

AGREEMENT**SERVICES AGREEMENT**

THIS SERVICES AGREEMENT is made as of **Click or tap to enter a date.** (effective date), by and between Pinellas County, a political subdivision of the State of Florida (“County”), and NDL LLC dba Natural Designs Landscaping, Lutz, FL (“Contractor”), (individually, “Party,” collectively, “Parties”).

WITNESSETH:

WHEREAS, the County requested proposals pursuant to ITB for Grounds Maintenance, Public Works Medians, Right of Way and Pond Outparcels services; and

WHEREAS, based upon the County's assessment of Contractor's proposal, the County selected the Contractor to provide the Services as defined herein; and

WHEREAS, Contractor represents that it has the experience and expertise to perform the Services as set forth in this Agreement.

NOW, THEREFORE, in consideration of the above recitals, the mutual covenants, agreements, terms and conditions herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby mutually acknowledged, the Parties agree as follows:

1. Definitions.

- A. **“Agreement”** means this Agreement, including all Exhibits, which are expressly incorporated herein by reference, and any amendments thereto.
- B. **“County Confidential Information”** means any County information deemed confidential and/or exempt from Section 119.07, Florida Statutes, and Section 24(a), Article 1 of the Florida Constitution, or other applicable law, including, but not limited any other information designated in writing by the County as County Confidential Information.
- C. **“Contractor Confidential Information”** means any Contractor information that is designated as confidential and/or exempt by Florida's public records law, including information that constitutes a trade secret pursuant to Chapter 688, Florida Statutes, and is designated in this Agreement or in writing as a trade secret by Contractor (unless otherwise determined to be a public record by applicable Florida law). Notwithstanding the foregoing, Contractor Confidential Information does not include information that: (i) becomes public other than as a result of a disclosure by the County in breach of the Agreement; (ii) becomes available to the County on a non-confidential basis from a source other than Contractor, which is not prohibited from disclosing such information by obligation to Contractor; (iii) is known by the County prior to its receipt from Contractor without any obligation or confidentiality with respect thereto; or (iv) is developed by the County independently of any disclosures made by Contractor.
- D. **“Contractor Personnel”** means all employees of Contractor, and all employees of subcontractors of Contractor, including, but not limited to temporary and/or leased employees, who are providing the Services at any time during the project term.
- E. **“Services”** means the work, duties and obligations to be carried out and performed safely by Contractor under this Agreement, as described throughout this Agreement and as specifically described in the Statement of Work Exhibit attached hereto and incorporated herein by reference. As used in this Agreement, Services shall include any component task, subtask, service, or function inherent, necessary, or a customary part of the Services, but not specifically described in this Agreement, and shall include the provision of all standard day-to-day administrative, overhead, and internal expenses, including costs of bonds and insurance as required herein, labor, materials, equipment, safety equipment, products, office supplies, consumables, tools, postage, computer hardware/software, telephone charges, copier usage, fax charges, travel, lodging, and per diem and all other costs required to perform Services except as otherwise specifically provided in this Agreement.

2. Execution of Agreement

The execution of this Agreement is expressly limited by the Terms and Conditions hereon. County and the Contractor are not bound by additional provisions or provisions at variance herewith that may appear in the Contractor's quotation, estimate, scope of work, or any other such related documents, acknowledgement in force, or any other communication from Contractor to or from County unless such provision is expressly set forth herein.

AGREEMENT**3. Conditions Precedent**

This Agreement, and the Parties' rights and obligations herein, are contingent upon and subject to the Contractor securing and/or providing the performance security, if required, and the insurance coverage(s) required, within 10 days of the Effective Date. No Services shall be performed by the Contractor and the County shall not incur any obligations of any type until Contractor satisfies these conditions. Unless waived in writing by the County, in the event the Contractor fails to satisfy the conditions precedent within the time required herein, the Agreement shall be deemed not to have been entered into and shall be null and void.

4. Services

- A. **Services** - The County retains Contractor, and Contractor agrees to provide the Services. All Services shall be performed to the satisfaction of the County and shall be subject to the provisions and terms contained herein and the Exhibits attached hereto.
- B. **Services Requiring Prior Approval** - Contractor shall not commence work on any Services requiring prior written authorization in the Exhibit A - Statement of Work without approval from Barbara Hetrick, Horticulture Field Inspector.
- C. **Additional Services** - From the Effective Date and for the duration of the project, the County may elect to have Contractor perform Services that are not specifically described in the Statement of Work attached hereto but are related to the Services ("Additional Services"), in which event Contractor shall perform such Additional Services for the compensation specified in the Statement of Work attached hereto. Contractor shall commence performing the applicable Additional Services promptly upon receipt of written approval as provided herein.
- D. **De-scoping of Services** - The County reserves the right, in its sole discretion, to de-scope Services upon written notification to the Contractor by the County. Upon issuance and receipt of the notification, the Contractor and the County shall enter into a written amendment reducing the appropriate Services Fee for the impacted Services by a sum equal to the amount associated with the de-scoped Services as defined in the payment schedule in this Agreement, if applicable, or as determined by mutual written consent of both Parties based upon the scope of work performed prior to issuance of notification.
- E. **Independent Contractor Status and Compliance with the Immigration Reform and Control Act** - Contractor is and shall remain an independent contractor and is neither agent, employee, partner, nor joint venturer of County. Contractor acknowledges that it is responsible for complying with the provisions of the Immigration Reform and Control Act of 1986 located at 8 U.S.C. 1324, et seq, and regulations relating thereto, as either may be amended from time to time. Failure to comply with the above provisions shall be considered a material breach of the Agreement.
- F. **Non-Exclusive Services** - Award of this Agreement imposes no obligation on the County to utilize the Contractor for all goods and/or services of this type, which may develop during the agreement period. This is a non-exclusive Agreement. During the term of this Agreement, and any extensions thereof, the County reserves the right to contract for another provider for similar goods and/or services as it determines necessary in its sole discretion.
- G. **Project Monitoring** - During the term of the Agreement, Contractor shall cooperate with the County, either directly or through its representatives, in monitoring Contractor's progress and performance of this Agreement.

5. Term of Agreement

- A. **Initial Term** - The term of this Agreement shall commence on **the Effective Date** and shall remain in full force for twenty-four (24) months, or until termination of the Agreement, whichever occurs first.
- B. **Term Extension** - The Parties may extend the term of this Agreement for two (2) additional twenty-four (24) month period(s) pursuant to the same terms, conditions, and pricing set forth in the Agreement by mutually executing an amendment to this Agreement, as provided herein.
- C. **Initial Term Price Adjustments** - Unit prices bid on listed items shall be held firm for the duration of the contract.
- D. **Term Extension Price Adjustments** - Term extensions will allow for price adjustments (Decrease/Increase) once per twenty-four (24) month interval in an amount not to exceed the average of the Consumer Price Index (CPI) or 5%, whichever is less, for all Urban Consumers, Series Id: CUUR000SA0, Not Seasonally Adjusted, Area: U.S. city average, Item: All items, Base Period: 1982-84=100 for the twelve months prior to extension. The extension shall be exercised only if all terms and conditions remain the same and the County Administrator or Director of Purchasing grants approval.

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It is the vendor's responsibility to request any pricing adjustment under this provision. For any adjustment to commence on the first day of any exercised extension period, the vendor's request for adjustment should be submitted at time of the extension request from the County, utilizing the available index at the time of request. The vendor adjustment request should not be in excess of the relevant pricing index change. If no adjustment request is received from the vendor, the County will assume the vendor has agreed that the extension term may be exercised without pricing adjustment. Any adjustment request received after the commencement of a new extension period may not be considered.

6. Compensation and Method of Payment

- A. **Services Fee** - As total compensation for the Services, the County shall pay the Contractor the sums as provided in this Section ("Services Fee"), pursuant to the terms and conditions as provided in this Agreement. It is acknowledged and agreed by Contractor that this compensation constitutes a limitation upon County's obligation to compensate Contractor for such Services required by this Agreement but does not constitute a limitation upon Contractor's obligation to perform all of the Services required by this Agreement. In no event will the Services Fee paid exceed the not-to-exceed sums set out in subsections below, unless the Parties agree to increase this sum by written amendment as authorized in the Amendment Section of this Agreement.
- B. **Spending Cap and Payment Structure** - The County agrees to pay the Contractor the total not-to-exceed sum of \$1,540,561.12, with an annual not to exceed expenditure of \$770,280.56 for Services completed and accepted herein if applicable, payable on a fixed-fee basis for the deliverables as set out in Exhibit C, payable upon submittal of an invoice as required herein.
- E. **Travel Expenses** - The Services Fee includes all travel, lodging and per diem expenses incurred by Contractor in performing the Services.
- F. **Taxes** - Contractor acknowledges that the County is not subject to any state or federal sales, use, transportation and certain excise taxes.
- G. **Payments and Invoicing** - Contractor shall submit invoices for payments due as provided herein and authorized reimbursable expenses incurred with such documentation as required by County. Invoices shall be submitted to the designated person as set out in the Notices Section herein.

For time and materials Services, all Contractor Personnel shall maintain logs of time worked, and each invoice shall state the date and number of hours worked for Services authorized to be billed on a time and materials basis. All payments shall be made in accordance with the requirements of Section 218.70 et seq., Florida Statutes, "The Local Government Prompt Payment Act." The County may dispute any payments invoiced by Contractor in accordance with the County's Invoice Payments Dispute Resolution Process established in accordance with Section 218.76, Florida Statutes, and any such disputes shall be resolved in accordance with the County's Dispute Resolution Process.

7. Personnel

- A. **E-Verify** - The contractor and their subcontractor(s) must register with and use the E-verify system in accordance with Florida Statute 448.095. A contractor and subcontractor may not enter into a contract with the County unless each party registers with and uses the E-verify system. If a contractor enters a contract with a subcontractor, the subcontractor must provide the contractor with an affidavit stating that the Subcontractor does not employ, contract with, or subcontract with unauthorized aliens. The contractor must maintain a copy of the affidavit for the duration of the contract. If the County, Contractor, or Subcontractor has a good faith belief that a person or entity with which it is contracting has knowingly violated Florida Statute 448.09(1) they shall immediately terminate the contract with the person or entity. If the County has a good faith belief that a Subcontractor knowingly violated this provision, but the Contractor otherwise complied with this provision, the County will notify the Contractor and order that the Contractor immediately terminate the contract with the Subcontractor. A contract terminated under the provisions of this section is not a breach of contract and may not be considered such. Any contract termination under the provisions of this section may be challenged to Section 448.095(2)(d), Florida Statute. Contractor acknowledges upon termination of this agreement by the County for violation of this section by Contractor, Contractor may not be awarded a public contract for at least one (1) year. Contractor acknowledges that Contractor is liable for any additional costs incurred by the County as a result of termination of any contract for a violation of this section. Contractor or Subcontractor shall insert in any subcontracts the clauses set forth in this section, requiring the subcontracts to include these clauses in any lower tier subcontracts. Contractor shall be responsible for compliance by any Subcontractor or Lower Tier Subcontractor with the clause set for in this section.

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- B. **Qualified Personnel** - Contractor agrees that each person performing Services in connection with this Agreement shall have the qualifications and shall fulfill the requirements set forth in this Agreement.
- C. **Approval and Replacement of Personnel** - The County shall have the right to approve all Contractor Personnel assigned to provide the Services, which approval shall not be unreasonably withheld. Prior to commencing the Services, the Contractor shall provide at least ten (10) days written notice of the names and qualifications of the Contractor Personnel assigned to perform Services pursuant to the Agreement. Thereafter, during the term of this Agreement, the Contractor shall promptly and as required by the County provide written notice of the names and qualifications of any additional Contractor Personnel assigned to perform Services. The County, on a reasonable basis, shall have the right to require the removal and replacement of any of the Contractor Personnel performing Services, at any time during the term of the Agreement. The County will notify Contractor in writing in the event the County requires such action. Contractor shall accomplish any such removal within forty-eight (48) hours after receipt of notice from the County and shall promptly replace such person with another person, acceptable to the County, with sufficient knowledge and expertise to perform the Services assigned to such individual in accordance with this Agreement. In situations where individual Contractor Personnel are prohibited by applicable law from providing Services, removal and replacement of such Contractor Personnel shall be immediate and not subject to such forty-eight (48) hour replacement timeframe and the provisions of the Termination Section of this Agreement shall apply if minimum required staffing is not maintained.

