

**CITY OF WESTON, FLORIDA
RESOLUTION NO. 2026-41**

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WESTON, FLORIDA, AND AS THE GOVERNING BOARD OF THE INDIAN TRACE DEVELOPMENT DISTRICT, ACCEPTING AND RATIFYING RANKINGS OF THE SELECTION COMMITTEE PURSUANT TO RFP NO. 2026-02, A REQUEST FOR PROPOSALS FOR PARKS MAINTENANCE SERVICES - PARKS GROUP B: TEQUESTA TRACE PARK, INDIAN TRACE PARK, EAGLE POINT PARK, TOWN CENTER PARK AND NORTH WALKING TRAIL; AWARDING AND APPROVING AN AGREEMENT WITH BRIGHTVIEW LANDSCAPE SERVICES, INC. OF SUNRISE, FLORIDA.

WHEREAS, First, the Indian Trace Development District is a dependent special district of the City of Weston (the "City") for the purpose of exercising all those rights, powers and authority contained in Chapters 189 and 190, Florida Statutes; and

WHEREAS, Second, the City Commission of the City of Weston serves as the governing board of the Indian Trace Development District; and

WHEREAS, Third, the City of Weston (the "City") owns, operates and maintains all parks and recreation facilities throughout the City; and

WHEREAS, Fourth, funding for parks maintenance services is appropriated within Fiscal Year 2026 Budget, General Fund - Parks and Recreation; and

WHEREAS, Fifth, the City has current Agreements for Parks Maintenance Services for various Parks Groups, including Parks Group A: Regional Park and Heron Park; Parks Group B: Tequesta Trace Park, Indian Trace Park, Eagle Point Park and Town Center Park; Parks Group C: Vista Park, Cypress Bay High School Athletic Fields, Library Park and Windmill Ranch Park; and Parks Group D: Gator Run Park, Peace Mound Park, Emerald Estates Park, Tennis Center, Bonaventure Park and Country Isles Park; and

WHEREAS, Sixth, on May 15, 2020, the City entered into an Agreement for Parks Maintenance Services, RFP No. 2019-13, Parks Group B: Tequesta Trace Park, Indian Trace Park, Eagle Point Park and Town Center Park with ABM Industry Groups, LLC (the "Agreement") which has since been renewed by Commission approval of Resolution number 2023-17 and was set to expire on March 30, 2026; and

WHEREAS, Seventh, due to changes in scope of services for Parks Group B (to include addition of North Walking Trail and updates to gate servicing at the neighboring public schools), the City opted not to exercise the remaining three-year renewal term and instead to resolicit for Parks Group B only; and

WHEREAS, Eighth, on February 12, 2026, per Section 32.07(A)(2) of the City Code, the Agreement was extended by the City Manager for an additional ninety (90) days to allow sufficient time for the implementation of a successor contract, changing the expiration date to June 30, 2026; and

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WESTON, FLORIDA, AND AS THE GOVERNING BOARD OF THE INDIAN TRACE DEVELOPMENT DISTRICT, ACCEPTING AND RATIFYING RANKINGS OF THE SELECTION COMMITTEE PURSUANT TO RFP NO. 2026-02, A REQUEST FOR PROPOSALS FOR PARKS MAINTENANCE SERVICES - PARKS GROUP B: TEQUESTA TRACE PARK, INDIAN TRACE PARK, EAGLE POINT PARK, TOWN CENTER PARK AND NORTH WALKING TRAIL; AWARDING AND APPROVING AN AGREEMENT WITH BRIGHTVIEW LANDSCAPE SERVICES, INC. OF SUNRISE, FLORIDA.

WHEREAS, Ninth, Chapter 32 of the City Code governs the acquisition of goods and services and disposal of City property, including the Request for Proposals for Parks Maintenance Services – Parks Group B: Tequesta Trace Park, Indian Trace Park, Eagle Point Park, Town Center Park and North Walking Trail, RFP No. 2026-02 (the “RFP”); and

WHEREAS, Tenth, in compliance with Chapter 32 of the City Code, on January 16, 2026, the RFP was issued and advertised in the Sun-Sentinel, on the City’s website, and posted on the Public Notices board in the City Hall lobby, and proposal documents made available for electronic download from the City’s website and Onvia DemandStar; and

WHEREAS, Eleventh, on January 29, 2026, a total of fourteen (14) individuals from a total of nine (9) firms participated in the mandatory Pre-Proposal Conference held virtually through Cisco Webex; and

WHEREAS, Twelfth, on February 3, 2026, the City issued Addendum No. 1 and on February 11, 2026 both Addendum No. 2 and Addendum No. 3 were issued; and

WHEREAS, Thirteenth, proposals were due and opened on February 19, 2026, which yielded proposals from the following five (5) firms: ABM Education Services, LLC of Sugar Land, Texas; Brightview Landscape Services, Inc. of Sunrise, Florida; Javy Ortiz Nursery, Inc. dba Pitch and Grade of Weston, Florida; Superior Landscaping & Lawn Services, Inc. of Miami Florida; and Able Business Services, Inc. of Miami Florida; and

WHEREAS, Fourteenth, the RFP provided that the proposals would be evaluated on the following criteria: 1) Proposer’s financial ability to perform the services described in the Agreement; 2) The qualifications of the Proposer’s professional personnel and the type, quality and quantity of equipment currently owned or leased by the Proposer to be utilized to perform the services pursuant to this RFP and Agreement; 3) Proposer shall have a minimum of five (5) years of experience in providing park maintenance services in parks of similar complexity and size as the parks in Parks Group B; and 4) Proposer’s total cost of services as provided in the Exhibit B-Fee Schedule Table; and

WHEREAS, Fifteenth, on March 12, 2026, the Selection Committee, consisting of Thaddeus Bilecki, Director of Landscaping; Bryan Cahen, Director of Budget; and Jerrylee Camacho, IT Manager, met at a publicly noticed meeting and deemed Javy Ortiz Nursery, Inc. dba Pitch and Grade of Weston, Florida and Able Business Services, Inc. of Miami Florida, as non-responsible for failure to meet the required experience in providing services in parks of similar complexity and size as the parks in Parks Group B; and

WHEREAS, Sixteenth, the Selection Committee deemed the remaining three (3) firms as responsive and responsible and ranked Brightview Landscape Services, Inc. of Sunrise, Florida as number one; ABM Education Services, LLC of Sugar Land, Texas as number two; and Superior Landscaping & Lawn Services, Inc. of Miami Florida as number three; and

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WHEREAS, Seventeenth, the City Commission desires to accept and ratify the rankings of the Selection Committee; and

WHEREAS, Eighteenth, the City Commission finds it in the best interest of the residents of the City to award and approve the Agreement for Parks Maintenance Services: Parks Group B: Tequesta Trace Park, Indian Trace Park, Eagle Point Park, Town Center Park and North Walking Trail, to Brightview Landscape Services, Inc. of Sunrise, Florida.

NOW THEREFORE, BE IT RESOLVED by the City Commission of the City of Weston, Florida and as the governing board of the Indian Trace Development District:

Section 1: The foregoing recitals contained in the preamble to this Resolution are incorporated by reference herein.

Section 2: The ranking of the Selection Committee for RFP No. 2026-02, Parks Maintenance Services: Parks Group B: Tequesta Trace Park, Indian Trace Park, Eagle Point Park, Town Center Park and North Walking Trail is accepted and ratified.

Section 3: The Agreement for Parks Maintenance Services: Parks Group B: Tequesta Trace Park, Indian Trace Park, Eagle Point Park, Town Center Park and North Walking Trail with Brightview Landscape Services, Inc. of Sunrise, Florida is approved in substantially the form attached as Exhibit "A," together with such non-substantial changes as may be acceptable to the City Manager and approved as to form and legality by the City Attorney.

Section 4: The appropriate City officials are authorized to execute all necessary documents and to take any necessary action to effectuate the intent of this Resolution.

Section 5: This Resolution shall take effect upon its adoption.

ADOPTED by the City Commission of the City of Weston, Florida, and as the governing board of the Indian Trace Development District, this 6th day of April 2026.



Margaret Brown, Mayor
Chair of the Indian Trace Development District

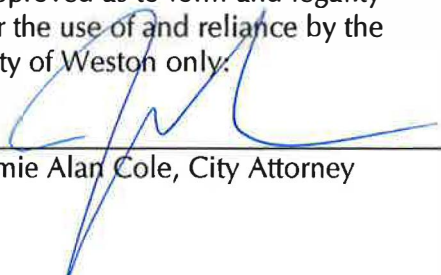
ATTEST:



Patricia A. Bates, MMC, City Clerk

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WESTON, FLORIDA, AND AS THE GOVERNING BOARD OF THE INDIAN TRACE DEVELOPMENT DISTRICT, ACCEPTING AND RATIFYING RANKINGS OF THE SELECTION COMMITTEE PURSUANT TO RFP NO. 2026-02, A REQUEST FOR PROPOSALS FOR PARKS MAINTENANCE SERVICES - PARKS GROUP B: TEQUESTA TRACE PARK, INDIAN TRACE PARK, EAGLE POINT PARK, TOWN CENTER PARK AND NORTH WALKING TRAIL; AWARDED AND APPROVING AN AGREEMENT WITH BRIGHTVIEW LANDSCAPE SERVICES, INC. OF SUNRISE, FLORIDA.

Approved as to form and legality
for the use of and reliance by the
City of Weston only.



Jamie Alan Cole, City Attorney

Roll Call:

Commissioner Andrade	<u>Yes</u>
Vice Mayor Mead	<u>Yes</u>
Commissioner Molina-Macfie	<u>Yes</u>
Commissioner Jaffe	<u>Yes</u>
Mayor Brown	<u>Yes</u>

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WESTON, FLORIDA, AND AS THE GOVERNING BOARD OF THE INDIAN TRACE DEVELOPMENT DISTRICT, ACCEPTING AND RATIFYING RANKINGS OF THE SELECTION COMMITTEE PURSUANT TO RFP NO. 2026-02, A REQUEST FOR PROPOSALS FOR PARKS MAINTENANCE SERVICES - PARKS GROUP B: TEQUESTA TRACE PARK, INDIAN TRACE PARK, EAGLE POINT PARK, TOWN CENTER PARK AND NORTH WALKING TRAIL; AWARDED AND APPROVING AN AGREEMENT WITH BRIGHTVIEW LANDSCAPE SERVICES, INC. OF SUNRISE, FLORIDA.

Exhibit "A"

Agreement among the City of Weston, Florida, Indian Trace Development District, and Brightview Landscape Services, Inc. for Parks Maintenance Services - Parks Group B: Tequesta Trace Park, Indian Trace Park, Eagle Point Park, Town Center Park and North Walking Trail, RFP No. 2026-02.

(See Following 84 Pages)

AGREEMENT
AMONG THE
CITY OF WESTON, FLORIDA, AND
INDIAN TRACE DEVELOPMENT DISTRICT
AND
BRIGHTVIEW LANDSCAPE SERVICES, INC.
FOR
PARKS MAINTENANCE SERVICES
PARKS GROUP B: TEQUESTA TRACE PARK, INDIAN TRACE PARK, EAGLE POINT PARK,
TOWN CENTER PARK AND NORTH WALKING TRAIL

RFP NO. 2026-02

This Agreement is made and entered into the ___ day of _____, 2026 among the City of Weston, a Florida municipal corporation, and Indian Trace Development (collectively "CITY") and Brightview Landscape Services, Inc. ("CONTRACTOR") for Parks Maintenance Services: Parks Group B: Tequesta Trace Park, Indian Trace Park, Eagle Point Park, Town Center Park and North Walking Trail ("Agreement"). References in this Agreement to "City Manager" shall be meant to include his designee.

The following exhibits are incorporated herein and made a part of this Agreement:

- Exhibit A: Certificate of Insurance
- Exhibit B: Fee Schedule
- Exhibit C: CONTRACTOR's Sub-Contractors List
- Exhibit D: Transition Plan
- Exhibit E: Performance & Payment Security

WITNESSETH:

WHEREAS, the CITY solicited proposals from PROPOSERS for Parks Maintenance Services: Parks Group B: Tequesta Trace Park, Eagle Point Park, Indian Trace Park, Town Center Park and North Walking Trail; and

WHEREAS, the proposals were evaluated and ranked by a Selection Committee and a recommendation was made to the City Manager; and

WHEREAS, on _____, CITY adopted Resolution No. _____, which ratified or altered the ranking of proposals for Parks Maintenance Services: Parks Group B: Tequesta Trace Park, Indian Trace Park, Eagle Point Park, Town Center Park and North Walking Trail and authorized the appropriate CITY officials to execute an Agreement with the number one ranked PROPOSER, Brightview Landscape Services, Inc.; and

WHEREAS, the CITY Commission has selected CONTRACTOR for Parks Maintenance Services: Parks Group B: Tequesta Trace Park, Eagle Point Park, Indian Trace Park, Town Center Park and North Walking Trail, at the sole discretion of CITY; and

WHEREAS, the CITY and CONTRACTOR desire to enter into an Agreement whereby the duties and obligations each to the other are set forth.

IN CONSIDERATION OF THE MUTUAL COVENANTS AND CONDITIONS HEREIN EXPRESSED AND THE FAITHFUL PERFORMANCE OF ALL SUCH COVENANTS AND CONDITIONS, THE PARTIES AGREE AS FOLLOWS:

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SECTION 1

TERM AND TERMINATION

1.1 Term

The term of this Agreement shall begin on the date that it is fully executed and shall extend until March 31, 2029. This provision in no way limits either party's right to terminate this Agreement at any time during the initial term or any extension thereof, pursuant to Section 1.2 of this Agreement.

1.2 Termination

1. This Agreement may be terminated for cause by action of the CITY Commission if CONTRACTOR is in breach and has not corrected the breach within 30 days after written notice from CITY identifying the breach, or for convenience by action of the CITY Commission upon not less than 30 days written notice by the CITY Manager. This Agreement may also be terminated by the CITY Manager upon such notice as the CITY Manager deems appropriate under the circumstances in the event the CITY Manager determines that termination is necessary to protect the public health, safety, or welfare.
2. This Agreement may be terminated for cause by CONTRACTOR if CITY is in breach and has not corrected the breach within 10 days after written notice from CONTRACTOR identifying the breach.
3. Termination of this Agreement for cause shall include but not be limited to, failure to suitably perform the services, failure to continuously perform the services in a manner calculated to meet or accomplish the objectives of CITY as set forth in this Agreement or multiple breaches of the provisions of this Agreement notwithstanding whether any such breach was previously waived or cured.
4. Notice of termination shall be provided in accordance with Section 8.14(G.) NOTICES of this Agreement except that notice of termination by the CITY Manager which the CITY Manager deems necessary to protect the public health, safety or welfare may be verbal notice which shall be promptly confirmed in writing in accordance with Section 8.14(G.) NOTICES of this Agreement.
5. In the event this Agreement is terminated for convenience, upon being notified of CITY'S election to terminate, CONTRACTOR shall refrain from performing further services or incurring additional expenses under the terms of this Agreement. CONTRACTOR acknowledges and agrees that Ten Dollars (\$10.00) of the compensation to be paid by CITY, the adequacy of which is hereby acknowledged by CONTRACTOR, is given as specific consideration to CONTRACTOR for CITY'S right to terminate this Agreement for convenience.
6. In the event this Agreement is terminated, any compensation payable by CITY shall be withheld until all documents are provided to CITY pursuant to the Agreement. The CITY shall be liable only for payment pursuant to the Compensation provisions of this Agreement for services rendered before the effective date of termination that were performed in accordance with the manner of performance set forth in the Agreement. In

no event shall CITY be liable to CONTRACTOR for any additional compensation, other than that provided herein, or for any consequential or incidental damages.

7. This Agreement may be terminated by the CITY if the CONTRACTOR is found to have submitted a false certification, Form 9, Scrutinized Companies, has been placed on the Scrutinized Companies that Boycott Israel List, or is engaged in a boycott of Israel, has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or has been engaged in business operations in Cuba or Syria.

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SECTION 2
SCOPE OF WORK

2.1 Intent

The CITY is requesting proposals from qualified firms for Parks Maintenance Services under a continuing services contract. The CONTRACTOR shall provide all labor, supervision, equipment, supplies, tools, materials, and all other necessary incidentals required to perform complete maintenance and operations of the CITY's parks. Scope of work includes but is not limited to the maintenance of sports fields both natural turf and artificial synthetic turf; maintenance of parks landscaping and irrigation ; litter, trash and recyclables collection receptacle maintenance throughout the parks; litter maintenance of parks facilities such as shelters, skate parks, hockey rinks, sand volleyball courts and outdoor basketball courts; and parks operations of gates and restroom buildings opening/closure, operation of sports field lighting.

NOTE: RFP 2019-13 for Parks Maintenance Services awarded in 2020, partitioned the maintenance services for the various City parks into four (4) distinct Parks Group (PG) and entered into four (4) separate agreements, one for each Park Group:

- Park Group A: Regional Park and Heron Park;
- **Park Group B: Tequesta Trace Park, Indian Trace Park, Eagle Point Park, Town Center Park and North Walking Trail only.**
- Park Group C: Vista Park, Cypress Bay High School Athletic Fields, Library Park and Windmill Ranch Park; and
- Park Group D: Gator Run Park, Peace Mound Park, Emerald Estates Park, Tennis Center, Bonaventure Park and Country Isles Park.

Only Park Group B Agreement ends on March 31, 2026. Therefore, this solicitation, RFP 2026-02 is being issued **for the Park Maintenance Services for Group B only**, which includes Tequesta Trace Park, Indian Trace Park, Eagle Point Park, Town Center Park and North Walking Trail only.

The following constraints from RFP 2019-13, remains in place and apply to RFP 2026-02:

- A firm can only have an agreement with the City for a maximum of two (2) Park Groups;
- No firm can have agreements with the City for both Park Group A and Park Group B; and
- No firm can have agreements with the City for both Group A and Park Group C.

2.2 Description of Service

The CONTRACTOR shall provide all labor, supervision, equipment, supplies, tools, materials, and all other necessary incidentals required to perform the complete maintenance and managerial aspects of parks maintenance and operation.

- A. The CONTRACTOR shall open and close all parks in accordance with the days and hours of operation as stated herein. The opening and closing the parks includes but is not limited to the unlocking and opening and closing and locking all entry gates.

- B. The CONTRACTOR shall open and close all public restrooms buildings within the parks in accordance with the days and hours of operation as stated herein. The opening and closing the parks restrooms includes but is not limited to the unlocking and opening and closing and locking all restroom doors and rollup doors.
- C. The CONTRACTOR shall be responsible for the maintenance and turf management of all sports field Bermuda turf which includes but not limited to installation and renovation.
- D. The CONTRACTOR shall maintain and manage all clay sports field surfaces and other ancillary areas of the sports fields.
- E. The CONTRACTOR shall prepare and line all sports fields for use, including practices, games and during tournaments. The CONTRACTOR shall have the necessary staff on site to accomplish the tasks set forth herein. See Section 2.3 Sports Field Usage.
- F. The CONTRACTOR shall be responsible for the maintenance, turf management and grooming of artificial synthetic turf in accordance with the manufacturer's recommendations at the existing park locations. The CITY shall provide the infill material and the grooming brush.
- G. The CONTRACTOR shall maintain all landscaping within the CITY parks. Work shall include but is not limited to St. Augustine sod mowing and edging; shrubs & hedges maintenance; pruning of small trees and palms under 10 feet in limb height; fertilization; disease and pest management; application of herbicides; sod replacement and debris cleanup.
- H. The CONTRACTOR shall inspect, maintain, and repair the landscape irrigation system. See Section 2.5 for further details. The maintenance and repair of irrigation pumps is NOT included in the Scope of Work.
- I. The CONTRACTOR shall turn on and turn off all sports lighting at parks with such facilities if directed by staff.
- J. The CONTRACTOR shall remove all empty litter and recycling receptacles and provide the required litter and debris collection frequency to maintain the parks free from litter.
- K. The CONTRACTOR shall inspect the park shelters & amenities as needed and remove all litter and debris and clean the grills.
- L. The CONTRACTOR shall maintain the dumpster area.
- M. The following activities are NOT included in the Scope of Work: pruning or removal of trees and palms 10 feet or more in limb height, building repairs & maintenance, parking lot and asphalt repairs, parking light pole repairs and maintenance, sports field lighting repairs & maintenance, sidewalk repairs and maintenance, and maintenance of the water body of City lakes and canals.

