

**INVITATION TO BID  
TREE TRIMMING SERVICES  
ITB No. 2012-02**



**The Town of Miami Lakes Council:**

**Mayor Michael Pizzi  
Vice Mayor Ceasar Mestre  
Councilmember Mary Collins  
Councilmember Timothy Daubert  
Councilmember Nelson Hernandez  
Councilmember Nick Perdomo  
Councilmember Richard Pulido**

Alex Rey, Town Manager  
The Town of Miami Lakes  
15150 NW 79<sup>th</sup> Court  
Miami Lakes, Florida 33016

**DATE ISSUED: December 9, 2011**

**CLOSING DATE: January 9, 2012**

# Tree Trimming Service

ITB 2012-02

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**SECTION 1**  
**NOTICE TO BIDDERS**  
**TOWN OF MIAMI LAKES**  
**TREE TRIMMING SERVICE**  
**ITB 2012-02**

The Town of Miami Lakes (the "Town") will be accepting sealed Bids for the Town's Tree Trimming Services ("Services") for Work to be performed on the Town's Trees. Bidders are to submit three (3) Bids, with original signatures together with a copy of the Bid on a CD-ROM. **Sealed Bids, including the CD-ROM must be received by the Town of Miami Lakes, Town Clerk at 15150 NW 79<sup>th</sup> Court, Miami Lakes, Florida by 2:00 P.M. on January 9, 2011.**

**Scope of Work:**

The Work consists of providing Tree trimming services to approximately 10,000 Trees for the Town.

**Minimum Qualification Requirements:**

Prospective Bidder shall hold a current Landscape Permit issued by Miami-Dade County. The Bidder must specialize in tree trimming work or have crews who specialize in tree trimming work. The Field Supervisor must have a minimum of three (3) years field supervisory experience on work of a similar size, scope, and complexity. The Bidder must also have on staff full-time an ISA Certified Arborist, with a minimum of three (3) years field experience, on work of a similar size, scope, and complexity, at time of Bid submittal, who shall be required to certify that all Work is performed in accordance with the standards established in the Contract. Bidders shall also be required to own or possess under a rental or lease contract specific equipment for use in the performance of the Work. Additional information concerning the equipment requirement can be found in Article 4.17 of the ITB. Bidder must also possess a minimum of five (5) years' experience performing Tree trimming services under its current business name and ownership. No Work can be subcontracted under the Contract without the prior approval of the Town.

The Town will consider a Bid as responsive where a Bidder has less than the stipulated minimum number of years of experience solely where the Bidder has undergone a name change and such change of name has been filed with the State of Florida.

A **Non- Mandatory Pre-Bid Conference** will be held on December 20, 2011 at 10:00 am in the 1<sup>st</sup> floor conference room at Town Hall, 15150 NW 79<sup>th</sup> Court,. It is strongly recommended that interested companies attend the Pre-Bid Conference.

Bid Documents may be obtained by visiting the Town's website at [www.miamilakes-fl.gov](http://www.miamilakes-fl.gov) and selecting "Contractual Opportunities". Any further inquiries regarding the Project may be directed to Gary Fabrikant, Procurement Manager, at [fabrikantg@miamilakes-fl.gov](mailto:fabrikantg@miamilakes-fl.gov).

All Bids shall be submitted in accordance with the Instructions to Bidders. **Any Bids received after the specified time and date will not be considered.** The responsibility for submitting a Bid before the stated time and date is solely and strictly the responsibility of the Bidder.

*Pursuant to subsection (t) "Cone of Silence" of Section 2-11.1 "Conflict of Interest and Code of Ethics Ordinance" of Miami Dade County, public notice is hereby given that a "Cone of Silence" is imposed concerning this purchase.*

**SECTION 2**  
**INSTRUCTIONS TO BIDDERS**

**2.1 DEFINITION OF TERMS**

**ANSI A300 Standards** mean the industry-developed standards of practice for Tree care.

**Arborist** means a person who is currently certified by the International Society of Arboriculture, who is well versed in the art of arboriculture, including Tree surgery, the identification, prevention and cure of Tree diseases and insects.

**Bid** means the Submittal tendered by a Bidder in response to this solicitation, which includes the price, authorized signature and all other information or documentation required by the Invitation to Bid ("ITB") at the time of submittal.

**Bid Form** means the form that contains the goods or services to be purchased and that must be completed and submitted with the Bid.

**Bidder** means any person, firm or corporation, or its duly authorized representative tendering a Submittal in response to this solicitation.

**Change Order** means a written document ordering a change in the Contract price or Contract time or a material change in the Work.

**Complete Tree Pruning** includes but is not limited to thinning, restoration, raising, reduction pruning as defined by ISA and ANSI. It does not include specialty, hazard, clearance, or palm tree pruning as defined by ISA and ANSI. This is the primary type of Pruning that the Town anticipates will be required under the Contract.

**Contract** means the ITB and the Bid documents that have been executed by the Bidder and the Town subsequent to approval of award by the Town.

**Contract Documents** means the Contract as may be amended from time to time, any and specification and standards, incorporated herein, bonds, addendum, clarifications, directives, Work Orders, Work Order Proposals, change orders, payments and other such documents issued under or relating to the Contract.

**Contractor** means the person, firm, or corporation with whom the Town has contracted and who will be responsible for the acceptable performance of any Work and for the payment of all legal debts pertaining to the Work under the Contract.

**Cure** means the action taken by the Contractor promptly, after receipt of written notice from the Town of a breach of the Contract Documents, which shall be performed at no cost to the Town, to repair, replace, correct, or remedy all material, equipment, or other elements of the Work or the Contract Documents affected by such breach, or to otherwise make good and eliminate such breach.

**Cure Period** means the period of time in which the Contractor is required to remedy deficiencies in the Work or compliance with the Contract Documents after receipt of a written Notice to Cure from the Town identifying the deficiencies and the time to Cure.

**Days** mean calendar days.

**Diameter at breast height or DBH** means the diameter of a Tree's trunk measured at a height four and one-half (4.5) feet above natural grade. In the case of multiple-trunk Trees, the DBH

shall mean the sum of each trunk's diameter measured at a height of four and one-half (4.5) feet above natural grade.

**Emergency Service** means service that requires action within a short period of time to mitigate a hazardous or safety related situation.

**Hazard Pruning** means the removal of dead, diseased, decayed, or obviously weak branches two (2) inches in diameter or greater.

**Inspector** means an authorized representative of the Town assigned to make necessary inspections of materials and Work performed by the Contractor.

**Landscape Manual** means the Miami-Dade County Landscape Manual, latest edition, which is the official landscape manual issued by Miami-Dade County, Florida, and incorporated herein by reference. The landscape manual, as amended from time to time, is deemed incorporated by reference as if set forth herein. If a conflict arises between the landscape manual and any other requirement the Landscape Manual shall prevail.

**Materials** mean goods or equipment used or consumed in the performance of the Work.

**Notice of Award** means the written letter to the Contractor notifying the Contractor that it has been awarded the Contract.

**Notice to Proceed** means a written letter or directive issued by the Town Manager or designee acknowledging that all conditions precedent to award have been met and directing that the Contractor may begin Work.