8. Termination**A. Contractor Default Provisions and Remedies of County**

1. **Events of Default** - Any of the following shall constitute a “Contractor Event of Default” hereunder:
 - i. Contractor fails to maintain the staffing necessary to perform the Services as required in the Agreement, fails to perform the Services as specified in the Agreement, or fails to complete the Services within the completion dates as specified in the Agreement;
 - ii. Contractor breaches Confidential Information Section of this Agreement;
 - iii. Contractor fails to gain acceptance of goods and/or services deliverable, for 2 consecutive iterations; or
 - iv. Contractor fails to perform or observe any of the other material provisions of this Agreement.
2. **Cure Provisions** - Upon the occurrence of a Contractor Event of Default as set out above, the County shall provide written notice of such Contractor Event of Default to Contractor (“Notice to Cure”), and Contractor shall have 30 calendar days after the date of a Notice to Cure to correct, cure, and/or remedy the Contractor Event of Default described in the written notice.
3. **Termination for Cause by the County** - In the event that Contractor fails to cure a Contractor Event of Default as authorized herein, or upon the occurrence of a Contractor Event of Default as specified in Termination – Contractor Default Provisions and Remedies of County – Events of Default Section of this Agreement, the County may terminate this Agreement in whole or in part, effective upon receipt by Contractor of written notice of termination pursuant to this provision, and may pursue such remedies at law or in equity as may be available to the County.

B. County Default Provisions and Remedies of Contractor

1. **Events of Default** - Any of the following shall constitute a “County Event of Default” hereunder:
 - i. the County fails to make timely undisputed payments as described in this Agreement;
 - ii. the County breaches Confidential Information Section of this Agreement; or the County fails to perform any of the other material provisions of this Agreement.
2. **Cure Provisions** - Upon the occurrence of a County Event of Default as set out above, Contractor shall provide written notice of such County Event of Default to the County (“Notice to Cure”), and the County shall have thirty (30) calendar days after the date of a Notice to Cure to correct, cure, and/or remedy the County Event of Default described in the written notice.
3. **Termination for Cause by the Contractor** - In the event the County fails to cure a County Event of Default as authorized herein, Contractor may terminate this Agreement in whole or in part effective on receipt by the County of written notice of termination pursuant to this provision, and may pursue such remedies at law or in equity as may be available to the Contractor.

AGREEMENT**C. Termination for Convenience**

1. Notwithstanding any other provision herein, the County may terminate this Agreement, without cause, by giving 30 days advance written notice to the Contractor of its election to terminate this Agreement pursuant to this provision.

9. Time is of the Essence

Time is of the essence with respect to all provisions of this Agreement that specify a time for performance, including the Services as described in the Exhibits attached hereto; provided, however, that the foregoing shall not be construed to limit a Party's cure period allowed in the Agreement.

10. Confidential Information and Public Records

- A. County Confidential Information** - Contractor shall not disclose to any third party County Confidential Information that Contractor, through its Contractor Personnel, has access to or has received from the County pursuant to its performance of Services pursuant to the Agreement, unless approved in writing by the County Contract Manager. All such County Confidential Information will be held in trust and confidence from the date of disclosure by the County, and discussions involving such County Confidential Information shall be limited to Contractor Personnel as is necessary to complete the Services.
- B. Contractor Confidential Information** - All Contractor Confidential Information received by the County from Contractor will be held in trust and confidence from the date of disclosure by Contractor and discussions involving such Contractor Confidential Information shall be limited to the members of the County's staff and the County's subcontractors who require such information in the performance of this Agreement. The County acknowledges and agrees to respect the copyrights, registrations, trade secrets and other proprietary rights of Contractor in the Contractor Confidential Information during and after the term of the Agreement and shall at all times maintain the confidentiality of the Contractor Confidential Information provided to the County, subject to federal law and the laws of the State of Florida related to public records disclosure. Contractor shall be solely responsible for taking any and all action it deems necessary to protect its Contractor Confidential Information except as provided herein. Contractor acknowledges that the County is subject to public records legislation, including but not limited to Chapter 119, Florida Statutes, and the Florida Rules of Judicial Administration, and that any of the County's obligations under this Section may be superseded by its obligations under any requirements of said laws.
- C. Public Records** - Contractor acknowledges that information and data it manages as part of the services may be public records in accordance with Chapter 119, Florida Statutes and Pinellas County public records policies. Contractor agrees that prior to providing services it will implement policies and procedures to maintain, produce, secure, and retain public records in accordance with applicable laws, regulations, and County policies, including but not limited to the Section 119.0701, Florida Statutes. Notwithstanding any other provision of this Agreement relating to compensation, the Contractor agrees to charge the County, and/or any third parties requesting public records only such fees allowed by Section 119.07, Florida Statutes, and County policy for locating and producing public records during the term of this Agreement.

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 agreement, the contractor shall contact:

Pinellas County Board of County Commissioners

Purchasing and Risk Management Division

400 S. Ft. Harrison Ave, 6th Floor,

Clearwater, FL 33756

AGREEMENT**Public Records Liaison****Phone: 727-464-3237****Email: mcchartier@pinellas.gov****11. Audit**

Contractor shall retain all records relating to this Agreement for a period of at least 5 years after final payment is made. All records shall be kept in such a way as will permit their inspection pursuant to Chapter 119, Florida Statutes. In addition, County reserves the right to examine and/or audit such records.

12. Compliance with Laws

Contractor shall comply with all applicable federal, state, county and local laws, ordinances, rules and regulations in the performance of its obligations under this Agreement, including the procurement of permits and certificates where required, and including but not limited to laws related to Workers Compensation, Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act of 1973, Minority Business Enterprise (MBE), occupational safety and health and the environment, equal employment opportunity, privacy of medical records and information, as applicable. Failure to comply with any of the above provisions shall be considered a material breach of the Agreement.

13. Digital Accessibility

Contractor acknowledges and warrants that all digital content and services provided under this contract conforms and shall continue to conform during the Term of this Agreement to the W3C Web Content Accessibility Guidelines, version 2.0 (“WCAG 2.0”) at conformance Level A and AA. If all digital content and services does not fully conform to WCAG 2.0 A and AA, Contractor shall advise Pinellas County in writing of the nonconformance prior to execution of this Agreement and shall provide Pinellas County a plan to achieve conformance to WCAG 2.0 A and AA, including but not limited to, an intended timeline for conformance. Failure to achieve conformance, as determined in Pinellas County’s sole discretion, on its intended timeline shall be considered a material breach of this Agreement and grounds for termination by Pinellas County.

If during the Term of this Agreement, Contractor fails to maintain compliance with WCAG 2.0 A and AA or Pinellas County otherwise identifies an issue related to accessibility of the product (the “Accessibility Issue”) that renders the product inaccessible, then Pinellas County shall notify Contractor of non-compliance. Within 30 days of Contractor’s receipt of a non-compliance notice (“Notice”), Contractor and Pinellas County shall meet and mutually agree upon an appropriate timeline for resolution of the Accessibility Issue(s) (“Initial Meeting”).

Should Contractor:

- i. fail to acknowledge receipt of the notice within 30 days of receipt of the Notice;
- ii. unreasonably and solely withhold agreement regarding a timeline for resolution for more than 30 days following the Initial Meeting; or
- iii. fail to materially resolve the Accessibility Issue(s) within the agreed-upon timeline,

Failure to comply with the requirements of this section shall constitute a material breach of this Agreement and shall be grounds for termination of this Agreement by Pinellas County and subject Contractor to the Liability and Insurance – Indemnification Section of this Agreement, “Indemnification.”

14. Public Entities Crimes

Contractor is directed to the Florida Public Entities Crime Act, Section 287.133, Florida Statutes, as well as Florida Statute 287.135 regarding Scrutinized Companies, and represents to County that Contractor is qualified to transact business with public entities in Florida, and to enter into and fully perform this Agreement subject to the provisions

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stated therein. Failure to comply with any of the above provisions shall be considered a material breach of the Agreement.

15. Liability and Insurance

- A. **Insurance** - Contractor shall comply with the insurance requirements set out in the Insurance Exhibit, attached hereto and incorporated herein by reference.
- B. **Indemnification** - Contractor agrees to indemnify, pay the cost of defense, including attorney's fees, and hold harmless the County, its officers, employees and agents from all damages, suits, actions or claims, including reasonable attorney's fees incurred by the County, of any character brought on account of any injuries or damages received or sustained by any person, persons, or property, or in any way relating to or arising from the Agreement; or on account of any act or omission, neglect or misconduct of Contractor; or by, or on account of, any claim or amounts recovered under the Workers' Compensation Law; or of any other laws, regulations, ordinance, order or decree; or arising from or by reason of any actual or claimed trademark, patent or copyright infringement or litigation based thereon; or for any violation of requirements of the Americans with Disabilities Act of 1990, as may be amended, and all rules and regulations issued pursuant thereto (collectively the "ADA") except when such injury, damage, or violation was caused by the sole negligence of the County.
- C. **Liability** - Neither the County nor Contractor shall make any express or implied agreements, guaranties or representations, or incur any debt, in the name of or on behalf of the other Party. Neither the County nor Contractor shall be obligated by or have any liability under any agreements or representations made by the other that are not expressly authorized hereunder. The County shall have no liability or obligation for any damages to any person or property directly or indirectly arising out of the operation by Contractor of its business, whether caused by Contractor's negligence or willful action or failure to act.
- D. **Contractor's Taxes** - The County will have no liability for any sales, service, value added, use, excise, gross receipts, property, workers' compensation, unemployment compensation, withholding or other taxes, whether levied upon Contractor or Contractor's assets, or upon the County in connection with Services performed or business conducted by Contractor. Payment of all such taxes and liabilities shall be the responsibility of Contractor.

16. County's Funding

The Agreement is not a general obligation of the County. It is understood that neither this Agreement nor any representation by any County employee or officer creates any obligation to appropriate or make monies available for the purpose of the Agreement beyond the fiscal year in which this Agreement is executed. No liability shall be incurred by the County, or any department, beyond the monies budgeted and available for this purpose. If funds are not appropriated by the County for any or all of this Agreement, the County shall not be obligated to pay any sums provided pursuant to this Agreement beyond the portion for which funds are appropriated. The County agrees to promptly notify Contractor in writing of such failure of appropriation, and upon receipt of such notice, this Agreement, and all rights and obligations contained herein, shall terminate without liability or penalty to the County.

17. Orders

Within the term of this Agreement, County may place one or more orders for goods and/or services at the prices listed on the Price Schedule Exhibit attached hereto, and which is incorporated by reference hereto.

18. Name Changes

The Contractor is responsible for immediately notifying the County of any company name change, which would cause invoicing to change from the name used at the time of the original Agreement.

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19. Acceptance of Services

For all Services deliverables that require County acceptance as provided in the Statement of Work, the County, through the Program Coordinator, Barbara Hetrick, or designee, will have 10 calendar days to review the deliverable(s) after receipt or completion of same by Contractor, and either accept or reject the deliverable(s) by written notice to NDLC, LLC. dba Natural Designs Landscaping. If a deliverable is rejected, the written notice from the County will specify any required changes, deficiencies, and/or additions necessary. Contractor shall then have 7 calendar days to revise the deliverable(s) to resubmit and/or complete the deliverable(s) for review and approval by the County, who will then have 7 calendar days to review and approve, or reject the deliverable(s); provided however, that Contractor shall not be responsible for any delays in the overall project schedule that result from the County's failure to timely approve or reject deliverable(s) as provided herein. Upon final acceptance of the deliverable(s), the County will accept the deliverable(s) in writing.