2.3 Sports Field Usage

The parks operations and sports field maintenance shall include but is not limited to the adequate coverage to support the following organized sports.

Tequesta Trace Park	
Date	Season
January - April	Lacrosse
January - April	Field Hockey
January - May	Travel Baseball
January - May	Travel Soccer
January - May	Rugby
March - May	Rec. Baseball
May - June	Travel Lacrosse
June - August	Stadium & Baseball A Closed
July - November	Tackle Football
September - November	Travel Baseball
September - November	Travel Soccer
October - December	Rugby
October - December	Field Hockey
October - December	Travel Lacrosse
November - December	Flag Football
December - January	Stadium & Baseball A Closed

2.4 Fee Schedule and Estimated Quantities

- A. The proposed amount for each item in the Fee Schedule, Exhibit B, shall be inclusive of all the costs to complete the work within the proposed completion time.
- B. No guarantee is expressed or implied as to the quantity of services to be procured under this Agreement.

2.5 Parks Group Areas

The Parks Groups are listed below with the name, size (in acres), address and hours of operation. A summary of the amenities at each park is provided. An interactive map of the parks and the Parks Group can be accessed at www.westonfl.org/ParksGroups. CONTRACTORS can zoom in and pan out on the map. Clicking with the mouse over a specified area, name of the park will be displayed.

In addition to the amenities listed for each park, all parks have landscape consisting of trees, palms, shrubs, hedges and sod. Parks Group B (56 acres total):

1. Tequesta Trace Park, 42 acres, 600 Indian Trace, 6:30 AM – 11 PM
 - a) Entry gates
 - b) One (1) playground
 - c) Three (3) restroom buildings

- d) One (1) Bermuda soccer/football fields
 - e) Two (2) artificial turf football/lacrosse fields
 - f) Three (3) Bermuda baseball/softball fields
 - g) One (1) Multipurpose Bermuda field
 - h) Sports field lighting
 - i) One (1) Skate park
 - j) Tequesta Trace Middle School parking lot and pickleball court gates during non-school hours
 - k) Tequesta Trace Middle School pickleball court trash receptacles
2. Eagle Point Park, 7 acres, 18691 North Lake Blvd, 8 AM – Dusk
- a) Entry gates
 - b) Two (2) Bermuda baseball/softball fields
 - c) One (1) sand volleyball court
 - d) One (1) playground
 - e) Eagle Point Elementary School parking lot gates during non-school hours
3. Indian Trace Park, 5 acres, 400 Indian Trace, 8 AM – 9 PM
- a) Entry gates
 - b) One (1) Bermuda baseball/softball field
 - c) One (1) restroom building
 - d) One (1) playground
 - e) One (1) fitness pad with artificial turf
 - f) One (1) Multipurpose Bermuda field
 - g) Three (3) Multiuse courts
 - h) Indian Trace Elementary School parking lot gates during non-school hours
4. Town Center Park 1.6 acres, 1900 Bell Tower Lane, 8 AM – 9 PM
- a) One (1) restroom building
 - b) One (1) Covered Stage
5. North Walking Trail, Between Saddle Club Rd. and State Road 84, 8 AM - Dusk
- a) Entry gate
 - b) 1.75 mile walking trail with ten
 - c) Ten (10) exercise stations
 - d) Three (3) trash receptacles

2.6 Irrigation System for Landscaping

The CITY's non-potable water transmission and irrigation system in the parks is comprised of the following:

- A. A transmission network of underground pipes and valves located within the parks and ranging in size from 2" to 6". These are pressurized and clock starts mains supplied with non-potable water withdrawn from surface water lakes and canals city-wide by irrigation pump stations throughout the parks in City.

- B. Landscape irrigation systems which includes but not limited to; time clocks, irrigation zones, lateral (zone) lines, risers, sprinkler heads, electrical wires, valves, valve boxes and controllers.
- C. A detailed GIS map of the CITY's irrigation infrastructure-capable of zooming in and out-can be accessed at: [\(need new link\)](http://www.westonfl.org/Parks-Irrigation-Clocks).

2.7 CITY owned Maintenance Buildings and Yard

The CONTRACTOR shall have use of CITY owned park maintenance buildings and yards at Tequesta Trace Park. Use of these facilities for any other purpose other than for the performance of services related to this Agreement is strictly prohibited. Use by the CONTRACTOR for non-CITY related business or activities shall constitute a breach of this Agreement and may result in termination of this Agreement.

Prior to taking occupancy of these facilities the CONTRACTOR shall make a video recording and an inventory of CITY owned furniture, equipment and supplies in order to record the existing conditions. After review and verification by the CITY and the CONTRACTOR, the CONTRACTOR shall submit the video and the inventory to the CITY as a record of the existing conditions.

A. Tequesta Trace Maintenance Building and Yard:



- B. The CONTRACTOR shall be responsible for maintaining all CITY owned maintenance facilities in a neat, clean and functional manner, and shall be responsible for any damages beyond normal wear and tear, and/or vandalism. The CONTRACTOR shall notify CITY of any damaged facilities or infrastructure discovered during their routine maintenance and service activities.
- C. The CONTRACTOR shall be responsible to obtain and maintain the cabinets and other containers as warranted by the requirements to store and house all chemicals, pesticides, herbicides, fuel containers and other products utilized by the CONTRACTOR for the work specified in this Agreement.

- D. The CITY shall inspect the maintenance facilities regularly. The CONTRACTOR shall be notified by the CITY of unacceptable conditions or deficiencies found. The CONTRACTOR shall correct the deficiencies within the time frame stipulated in the notice from the CITY. Failure to correct the deficiencies and come into compliance shall result in liquidated damages as specified herein.
- E. The CONTRACTOR shall correct all unsafe or dangerous conditions due to the CONTRACTOR's activity immediately.
- F. The CONTRACTOR shall be responsible for custodial or janitorial cleaning of the office areas to include offices, bathrooms, floors, hallways. Custodial cleaning shall include daily tasks such as cleaning of floors, toilets, sinks, removal of office and kitchen garbage, dusting of desks and windowsills and other customary custodial type tasks. Failure of the CONTRACTOR to shall result in the liquidated damages as outlined in herein.
- G. The CONTRACTOR shall be responsible for any damage to the facilities determined to be the result of the CONTRACTOR. This shall include any and all above ground and below ground damage.
- H. The CONTRACTOR is responsible to obtain and maintain in good standing, all necessary Federal, State and Local registration and licenses required for operations to service the requirements of this Agreement.
- I. The CONTRACTOR shall comply with all applicable National Pollution Discharge Elimination System (NPDES) and other Federal, State and local environmental regulations at it relates to the use of this facilities.
- J. During restoration work on sports fields, the CONTRACTOR shall comply with the requirements for erosion and sedimentation control in accordance with the NPDES regulations as promulgated by the Florida Department of Environmental Protection.
- K. Outdoor Storage of Materials: The CONTRACTOR shall at all times comply with applicable regulatory requirements including NPDES regulations and proper housekeeping maintained at all times.
- L. The CITY is responsible for the payment of the utilities (water, sewer, and electric) at all CITY owned Maintenance Buildings and Yards.

2.8 Bermuda Turf Replacement

The CONTRACTOR shall supply all labor, equipment and materials to perform Bermuda turf field replacement as directed by the CITY. The CONTRACTOR shall remove existing deteriorated turf, prepare the field for receiving new Bermuda turf, deliver and installation new Bermuda turf. The CONTRACTOR shall provide a single unit price for the entire removal and installation.

2.9 Supplemental Services

Beyond the regular routine parks maintenance and operations; landscape and irrigation maintenance, the CONTRACTOR shall, upon the request and approval by the CITY, provide on an as-needed basis Supplemental Services (otherwise called Additional Services) for the purposes of:

- A. Total re-installation of infill for artificial turf fields.
- B. The installation of plants, shrubs, trees, and palms; and the application of chemicals and fertilization.
- C. Drainage improvements.
- D. Laser grading of sports fields.
- E. Transport of goals or other sports equipment.
- F. Other tasks as requested by the CITY.

These Supplemental Services shall be based on the unit prices and markup/discount of wholesale prices provided in Exhibit B of the Agreement, Fee Schedule.

No guarantee is made as to the quantity or frequency of Supplemental Services, and the CITY reserves the right to have this provided by others.

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SECTION 3

STANDARDS OF WORK

3.1 Schedule of Work

Schedule of Work: On the first business day of each week, the CITY shall furnish a list of both priority and routine maintenance Work Orders to be considered for completion during the following week. The CONTRACTOR shall then provide to the CITY within three days a preliminary schedule of the work for the following week for review by the CITY. Upon approval by the CITY, the schedule of work shall become final. In addition, the CITY reserves the right to direct the CONTRACTOR to rearrange the schedule to meet the needs of the CITY.

3.2 Work Cycle

The CONTRACTOR shall perform the Work Cycle as specified herein and within the defined duration of time. A Work Cycle consists of the completion of all the specified work at ALL the parks defined in a Parks Group. The types of Work Cycles and durations for Park Group B are listed below in Table 3.2.

TABLE 3.2 - Work Cycle

Name of Cycle	Duration
Litter Control/Entry Gates	Daily
Bermuda Turf Mowing	101 every 12 months
Turf Disease and Pest Management	30 Calendar days
St Augustine Turf Mowing	7/10/14 Calendar days
Shrubs and Ground Cover Material	30 Calendar days
Hedge Plant Material	90 Calendar days
Irrigation Management	30 Calendar days
Other Sports Field Maintenance (not listed above)	As specified herein

The CONTRACTOR shall complete the Work Cycle in scope and duration as prescribed in the Agreement. Any deviation from the requirements of this provision must be approved by the City Manager, or the CITY's designated representative.

3.3 Litter Control Cycle

CONTRACTOR shall at all times, and especially prior to mowing, retrieve and dispose of all litter and debris throughout the entire park, including, but not limited to: fields, rinks, courts, playgrounds, skate parks, batting cages, picnic shelters, parking lots, and miscellaneous areas. This shall include regular monitoring of the grounds during the hours of operation or while performing maintenance work and disposing of all litter and debris. If the CONTRACTOR becomes aware of the existence of hazardous waste located within the park(s), the CONTRACTOR shall immediately notify the CITY.

CONTRACTOR may dispose of litter only (does not include palm fronds, tree limbs, branches or other landscaping debris) in City dumpsters or City facilities. CONTRACTOR shall be responsible for the disposal costs of all other landscape related debris collected.

- A. Trash and recycling receptacles shall be emptied by CONTRACTOR on a regular basis as needed throughout the operating hours of the park to avoid overflow and at a minimum once per day prior to closing time of each park.
- B. CONTRACTOR shall keep trash and recycling receptacle lids in a clean and sanitary condition. Trash and recycling receptacles shall be cleaned with an environmentally safe cleaning product once every month. The exterior surface and trash and recycling liners shall be cleaned at minimum of once each week to prevent odors.
- C. Remove all litter and debris at and around shelters, gazebos and shade structures at a minimum of once per day and monitor throughout shelter activity usage throughout the day and repeat as needed to keep the area free of litter. Clean charcoal grills surface daily and remove embers.
- D. The CONTRACTOR shall remove all litter and debris on floor of enclosure and close enclosure gates at least once a day.
- E. Playgrounds/Tot Lots: The CONTRACTOR shall keep the playground safety surfacing clean. The safety surfacing shall regularly be kept free of loose debris, grass, weeds, etc. Any hazardous conditions shall be reported to the CITY immediately.
- F. Hard Courts – Basketball, Tennis, Rinks & Skate Parks. The CONTRACTOR shall maintain all hard courts, rinks and skate parks in a clean condition and free of vegetation and debris. Any hazardous conditions shall be reported to the CITY immediately.
- G. Sand volleyball courts shall be dragged each Monday, Wednesday and Friday mornings and hand raking of displaced sand shall be done daily.
- H. Dog Waste Stations: CONTRACTOR shall remove waste minimum daily. CONTRACTOR shall provide one roll of pick up bags per week per station. Pickup bags shall be by Dogipot Smart Litter. Above this amount, the CITY will provide additional bags for the CONTRACTOR to install
- I. All graffiti shall be eradicated immediately using graffiti remover or matching paint, to be provided by the CITY.

3.4 Turf Mowing Work Cycle

- A. Turf Mowing: A mowing schedule for each week of service shall be provided to the CITY on the last business day of the week prior to service and shall be subject to CITY approval. Mowing wet grass shall be avoided whenever possible. Mower blades must be kept sharp so that the cut grass edge is clean and not ragged. Mowing patterns shall be changed frequently to avoid wear. Any grass clippings or other plant debris remaining on the grass surface shall be removed the same day as the mowing service is performed. Clippings, mulch or other plant debris must be prevented from entering ponds, lakes, water features, or drains. In the event that this occurs, the materials shall be removed immediately.
- B. Bermuda grass: Mow regular playing surfaces, with a reel type mower, at a minimum of

once every two or three days for a total of 101 cuts per year. The Bermuda grass shall be cut to a minimum height of $\frac{3}{4}$ " to a maximum height of 1" above soil level. The Bermuda grass shall be cut when the grass height reaches $1\frac{1}{4}$ " and the grass height shall not exceed $1\frac{1}{2}$ ". The baseball/softball infields shall be cut to a minimum height of $\frac{1}{2}$ " to a maximum height of $\frac{3}{4}$ " above soil level. The baseball/softball infields may be cut when the grass height reaches $\frac{3}{4}$ " and the grass height shall not exceed 1". The Bermuda grass shall be cut often enough such that no more than $\frac{1}{3}$ of the leaf surface is removed during each cutting.

- C. Edging: The CONTRACTOR shall trim and properly edge all shrubs and flowerbeds as well as tree rings, curbs, walks, boxes, lighting and all other obstacles in the landscape and remove clippings. Paved areas (hard edges) shall be edged every mowing with respect to the turf type adjacent to the edging. Edging of beds and tree rings (soft edging) shall be executed every mowing with respect to the turf type adjacent to the edging. Damage to property or existing vegetation caused by improper trimming or edging shall be repaired or replaced within 48 hours at the CONTRACTOR'S expense.
- D. Cleanup: All sidewalks, walkways, roadways, and other paved areas shall be vacuumed, swept or blown off while the mowing, edging or trimming is in process so that the appearance suffers for the least amount of time. Landscape lighting shall be wiped, blown off or vacuumed as needed to prevent accumulation of clippings and dead insects. Landscape areas shall be raked and cleaned of clippings, leaves, sticks, twigs and all litter and debris each time the soft edging is done. All mowing schedules shall be subject to approval by the CITY. No chemical edging allowed.
- E. Tire Ruts in Swale Areas: The CONTRACTOR shall tamp and/or replace sod damaged by tire ruts in swale areas within 48 hours of the daily inspection.

3.5 Turf Disease and Pest Management Work Cycle: The CONTRACTOR shall adhere to the following for disease and pest management of all turf grass.

- A. The CONTRACTOR shall control or eradicate diseases and infestations by chewing or sucking insects, leaf miners, fire ants and other pests by spraying affected plants and shrubs with chemical sprays and combinations of sprays suitable for that particular disease or pest when the infestation or infection becomes evident and as often thereafter as necessary. All applications shall be performed by persons holding a valid pesticide application license as issued by the State of Florida and shall be done in accordance with the pesticide manufacturer's recommended rates and all applicable Federal, State, County and Municipal regulations. The CONTRACTOR shall respond within 72 hours after a request or notice from CITY. The CONTRACTOR shall be fully licensed to spray pesticides and shall use sound cultural practices that aid in preventing the presence or proliferation of insects and diseases.
- B. The CONTRACTOR shall maintain all turf, planting beds and tree rings in a weed free condition. The CONTRACTOR shall apply various herbicides by means of spray type devices to aid in the control of unwanted weeds and vegetation. All applications shall be performed by persons holding a valid herbicide application license as issued by the State of Florida and shall be done in accordance with the herbicide manufacturer's recommended rates and all applicable Federal, State, County and Municipal regulations. Herbicides shall be used only with prior written approval by the CITY as to type, location

and method of application. The CONTRACTOR shall exercise extreme care so as not to overspray and affect areas not intended for treatment. Areas adversely affected by such overspray shall be restored at the CONTRACTOR'S expense.

- C. The CONTRACTOR shall, after a chemical application, remove all signs in accordance with the chemical products' recommended standards.

3.6 Plants, Shrub and Ground Cover Maintenance Work Cycle: The CONTRACTOR shall adhere to the following:

- A. All hedge plant material including, but not limited to, green buttonwood, ficus, clusia and arboricola shall be pruned once every three (3) months or ninety (90) days; all other shrubs and ground cover material shall be pruned once (1) per month or thirty (30) days to insure the best shape, health and character of the individual plant.
- B. The entire top of ficus hedges shall be trimmed and may require the use of a scissor lift or bucket truck. Hand trimming shall be utilized whenever possible to promote lateral plant growth. Mechanical trimming shall only be utilized when the health or appearance of the plant shall not be damaged by the mechanical trimmers.
- C. Ground cover plants shall be selectively cut back to encourage lateral growth and kept in bounds and out of other plantings, walkways, lighting, etc. Cuts shall be made with sharp and proper tools. When cutting parts of branches, leave a living bud at the end of the stub. Make cuts sufficiently close to parent stem so that the healing can readily start under normal conditions.

3.7 Irrigation System Maintenance Management Work Cycle

- A. The CONTRACTOR shall be responsible for the operation, maintenance and repair of the irrigation system which includes but is not limited to setting and adjusting the time clocks to insure proper watering of all plants, shrubs, trees, palms, turf, landscaping, and ground cover contained within the Landscape Maintenance Areas to provide for a uniform lush green landscape appearance. Any damage to the irrigation system discovered must be reported to the CITY immediately. Contractor must hold and maintain licensed irrigation staff.
- B. The CONTRACTOR shall have forty-five (45) days from the start of the Agreement to perform an initial inspection of the irrigation system and provide a report to the CITY of any existing damage and/or incorrect operation and coverage. The CONTRACTOR shall be responsible for the system working properly, as specified herein, after the initial inspection report and subsequent repairs.
- C. The CONTRACTOR shall adjust the irrigation during the various seasons to maintain the uniform lush green landscape appearance. The CONTRACTOR shall manage and irrigate areas as needed during periods of little or no rainfall using the irrigation system and/or any supplemental watering necessary to keep the plant material, turf, and landscaping in optimum health. Supplemental watering may require a large portable watering tank, impact sprinklers or additional hose to be supplied by the CONTRACTOR.
- D. The CONTRACTOR shall be responsible for controlling the amount of water used for irrigation. Damage that results from over-watering or insufficient watering shall be the

responsibility of the CONTRACTOR to repair or replace at the CONTRACTOR'S expense.

- E. Irrigation watering schedules must comply with all local, county, regional and State watering restrictions. There shall be no watering on any day between the hours of 10:00 AM and 4:00 PM unless an irrigation technician is at the site being irrigated.
- F. The CONTRACTOR shall, within thirty (30) calendar days, fully operate all the irrigation zones from the irrigation clock and replace, repair or clean all irrigation heads, lateral lines, electrical wires, valve boxes and controllers as needed. Any equipment damaged by the CONTRACTOR'S operation shall be replaced at the CONTRACTOR'S expense with the same equipment/part and by the same manufacturer unless otherwise approved by the CITY.
- G. The CONTRACTOR shall perform all irrigation repairs to the lateral lines, risers and sprinkler heads as required to keep the system operating. For this category of work the CITY shall reimburse the CONTRACTOR for materials ONLY.
- H. The CONTRACTOR shall perform repairs on main lines; pump suction line; electrical wires from zone valves back to the clock; and replace damaged or broken valve boxes. For this category the CITY shall reimburse the CONTRACTOR for labor and materials.
- I. The CONTRACTOR shall provide written report of the following:
 - 1. Once per week, a list of all the irrigation zones clocks serviced.
 - 2. Once per workday, a list of irrigation parts and materials used for repairs.
- J. Reimbursable Items: THE CONTRACTOR shall obtain authorization by the CITY prior to commencement. The CONTRACTOR shall be reimbursed based markup provided in Exhibit B of the Agreement, Fee Schedule. See Section 5.3 for details on the required source for wholesale pricing.