**Project Manager** means the individual assigned by the Town Manager to manage the Work under the Contract.

**Pruning/Trimming** means the selective cutting of Tree or plant parts done to encourage new growth or better flowering; to remove old stems or deadwood; or to shape Trees according to the Standards set forth in the ANSI A300 Tree Care Standards Manual ("ANSI A300 Standards"), ISA requirement or other standards required by the Contract, which are incorporated herein by reference. Prior written approval of the Project Manager is required for the pruning or trimming of Tree(s) not in compliance with ANSI 300 Standards, ISA or any other standards established under the Contract.

**Request For Information (RFI)** means a request from the Contractor seeking an interpretation or clarification relative to the Contract Documents. The RFI, which shall be clearly marked RFI, shall clearly and concisely set forth the issue(s) or item(s) requiring clarification or interpretation and why the response is required. The RFI must set forth the Contractor's interpretation or understanding of the document(s) in question, along with the reason for such understanding.

**Subcontractor** means a person, firm or corporation having a direct contract with Contractor, including one who furnishes material worked to a special design according to the Contract Documents, but does not include one who merely furnishes materials not so worked.

**Substantial Completion** means that point at which the Work is at a level of completion in substantial compliance with the Contract such that the Town can use the completed Work for its intended purpose. Substantial Compliance shall not be deemed to have occurred until any and all governmental entities, which regulate or have jurisdiction over the Work, have inspected, and approved the Work.

**Submittal** means the documents prepared and submitted by the Bidder in response to this ITB.

**Town** means the Town Council of the Town of Miami Lakes or the Town Manager, if applicable.

**Town Manager** means the duly appointed chief administrative officer of the Town of Miami Lakes or his designee.

**Tree or Trees** means any self-supporting woody plant or palm which usually has a single main axis or trunk, with a minimum trunk diameter at breast height of two (2) inches and a minimum overall height of twelve (12) feet. This definition excludes plants which are defined as shrubs, hedges, vines, or ground covers. Palms shall have a minimum height of fourteen (14) feet in order to be classified as a Tree.

**Work or Service** as used herein refers to all reasonably necessary and inferable labor, material, equipment, and services, whether or not specifically stated, required by the Contract Documents for the Contractor to fulfill its obligations, under the Contract Documents.

**Work Crew** means the employees assigned by the Contractor to perform Work under the Contract.

**Work Order** means a document issued by the Town awarding a specific Project to a Contractor.

**Work Order Proposal** means a document prepared by the Contractor, at the request of the Town for Work to be performed on a Project.

## **2.2 GENERAL REQUIREMENTS**

The ITB and any addendum that may be issued constitute the complete set of specification requirements and Bid forms. The Bid Form page(s), and all forms contained in the ITB shall be completed, signed, and submitted in accordance with the requirements of Section 1. All bids must be typewritten or filled in with pen and ink, and must be signed in blue ink by an officer or employee having authority to bind the company or firm. Errors, corrections, or changes on any document must be initialed by the signatory of the Bid. Bidders shall not be allowed to modify their bids after the opening time and date.

## **2.3 PREPARATION OF BID**

The Bid Form contains multiple line items and the Bidder must provide prices for all line items and must provide the price for the total annual bid amount. Failure to include pricing on all line items as well as the total annual bid amount shall result in the Bid being found non-responsive.

**Bidder must use the blank Town forms provided herein.** The Bid must be signed and acknowledged by the Bidder in accordance with the directions on the ITB. Failure to utilize the Town's forms, or fully complete said forms will result in a determination that the Bid is non-responsive.

A Bid will be considered non-responsive if it is conditioned on modifications, changes, or revisions to the terms and conditions of the ITB.

The Bid is to include the furnishing of all labor, materials, equipment, all overhead/indirect expenses and profit, necessary for the completion of the Work, except as may be otherwise expressly provided in the Contract Documents.

Joint venture firms must complete and submit with their Bid the Form JV titled "Information for Determining Joint Venture Eligibility", (Form JV) and submit a copy of the signed formal agreement between all joint-venture parties. This joint venture agreement must indicate each of the party's respective roles, responsibilities and levels of participation for the Contract. Failure to timely submit Form JV, along with an attached written copy of the joint venture agreement may result in disqualification of the Bid. All joint venture firms must meet the requirements stipulated in the Florida Statutes.

#### **2.4 BID PREPARATION AND RELATED COSTS**

All cost involved with the preparation and submission of Bid to the Town or any work performed in connection therewith, shall be the sole responsibility of the Bidder(s). No payment shall be made for any Bid received, or for any other effort required of or made by the Bidder prior to commencement of Work as defined by a contract duly approved by the Town Council or Town Manager, as applicable. The Town shall bear no responsibility for any cost associated with any judicial proceedings resulting from the ITB process.

#### **2.5 PRE-BID CONFERENCE**

A **Non-Mandatory Pre-Bid Conference** will be held on December 20, 2011 at 10:00 am in the 1<sup>st</sup> floor conference room at Town Hall, 15150 NW 79<sup>th</sup> Court, Miami Lakes, Fl. 33016.

#### **2.6 QUALIFICATION OF BIDDERS**

Bidder must meet the minimum qualification requirements stated in Section 1 and must be capable of performing the Work under the Contract. Bidders shall submit a completed Qualification Statement utilizing the attached form.

#### **2.7 PERFORMANCE OF THE WORK**

**Bidder must be capable of self- performing all of the Work under this Contract, exclusive of treatment of Trees for disease or insects.** By submitting a Bid the Bidder certifies that it will meet this requirement. As part of the Bid the Bidder are to include the form entitled "Questionnaire". Failure to complete and submit this form or to meet this requirement shall result in the Bid being deemed non-responsive. Where the Contractor is deemed to not meeting this requirement during the performance of the Work the Contractor shall be in default of the Contract Documents.

#### **2.8 EXAMINATION OF CONTRACT DOCUMENTS**

It is the responsibility of each Bidder, before submitting a Bid in response to this ITB to:

- Carefully review the ITB, including any Addendum and notify the Town of all conflicts, errors or discrepancies.
- Visit the Town sites to become familiar with conditions that may affect cost, progress, performance or furnishing of the Services.
- Take into account federal, state and local (Town and Miami-Dade County) including, without limitation the Town's Code, and Miami-Dade County and the State of Florida's statutes laws, rules, regulations, and ordinances that may affect a Bidder's ability to perform the Work.
- Study and carefully correlate Contractor's observations with the requirements of the ITB.

The submission of a Bid in response to this solicitation shall constitute an incontrovertible representation by Bidder that it will comply with the requirements of the Contract Documents and that without exception, the Bid is premised upon performing and furnishing the Work required under the Contract Documents and that the Contract Documents are sufficient in detail to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

**2.9 INTERPRETATIONS AND CLARIFICATIONS**

All questions about the meaning or intent of the ITB and specifications shall be directed in writing by e-mail to Gary Fabrikant, Procurement Manager, at 15150 NW 79th Court; Miami Lakes, FL 33016, Email: [fabrikantg@miamilakes-fl.gov](mailto:fabrikantg@miamilakes-fl.gov). Interpretation or Clarifications considered necessary by the Town in response to such questions will be issued by means of addenda. All addenda will be posted on the Town’s website, [www.miamilakes-fl.gov](http://www.miamilakes-fl.gov) and it is the sole responsibility of the Bidder to obtain all addenda. Written questions must be received no less than ten (10) days prior to bid opening. Only questions answered by written addenda shall be binding. Oral and other interpretation or clarifications shall be without legal effect.

