NAME,COMMON)	UNIT COST SIZE: 8'H – 10'H	UNIT COST SIZE: 12'H – 14'H
71	Sabal Palmetto, Cabbage Palm, Minor, Slick	\$	\$
Total Amount for Each Size:		\$	\$
Total Amount for All Sizes: All Inclusive Purchase, Delivery, Installation, and Grow in Maintenance of Sabal Palm Trees with Grey Wood		\$	

ALL INCLUSIVE PURCHASE, DELIVERY, INSTALLATION, AND GROW IN MAINTENANCE OF PALM TREES WITH GREY WOOD

ITEM #	DESCRIPTION, (BONTANICAL NAME,COMMON)	UNIT COST SIZE: 6'H – 8'H SINGLE	UNIT COST SIZE: 8'H – 10'H SINGLE	UNIT COST SIZE: 12'H – 14'H SINGLE
72	Acoelorrhaphe wrightii, Paurotis Palm	\$	\$	\$
73	Archontophoenix alexandrae, Alexandra Palm	\$	\$	\$
74	Bismarckia nobilis, Bismarck Palm	\$	\$	\$
75	Butia capitata, Pindo Palm	\$	\$	\$
76	Caryota mitis, Clustered fishtail Palm	\$	\$	\$
77	Chamaedorea cataractarum, Cat Palm	\$	\$	\$
78	Chamaedorea seifrizii, Bamboo Palm	\$	\$	\$
79	Chamaerops humilis, European fan Palm	\$	\$	\$
80	Cocos nucifera 'Green Malayan', Green Malayan coconuts; Straight trunks	\$	\$	\$
81	Cocos nucifera 'Maypan', Maypan coconuts;	\$	\$	\$
82	Coccothrinax argentata, Silver Palm	\$	\$	\$
83	Dictyosperma album, Hurricane Palm	\$	\$	\$
84	Dypsis/Neodypsis decaryi triangle Palm	\$	\$	\$
85	Hyophorbe lagenicaulis, Bottle Palm	\$	\$	\$
86	Hyophorbe verschaffeltii, Spindle Palm	\$	\$	\$
87	Latania loddigesii, Blue lantania	\$	\$	\$
88	Livistona chinensis, Chinese fountain/fan Palm	\$	\$	\$
89	Phoenix canariensis, Canary Island date Palm	\$	\$	\$
90	Phoenix dactylifera 'Medjool', Medjool Date Palm; Straight cut & pressure cleaned	\$	\$	\$
91	Phoenix reclinata, Senegal date Palm	\$	\$	\$
92	Phoenix sylvestris, Wild Date Palm	\$	\$	\$
93	Pseudophoenix sargentii, Buccaneer Palm	\$	\$	\$
94	Ptychosperma elegans, Solitaire Palm	\$	\$	\$
95	Ptychosperma macarthuri, MacArthur Palm	\$	\$	\$
96	Roystonea regia, Florida Royal Palm	\$	\$	\$
97	Syagrus romanzoffianum, Queen Palm	\$	\$	\$
98	Thrinax spp., Thatch Palm	\$	\$	\$

ITEM #	DESCRIPTION, (BONTANICAL NAME,COMMON)	UNIT COST SIZE: 6'H – 8'H SINGLE	UNIT COST SIZE: 8'H – 10'H SINGLE	UNIT COST SIZE: 12'H – 14'H SINGLE
99	Washingtonia robusta, Mexican fan Palm	\$	\$	\$
100	Veitchia winin, Winin Palm	\$	\$	\$
Total Amount of Each Size:		\$	\$	\$
Total Amount for All Sizes: All Inclusive Purchase, Delivery, Installation, and Grow in Maintenance of Palm Trees with Grey Wood		\$		

ALL INCLUSIVE PURCHASE, DELIVERY, INSTALLATION, AND GROW IN MAINTENANCE OF PALM TREES WITH GREY WOOD				
ITEM #	DESCRIPTION, (BONTANICAL NAME,COMMON)	UNIT COST SIZE: 6'H – 8'H DOUBLE	UNIT COST SIZE: 8'H – 10'H DOUBLE	UNIT COST SIZE: 12'H – 14'H DOUBLE
101	Adonidia merrilli, Christmas Palm	\$	\$	\$
102	Coccothrinax argentata, Florida Silver Palm	\$	\$	\$
103	Phoenix roebelenii, Pygmy Date Palm	\$	\$	\$
104	Ptychosperma elegans, Solitaire Palm	\$	\$	\$
105	Veitchia montgomeryana, Montgomery Palm	\$	\$	\$
106	Wodyetia bifurcate, Foxtail Palm	\$	\$	\$
TOTAL AMOUNT FOR EACH SIZE:		\$	\$	\$
TOTAL AMOUNT FOR ALL SIZES: All Inclusive Purchase, Delivery, Installation, and Grow in Maintenance of Palm Trees with Grey Wood		\$		

ALL INCLUSIVE PURCHASE, DELIVERY, INSTALLATION, AND GROW IN MAINTENANCE OF PALM TREES WITH GREY WOOD				
ITEM #	DESCRIPTION, (BONTANICAL NAME,COMMON)	UNIT COST SIZE: 6'H – 8'H TRIPLE	UNIT COST SIZE: 8'H – 10'H TRIPLE	UNIT COST SIZE: 12'H – 14'H TRIPLE
107	Coccothrinax argentata, Florida Silver Palm	\$	\$	\$
108	Ptychosperma elegans, Solitaire Palm	\$	\$	\$
109	Veitchia montgomeryana, Montgomery Palm	\$	\$	\$
110	Wodyetia bifurcate, Foxtail Palm	\$	\$	\$

TOTAL AMOUNT FOR EACH SIZE:	\$	\$	\$
TOTAL AMOUNT FOR ALL SIZES: All Inclusive Purchase, Delivery, Installation, and Grow in Maintenance of Palm Trees with Grey Wood	\$		
GRAND TOTAL	\$		

Note: The unit price is to include ALL costs inclusive of the cost of mobilization.

**TOWN OF CUTLER BAY
RFP NO. 20-04
TREE PLANTING PROGRAM**

Proposer has attached all documents listed in the checklist as provided and any other pertinent information.

CHECK LIST	FORMS ATTACHED	
Bid Package: One (1) original, Three (3) copies, and flash drive	Yes _____	No _____
Proposal Form: Unit Price Amount	Yes _____	No _____
Proposal Confirmation	Yes _____	No _____
Equipment List	Yes _____	No _____
Scope of Services/Plan	Yes _____	No _____
Proposer's Qualifications	Yes _____	No _____
Proposer's References	Yes _____	No _____
Indemnification Clause	Yes _____	No _____
Non-Collusive Affidavit	Yes _____	No _____
Drug-Free Workplace Form	Yes _____	No _____
Sworn Statement on Public Entity Crimes	Yes _____	No _____
Exception to the Request for Proposals	Yes _____	No _____
Bid Bond	Yes _____	No _____
Performance Bond	Yes _____	No _____
Addendum Acknowledgement Form	Yes _____	No _____
Anti-Kickback Affidavit	Yes _____	No _____
Proof of Insurance	Yes _____	No _____
Contract/Agreement	Yes _____	No _____

**TOWN OF CUTLER BAY
RFP NO. 20-04
TREE PLANTING PROGRAM**

PROPOSAL CONFIRMATION

In accordance with the requirements to provide TREE PLANTING PROGRAM, RFP No. 20-04, the undersigned submits the attached proposal.

The initial Contract shall be for four (4) years with an option to renew annually not to exceed a maximum of four (4) years subject to appropriation of funds for the budget year applicable. At its sole discretion, the Town shall have an option to renew this Agreement upon the same terms and conditions for up to three (3) additional years (the "Option"). This Option may be exercised at the sole discretion of the Town Manager. Such extension shall be effective upon receipt of a written notice from the Town Manager to the Contractor received no later than 30 days prior to the date of termination.

Proposer has examined the site and locality where the work is to be performed and is fully aware of the scope of work based on these requirements, the legal requirements (federal, state and local laws, ordinances, rules and regulations) and the conditions affecting cost, progress or performance of the work and has made such independent investigation as Proposer deems necessary.