20. Subcontracting/Assignment

- A. **Subcontracting** - Contractor is fully responsible for completion of the Services required by this Agreement and for completion of all subcontractor work, if authorized as provided herein. Contractor shall not subcontract any work under this Agreement to any subcontractor other than the subcontractors specified in the proposal and previously approved by the County, without the prior written consent of the County, which shall be determined by the County in its sole discretion.
- B. **Assignment** - This Agreement, and all rights or obligations hereunder, shall not be assigned, transferred, or delegated in whole or in part, including by acquisition of assets, merger, consolidation, dissolution, operation of law, change in effective control of the Contractor, or any other assignment, transfer, or delegation of rights or obligations, without the prior written consent of the County. The Contractor shall provide written notice to the County within fifteen (15) calendar days of any action or occurrence assigning the Agreement or any rights or obligations hereunder as described in this section. In the event the County does not consent to the assignment, as determined in its sole discretion, the purported assignment in violation of this section shall be null and void, and the County may elect to terminate this Agreement by providing written notice of its election to terminate pursuant to this provision upon fifteen (15) days notice to Contractor.

21. Survival

The provisions of this Agreement shall survive the expiration or termination of this Agreement.

22. Notices

All notices, authorizations, and requests in connection with this Agreement shall be deemed given on the day they are: (1) deposited in the U.S. mail, postage prepaid, certified or registered, return receipt requested; or (2) sent by air express courier (e.g., Federal Express, Airborne, etc.), charges prepaid, return receipt requested; or (3) sent via email and addressed as set forth below, which designated person(s) may be amended by either Party by giving written notice to the other Party:

For County:

Attn: Barbara Hetrick, bhetrick@pinellas.gov

Public Works

with a copy to:

Attn: Merry Celeste,

Purchasing and Risk Management Division Director

Pinellas County Purchasing Department

400 South Fort Harrison Avenue

Clearwater, FL 33756

For Contractor:

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Attn: Diane Blasé, dianeblase@ndllc.com

NDL, LLC. dba Natural Designs Landscaping

P.O Box 1678

Lutz, FL 33548

23. Conflict of Interest

- A. The Contractor represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of the Services required hereunder, and that no person having any such interest shall be employed by Contractor during the agreement term and any extensions.
- B. The Contractor shall promptly notify the County in writing of any business association, interest, or other circumstance which constitutes a conflict of interest as provided herein. If the Contractor is in doubt as to whether a prospective business association, interest, or other circumstance constitutes a conflict of interest, the Contractor may identify the prospective business association, interest or circumstance, the nature of work that the Contractor may undertake and request an opinion as to whether the business association, interest or circumstance constitutes a conflict of interest if entered into by the Contractor. The County agrees to notify the Contractor of its opinion within (10) calendar days of receipt of notification by the Contractor, which shall be binding on the Contractor.

24. Right to Ownership

All work created, originated and/or prepared by Contractor in performing Services pursuant to the Agreement, including reports and other documentation or improvements related thereto, to the extent that such work, products, documentation, materials or information are described in or required by the Services (collectively, the "Work Product") shall be County's property when completed and accepted, if acceptance is required in this Agreement, and the County has made payment of the sums due therefore. The ideas, concepts, know-how or techniques developed during the course of this Agreement by the Contractor or jointly by Contractor and the County may be used by the County without obligation of notice or accounting to the Contractor. Any data, information or other materials furnished by the County for use by Contractor under this Agreement shall remain the sole property of the County.

25. Amendment

This Agreement may be amended by mutual written agreement of the Parties hereto.

26. Severability

The terms and conditions of this Agreement shall be deemed to be severable. Consequently, if any clause, term, or condition hereof shall be held to be illegal or void, such determination shall not affect the validity or legality of the remaining terms and conditions, and notwithstanding any such determination, this Agreement shall continue in full force and effect unless the particular clause, term, or condition held to be illegal or void renders the balance of the Agreement impossible to perform.

27. Applicable Law and Venue

This Agreement and any and all purchases made hereunder shall be governed by and construed in accordance with the laws of the State of Florida (without regard to principles of conflicts of laws). The Parties agree that all actions or proceedings arising in connection with this Agreement shall be tried and litigated exclusively in the state or federal (if permitted by law and a Party elects to file an action in federal court) courts located in or for Pinellas County, Florida. This choice of venue is intended by the Parties to be mandatory and not permissive in nature, and to preclude the possibility of litigation between the Parties with respect to, or arising out of, this Agreement in any jurisdiction other than that specified in this section. Each Party waives any right it may have to assert the doctrine of forum non-conveniens or similar doctrine or to object to venue with respect to any proceeding brought in accordance with this section.

AGREEMENT**28. Waiver**

No waiver by either Party of any breach or violation of any covenant, term, condition, or provision of this Agreement or of the provisions of any ordinance or law, shall be construed to waive any other term, covenant, condition, provisions, ordinance or law, or of any subsequent breach or violation of the same.

29. Due Authority

Each Party to this Agreement represents and warrants that: (i) it has the full right and authority and has obtained all necessary approvals to enter into this Agreement; (ii) each person executing this Agreement on behalf of the Party is authorized to do so; (iii) this Agreement constitutes a valid and legally binding obligation of the Party, enforceable in accordance with its terms.

30. No Third-Party Beneficiary

The Parties hereto acknowledge and agree that there are no third-party beneficiaries to this Agreement. Persons or entities not a party to this Agreement may not claim any benefit from this Agreement or as third-party beneficiaries hereto.

31. Force Majeure

“Force Majeure Event” means any act or event that (i) prevents a Party (the “Nonperforming Party”) from performing its obligations or satisfying a condition to the other Party’s (the “Performing Party”) obligations under this Agreement, (ii) is beyond the reasonable control of and not the fault of the Nonperforming Party, and (iii) the Nonperforming Party has not, through commercially reasonable efforts, been able to avoid or overcome. Force Majeure Event(s) do not include economic hardship, changes in market conditions or insufficiency of funds. If a Force Majeure Event occurs, the Nonperforming Party is excused from the performance and thereby prevented from satisfying any conditions precedent to the Performing Party’s performance that cannot be satisfied, in each case to the extent limited or prevented by the Force Majeure Event. The Nonperforming Party must promptly notify the Performing Party upon the occurrence of a Force Majeure Event. When the Nonperforming Party is able to resume its performance or satisfy the conditions precedent to the Performing Party’s obligations, the Nonperforming Party will resume performance under this Agreement without undue delay. Each Party will use commercially reasonable efforts to mitigate the effect of a Force Majeure Event.

32. Order of Precedence

All Exhibits attached and listed below are incorporated in their entirety into, and form part of this Agreement and will have priority in the order listed

- A. Pinellas County Agreement, Including Exhibits B, C, D and E
- B. Exhibit A - Statement of Work.

In the event of an inconsistency in this Agreement and any of the attached Exhibits, the terms set forth in this Agreement will prevail.

33. Entirety

This Agreement constitutes the entire Agreement between the Parties and supersedes all prior negotiations, representations or agreements either oral or written.

(Signature Page Follows)

AGREEMENT

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement the day and year first written.

PINELLAS COUNTY, a political subdivision of the State of Florida **PINELLAS COUNTY** acting by and through the **Board of County Commissioners**

By: _____

Signature

Print Name

Title

Date

By: 

Signature

Print Name

Title

Date

Diane A. Blase

Agent for Owner

3/21/2023

APPROVED AS TO FORM

By: Keiah Townsend
Office of the County Attorney

SECTION E - SPECIFICATIONS

EXHIBIT A - STATEMENT OF WORK**A. OBJECTIVE**

Pinellas County Public Works (PW) department, Urban Forestry & Landscape Services division requires services by a Contractor with abilities/capabilities to provide grounds maintenance services of landscaped roadway medians, adjoining rights-of-way, and related storm water mitigation ponds and County-owned outparcels, along the entire distance of designated roadways on a cyclical basis. Currently there are seventeen (17) locations in three (3) regional groups, a total of 445.68 acres, requiring grounds maintenance services.

The link below is to County public web-based mapping tool, eGIS. The County has uploaded all Public Works grounds maintenance locations in the eGIS platform. See eGIS How to.

<https://egis.pinellas.gov/apps/webgispublic/>

B. BACKGROUND

PW department requires the work described in the contract specifications below. Work consists of general care and maintenance to the full width of the right-of-way, vegetation within public roadsides and medians, as well as the maintenance of pond sites owned or operated by the Pinellas County Public Works Department. The Contractor shall furnish all personnel, supervision, equipment, materials, labor, tools, transportation, licenses, and supplies necessary to complete the work in accordance with the specifications, procedures, and terms of the contract. The work has been segmented into three (3) zone areas; North, Central, and South

C. REQUIREMENTS

Contractor must adhere to the County's requirements for licenses, certifications and permits.). Contractor may not (a) be found guilty of; (b) plead guilty or no contest to; or (c) enter into a consent order to resolve any violation of Section 58-244 (Prohibited Discharges) of the Pinellas County Code within the past five (5) years, to be eligible for this award.

The Contractor shall provide contact information whereby its appointed representative may be reached 24 hours per day, seven (7) days per week, if and when problems develop. The contractor shall communicate with and properly direct all of its employees to ensure that all mowing work is within compliance of these specifications. The contractor shall be in regular communication with the county's representative while mowing work is in progress.

Contractor will ensure that each maintenance cycle is satisfactorily and thoroughly performed as outlined in these specifications. Deliverables include all related tasks (example: mowing includes all hand and mechanical mowing, edging, blowing/sweeping, litter/debris removal and grass clump dispersal). Contractor will also ensure that all work associated with each maintenance cycle is fully completed within the designated time schedule.

Contractor shall provide qualified and competent person on-site who is authorized to supervise the maintenance operations and represent and act for Contractor. The term "on-site supervisor" shall be person(s) designated to be at work site and act as point of contact for the County. The on-site supervisor must be able to read, write, and speak English.

The Contractor must have an office located in either Pinellas County or a radius convenient so that work crews can meet the schedule and cycle times defined in the specifications.

1. NON-PERFORMANCE

Contractor will ensure that each maintenance cycle is satisfactorily and thoroughly performed as outlined in these specifications. Deliverables include all related tasks (example: mowing includes all hand and mechanical mowing, edging, blowing/sweeping, litter/debris removal and grass clump dispersal).

Contractor will also ensure that all work associated with each maintenance cycle is fully completed within the designated time schedule.

2. SUB-CONTRACTORS

SECTION E - SPECIFICATIONS

The use of subcontractors is allowable. The Contractor may subcontract certain procedures or operations as required. There is no limitation on the quantity of subcontractors, however Pinellas County reserves the right to approve or reject the use of a subcontractor based on work performance.

Subcontractors must be approved by the designated County Representative **prior to the initiation of any work.**

Proof of proper licensing and insurance for subcontractor shall be provided upon request.

3. NOISE ABATEMENT

Contractor must adhere to all Federal, State, County and City ordinances to include noise abatement.

4. SUSTAINABILITY

a. Pinellas County's Comprehensive Plan includes the following items that are pertinent to this contract.

- **Policy 6.1.5:** "In recognition of the County's near built-out condition and the fragile balance between the urban interface and its regional parks system and environmental lands, Pinellas County will institutionalize sustainability ethics as a way to help the County's natural reservations remain intact for habitat value and the enjoyment and benefit of future generations".
- **Policy 7.1.9:** "Pinellas County shall continue to utilize environmentally beneficial landscape principles, incorporating low maintenance design, integrated pesticide management and will incorporate Florida Yard and Neighborhoods landscape materials and designs, at all new or re-landscaped County properties".
- **Policy 7.3.3:** "Recognize that protection and enhancement of the native tree canopy is integral to the County's sustainability ethic and contributes incrementally to improving the local and global climate".

Pinellas County strongly urges the Contractor to implement procedures and practices in carrying out this contract that protect the environment and conserve energy and natural resources, especially water.