3.8 Athletic Sport Fields Maintenance and Management Cycle

A. Baseball/Softball Fields

- 1. The CONTRACTOR shall be responsible for the inspection, maintenance, upkeep and repair of all clay areas including home plate/batter's box, pitcher's mounds, base paths and warning tracks. The CONTRACTOR will provide consistent and safe playing conditions.
- 2. Clay areas shall be inspected on a daily basis and any large stones or clumping material, ruts, holes, wet or dry areas, soft or hard spots, bowled out areas shall be repaired or replaced. Clay areas shall be scarified, dragged and watered daily until the desired texture is achieved. Maintain at least 1/4" of calcide or conditioner on the clay areas at a minimum of once annually. The CONTRACTOR shall install home plates, pitcher's rubbers, bases and anchors at dimensions as specified by the CITY.
- 3. On game days, the CONTRACTOR shall line the fields and install bases as

needed, including between games, at dimensions as specified by the CITY. Pitcher's mounds and batter's boxes shall be repaired daily or, at a minimum, after being used. The clay areas shall be lined with marble dust.

4. CONTRACTOR shall maintain all batting cages, which shall be kept clean and free of vegetation and debris at least once daily. CONTRACTOR shall report all visible net, turf, screens, and cages damage to the CITY. Any hazardous conditions shall be reported to the CITY immediately verbally and documented in writing/email.

B. Bermuda Turf - Soccer/Football/Baseball/Softball Fields

1. The CONTRACTOR shall inspect all turf areas on a daily basis and any large stones, ruts, holes, or bowled out areas shall be repaired or replaced. In preparation for game days, the CONTRACTOR shall line the fields as needed, including between games, at dimensions specified by the CITY. Latex marking paint (provided by CITY) shall be used for all lines on turf areas, and more than one color paint may be required.
2. The CONTRACTOR shall place sandbags on soccer goals at all times to prevent tipping. Two sandbags shall be utilized on 6' x 12' and 6' x 18' goals, three sandbags on 7' x 21' goals, and four sandbags on 8' x 24' goals. The CITY shall provide the sandbags. The CONTRACTOR shall be responsible for the repair of damage to goals and nets caused by the CONTRACTOR.
3. Regularly Scheduled - The CITY shall provide the CONTRACTOR with a schedule on or before the Sunday of upcoming week to request the lining and preparation of a field. Failure by the CONTRACTOR to perform will result in liquidated damages specified herein.
4. Limited Emergency Requests – The CONTRACTOR shall have the capacity to handle emergency field preparation and lining, limited to one field per request per day. In these cases, the CITY shall provide advance notice of at least 2 hours.
5. On game days, the CONTRACTOR shall:
 - a. Prepare the fields and properly line/mark for the applicable age group.
 - b. Monitor activities and have proper materials, equipment and tools on hand to handle all field issues to keep fields in a safe and playable.
6. During Tournaments (non-regular league games), the CONTRACTOR shall provide field preparation and lining throughout the ENTIRE days of the Tournament. The CONTRACTOR will provide consistent and safe playing conditions.

C. Artificial/Synthetic Turf Sports Field

1. The CONTRACTOR shall perform effective, routine maintenance daily and maintain the turf in accordance with the turf manufacturer's warranty. The CONTRACTOR shall:

- a. Conduct inspections and perform minor repairs to avoid playing hazards;
 - b. Walk the field daily and conduct more detailed inspections according to your field turf recommended schedule;
 - c. Keep the playing surface clean and free of debris and contaminants;
 - d. Pay special attention to the most heavily used areas, such as midfield, goal mouths, corner kick areas and team sideline areas for football.
 - e. Check and maintain proper infill levels to provide a consistent surface. Add new infill or redistribute migrated infill, where necessary, to the recommended depth;
 - f. Brush the surface to preserve appearance, keep grass fibers upright, and maintain even infill levels, making sure to use only approved bristles that will not overly abrade the fibers.
 - g. Check seams and joints where panels or any field markings are joined together. Notify the City immediately of hazards or locations needing repair.
 - h. Note any deteriorating grass fiber or infill conditions, visual or excess wear concerns, drainage concerns, performance concerns, etc. and report them to the CITY.
 - i. Maintain a maintenance and activity log.
 - j. Field Preparation – The CONTRACTOR shall adhere to Paragraphs 3.8(B)2 through 3.8(B)6 for artificial turf fields.
2. The CONTRACTOR shall perform routine maintenance to ensure playing surface is free of debris and contaminants that can compromise the safety of the field as well as to raise the turf fibers with brushing and allowing them to perform as designed per the turf manufacturer’s warranty.
 3. The CONTRACTOR shall keep a maintenance and activity log for each synthetic turf sports field and shall record all maintenance and repair activities. At a minimum the following shall be logged. A copy of this log shall be provided to the CITY in a PDF and Excel in a format approved by the CITY.
 - a. Type of Activity during week
 - b. Estimated number of hours used during week
 - c. Average number of participants per hour
 - d. Type of maintenance activity performed
 - e. Remarks/Notes
 - f. Signature of maintenance supervisor
 4. Grooming – CONTRACTOR shall brush the turf to maintain uniform infill levels, keep the grass fibers upright, remove debris, and improve the field appearance. While grooming, the CONTRACTOR shall inspect the field for unsafe conditions.
 5. The CITY’s synthetic turf fields products- The CONTRACTOR shall adhere to manufacturer’s for recommended procedures.

- a. For Tequesta Trace Park: Turf – Shaw, Power Blade 2.5; Infill – Brockfill (Organic)
6. Grooming Frequency. The CONTRACTOR shall follow the turf manufacturer’s recommend grooming frequency. In general, the frequency will be related to the intensity of use. The CONTRACTOR shall note that excessive brushing can cause fiber damage which over time will compromise the field’s performance characteristics and longevity.

Grooming Equipment—The CONTRACTOR shall use a static brush for general infill leveling and to stand up the grass fibers. The CITY owned grooming equipment includes:

 - a. Tequesta Trace Park – **Sports Turf Groomer** by Greens Groomer® Synthetic Turf Maintenance. See 3.8(C)14
7. Watering – The CONTRACTOR shall water the infill as per the manufacturer’s recommendation.
8. Equipment Leaks or Spills – The CONTRACTOR shall prevent leaks or spills by checking equipment and its components thoroughly before use on turf; do not fill fuels, oils, fluids while equipment is on the field. Wipe any excess grease from any/all fittings. Petroleum-based spills can damage the synthetic turf.
9. Field Markings – The CONTRACTOR shall use temporary paints specifically formulated for synthetic turf. CONTRACTOR to submit specification to the CITY for approval. Paint shall be applied only to the turf fibers, and not into the infill. This will not be possible if in-fill levels are too high. CONTRACTOR shall remove and reapply paint after a maximum of four applications to avoid hard-to-remove build-up.
10. Hydraulic fluid – The CONTRACTOR shall use only the newer biodegradable fluids for CONTRACTOR’s equipment—do not use petroleum-based fluids. The CONTRACTOR shall not fill equipment while it is on the turf. Do not overfill. Newer equipment has an overflow tube that drains directly under the equipment and onto the ground. Use a catch pan while filling to prevent accidental spillage.
11. The CONTRACTOR shall be responsible for the cost of repair damage to the turf and infill replacement due to leakage of CONTRACTOR’s equipment. and clean any remaining fluid from the turf.

12. Tequesta Trace Park – Synthetic Sports Turf Groomer by GreensGroomer®
 Synthetic Turf Maintenance Equipment



The Synthetic Sports Turf Groomer conditions synthetic turf surfaces and relieves compaction while delivering greater labor efficiencies, ease of operation, and a lower total cost of ownership. Simple in design with heavy duty construction, the focal point of this patented design are the precise brush dimensions and angles. This allows grooming in four directions, standing up turf fibers and leveling infill material.

- **Stands Up Synthetic Fibers**
- **Used in Wet and Dry Conditions**
- **True One-Pass Performance**
- **Patented Quadruple Direction Design**
- **Superior Balance for Consistent Grooming**
- **Works on All In-filled Surfaces**

The integrated Spring Tine is controlled through a simple rotating lever. This allows the operator to quickly and easily rotate tines upwards and out of the way when not needed. The spring tines are completely adjustable, so the depth of raking can be controlled by the facility. Simple markings on the lever rail allows the operator to precisely dial in tine depth.

SPECIFICATIONS

Model	926	
Main Frame	2 inch square tube (11 gauge) with 1-1/2 inch (10 gauge) Square tube cross bars	
Draw Bar	One piece 2" square tube	
Length	48 inches, (84 inches overall including the draw-bar)	
Width - Weight	72 Inches	250 lbs.
Running Gear	2 pneumatic tires (16 x 650-8) Ribbed 2-ply with Caged Roller Bearings	
Electric Lift	1000 lb capacity Electric 12 volt linear actuator	
Finish	Powder coat with 6-step pre-wash including de-greaser and anti rust coating	
Brushes	(16) Blue Super Duty Synthetic Brushes with flat bristles attached to polypropylene head - 4-12"; 8-18"; 4-41"	
Brush Weight	40 lbs. - Full set Blue	
Shipping Crate - Crated Weight	75" x 53" x 29"	403 lbs.

*All measurements listed within the specifications are from the original design documents. Please confirm the accuracy of such measurements for your own benefit.

13. Tequesta Trace Park Artificial Turf Warranty

DocuSign Envelope ID: D7E5A740-3076-408F-92B9-B13AE06A07AC



Manufacturer's Limited Product and Installation Warranty

Shaw Contract Flooring Services, Inc. dba Shaw Sports Turf® endeavors to use the highest quality materials and the latest manufacturing techniques in the production of our Synthetic Turf products. Our products are manufactured within our product tolerances and installed in accordance with our specifications which permit Shaw Sports Turf® to offer a guarantee against defects in materials and workmanship with respect to Shaw Sports Turf® Synthetic Turf products and the installation of the Shaw Sports Turf® Synthetic Turf Products for a period of eight (8) years from the date of Substantial Completion.

The term Synthetic Turf, as used herein, shall include only the synthetic turf fibers and backings supplied by Shaw Sports Turf®.

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS LIMITED WARRANTY, THIS LIMITED WARRANTY SHALL NOT COVER ANY DEFECTS, FAILURE IN OR DAMAGE TO THE SYNTHETIC TURF THAT IS:

- (a) due or attributable to abuse, misuse, negligence, improperly prepared base or site work;
(b) installed, repaired, altered or replaced by any person other than an authorized Shaw Sports Turf installer;
(c) damages, directly or indirectly, including but not limited to, on account of, accident, vandalism, machinery, spiked shoes, animals, misuse, fire, flood, war, chemical reactions, acts of God, static or dynamic loads exceeding Shaw Sports Turf® specifications at time of installation, improper or faulty subsurface preparation, failure of the subsurface after installation including settling of the surface, or improper cleaning methods;
(d) exposed to light other than natural light or approved artificial light; or
(e) not maintained in accordance with Shaw Sports Turf® recommendations, including the care and maintenance of the infill system (if applicable)
(f) caused by ordinary wear & tear.
(g) results from use for any purpose other than those approved in writing by Shaw Sports Turf.

THE EXPRESS WARRANTIES SET FORTH IN THIS LIMITED WARRANTY ARE IN LIEU OF AND EXCLUDE ANY AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

No person or party is authorized to create any obligation or liability for Shaw Sports Turf® and only the limited warranty expressed herein shall apply.

Shaw Sports Turf's obligations under this limited warranty are restricted to the repair or, at Shaw Sports Turf's sole option, replacement of all, or the affected parts covered herein. Shaw Sports Turf's liability under this limited warranty is limited to the non-prorated replacement value of the item to be repaired or replaced. IN NO EVENT SHALL THE OBLIGATIONS OF SHAW SPORTS TURF® UNDER THIS LIMITED WARRANTY EXCEED THE PURCHASE PRICE OF THE PRODUCT.

The remedy of repair or replacement set forth herein shall be the sole and exclusive remedy of the Warranty Holder and Shaw Sports Turf® shall have no other obligations or liability in connection with any matter or thing, including without limitation, the condition or quality of the Synthetic Turf. WITHOUT LIMITATION OF THE FOREGOING, IN NO EVENT SHALL SHAW SPORTS TURF® BE LIABLE TO THE WARRANTY HOLDER OR ANY OTHER PARTY FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES CONNECTED WITH THE USE OF THIS PRODUCT, INCLUDING, WITHOUT LIMITATION, CLAIMS FOR DAMAGES RELATING TO PERSONAL INJURY, LOST TIME OR CONVENIENCE, LOSS OF USE OF THE PRODUCT, LOST PROFITS OR REVENUES, DOWNTIME COSTS, THE LOSS OF PERSONAL OR COMMERCIAL PROPERTY, THE COSTS OF TELEPHONE, TRAVEL OR LODGING, OR ANY OTHER DAMAGES.

Shaw Sports Turf® endeavors to handle all warranty claims promptly and professionally. The obligations of Shaw Sports Turf® under this Limited Warranty are conditional on Shaw Sports Turf® having been paid in full with respect to this project, including all change orders at time of claim.

It is agreed that all claims by purchaser made under the foregoing limited warranty shall be invalid unless made in writing to Shaw Sports Turf® within eight (8) years from date of Substantial Completion and within (30) days of learning of the defect giving rise to its claim.

This Limited Warranty is not transferable.

Issued to: City of Weston As Warranty Holder

Date of Substantial Completion: 04/17/2017

Expiry Date: 04/17/2025

Project Name: Tequesta Trace Park 600 Indian Trace

Installation Location: Weston FL 33326

DocuSigned by: Phil Donite Signed: BC65E1B045E74AD...

3.9 Bermuda Turf Field Renovations

The CONTRACTOR shall perform turf renovations (remove and replace) on athletic fields as directed by the CITY. All labor, materials, supplies and equipment for the remove and installation of new Bermuda turf shall be included in the unit price per square foot stated in the Fee Schedule, Exhibit B.

The CONTRACTOR work shall at a minimum include cutting out the designated damaged or deteriorated sod areas, removal of debris from the field and premises, use 80/20 mix to smooth or level surface prior to planting, installing new turf, cutting in edges, rolling, tamping and smoothing surface to ensure safety and playability.

3.10 Chemicals or Fertilizers

The CONTRACTOR shall be prohibited from the use of chemicals or fertilizers on any site without prior written approval from the CITY. In order to obtain written approval for chemical or fertilizer use, the CONTRACTOR shall furnish to the CITY, in writing, the name of the chemical or fertilizer, the manufacturer's label and the Manufacturer's Safety Data Sheet (MSDS). Commercial fertilizer applicators must be certified by the Department of Agriculture and Consumer Affairs pursuant to F.S. 482.1562. All commercial fertilizer applicators shall successfully complete the Florida Department of Environmental Protection's required training program. All commercial fertilizer applicators shall apply fertilizers in accordance with the Florida Department of Environmental Protection through the University of Florida/Institute of Food and Agricultural Sciences Extension's "Florida-Friendly Best Management Practices for Protection of Water Resources by the Green Industries."

3.11 Maintenance of Traffic

CONTRACTOR shall be responsible for proper maintenance of traffic (M.O.T.) in accordance with the standards outlined in the Manual on Uniform Traffic Control Devices (M.U.T.C.D.) at all times. Pedestrian traffic may be prohibited when appropriate. Sufficient and proper safety devices, to include and not be limited to signage, flags, barricades and cones must be used to stage vehicles and equipment and to protect work sites on or near roadways and parking lots.

3.12 Utilities

CONTRACTOR shall be solely responsible for obtaining the locations of underground utilities when performing work below grade, and for identifying overhead utilities when performing work above grade. The CONTRACTOR shall be responsible to repair any damage to overhead and underground utilities caused by their construction activities.

3.13 Supplemental Services

The CONTRACTOR shall, upon the request and approval by the CITY, provide on as-needed basis, "Supplemental Services," for the purposes of: A) plants, shrubs, trees and palms installation; B) fertilization; and C) application of pest and disease management chemicals to plants, shrubs, hedges. These Additional Services shall be based on the unit prices provided in Exhibit B of the Agreement, Fee Schedule.

A. Plants, Shrubs, Trees and Palms Installation

1. All plant material shall be Florida Number One, or better, as provided in the most current edition of ***Grades and Standards for Florida Nursery Plants***, Parts I and II, prepared by the Florida Department of Agriculture. For standards not addressed in the Florida Grades and Standards for Florida Nursery Plants, plant materials shall conform to the American National Standards Institute (ANSI) Standards Z60.1.
2. All plant material and services shall be guaranteed for a period of 90 days from the date of planting or service completion. This guarantee may not apply for plants damaged by "acts of God," such as hurricanes, fires, etc., or by vehicular accidents.
3. All planting standards shall comply with the requirements contained in the planting details in Section 5.

B. Fertilization

A schedule of fertilization dates and fertilizer analysis shall be presented to the CITY prior to application and shall be subject to CITY approval. The fertilizer used shall be a commercial grade product and recommended for use on each plant, tree or grass type. Specific requirements shall be determined by soil test results, soil type and the time of year. Applications shall proceed continuously once begun until all areas have been completed. In the event fertilizer is thrown on hard surfaces, it shall be removed immediately to prevent staining. CONTRACTOR shall have the soil tested a minimum of once every four (4) months to determine required additives, and more often if necessary, to diagnose problem areas. Any plants, trees or grass damaged by over-fertilization shall be replaced at the CONTRACTOR'S expense.

All commercial fertilizer applicators shall apply fertilizers in accordance with the Florida Department of Environmental Protection through the University of Florida/Institute of Food and Agricultural Sciences Extension's "Florida-Friendly Best Management Practices for Protection of Water Resources by the Green Industries."

1. St. Augustine Grass: St. Augustine turf shall be fertilized with a complete NPK profile. The CONTRACTOR shall establish a program that shall fertilize all St. Augustine grass and shall vary with the time of year of the application and the results of soil analysis.
2. Bermuda Grass: Bermuda grass shall be fertilized with a complete NPK profile. The CONTRACTOR shall establish a program that shall fertilize all Bermuda grass and shall vary with the time of year of the application and the results of soil analysis. The CONTRACTOR shall apply additional fertilizer to treat stressed, worn or high traffic areas as needed.
3. Plants and Shrubs: The CONTRACTOR shall establish a program that shall fertilize all plants and shrubs, describing the type of fertilizer required for each type of plant and the time of year this work shall be undertaken.
4. Palms: The CONTRACTOR shall establish a program that shall fertilize all palms, describing the type of fertilizer required for each type of palm and the time of year this work shall be undertaken. The fertilization schedule shall be provided to the CITY not less than one month prior to application and shall be subject to CITY approval.

C. Disease and Pest Management - Application of disease and pest management chemicals to plants, shrubs, hedges, trees and palms.

1. The CONTRACTOR shall control or eradicate diseases and infestations by chewing or sucking insects, leaf miners, fire ants and other pests including, but not limited to white fly, by spraying affected plants and shrubs with chemical sprays and combinations of sprays suitable for that particular disease or pest when the infestation or infection becomes evident and as often thereafter as necessary. All applications shall be performed by persons holding a valid pesticide application license as issued by the State of Florida and shall be done in accordance with the pesticide manufacturer's recommended rates and all applicable Federal, State, County and Municipal regulations. The CONTRACTOR shall respond within 72 hours after a request or notice from CITY. The CONTRACTOR shall be fully licensed to spray pesticides and shall use sound cultural practices that aid in preventing the presence or proliferation of insects and diseases.
2. All planting beds and tree rings shall be maintained in a weed free condition. The CONTRACTOR shall apply various herbicides by means of spray type devices to aid in the control of unwanted weeds and vegetation. All applications shall be performed by persons holding a valid herbicide application license as issued by the State of Florida and shall be done in accordance with the herbicide manufacturer's recommended rates and all applicable Federal, State, County and Municipal regulations. Herbicides shall be used only with prior written approval by the CITY as to type, location and method of application. The CONTRACTOR shall exercise extreme care so as not to overspray and affect areas not intended for treatment. Areas adversely affected by such overspray shall be restored at the CONTRACTOR'S expense.
3. After a chemical application, all signs shall be removed in accordance with the chemical products' recommended standards.

D. Aeration, Verticutting, Topdressing, and Overseeding

On occasion, the CITY may request, aeration, verticutting and topdressing to provide proper air and water exchange for maximum growth potential and health of the Bermuda grass as needed. The topdressing material shall be a mixture similar to the profile of the soil below the turf as determined by soil analysis. The CONTRACTOR shall also be responsible for topdressing worn turf areas, depressed turf areas, etc. as needed on an ongoing basis. Overseeding material shall be with a rye grass blend. The CONTRACTOR shall submit a proposal for these services to the City for approval. The topdressing and overseeding material shall be reimbursed to the CONTRACTOR.