This proposal is genuine and not made in the interest of or on behalf of any undisclosed person, firm or corporation and is not submitted in conformity with any agreement or rules of any group, association, organization or corporation; Proposer has not directly or indirectly induced or solicited any other Proposer to submit a false or sham proposal; Proposer has not solicited or induced any person; firm or a corporation to refrain from proposing and Proposer has not sought by collusion to obtain for himself any advantage over any other Proposer or over Owner.

The Proposer shall acknowledge this Proposal by signing and completing the spaces provided. I hereby submit this Proposal Package for TREE PLANTING PROGRAM, RFP #20-XX to the Town of Cutler Bay with the full understanding of the Request for Proposal, General and Special Conditions and Detail Requirements and the entire Proposal Package.

Proposer's Name

Signature

Date

State of: _____

County of: _____

The foregoing instrument was acknowledged before me this ____ day of _____, 2020, by _____, who is (who are) personally known to me or who has produced _____ as identification and who did (did not) take an oath.

Notary Public Signature

Notary Name, Printed, Typed or Stamped

Commission Number: _____

My Commission Expires: _____

SCOPE OF SERVICES / PLAN

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TOWN OF CUTLER BAY
RFP No. 20-04
TREE PLANTING PROGRAM
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PROPOSER'S QUALIFICATIONS

This section must also identify the contact person and telephone number.

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TOWN OF CUTLER BAY
RFP NO. 20-04
TREE PLANTING PROGRAM

PROPOSER'S QUALIFICATIONS (CONTINUED)

NOTE: This statement of Proposers Qualifications **must** be completely filled out, properly executed and returned as part of your proposal.

1. List the true, exact and proper names of the company, partnership, corporation, trade or fictitious name under which you do business and principals by name and titles:

Name of Company: _____

Address: _____

Principals: _____ Titles: _____

2. a. Are you licensed, as may be required, in the designated area(s) of Miami-Dade County, Florida?

Yes _____ No _____

- b. List Principals Licensed:

Name(s): _____ Title: _____

Remarks: _____

3. How long has your company been in business and so licensed? _____

4. If Proposer is an individual or a partnership, answer the following: _____

- a. Date of organization: _____

**TOWN OF CUTLER BAY
RFP NO. 20-04
TREE PLANTING PROGRAM**

PROPOSER'S QUALIFICATIONS (CONTINUED)

- b. Name, address and ownership units of all partners:

- c. State whether general or limited partnership: _____

If Proposer is other than an individual, corporation or partnership, describe the organization and give the name and address of principals.

5. If Proposer is operating under a fictitious name, submit evidence of compliance with the Florida Fictitious Name Statute.

6. How many years has your organization been in business under its present business name?

- a. Under what other former names has your organization operated?

7. a. Has your company ever failed to complete a bonded obligation or to complete a Contract?

Yes _____ No _____

**TOWN OF CUTLER BAY
RFP NO. 20-04
TREE PLANTING PROGRAM**

PROPOSER'S QUALIFICATIONS (CONTINUED)

If so, give particulars including circumstances, where and when, name of bonding company, name and address of owner and disposition of matter:

8. a. List the pertinent experience of the key individuals of your organization (continue on insert sheet, if necessary).

- b. State the name of the individual(s) and titles that will have personal supervision of the work:

9. List name and title of persons in your company who are authorized to enter into a Contract with the Town for the proposed work should your company be the Successful Proposer.

Name _____

Title _____

Phone #: _____

Email: _____

**TOWN OF CUTLER BAY
RFP NO. 20-04
TREE PLANTING PROGRAM**

PROPOSER'S QUALIFICATIONS (CONTINUED)

The undersigned guarantees the authenticity of the foregoing statements and does hereby authorize and request any person, firm or corporation to furnish any information requested by the Town of Cutler Bay, Florida to verification of the recitals comprising this statement of the Proposers qualifications. **DISCOVERY OF ANY OMISSION OR MISSTATEMENT THAT MATERIALLY AFFECTS THE PROPOSERS QUALIFICATIONS TO PERFORM UNDER THE CONTRACT SHALL CAUSE THE OWNER TO REJECT THE PROPOSAL AND IF AFTER THE AWARD TO CANCEL AND TERMINATE THE AWARD AND/OR CONTRACT.**

Date: _____

Signature

Print Name

Company

Title

If Corporation (Seal) If Individual or Partnership, two Witnesses are required:

Witness

Witness

Respectfully submitted

(CORPORATE SEAL)

Company - Contractor

**TOWN OF CUTLER BAY
RFP NO. 20-04
TREE PLANTING PROGRAM**

PROPOSER’S QUALIFICATIONS (CONTINUED)

ATTEST:

Secretary

By _____ (Seal)
President

Witness

Contractor Signature

END OF SECTION

TOWN OF CUTLER BAY
RFP No. 20-04
TREE PLANTING PROGRAM

REFERENCES

The following is a list of at least four (4) references that Proposer has provided similar service in the past ten (10) years. **Government agency references are preferred.**

1. Name of Firm, City, County or Agency: _____
Address: _____
Contact: _____ Title: _____ Telephone : (____) _____
Location: _____ Scope of Work: _____

2. Name of Firm, City, County or Agency: _____
Address: _____
Contact: _____ Title: _____ Telephone : (____) _____
Location: _____ Scope of Work: _____

3. Name of Firm, City, County or Agency: _____
Address: _____
Contact: _____ Title: _____ Telephone : (____) _____
Location: _____ Scope of Work: _____

4. Name of Firm, City, County or Agency: _____
Address: _____
Contact: _____ Title: _____ Telephone : (____) _____
Location: _____ Scope of Work: _____

NOTE: Additional references may be attached and provided.

**TOWN OF CUTLER BAY
RFP NO. 20-04
TREE PLANTING PROGRAM**

INDEMNIFICATION CLAUSE

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

In any and all claims against the Owner, or any of their agents or employees by any employee of the Proposer, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under this Paragraph shall not be limited in any way by any limitation on this amount or type of damages compensation or benefits payable by or for the Contractor or any subcontractor under Worker's Compensation Acts, Disability Benefit Acts or other Employee Benefit Acts. Nothing in this section shall affect the immunities of the Town pursuant to Chapter 768, Florida Statutes.

Proposer's Name

Signature

Date

State of: _____

County of: _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2020, by _____, who is (who are) personally known to me or who has produced _____ as identification and who did (did not) take an oath.

Notary Public Signature

Notary Name, Printed, Typed or Stamped

Commission Number: _____

My Commission Expires: _____

**TOWN OF CUTLER BAY
RFP NO. 20-04
TREE PLATING PROGRAM**

NON-COLLUSIVE AFFIDAVIT

State of _____ }
 } SS:
County of _____ }

_____ being first duly sworn deposes and says that:

- a) He/she is the _____, (Owner, Partner, Officer, Representative or Agent) of _____, the Proposer that has submitted the attached Proposal;
- b) He/she is fully informed respecting the preparation and contents of the attached Proposal and of all pertinent circumstances respecting such Proposal;
- c) Such Proposal is genuine and is not collusive or a sham Proposal;
- d) Neither the said Proposer nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, have in any way colluded, conspired, connived or agreed, directly or indirectly, with any other Proposer, firm, or person to submit a collusive or sham Proposal in connection with the Work for which the attached Proposal has been submitted; or to refrain from proposing in connection with such work; or have in any manner, directly or indirectly, sought by person to fix the price or prices in the attached Proposal or of any other Proposer, or to fix any overhead, profit, or cost elements of the Proposal price or the Proposal price of any other Proposer, or to secure through any collusion, conspiracy, connivance, or unlawful agreement any advantage against (Recipient), or any person interested in the proposed work;
- e) The price or prices quoted in the attached Proposal are fair and proper and are not tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the Proposer or any other of its agents, representatives, owners, employees or parties in interest, including this affiant.

Signed, sealed and delivered
in the presence of:

Witness

By: _____

Witness

(Printed Name)

(Title)

**TOWN OF CUTLER BAY
RFP NO. 20-04
TREE PLANTING PROGRAM**

DRUG-FREE WORKPLACE FORM

The undersigned vendor in accordance with Florida Statute 287.087 hereby certifies that _____
_____ does:

(Name of Business)

- 1) Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
- 2) Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
- 3) Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in subsection (1).
- 4) In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
- 5) Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is so convicted.
- 6) Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As the person authorized to sign the statement, I certify that this firm complies fully with the above requirements.