The Contractor is encouraged to become a Green Business Partnership (GBP) which is a voluntary assessment that recognizes businesses, business organizations and local governments for their environmental stewardship and sustainable practices offered through the University of Florida/IFAS Pinellas County Extension, it encourages conservation of resources, waste reduction, energy conservation and cost savings.

b. Specific practices that the Contractor is encouraged to use include the following statements:

1. Vehicles and gasoline-powered equipment shall be maintained in such a manner as to reduce emissions and noise pollution.
2. Maintenance activities shall be conducted in such a manner as to not pollute or impact storm water systems which would then impact the watershed to which they belong.
3. Where possible the Contractor shall follow principles and practices that reduce waste and include recycling.
4. Landscape debris generated as a result of maintenance activities of this contract should be composted by the Contractor or through Pinellas County Solid Waste.
5. In addition, the Contractor shall avoid practices that result in the spread of exotic invasive plants.

SECTION E - SPECIFICATIONS

6. Plants listed as Category I invasive exotics from the Florida Exotic Pest Plant Council (FLEPPC) should be treated with appropriated herbicides and/or removed when they occur in areas being maintained under this contract.

5. LICENSES / CERTIFICATIONS / PERMITS

- a. Contractor will supply all necessary licenses, certifications and permits to do the required work with the prior to award.
- b. All licenses, for the company and employees, must be kept current and copies of new or renewed licenses/certifications must be provided to designated County representative at prior to award.
- c. Contractors' personnel shall be trained, licensed and/or certified to comply with all applicable laws, statutes, ordinances, rules including, but not limited to:
 1. **Best Management Practices (BMP)**: All landscape maintenance work under this Contract must be performed by employers and employees who have completed a County-approved Best Management Practices Training Program as required by Section 58-481 (Certification and Training) of the County Code. Further in accordance therewith, such employers and employees must promptly provide proof of such training to County upon request.
 2. **Pest Control Operator Certification**: Contractor or subcontractor must possess a Pest Control Operator (PCO) certification, Ornamental and Turf Pest Control category, issued by the Florida Department of Agriculture and Commercial Services (FDACS) and a FDACS issued Pest Control Business License.
 3. **Worksite Traffic Supervisor**: Contractor or subcontractor of the contractor must be certified in accordance with Florida Department of Transportation (FDOT) Intermediate Temporary Traffic Control. If traffic control is required, the Manual on Uniform Traffic Devices and the Roadway and Traffic Design Standards, Section 600, shall be used.
 4. **Certified Arborist**: Contractor shall ensure that all tree pruning is to be performed using staff supervised in the field by personnel trained and/or certified in Arboriculture by the International Society of Arboriculture (ISA).
 5. **Occupational Safety and Health Administration (OSHA)** safety standards must be adhered to.

6. EQUIPMENT AND MATERIALS

- a. Contractor and/or subcontractors shall provide all required materials and equipment needed to accomplish all work pertaining to this contract. If the County representative determines the materials and/or equipment being used by the Contractor on site is deficient, the Contractor shall be notified immediately. The Contractor shall remove the materials/equipment from service immediately and until the deficiency is corrected.
- b. Inspection of the Contractor's materials/equipment by the County representative shall not relieve the Contractor of responsibility for injury to persons or damage to property caused by the operation of the equipment.
- c. Equipment used by the Contractor must be maintained in proper working order and shall be maintained so as to produce products as specified.
- d. Furnish equipment of a type and quantity to perform the work satisfactorily within the time specified herein.
- e. If, in the opinion of the County Representative, the Contractor has insufficient equipment on the job to satisfactorily complete the work within the required time, the Contractor shall provide additional resources as directed by the County Representative. The County Representative will evaluate this based on the quality and/or progress of work performed.

7. PERSONNEL

- a. Provide all labor, transportation, equipment necessary to perform the specified services and meet the requirements specified herein. Cost overruns are to be absorbed by Contractor when adding personnel or equipment to meet requirements of the contract.

SECTION E - SPECIFICATIONS

- b. Provide on-site supervision at all times to ensure close supervision and inspection of work performed. The term "on-site supervisor" shall be person(s) designated to be at work site and act as point of contact for the County with the ability to communicate with the County representative.
- c. Personnel shall:
 - 1. Possess photo identification, either valid driver's license or identification card.
 - 2. Possess FDACS identification card when applying pesticides and fertilizers.
 - 3. Must possess Pinellas County BMP certification per Pinellas County Landscape Maintenance.
 - 4. Wear company uniforms.
 - 5. Interact courteously with the public and County staff.

8. COMMUNICATION

- a. Upon Notice to Proceed (NTP) of contract, communication shall be directed to the designated County representative or designee in writing by electronic email correspondence. Verbal discussion, comments, notices, and requests shall not be considered official communication unless followed in writing for confirmation.
- b. Upon issue of the NTP, the Contractor shall provide a dedicated point of contact authorized to make decisions on the vendor's behalf to the designated County representative. The awarded contractor shall provide the contact information whereby its appointed representative may be reached 24 hours per day, seven (7) days per week, if and when problems develop. The contractor shall communicate with and properly direct all its employees to ensure that all mowing work is in compliance with these specifications. The Contractor shall be in regular communication with the County Representative while mowing work is in progress. Contact information for the County's representative will be supplied.

9. QUALITY CONTROL AND SUPERVISION

The Contractor must provide adequate training and supervision to employees providing any services hereunder. The Contractor also must implement satisfactory quality control procedures to ensure that all services required hereunder are provided in accordance with the specifications hereunder. After the Contractor has confirmed that a particular maintenance cycle or special service has been performed in accordance with the specifications hereunder, the Contractor must promptly notify the County. The County reserves the right to inspect the work site to confirm that the maintenance cycle or special service has been performed satisfactorily. Performance will be considered unsatisfactory if the County, in its sole discretion, determines that the maintenance cycle or special service has not been performed in strict accordance with the specifications hereunder; in such event, the County shall promptly notify the successful contractor of the defect(s). Regardless of whether the County exercises its right to inspect the work site, the successful contractor may not submit an invoice for a given maintenance cycle or special service until it receives permission from the County to do so.

10. ADDING AND DELETING WORK

- a. Pinellas County reserves the right to add or delete work to this contract at any time. This includes adding or deleting locations, adjusting or adding and deleting cycles. The designated County Representative will provide the Contractor a written or electronic notice at least one (1) full maintenance cycle as advance notice of any such adjustment. The written or electronic notice will include the acreage, locations, and type of work change and effective dates of each change. The Contractor shall respond back, via e-mail or fax to confirm receipt and acceptance of any changes.
- b. Compensation to the Contractor will be as stated on the Exhibit C – Payment Schedule. Additional work added to this contract shall be done in full accordance with these specifications.

11. SITE PROTECTION

- a. The Contractor shall be solely responsible for all unauthorized cutting, mowing, removal or disposal or damage to landscape plants, including damage to same, due to careless operation of equipment, stock piling of materials, tracking of landscaped areas by equipment or other incidental damage caused by the Contractor's work crews or equipment.

SECTION E - SPECIFICATIONS

- b. Ruts caused by contractor equipment must be repaired on the expense of the contractor.
- c. The Contractor shall be required to repair or restore said damage promptly at the Contractor's expense. Location of existing structures or work of any kind, or the interruption of a utility service resulting from failure to comply with the requirements of the Contract Documents, shall be repaired or restored promptly by, and at the expense of the Contractor.
- d. All service and supply operations shall be conducted in such a manner as to maximize public safety and to minimize damage to public and private property.
- e. Contractor's workmen shall wear clothing that comply with Florida Department of Transportation (FDOT) standards when performing any contractual work operations.
- f. The designated County Representative may require the usage of advance warning signs. If traffic control is required, then the FDOT Manual on Uniform Traffic Control Devices and the Roadway and Traffic Design Standards, Section 600 shall be utilized.
- g. Mowing/trimming clippings must be removed from impervious surfaces **before leaving job site (break, lunch, end of day)**. Inclement weather must be considered to ensure timely completion of cleanup activities. Tasks not compliant with specifications shall be completed by the Contractor and approved by the County Representative before payment shall be approved.
- h. Equipment and supply storage: The Contractor shall not permanently stage or store equipment on County property including around ponds without the express written permission of the manager of Urban Forestry and Landscape Services for Pinellas County. While performing a maintenance cycle it is permissible for equipment to be staged overnight on County property or on right-of-way.
- i. When necessary for mowing machines or other equipment to cross the travel way, a location shall be selected that provides an unobstructed sight distance of 500 feet. Operator shall stop before crossing the travel way and allow closely approaching vehicles to pass before crossing. Operations should be planned to minimize crossings.
- j. All service and supply operations shall be conducted in a manner and procedure as required by FDOT standards as to maximize public safety and to minimize damage to public and private property. It shall be a special requirement of this work that workmen wear clothing in compliance with FDOT standards or current standard when performing any contractual work operations. Any riding equipment used in the contractual work operations shall be equipped with flashing lights.
- k. Location of existing structures or work of any kind, or the interruption of a utility service resulting from failure to comply with the requirements of the Contract Documents shall be repaired or restored promptly by and at the expense of the Contractor.

12. SCHEDULE / REPORTS

- a. The Contractor shall supply the following documents. These reports are to provide documentation of projected service plans for distribution to the public as well as services rendered.
 - (1) **CYCLE PLANNING REPORT**: Due one week prior to cycle start date indicating projected service dates for each segment of the designated group, and location of work. This form is required when work will be done as scheduled and agreed upon by Contractor and Pinellas County representative. Invoicing received without these supporting schedules is subject to non-payment.
 - (2) **WEEKLY WORK REPORT**: Due each Monday for work that has been performed in the preceding week. Report shall indicate service dates, and locations. Reports submitted electronically will be deemed as verification that work was completed. The attached tracking sheet will need to be used for this verification. Invoicing received without these supporting reports is subject to non-payment.
 - (3) **MONTHLY MEETING**: The Contractor shall meet with the County on a set monthly schedule to discuss and remedy any field questions and/or associated problems.
- b. Any authorization for additional work shall be in writing. Failure to secure written authorization before doing additional work shall be deemed as unauthorized work and shall result in non-payment of related invoices.

SECTION E - SPECIFICATIONS**13. TEMPORARY TRAFFIC CONTROL**

- a. The work specified under this section consists of safely maintaining vehicular, bicycle and pedestrian traffic within the limits of the project and compliance with traffic safety requirements for all maintenance operations.
- b. The Contractor shall not be permitted to isolate residences or places of business and must provide safe entrance and exit during all normal business hours.
- c. The Contractor shall furnish, erect and maintain all necessary traffic control and safety devices, in accordance with the approved Temporary Traffic Control Plan and latest editions of the Florida Department of Transportation (FDOT) Standard Specifications for Road and Bridge Construction, State of Florida, Department of Transportation, Design Standards for Design, Construction, Maintenance and Utility Operations of the State Highway System, and the Florida Highway Administration's Manual on Uniform Traffic Control Devices, (MUTCD) Part VI, applicable edition, and shall take all necessary precautions for the protection of the workers and the safety of the public for the duration of the contract period.. Mowing operations and landscape maintenance operations shall comply with MUTCD Typical Application 6H-1. If the Contractor implements lane closure, they shall comply with FDOT Standard Index 623.
- d. Watering operations shall comply with Florida Department of Transportation Standard Index 627.
- e. Mowing operations and landscape maintenance operations shall comply with MUTCD Typical Application 6H-1.
- f. If Contractor implements lane closure, then comply with FDOT Standard Index 600.
- g. The Contractor shall submit proof of a Worksite Traffic Supervisor certified in accordance with FDOT Intermediate Temporary Traffic Control.
- h. Contractor should submit their Traffic Safety Plan prior to award. The Traffic Safety Plan is to be reviewed and approved by the County's Public Works Urban Forestry and Landscape Services 4550 126th Avenue N., Clearwater, FL 33762.
- i. Maintain a copy of the approved Temporary Traffic Control Plan during work.
- j. Costs associated with temporary traffic control are to be factored into the landscape maintenance pay items.

14. POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)

- a. Contractor will follow all rules and regulations for both dry and wet Storm Water Retention Ponds as outlined by National Pollutant Discharge Elimination System (NPDES) requirements and any local ordinances. This includes, but is not limited to, any records, logs and reports required and shall be delivered to the designated County Representative on the first working day of each calendar quarter. Cycle invoices shall include number of bags of trash collected by Contractor.
- b. Contractor must comply with NPDES guidelines in accordance to Pinellas County Code Article XIII, Chapter 58, Ordinance 10-06: The Landscape Maintenance and Fertilizer Use and Application Ordinance.