E. Sports Field Repairs

1. If requested by the CITY, the CONTRACTOR shall replenish the crimson stone for warning tracks, at a thickness of 1/2 "once every twelve (12) months. The CONTRACTOR shall verify the specifications for these materials with the CITY prior to ordering.
2. The CONTRACTOR shall install clay for infields and pitcher's mounds as needed materials supplied by the City.

3. Major projects such as turf renovations or drainage replacements will be done on an as needed basis and will be quoted to the CITY by the CONTRACTOR.
4. The CITY shall provide sand and CONTRACTOR shall install volleyball sand on the courts as directed by the CITY.

3.14 Project Work

The CITY, in its sole discretion, reserves the right to purchase materials for "Supplemental Work" directly from the CONTRACTOR's vendor or another vendor of the CITY's choice.

3.15 Liquidated Damages

If, in the opinion of the City Manager there has been a breach of Agreement, the City Manager shall notify the CONTRACTOR, in writing, specifying the basis and reason in which there has been a breach of Agreement. In the event of a breach by CONTRACTOR, CONTRACTOR shall be liable for liquidated damages as provided in this Section. Unless otherwise provided herein, there shall be no cure period of time to avoid the consequences of a breach.

Liquidated damage is not a penalty. CONTRACTOR agrees that the amount of liquidated damages assessed pursuant to this Section 3.15 is reasonable and does not constitute a penalty. The parties recognize the difficulty of proving the loss or damage suffered by the CITY due to CONTRACTOR's breach. CONTRACTOR acknowledges and agrees that the amount of liquidated damages approximate the loss anticipated at the time of execution of this Agreement.

A. Turf Mowing Work Cycle

Failure to comply with the provisions for the completion of the Work Cycle for turf mowing in the respective Parks Group within the thirty (30) calendar day period shall result in the liquidated damages as follows:

1. For Parks Group B: \$800 for each day of delay.

B. Turf Disease and Pest Management Cycle

Failure to comply with the provisions for the completion of the Work Cycle for turf management in the respective Parks Group within the thirty (30) calendar day period shall result in the liquidated damages as follows:

1. For Parks Group B: \$400 for each day of delay.

C. Shrubs and Ground Cover Material Work Cycle

Failure to comply with the provisions for the completion of the Work Cycle for shrubs and ground cover material in the respective Parks Group within the thirty (30) calendar day period shall result in the liquidated damages as follows:

1. For Parks Group B: \$600 for each day of delay.

D. Hedge Plant Material Work Cycle

Failure to comply with the provisions for the completion of the Work Cycle for hedge plant material in the respective Parks Group within the ninety (90) calendar day period shall result in the liquidated damages as follows:

1. For Parks Group B: \$600 for each day of delay.

E. Irrigation Management Work Cycle

Failure to comply with the provisions for the completion of the Work Cycle for irrigation clock (wet) checks in the respective Parks Group within the thirty (30) calendar day period shall result in the liquidated damages as follows:

1. For Parks Group B: \$300 for each day of delay.

F. Lining and Field Preparation Cycle

Failure to comply with the provisions for preparing, lining and grooming (if applicable) of a sports field as requested by the City shall result in the liquidated damages as follows:

1. \$250 per instance per baseball field.
2. \$350 per instance per soccer field/football field.

G. Custodial/Janitorial Cleaning of Offices

Failure to comply with the provisions of custodial cleaning of the office areas shall result in the liquidated damages as follows:

1. Actual cost per/hour charged by CITY contracted Custodial Contractor at this time of the violation or failure to comply.

H. Artificial Turf Maintenance

Failure to comply with the provisions of artificial turf maintenance and log submittals shall result in the liquidated damages as follows:

1. \$300 per instance per field.

I. Maintenance Yard Conditions

Failure to comply with correct deficiencies within the time frame requested by the CITY shall result in the liquidated damages:

1. \$200 per day until resolved.

3.16 Public Relations

CONTRACTOR'S positive interaction with CITY residents is essential to the success of this Agreement and is of equal importance as the ability to competently maintain the parks. CONTRACTOR shall extend the utmost courtesy to CITY residents at all times. All resident inquiries shall be directed to the CITY.

3.17 Discovery and Notification

If the CONTRACTOR discovers damages, vandalism or theft, the CONTRACTOR shall immediately notify the CITY of same, and shall file a police report of the occurrence.

3.18 Property Damage

Observation of property damage prior to the commencement of work, whether public or private, shall immediately be reported to CITY. Property damage, whether public or private, caused by CONTRACTOR during the course of the work shall be immediately reported to CITY, and repaired by CONTRACTOR at no cost to CITY or Property Owner.

If for any reason, the CONTRACTOR damages CITY's equipment/property, they shall be responsible for the cost to repair. In the event of damage to City property, the CITY shall make or cause to be made the required repairs and submit a bill of all related costs to the CONTRACTOR the CITY determines to be responsible.

3.19 Work Order (Service Request) Completion Information Input

The CONTRACTOR shall be responsible to enter/input information on completed work orders (service requests) into the CITY's Work Order and Asset Management Software. The typical information required include but is not limited to: description of service, date serviced, city contract#, location, city asset serviced (e.g. street light pole#, monument sign, irrigation pump, park, etc), and hours or cost for service. Work Order Completion data input shall be entered no later than 5 working days after the actual performance of the work order or service request. All work orders entered by the CONTRACTOR shall be reviewed by the CITY and the work order closed by the CITY only after completion of the service is verified. Services or work performed by the CONTRACTOR shall not be considered completed and eligible for payment by the CITY until the Work Order Completion Information is entered into the CITY's Work Order System by the CONTRACTOR.

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SECTION 4

STANDARDS OF CONTRACTOR

4.1 Intent

CONTRACTOR is an independent contractor and the individuals assigned to work for CITY by CONTRACTOR are subject to the approval of CITY and shall not be CITY employees. CONTRACTOR must be fully licensed with all required State and/or local government licenses and permits and shall comply with all Federal, State and local laws, rules, practices and regulations.

4.2 Facilities

CITY reserves the right to inspect CONTRACTOR'S facilities at any reasonable time, during normal work hours, without prior notice to determine that CONTRACTOR has a bona fide place of business and is a responsible CONTRACTOR.

4.3 Identification

CONTRACTOR will not use or create any badge containing CITY'S name, seal, logo, or any other reference thereof for identification. CONTRACTOR shall use only a City issued identification badge.

4.4 Experience, Licensing and Qualifications

- A. CONTRACTOR shall have a minimum of five (5) years of experience in providing park maintenance services in parks of similar complexity and size as Park Group B. Relevant experience includes the maintenance and installation of athletic fields with Bermuda turf, including with clay surfaces; artificial turf athletic fields; St. Augustine grass, plants, shrubs, small trees and palms under 10 feet in height and other plant materials; irrigation management; fertilizer and herbicide applications; and disease and pest management. Proposers shall have been in continuous operation for a minimum of the past five (5) years from the date that the RFP is issued and shall have a resident branch office in Monroe, Miami-Dade, Broward or Palm Beach County, Florida. Proposer shall have staff that have all required State and Local government licenses and registrations.
- B. Education and Degree: CONTRACTOR must have at least one full time employee with a degree in turf management, agronomy, horticulture or a related field to manage this project.
- A. Licenses: CONTRACTOR must have staff licensed with all required State and/or Local government licenses and permits, including, but not limited to, disease and pest control, herbicides, irrigation, horticultural services, arborist, etc.
- B. Synthetic Turf Maintenance: CONTRACTOR shall have personnel trained or experienced in the requirements of synthetic turf warranty, manufacturer's maintenance guidelines and/or Synthetic Turf Council (STC <http://www.syntheticurfCouncil.org/>) maintenance guidelines. Training should include information about the specific components and materials of the installed system, the proper use of the synthetic turf maintenance equipment and the steps to ensure that optimal benefits are obtained while satisfying warranty requirements.

- C. Pesticide Certification: CONTRACTOR must have a certified pesticide operator through the State of Florida, Department of Health and Rehabilitative Services. This individual will perform any pesticide applications for this contract.
- D. Herbicide Certification: CONTRACTOR must have a certified herbicide operator through the State of Florida, Department of Health and Rehabilitative Services. This individual will perform any herbicide applications for this contract.
- E. Florida Green Industries Certification: CONTRACTOR must have at least one full time employee who has completed the Florida Green Industries Best Management Practices workshop dedicated to this contract.
- F. Know-the-Flow Certification: CONTRACTOR must have at least one full time employee who has completed Broward County's "Know -the- Flow" course, Department of Business and Professional Regulation Course Designation #9624920.

B. Relationship Contact

CONTRACTOR shall maintain at a minimum one relationship contact for this contract who will respond to specific CITY requests, twenty-four hours a day, seven days a week, including all public holidays. The relationship contact shall be available by cellular telephone and shall be expected to visit the work site as requested by CITY. The relationship contact shall be able to manage all facets of the contract. The relationship contact must be fluent in English and have excellent communication skills and be capable of directing all regular maintenance and additional services and coordinating these with CITY. The relationship contacts shall use his/her experience and training to prevent, detect and control adverse conditions by physically inspecting the work area regularly.

C. Performance Evaluation

The CITY shall meet the CONTRACTOR every three months to review the CONTRACTOR's performance.

- A. The CITY shall provide a written performance evaluation. The evaluation shall include but is not limited to the CONTRACTOR's performance in:
 - 1. Monthly Contract services, 30 day detail and 90 day detail.
 - 2. Bermuda turf management
 - 3. Infield management
 - 4. Field game preparation
 - 5. Irrigation management
 - 6. Litter and Debris collection
 - 7. Condition of Maintenance Yard
- B. The overall performance evaluations shall be rated in one of the following categories, depending upon the CONTRACTOR's performance: EXCELLENT, GOOD or POOR.
- C. All instances of a rating of POOR shall be documented in writing to the CONTRACTOR and followed by a written commitment from the CONTRACTOR to resolve the issues in a time

frame agreed to between the CITY and the CONTRACTOR. Two consecutive quarters of a performance evaluation with a rating of POOR may constitute a breach of this Agreement and may result in termination of this Agreement.

D. Responding to Emergency Requests

CONTRACTOR shall provide 24/7 emergency contact telephone number and respond to emergency request after notification by the City, twenty-four (24) hours a day, seven (7) days a week, including all public holidays. Emergency repair will require the following response:

- A. CONTRACTOR acknowledgement of the emergency request within thirty (30) minutes of the phone call made by CITY or designee. Acknowledgement must be by live telephone conversation with a CONTRACTOR employee, not a recording or answering service.
- B. For Irrigation Emergencies: A technician shall commence work at the affected location within two (2) hours of request for service. CONTRACTOR shall immediately address the problem and immediately inform the CITY of the extent of the problem.
- C. For Landscape Emergencies: CONTRACTOR shall commence work at the affected location within four (4) hours of request for service. CONTRACTOR shall immediately address the problem and immediately inform the CITY of the extent of the problem.
- D. CONTRACTOR shall provide a list of individuals and their contact information to be contacted for emergency and update it immediately whenever any change occurs.

E. Failure to Respond

- A. Should the CONTRACTOR fail to meet the thirty (30) minutes acknowledgement time or two (2) hour time requirement to commence irrigation emergency repairs, each failure shall result in liquidated damages due to the CITY in the amount \$750.00.
- B. Should the CONTRACTOR fail to meet the four (4) hour response time to be on-site for Landscape Emergencies, unless otherwise agreed upon with the CITY, each failure shall result in liquidated damages due to the CITY in the amount of \$500.00.
- C. Consistent failure by the vendor to respond to Emergency Service Repairs Requests and Non-Emergency Service requests within the required response times may, place the CONTRACTOR in breach of the Agreement. Consistent failure to respond is defined as not responding within the required response time on two out of four consecutive occurrences.

4.9 Subcontracting Work

- A. Award of Subcontracts and Other Contracts for Portions of Work. CONTRACTOR shall furnish in writing to CITY the names of persons or entities proposed for each principal portion of the work. In addition, CONTRACTOR shall not change subcontractors performing any portion of the work required by this Agreement without prior written approval by City Manager.

- B. CONTRACTOR shall be responsible and liable to CITY for all work performed by the Subcontractors or their employees, agents or CONTRACTORS, pursuant to this Agreement.
- C. Sub-contractual Relations. By listing the names of each as set forth in Exhibit "C", attached hereto and made a part hereof, CONTRACTOR shall require each subcontractor, to the extent the work to be performed by the subcontractor, to be bound to CONTRACTOR by terms of the Agreement, and to assume toward CONTRACTOR all the obligations and responsibilities which CONTRACTOR, by this Agreement, assumes toward CITY. Each sub-contract agreement, between CONTRACTOR and a subcontractor, shall preserve and protect the rights of CITY under the Agreement with respect to the work to be performed by the subcontractor so that subcontracting thereof shall not prejudice the rights, and shall allow the subcontractor, unless specifically provided otherwise in the sub-contract agreement, the benefit of all rights, remedies and redress against CONTRACTOR that CONTRACTOR, by the Agreement, has against CITY. The CONTRACTOR shall review subcontractors' insurance policies for accuracy, completeness and sufficiency.
- D. Where appropriate, CONTRACTOR shall require each subcontractor to enter into similar agreements with the subcontractors. CONTRACTOR shall make available to each proposed subcontractor, prior to the execution of the sub-contract agreement, copies of the Agreement to which the subcontractor shall be bound, and upon written request of the subcontractor, identify to the subcontractor terms and conditions of the proposed sub-contract agreement which may be at variance with the Agreement. Subcontractors shall similarly make copies of applicable portions of such documents available to their respective proposed subcontractors.
- E. CONTRACTOR shall notify and request approval in writing of any subcontractors that will be utilized but not listed in Exhibit "C" at least two weeks prior to start of work for the City to verify qualifications of the new subcontractor.

4.10 Drug-Free Workplace

CONTRACTOR continues to implement and maintain a drug-free workplace program, in accordance with Section 287.087, Florida Statutes.

4.11 Exclusivity

CITY reserves the right to have required work performed by others. This action will not waive or void any of the terms and conditions in this Agreement.

4.12 Compliance With Code Of Federal Regulations And Federal Standards

All services purchased under this agreement shall be in accordance with the 2 Code of Federal Regulations (CFR), Part 200 for Uniform Administrative Requirements, Cost Principle and Audit Requirements for Federal Awards. In addition, CONTRACTOR shall adhere to all applicable governmental standards, including, but not limited to those issued by the Occupation Safety and Health Administration (OSHA), the National Institute of Safety Hazards (NIOSH), and the National Fire Protection Association (NFPA). It shall be the responsibility of the CONTRACTOR to be regularly informed to conform to any changes in standards issued by any regulatory agencies that govern the commodities or services applicable to this agreement.

A complete copy of the CFR may be obtained by visiting the following website:
https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl

A. Requirements for CONTRACTOR Compliance

1. CONTRACTOR shall assist in ensuring that the CITY is in compliance with Federal Emergency Management Agency's (FEMA) reimbursement requirements, as set forth in the CFR, §200.318, General Procurement Standards.
2. If subcontractors are utilized, the CONTRACTOR shall take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. Affirmative steps must include:
 - a. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
 - b. II. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
 - c. III. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
 - d. IV. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
 - e. V. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce or similar State and County agencies.

CONTRACTOR may use the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce. Websites and contact information can be found at <https://www.sba.gov/> and <https://www.mbda.gov/>.

- 4.13 Section 4.12 through 4.26 details the federally required and FEMA recommended provisions applicable to Public Assistance (PA), that CONTRACTOR shall comply with as the CITY (Applicant/Non-Federal Entity) plans to use Federal financial assistance awarded by FEMA to pay or reimburse equipment expenses or services under this agreement (contract). This agreement (contract) must contain the applicable clauses described in Appendix II to Part 200 - Contract Provisions for Non-Federal Entity Contracts Under Federal Awards under 2 C.F.R. § 200.326. (Search "Appendix II to Part 200" at <https://www.ecfr.gov/>)

Appendix K: Contract Provisions of the Public Assistance Program and Policy Guide (PAPPG), outlines the federally required contract provisions in addition to FEMA recommended provisions applicable to PA Applicant contracts such as this Agreement.

In the event that a conflict arises between the Federal requirements set forth in Section 4.12 through Section 4.26 and any other provisions of this Agreement, the Federal requirements shall control and prevail.

4.14 Equal Employment Opportunity

During the performance of this contract, the CONTRACTOR agrees as follows:

- A. The CONTRACTOR will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The CONTRACTOR will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

- B. The CONTRACTOR will, in all solicitations or advertisements for employees placed by or on behalf of the CONTRACTOR, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- C. The CONTRACTOR will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the CONTRACTOR's legal duty to furnish information.
- D. The CONTRACTOR will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the CONTRACTOR's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- E. The CONTRACTOR will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- F. The CONTRACTOR will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- G. In the event of the CONTRACTOR's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be

canceled, terminated, or suspended in whole or in part and the CONTRACTOR may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

- H. The CONTRACTOR will include the portion of the sentence immediately preceding paragraph (A) and the provisions of paragraphs (A) through (H) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The CONTRACTOR will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a CONTRACTOR becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the CONTRACTOR may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, that if the applicant so participating is a State, Territorial, or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a CONTRACTOR debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon CONTRACTORS and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

4.15 Compliance with the Contract Work Hours and Safety Standards Act

This requirement applies to all FEMA contracts awarded by the non-federal entity exceeding \$100,000 under grant and cooperative agreement programs that involve the employment of mechanics or laborers. It is applicable to construction work. These requirements do not apply to the purchase of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

29 C.F.R. § 5.5(b) provides contract clause language concerning compliance with the Contract Work Hours and Safety Standards Act.

- A. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- B. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph 4.12(A) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph 4.12(A) of this section, in the sum of \$26 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph 4.12(A) of this section.
- C. Withholding for unpaid wages and liquidated damages. The CITY shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph 4.12(B) of this section.
- D. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs 4.12(A) through (D) of this section.

4.16 Clean Air Act

This requirement applies to contracts awarded by a non-Federal entity of amounts exceeding \$150,000 under a federal grant.

- A. The CONTRACTOR agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
- B. The CONTRACTOR agrees to report each violation to the (name of applicant entering into the contract) and understands and agrees that the (name of the applicant entering into the contract) will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- C. The CONTRACTOR agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

4.17 Federal Water Pollution Control Act

This requirement applies to contracts awarded by a non-Federal entity of amounts exceeding \$150,000 under a federal grant.

- A. The CONTRACTOR agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
- B. The CONTRACTOR agrees to report each violation to the (name of the applicant entering into the contract) and understands and agrees that the (name of the applicant entering into the contract) will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- C. The CONTRACTOR agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

4.18 Suspension and Debarment

The following provides a debarment and suspension clause. It incorporates an optional method of verifying that contractors are not excluded or disqualified.

- A. This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the contractor is required to verify that none of the contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- B. The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- C. This certification is a material representation of fact relied upon by the CITY. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the CITY, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

- D. The CONTRACTOR (PROPOSER) agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The CONTRACTOR (PROPOSER) further agrees to include a provision requiring such compliance in its lower tier covered transactions.

4.19 Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended)

This requirement applies to all FEMA grant and cooperative agreement programs. CONTRACTORs that apply or proposal for a contract of \$100,000 or more under a federal grant must file the required certification. See 2 C.F.R. Part 200, Appendix II, I; 31 U.S.C. § 1352; and 44 C.F.R. Part 18.

CONTRACTORs who apply or submit proposal for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier-to-tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

Required Certification: If applicable, CONTRACTOR must sign and submit with this Agreement the following certification, APPENDIX A, 44 C.F.R. PART 18 – Certification Regarding Lobbying.

4.20 Procurement of Recovered Materials

This requirement applies to all contracts awarded by a non-federal entity under FEMA grant and cooperative agreement programs.