Proposer's Signature

Date

Print Name

**TOWN OF CUTLER BAY
RFP NO. 20-04
TREE PLANTING PROGRAM**

**SWORN STATEMENT ON PUBLIC ENTITY CRIMES
SECTION 287.133(3) (a), FLORIDA STATUTES**

THIS FORM MUST BE SIGNED AND SWORN TO IN THE PRESENCE OF A NOTARY PUBLIC OR OTHER OFFICIAL AUTHORIZED TO ADMINISTER OATHS.

1. This sworn statement is submitted to the Town of Cutler Bay

by _____
[Print individual's name and title]

for _____
[Print name of entity submitting sworn statement]

whose business address is

and (if applicable) its Federal Employer Identification Number (FEIN) is _____
(If the entity has no FEIN, include the Social Security Number of the individual signing this sworn statement: _____)

2. I understand that a "public entity crime" as defined in Paragraph 287.133(1)9g), Florida Statutes, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or the United States, including, but not limited to, any bid or contract for goods and services to be provided to any public entity or an agency or political subdivision of any other state or of the United States involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.
3. I understand that "convicted" or "conviction" as defined in Paragraph 287.133(1) (b), Florida Statutes, means a finding of guilt or a conviction or a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, non jury trial, or entry of a plea of guilty or nolo contendere.
4. I understand than an "affiliate" as defined in Paragraph 287.133(1) (a), Florida Statutes, means:
- a) A predecessor or successor of a person convicted of a public entity crime; or
 - b) An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. Te term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person

**TOWN OF CUTLER BAY
RFP NO. 20-04
TREE PLANTING PROGRAM**

**SWORN STATEMENT ON PUBLIC ENTITY CRIMES
SECTION 287.133(3) (a), FLORIDA STATUTES
(CONTINUED)**

of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.

5. I understand that a "person" as defined in Paragraph 287.133(1) (e), Florida Statutes, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an entity.
6. Based on information and belief, the statement that I have marked below is true in relation to the entity submitting this sworn statement. **[Indicate which statement applies.]**

____ Neither the entity submitting this sworn statement, nor any officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, not any affiliate of the entity, has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

____ This entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

____ the entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989. However, there has been a subsequent proceeding before a Hearing Officer of the State of Florida, Division of Administrative Hearings and the Final Order entered by the Hearing Officer determined that it was not in the public interest to place the entity submitting this sworn statement on the convicted vendor list. **[Attach a copy of the final order]**

**TOWN OF CUTLER BAY
RFP NO. 20-04
TREE PLANTING PROGRAM**

**SWORN STATEMENT ON PUBLIC ENTITY CRIMES
SECTION 287.133(3) (a), FLORIDA STATUTES
(CONTINUED)**

I UNDERSTAND THAT THE SUBMISSION OF THIS FORM TO THE CONTRACTING OFFICER FOR THE PUBLIC ENTITY IDENTIFIED IN PARAGRAPH 1 ABOVE IS FOR THAT PUBLIC ENTITY ONLY AND, THAT THIS FORM IS VALID THROUGH DECEMBER 31 OF THE CALENDAR YEAR IN WHICH IT IS FILED. I ALSO UNDERSTAND HAT I AM REQUIRED TO INFORM THE PUBLIC ENTITY PRIOR TO ENTERING INTO A CONTRACT IN EXCESS OF THE THRESHOLD AMOUNT PROVIDED IN SECTION 287.017, FLORIDA STATUTES, FOR CATEGORY TWO OF ANY CHANGE IN THE INFORMATION CONTAINED IN THIS FORM.

Proposer's Name

Proposer's Signature

Sworn to and subscribed before me this _____ day of _____, 2020.

Personally known _____

OR produced identification _____ Notary Public State of **Florida at Large**

(Type of identification)

My commission expires _____

(Printed, typed or stamped commissioned
Name notary public)

END OF SECTION

EXCEPTION TO THE REQUEST FOR PROPOSALS

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SECTION V
TOWN OF CUTLER BAY
RFP NO. 20-04
TREE PLANTNG PROGRAM

BID BOND

KNOW ALL MEN BY THESE PRESENTS, that we, _____

as Principal and Contractor, and _____

Hereinafter called Surety, are held and firmly bound unto Town of Cutler Bay, a political subdivision of the State of Florida, and represented by its Town Manager, in the sum of five (5) percent (%) of the proposed annual base bid amount of:

(Written Dollar Amount)

dollars (\$_____) lawful money of the United States of America, for the payment of which well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally by these presents.

WHEREAS, the Principal contemplates submitting or has submitted, a bid to the Town of Cutler Bay for the furnishing of all labor, materials (except those to be specifically furnished by the Town), equipment, machinery, tools, apparatus, means of transportation for, and the performance of the work covered in the bid and the detailed Drawings and Specifications, entitled:

TREE PLANTING PROGRAM

TOWN OF CUTLER BAY
RFP No. 20-04
TREE PLANTING PROGRAM

WHEREAS, it was a condition precedent to the submission of said bid that a cashier's check, certified check, or bid bond in the amount of 5% of the proposal amount be submitted with said bid as a guarantee that the Proposer would, if awarded the Contract, enter into a written Contract with the Town for the performance of said Contract, within ten (10) consecutive calendar days after written notice having been given of the award of the Contract.

NOW, THEREFORE, the conditions of this obligation are such that if the Principal within ten (10) consecutive calendar days after written notice of such acceptance, enters into a written Contract with the Town of Cutler Bay and furnishes the Performance Bond, in an amount equal to one hundred percent of the **annual** base bid amount, satisfactory to the Town, then this obligation shall be void; otherwise the sum herein stated shall be due and payable to the Town of Cutler Bay and the Surety herein agrees to pay said sum immediately upon demand of the Town in good and lawful money of the United States of America, as liquidated damages for failure thereof of said Principal.

IN WITNESS WHEREOF, the said ____

as Principal herein, has caused these presents to be signed in its name by its _____

_____ and attested by its _____

_____ under its corporate seal, and the said _____

_____ as Surety herein, has caused these presents to be signed in its name by its _____

and attested in its name by its _____ under its

corporate seal, this _____ day of _____ A.D., 2020.

Signed, sealed and delivered
in the presence of:

As to Principal

PRINCIPAL: _____

BY: _____

NAME: _____

Surety

BY: _____

Attorney-in-Fact
(Power-of-Attorney to be attached)

BY: _____

Resident Agent

As to Surety

END OF SECTION

**TOWN OF CUTLER BAY
RFP NO. 20-04
TREE PLANTING PROGRAM

PERFORMANCE BOND**

KNOW ALL MEN BY THESE PRESIDENTS:

That we, as Principal, hereinafter Called Contractor, and _____, as Surety, are bond to the Town of Cutler Bay, Florida, as Obligee, hereinafter called Owner, in the amount of _____ for the payment whereof Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally.

WHEREAS, Contractor has by written agreement entered into a Contract, TREE PLANTING PROGRAM, RFPNo. 20-04, awarded via Town of Cutler Bay Resolution# _____ the _____th day of _____, 2020 with Owner for _____ in accordance with specifications prepared by the Town of Cutler Bay and made part hereof, and is hereafter referred to as the Contract;

THE CONDITION OF THIS BOND is that if the Contractor:

1. Fully performs the Contract between the Contractor and the Owner for Landscape Maintenance for Town Facilities, Medians, and Swales ongoing after the date of Contract commencement as specified in the Notice to Award and in the manner prescribed in the Contract; and
2. Indemnifies and pays Owner all losses, damages (specifically including, but not limited to, damages for non-performance and other consequential damages caused by or arising out of the acts, omissions or negligence of Contractor), expenses, costs and attorney's fees and costs, including attorney's fees incurred in appellate proceedings, that Owner sustains because of default by Contractor under the Contract; and
3. Upon notification by the Owner, corrects any and all defective or faulty work or materials.
4. Performs the guarantee of all work and materials furnished under the Contract for the time specified in the Contract, then this Bond is void, otherwise it remains in full force.