15. HAZARDOUS MATERIALS

Hazardous materials found by the Contractor, are not to be TOUCHED or HANDLED by the Contractor if hazardous materials are discovered, IMMEDIATELY report the finding to the designated County Representative.

16. WORK SCHEDULE AND RECOGNIZED HOLIDAYS

- a. Conduct work during the hours of 7:00 AM to 7:00PM Monday through Friday. Work outside of these hours shall be coordinated with the County representative prior to commencement. The County representative shall receive request no less than twenty-four (24) hours prior to the workday. No work will be performed on County designated holidays without prior approval.
- b. County designated holidays include New Year's Day, Martin Luther King, Jr. Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, the Friday after Thanksgiving Day, Christmas Day, or any other holiday as designated by Pinellas County government.

SECTION E - SPECIFICATIONS

17. LOCATIONS AND ACREAGE

- a. See **Exhibit B** for locations of County property and acreage for turf and landscape maintenance services. The link below is to County public web-based mapping tool, eGIS. The County has uploaded all Public Works grounds Maintenance sites in the eGIS platform.
- b. Right-of-Way clearances for the entire distance of the roadway sections identified in this contract are the responsibility of the Contractor. Contractor must inspect regularly for clearance issues and must respond within seventy-two (72) hours of written notification forwarded by the County Representative to complaint lodged by citizens or County staff.
- c. Individual property owners may occasionally or even regularly perform landscape maintenance functions in the right-of-way, however, this does not preclude the Contractor's responsibility to perform the contracted services on the entire contracted areas during a given cycle unless area, unless specifically excluded.

18. SERVICES NOT RENDERED

- a. The Contractor agrees that the Work will be executed promptly, regularly, diligently and uninterrupted at such rate of progress as will ensure full completion thereof within the time specified. It is expressly agreed that the time for completion is a reasonable time.
- b. Should the County find work has not been completed or can document a complaint of failure of the contractor to complete services as defined herein, the County will withhold the payment according to the costs delineated on the bid submittal spreadsheet per location.
- c. Should the County receive more than three complaints in a period of thirty (30) consecutive days a surcharge of 5% of the total zone will be applied to the next monthly invoice payment. County shall notify the contractor in writing of such pending surcharge.

D. SCOPE**1. MAINTENANCE**

a. Contractor shall furnish all personnel, supervision, overhead, equipment, materials, labor, tools, transportation, licenses, fuel, and supplies necessary to complete the work in accordance with these specifications and procedures. Work has been staged into three (3)

groups; North, Central, and South. Each group consists of two (2) Maintenance Classes of work.

2. MAINTENANCE CYCLES

a. Work consists of two (2) Maintenance Classes that require sixteen (16) cycles per year as further described below. Contractor shall complete all work for each cycle within thirty (30) days. An exception is June, July, August, and September which shall be completed in fourteen (14) calendar days, unless extenuating weather conditions create conditions adversely affect the Contractor's ability to meet their completion dates.

b. Cycle schedule

October to May Once (1X) per month = 8 Cycles

June, July, August and September Twice (2X) per month = 8 cycles

Total annual cycles 16 Cycles

Contractor must meet this schedule unless otherwise agreed upon in writing in advance of the cycle or modified by the County Representative.

Upon award, the County Representative will coordinate with Contractor to establish the specific cycle start dates.

c. Additional cycles may be requested by the County; cycle pricing will be as submitted for that group.

3. MAINTENANCE CLASSES

There two (2) Maintenance Classes of work.

SECTION E - SPECIFICATIONS

Class 1 – (Roadway Medians and Right-of-Ways)

Class 2 – (Ponds and Outparcels)

The following are the service requirements for each Class.

a. Maintenance Class 1 – (Roadway Medians and Right-of-Ways) Service requirements include:

- (1) Litter & Debris Collection: Remove all trash and debris prior to mowing (including at bridges).
 - (2) Right-of-Way Clearance: When applicable remove vegetation to maintain a clear corridor of ten (10) feet vertically and two (2) feet back of sidewalk. Remove sight obstructions as directed by County Representative. A certified arborist is required for tree trimming operations over (10') feet.
- Median Clearance: Remove vegetation to maintain a clear corridor of ten (10) feet vertically and two (2) feet back of roadway. A certified arborist is required for tree trimming operations over ten (10) feet.
- (3) Mow all turf areas with a mower that results in a clean-cut appearance.
 - (4) Maintain median beds and perform weed control, bed edging and shrub/tree pruning.
 - (5) Use mechanical or chemical control of weeds in separators, curbs, sidewalks, poles, walkways, rails, etc. Weeds exceeding six (6) inches height shall be cut and sprayed with herbicide (with indicator).
 - (6) Remove all sucker growth from trees in landscape.
 - (7) Remove all unwanted vegetation including but not limited to vines in landscape, trees, and at fences.
 - (8) Mechanical edge curbs and asphalt road edges and both sides of sidewalks.
 - (9) Mechanical trim ditch bottoms and around pipe inlets and drainage control structures.
 - (10) Blow leaves, grass clippings and other plant debris from drainage inlets and impervious surfaces back onto turf or landscaped areas. Collect and dispose of woody plant material.

b. Maintenance Class 2 – (Ponds and Outparcels)

- (1) Litter & Debris Collection – remove all trash and debris prior to mowing.
- (2) Mow all turf areas with a mower that leaves the appearance of a finish cut.
- (3) Mechanical and/or chemical control of weeds along fences and drainage structures.
- (4) Mechanical and/or chemical control of vines along fences and on trees.
- (5) Blow off impervious surfaces and drainage structures.

4. LANDSCAPE MAINTENANCE REQUIREMENTS – CLASS 1 and CLASS 2

The work specified under this Section consists of a variety of landscape maintenance tasks to be completed with each cycle. All work must be inspected and verified as fully completed by County before payment will be approved and processed for payment. The work specified under this Section shall be paid at the contract unit price per acre for Maintenance Classes 1 and 2.

All landscape maintenance tasks shall be done in accordance with all Federal, State and local laws and ordinances.

It is the Contractor's responsibility to ensure that plant debris, litter, and chemicals are not allowed to be washed, blown, or left on or in storm water conveyances (including but not limited to surface waters, roads, gutter, ditches, swales, drop inlets, curb inlets, mitered ends) in order to prevent contributing to the pollution of the local watershed.

a. Litter & Debris Removal

SECTION E - SPECIFICATIONS

Included in Maintenance is the pickup, removal, and disposal of litter and otherwise undesirable or objectionable appearing debris within the project limits excluding travel lanes as indicated by lane lines. Cycle invoices shall include number of bags of trash collected by Contractor at each location.

- (1) Prior to the initiation of mowing operations, all litter, debris or obstructions must be removed.
- (2) Remove all branches smaller than ten feet (10') long and four inches (4') in diameter.
- (3) Remove any items such as: palm fronds, seed pods/boots, bags of trash, newspapers, magazines, large boxes, etc., that would be torn, ripped, scattered or otherwise subdivided by the mower that shall result in an objectionable appearance at no additional cost to the County.
- (4) The litter removal operation shall be performed concurrently with each cycle.
- (5) All litter and debris shall be placed in trash bags and shall be removed from the project limits at the end of each working day and disposed of at locations provided by the Contractor. Items too large to be placed in trash bags shall be removed from the project limits at the time the Contractor leaves the project for the day.
- (6) Disposal of litter and debris shall be made in accordance with applicable local and state laws and any cost incurred for disposal shall be the responsibility of the Contractor.
- (7) Storage or stockpiling of litter or debris within the project limits shall not be permitted.
- (8) The Contractor shall report to the County on the weekly reports and on each billing the total number of bags of litter removed from the areas being maintained as part of this contract.

b. Turf and Swale Mowing

- (1) Mowing of all green areas shall be accomplished with each cycle unless approved by designated County Representative.
- (2) Mow grassed areas with conventional commercial high production style mowing equipment. Mowing and trimming the difficult areas and sloped areas may require the use of specialized equipment.
- (3) To help prevent projectiles from being thrown into the street, mowers shall have guards on their mowing decks.
- (3) Prior to the initiation of mowing operations all litter, debris or obstructions must be removed.
- (4) Equipment shall be set, maintained, operated in a manner and have sharp blades that will give a neat and finished appearance. No scalping or gouging is permitted.
- (5) Vegetation to be mowed or trimmed shall consist of all grass, part grass, part succulent weed growth or all succulent weed growth.
- (6) Contractor will leave clippings on the turf areas as long as no readily visible clumps remain on the grass surface after mowing. Otherwise, Contractor will distribute large clumps of clippings by mechanical blowing or by collecting and removing them.
- (7) All mowing shall be performed in a manner that does not promote erosion or destabilization. No clippings are to remain on drainage structures (catch basin grates, mitered ends, weirs, etc.).
- (8) The Contractor shall repair any damage to turf areas due to scalping by re-sodding with high quality sod and watering through establishment of new sod at the Contractor's expense.
- (9) The Contractor shall replace any landscape material that is damaged by the Contractor or any agents of the Contractor, at the Contractor's expense.
- (10) All slopes greater or steeper than 4:1 shall be cut to a five-inch (5") height, with an acceptable variance of one-half inch, unless otherwise agreed upon by the designated County representative in writing. All mowing shall be performed in a manner to avoid scalping, erosion or soil destabilization.

SECTION E - SPECIFICATIONS**c. Edging and Line Trimming**

- (1) Contractor will edge or line trim both sides of the sidewalks, fences, driveways, parking lots, and other surfaced areas bordered by grass concurrently with mowing during the growing season.
- (2) The trimming operation along the edges of all curbs; drainage structures, signposts, light poles and other appurtenances shall occur concurrently with landscape maintenance operations.
- (3) Sloped areas may need maintenance with string trimmers and shall be trimmed no lower than two (2") inches to prevent erosion and not higher than four (4") inches to provide a finished appearance.
- (4) If string trimmers are used in proximity to trees or shrubs the Contractor shall take extreme care to ensure that no injury such as girdling or de-barking occurs. If girdling does occur greater than one third (1/3) of the diameter of the stem, the Contractor shall replace the tree or shrub at no cost to the County.

d. Blowing/Plant Debris Removal

- (1) During each mowing cycle, the Contractor will be required to remove and dispose of all vegetation including, but not limited to, vines, weeds, fallen trees, tree limbs, sucker growth, plants that have grown on top of or through other plants and seedlings.
- (2) Contractor will clean all grass clippings and other plant debris generated concurrently with mowing operations of the contract from sidewalks, curbs, roadways, and all impervious surfaces, immediately after mowing, edging and/or pruning.
- (3) Contractor will not sweep, blow or otherwise dispose of clippings in sewer or storm water drains. Grass debris shall be blown onto turf areas or collected for disposal.
- (4) Other debris is to be swept or blown off including hand removal of sand, rocks or any unsightly debris and hauled away. At no time will debris be blown or swept into streets or parking lots and left.
- (5) Clippings must be removed from impervious surfaces concurrently with mowing operations. Inclement weather must be considered to ensure timely completion of cleanup activities.
- (6) Adjacent streets and walkways are to be swept or blown off concurrently with landscape maintenance operation.

e. Median and Right-of-Way Clearing

- (1) Each maintenance cycle includes pruning trees and shrubs along all sidewalks to maintain a ten (10') feet vertical clearance and two (2') feet horizontal from the back edge of sidewalks.
- (2) A Certified Arborist must be on site only during tree trimming activities above (10') feet.
- (3) Each maintenance cycle includes pruning trees and shrubs along all medians to maintain a ten (10) foot vertical and two (2) foot back clear-zone on roadway edges as well as maintaining clear sightlines for signs and traffic control devices.
- (4) When issues related to traffic safety and sightlines are identified, it shall be the Contractor's responsibility to respond within 48 hours after receiving written notification to mitigate the issue.

f. Weeding and Chemical Spraying

- (1) Grass and weeds (living and dead) growing in and around shrubs, trees, sidewalks, curbing, and buildings shall be removed with each maintenance cycle and the general landscape shall be kept free of weeds and maintained to a clean finished appearance. This can be accomplished by manual, mechanical or chemical methods.
- (2) Expansion joints and other cracks may be sprayed with approved herbicide (Roundup® or equal) where grass or weeds are growing. Any chemical other than Glyphosate must be approved by the designated County representative prior to use.
- (3) Contractor must use a blue tracker dye to document application locations for inspection purposes.
- (4) In no case, will manual or mechanical methods be allowed to cause damage to plants or tree/shrub bark.