**2.10 POSTPONEMENT OF BID OPENING DATE**

The Town reserves the right to postpone the date for receipt and opening of Bids and will make a reasonable effort to give at least five (5) calendar days’ notice prior to the Bid opening date, of any such postponement to prospective Bidders.

**2.11 ACCEPTANCE OR REJECTION OF BIDS**

The Town reserves the right to reject any and all Bids or any portion of a Bid, with or without cause, to waive technical errors and informalities, or to cancel or re-issue this solicitation. The Town also reserves the right to reject the Bid of any Bidder who has failed to previously perform under a contract or who is in arrears to the Town.

Reasonable efforts will be made to either award the Contract or reject all Bids within ninety (90) calendar days after Bid opening date. A Bidder may not withdraw its Bid unilaterally nor change its Bid before the expiration of one hundred twenty (120) days from the date of bid opening.

**2.12 WITHDRAWAL OF BID**

A Bidder may withdraw its Bid after the expiration of one hundred twenty (120) calendar days from the date of Bid opening by delivering written notice of withdrawal to the Town’s Procurement Manager prior to award of the Contract by the Town Council or Town Manager, applicable. Once the Town makes the award, the Bid cannot be withdrawn under this Article.

**2.13 OPENING OF BIDS**

Bids will be publicly opened and read aloud at the appointed time and place stated in the ITB. Late Bids will not be opened. No responsibility will be attached to any Town Staff for the premature opening of a Bid not properly addressed and identified. Bidders or their authorized agents are invited to be present at the bid opening. The lowest Bid identified at the Bid opening does not establish or determine the lowest responsive and responsible Bidder who may be awarded the Contract.

## **2.14 AWARD OF CONTRACT(S)**

The Town anticipates awarding of more than one Contract to the Bidders who are determined to be the lowest responsive and responsible Bidders. The Town may, in its sole discretion make award(s) that are determined to be in the best interest of the Town. Should the Town elect to award more than one Contract the Town will determine the distribution of the Work or zones.

The Town may require demonstration of competency and, at its sole discretion, conduct site visit(s) and inspections of the Bidder's place(s) of business, require the Bidder to furnish documentation and/or require the Bidder to attend a meeting to determine the Bidder's qualifications and ability to meet the terms and conditions of this Contract. The Town shall consider, but not be limited to, such factors as financial capability, labor force, equipment, experience, knowledge of the trade work to be performed, the quantity of Work being performed by the Contractor and past performance on Town and other contracts. In no case will the Award be made until all necessary investigations have been made into the responsibility of the Bidder(s) and the Town Manager is satisfied that the Bidders are qualified to perform the Work.

Any Bidder who, at the time of submission, is involved in an ongoing bankruptcy as a debtor, or in a reorganization, liquidation, or dissolution proceeding, or if a trustee or receiver has been appointed over all or a substantial portion of the property of the Bidder under federal bankruptcy law or any state insolvency, the Bid may be declared non-responsive. Any Bidder who has filed a lawsuit against the Town or where the Town has filed a lawsuit or won a court judgment against a Bidder, such Bidder may be declared non-responsive.

If the Town accepts a Bid, the Town will notify the Bidder that it is the apparent awardee and that award is conditioned upon executing the Contract, and submission and approval of the required insurance certificates. The Town will provide a written notice of award upon the Bidder meeting these requirements.

If the successful Bidder to whom a Contract is proposed to be awarded forfeits the Award by failing to meet the conditions as stated above, the Town may, at the Town's sole option, award the Contract to the next lowest Responsive and Responsible Bidder or reject all Bids or re-advertise the ITB.

## **2.15 COLLUSION**

Where two (2) or more related parties, as defined in this Article, each submit a response to an ITB, such submissions shall be presumed to be collusive. The foregoing presumption may be rebutted by the presentation of evidence as to the extent of ownership, control and management of such related parties in preparation and submission under such ITB. Related parties shall mean employees, officers or the principals thereof which have a direct or indirect ownership interest in another firm or in which a parent company or the principals thereof of one Bidder have a direct or indirect ownership interest in another Bidder for the same project(s). ITB responses found to be collusive shall be rejected.

## **2.16 BIDDER IN ARREARS OR DEFAULT**

The Bidder represents and warrants that the Bidder is not in arrears to the Town and is not a defaulter as a surety or otherwise upon any obligation to the Town. In addition the Bidder warrants that the Bidder has not been declared "not responsible" or "disqualified" by or

debarred from doing business with any state or local government entity in the State of Florida, the Federal Government or any other State/local governmental entity in the United States of America, nor is there any proceeding pending pertaining to the Bidder's responsibility or qualification to receive public agreements. The Bidder considers this warrant as stated in this Article to be a continual obligation and shall inform the Town of any change during the term of the Contract.

**2.17 PUBLIC ENTITY CRIMES ACT**

In accordance with the Public Entity Crimes Act, (Section 287.133, Florida Statutes) a person or affiliate who is a contractor, who had been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to the Town, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases or real property to the Town, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with the Town in excess of the threshold amount provided in Section 287.917, Florida Statutes, for Category Two for a period of 36 months from the date of being placed on the convicted vendor list. Violation of this section by the Contractor shall result in rejection of the Bid, termination of the contract, and may cause Contractor debarment.

**END OF SECTION**

**SECTION 3**  
**GENERAL TERMS AND CONDITIONS**

**3.1 TIME IS OF THE ESSENCE**

Contractor will promptly perform its duties under the Contract and will give the Work as much priority as is necessary to cause the Work to be completed on a timely basis in accordance with the Contract Documents.

The date and period of time set forth in the Notice to Proceed for the commencement, commencement and completion of the Work was included because of its importance to the Town.