Whenever Contractor shall be, and declared by Owner to be, in default under the Contract, the Owner having performed Owner's obligations thereunder, the Surety may promptly remedy the default, or shall promptly:

**TOWN OF CUTLER BAY
RFP NO. 20-04
TREE PLANTING PROGRAM**

PERFORMANCE BOND (CONTINUED)

- 4.1. Complete the Contract in accordance with its terms and conditions; or
- 4.2. Obtain a proposal or proposals for completing the Contract in accordance with its terms and conditions, and upon determination by Surety of the best, lowest, qualified, responsible and responsive Proposer, or, if the Owner elects, upon determination by the Owner and Surety jointly of the best, lowest, qualified, responsible and responsive Proposer, arrange for a Contract between such Proposer and Owner, and make available as work progresses (even though there should be a default or a succession of defaults under the Contract or Contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the Contract price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "balance of the Contract Price," as used in this paragraph, shall mean the total amount payable by Owner to Contractor under the Contract and any amendments thereto, less the amount properly paid by Owner to Contractor.

No right of action shall accrue on this Bond to or for the use of any person or corporation other than the Owner named herein.

The Surety hereby waives notice of and agrees that any changes in or under the Contract Documents and compliance or noncompliance with any formalities connected with the Contract or the changes do not affect Surety's obligation under this Bond.

Signed and sealed this _____ day of _____, 2020.

WITNESSES:

(Name of Corporation)

Secretary

By: _____
(Signature and Title)

[CORPORATE SEAL] _____

(Type Name and Title signed above)

**TOWN OF CUTLER BAY
RFP NO. 20-04
TREE PLANTING PROGRAM
PERFORMANCE BOND**

IN THE PRESENCE OF:

INSURANCE COMPANY

Witness

By: _____
Agent and Attorney-in-Fact

Address: _____
(Street)

(City/State/Zip Code)

Telephone No.: _____

ADDENDUM ACKNOWLEDGEMENT FORM

Date Received

This image shows a blank sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are approximately 20 lines visible. The paper appears to be a standard notebook or worksheet page.

(Company Name)

(Signature)

(Printed Name & Title)

TOWN OF CUTLER BAY
RFP NO. 20-04
TREE PLANTING PROGRAM
ANTI-KICKBACK AFFIDAVIT

STATE OF FLORIDA }
 } SS:
COUNTY OF MIAMI-DADE }

I, the undersigned, hereby duly sworn, depose and say that no portion of the sum herein bid will be paid to any employees of the Town of Cutler Bay, its elected officials, and _____ or its design consultants, as a commission, kickback, reward or gift, directly or indirectly by me or any member of my firm or by an officer of the corporation.

By: _____

Title: _____

Sworn and subscribed before this

_____ day of _____, 2020.

Notary Public, State of Florida

(Printed Name)

My commission expires: _____

**TOWN OF CUTLER BAY
RFP NO. 20-04
TREE PLANTING PROGRAM**

**CONTRACT FOR TREE PLANTING PROGRAM
SERVICES BETWEEN TOWN OF CUTLER BAY AND**

THIS IS A CONTRACT FOR TREE PLANTING PROGRAM ("Contract"), dated _____ ("Effective Date") by and between TOWN OF CUTLER BAY, FLORIDA, a Florida municipal corporation, (hereinafter referred to as "Town"), and _____, a Florida corporation (hereinafter referred to as "Contractor".)

W I T N E S S E T H

WHEREAS, the Town solicited bids for the TREE PLANTING PROGRAM ("Project") through Request for Proposal No. 20-XX; and

WHEREAS, the Contractor responded to the Town's solicitation by submitting its bid ("Bid"), attached and incorporated hereto as Exhibit "A"; and

WHEREAS, after review and consideration of all submitted bids, the Town Manager recommended the Contractor to _____ (the "Work") for the Project; and

WHEREAS, on _____, pursuant to Resolution No. 20-__ , attached and incorporated hereto as Exhibit "B", the Town Council approved the Contractor to perform the Work and authorized the Town to contract with the Contractor to perform the Work for the Project; and

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the Contractor and the Town agree as follows:

**ARTICLE 1
SCOPE OF WORK**

- 1.1 The Contractor shall furnish all labor, materials, supervision, equipment, supplies, and incidentals required to perform the scope of work as outlined in the Detailed Requirements of this Agreement, attached hereto as Exhibit "E" (the "Work").
- 1.2 Contractor shall perform all necessary tasks in order to complete the Work.
- 1.3 Contractor shall have on hand at all times and in good working order such vehicles, machinery, tools, accessories, and other items necessary to perform the Work under this Agreement. All vehicles used by Contractor to provide services under this Agreement shall be painted uniformly with the name of Contractor, business telephone number, and the number of the vehicle in letters legible by the public. The Town may require the repair or replacement of equipment as reasonably necessary. No other advertising shall be permitted on the vehicles. A magnetic sign displaying the Town of Cutler Bay Logo and a caption noting "Public Works" will always be required on vehicles

- 1.3.1 The Contractor shall at all times have a competent English speaking supervisor on site who thoroughly understands the Work, who shall, as the Contractor's agent, supervise, direct and otherwise conduct the Work. Contractor's employees shall serve the public in a courteous, helpful, and impartial manner.
- 1.3.2 Contractor's employees shall wear a clean uniform that provides identification of both the Contractor's company and the name of the employee
- 1.3.3 Contractor shall, upon receipt of a written request from the Town, immediately exclude any employee of Contractor from providing Work under this Agreement.
- 1.3.4 All references in this Agreement to the Contractor shall include Contractor's employees or subcontractors, wherever applicable.

ARTICLE 2

TERM

- 2.1 The Term of this Contract shall be effective and commence upon full execution of this Contract by both parties and shall continue for a term of four (4) years. At its sole discretion, the Town shall have the right and option to renew this Contract for up to three (3) additional one (1) year terms, upon the same terms and conditions, including unit pricing (the "Renewal Options"). The Renewal Option(s) may be exercised by the Town Manager, at his sole discretion. Such renewal shall be effective upon receipt of a written notice from the Town Manager to the Contractor received no later than thirty (30) days prior to the date of termination of the initial term or applicable Renewal Option term.

ARTICLE 3

PROTECTION OF PROPERTY AND THE PUBLIC

- 3.1 The Contractor shall continuously maintain adequate protection of all his Work from damage and shall protect public and private property from injury or loss arising in connection with this Agreement as follows:
- 3.2 The Contractor shall take all necessary precautions for the safety of employees in the performance of the Work on, about or adjacent to the work sites, and shall comply with all applicable provisions of Federal, State, and local laws, including, but not limited to the requirements of the Occupational Safety and Health Act of 1970, and amendments thereto, and building codes to prevent accidents or injury to persons on, about or adjacent to the work site where the Work is being performed.
- 3.3 The Contractor shall erect and properly maintain at all times, all necessary safeguards, including sufficient lights and danger signals on or near the Work, from sunset to sunrise, suitable railings, barricades, or other hazards or other protective devices about unfinished work, open trenches, embankments, or other hazards and obstructions to traffic; provide all necessary security staff on the Work by day or by night for the safety of the public; and take all necessary precautions to prevent accidents and injuries to persons or property on or near the Work.

- 3.4 The Contractor shall be completely responsible for, and shall replace and make good all loss, injury, or damage to any property (including landscaping, walks, drives, or structures of the Town and of any land adjoining the work site), which may be caused by Contractor. The Contractor shall, at all times while the Work is in progress, use extraordinary care to see that adjacent property, whether real or personal, is not endangered in any way by reason of fire, water, or construction operations, and shall take all necessary or directed steps, to protect the property.
- 3.5 Buildings, sidewalks, fences, shade trees, lawns and all other improvements shall be duly protected from damage by Contractor. Property obstructions, such as sewers, drains, water or gas lines, conduits, railroads, poles, walls, posts, galleries, bridges, manholes, valve boxes, meter boxes, street monuments, etc., shall be carefully protected from injury and shall not be displaced. The Contractor shall give due notice to any department or public service corporation controlling such items as manholes, valve boxes, meter boxes, street monuments, etc., prior to adjusting them to grade and shall be held strictly liable to the affected utility if any such appliances are disturbed, damaged or covered up during the course of the Work.