Requirements: The requirements of Section 6002 include procuring only items designated in guidelines of the EPA at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

- A. In the performance of this contract, the CONTRACTOR shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired.
1. Competitively within a timeframe providing for compliance with the contract performance schedule;
 2. Meeting contract performance requirements; or
 3. At a reasonable price.
- B. Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

- C. The CONTRACTOR also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

4.21 Access to Records

The following access to records requirements applies to this contract:

- A. The CONTRACTOR agrees to provide State of Florida, the CITY, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the CONTRACTOR which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.
- B. The CONTRACTOR agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- C. The CONTRACTOR agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.
- D. In compliance with the Disaster Recovery Act of 2018, the CITY and the CONTRACTOR acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

4.22 Changes Clause

To be eligible for FEMA assistance under the non-Federal entity's FEMA grant or cooperative agreement, the cost of the change, modification, change order, or constructive change must be allowable, allocable, within the scope of its grant or cooperative agreement, and reasonable for the completion of project scope.

4.23 DHS Seal, Logo, And Flags

The contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre- approval.

4.24 Compliance with Federal Law, Regulations, And Executive Orders

The CITY acknowledges that FEMA financial assistance will be used to fund all or a portion of the contract. The contractor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.

4.25 No Obligation by Federal Government

The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.

4.26 Program Fraud and False or Fraudulent Statements or Related Acts

The CONTRACTOR acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the CONTRACTOR's actions pertaining to this contract.

4.27 Contingency Allowance

CONTRACTOR agrees that a contingency allowance, if any, is for the sole use of the CITY to cover unanticipated costs.

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SECTION 5

STANDARDS OF LABOR AND MATERIALS

5.1 Labor

CONTRACTOR shall at all times enforce strict discipline and good order among CONTRACTOR'S employees/independent contractors and shall not employ on the work site an unfit person or anyone not skilled in the work assigned to him. Subcontractors, employees or independent contractors of CONTRACTOR whose work is unsatisfactory to CITY or who are considered by CITY'S representatives as careless, incompetent, unskilled or disorderly or who use threatening or abusive language to any person shall be dismissed from work upon notice from CITY and shall not be employed to perform the work under this Agreement thereafter. No liquor, alcoholic beverages, smoking or drugs shall be allowed on the site of the work.

CONTRACTOR'S shall provide certified payroll to the City on a monthly basis, along with CONTRACTOR'S invoice.

5.2 Background Checks

Prior to working in the CITY, all managers and employees of CONTRACTOR, independent contractors, and subcontractors shall be required to undergo background checks. A thorough State and national background check that identifies an individual's entire criminal history shall be conducted. The analysis of the background check shall focus only on those offenses that most directly impact both children and adults, which include but are not limited to the following:

- A. Any illegal activity of a sexual nature;
- B. Acts of violence;
- C. Acts of lewd or lascivious behavior;
- D. Drug possession and/or drug distribution; and,
- E. Repeated public intoxication.

A background check shall be conducted on new employees prior to employment and on each employee at least once every three years. All background check related costs shall be the sole responsibility of the CONTRACTOR. Prior to the beginning of the contract term and at the beginning of each City fiscal year (beginning October 1st) the CONTRACTOR shall submit written certification to the CITY that CONTRACTOR has complied with the City's requirement regarding background checks on all employees. The certifying document shall be signed by the authorized officer of the corporation. Should an employee begin service with the CONTRACTOR after the commencement of the Agreement, during a City fiscal year, the CONTRACTOR shall, as soon as reasonably possible, submit a supplemental certifying document regarding a background check on the new employee. Maintenance, ownership, and control of all background check records and information generated, received, possessed and stored shall be the sole responsibility of the CONTRACTOR, and shall be retained for a period of not less than three years. Failure to perform a state and national criminal background check in accordance with the rules above shall be cause for termination of the agreement

5.3 Staffing Requirements

CONTRACTOR shall provide a sufficient number of supervised staff to complete the duties stated within the Agreement. At Tequesta Trace Park a minimum of three staff shall be on duty at the park

at all times that the park is open to the public. For the remaining parks, there is no minimum on site staffing level; however, a sufficient number of supervised staff to complete the maintenance duties and Tequesta Trace Park staffing level at all parks seven days per week as outlined in the Scope of Services is still required.

- A. Supervisor: At Tequesta Trace Park, the CONTRACTOR shall maintain at least one supervisor and or lead worker on site at all times. The Supervisor shall be fluent in both English and Spanish and shall have excellent communication skills and be capable of directing all work requested by the CITY. The Supervisor shall constantly use his experience and training to prevent, detect and control adverse conditions by physically inspecting the CITY'S properties.
- B. Employee/Independent CONTRACTOR or Subcontractor Performance: CONTRACTOR shall employ (or contract with) personnel competent to perform the work specified herein. CITY reserves the right to request the removal of a CONTRACTOR'S employee/independent contractor or subcontractor from performing maintenance on the CITY'S property where such employee's/independent contractor's or subcontractor's performance or actions, are obviously detrimental to CITY.
- C. Uniforms: CONTRACTOR shall provide all employees with color coordinated uniforms that shall meet CITY'S public image requirements and be maintained by CONTRACTOR so that all personnel are neat, clean and professional in appearance at all times. Non-uniform clothing shall not be permitted.
- D. In the event that there is a staffing shortage, the hourly labor rate from the bid table will be utilized to calculate the amount to be deducted from the CONTRACTOR'S monthly invoice.

4.4 Equipment

CONTRACTORS shall provide a comprehensive list of all equipment (or heavy machinery) currently owned or leased utilizing Form 2A provided in the RFP document.

- A. Vehicles: CONTRACTOR shall keep all vehicles in good repair, free from leaking fluids, properly registered, of uniform color and shall bear the company name on each side in not less than 1 ½" letters.
- B. Equipment Safety: CONTRACTOR shall keep all equipment in an efficient and safe operating condition while performing work under this Agreement. Equipment shall have proper safety devices maintained at all times while in use. If equipment does not contain proper safety devices and/or is being operated in an unsafe manner, the CITY may direct CONTRACTOR to remove such equipment and/or the operator until the deficiency is corrected to the satisfaction of the CITY. CONTRACTOR shall be responsible and liable for injury to persons and property caused by the operation of the equipment.
- C. Storage: CITY shall not provide facilities at which CONTRACTOR may store equipment. CONTRACTOR shall be responsible for mobilization and setup, and demobilization and breakdown, each day.

4.5 Disaster Preparedness and Response: The CONTRACTOR shall assist the CITY in responding to disaster events within the CITY. There are no office and storage facilities available at the respective parks, however the CONTRACTOR may stage their equipment inside of Regional Park, Tequesta Trace Park or Vista Park, with the CITY's prior authorization, up to 48 hours prior to a storm event.

4.6 Irrigation Parts, Chemical and Fertilizers

- A. The CONTRACTOR shall base all costs for irrigation, chemicals, fertilizers and other supplies on the current supplier wholesale price list as provided to the CITY by SiteOne Landscape Supply Catalog: "Wholesale."
- B. The CITY reserves the right to request an updated wholesale price list every three (3) months.
- C. The CITY also reserves the right to add or delete items from the wholesale price list.
- D. The CONTRACTOR shall submit the markup or discount percentage in Exhibit B, Fee Schedule. The markup or discount shall be calculated on the wholesale price (See 5.3(A)) of supplies or materials only. Markup shall include the cost of taxes and delivery.
- E. Labor costs contained within Exhibit B shall provide for excavation and planting costs.
- F. The CITY, in its sole discretion, reserves the right to purchase materials for Supplemental Work directly from the CONTRACTOR or another vendor of the CITY's choice.

4.7 Trees, Palms and Plants Pricing

- A. All trees and plants must be Florida Grade #1 or better. Prices for trees or plants shall be "unplanted" with a markup calculated on the wholesale price of supplies or materials only and shall cover the cost of taxes and delivery. The CONTRACTOR shall submit the markup or discount percentage in Exhibit B, Fee Schedule. The markup or discount shall be calculated on the wholesale price of materials only.
- B. Cost for trees and plants shall be based on the then current Betrock Information Systems "PlantFinder" - Wholesale Guide to Foliage and Ornamental Plants.
- C. Labor costs contained within Exhibit B, Fee Schedule, shall provide for excavation and planting costs. All sod must be priced "as installed."
- D. The CITY, in its sole discretion, reserves the right to purchase materials for supplemental Work directly from the CONTRACTOR or another vendor of the CITY's choice.

4.8 Plant Specification and Detail

Figure 5.8(A) – LARGE TREE & PALM PLANTING DETAIL

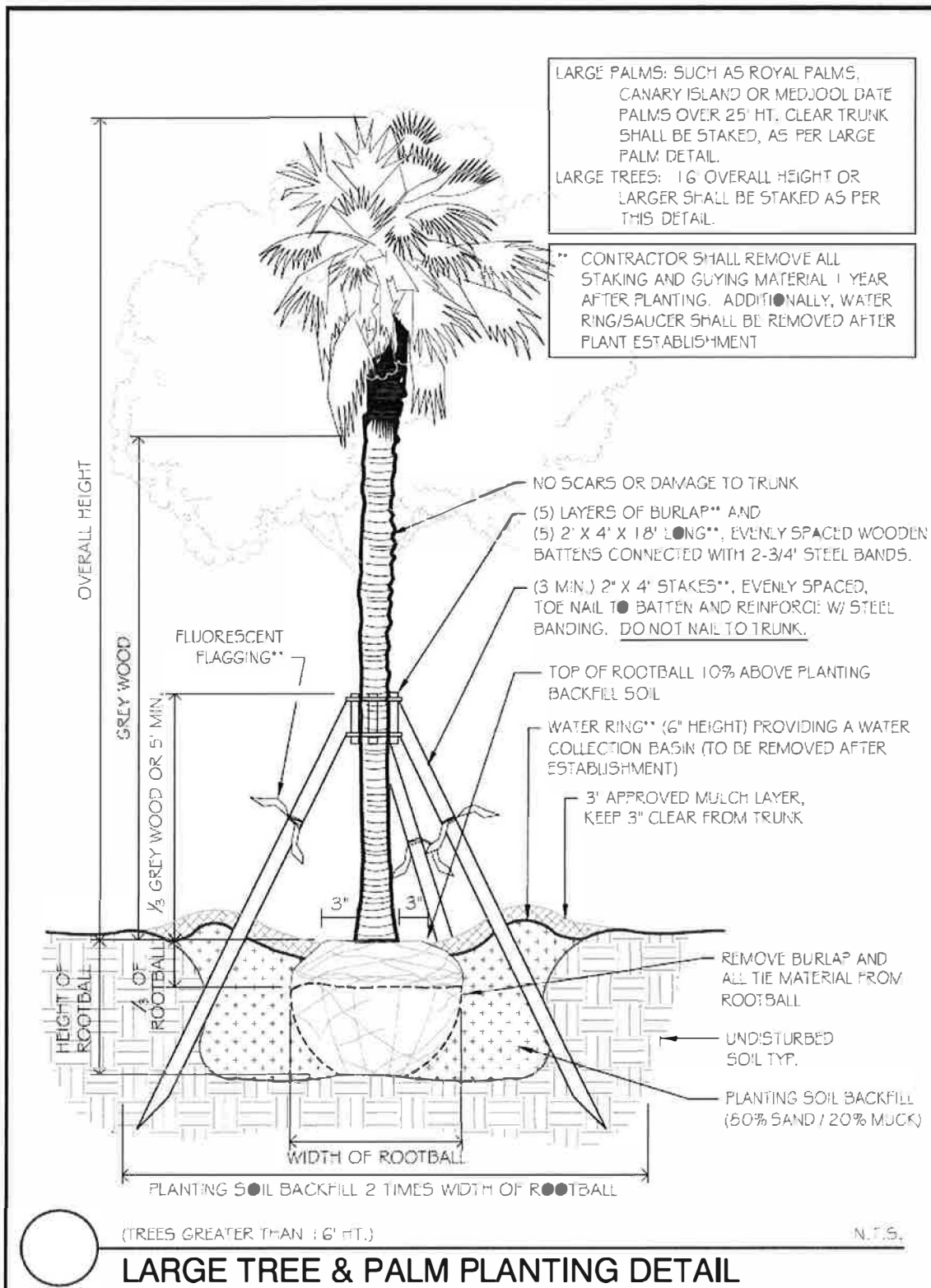
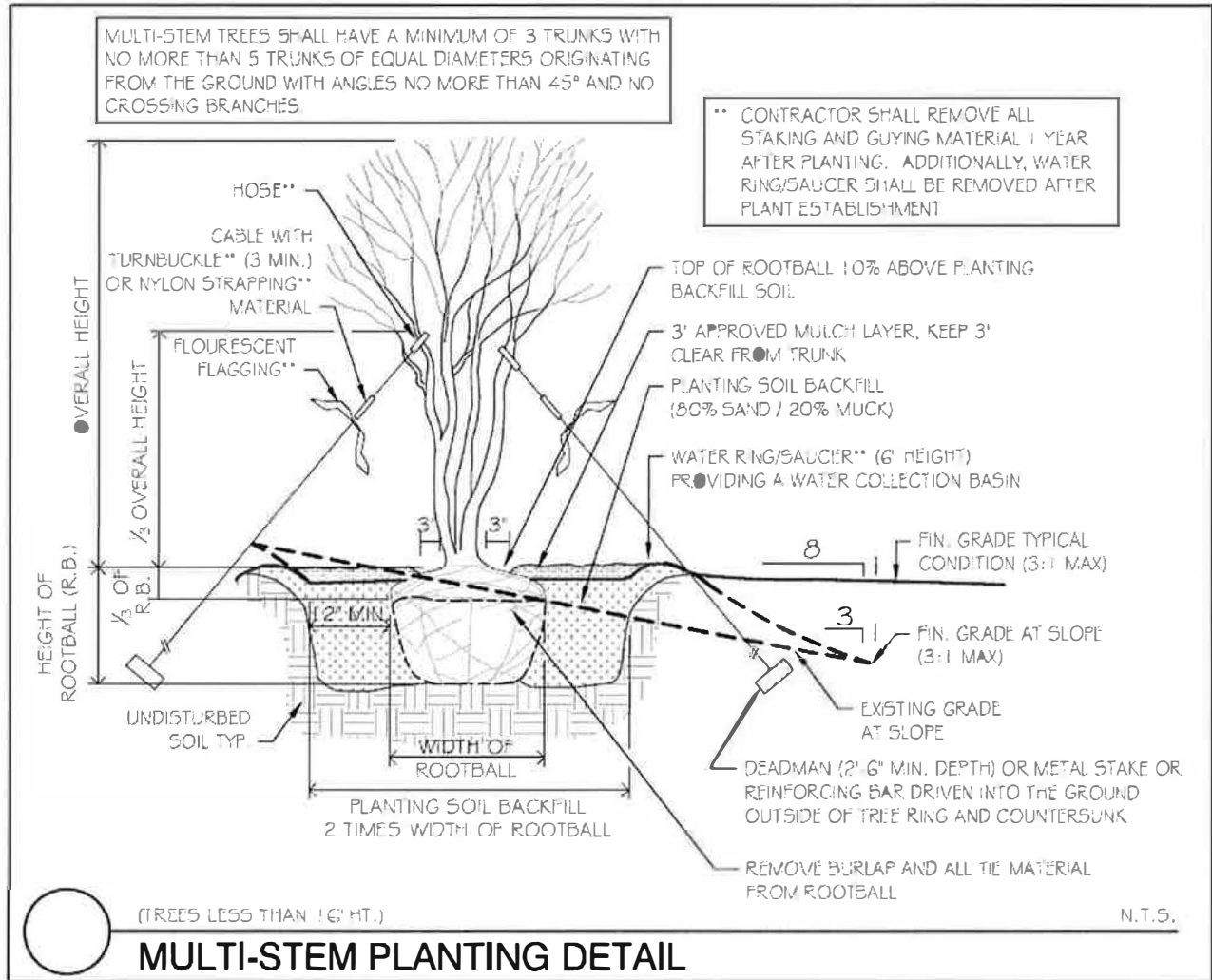


Figure 5.8(B) – MULTI-STEM PLANTING DETAIL



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Figure 5.8(C) – SHRUB PLANTING DETAIL