**3.2 NOTICES**

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

For Town:

Mr. Alex Rey  
Town Manager  
Town of Miami Lakes  
15150 NW 79<sup>th</sup> Court  
Miami Lakes, Florida 33016

Mr. Gary Fabrikant  
Procurement Manager  
Town of Miami Lakes  
15150 NW 79<sup>th</sup> Court  
Miami Lakes, Florida 33016

For Contractor:

**(To Be Determined)**

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

### **3.3 PRIORITY OF PROVISIONS**

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

In the event of conflicts in the Contract Documents the priorities stated below shall govern;

- Revisions and Change Orders to the Contract shall govern over the Contract
- The Contract Documents shall govern over the Contract
- The Special Conditions shall govern over the General Conditions of the Contract
- Addendum to an ITB shall govern over a ITB

### **3.4 INDEMNIFICATION-**

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

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

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

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

### **3.5 INSURANCE**

Without limiting any of the other obligations or liabilities of Contractor, the Contractor shall secure and maintain throughout the duration of this Contract, insurance of such type and in such amounts necessary to protect its interest and the interest of the Town

against hazards or risks of loss as specified below. The underwriter of such insurance shall be qualified to do business in Florida, be rated B as to management and "Class V" as to strength or better as rated by the latest edition of Best's Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey, or its equivalent, The insurance carrier shall have agents upon whom service of process may be made in the State of Florida. The insurance coverage shall be primary insurance with respect to the Town, its officials, employees, agents and volunteers. Any insurance maintained by the Town shall be in excess of the Contractor's insurance and shall not contribute to the Contractor's insurance. The insurance coverages shall include a minimum of:

- a. Worker's Compensation and Employer's Liability Insurance:** Coverage to apply for all employees for statutory limits as required by the State of Florida's Statutory Workers' Compensation Law" and all applicable Federal laws. The policy(ies) must include Employer's Liability with minimum limits of \$500,000.00 each accident and a waiver of subrogation.
- b. Comprehensive Automobile and Vehicle Liability Insurance:** This insurance shall be written in comprehensive form and shall protect the Contractor and the Town against claims for injuries to members of the public and/or damages to property of others arising from the Contractor's use of motor vehicles or any other equipment and shall cover operation with respect to onsite and offsite operations and insurance coverage shall extend to any motor vehicles or other equipment irrespective of whether the same is owned, non-owned, or hired. The limit of liability shall not be less than \$1,000,000.00 per occurrence, combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive that the latest edition of the Business Automobile Liability Policy, without restrictive endorsement, as filed by the Insurance Services Office.
- c. Commercial General Liability.** This insurance shall be written in comprehensive form and shall protect the Contractor and the Town against claims arising from injuries to members of the public or damage to property of others arising out of any act or omission to act of the Contractor or any of its agents, employees, or subcontractors. The limit of liability shall not be less than \$1,000,000.00 per occurrence, combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a primary and non-contributory basis and with a coverage form no more restrictive than the latest edition of the Commercial General Liability Policy, without restrictive endorsements, as filed by the Insurance Services Office, and must include: (1) Premises and/or Operations; (2) Independent contractors and Products and/or completed Operations; (3) Broad Form Property Damage, Personal Injury and a Contractual Liability Endorsement, including any hold harmless and/or indemnification agreement.
- d. Certificate of Insurance:** Contractor shall provide the Town Manager or designee with Certificates of Insurance for all required policies within fifteen (15) days of notification of a conditional award by the Town. The Certificates of

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

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

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

### **3.6 PERFORMANCE BOND**

Contractor shall within ten (10) calendar days of being notified by the Procurement Manager or Project Manager submit a performance and payment bond ("Bond") using the attached Performance Bond forms in the amount of \$100,000. The Bond shall guarantee the completion of the Work covered by the Contract Documents as well as the payment of all suppliers, Subcontractors, and the Contractor's workforce. The Bond(s) shall not contain a provision allowing the Surety(ies) to cancel the Bonds prior to the completion of the Contract, including the option to renew years.

The Bond must be executed by a surety company of recognized standing, authorized to do business in the State of Florida as a surety.

### **3.7 GENERAL REQUIREMENTS**

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

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

The Contractor agrees to adjust staffing levels or to replace any staff personnel if so requested by the Town Manager or designee, should the Town Manager or designee

make a determination that said staffing is unacceptable or that any individual is not performing in a manner consistent with the requirements for such a position.

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

The Contractor shall at all times cooperate with the Town and coordinate its respective Work efforts to most effectively and efficiently progress the performance of the Work.

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

### **3.8 RULES AND REGULATIONS**

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

### **3.9 SITE INVESTIGATION AND REPRESENTATION**

The Contractor acknowledges that it has satisfied itself as to the nature and location(s) of the Work under the Contract prior to commencement of the Work, the general and local conditions, particularly those bearing upon availability of installation, transportation, disposal, handling and storage of materials, and all other matters which can in any way affect the Work or the cost thereof under the Contract Documents.

Work site(s) may have existing utilities, such as, but not limited to, irrigation, phone, water and sewer, CATV, traffic signals, electrical, and storm sewer. The Contractor is responsible for any and all claims resulting from the damage caused to any utilities, private property, or Town property.

Should the Contractor identify any utilities, structures, etc., which will or may be encountered during the performance of the Work, the Town shall be consulted immediately in order for a decision to be made on the potential relocation or other action(s) to be taken as it relates to the Work.

Any failure by the Contractor to familiarize itself with any site conditions that may impact the performance of the Work shall not relieve Contractor from responsibility for properly, estimating the difficulty or cost of performing the Work, and shall not entitle the Contractor to any additional compensation.

### **3.10 METHOD OF PERFORMING THE WORK**

The apparent silence of the Contract Documents as to any detail, or the apparent omission from them of a detailed description concerning any Work to be done and materials to be furnished, shall be regarded as meaning that only the best general

practice is to prevail and that only material and workmanship of the best quality is to be used, and interpretation of the Contract Documents shall be made upon that basis.

Contractor shall inspect all equipment and materials immediately prior to use and shall not use any equipment that will result in damage to the Trees or improper cutting of the Trees or install any damaged or defective materials.

Contractor shall comply with the manufacturer's applicable instructions and recommendations for the performance of the Work, to the extent that these instructions and recommendations are more explicit or more stringent than requirements indicated in the Contract Documents or applicable Work Order.

The Work to be performed shall be done in such a manner so as not to interfere with the normal Town operations. The manner in which the Work is performed shall be subject to the approval of the Project Manager, whom if necessary, shall have the authority to require changes in the manner in which the Work is performed. There shall be no obstruction of Town services without the prior written approval of the Project Manager. All requests for such interruption or obstruction must be given in writing to the Project Manager 24 hours in advance of the interruption of Town operations.

The Contractor shall familiarize itself with normal Town operations where the Work is to be performed so that it can conduct the Work in the best possible manner to the complete satisfaction of the Project Manager.

**3.11 CONTRACTOR TO CHECK DATA**

Contractor shall verify all data concerning the Trees provided to the Contractor. Where the Contractor finds a discrepancy between the data provided and existing conditions the Contractor shall immediately notify the Project Manager and provide the correct Tree data in writing to the Project Manager.

**3.12 PROTECTION OF PROPERTY, UTILITIES, AND THE PUBLIC**

The Contractor shall continuously maintain adequate protection of all its Work from damage and shall protect public and private property, and utilities from injury or loss arising in connection with the Work, and take all necessary precautions to prevent accidents, injuries, or damage to persons or property on or near the Work.

The Contractor shall be completely responsible for, and shall replace and make good all loss, injury, or damage to any property (including landscaping, irrigation, walks, drives, structures or utilities).

**3.13 MAINTENANCE OF TRAFFIC**

All maintenance of traffic ("M.O.T.") is to be coordinated with the Project Manager. Should the Work require significant restriction(s) of the right-of-way the Contractor may need to obtain the prior approval of the appropriate public agencies. These public agencies include, but are not limited to, the Town, Miami-Dade County Public Works Department, and FDOT. Contractor shall not be entitled to any additional compensation for meeting the M.O.T requirements.