SECTION E - SPECIFICATIONS

- (5) Chemical edging can be used around fence lines, walkways and curbing.
- (6) A pre-emergent granular herbicide may be applied at the Contractor's option and expense to reduce weed growth.
- (7) The plant beds and mulch areas shall have their bed lines edged with each maintenance cycle to prevent weed and grass intrusion.
- (8) The cost of weed and grass removal and re-mulching shall be included in the unit price of the Maintenance.
- (9) The Contractor shall comply with all local, state and federal regulations concerning the application of pesticides.

g. Ponds, Slopes and Storm Water Related Areas

Pinellas County is responsible for the maintenance of various types of ponds for stormwater management on County properties and roadways. It is the responsibility of the Contractor to know the difference between the types of ponds and the maintenance requirements of each type of ponds. Damage to and the required repair to structures, plantings and turf caused by the Contractor's maintenance activities are the sole responsibility of the Contractor.

h. Landscape Materials and Environmental Pond Plantings

- (1) The Contractor shall instruct employees that landscape plant materials and environmental pond plantings shall not be mowed, and they should be aware of plant locations in order to protect the County's investment. These ponds are clearly identified with signage on access gates and/or structures with a letter designation and number as indicated below.
- (2) Contractor shall replace any landscape materials and environmental pond plantings that are damaged, if caused by the Contractor or any agents of the Contractor, at no cost to the County.
- (3) Damage to the banks, bottoms or tops of drainage ponds caused by equipment including rutting shall be repaired immediately at the expense of the Contractor within 48 hours of incident and/or upon notification by County. If not completed within a reasonable time frame, the County reserves the right to make the repair using any resources available and deduct the cost of those repairs from the Contractor's future payment.

i. Pond & Parcel Designations

- AP = Attenuation Pond: Storm water basin that detains water volume but does not have permitting treatment requirements. Seasonal water table may be above/below pond bottom. Grass areas to be mowed includes top of berms and side slopes to water's edge.
- DE = Dry Pond with Effluent Filter: Filter system usually located at the lower side slope and may be in one or more beds in the pond bottom. Ponds should recover to the filter control elevation with 72 hours following the last storm water runoff into the pond. Typically has a grassed bottom requiring mowing. Hand mowing maybe required to avoid damaging filtration beds. Extensive quantity of grass clipping can block filter bed function if mowing interval is too long.
- DP = Dry Pond (Retention): Percolation, typically having a grassed bottom requiring mowing. Steep side slopes or loose sandy solid may limit or prohibit use of large machine mowers on slopes or bottom.
- DS = Dry Storage: A filter system typically located in lower side slope and may be in one or more beds in the bottom. Ponds should recover to the filter control elevation within 72 hours following the last of storm water runoff arriving at the pond. Typically has a grass bottom requiring mowing. Hand mowing may be required to avoid damaging filtration beds.
- M = Mitigation Pond Site: A manmade or natural habitat that is compensatory in nature to replace or offset primary or secondary impacts to regulated environmental lands. Grass areas to be mowed may include upland and transitional areas and access berms.
- MWL = Wet detention Pond having mitigation requirements: Permanent pool of water with a vegetated littoral zone utilizing a control structure to detain water for quality and quantity. Mowed grass areas include berm and side slopes to water's edge, which may have desirable vegetation planted above the stand pool of water, which requires careful mowing. Specific vegetation requirements exist within the littoral zone/slope plantings, THESE

SECTION E - SPECIFICATIONS

AREAS ARE NEVER TO BE MOWED. Grass areas to be mowed include berm and side slopes to the water's edge or limits of plantings.

- OP = Out Parcel: Parcel of land typically contiguous with the right-of-way. Mowing requirements same as the remainder of road corridor.
- OTH = Ponds or parcels not meeting above designations. Mowing requirements vary.
- TS = Treatment Swale: Grassed swale. Mowing requirements same as dry pond.
- SS = Special System: Designation previously used to for attenuation ponds, or wetlands used as part of a permitted storm water system or features that do not conform to one of the above definitions. Depending on specifics there may or may not be mowing requirements.
- UE = Underground exfiltration system: A storm water facility that employs a filter bed or box for treatment purposes. Historically used to keep improvements within road right-of-way avoiding land acquisition for surface systems. Systems can be constructed under pavement or behind curb within right-of-way. Mowing requirements same as the remainder of road corridor.
- US = Underground pipe storage: Balance of the underground exfiltration system holding the required stormwater volume. Mowing requirements same as the remainder of road corridor.
- WE=We Pond with Effluent Filtration: Water quality treatment through filtration. No littoral vegetation(biological) requirements. Filter system is inside slope at or above Seasonal High Water (SHW) creating a permanent pool of water. Grass areas to be mowed include berm and side slopes to the water's edge or filter bed.
- WL = Wet Detention Pond: Permanent pool of water with a vegetated littoral zone utilizing a control structure to detain water for quality and quantity. Grass areas to be mowed include berms and side slopes to the water's edge.

(1) Where appropriate storm water retention areas will be maintained the same as other landscaped areas. This includes banks, slopes, and bottoms (when dry). Hand trimming may be necessary around outfall structures and drainage piping.

(2) Wet ditch areas that cannot be easily mowed by conventional means shall be mowed by hand with the use of filament string trimmers to protect the integrity of the grade and prevent turf damage. Slope mowers or other equipment specifically designed for such conditions may also be used to maintain these areas.

(3) Contours: Where landscaping has been established or natural landscaping has been preserved, mowing shall conform to the established mowing contours.

j. Tree/Shrub/Palm Pruning

(1) Upon request from a County Representative, specific locations will be provided for pruning/trimming.

(2) Pruning is to be performed using staff supervised in the field by personnel trained and/or certified in horticulture or landscape maintenance.

(3) A Certified Arborist is NOT required to be on site for tree trimming activities under ten (10') feet. Pruning shall be performed so that plants maintain a healthy and vigorous appearance.

(4) A Certified Arborist is required to be on site for trimming activities over ten (10') feet.

(5) Pruning shall be restricted to:

- Removal of dead, dying, or diseased limbs; removal of objectionable and weak limbs; maintenance of natural shape of trees and shrubs.

Removal of plant material that impedes sightlines in medians or ROW.

- Removal of boots and spent seedpods from palms within the project limits.

(6) All shrubs shall be trimmed/pruned according to good horticultural practices with individual plants and hedges being pruned so that the base of the plant is slightly wider than the top.

SECTION E - SPECIFICATIONS

(7) Crape Myrtles SHALL NOT be hard-pruned or topped or pollarded and shall not have twigs larger than one quarter (¼) inch in diameter removed except for where they interfere with mowing operations or create sight-line hazards.

(8) When maintaining hedges and shrub plantings, the Contractor must remove any volunteer trees/shrubs that begin to grow in them. This includes seedlings of oaks, cabbage palms and exotic invasive plants such as Brazilian Pepper. These plantings should be kept to the original plant species that was installed as much as possible and any deviation from this must be approved by the designated County Representative.

(9) When pruning Palm trees with a clear trunk greater than ten (10') feet per Florida Grades and Standards, palms will be estimated and invoiced using miscellaneous services pricing.

(10) Pruning of fronds shall not exceed horizontal 9:00 and 3:00 o'clock positions. Boot pruning and seed pod removal is included.

(11) Palm pruning shall be invoiced separately following completion.

(12) The Contractor will trim all tree limbs that cross any sidewalk or parking lot that do not conform to State or Federal ADA requirements. The lower branches of all trees shall be pruned, as needed, for ease of mowing and for clearance of ten (10) feet above all sidewalks, parking lots, driveways and roadways.

(13) All trimmings are to be removed from County property on the same day of service.

(14) Pruning shall be done following the principals and practices as outlined in the Florida Department of Environmental Protection publication "Florida Friendly Best Management Practices for Protection of Water Resources by the Green Industry" and as agreed upon with the designated County representative and as prescribed in relevant publications from University of Florida Institute of Food and Agriculture Sciences Extension (UF-IFAS) and International Society of Arboriculture (ISA).

k. Pest Control

(1) At the Contractor's discretion and expense, pre-emergent herbicides may be applied to beds to reduce the number of weeds.

(2) When using pre or post-emergent herbicides, the proper chemical must be selected to prevent damage to plants, especially ornamental grasses and sensitive groundcover plants.

(3) Tracer dye shall be used for purposes of verification of the herbicide application.

(4) Manual weed removal may be used in beds with ornamental grasses or other plants sensitive to herbicides.

(5) The Contractor shall comply with all local, state and federal regulations concerning the application of pesticides.

(6) All of the Contractor's employees applying chemicals shall be licensed or certified in accordance with all federal, state and local requirements. Evidence of appropriate license shall be provided to the County Representative at any time upon written or electronic notification.

(7) A summary of any pesticide applications shall be supplied to the County Representative within 3 business days of such applications. All products to be used as part of the contract must be approved for use in advance by the designated County representative.

(8) The Contractor should report damage to existing facilities encountered during the contract period to insurer mediation of facilities when the Contractor's work is done.

(9) All pesticides and herbicides shall be applied in a manner consistent with the manufacture's label and all Federal, State, and Local laws and guidelines, paying particular care to avoid any chemical drift according to label requirements

(10) The Contractor shall be responsible for any damage to County property or adjoining public or private property as a result of chemical application, drift and/or chemical spill.

(11) Public notification placard(s) shall be placed at all sites following pesticide or herbicide applications where required.

SECTION E - SPECIFICATIONS

(12) The Contractor shall maintain a comprehensive file of all labels and Safety Data Sheets (SDS) for any chemical product used in this contract. The Contractor shall also provide a duplicate hardcopy of this same information to the County representative prior to usage.

5. MISCELLANEOUS LANDSCAPE SERVICES AND TASKS

Miscellaneous services are not guaranteed as part of the contract and must be properly authorized by the County before performed. As identified within Exhibit C – Payment Schedule.

A. General Landscape Tasks - Includes one-time removal of plant material, extensive exotic invasive removal, handling of plant materials after being impacted by vehicles, removal of sight-line obstructions. Excludes anything covered in general specifications.

B. Watering

(1) Watering of landscape plants may be requested on an as-needed basis on any roadway beautification project Countywide. Use of any portion of this pay item shall require written pre-approval by the County Representative or designee.

(2) The Contractor must have the ability to respond to requests within 48 hours and be able to deliver a minimum of 6,000 gallons per day. This becomes effective where a written request is made by the County Representative or designee to perform watering services.

(3) Watering shall be applied so that the force from a water truck will not damage plants or destroy the mulch bed around each plant, and in an efficient manner so that excessive water is not wasted by being applied to hard surfaces.

(4) The Contractor shall, at no cost to the County, repair damage to plants from the force of the watering operations and replace plants drowned from excessive watering or dried from under-watering to the point where the plant is considered a cull.

(5) It is a requirement that the Contractor own or have documented access to an operational water truck with a minimum 2,000-gallon capacity that includes all FDOT required safety features.

(6) Use of an attenuator and shadow vehicle will also be required by the Pinellas County Director of Transportation.

(7) Recycled water is available at no charge from:

Pinellas County South Cross Water Reclamation Facility

7401 54th Avenue North

St. Petersburg, FL 33709

Contact Telephone: (727) 582-7000

This facility is open seven days a week from 7:00 AM to 4:00 PM.

C. Service requests to be performed within seventy (72) or less hours' notice:

The contract shall include pricing under miscellaneous services to do limited-service cycles upon request from the County. These limited-service requests shall be performed with typically seventy-two (72) hours or less notice:

(1) Litter/Debris Pickup –remove accumulated litter and other debris from the right-of-way.