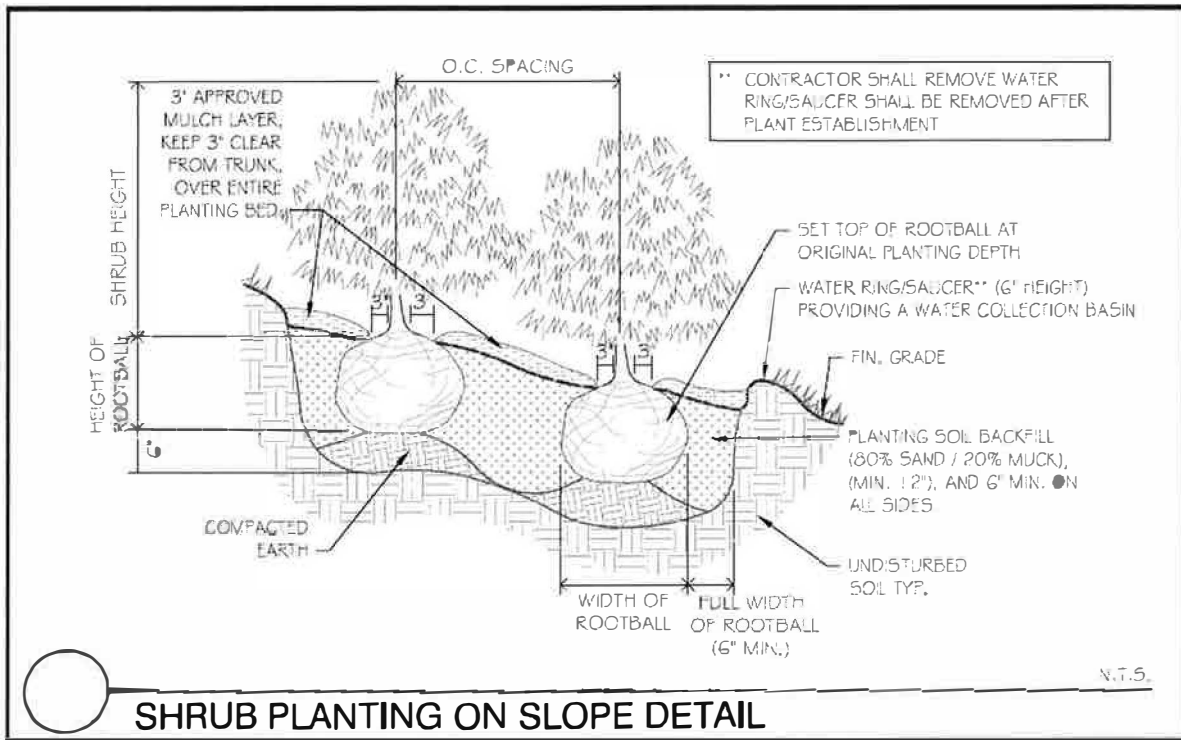
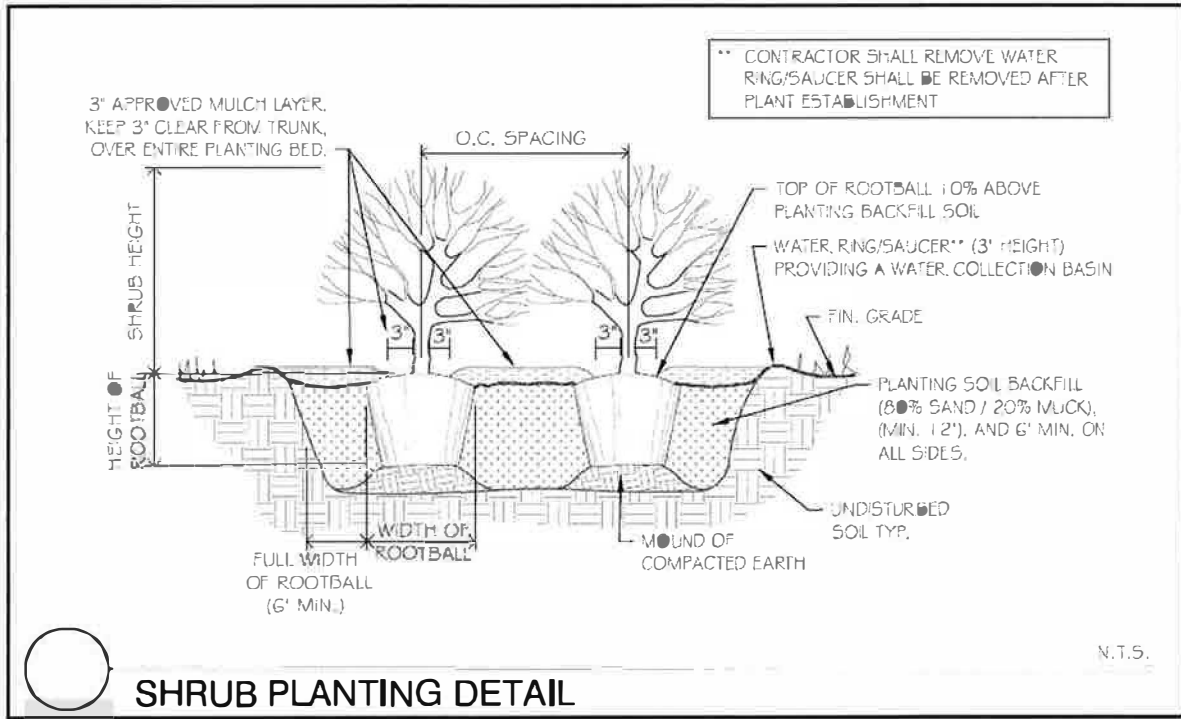
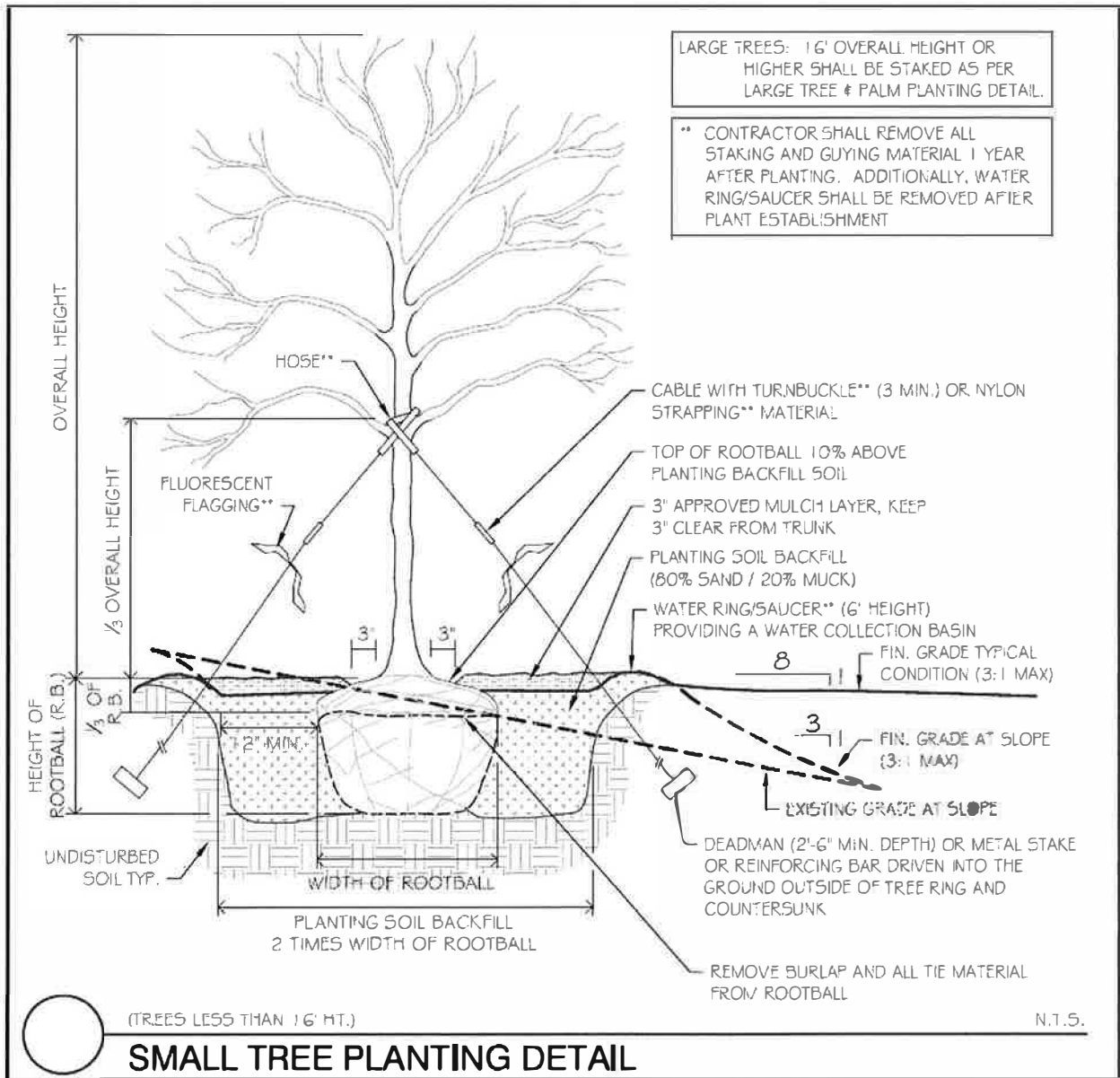


Figure 5.8(D) – SMALL TREE PLANTING DETAIL



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Figure 5.8(E) –SOD AND GROUND COVER PLANTING DETAIL

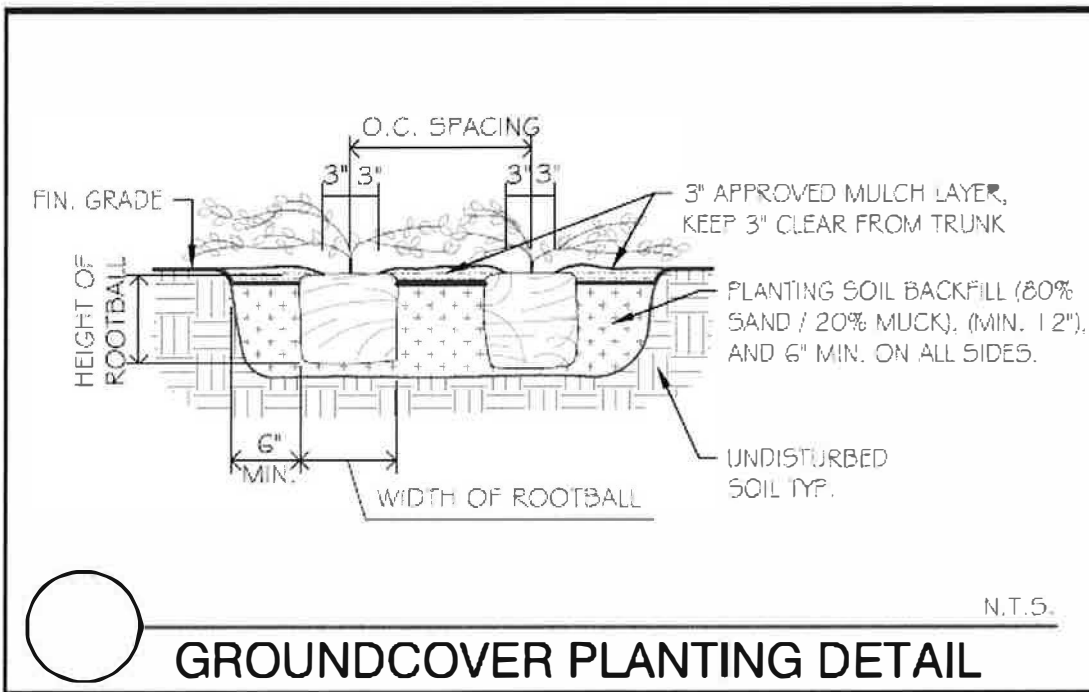
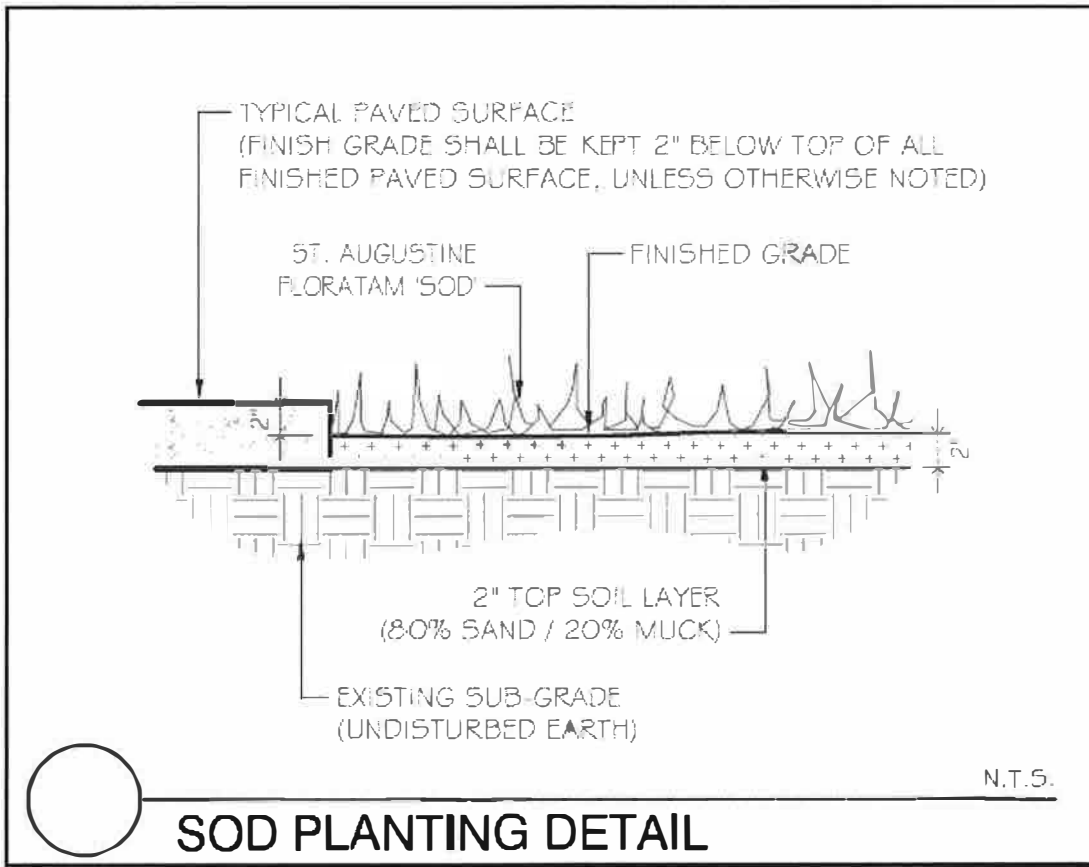
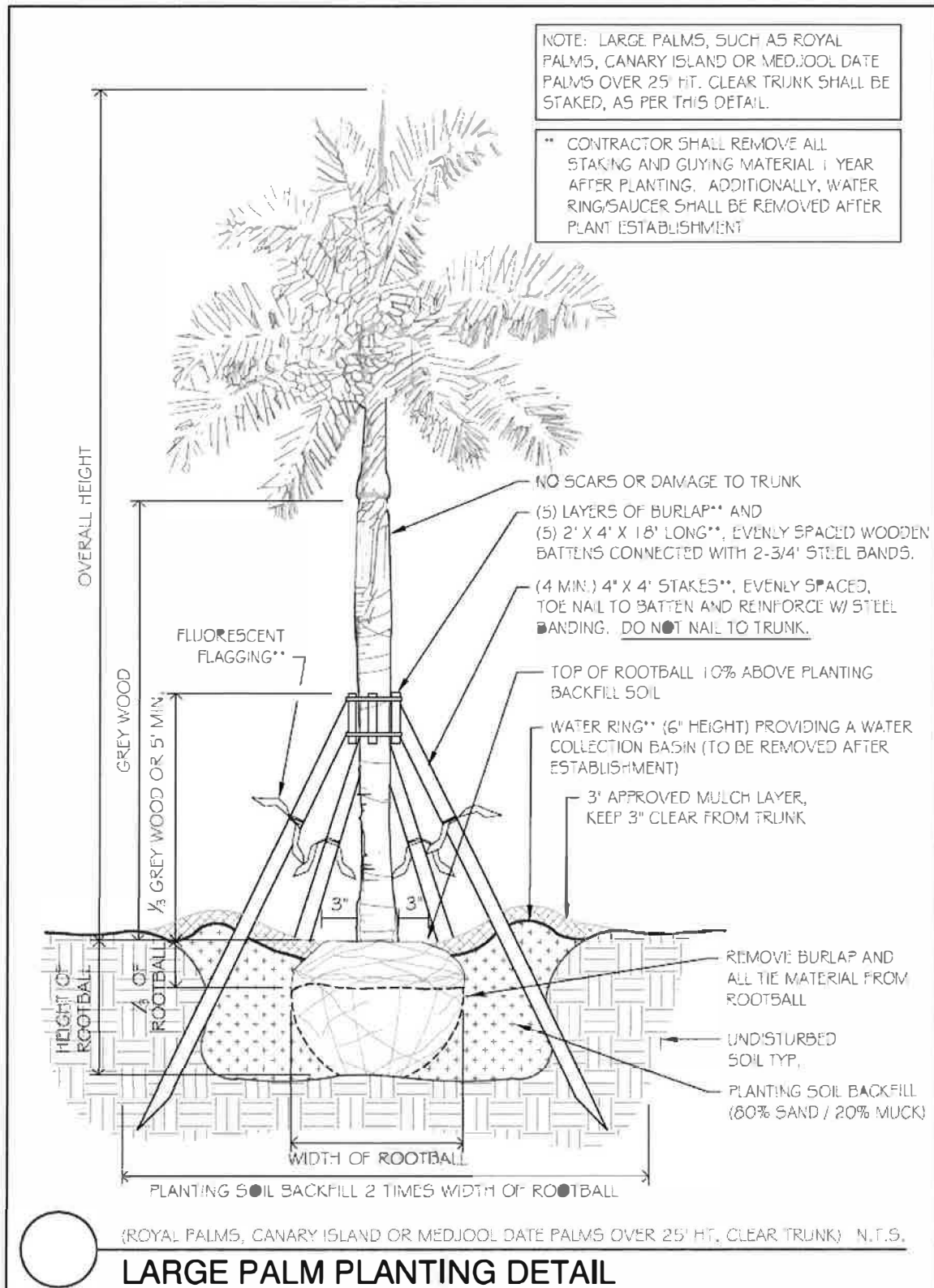


Figure 5.8(F) – LARGE TREE & PALM PLANTING DETAIL II



SECTION 6
STANDARDS OF INSURANCE

6.1 Insurance Requirements

- A. The policies of insurance shall be placed with insurance carriers authorized to do business by the Insurance Department of the State of Florida, and meet a minimum financial rating by AM Best Company of no less than "A- Excellent: FSC VII"; and,
- B. CITY shall be named as additional insured on all policies except worker's compensation and professional liability; and,
- C. The additional insured status for CITY for general liability and for completed operations shall be maintained for this Agreement for five years following the completion of all services, pursuant to this Agreement or no more restrictive than the Insurance Services office (ISO) form CG 2037 (07 04).
- D. Any person, organization, vehicle, equipment, or other person or property fulfilling this Agreement is bound by these insurance requirements.
- E. Any changes to these specifications shall be at the sole and exclusive discretion of CITY.
- F. CITY retains the right to review, at any time, policies, coverage, applicable forms/endorsements, and amounts of insurance.
- G. CONTRACTOR is responsible for repairing or replacing any damage to structures unless otherwise addressed within this Agreement.
- H. Insurance shall not be suspended, voided or canceled except after 30 calendar days prior written notice by certified mail, return receipt requested, has been given to CITY, except the cancellation notice period for non-payment of premiums shall be 10 days.
- I. Certificates of Insurance evidencing conditions to this Agreement are to be furnished to City of Weston, 17200 Royal Palm Boulevard, Weston, FL 33326.
- J. Notices of Accidents (occurrences) and Notices of Claims associated with work being performed under this Agreement shall be provided to CONTRACTOR's insurance company and CITY as soon as practicable after notice to the insured.
- K. CONTRACTOR agrees by entering into this written Agreement that the insurance policies provided will include a Waiver of Subrogation in favor of CITY. CONTRACTOR'S insurance shall be Primary and non-contributory.
- L. CONTRACTOR is responsible for any costs or expenses below deductibles, self-insured retentions, coverage exclusions or limitations, or coinsurance penalties.

6.2 Specific Coverage

The following specific insurance coverages apply or do not apply to this solicitation:

- Workers Compensation: CONTRACTOR shall provide statutory workers' compensation, and employer's liability insurance with limits of not less than \$1,000,000 per employee per accident, \$1,000,000 disease aggregate and \$1,000,000 per employee per disease for all personnel on the worksite. If applicable, coverage for the Jones Act and United States Longshoremen and Harborworkers exposures must also be included. Elective exemptions shall NOT satisfy this requirement. Certificates evidencing an employee leasing company as employer shall not be accepted. In the event SERVICE PROVIDER has "leased" employees, SERVICE PROVIDER must provide a workers' compensation policy for all personnel on the worksite. All documentation must be provided for review and approval by CITY.

CONTRACTOR is responsible for the Workers' Compensation of any and all subcontractors, including leased employees, used by Proposer. Evidence of workers' compensation insurance coverage for all subcontractors, including leased employees, must be submitted prior to any work being performed.

- Commercial General Liability: CONTRACTOR shall provide evidence of commercial general liability on an occurrence Form no more restrictive than ISO form CG 2010, and including but not limited to bodily injury, property damage, contractual liability, products and completed operations (without limitation), and personal and advertising injury liability with limits of not less than \$2,000,000 each occurrence, and \$5,000,000 in aggregate, covering all work performed under this Agreement.
- Business Automobile Liability: CONTRACTOR shall provide evidence of business automobile liability on a standard ISO form, and including per occurrence limits of not less than \$1,000,000 covering all work performed under this Agreement. Coverage shall include liability for owned, non-owned & hired automobiles. If private passenger automobiles are used in the business, they shall be commercially insured.
- Umbrella or Excess Liability: Umbrella policies are acceptable to provide the total required general liability, automobile liability, and employers' liability limits. Umbrella policies shall also name CITY as additional insured and coverage shall be provided on a "Follow Form" basis.
- Subcontractors: Insurance requirements itemized in this contract and required of CONTRACTOR shall be provided on behalf of all subcontractors to cover their operations performed under this Agreement. CONTRACTOR shall be held responsible for any modifications, deviations, or omissions in these insurance requirements as they apply to subcontractors. The CONTRACTOR shall review subcontractors' insurance policies for accuracy, completeness and sufficiency.
- Pollution Liability: For sudden and gradual occurrences or claims made and, in an amount, no less than \$1,000,000 per claim and \$3,000,000 in the aggregate arising out of work performed under this Agreement, including but not limited to, all hazardous materials identified under the Agreement.

- Professional Liability: CONTRACTOR shall maintain Professional Liability insurance for both the CONTRACTOR and any professionals required to carry professional licenses. The policy shall be written at a limit of not less than \$2,000,000 Each Occurrence and \$4,000,000 Annual Aggregate.
- Hazardous Materials Insurance: For the purpose of this section, the term “hazardous materials” includes all materials and substances that are now designated or defined as hazardous by Florida or Federal law or by the rules or regulations of Florida or any Federal Agency. If work being performed involves hazardous materials, the need to procure and maintain any or all of the following coverage will be specifically addressed upon review of exposure. However, if hazardous materials are identified while carrying out this Agreement, the CITY shall be notified immediately, and no further work shall be performed in the area of the hazardous material until the CONTRACTOR provides the following coverage(s) as determined solely by the CITY.
- Cyber Liability: CONTRACTOR shall obtain, at CONTRACTOR 's expense, and keep in effect during the term of this contract, Cyber Liability Insurance covering any damages arising from alteration of, loss of, or destruction of electronic data and/or information “property” of the CITY that will be in the care, custody, or control of CONSULTANT. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by CONSULTANT in this agreement and shall include, but not be limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, unauthorized access to a computer system, hacker attacks, denial of service attacks, malicious code, information theft, release of private information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations. Combined single limit per occurrence shall not be less than \$2,000,000.
- Builders’ Risk – Property Coverage: a special form coverage shall include, but not be limited to:
 1. Storage and transport of materials, equipment, supplies of any kind whatsoever to be used on or incidental to the project.
 2. Theft coverage.
 3. Waiver of Occupancy Clause endorsement, which will enable the CITY to occupy the facility under construction/renovation during such activity.
 4. Limits of insurance to equal 100% of the insurable completed contract amount of such addition(s), building(s) or structure(s), on an agreed amount/replacement cost basis, and Maximum deductible clause of \$10,000 each claim; exceptions may be made for Windstorm and Flood deductibles.
- Builders’ Risk – Installation Coverage: For installation, CONTRACTOR must provide Builders’ Risk installation coverage to include coverage for materials stored at the project site, property while in transit, and property stored at a temporary location for the amount of materials involved in this contract.