ARTICLE 4

COMPENSATION /PAYMENT

- 4.1 Contractor shall provide the Town with an invoice on a monthly basis within ten (10) days of the end of each month stating the services provided in the preceding month along with the dumping/tipping tickets.
- 4.2 The Town shall make payment on said invoices of approved amounts due, as required under the Florida Prompt Payment Act. No payments shall be due or payable for Work not performed or materials not furnished. If there is a dispute with regard to an invoice, the Town may withhold payment until all requested supporting materials are received from Contractor and the dispute is resolved.
- 4.3 Contractor shall be compensated at the unit prices specified in the Bid Proposal, attached hereto as Exhibit "A", based upon the actual Work completed for the month. The total compensation under this Agreement shall not exceed **\$ XXXXXX** (the "Agreement Sum").
- 4.4 The payment of any Application for Payment by Town, including the final request for payment, does not constitute approval or acceptance by Town of any item of the Work reflected in such Application for Payment, nor shall it be construed as a waiver of any of the Town's rights hereunder or at law or in equity.

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ARTICLE 5
CONTRACT DOCUMENTS

5.1 Each of the following are made a part of this Contract for the Project (collectively “Contract Documents”):

Exhibit “A”	Bid or Proposal Submitted by Contractor
Exhibit “B”	Town Authorization: Resolution No. 20-__
Exhibit “C”	Introduction
Exhibit “D”	Special Conditions
Exhibit “E”	Detailed Requirements
Exhibit “F”	RFP Forms
Exhibit “G”	Advertisement for Bids
Exhibit “H”	Performance Bond
Exhibit “I”	Insurance and Licenses

5.2 **Priority of Interpretation.** The Code and any Town resolutions take precedence over this agreement and its exhibits. This document without exhibits is referred to as the “Base Agreement.” In the event of any conflict or inconsistency in the definition or interpretation of any word, responsibility, schedule, or the contents or description of any task, deliverable, service, or other work, or otherwise, between the Base Agreement and the exhibits, or between exhibits, such conflict or inconsistency shall be resolved by giving precedence first to the body of this Base Agreement, and then to the exhibits according to the following priority:

- a) Town Resolution Approving Contractor
- b) Town Request for Proposal (“RFP”)
- c) Drawings, Plans and Specifications approved by the Town
- c) Contractor’s Response to RFP
- d) Insurance Certificates
- e) Notice to Proceed (NTP)
- f) Performance and Payment Bond

5.3 Any mandatory clauses which are required by such federal, state, or other governmental regulations shall be deemed to be automatically incorporated herein. In the event of any conflict among the foregoing Contract Documents, the documents shall govern in the order listed and/or as determined by the Town Engineer.

5.4 The Contract Documents shall remain the property of the Town. The Contractor shall have the right to keep one record set of the Contract Documents upon completion of the Project; provided; however, that in no event shall the Contractor use, or permit to be used, any or all of such Contract Documents on other Projects without the Town's prior written authorization.

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ARTICLE 6

INDEMNIFICATION

- 6.1 The parties agree that 1% of the total compensation paid to the Contractor for the performance of this Contract shall represent the specific consideration for the Contractor's indemnification of the Town as set forth in this Article.
- 6.2 To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold harmless the Town and its officials, consultants, agents and employees from and against all demands, claims, suits, liabilities, damages, losses and expenses, direct, indirect or consequential (including but not limited to fees and charges of attorneys and other professionals and court costs including appeals) arising out of, related to, or resulting from the performance or non-performance of the Work, or Contractor's obligations, or the Work under this Contract, including but not limited to any such claim, damage, loss or expense that is attributable to bodily injury, sickness, disease or death sustained by any person, or to injury to or destruction of tangible property or any other property (other than the Work itself) including the loss of use resulting therefrom, caused in whole or in part by any willful and wanton or negligent or gross negligent acts or omission of Contractor, any subcontractor, any person or organization directly or indirectly employed by any of them to perform or furnish any of the Work or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder or arises by or is imposed by applicable law and regardless of the negligence of any such party.
- 6.3 In any and all claims against the Town or any of its officers, consultants, agents or employees by any employee of Contractor, any Subcontractor, any person or organization directly or indirectly employed by Contractor, any Subcontractor, person or organization to perform or furnish any of the Work or any person or entity for whose acts any of them may be liable, the indemnification obligation under the above paragraph shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for Contractor or any such Subcontractor or other person or organization under worker's or workman's compensation acts, disability benefit acts or other employee benefit acts.
- 6.4 It is the specific intent of the parties hereto that the foregoing indemnification shall comply with Section 725.06, Florida Statutes. It is further the specific intent and agreement of the parties that all of the Contract Documents for this Project are hereby amended to include the foregoing indemnification and the "Specific Consideration" therefore.
- 6.5 Notwithstanding any obligation which may be set forth or required in the Contract or Contract Documents, the Town shall not indemnify or hold harmless the Contractor or any Subcontractor, Engineer, or any officer, director, partner, employee, agents, consultant of each or any of them from any claims, costs, losses or damages arising out of any Work performed or this Contract, and any reference or inclusion of such indemnification by the Town or Owner in the Contract Documents is hereby deleted. The parties acknowledge and agree that the Town is a municipal corporation that enjoys sovereign immunity pursuant to applicable law, and shall not and does not waive any rights and protections pursuant to such sovereign immunity. Nothing in this Contract is intended to waive the Town's sovereign immunity, nor shall anything in this Contract shall be construed to waive the Town's sovereign immunity.

ARTICLE 7
INSURANCE AND BONDS

7.1 **Insurance.** Contractor shall secure and maintain throughout the duration of this Contract insurance of such types and in such amounts as listed in the Contract Documents, including and in no event less than the policies, coverages and minimum limits specified below and as satisfactory to Town, naming the Town as an Additional Insured, underwritten by a firm rated A-X or better by Bests Rating and qualified to do business in the State of Florida. Certificates of Insurance shall be provided to the Town, reflecting the Town as an Additional Insured, no later than ten (10) days after award of this Contract and prior to the execution of this Contract by Town and prior to commencing any Work. Each certificate shall include no less than (30) thirty day advance written notice to Town prior to cancellation, termination, or material alteration of said policies or insurance. The insurance coverage shall be primary insurance with respect to the Town, its officials, employees, agents and volunteers naming the Town as additional insured. Any insurance maintained by the Town shall be in excess of the Contractor's insurance and shall not contribute to the Contractor's insurance. The insurance coverages shall include at a minimum the amounts set forth in this Section.

- a. Commercial General Liability coverage with limits of liability of not less than a \$1,000,000 per Occurrence combined single limit for Bodily Injury and Property Damage. This Liability Insurance shall also include Completed Operations and Product Liability coverages and eliminate the exclusion with respect to property under the care, custody and control of Contractor. The General Aggregate Liability limit (except for Products/Completed Operations) shall be in the amount of \$2,000,000.
- b. Workers Compensation and Employer's Liability insurance, to apply for all employees for statutory limits as required by applicable State and Federal laws. The policy(ies) must include Employer's Liability with minimum limits of \$1,000,000.00 each accident. No employee, subcontractor or agent of the Contractor shall be allowed to provide Work pursuant to this Contract who is not covered by Worker's Compensation insurance.
- c. Business Automobile Liability with minimum limits of \$1,000,000 per Occurrence combined single limit for Bodily Injury and Property Damage. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability policy, without restrictive endorsements, as filed by the Insurance Services Office, and must include Owned, Hired, and Non-Owned Vehicles.
- d. Builder's Risk property insurance upon the entire Work to the full replacement cost value thereof. This insurance shall include the interest of Town and Contractor and shall provide All-Risk coverage against loss by physical damage including, but not limited to, Fire, Extended Coverage, Theft, and Vandalism and Malicious Mischief.
- e. Contractor acknowledges that it shall bear the full risk of loss for any portion of the Work damaged, destroyed, lost or stolen until Final Completion has been achieved for the Project, and all such Work shall be fully restored by the Contractor, at its sole cost and expense, in accordance with the Contract Documents.

- f. **Certificate of Insurance.** On or before the Effective Date of this Contract, the Contractor shall provide the Town with Certificates of Insurance for all required policies. The Contractor shall be responsible for assuring that the insurance certificates required by this Section remain in full force and effect for the duration of this Contract, including any extensions or renewals that may be granted by the Town.

The Certificates of Insurance shall not only name the types of policy(ies) provided, but also shall refer specifically to this Contract and shall state that such insurance is as required by this Contract. The Town reserves the right to inspect and return a certified copy of such policies, upon written request by the Town.