(2) Landscape Median Maintenance – may include weeding, mulching, chemical spraying, trimming, pruning of plant materials in landscaped medians only.

(3) Right-of-Way Clearance – thorough right-of-way pruning in all or parts of the corridors to remove hazards or obstructions over sidewalks or roadways.

(4) Mowing Only – to perform a cycle to the mow contracted turf areas only.

(5) Citizen Complaint Response.

SECTION E - SPECIFICATIONS**D. TREE, SHRUB, PERENNIAL, GROUNDCOVER OR TURF GRASS REMOVAL, PLANTING, OR**

REPLACEMENT: Upon request by the County the Contractor may be requested to replace, remove, or install additional plant materials in the contracted locations.

- (1) The County Representative shall inspect and approve all plant material at the planting site or other designated location prior to installation.
- (2) Request for inspection and approval shall be in writing. Plant materials not inspected prior to installation may require removal and replacement.
- (3) All plant materials shall be Florida No. 1 Grade or better as described in Grades and Standards for Nursery Plants, state of Florida, latest edition, unless otherwise approved by the County Representative or designee.
- (4) Installation shall be done in accordance to guidelines as set forth in "Florida Friendly Best Management Practices for Protection of Water Resources by the Green Industries" Florida Department of Environmental Protection.
- (5) Turf grass sod shall be certified tropical soda apple free.
- (6) The Contractor shall warranty, care for and maintain all newly planted trees, shrubs, and plants to achieve a healthy, vigorous condition for 12 months after installation.
 - (a) This is defined as live foliage out to the tips of all branches and stems and a plant that is bigger ten months after planting, than at planting.
 - (b) For palms, this is defined as having healthy, vigorous growth with new fronds that are green in color developing with no necrosis or chlorosis.
 - (c) The Contractor shall NOT be responsible for unforeseen incidences, such as lightning or traffic damage. In the tenth month after acceptance a County Representative and a Contractor representative shall walk the site to assess installed plant material and determine replacement needs.
 - (d) The Contractor shall replace any trees, shrubs, or plants that have declined below their pre-planting size or have not grown as determined by the assessment. Any replacement materials shall meet the original criteria and be guaranteed for 12 months from their installation date.
 - (e) Exceptions may be made for unavailable materials verified with the County Representative.
 - (f) The County reserves the right to approve all replacements. Replacements shall also be watered at a sufficient rate and frequency to ensure proper establishment. The Contractor, at no cost to the County, shall do establishment watering for replacement plants.
 - (g) All plant replacements shall be marked with flags by the Contractor for recognition for watering and guarantee purposes.

E. Insect and Disease, Chemical Control

- (1) All pest control services are in addition to the basic contract charges. The vendors price will be per square foot inclusive of materials and labor. Cost will be per square foot, but mutually agreed to before work should begin.
- (2) An insect and disease control program shall be provided on an as-needed basis to insure healthy growth.
- (3) The Contractor will advise the client or representative of insect or disease problems that are observed.
- (4) Upon confirmation of a specific problem requiring treatment, the Contractor may be asked to apply pesticides as needed. Whenever possible use the least toxic, effective pesticide.
- (5) All applications of pesticides and fertilizations will be performed when temperatures are below 90°F and wind drift is negligible.
- (6) No pesticide will be applied to turf areas without the express approval of the client.
- (7) This includes weed and feed formulations.
- (8) The Contractor will keep records on pests identified and treatment(s) rendered for control.

SECTION E - SPECIFICATIONS**F. Mulching**

- (1) Upon request from County Representative, landscaped areas shall have mulch refurbished once a year November - March.
- (2) Mulch should be no less than two (2") inches and not to exceed three (3") in depth. Mulch should not be in contact with tree or shrub trunks or bury branches.
- (3) The Contractor shall use free mulch generated by Pinellas County Solid Waste Department. Transport and transport charges associated with usage of this mulch shall be at the Contractor's expense.
- (4) The Contractor may at his discretion add additional mulch as a deterrent for weed growth and the cost of this additional mulching shall be included in the unit price of the maintenance.
- (5) To prevent weed growth the mulch may be treated with a pre-emergent granular herbicide applied at the Contractor's option and expense.
- (6) The cost of re-mulching shall be invoiced separately under the unspecified services activities. Use of any portion of this pay item shall require written pre-approval by the Urban Forestry and Landscape Services Manager or designee.

For more information on obtaining County recycled mulch, please contact:

Pinellas County Solid Waste Department

Administration Reception

3095 114th Avenue N

St. Petersburg, FL 33716

Phone Number: 727-464-7500

G. Tree trimming activities over ten (10') feet height

These requests will be per quoted event and are not guaranteed as part of the contract and must be properly authorized by the County before performing. County will request Contractor to provide a quote for the requested services and must receive written approval from County to perform services. A Certified Arborist must be on site only during tree trimming activities above (10') feet.

H. Tree/Shrub/palm pruning

These requests will be per quoted event and are not guaranteed as part of the contract and must be properly authorized by the County before performing. County will request Contractor to provide a quote for the requested services and must receive written approval from County to perform services.

6. UNSPECIFIED SERVICES AND TASKS

The Contractor may be required to perform services within their capability that are not specifically detailed herein. Items not specifically listed in the Exhibit C – Payment Schedule will be negotiated on an individual basis. The unspecified is a reserve set aside by the County and is not an entitlement of the Contractor. Prior approval from the County must be received before services are performed. Unspecified will not exceed \$50,000.00 over the full 24 months of the contract term. Unspecified items will not be used to determine award and are not guaranteed to be used. The quantity of monies will be negotiated and must be approved and accepted by the County before performance.

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EXHIBIT B - INSURANCE REQUIREMENTS**1. LIMITATIONS ON LIABILITY**

By submitting a Bid, the Vendor acknowledges and agrees that the services will be provided without any limitation on the Vendor's liability. The County objects to and shall not be bound by any term or provision that purports to limit the Vendor's liability to any specified amount in the performance of the services. The Vendor shall state any exceptions to this provision in its response, including specifying the proposed limits of liability in the stated exception to be included in the Services Agreement. The Vendor is deemed to have accepted and agreed to provide the services without any limitation on the Vendor's liability that the Vendor does not take exception to in its response. Notwithstanding any exceptions by the Vendor, the County reserves the right to declare its prohibition on any limitation on the Vendor's liability as non-negotiable, to disqualify any Bid I that includes exceptions to this prohibition on any limitation on the Vendor's liability, and to proceed with another responsive, responsible proposal, as determined by the County in its sole discretion.

2. INDEMNIFICATION

Vendor agrees to indemnify, pay the cost of defense, including attorney's fees, and hold harmless the County, its officers, employees and agents from all damages, suits, actions or claims, including reasonable attorney's fees incurred by the County, of any character brought on account of any injuries or damages received or sustained by any person, persons, or property, or in any way relating to or arising from the Agreement; or on account of any act or omission, neglect or misconduct of Contractor; or by, or on account of, any claim or amounts recovered under the Workers' Compensation Law; or of any other laws, regulations, ordinance, order or decree; or arising from or by reason of any actual or claimed trademark, patent or copyright infringement or litigation based thereon; or for any violation of requirements of the Americans with Disabilities Act of 1990, as may be amended, and all rules and regulations issued pursuant thereto (collectively the "ADA") except when such injury, damage, or violation was caused by the sole negligence of the County

3. INSURANCE

The Vendor must provide a certificate of insurance and endorsement in accordance with the insurance requirements listed below, prior to recommendation for award.

The Vendor shall obtain and maintain and require any subcontractor to obtain and maintain, at all times during its performance of the Agreement, insurance of the types and in the amounts set forth. For projects with a Completed Operations exposure, Vendor shall maintain coverage and provide evidence of insurance for two (2) years beyond final acceptance. All insurance policies shall be from responsible companies duly authorized to do business in the State of Florida and have an AM Best rating of A- VIII or better.

- B. Submittals should include the Vendor's current Certificate(s) of Insurance. If Vendor does not currently meet insurance requirements, Vendor shall also include verification from their broker or agent that any required insurance not provided at that time of submittal will be in place prior to the award of contract.

Upon selection of Vendor for award, the selected Vendor shall email certificate that is compliant with the insurance requirements. If the certificate received is compliant, no further action may be necessary. The Certificate(s) of Insurance shall be signed by authorized representatives of the insurance companies shown on the Certificate(s). **The Certificate holder section shall indicate Pinellas County, a Subdivision of the State of Florida, 400 S Fort Harrison Ave, Clearwater, FL 33756. Pinellas County shall be named as an Additional Insured for General Liability. A Waiver of Subrogation for Workers Compensation shall be provided if Workers Compensation coverage is a requirement.**

- C. Approval by the County of any Certificate(s) of Insurance does not constitute verification by the County that the insurance requirements have been satisfied or that the insurance policy shown on the Certificate(s) of Insurance is in compliance with the requirements of the Agreement. County reserves the right to require a certified copy of the entire insurance policy, including endorsement(s), at any time during the Bid and/or contract period.
- D. If any insurance provided pursuant to the Agreement expires or cancels prior to the completion of the Work, you will be notified by CTrax, the authorized vendor of Pinellas County. Upon notification, renewal Certificate(s) of Insurance and endorsement(s) shall be furnished to Pinellas County Risk Management at

AGREEMENT

InsuranceCerts@pinellascounty.org and to CTrax c/o JDi Data at PinellasSupport@ididata.com by the Vendor or their agent prior to the expiration date.

1. Vendor shall also notify County within twenty-four (24) hours after receipt, of any notices of expiration, cancellation, nonrenewal or adverse material change in coverage received by said Vendor from its insurer Notice shall be given by email to Pinellas County Risk Management at InsuranceCerts@pinellascounty.org. Nothing contained herein shall absolve Vendor of this requirement to provide notice.
 2. Should the Vendor, at any time, not maintain the insurance coverages required herein, the County may terminate the Agreement.
- E. If subcontracting is allowed under this Bid, the Primary Vendor shall obtain and maintain, at all times during its performance of the Agreement, insurance of the types and in the amounts set forth; and require any subcontractors to obtain and maintain, at all times during its performance of the Agreement, insurance limits as it may apply to the portion of the Work performed by the subcontractor; but in no event will the insurance limits be less than \$500,000 for Workers' Compensation/Employers' Liability, and \$1,000,000 for General Liability and Auto Liability if required below.

All subcontracts between the Vendor and its Subcontractors shall be in writing and are subject to the County's prior written approval. Further, all subcontracts shall:

2. Require each Subcontractor to be bound to the Vendor to the same extent the Vendor is bound to the County by the terms of the Contract Documents, as those terms may apply to the portion of the Work to be performed by the Subcontractor;
 3. Provide for the assignment of the subcontracts from the Vendor to the County at the election of Owner upon termination of the Contract;
 4. Provide that County will be an additional indemnified party of the subcontract;
 5. Provide that the County will be an additional insured on all insurance policies required to be provided by the Subcontractor except workers compensation and professional liability;
 6. Provide a waiver of subrogation in favor of the County and other insurance terms and/or conditions
 7. Assign all warranties directly to the County; and
 8. Identify the County as an intended third-party beneficiary of the subcontract. The Vendor shall make available to each proposed Subcontractor, prior to the execution of the subcontract, copies of the Contract Documents to which the Subcontractor will be bound by this Section C and identify to the Subcontractor any terms and conditions of the proposed subcontract which may be at variance with the Contract Documents
- F. Each insurance policy and/or certificate shall include the following terms and/or conditions:
1. The Named Insured on the Certificate of Insurance and insurance policy must match the entity's name that responded to the solicitation and/or is signing the agreement with the County.
 2. Companies issuing the insurance policy, or policies, shall have no recourse against County for payment of premiums or assessments for any deductibles which all are at the sole responsibility and risk of Vendor.
 3. The term "County" or "Pinellas County" shall include all Authorities, Boards, Bureaus, Commissions, Divisions, Departments and Constitutional offices of County and individual members, employees thereof in their official capacities, and/or while acting on behalf of Pinellas County.
 4. All policies shall be written on a primary, non-contributory basis.