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

The following guidelines must be followed during each maintenance operation:

**1. When no lanes are blocked:**

- a. All Contractor vehicles must have beacons and flashes on.
- b. **“MEN WORKING”** signs must be set up before starting operations.
  - On two lane roads: one (1) sign must be posted at each end of site, for each direction of travel (total of two (2) signs).
  - On four lane roads two (2) signs at each end of site (one on median and one on shoulder) for each direction of travel (total of four (4) signs).
  - Orange safety cones shall be set at edges of travel lanes in the immediate area of work.
- c. Vehicles shall be parked next to median at the transition area of left turn lanes. Orange traffic cones must be placed from the start of transition of the left turn lane to the front of vehicle at fifteen feet (15') intervals.

**2. When a lane is to be blocked:**

- a. No traffic lane shall be blocked for any period between the hours of 7:00 to 10:00 AM and 3:30 to 7:00 PM.
- b. No traffic lanes may be blocked for a period longer than thirty (30) minutes, without the prior approval of the Project Manager.
- c. A traffic lane may be blocked for up to thirty (30) minutes, if absolutely necessary. However, the following M.O.T. must be followed:
  - A Flagman shall be posted at the edge of the travel lane at least one hundred (50) feet prior to start of transition.
  - There shall be a minimum of twenty-five (25) feet transition with traffic cones, prior to lane closure. It is recommended that vehicle-blocking lane have a flashing arrow board.

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

**3.14 COORDINATION OF THE WORK**

Prior to the commencement of the Work the Project Manager will make every effort, based on available information, to notify the Contractor of any ongoing project(s) or project(s) scheduled to commence during the performance of the Work that may require coordination. The Contractor shall be solely responsible for coordinating the Work with any other project(s) to minimize any potential adverse impact. Contractor

shall not be entitled to any days of delay for failure to properly coordinate the Work. The Project Manager may assist the Contractor in coordinating the Work. However, any such assistance, or lack thereof shall form the basis for any claim for delay or increased cost.

**3.15 ACCESS TO THE WORK SITE(S)**

Town shall provide access to the lands upon which the Work is to be performed, rights-of-way and easements for access thereto and such other lands as are designated by Town for the use of the Contractor.

**3.16 CONTRACTOR'S RESPONSIBILITY FOR DAMAGES AND ACCIDENTS**

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

Contractor shall accept full responsibility for Work against all losses or damages of whatever nature sustained until acceptance by Town.

**3.17 SAFETY PRECAUTIONS**

The Contractor shall take all necessary precautions for the safety of employees in the performance of the Work on, about or adjacent to the premises, and shall comply with all applicable provisions of Federal, State, and local laws, including, but not limited to the requirements of the Occupational Safety and Health Act of 1970, and amendments thereto, to prevent accidents or injury to persons on, about or adjacent to the premises where the Work is being performed.

The Contractor shall comply with the OSHA "Federal Right to Know" Regulation regarding informing employees of toxic substances in the workplace, providing training, and emergency procedures.

Contractor must adhere to applicable environmental protection guidelines for the duration of the Work. The Contractor shall comply with all codes, ordinances, rules, orders and other legal requirements of public authorities (including OSHA, EPA, DERM, the Town, Miami-Dade County, State of Florida), which bear on the performance of the Work

The Contractor shall provide such equipment and facilities as are necessary or required, in the case of accidents, for first aid service to person who may be injured during the Project(s) duration.

**3.18 LABOR AND MATERIALS**

Unless otherwise provided herein, Contractor shall provide and pay for all materials, labor, water, tools, equipment, light, power, transportation and other facilities and services necessary for the proper execution and completion of the Work.

### **3.19 SUBCONTRACTORS**

Subcontracting of the Pruning and Trimming and all related Work, including transportation, chipping, etc. is not permitted under this Contract. Contractor may with the prior approval of the Project Manager subcontract any Additional Work for the treatment of Trees for disease or insect infestation.

### **3.20 AUTHORITY OF THE PROJECT MANAGER**

The Town Manager hereby authorizes the Project Manager designated in the Work Order to determine, all questions of any nature whatsoever arising out of, under or in connection with, or in any way relating to or on account of the Work, and questions as to the interpretation of the Work to be performed under the Contract Documents.

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

The Project Manager shall have authority to act on behalf of the Town to the extent provided by the Contract, unless otherwise modified in writing by the Town. All instructions to the Contractor shall be issued in writing. All instructions to the Contractor shall be issued through the Town Manager or the Project Manager.

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

All interpretations and recommendations of the Project Manager shall be consistent with the intent of the Contract Documents.

The Project Manager will not be responsible for the acts or omissions of the Contractor, any Subcontractor, or any of their agents or employees, or any other persons performing any of the Work.

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

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

- 1) Contractor shall have and maintain during the term of this Contract all appropriate Town licenses. Fees for which shall be paid in full in accordance with the Town's Fee structure for such licenses. THERE WILL NOT BE ANY PERCENTAGE REDUCTION OR WAIVING OF TOWN LICENSE FEES.

- 2) During the performance of this Contract there may be times when the Contractor will be required to obtain a Town permit for such Work. It is the responsibility of the Contractor to insure that he has the appropriate Town permits to perform such work as may become necessary during the performance of the Work. Any fees related to Town required permits in connection with this Contract will be the responsibility of the Contractor and will be reimbursed by the Town.

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

### **3.22 TAXES**

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

### **3.23 REMOVAL OF UNSATISFACTORY PERSONNEL**

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

### **3.24 CHANGE ORDERS**

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

Any changes to the Contract must be contained in a written document, executed by the both parties. However, under circumstances determined necessary by Town, Change Orders may be issued unilaterally by Town.

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

Where the Town directs the Contractor to proceed on a time and materials basis, Contractor shall maintain detailed records of all labor and material costs for review of the Town. In addition, the Contractor shall be entitled a combined profit and overhead rate that shall not be in excess of ten (10%) percent of the direct labor and material costs, unless the Procurement Manager determines that the complexity and risk of the

Change Order Work is such that an additional factor is appropriate. The final amount to be paid to the Contract for Change Order Work shall be subject to negotiation between the Town and the Contractor.

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

### **3.25 FORCE MAJEURE**

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

If the Contractor is delayed in performing any obligation under the Contract Documents due to a force majeure condition, the Contractor shall request a time extension from the Town within two (2) working days of said force majeure occurrence. Any time extension shall be subject to mutual agreement and shall not be cause for any claim by the Contractor for extra compensation unless additional services are required. **Do Not Include** inclement weather except as permitted by Florida law and may not include the acts or omissions of Subcontractors.