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SECTION 7

STANDARDS OF PERFORMANCE & PAYMENT SECURITY

7.1 Security Requirements

- A. For CONTRACTORS offering installation services, within fourteen days of the Notice of Award by City Commission, CONTRACTOR shall furnish to CITY performance & payment security in an amount equal to \$600,000.00, as security for the faithful performance of Agreement and for the payment of all persons performing labor and/or furnishing materials in connection with the Agreement. Bond shall be submitted on Exhibit E provided in the Agreement. The condition of this obligation is such that, if CONTRACTOR shall promptly and faithfully perform the Agreement, make payments to all claimants for all labor and material used or reasonably required for use in the performance of the Agreement, and shall fully indemnify and save harmless CITY and its agents and/or service provider for all costs and damages that may be suffered by reason of failure to do so, then this obligation shall be null and void; otherwise it shall remain in full force and effect.
- B. The performance & payment security shall be in the form of a cashier's check payable to "City of Weston" and drawn on a bank, authorized to do business in the State of Florida, or a surety bond issued by a surety company meeting the qualifications stated in this Section. A copy of the cashier's check or surety bond shall be attached as Exhibit E.
- C. The surety company issuing the surety bond shall fulfill each of the following provisions, and CONTRACTOR shall provide evidence to document such fulfillment:
 - 1. The surety company is licensed to do business in the State of Florida.
 - 2. The surety company holds a valid certificate of authority, authorizing it to write surety bonds in the State of Florida.
 - 3. The surety company has twice the minimum surplus and capital required by the Florida Insurance Code at the time the Agreement is executed.
 - 4. The surety company is otherwise in compliance with the provisions of the Florida Insurance Code.
 - 5. The surety company holds a valid certificate of authority issued by the United States Department of the Treasury under 31 U.S.C. § 9304-9308.
 - 6. The bond shall contain all provisions required by § 255.05, Florida Statutes, as may be amended from time to time.
 - 7. The bond shall be issued by a Florida resident agent.
 - 8. A surety bond shall be executed by a surety company of recognized standing having been in business with a record of successful continuous operation for at least five years.

9. The surety company shall meet a minimum financial rating by AM Best Company of no less than "A- Excellent: FSC VII" and shall have at least a minimum policyholders rating of A- Class VII or higher. In the event that the surety company's rating shall drop, the surety company shall immediately notify CITY.
 10. All surety companies are subject to review and approval by CITY and may be rejected without cause. All bonds signed by an agency shall be accompanied by a certificate of authority to act.
- D. Duration of Security: Performance & payment security shall remain in force until expiration. If the Agreement is terminated, they shall remain in force for one year from the date of termination of this Agreement as protection to CITY against losses resulting from improper performance of work under the Agreement that may appear or be discovered during that period.

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SECTION 8
GENERAL CONDITIONS

8.1 Notice to Commence

No work shall commence until the Notice of Commencement is issued by CITY.

8.2 Exemption Prohibition

CONTRACTOR agrees and acknowledges that CONTRACTOR is prohibited from exempting any provisions of this Agreement.

8.3 Failure to Comply with Provisions

CONTRACTOR agrees and acknowledges that CONTRACTOR'S failure to comply with any provisions in this Agreement, including but not limited to failing to accurately complete any or all attached forms and exhibits, may constitute a breach of this Agreement, and may result in termination of this Agreement.

8.4 Additional Services

If it should become necessary for CITY to request CONTRACTOR to render any additional services to either supplement the services described in the Agreement or to perform additional work, such additional work shall be performed only if set forth in an amendment to this Agreement. Any such additional work shall be by mutual agreement of both parties, negotiated as to price, and approved by action of City Commission.

8.5 Compensation

- A. The amount of compensation payable by CITY to CONTRACTOR shall be based upon the prices as set forth in Exhibit B, attached hereto and made a part hereof, which amount shall be accepted by CONTRACTOR as full compensation for all such work performed under this Agreement. It is acknowledged and agreed by CONTRACTOR that these amounts are the maximum payable and constitute a limitation upon CITY'S obligation to compensate CONTRACTOR for its services related to this Agreement. This maximum amount, however, does not constitute a limitation of any sort, upon CONTRACTOR'S obligation to perform all items of work required by or which can be reasonably inferred from the Agreement.
- B. CONTRACTOR may submit an invoice for compensation, developed and agreed upon by City Manager and CONTRACTOR, no more often than on a monthly basis, but only after the services for which the invoices are submitted have been completed. Invoices shall designate the nature of the services performed and shall also show a summary of fees with accrual of the total and credits for portions paid previously. Each statement shall show the proportion of the guaranteed maximum payment that has been expended through previous billings.
- C. Notwithstanding any provision of this Agreement to the contrary, the City Manager may withhold, in whole or in part, payment to the extent necessary to protect CITY from loss on account of inadequate or defective work which has not been remedied or resolved in a

manner satisfactory to the City Manager. The amount withheld shall not be subject to payment of interest by CITY.

- D. Payment shall be made to CONTRACTOR in accordance with the local government prompt payment act as stipulated in part VII of Chapter 218, Florida Statutes, by check, electronic funds transfer (EFT), e-pay or p-card, or other method as determined by CITY in its sole discretion.
- E. Beginning on October 1, 2027 and each October 1st thereafter, CONTRACTOR shall receive an annual adjustment in the rates, as established in the rate structure provided in Exhibit B. The annual adjustments shall be based on the annual change in the February Consumer Price Index - All Urban Consumers, Not Seasonally Adjusted, All Items, Miami-Fort Lauderdale-West Palm Beach Area, 1982-84=100, Series ID: CUURS35BSA0, CUUSS35BSA0 (the "CPI"), except that the annual adjustment to the costs shall not exceed 5% (increase or decrease). The CPI is available from the United States Department of Labor, Bureau of Labor Statistics. The parties acknowledge that fuel costs are reflected in the above referenced CPI, and therefore there shall be no additional fuel costs adjustments.

8.6 Taxes

CONTRACTOR shall not be entitled to CITY'S tax-exempt benefits.

8.7 Verbal Agreements

- A. No verbal agreement or conversation with any officer, agent, or employee of the CITY, either before or after execution of the Agreement, shall affect or modify any of the terms or obligations contained in the Agreement. Any such verbal agreement or conversation shall be considered as unofficial information and in no way binding upon CITY or CONTRACTOR.
- B. The terms, conditions, and pricing of the Agreement can only be altered with an amendment to the Agreement by action of City Commission.

8.8 No Contingency Fees

CONTRACTOR warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for CONTRACTOR, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for CONTRACTOR, any fee, commission, percentage, gift or other consideration contingent upon or resulting from the award or making of this Agreement.

8.9 Assignment; Non-transferability of Agreement

- A. The Agreement shall not be assigned or transferred. If CONTRACTOR is, or may be, purchased by or merged with any other corporate entity during the Agreement, the Agreement may be terminated as a result of such transaction. The City Manager shall determine whether an Agreement is to be terminated in such instances.

- B. If, at any time during the Agreement, filings, notices or like documents are submitted to any regulatory agency concerning the potential acquisition of CONTRACTOR, or the sale of a controlling interest in CONTRACTOR, or any similar transaction, CONTRACTOR shall immediately disclose such information to CITY. Failure to do so may result in the Agreement being terminated, at CITY'S sole discretion.

8.10 Compliance with Applicable Laws

CONTRACTORS are required to comply with all provisions of federal, state, county and local laws, ordinances, rules and regulations that are applicable to the services being provided in this Agreement. Lack of knowledge of CONTRACTOR shall in no way be a cause for relief from responsibility or constitute a cognizable defense against the legal effects thereof.

8.11 Familiarity with Laws and Ordinances

CONTRACTOR is familiar with all federal, state and local laws, ordinances, rules and regulations which affect those engaged or employed in the provision of such services, or equipment used in the provision of such services, or which in any way affects the conduct of the provision of such services; and no plea of misunderstanding will be considered on account of ignorance thereof. If CONTRACTOR discovers any provisions in the Agreement that are contrary to or inconsistent with any law, ordinance, or regulation, it shall report the issue to CITY in writing without delay.

8.12 Advertising

CONTRACTOR agrees not to use this Agreement as a part of any advertising or CONTRACTOR sponsored publicity without the express written approval of City Manager or designee.

8.13 Indemnification

- A. CONTRACTOR shall indemnify, hold harmless and, at CITY's option, pay for an attorney selected by CITY, to defend CITY and any of its officers, agents, servants and employees from and against any and all liability, suits, actions, damages, costs, losses and expenses, including attorneys' fees, demands and claims for personal injury, bodily injury, sickness, diseases or death or damage or destruction of tangible property, arising out of any errors, omissions, misconduct or negligent acts, errors or omissions of CONTRACTOR, its officials, agents, employees or subcontractors in the performance of the services of CONTRACTOR under this Agreement, whether direct or indirect and from and against any orders, judgments, or decrees which may be entered thereon and from and against all costs, damages of every kind and nature, attorneys' fees, expenses and liabilities incurred in and about the defense of any such claim and investigation thereof.
- B. CONTRACTOR shall indemnify, hold harmless and, at CITY's option, pay for an attorney selected by CITY, to defend CITY and any of its officers, agents, servants and employees from and against any and all liability, suits, actions, damages, costs, losses and expenses, including attorneys' fees, demands and claims sought by third parties related to any alleged breach of any non-competition of similar provisions.
- C. CONTRACTOR shall indemnify CITY and any of its officers, agents, servants and employees, for all loss, damage, expense or liability including, without limitation, court costs and attorneys' fees that may result by reason of any infringement or claim of infringement by CONTRACTOR of any patent, trademark, copyright, trade secret or other proprietary right relating to services furnished pursuant to this Agreement. CONTRACTOR

shall defend and/or settle at its own expense any action brought against CITY, any of its officers, agents, servants and employees, to the extent that it is based on a claim that products or services furnished to CITY by CONTRACTOR pursuant to this Agreement, or if any portion of the services or goods related to the performance of the service become unusable as a result of any such infringement or claim.

- D. CONTRACTOR acknowledges that specific consideration has been paid or shall be paid under this Agreement for this hold harmless and indemnification provision, and further agrees with the foregoing provisions of indemnity and with the collateral obligation of insuring said indemnity.
- E. The provisions of this section shall survive the expiration or earlier termination of this Agreement. To the extent considered necessary by City Manager and City Attorney, any sums due to CONTRACTOR under this Agreement may be retained by CITY until all of CITY's claims for indemnification pursuant to this Agreement have been settled or otherwise resolved; and any amount withheld shall not be subject to payment of interest by CITY.

8.14 Miscellaneous

- A. Ownership of Documents: Unless otherwise provided by law, any and all reports, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of CITY. Any compensation due to CONTRACTOR shall be withheld until all documents are received as provided herein.
- B. Audit and Inspection Rights, Retention of Records:
 - 1. CITY shall have the right to audit the books, records and accounts of CONTRACTOR that are related to this Agreement. CONTRACTOR shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement.
 - 2. CONTRACTOR agrees to keep such records and accounts as may be necessary in order to record complete and correct entries as to personnel hours charged for which CONTRACTOR receives reimbursement. Such records and accounts shall be kept after completion of the work provided for in this Agreement, for at a minimum, the retention period required by the Florida Public Records Act (Chapter 119, Florida Statutes) and by item 340, Disbursement Records: Detail, of the State of Florida General Records Schedule GS1-SL for State and Local Government Agencies, as may be promulgated from time to time. Such books and records shall be available at all reasonable times for examination and audit by CITY.
 - 3. Such retention of such records and documents shall be at CONTRACTOR'S expense.
 - 4. If any audit has been initiated and audit findings have not been resolved at the end of the retention period, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by CITY to be applicable to CONTRACTOR'S records, CONTRACTOR shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by CONTRACTOR. Any

incomplete or incorrect entry in such books, records, and accounts shall be a basis for CITY'S disallowance and recovery of any payment upon such entry.

5. CONTRACTOR shall respond to the reasonable inquiries of successor CONTRACTORS and allow successor CONTRACTORS to receive working papers relating to matters of continuing significance.
 6. CONTRACTOR shall provide a complete copy of all working papers to CITY, prior to final payment by CITY, in accordance with the Agreement for CONTRACTOR'S services.
- C. Public Records: CONTRACTOR shall comply with The Florida Public Records Act as follows:
1. Keep and maintain public records that ordinarily and necessarily would be required by the CITY in order to perform the service.
 2. Upon request by the City's records custodian, provide the CITY with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
 3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term.
 4. Upon completion of the Agreement or in the event of termination of the Agreement by either party, any and all public records relating to the Agreement in the possession of CONTRACTOR shall be delivered by CONTRACTOR to CITY, at no cost to CITY, within seven (7) days. All records stored electronically by CONTRACTOR shall be delivered to the CITY in a format that is compatible with the City's information technology systems. Once the public records have been delivered to the CITY upon completion or termination of this Agreement, CONTRACTOR shall destroy any and all duplicate public records that are exempt or confidential and exempt from public record disclosure requirements.
 5. CONTRACTOR'S failure or refusal to comply with the provisions of this Section shall result in the immediate termination of this Agreement by the CITY.

IF CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 954-385-2000, pbates@westonfl.org OR BY MAIL: City of Weston – Office of City Clerk, 17200 Royal Palm Boulevard, Weston, FL 33326.

- D. Policy of Non-Discrimination: CONTRACTOR shall not discriminate against any person in its operations, activities or delivery of services under this Agreement. CONTRACTOR shall affirmatively comply with all applicable provisions of federal, state and local equal employment laws and shall not engage in or commit any discriminatory practice against any person based on race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation or any other factor which cannot be lawfully used as a basis for service delivery.
- E. Public Entity Crime Act: CONTRACTOR represents that the execution of this Agreement will not violate the Public Entity Crime Act (Section 287.133, Florida Statutes), which essentially provides that a person or affiliate who is a CONTRACTOR, CONTRACTOR or other provider and who has been placed on the convicted vendor list following a conviction for a Public Entity Crime may not submit a proposal on an contract to provide any goods or services to CITY, may not submit a proposal on a contract with CITY for the construction or repair of a public building or public work, may not submit bids on leases of real property to CITY, may not be awarded or perform work as a CONTRACTOR, supplier, subcontractor, or consultant under a contract with CITY, and may not transact any business with CITY in excess of the threshold amount provided in Section 287.017, Florida Statutes, for category two purchases for a period of thirty six (36) months from the date of being placed on the convicted vendor list. Violation of this section shall result in termination of this Agreement and recovery of all monies paid hereto and may result in debarment from CITY'S competitive procurement activities. In addition to the foregoing, CONTRACTOR further represents that there has been no determination, based on an audit, that it committed an act defined by Section 287.133, Florida Statutes, as a "public entity crime" and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether CONTRACTOR has been placed on the convicted vendor list.
- F. Third Party Beneficiaries: Neither CONTRACTOR nor CITY intends to directly or substantially benefit a third party by this Agreement. Therefore, the parties agree that there are no third-party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them. Based upon this Agreement the parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement.
- G. Notices: Whenever either party desires to give notice to the other, such notice shall be in writing, sent by certified United States mail postage, prepaid return receipt requested or by hand delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the parties designate the following:

CITY: Donald P. Decker, City Manager/CEO
City of Weston
17200 Royal Palm Boulevard
Weston, FL 33326

With a copy to:

Jamie Alan Cole, Esq.
City Attorney
Weiss Serota Helfman Cole & Bierman, P.L.
200 East Broward Boulevard, Suite 1900
Fort Lauderdale, FL 33301

CONTRACTOR: Charles Gonzalez, Vice President
Brightview Landscape Services, Inc.
440 Sawgrass Corporate Pkwy.
Sunrise, FL 33325

- H. Conflicts: Neither CONTRACTOR nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with CONTRACTOR'S loyal and conscientious exercise of judgment related to its performance under this Agreement.
1. CONTRACTOR agrees that none of its officers or employees shall, during the term of this Agreement, serve as an expert witness against CITY in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process. Further, CONTRACTOR agrees that such persons shall not give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of CITY in connection with any such pending or threatened legal or administrative proceeding. The limitations of this section shall not preclude CONTRACTOR or any other persons from representing themselves in any action or in any administrative or legal proceeding.
 2. In the event CONTRACTOR is permitted to utilize subcontractors to perform any services required by this Agreement, CONTRACTOR agrees to prohibit such subcontractors, by written Agreement, from having any conflicts within the meaning of this section.
- I. Materiality and Waiver of Breach: CITY and CONTRACTOR agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. CITY'S failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.
- J. Severance: In the event a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless CITY or CONTRACTOR elects to terminate this Agreement. An election to terminate this Agreement based upon this provision shall be made within seven days after the finding by the court becomes final.
- K. Joint Preparation: The parties acknowledge that they have sought and received whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to express their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

- L. Priority of Provisions: If there is a conflict or inconsistency between any term, statement, requirement, or provision of any form and exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference and a term, statement, requirement, or provision of this Agreement, the term, statement, requirement, or provision contained in Sections 1 through 8 of this Agreement shall prevail and be given effect.
- M. Applicable Law and Venue: Attorney's Fees and Costs: This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. The parties submit to the jurisdiction of any Florida state or federal court in any action or proceeding arising out of, or relating to, this Agreement. Venue of any action to enforce this Agreement shall be in Broward County, Florida. The parties expressly waive all rights to trial by jury, including advisory juries, for any disputes arising from or in any way connected with this Agreement. The parties understand and agree that this waiver is a material Agreement term. This Agreement is not subject to arbitration. If any party is required to enforce the terms of this Agreement by court proceedings or otherwise, whether or not formal legal action is required, each party shall pay its own attorney's fees and costs.
- N. Amendments: No modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement.
- O. Prior Agreements: This Agreement and its attachments constitute the entire agreement between CONTRACTOR and CITY, and this document incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that no modification, amendment or alteration in the terms or conditions contained here shall be effective unless set forth in writing in accordance with Section 7.17 (N.) Amendments above.
- P. Incorporation by Reference: The truth and accuracy of each "Whereas" clause set forth above is acknowledged by the parties. The attached Forms and Exhibits are incorporated hereto and made a part of this Agreement.
- Q. Multiple Originals: This Agreement may be fully executed in four (4) copies by all parties each of which, bearing original signatures, shall have the force and effect of an original document.
- R. Headings: Headings are for convenience of reference only and shall not be considered in any interpretation of this Agreement.
- S. Binding Authority: Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.
- T. Survival of Provisions: Any terms or conditions of this Agreement that require acts beyond the date of its termination shall survive the termination of this Agreement, shall remain in

full force and effect unless and until the terms of conditions are completed, and shall be fully enforceable by either party.

- U. Truth-in-Negotiation Certificate: Signature of this Agreement by CONTRACTOR shall act as the execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of contracting.
- V. Non-Appropriation of Funds: In the event no funds or insufficient funds are appropriated and budgeted or are otherwise unavailable in any fiscal year for payments due under this Agreement, then CITY, upon written notice to CONTRACTOR of such occurrence, shall have the unqualified right to terminate this Agreement without any penalty or expense to CITY.
- W. Default: In the event of a default by CONTRACTOR, CONTRACTOR shall be liable for all damages resulting from the default. CITY may take advantage of each and every remedy specifically existing at law or in equity. Each and every remedy shall be in addition to every other remedy specifically given or otherwise existing and may be exercised from time to time as often and in such order as may be deemed expedient by CITY. The exercise or the beginning of the exercise of one remedy shall not be deemed to be a waiver of the right to exercise any other remedy. CITY's rights and remedies as set forth in this Agreement are not exclusive and are in addition to any other rights and remedies available to CITY in law or in equity.
- X. CITY and CONTRACTOR agree that this Agreement and any other documents to be delivered in connection herewith may be electronically signed, and that any electronic signatures appearing on this Agreement or such other documents are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility.
- Y. Noncoercive Affidavit: In accordance with Section 787.06, Florida Statutes, the CITY requires all vendors executing, renewing or extending a contract with the CITY to execute the required CITY affidavit, attesting that vendor does not use coercion for labor or services.