If a policy is due to expire prior to the completion of the Work, renewal Certificates of Insurance shall be furnished thirty (30) calendar days prior to the date of their policy expiration. Each policy certificate shall be endorsed with a provision that not less than thirty (30) calendar days' written notice shall be provided to the Town before any policy or coverage is cancelled or restricted. Acceptance of the Certificate(s) is subject to approval of the Town.

- g. **Additional Insured.** The Town is to be specifically included as an Additional Insured for the liability of the Town resulting from Work performed by or on behalf of the Contractor in performance of this Contract. The Contractor's insurance, including that applicable to the Town as an Additional Insured, shall apply on a primary basis and any other insurance maintained by the Town shall be in excess of and shall not contribute to the Contractor's insurance.

The Contractor's insurance shall contain a severability of interest provision providing that, except with respect to the total limits of liability, the insurance shall apply to each Insured or Additional Insured (for applicable policies) in the same manner as if separate policies had been issued to each.

- h. **Deductibles.** All deductibles or self-insured retentions must be declared to and be reasonably approved by the Town. The Contractor shall be responsible for the payment of any deductible or self-insured retention in the event of any claim.
- i. The provisions of this Section shall survive termination of this Contract.

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- 7.2 **Bonds.** Prior to performing any portion of the Work and within three (3) days of the Effective Date hereof, the Contractor shall deliver to Town the Bonds required to be provided by Contractor hereunder and the Contract Documents (collectively, “Bonds”). Pursuant to and in accordance with Section 255.05, Florida Statutes, the Contractor shall obtain and thereafter at all times during the performance of the Work maintain a separate performance bond and labor and material payment bond for the Work, in the amount of the total bid amount, or Contract Price, whichever is greater, in the form provided in the Contract Documents or another form satisfactory to, and approved in writing by the Town and executed by a surety of recognized standing with a rating of A or better for bonds up to Two Million Dollars. The surety providing such Bonds must be licensed, authorized, and admitted to do business in the State of Florida and must be listed in the Federal Register (Dept. of Treasury, Circular 570). The cost of the premiums for such Bonds is included in the Contract Price. If notice of any change affecting the Scope of the Work, the Contract Price, Contract Time or any of the provisions of the Contract Documents is required by the provisions of any bond to be given to a surety, the giving of any such notice shall be Contractor’s sole responsibility, and the amount of each applicable bond shall be adjusted accordingly. If the surety is declared bankrupt or becomes insolvent or its right to do business in Florida is terminated or it ceases to meet applicable law or regulations, the Contractor shall, within five (5) days of any such event, substitute another bond (or Bonds as applicable) and surety, all of which must be satisfactory to Town.
- 7.3 Notwithstanding any obligation which may be set forth or required in the Contract Documents, the Town shall not be required to procure or maintain any insurance in connection with the Work or this Contract, including, but not limited to, Owner’s Liability Insurance or Property Insurance.

ARTICLE 8

CONTRACTOR’S REPRESENTATIONS AND WARRANTIES

- 8.1 In order to induce the Town to enter into this Contract, the Contractor makes the following representations and warranties:
- 8.1.1 Contractor has examined and carefully studied the Contract Documents and the other data identified in the bidding documents, including, without limitation, the “technical specifications and data” and plans and specifications, attached hereto and incorporated herein.
- 8.1.2 Contractor has visited the Project site and has become familiar with the site and is satisfied as to the general, local, and site conditions that may affect cost, progress, performance or furnishing of the Work.
- 8.1.3 Contractor has taken affirmative efforts, either in past experience or active due diligence, to become familiar with, and warrants to comply, with all federal regulated stated herein, and other applicable federal, state, and local laws, regulations, and permits necessary for the legal performance of this Contract. Contractor is aware of all regulations and permits that may affect cost, progress, performance and furnishing of the Work. Contractor agrees that it will at all times comply with all requirements of the federal, state, and local laws, regulations, and permits applicable to the Work—even if such laws and regulations are not specifically enumerated in this Agreement.

- 8.1.4 Contractor has had the opportunity and made, or caused to be made, examinations, investigations, tests and/or studies as necessary to determine surface and subsurface conditions at or on the Project site. Contractor acknowledges that the Town does not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Contract Documents with respect to underground or ground facilities at, contiguous or near the Project sites or for existing improvements at or near the sites. Contractor has obtained and carefully studied (or assumes responsibility for having done so) all such additional supplementary examinations, investigations, explorations, tests, studies and data concerning conditions (surface, subsurface and underground facilities and improvements) at, contiguous or near to the site or otherwise which may affect cost, progress, performance or furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences and procedures of construction to be employed by Contractor and safety precautions and programs incident thereto. Contractor does not consider that any additional examinations, investigations, explorations, tests, studies or data are necessary for the performance and furnishing of the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents.
- 8.1.5 Contractor is aware of the nature of work to be performed by the Town and others at the site that relates to the Work as indicated in the Contract Documents.
- 8.1.6 Contractor has correlated the information known to Contractor, information and observations obtained from visits to the Project site, reports and drawings identified in the Contract Documents and all additional examinations, investigations, explorations, tests, studies and data with the Contract Documents.
- 8.1.7 Contractor has given the Town written notice of all conflicts, errors, ambiguities or discrepancies that Contractor has discovered in the Contract Documents and the written resolution thereof by Town is acceptable to Contractor, and the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
- 8.1.8 The Contractor agrees and represents that it possesses the requisite skills to perform the Work and that the Work shall be executed in a good and workmanlike manner, free from defects, and that all materials shall be new and approved by or acceptable to Town, except as otherwise expressly provided for in the Contract Documents. The Contractor shall cause all materials and other parts of the Work to be readily available as and when required or needed for or in connection with the construction, furnishing and equipping of the Project.

8.2 Contractor further warrants and covenants the following:

- 8.2.1 **Anti-Discrimination.** Contractor agrees that it will not discriminate against any employees or applicants for employment or against persons for any other benefit or service under this Contract because of race, color, religion, sex, national origin, or physical or mental handicap where the handicap does not affect the ability of an individual to perform in a position of employment, and agrees to abide by all federal and state laws regarding non-discrimination.

- 8.2.2 **Anti-Kickback.** Contractor warrants that no person has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, and that no employee or officer of the Town has any interest, financially or otherwise, in the Project.

For breach or violation of this warranty, the Town shall have the right to annul this Contract without liability or, in its discretion, to deduct from the Contract Price or consideration, the full amount of such commission, percentage, brokerage or contingent fee.

- 8.2.3 **Licensing and Permits.** Contractor warrants that it shall have, prior to commencement of Work under this Contract and at all times during said Work, all required valid licenses and permits in compliance with all federal, state, county or Town regulations and laws. Contractor acknowledges that it is the obligation of Contractor to obtain all licenses and permits required for this Work for the Project.

ARTICLE 9

DEFAULT, TERMINATION, AND REMEDIES

- 9.1 The happening of any one or more of the following shall be deemed an Event of Default under this Contract, if the Contractor:

- (a) fails to timely begin the Work;
- (b) fails to perform the Work with sufficient workers and equipment or has insufficient materials to insure the prompt completion of the Work within the Contract Time as specified in Article 2 of this Contract and the applicable Notice to Proceed;
- (c) performs the Work unsuitably or causes the Work to be rejected as defective and unsuitable;
- (d) discontinues the prosecution of the Work pursuant to the accepted schedule;
- (e) fails to perform or comply with any material term set forth in the Contract Documents;
- (f) becomes insolvent, declared bankrupt, commits any act of bankruptcy or insolvency, or makes an assignment for the benefit of creditors; or
- (g) causes any act, whatsoever, not to carry on the Work in an acceptable manner.

- 9.2 In the Event of Default, the Town may, upon seven (7) days written notice:

- (a) terminate the services of Contractor;
- (b) exclude Contractor from the Project site;
- (c) provide for alternate prosecution of the Work;
- (d) appropriate or use any or all materials and equipment on the Project site as may be suitable and acceptable; and
- (e) finish the Work by whatever methods it may deem expedient.