### **3.26 EXTENSION OF TIME**

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

If the Contractor is delayed at any time during the progress of the Work beyond the Contract Time and/or Notice to Proceed (NTP) by the neglect or failure of the Town or by a Force Majeure, then the Contract Time set forth in the Contract shall be extended by the Town subject to the following conditions:

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

**Note:** A delay meeting all the conditions of the above, shall be deemed an Excusable Delay.

The Town reserves the right to rescind or shorten any extension previously granted if subsequently, the Project Manager determines that any information provided by the Contractor in support of a request for an extension of time was erroneous; provided however, that such information or facts, if known, would have resulted in a denial of the

request for an Excusable Delay. Notwithstanding the above, the Project Manager will not rescind or shorten any extension previously granted if the Contractor acted in reliance upon the granting of such extension and such extension was based on information which, although later found to have been erroneous, was submitted in good faith by the Contractor.

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

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

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

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

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

### **3.27 EXCUSABLE DELAY, NON-COMPENSABLE**

Excusable Delay is (i) caused by circumstances beyond the control of Contractor, its subcontractors, suppliers and vendors, and is also caused by circumstances beyond the control of the Town, or (ii) is caused jointly or concurrently by Contractor or its subcontractors, suppliers or vendors and by the Town. Then Contractor shall be entitled only to a time extension and no compensation for the delay.

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

Failure of Contractor to comply with the requirements of the Contract, as to any particular event of delay shall be deemed conclusively to constitute a waiver, abandonment or relinquishment of any and all claims resulting from that particular event of delay.

### **3.28 CLAIMS**

Any claim for a change in the Contract time for completion of any Work, the Contract Term, or Contract price shall be made by written notice by Contractor to the Town Manager or designee and to within ten (10) business days of the commencement of the event giving rise to the claim and stating the general nature and cause of the claim. Thereafter, within twenty (20) calendar days of the termination of the event giving rise to the claim, written notice of the extent of the claim with supporting information and documentation shall be provided unless the Town Manager or designee allows an additional period of time to ascertain more accurate data in support of the claim. The written notice must be accompanied by Contractor's written notarized statement that the adjustment(s) claimed is the entire adjustment to which the Contractor has reason to believe it is entitled as a result of the occurrence of said event. All claims and disputes shall be determined in accordance with the Contract. It is expressly and specifically agreed that any and all claims for changes to the Contract shall be waived if not submitted in strict accordance with the requirements of this Article.

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

The Contractor shall not be entitled to an increase in the Contract price or payment or compensation of any kind from the Town for direct, indirect, consequential, impact or other costs, expenses or damages, including but not limited to costs of acceleration or inefficiency, arising because of delay, disruption, interference or hindrance from any cause whatsoever, whether such delay, disruption, interference or hindrance be reasonable or unreasonable, foreseeable or unforeseeable, or avoidable or unavoidable; provided, however, that this provision shall not preclude recovery of damages by Contractor for actual delays due solely to fraud, bad faith or active interference on the part of Town. Contractor shall be entitled only to extensions of the Contract time for completion of the Work, as the sole and exclusive remedy for such resulting excusable delay.

The Contractor agrees to make no claim for damages for delay of any kind in the performance of the Contract Documents whether occasioned by any act or omission of

the Town or any of its representatives and the Contractor agrees that any such claim shall be compensated solely by an extension of time to complete performance of the Work due to an excusable delay as defined in this Article. The Contractor alone specifically assumes the risk of such delays, including without limitation: delays in processing or approving any submittals to the Town, or the failure to render determinations, approvals, replies, inspections, in a timely manner. Contractor shall not receive monetary compensation for Town delay(s).

Excusable Delay is (i) caused by circumstances beyond the control of Contractor, its Subcontractors, suppliers, and is also caused by circumstances beyond the control of the Town, or (ii) is caused jointly or concurrently by Contractor or its Subcontractors, suppliers and by the Town. Contractor is entitled to a time extension of the Contract time for each day the Work is delayed due to Excusable Delay. Contractor must document its claim for any time extension as provided herein.

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

### **3.29 DISPUTES AND MEDIATION**

Contractor understands and agrees that all disputes between it and the Town upon an alleged violation of the terms of this Contract by the Town shall be submitted for resolution in the following manner.

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

Should the initial efforts at resolution not end in a mutual resolution then the Contractor notify in writing the Procurement Manager identified in Article 3.2, Notices, of the claim or dispute

The Contractor shall submit its dispute in writing, with all supporting documentation, to the Procurement Manager, as identified in Article 3.2, Notices. Upon receipt of said notification the Procurement Manager shall review the issues relative to the claim or dispute and issue a written finding.

Should the Contractor and the Procurement Manager fail to resolve the claim or dispute the Contractor shall submit their dispute in writing within five (5) calendar days of the written finding being issued by the Procurement Manager to the Town Manager. Failure to submit such appeal in the stated timeframe of the written finding shall constitute acceptance of the finding by the Contractor. Upon receipt of said notification the Town Manager shall review the issues relative to the claim or dispute and issue a written finding.

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

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

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

**3.30 CONTINUING THE WORK**

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

**3.31 FRAUD AND MISREPRESENTATION**

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

**3.32 STOP WORK ORDER**

The Town may, at any time, by written order to the Contractor, require the Contractor to stop all, or any part, of the Work for a period of up to ninety (90) days (or any lesser period), commencing no sooner than the date the order is delivered to the Contractor, and for any further period to which the parties may agree. Any such order shall be specifically identified as a “Stop Work Order” issued pursuant to this paragraph. Within

the period of ninety (90) days (or the lesser period specified) after a Stop Work Order is delivered to the Contractor, or within any extension to which the parties have agreed the Town shall either:

- Cancel the Stop Work Order; or
- Terminate the Work covered by such order as provided in Article 3.34, Termination for Convenience.

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

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

### **3.33 HURRICANE PREPAREDNESS**

During such periods of time as are designated by the United States Weather Bureau as being a hurricane warning, the Contractor, at no cost to the Town, shall take all precautions necessary to secure any Work in response to all threatened storm events, regardless of whether the Contractor has given notice of same.

Compliance with any specific hurricane warning or alert precautions will not constitute additional work.

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

### **3.34 CLEANING UP; TOWN'S RIGHT TO CLEAN UP**

Contractor shall at all times keep the Work site(s) free from accumulation of waste materials or rubbish caused by its operations. At the completion of a Work at a Work site(s), Contractor shall remove all Tree cuttings, waste materials and rubbish from and about the Project(s) as well as any tools, equipment, machinery and surplus materials or supplies. If Contractor fails to clean up during the performance of the Work or at the completion of the Work, Town may do so and the cost incurred shall be charged to Contractor. Any combustible waste materials must be removed from the work site(s) at the end of each day.

Tree cuttings, waste material or rubbish shall not be disposed of in Town owned dumpsters, or private commercial or residential dumpsters, or thrown or washed down any storm drains.

### **3.35 SET-OFFS, WITHHOLDING, AND DEDUCTIONS**

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

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

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

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

### **3.36 CONTRACTOR DEFAULT**

#### **a. Event of Default**

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

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

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

Where an Event of Default ("Default") occur under the Contract, the Town may at its sole discretion notify the Contractor, specifying the basis for such Default, and advising the Contractor that such Default must be cured within a time frame specified by the Town or the Contract with the Town may be terminated. The Town

is under no obligation to issue such notification. The Town may grant an extension to the cure period if the Town deems it appropriate and in the best interest of the Town, without waiver of any of the Town's rights hereunder. The Town, at its sole discretion, may have a default corrected by its own forces or another contractor and any such costs incurred will be deducted from any sums due the Contractor under any contract with the Town.