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SECTION 9
SPECIAL CONDITIONS

None.

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AGREEMENT AMONG THE CITY OF WESTON, FLORIDA, INDIAN TRACE DEVELOPMENT DISTRICT, AND BRIGHTVIEW LANDSCAPE SERVICES, INC. FOR PARKS MAINTENANCE SERVICES PARKS GROUP B: TEQUESTA TRACE PARK, INDIAN TRACE PARK, EAGLE POINT PARK TOWN CENTER PARK AND NORTH WALKING TRAIL.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature: City of Weston through its City Commission, signing by and through its Mayor, authorized to execute same by Commission action on the ____ day of _____, 2026; and Brightview Landscape Services, Inc. authorized to execute same.

CITY OF WESTON,
through its City Commission

By: _____
Margaret Brown, Mayor

ATTEST:

____ day of _____, 2026

Patricia A. Bates, MMC, City Clerk

By: _____
Donald P. Decker, City Manager /CEO

Approved as to form and legality
for the use of and reliance by the
City of Weston only:

____ day of _____, 2026

(CITY SEAL)

By: _____
Jamie Alan Cole, City Attorney

____ day of _____, 2026

AGREEMENT AMONG THE CITY OF WESTON, FLORIDA, INDIAN TRACE DEVELOPMENT DISTRICT,
AND BRIGHTVIEW LANDSCAPE SERVICES, INC. FOR PARKS MAINTENANCE SERVICES PARKS
GROUP B: TEQUESTA TRACE PARK, INDIAN TRACE PARK, EAGLE POINT PARK TOWN CENTER PARK
AND NORTH WALKING TRAIL.

INDIAN TRACE DEVELOPMENT DISTRICT

ATTEST:

Patricia A. Bates, MMC, District Clerk

Approved as to form and legality
for the use of and reliance by the
City of Weston only:

By: _____
Jamie Alan Cole, District Attorney

_____ day of _____, 20__

By: _____
Margaret Brown, Chair

_____ day of _____, 20__

By: _____
Donald P. Decker, District Manager /CEO

_____ day of _____, 20__

(DISTRICT SEAL)

AGREEMENT AMONG THE CITY OF WESTON, FLORIDA, INDIAN TRACE DEVELOPMENT DISTRICT,
AND BRIGHTVIEW LANDSCAPE SERVICES, INC. FOR PARKS MAINTENANCE SERVICES PARKS
GROUP B: TEQUESTA TRACE PARK, INDIAN TRACE PARK, EAGLE POINT PARK TOWN CENTER PARK
AND NORTH WALKING TRAIL.

CONTRACTOR:

BRIGHTVIEW LANDSCAPE SERVICES, INC.

By: _____
Charles Gonzalez, Vice President

_____ day of _____, 20____

SECTION 10

EXHIBITS FORMS

The exhibits located in this section of the Agreement shall be submitted by the successful CONTRACTOR after the award of the Agreement (at the time specified herein).

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EXHIBIT A
CERTIFICATE OF INSURANCE

ATTACH CERTIFICATE OF INSURANCE



EXHIBIT B FEE SCHEDULE

The CONTRACTOR offers the following fee for providing all labor, materials, equipment, supplies, tools, materials, and all other necessary incidentals to perform Parks Maintenance Services in accordance with the Scope of Work and terms of the Agreement.

PARKS GROUP B: TEQUESTA TRACE PARK, INDIAN TRACE PARK, EAGLE POINT PARK, TOWN CENTER PARK AND NORTH WALKING TRAIL.

Item No.	Description of Task	Unit	Quantity	Cost per Unit	Total
B1	Tequesta Trace Park	monthly	12	\$50,000	\$600,000
B2	Indian Trace Park	monthly	12	\$4,800	\$57,600
B3	Eagle Point Park	monthly	12	\$4,800	\$57,600
B4	Town Center Park	monthly	12	\$5,200	\$62,400
B5	North Walking Trail	Monthly	12	\$2,000	\$24,000
B6	Bermuda Turf Installation (includes removal, disposal, site prep and installation)	Sq. ft	10,000	\$1.75	\$17,500
B7	Subtotal (Items B1 thru B6)				\$819,000 \$819,100
					Total = Annual Est X (1 + (%)) E.g. for 12% markup 300,000 X (1 + 12) = \$336,000
B8	Tree and Plants (based on "Betrock's PlantFinder -Wholesale Guide to Foliage and Ornamental Plants")			\$20,000	+ 30% -\$26,000
B9	Miscellaneous building supplies and materials			\$5,000	+ 30% -\$6,500
B10	Irrigation Parts & Supplies (based on SiteOne Landscape Supply Catalog: "Wholesale.")			\$30,000	+ 30% -\$39,000
B11	Chemicals & Fertilizers			\$50,000	+ 30% -\$65,000
B12	Subtotal (Items B8 thru B12)				\$136,500
B13	GRAND TOTAL (Subtotal Item B7 + Subtotal Item B12)				\$955,500 \$955,600





EXHIBIT B (Continued) FEE SCHEDULE

UNIT PRICES FOR LABOR and EQUIPMENT - SUPPLEMENTAL WORK

The CONTRACTOR offers the following unit prices for providing all labor, tools, equipment and MOT to install the items below on a as needed basis as requested by the CITY.

Item No.	Description	Unit	Cost (\$/Hour)
E-1	Laborer/Groundskeeper	Hourly	\$45
E-2	Irrigation Helper	Hourly	\$65
E-3	Irrigation Technician - Certified	Hourly	\$85
E-4	Large Equipment Operator	Hourly	\$85
E-5	Supervisor/Foreman	Hourly	\$65
E-6	Graduate Horticulturist	Hourly	\$100
E-7	Bobcat w/operator	Hourly	\$95
E-8	Front end loader w/operator	Hourly	\$120
E-9	18-yard dump truck w/driver	Hourly	\$95
E-10	75-ton crane w/operator	Hourly	\$325
E-11	Work boat w/operator	Hourly	\$200
E-12	Climber/trimmer	Hourly	\$75
E-13	Chipper truck w/operator	Hourly	\$105
E-14	Bucket truck w/operator	Hourly	\$105
E-15	Water Truck w/operator	Hourly	\$125
E-16	Spray Technician	Hourly	\$75
E-17	Laser Grading of Sports Field	Hourly	\$195
E-18	Infill re-installation on artificial turf fields (per field) Infill material provided by the CITY	Hourly	\$95



EXHIBIT B (Continued) FEE SCHEDULE

UNIT PRICES FOR MATERIALS - SUPPLEMENTAL WORK

The CONTRACTOR offers the following unit prices for providing all labor, materials to install the items below on a as needed basis as requested by the CITY.

Item No.	Description	Unit	Cost (\$/Unit)
E-1	St. Augustine "Palmetto" Sod	Square foot	\$1.65
E-2	Tifway 419 Sod	Square foot	\$1.75
E-3	Celebration Bermuda Sod	Square foot	\$1.75
E-4	Zoysia Sod	Square foot	1.75
E-5	Latitude 36 Bermuda Sod	Square Foot	\$1.75
E-6	Spanish Gold Mulch - 2 cu. ft bag	each	\$6.50
E-7	Soil - 50/50 mix	Cubic Yard	\$145.00
E-8	Soil - 80/20 mix	Cubic Yard	\$150.00
E-9	Soil 90/10 mix	Cubic Yard	\$150.00
E-10	Earthwise Gold Natural Pine Mulch - 2 cu. ft bag	each	\$6.50
E-11	Annuals Mix	Cubic Yard	\$140.00
E-12	Sand	Cubic Yard	\$155.00
E-13	Volleyball Court Sand	Cubic yard	\$100.00
E-14	Crimson Stone for Baseball/Softball Warning Tracks (Installed 1/2 inch thick)	square foot	\$1.20
E-15	Field Clay for Baseball/Softball Infields and Pitcher's Mounds	Ton	\$150.00
E-16	Bio-Barrier 12" Root Barrier	Linear foot	\$24.00



Brightview Landscape Services, Inc.

Name of CONTRACTOR (Please Print)

[Handwritten Signature]

Vice President / VPGM 2/17/26

Signature

Title

Date



EXHIBIT C
CONTRACTOR'S SUB-CONTRACTORS LIST

CONTRACTOR shall provide a comprehensive list of all sub-contractors (if any) and the work to be performed. CONTRACTOR's allowable markup for all subcontractor work shall not exceed Ten (10) percent.

Item#	Sub-Contractor Company Name and Employer Identification Number	Work to be Performed
1	N/A	
2		
3		
4		
5		
6		
7		
8		
9		

[THIS SPACE INTENTIONALLY LEFT BLANK]

EXHIBIT D
TRANSITION PLAN

Your Transition to BrightView



By selecting BrightView, you will find an experienced partner who will provide experts in many disciplines, each dedicated to your needs. In your first 180 days of service, you can reliably expect the following:

PRE-SERVICE

- Branch planning meeting
- Identify and mitigate any safety hazards
- Meet your Client Service Team
- Establish communication, reporting expectations & preferences
- Individual site planning
- Initial site walk-through
- Week 1 Alignment Check
- Week 2 Alignment Check
- 30 Day Alignment Check
- Receive first invoice

30 DAYS

- Site walk of facility
- Receive Customer Satisfaction Survey
- Review survey responses with your Client Service Team
- Align and strengthen areas in need of improvement

60 DAYS

90 DAYS

- Site walk of facility with your Client Service Team
- Review 90 Day Follow-up Partnership Transition Guide
- Check progress and/or completion of key site initiatives

180 DAYS

- Business Review: Client, Account Manager, Branch Manager
- Confirmation of team exceeding expectations, developing partnership
- Review/Update Client Partnership Plan for following season



It is my job to ensure a smooth transition for our Clients and our Team With the guidance of our transition plan and designated experts in their fields, we are committed to a seamless transition and a strong first step.

Peter Olmedo
Branch Manager



Your Transition to BrightView



RFP No. 2026-02 – Parks Maintenance Services (Parks Group B)

1. Transition Objectives

BrightView's objective is to ensure a seamless, uninterrupted transition of services with no decline in maintenance quality, safety standards, or responsiveness. Our transition strategy focuses on continuity of operations, personnel integration, equipment readiness, and proactive communication with County representatives.

2. Transition Timeline (30-Day Framework)

Phase 1 – Pre-Award / Notice of Intent (Days 1–5)

- 1. Assign Transition Manager
- 2. Conduct internal kickoff meeting
- 3. Review contract scope, maps, asset inventory, and service frequencies
- 4. Develop detailed mobilization schedule
- 5. Coordinate introductory meeting with County representative

Phase 2 – Mobilization (Days 6–15)

- 1. Meet with current provider (if applicable) for knowledge transfer
- 2. Perform joint site inspections of all parks in Group B
- 3. Verify irrigation systems, athletic fields, specialty areas, and amenities
- 4. Confirm staffing assignments and supervisory structure
- 5. Stage equipment and materials at designated yard location
- 6. Transfer or onboard existing qualified personnel when possible

Phase 3 – Operational Readiness (Days 16–25)

- 1. Implement maintenance management schedule
- 2. Upload asset data into internal tracking system
- 3. Finalize preventive maintenance schedules (turf, irrigation, athletic fields)
- 4. Conduct safety training specific to County standards
- 5. Establish reporting templates and communication protocol

Phase 4 – Full Service Implementation (Days 26–30)

- 1. Begin full service operations
- 2. Conduct quality control inspection with County
- 3. Submit first status report
- 4. Address any punch list or corrective items immediately

3. Staffing Continuity

BrightView has been operating since 2014 and brings over 30 years of industry leadership experience. Our transition plan prioritizes:

- 1. Retention of qualified incumbent staff (when permitted)
- 2. Dedicated Account Manager assigned prior to start date
- 3. On-site Field Supervisor for daily oversight
- 4. Fully staffed irrigation and athletic field specialists
- 5. Backup crews available for weather or emergency response

All employees will:

- 1. Complete safety orientation
- 2. Review County standards
- 3. Be uniformed and properly badged before Day 1 of service

Your Transition to BrightView



4. Equipment & Asset Deployment

BrightView will:

- Stage fully inspected and serviced equipment prior to contract start
- Maintain dedicated equipment for Parks Group B
- Inventory all irrigation controllers, pumps, valves, and major assets
- Establish preventive maintenance tracking for all mechanical systems
- No shared or borrowed equipment will be used during startup.

5. Irrigation & Infrastructure Transition

Given the importance of irrigation system performance:

- Conduct full irrigation audit during mobilization
- Identify immediate deficiencies
- Develop prioritized repair schedule
- Document controller programming and water schedules
- Coordinate directly with County water management representatives

6. Communication Plan

BrightView will establish clear communication channels:

- Single Point of Contact (Account Manager)
- Weekly progress reports
- Monthly performance meetings
- 24-hour emergency response availability
- Digital documentation of work performed
- Response Time Commitments:
 - Routine Requests: Within 24 hours
 - Urgent Issues: Same Day
 - Emergency: Immediate dispatch

7. Risk Mitigation Strategy

To ensure uninterrupted service:

- Pre-staged backup crews
- Redundant equipment availability
- Weather contingency planning
- Immediate corrective action process
- Supervisory field inspections twice per week during first 60 days

8. Quality Assurance During Transition

For the first 60 days:

- Increased supervisory inspections
- Weekly internal audits
- Joint County walkthroughs (if requested)
- Corrective action within 48 hours

Your Transition to BrightView



9. Commitment to Seamless Service

BrightView understands that parks are high-visibility public assets. Our transition plan ensures:

No missed service cycles

No degradation of turf or athletic field conditions

Immediate response to irrigation failures

Professional, courteous staff presence from Day One

Our team is prepared to assume full operational responsibility immediately upon

Notice to Proceed

EXHIBIT E

PERFORMANCE & PAYMENT SECURITY

Any singular reference to CONTRACTOR, Surety, CITY or other party shall be considered plural where applicable.

CONTRACTOR (name and address)

SURETY (name & principal address):

CITY:

City of Weston
17200 Royal Palm Blvd.
Weston, Florida 33326

AGREEMENT

Date:

Amount:

Services as needed. Not for a fixed amount.

Description: Parks Group B: Tequesta Trace Park, Indian Trace Park, Eagle Point Park, Town Center Park and North Walking Trail.

Location: Citywide

City of Weston RFP NO. 2026-02, Parks Maintenance Services

BOND

Date (not earlier than Agreement Date):

Amount: \$600,000.00

Modifications to this Bond: None _____

See Page(s) _____

EXHIBIT E
PERFORMANCE & PAYMENT SECURITY
(CONTINUED)

CONTRACTOR AS PRINCIPAL

SURETY

Signature

Signature

Name

Name

Title

Title

(Any additional signatures please include at the end of this form)

FLORIDA RESIDENT AGENT

Address

Phone

Fax

EXHIBIT E

PERFORMANCE & PAYMENT SECURITY

(CONTINUED)

1. CONTRACTOR and the Surety, jointly and severally bind themselves, their heirs, executors, administrators, successors and assigns to CITY for the performance of the Agreement, which is incorporated herein by reference.
2. If CONTRACTOR performs the Agreement, the Surety and CONTRACTOR shall have no obligation under this Bond, except to participate in conferences.
3. If there is no CITY Default, the Surety's obligation under this Bond shall arise after:
 - A. CITY has notified CONTRACTOR and the Surety at its address described in paragraph 10 below that CITY is considering declaring a CONTRACTOR Default and has requested and attempted to arrange a conference with CONTRACTOR and the Surety to be held not later than 15 days after receipt of such notice to discuss methods of performing the Agreement. If CITY, CONTRACTOR and the Surety agree, CONTRACTOR shall be allowed a reasonable time to perform the Agreement, but such an Agreement shall not waive CITY'S right, if any, subsequently to declare a CONTRACTOR Default; and
 - B. CITY has declared a CONTRACTOR Default and formally terminated CONTRACTOR'S right to complete the Agreement. Such CONTRACTOR Default shall not be declared earlier than 20 days after CONTRACTOR and the Surety have received notice of such termination; and
 - C. CITY has agreed to pay the Balance of the Agreement Price to the Surety in accordance with the terms of the Agreement or to a CONTRACTOR selected to perform the Agreement in accordance with the terms of the Agreement with CITY.
4. When CITY has satisfied the conditions of paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:
 - A. Arrange for CONTRACTOR, with consent of CITY, to perform and complete the Agreement; or
 - B. Undertake to perform and complete the Agreement itself, through its agents or through independent CONTRACTORS; or

EXHIBIT E

PERFORMANCE & PAYMENT SECURITY

(CONTINUED)

- C. Obtain bids or negotiated Bids from qualified CONTRACTORS acceptable to CITY for an Agreement for performance and completion of the Agreement, arrange for an Agreement to be prepared for execution by CITY and CONTRACTOR selected with CITY'S concurrence, to be secured with performance & payment bonds executed by a qualified Surety equivalent to the bonds issued on the Agreement, and the Balance of the Agreement Price incurred by CITY resulting from CONTRACTOR's default; or
- D. Waive its right to perform and complete, arrange for completion, or obtain a new CONTRACTOR acceptable to CITY and with reasonable promptness under the circumstances:
 - i. After investigation, determine the amount for which it may be liable to CITY and, as soon as practicable after the amount is determined, tender payment therefore to CITY; or
 - ii. Deny liability in whole or in part and notify CITY citing reasons therefore.
- 5. If the Surety does not proceed as provided in paragraph 4 with reasonable promptness, the Surety shall be deemed to be in default on this Bond, 15 days after receipt of an additional written notice from CITY to the Surety demanding that the Surety perform its obligations under this Bond, and CITY shall be entitled to enforce any remedy available to CITY. If the Surety proceeds, without proper notice to CITY, CITY shall be entitled to enforce any remedy available to CITY.
- 6. After CITY has terminated CONTRACTOR's right to complete the Agreement, and if the Surety elects to act, then the responsibilities of the Surety to CITY shall not be greater than those of CONTRACTOR under the Agreement, and the responsibilities of CITY to the Surety shall not be greater than those of CITY under the Agreement. To the limit of the amount of this Bond, but subject to commitment by CITY of the Balance of the Agreement Price to mitigation of costs and damages on the Agreement, the Surety is obligated without duplication for:
 - A. The responsibilities of CONTRACTOR for correction of defective work and completion of the Agreement;
 - B. Additional legal, design professional and delay costs resulting from CONTRACTOR's Default, and resulting from the actions or failure to act of the Surety under paragraph 4; and

EXHIBIT E

PERFORMANCE & PAYMENT SECURITY

(CONTINUED)

- C. Liquidated damages, or if no liquidated damages are specified in the Agreement, actual damages caused by delayed performance or non-performance of CONTRACTOR.
7. The Surety shall not be liable to CITY or others for obligations of CONTRACTOR that are unrelated to the Agreement, and the Balance of the Agreement Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than CITY or its heirs, executors, administrators or successors.
 8. The Surety hereby waives notice of any change, including changes of time, to the Agreement or to related subcontracts, purchase orders and other obligations.
 9. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after CONTRACTOR Default or within two years after CONTRACTOR ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.
 10. Notice to the Surety, CITY or CONTRACTOR shall be mailed or delivered to the address shown on the signature page.
 11. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the work was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted here from and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

EXHIBIT E

PERFORMANCE & PAYMENT SECURITY

(CONTINUED)

DEFINITIONS

- A. Balance of the Agreement Price: The total amount payable by CITY to CONTRACTOR under the Agreement after all proper adjustments have been made including allowance to CONTRACTOR of any amounts received or to be received by CITY in settlement of insurance or other claims for damages to which CONTRACTOR is entitled, reduced by all valid and proper payments made to or on behalf of CONTRACTOR under the Agreement.
- B. Agreement: The agreement between CITY and CONTRACTOR identified on the signature page, including all Contract Documents and changes thereto.
- C. CONTRACTOR Default: Failure of CONTRACTOR, which has neither been remedied nor waived, to perform or otherwise to comply with the terms of the Agreement.
- D. CITY Default: Failure of CITY, which has neither been remedied nor waived, to pay CONTRACTOR as required by the Contract or to perform and complete or comply with the other terms thereof.

MODIFICATIONS TO THIS BOND ARE AS FOLLOWS:

(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)

CONTRACTOR AS PRINCIPAL

SURETY

Signature

Signature

Name

Name

Title

Title