In the event of an Event of Default, the Contractor shall not be entitled to receive any further payment, from the time notice of termination is sent, until the Project is completed. All damages, costs and charges incurred by Town, together with the costs of completing the Project, shall be deducted from any monies due or which may become due to Contractor. In case the damages and expenses so incurred by Town shall exceed monies due Contractor from Town, Contractor shall be liable and shall pay to Town the amount of said excess promptly upon demand therefore by Town. In the event it is adjudicated that Town was not entitled to terminate the Contract as described hereunder for default, then the Contract shall automatically be deemed terminated by Town for convenience as described below.

- 9.3 This Contract may be terminated by the Town for convenience, or for any reason, upon seven (7) calendar days' written notice to the Contractor, in the sole discretion of the Town, including, but not limited to, if the Town has determined that such cancellation will be in the best interest of the Town for its own convenience or funding is not available, appropriated, or budgeted.

In the event the Contract is terminated for convenience, then the Contractor shall incur no further obligations in connection with the Project and shall, to the extent possible, terminate any outstanding subcontractor obligations, and will be paid for Work performed to the satisfaction of the Town as of the termination date. No consideration will be given for anticipated lost revenue, overhead, mobilization or demobilization or the canceled portions of the Contract. In such event, the Contractor shall promptly submit to the Town its Application for Payment for final payment which shall comply with the provisions of the Contract Documents.

- 9.4 If an Event of Default, or any default of any other material term in this Contract, by the Contractor, then the Contractor shall also be liable for all damages caused by its default which damages may include, but not be limited to, any and all costs incurred by the Town in completing the Project, Liquidated Damages as set forth in this Contract, damages arising out of the Contractor's failure to adhere to the Contract requirements, and all attorney's fees and costs incurred by the Town in seeking legal relief for the default.

- 9.5 The rights and remedies of the Town herein shall be cumulative and not mutually exclusive, and the Town may resort to any one or more or all of said remedies without exclusion of any other. No party other than the Town, whether the Contractor, a material man, laborer, subcontractor, or supplier, shall have any interest in the funds withheld because of a default herein, and shall not have any right to garnish or require or compel that payment thereof be applied toward the discharge or satisfaction of any claim or lien which any of them may have.

ARTICLE 10 **ASSIGNMENT**

- 10.1 Neither party shall assign the Contract, any portion of the Work, or any sub-contract, in whole or in part, without the written consent of the other, nor shall Contractor assign any monies due or to become due to it hereunder, without the previous written consent of the Town.

ARTICLE 11
CONTRACTOR REQUIREMENTS

11.1 **Contractor to Check Plans, Specifications, and Data.** Contractor shall verify all dimensions, quantities, and details shown on the Plans, Specifications or other data received from the Town's Project Engineer, and shall notify the Town's Project Engineer in writing of all errors, omissions, and discrepancies found therein within three (3) calendar days of discovery and Town's Project Engineer will promptly review the same. Any Work done after such discovery, but prior to written authorization of the Town's Project Engineer, will be done at the Contractor's sole risk.

11.2 **Contractor's Responsibility for Damages and Accidents.**

11.2.1 Contractor shall be responsible for promptly notifying the Town of any damage to irrigation systems, buildings or other structures, vehicles, or property or possessions, which occur as a result of the Work performed by Contractor pursuant to this Contract, or the improper or negligent activities of the Contractor.

11.2.2 Contractor shall accept full responsibility for, and insure, the Work against all loss, or damage, of any nature sustained until final acceptance by Town, and shall promptly repair any damage done from any cause.

11.2.3 Contractor shall be responsible for all materials, equipment, and supplies pertaining to the Project. In the event any such materials, equipment, and supplies are lost, stolen, damaged, or destroyed prior to final acceptance by Town, Contractor shall replace same without cost to Town.

11.3 **Defective Work/Guarantee.**

11.3.1 The Town shall have the authority to monitor the Work and Contractor's contracting terms with subcontractors, but such right shall not give right to a duty or obligation to such monitoring.

The Town shall have the authority to reject or disprove of Work, which the Town finds to be defective. If required by the Town, Contractor shall promptly either correct all defective Work or remove such defective Work and replace it with non-defective Work. Contractor shall bear all direct, indirect, and consequential costs of such removal or corrections including cost of testing laboratories and personnel.

11.3.2 Should Contractor fail or refuse to remove or correct any defective Work or to make any necessary repairs in accordance with the requirements of the Contract Documents within the time indicated in writing by Town's Project Engineer, the Town shall have the authority to cause the defective Work to be removed or corrected, or make such repairs as may be necessary at Contractor's expense. Any expense incurred by the Town in making such removals, corrections or repairs, shall be paid for out of any monies due or which may become due to Contractor. In the event of failure of Contractor to make all necessary repairs promptly and fully, the Town may declare Contractor in default.

11.3.3 Contractor shall unconditionally guarantee all materials and equipment furnished and Work performed for a period of one (1) year from the date of Substantial Completion. If, within one (1) year after the date of Substantial Completion, any of the Work is found to be defective or not in accordance with the Contract Documents, Contractor, after receipt of written notice from Town, shall promptly correct such defective or nonconforming Work within the time specified by Town without cost to Town. Nothing contained herein shall be construed to establish a period of limitation with respect to any other obligation which Contractor might have under the Contract Documents including but not limited to any claim regarding latent defects.

11.3.4 Failure to reject any defective Work or material shall not in any way prevent later rejection when such defect is discovered.

11.4 **Legal Restrictions and Traffic Provisions.** Contractor shall conform to and obey all applicable laws, regulations, or ordinances with regard to labor employed, hours of Work and Contractor's general operations. Contractor shall conduct its operations pursuant to all necessary permits from applicable jurisdictions. Contractor shall not interfere with, or close, any thoroughfare, without the written consent of the Town or governing jurisdiction.

11.5 **Examination and Retention of Contractor's Records.**

11.5.1 Contractor shall comply with the applicable provisions of Chapter 119, Florida Statutes (Public Records Law). Contractor shall retain all records associated with this Contract for a period of three (3) years from the date of final payment for all Work performed pursuant to this Contract. The Town or any of their duly authorized representatives shall, until three (3) years after final payment under this Contract, have access to and the right to examine any of the Contractor's books, ledgers, documents, papers, or other records involving transactions related to this Contract for the purpose of making audits, examinations, excerpts, and transcriptions.

11.6 **No Damages for Delay.** No claim for damages or any claim, other than for an extension of time shall be made or asserted against Town by reason of any delays. Contractor shall not be entitled to an increase in the Contract Price or payment or compensation of any kind from 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 reasonable or unreasonable, foreseeable or unforeseeable, or avoidable or unavoidable. Contractor shall be entitled only to extensions of the Contract Time as the sole and exclusive remedy for such resulting delay. Notwithstanding the above, and in accordance with the requirements of the Contract Documents, the Contractor shall be granted an extension of time and suspension of Liquidated Damages for any delay beyond the control of the Contractor. Should any delay, disruption, interference, or hindrance be caused by the Town, for a continuous period or cumulative period of forty-five (45) days, the Contractor may terminate the Contract upon twenty (20) days written notice to the Town.

11.7 **Clean Conditions. Safe Site.** Contractor shall, at all times, at its expense, keep the Project sites in a neat, clean and safe condition. Upon completion of any portion of the Work, Contractor shall promptly remove all of its equipment, construction materials, temporary structures and surplus materials not to be used at or near the same location during later stages of the Work. Upon completion of the Work, Contractor shall, at its expense, satisfactorily dispose of all rubbish, unused materials and other equipment and materials belonging to it or used in the performance of the Work and Contractor shall leave the Project in a neat, clean and safe condition. In the event of Contractor's failure to comply with the foregoing, the same may be accomplished by the Town at Contractor's expense.

11.8 **Taxes and Fees.** Contractor shall pay all taxes, levies, duties and assessments of every nature which may be applicable to the Work under this Agreement. The pricing and any agreed variations thereof shall include all taxes imposed by law at the time of this Agreement. Contractor shall make any and all payroll deductions required by law. Contractor herein indemnifies and holds the Town harmless from any liability on account of any and all such taxes, levies, duties and assessments.