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

c. Termination for Default

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

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

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

**3.37 TERMINATION FOR CONVENIENCE**

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

The Contractor shall, upon receipt of such notice, unless otherwise directed by the Town:

- Stop all Work on the date specified in the notice ("the Effective Date");
  - Take such action as may be necessary for the protection and preservation of the Town's materials and property;
  - Cancel all cancelable orders for materials and equipment; and assign to the Town and deliver to the Town, at a site(s) specified by the Town, any non-cancelable orders for materials and equipment that can not otherwise be used by the Contractor on other work;
  - Take no action that shall increase the amounts payable by the Town under the Contract Documents; and take reasonable measures to mitigate the Town's liability under the Contract Documents; and

- All documents, including electronic documents, related to Work authorized under the Contract, whether finished or not, must be turned over to the Town. Failure to timely deliver the documentation shall be cause to withhold any payments due without recourse by Contractor until all documentation is delivered to the Town.

In the event that the Town exercises its right to terminate the Contract pursuant to the Contract Documents, the Town will pay the Contractor:

- For the actual cost or the fair and reasonable value, whichever of any non-cancelable material(s) and equipment than cannot be used elsewhere by the Contractor in the performance of its work.
- In no event, shall any payments under this Paragraph exceed the maximum cost set forth in the Contract and the amount due hereunder may be offset by payments made to the Contractor or any claims made against the Contractor.
- Contractor shall not be entitled to lost profits, overhead or consequential damages as a result of a Termination for Convenience.

**3.38 TOWN MAY AVAIL ITSELF OF ALL REMEDIES**

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

**3.39 COMPLIANCE WITH APPLICABLE LAWS**

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

**3.40 NONDISCRIMINATION, EQUAL EMPLOYMENT OPPORTUNITY, AND AMERICANS WITH DISABILITIES ACT**

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

**3.41. INDEPENDENT CONTRACTOR**

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

unemployment insurance benefits; social security coverage; retirement membership, or credit.

**3.42. THIRD PARTY BENEFICIARIES**

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

**3.43 ASSIGNMENT OR SALE OF CONTRACT**

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

Any transference without Town approval shall be cause for the Town to terminate this Contract for default and the Contractor shall have no recourse from such termination.

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

**3.44 MATERIALITY AND WAIVER OF BREACH**

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

**3.45 DEFENSE OF CLAIMS**

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

**3.46 FUNDS AVAILABILITY**

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

**3.47 ACCESS TO AND REVIEW OF RECORDS**

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

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

**3.48 ROYALTIES AND PATENTS**

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

**3.49 TIME IN WHICH TO BRING ACTION AGAINST THE TOWN**

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

**3.50 CONTRACT EXTENSION**

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

**3.51 APPLICABLE LAW AND VENUE OF LITIGATION**

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

**3.52 NON-EXCLUSIVE CONTRACT**

It is the intent of the Town to enter into a Contract with all successful Bidder(s) that will satisfy its needs as described herein. However, the Town reserves the right, as deemed in its best interest, to perform, or cause to be performed, the Work and services, or any portion thereof, as it sees fit, including but not limited to: award of other contracts, use of another contractor, or perform the Work with its own employees.

**3.53 SEVERABILITY**

In the event any provision of the Contract Documents is determined by a Court of competent jurisdiction to be illegal or unenforceable, then such unenforceable or unlawful provision shall be excised from this Contract, and the remainder of the Contract Documents shall continue in full force and effect. Notwithstanding the foregoing, if the result of the deletion of such provision will materially and adversely affect the rights of either party, such party may elect, at its option, to terminate the Contract in its entirety. An election to terminate the Contract based upon this provision shall be made within seven (7) calendar days after the finding by the court becomes final.

**3.54 CONTRACT DOCUMENTS CONTAINS ALL TERMS**

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

**3.55 ENTIRE AGREEMENT**

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

**END OF SECTION**

## **SECTION 4**

### **SPECIAL TERMS AND CONDITIONS**

#### **4.1 SCOPE OF WORK**

Contractor shall provide all personnel, equipment, tools, labor, supervision, and other items and services, both necessary and incidental to ensure that the Tree Trimming Services are performed in a manner that will maintain healthy Trees and present a clean, neat, and professional appearance.

#### **4.2 CONTRACT TERM**

This Contract shall be effective upon execution by both parties and shall continue for a term of three (3) years from the date of execution by the Town or until the Contract value has been expended. No Work shall commence until a written Notice to Proceed is issued.

#### **4.3 OPTION(S) TO RENEW**

Prior to or upon completion of the initial term of the Contract or the expenditure of available dollar capacity under the Contract the Town, at its sole discretion, shall have an option to renew this Contract upon the same terms and conditions for two (2) additional one (1) year extensions (the "Option"). The Town may at its sole discretion, exercise the Option to renew when the total value of the Contract for the initial term or Option year has been fully expended. Any Option shall be effective upon receipt of a written notice from the Town Manager to the Contractor. The Town may, at its sole discretion allow for price increases during the Option years due to extraordinary changes in market conditions and pricing.

#### **4.4 HOURS FOR PERFORMING WORK**

All Work shall be performed every day between the hours of 9:00 a.m. to 3:00 p.m. on major streets and Monday through Friday between the hours of 8:00 a.m. to 5:00 p.m. on residential streets.

#### **4.5 EMERGENCY RESPONSE TIME**

Contractor shall be required to provide on-call emergency response service to prune Trees that create a hazardous condition(s). Contractor shall be required to respond within one (1) hour during regular work hours and two (2) hours after regular work hours. The Project Manager may allow for other response times due to weather conditions. Contractor shall be compensated based on time and materials rates plus a fixed amount for the emergency call.

Contractor shall provide two phone numbers for individual, not a recording, who are to be contacted for emergencies. It is the responsibility of the Contractor to ensure that the Project Manager is provided up to date phone numbers should they change.

#### **4.6 COMPENSATION**

Contractor shall be paid for Work performed based on the unit price for the DBH and the type of pruning performed unless otherwise stated in a Work Order.

#### **4.7 PAYMENTS**

Payments shall be based on the invoices submitted for Work performed and accepted by the Project Manager. The Town will not issue any payments based on a statement of accounts. Any reductions in the amount paid to the Contractor shall be done in accordance with Articles 4.15 of the Contract. All payments shall be made in accordance with the State of Florida Local Government Prompt Payment Act.