The minimum insurance requirements and limits for this Agreement, which shall remain in effect throughout its duration and for two (2) years beyond final acceptance for projects with a Completed Operations exposure, are as follows:

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- 1) **Workers’ Compensation Insurance:** Worker’s Compensation Insurance is required if required pursuant to Florida law. If, pursuant to Florida law, Worker’s Compensation Insurance is required, employer’s liability, also known as Worker’s Compensation Part B, is also required in the amounts set forth herein

Limits	Florida Statutory
Employers’ Liability Limits	
Per Employee	\$ 500,000
Per Employee Disease	\$ 500,000
Policy Limit Disease	\$ 500,000

If Vendor/Contractor is not required by Florida law, to carry Workers Compensation Insurance in order to perform the requirements of this Agreement, County Waiver Form for workers compensation must be executed, submitted, and accepted by Risk Management. Failure to obtain required Worker’s Compensation Insurance without submitting and receiving a waiver from Risk Management constitutes a material breach of this Agreement.

- 2) **Commercial General Liability Insurance:** including, but not limited to, Independent Vendor, Contractual Liability Premises/Operations, Products/Completed Operations, and Personal Injury.

Limits	
Combined Single Limit Per Occurrence	\$ 1,000,000
Products/Completed Operations Aggregate	\$ 2,000,000
Personal Injury and Advertising Injury	\$ 1,000,000
General Aggregate	\$ 2,000,000

- 3) **Business Automobile or Trucker’s/Garage Liability Insurance** covering owned, hired, and non-owned vehicles. If the Vendor does not own any vehicles, then evidence of Hired and Non-owned coverage is sufficient. Coverage shall be on an "occurrence" basis, such insurance to include coverage for loading and unloading hazards, unless Vendor can show that this coverage exists under the Commercial General Liability policy.

Limits	
Combined Single Limit Per Accident	\$1,000,000

- 4) **Excess or Umbrella Liability Insurance** excess of the primary coverage required, in paragraphs (1), (2), and (3) above:

Limits	
Each Occurrence	\$1,000,000
General Aggregate	\$1,000,000

- 5) **Professional Liability (Errors and Omissions) Insurance** with at least minimum limits as follows. If “claims made” coverage is provided, “tail coverage” extending 3 years beyond completion and acceptance of the project with proof of “tail coverage” to be submitted with the invoice for final payment. In lieu of “tail coverage”, Vendor may submit annually to the County, for a 3 year period, a current certificate of insurance providing “claims made” insurance with prior acts coverage in force with a retroactive date no later than commencement date of this contract.

Limits	
Each Occurrence or Claim	\$1,000,000
General Aggregate	\$1,000,000

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For acceptance of Professional Liability coverage included within another policy required herein, a statement notifying the certificate holder must be included on the certificate of insurance and the total amount of said coverage per occurrence must be greater than or equal to the amount of Professional Liability and other coverage combined.

- 6) **Pollution Legal/Environmental Legal Liability Insurance** for pollution losses arising from all services performed to comply with this contract. Coverage shall apply to sudden and gradual pollution conditions including the discharge, dispersal, release or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste materials or other irritants, contaminants or pollutants into or upon land, the atmosphere or any watercourse or body of water, which results in Bodily Injury or Property Damage. If policy is written on a Claims Made form, a retroactive date is required, and coverage must be maintained for 3 years after completion of contract or “tail coverage must be purchased. Coverage should include and be for the at least the minimum limits listed below:
 - i. Bodily injury, sickness, disease, mental anguish or shock sustained by any person, including death; property damage including physical injury to or destruction of tangible property including the resulting loss of use thereof, clean up costs, and the loss of use of tangible property that has not been physically injured or destroyed;
 - ii. Defense including costs, charges and expenses incurred in the investigation, adjustment or defense of claims for such compensation damages.
 - iii. Cost of Cleanup/Remediation.

Limits

Per Claim or Occurrence	\$1,000,000
General Aggregate	\$1,000,000

For acceptance of Pollution Legal/Environmental Legal Liability coverage included within another policy coverage required herein, a statement notifying the certificate holder must be included on the certificate of insurance and the total amount of said coverage per occurrence must be greater than or equal to the amount of Pollution Legal/Environmental Legal Liability and other coverage combined.

For herbicide and pesticide spraying operations only, an endorsement to the Commercial General Liability policy that provides Pollution Liability coverage for herbicide and pesticide spraying is acceptable.

- 7) **Property Insurance** Vendor will be responsible for all damage to its own property, equipment and/or materials.

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EXHIBIT C - PAYMENT SCHEDULE

DESCRIPTION	TURF AREA PER CYCLE (ACRES)	ANNUAL CYCLES	PRICE PER CYCLE
NORTH GROUP			
MAINTENANCE CLASS 1 (MEDIANS & RIGHTS OF WAY)	88.99	16	\$13,126.00
MAINTENANCE CLASS 2 (PONDS & OUTPARCELS)	35.37	16	\$2,422.85
CENTRAL GROUP			
MAINTENANCE CLASS 1 (MEDIANS & RIGHTS OF WAY)	135.14	16	\$14,189.70
MAINTENANCE CLASS 2 (PONDS & OUTPARCELS)	28	16	\$1,260.00
SOUTH GROUP			
MAINTENANCE CLASS 1 (MEDIANS & RIGHTS OF WAY)	110.17	16	\$12,669.55
MAINTENANCE CLASS 2 (PONDS & OUTPARCELS)	48.32	16	\$2,802.56

MISCELLANEOUS LANDSCAPE SERVICES AND TASKS UPON COUNTY REQUEST				
ITEM NUMBER	DESCRIPTION	QUANTITY	UNIT OF MEASURE	UNIT COST
1	General landscape tasks (one time removal of plant material, exotic invasive, etc.)		Per Quoted Event	
2	Watering	1000	Gallons	\$0.50
3	Litter/Trash Pickup (72-hour notice)		Per Quoted Event	
4	Landscape median Maintenance (72-hour notice)		Per Quoted Event	
5	Right-of-Way Clearance (72-hour notice)		Per Quoted Event	
6	Mowing Only, turf areas (72-hour notice)		Per Quoted Event	
7	Citizen/County Staff Complaint Response (72-hour notice)		Per Quoted Event	
8	Ground cover/Turfgrass, planting or replacing	500	Square Foot	\$2.50
9	Insect and Disease chemical control		Per Quoted Event	
10	Installation of County Recycled Mulch (Including transportation and labor)		Per Quoted Event	
11	Tree trimming activities over ten feet (10') height		Per Quoted Event	
12	Tree/Shrub/Palm pruning		Per Quoted Event	

UNSPECIFIED FUNDS				
	NORTH GROUP	CENTRAL GROUP	SOUTH GROUP	TOTAL
YEAR 1	\$8,333.34	\$8,333.33	\$8,333.33	\$25,000.00
YEAR 2	\$8,333.34	\$8,333.33	\$8,333.33	\$25,000.00
TOTAL UNSPECIFIED FUNDS				\$50,000.00

AGREEMENT

EXHIBIT D - PAYMENT/INVOICES

PAYMENT/INVOICES:

CONTRACTOR shall submit invoices for payment due as provided herein with such documentation as required by Pinellas County and all payments shall be made in accordance with the requirements of Section 218.70 et. seq, Florida Statutes, "The Local Government Prompt Payment Act." Invoices shall be submitted to the address below unless instructed otherwise on the purchase order, or if no purchase order, by the ordering department:

Finance Division Accounts Payable
Pinellas County Board of County Commissioners
P. O. Box 2438
Clearwater, FL 33757

Each invoice shall include, at a minimum, the Contractor's name, contact information and the standard purchase order number. In order to expedite payment, it is recommended the Contractor also include the information shown in below. The County may dispute any payments invoiced by CONTRACTOR in accordance with the County's Dispute Resolution Process for Invoiced Payments, established in accordance with Section 218.76, Florida Statutes, and any such disputes shall be resolved in accordance with the County's Dispute Resolution Process.

INVOICE INFORMATION:

Contractor Information Company name, mailing address, phone number, contact name and email address as provided on the PO

Remit To Billing address to which you are requesting payment be sent

Invoice Date Creation date of the invoice

Invoice Number Company tracking number

Shipping Address Address where goods and/or services were delivered

Ordering Department Name of ordering department, including name and phone number of contact person

PO Number Standard purchase order number

Ship Date Date the goods/services were sent/provided

Quantity Quantity of goods or services billed

Description Description of services or goods delivered

Unit Price Unit price for the quantity of goods/services delivered

Line Total Amount due by line item

Invoice Total Sum of all of the line totals for the invoice

Pinellas County offers a credit card payment process (ePayables) through Bank of America. Pinellas County does not charge vendors to participate in the program; however, there may be a charge by the company that processes your credit card transactions. For more information please visit Pinellas County purchasing website at www.pinellascounty.org/purchase.

AGREEMENT**EXHIBIT E - DISPUTE RESOLUTION FOR PINELLAS COUNTY BOARD OF COUNTY COMMISSIONERS IN MATTERS OF INVOICE PAYMENTS:**

Payment of invoices for work performed for Pinellas County Board of County Commissioners (County) is made, by standard, in arrears in accordance with Section 218.70, et. seq., Florida Statutes, the Local Government Prompt Payment Act.

If a dispute should arise as a result of non-payment of a payment request or invoice the following Dispute Resolution process shall apply:

- A. Pinellas County shall notify a vendor in writing within 10 days after receipt of an improper invoice, that the invoice is improper. The notice should indicate what steps the vendor should undertake to correct the invoice and resubmit a proper invoice to the County. The steps taken by the vendor shall be that of initially contacting the requesting department to validate their invoice and receive a sign off from that entity that would indicate that the invoice in question is in keeping with the terms and conditions of the agreement. Once sign off is obtained, the vendor should then resubmit the invoice as a "Corrected Invoice" to the requesting department which will initiate the payment timeline.
 1. Requesting department for this purpose is defined as the County department for whom the work is performed.
 2. Proper invoice for this purpose is defined as an invoice submitted for work performed that meets prior agreed upon terms or conditions to the satisfaction of Pinellas County.
- B. Should a dispute result between the vendor and the County about payment of a payment request or an invoice then the vendor should submit their dissatisfaction in writing to the Requesting Department. Each Requesting Department shall assign a representative who shall act as a "Dispute Manager" to resolve the issue at departmental level.
- C. The Dispute Manager shall first initiate procedures to investigate the dispute and document the steps taken to resolve the issue in accordance with section 218.76 Florida Statutes. Such procedures shall be commenced no later than 45 days after the date on which the payment request or invoice was received by Pinellas County, and shall not extend beyond 60 days after the date on which the payment request or invoice was received by Pinellas County.
- D. The Dispute Manager should investigate and ascertain that the work, for which the payment request or invoice has been submitted, was performed to Pinellas County's satisfaction and duly accepted by the Proper Authority. Proper Authority for this purpose is defined as the Pinellas County representative who is designated as the approving authority for the work performed in the contractual document. The Dispute Manager shall perform the required investigation and arrive at a solution before or at the 60 days timeframe for resolution of the dispute, per section 218.76, Florida Statutes. The County Administrator or his or her designee shall be the final arbiter in resolving the issue before it becomes a legal matter. The County Administrator or his or her designee will issue their decision in writing.
- E. Pinellas County Dispute Resolution Procedures shall not be subject to Chapter 120 of the Florida Statutes. The procedures shall also, per section 218.76, Florida Statutes, not be intended as an administrative proceeding which would prohibit a court from ruling again on any action resulting from the dispute.
- F. Should the dispute be resolved in the County's favor interest charges begin to accrue 15 days after the final decision made by the County. Should the dispute be resolved in the vendor's favor the County shall pay interest as of the original date the payment was due.
- G. For any legal action to recover any fees due because of the application of sections 218.70 et. seq., Florida Statutes, an award shall be made to cover court costs and reasonable attorney fees, including those fees incurred as a result of an appeal, to the prevailing party. If it is found that the non-prevailing party held back any payment that was the reason for the dispute without having any reasonable lawful basis or fact to dispute the prevailing party's claim to those amounts.