Notwithstanding anything contained in the Contract Documents to the contrary, the Town may exercise its right to implement an owner direct purchase program whereby the Town will directly purchase equipment or materials for the Work. Under an owner direct purchase program, Contractor shall work with the Town to identify materials and equipment for purchase by the Town. Contractor will receive, unload, properly store, and provide insurance consistent with the requirements of this Agreement and applicable law and regulations for all equipment and materials purchased under an owner direct purchase program. The Contract Price shall be reduced as appropriate by the value of the purchase order(s), plus the applicable sales tax, issued by the Town under any owner direct purchase program.

11.9 **Public Entity Crimes Affidavit.** Contractor shall comply with Section 287.133, Florida Statutes, (Public Entity Crimes Statute) notification of which is hereby incorporated herein by reference, including execution of any required affidavit.

11.10 **Independent Contractor.** The Contractor is an independent contractor pursuant to this Contract. This Contract does not create any partnership or joint venture between the Town and Contractor. Work performed or provided by the Contractor shall be by employees of the Contractor and subject to supervision by the Contractor, and not as officers, employees, or agents of the Town. Personnel policies, tax responsibilities, social security and health insurance, employee benefits, purchasing policies and other similar administrative procedures, applicable to Work rendered under the Contract shall be those of the Contractor.

11.11 **DBE Contract Assurance.**

11.11.1 Town affirms it has encouraged women-owned, minority owned, and disadvantaged businesses of the Project and be responsive to the opportunity of the award of this Contract.

11.11.2 Contractor, or any subcontractor performing Work under this Contract, shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. Contractor shall carry out all applicable requirements of 49 CFE Part 26 in the award and administration of this Contract. Failure by the Contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as the Town deems appropriate.

11.12 **Scrutinized Companies.**

11.12.1 Contractor certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List. Pursuant to Section 287.135, F.S., the Town may immediately terminate this Agreement at its sole option if the Contractor or its subcontractors are found to have submitted a false certification; or if the Contractor, or its subcontractors are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Agreement.

11.12.2 If this Agreement is for more than one million dollars, the Contractor certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in Section 287.135, F.S. Pursuant to Section 287.135, F.S., the Tow may immediately terminate this Agreement at its sole option if the Contractor , its affiliates, or its subcontractors are found to have submitted a false certification; or if the Contractor, its affiliates, or its subcontractors are placed on the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of the Agreement.

11.12.3. The Contractor agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Agreement.

11.12.4. As provided in Subsection 287.135(8), F.S., if federal law ceases to authorize the above-stated contracting prohibitions then they shall become inoperative.

ARTICLE 12
MISCELLANEOUS

12.1 **Governing Law.** This Contract shall be construed in accordance with and governed by the laws of the State of Florida. Venue for any litigation arising out of this Contract shall be proper and exclusively in Miami-Dade County, Florida.

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12.2 **Public Records Law.**

- 12.2.1 Contractor agrees to keep and maintain public records in Contractor's possession or control in connection with Contractor's performance under this Agreement. Contractor additionally agrees to comply specifically with the provisions of Section 119.0701, Florida Statutes. Contractor shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law, for the duration of the Agreement, and following completion of the Agreement until the records are transferred to the Town.
- 12.2.2 Upon request from the Town's custodian of public records, Contractor shall provide the Town with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided by Chapter 119, Florida Statutes, or as otherwise provided by law.
- 12.2.3 Unless otherwise provided by law, any and all records, including but not limited to reports, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of the Town.
- 12.2.4 Upon completion of this Agreement or in the event of termination by either party, any and all public records relating to the Agreement in the possession of the Contractor shall be delivered by the Contractor to the Town Manager, at no cost to the Town, within seven (7) days. All such records stored electronically by Contractor shall be delivered to the Town in a format that is compatible with the Town's information technology systems. Once the public records have been delivered upon completion or termination of this Agreement, the Contractor shall destroy any and all duplicate public records that are exempt or confidential and exempt from public records disclosure requirements.
- 12.2.5 Any compensation due to Contractor shall be withheld until all records are received as provided herein.
- 12.2.6 Contractor's failure or refusal to comply with the provisions of this section shall result in the immediate termination of this Agreement by the Town.

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Section 119.0701(2)(a), Florida Statutes

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS.

Custodian of Records: **Debra E. Eastman, MMC**
 Town Clerk

Mailing address: **10720 Caribbean Boulevard**
 Suite 105
 Cutler Bay, FL 33189

Telephone number: **(305) 234-4262**

Email: **Deastman@cutlerbay-fl.gov**

Notices.

Any notices required by this Contract shall be in writing and shall be deemed to have been properly given if transmitted by hand-delivery, by registered or certified mail with postage prepaid return receipt requested, or by a private postal service, addressed to the parties (or their successors) at the following addresses:

For the Town: Town of Cutler Bay
 Town Manager
 10720 Caribbean Blvd., Suite 105
 Cutler Bay, Florida 33189

With a copy to: Town Attorney, Town of Cutler Bay
 Weiss Serota Helfman Cole & Bierman, P.L.
 2525 Ponce de Leon Blvd, Suite 700
 Coral Gables, Florida 33134

For the Contractor: _____

- 12.3 **Prevailing Party; Attorneys' Fees.** In the event of any controversy, claim, dispute or litigation between the parties arising from or relating to this Contract (including, but not limited to, the enforcement of any indemnity provisions), the prevailing party shall be entitled to recover any and all reasonable costs, expenses and attorneys' fees including, but not limited to, court costs and other expenses through all appellate levels.

- 12.4 **Entire Agreement. All Prior Agreements Superseded.** This Contract incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements, or understandings concerning the subject matter of these Contract Documents that are not contained herein. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.
- 12.5 **Amendment.** The Contract may only be amended in writing executed by both Parties.
- 12.6 **Town Authorization Resolution.** The Town Resolution authorizing the award of this Contract and the Town solicitation which Contractor submitted bid pursuant to (collectively, “**Town Authorization**”) are incorporated by reference. To the extent of any conflict between the Town Resolution and the Contract Documents when interpreting the intent of this Contract, whichever provision is strictest will control. To the extent of any conflict between the Town Authorization, the Town Resolution will control.
- 12.7 **Counterparts.** This Contract may be executed in counterparts and any counterpart evidencing signature by one party may be delivered by electronic mail. Each executed counterpart of this Contract will constitute an original document and all executed counterparts, together, will constitute the same Agreement.
- 12.8 **Severability.** If any term or provision of this Contract or the Contract Documents shall be held or deemed invalid or unenforceable by the courts or otherwise, illegal or in conflict with any law of the State, the validity of the remaining terms or provisions of this Contract or the Contract Documents shall not be affected thereby, and shall continue in full force and effect, and be enforced to the fullest extent permitted by law.
- 12.9 **Meanings and Definitions.** Capitalized words shall have the meaning as assigned herein or as defined
- 12.10 **WAIVER OF JURY TRIAL.** TOWN AND CONTRACTOR KNOWINGLY, IRREVOCABLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHT EITHER MAY HAVE TO A TRIAL BY JURY IN STATE AND OR FEDERAL COURT PROCEEDINGS IN RESPECT TO ANY ACTION, PROCEEDING, LAWSUIT OR COUNTERCLAIM BASED UPON THIS CONTRACT, ARISING OUT OF, UNDER, OR IN CONNECTION WITH THE WORK, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS OR ACTIONS OR INACTIONS OF ANY PARTY.

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IN WITNESS WHEREOF, the parties hereto have made and executed this Contract on the respective dates under each signature: TOWN OF CUTLER BAY, FLORIDA, signing by and through its Town Manager, and _____ (Contractor) signing by and through _____, duly authorized to execute same.

ATTEST:

TOWN OF CUTLER BAY, FLORIDA,
A Florida municipal corporation

By: _____
Debra E. Eastman, MMC
Town Clerk

By: _____
Rafael G. Casals, ICMA-CM, CFM
Town Manager

Date Executed: _____

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE
SOLE USE OF THE TOWN OF CUTLER BAY:

Resolution No.: _____

By: _____
WEISS SEROTA HELFMAN
COLE & BIERMAN, P.L
Town Attorney

CONTRACTOR MUST EXECUTE THIS CONTRACT AS INDICATED BELOW. USE CORPORATION FORMAT, AS APPLICABLE.

ATTEST:

CONTRACTOR:

By: _____
(Secretary)

By: _____
(Signature)

(Corporate Seal)

(Name/Title signed above)

This _____ day of _____, 2020.

[END OF DOCUMENT]