#### **4.8 INVOICING**

Contractor shall invoice upon completion of a Designated Area unless otherwise approved in writing by the Project Manager. The invoice must be signed by the Arborist with a statement that the Arborist is certifying that the invoiced Work meets the standards and requirements established in the Contract. Contractor invoice must include the following information:

- Name and address of Contractor
- Contract Number
- Date of invoice
- Invoice number (invoice number cannot be repeated)
- Timeframe covered by the invoice
- Work Order number (for additional services only)
- Location of Work performed (based on Work Plan)
- Specific Trees pruned, including:
  - Tree by GPS location or Tree number. Tree number shall only be used where it is provided by the Project Manager
  - Two digital color photographs of each Tree after Pruning
- Trees pruned by price category, including:
  - Number of Trees, unit price, extended price
- Additional Services or costs allowed by the Contract
- Total Value of invoice

Reimbursable expenses - copies of receipts for all materials purchased for the Work. All reimbursable expenses must be pre-approved in writing by the Project Manager before the expense is incurred. Reimbursable expenses shall only apply to Additional Work under Articles 4.12 and 4.13 and for permits issued for MOT. Reimbursable expenses shall be reimbursed to the Contractor at the cost to the Contractor.

#### **4.9 SUPERVISION OF THE WORK**

- a. Field Supervisor

Contractor must have a competent English speaking Field Supervisor must be certified by ISA or ANSI, and hold a Landscape Permit issued by Miami-Dade County. The Field Supervisor shall be responsible for the day to day management of the Work for the Contractor. Three (3) years of field supervisory experience in work of a similar size , scope, and complexity, may substitute for the required certification. Such substitution must be approved in advance by the Project Manager.

All directions given to the Field Supervisor by the Project Manager shall be binding on the Contractor as if they were given directly to the Contractor. Supervisor shall be fully trained and aware of all established standards for Tree trimming as well as rules, regulations, and relative to this Contract. The Field Supervisor shall be responsible to comply with all directions of the Arborist in the pruning of the Trees.

b. Arborist

Contractor shall be required to have on staff an Arborist certified by the International Society of Arboriculture (“ISA”) with a minimum of five years’ experience similar to that being performed under the Contract. The Arborist shall visit the site of the Work daily to ensure compliance with the standards required by the Contract. The Arborist shall be the sole individual responsible for the decision on behalf of the Contractor for Tree Trimming requirements, including the removal or invasive species in lieu of Trimming. The Field Supervisor shall take all directions on Tree Trimming from the Arborist.

**4.10 SCHEDULING**

Based on the accepted Work Plan the Contractor shall prepare an initial two week schedule for review an acceptance by the Project Manager. The initial two week schedule will submitted with the initial submittal of the Work Plan. Each week the Contractor shall update the two week schedule based on the performance during the previous week, which shall be subject to the review and acceptance of the Project Manager. Contractor shall maintain a two week schedule at all times, unless approved otherwise in writing by the Project Manager.

**4.11 QUALITY CONTROL PLAN**

Within two (2) weeks of award of the Contract the Contractor shall provide a Quality Control Plan (“QCP”) to the Project Manager for review and acceptance. The basic premise of the QCP is that the Contractor is responsible for quality control. All methods, procedures, and forms shall support this premise. The QCP must clearly identify how the Contractor will ensure that the Work is performed to the standards established in the Contract. The QCP must provide for the certified Arborist checking the daily progress of the Work at each location where Work is being performed. These checks by the Arborist shall be in addition to the requirement for daily supervision. At a minimum the QCP shall address:

- a. An inspection system that is tailored to the different types of areas and Work covered under the Contract.

- b. A system for identifying and correcting deficiencies in the quality of the Work before the level of performance becomes unacceptable and/or Town inspectors or the Project Manager point out the deficiencies.
- c. A system to ensure that the Contractor's employees are notified of deficiencies, that the noted deficiencies are corrected (if possible); and that the employees are counseled/retrained as necessary to ensure that deficiencies do not recur.
- d. A system that provides the Project Manager access to all Contractor documentation, reports, and files (to include any forms on which quality control inspections are documented) with respect to Contractor quality control inspections and any corrective action taken.
- e. The identity of all personnel who will be performing QCP inspection by name, and title. The person who actually performed the Work shall not perform Quality Control inspections.

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

The Contractor shall perform Quality Control inspections by qualified personnel (i.e. – personnel knowledgeable of all technical aspects of the Work which would allow identification/discovery of improperly performed services) personnel and provide documentation of the results to the Project Manager on a monthly basis. The documentation must be signed by and dated by the inspector at the time the inspection is completed. Where the inspector is not the Arborist, the Arborist shall also sign the inspection report acknowledging that the Arborist has reviewed inspection report. All completed inspection reports must be submitted to the Project Manager.

#### **4.12 ADDITIONAL WORK**

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

Specialty Pruning shall be handled as Additional Work.

#### **4.13 WORK ORDERS**

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

- A detailed description of the work to be performed, and if required the method(s) to be used in performing the work.
- Information on materials to be used (including any MSDS data sheets)
- Number of hours, hourly rate, and total cost per classification of personnel to be used based on the hourly rates contained in the contract. (should a classification or hourly rate not exist the additions shall be subject to the approval of the Project Manager and shall be added to the Contract through a Change Order).
- Timeframe for completion of the work from the issuance of a Notice To Proceed by the Town.
- Description and cost of any specialized equipment to be used for the work. (Such cost is only permissible where the Contractor must rent the equipment. Cost will be reimbursed at actual cost to the Contractor.)

#### **4.14 INSPECTIONS**

The Town shall perform periodic announced and unannounced inspection to check the performance of the Work for compliance with the Contract requirements. At the completion of the Work in a specific section of the Plan or Work Order the Town shall perform a scheduled inspection at the site with the Contractor's Supervisor and Arborist prior to the submission of an invoice.

#### **4.15 LIQUIDATED DAMAGES**

The Contractor is obligated and guarantees to perform the Work to in accordance to the standards established in the Contract. In the event the Project Manager determines that the Work was not performed to the standards established in the Contract the Town may take the following action, which is hereby agreed upon as liquidated damages and not as a penalty.

- Where possible the Town shall direct the Contractor to correctly prune the Tree(s) in accordance with the established standards at no additional cost to the Town.
- Where it is not possible to correct the pruning of the Tree(s) to the established standards the Town shall deduct the applicable cost of the pruning of the Tree(s) based on the Contract price for the type of pruning and the DBH.
- Where the pruning of the Tree(s) evidences that the Tree(s) is dying or several stressed or damage that reflects a reduced the life of the Tree within two (2) years of Pruning, the Town may direct the Contractor to replace the Tree(s) at no cost to the Town, with a similar Tree(s).
- For each incident of Tree abuse the Town shall deduct \$250.00 from any payment(s) due the Contractor. This includes but is not limited to incorrect pruning, lion tailing, hat racking, girdling, spiking, over pruning a stressed Tree, or pruning that leads to infestation or disease, cambium layer penetration, or damage to or excessive cutting to the root system.
- For each instance where the Contractor has improperly disposed of Tree cuttings, waste materials, or debris in violation of Article 3.34 \$250.00 shall be deducted for m any payments due the Contractor.

The Town shall have the right to deduct liquidated damages assessments from any payment due or which may thereafter become due to the Contractor under any contract the Contractor has with the Town. In case the amount, which may become due hereunder, shall be less than the amount of liquidated damages due the Town, the Contractor shall pay the difference upon demand by the Town. Should the Contractor fail to compensate the Town for any liquidated damages, the Town shall consider this as a form of indebtedness and may deny any future Work under the Contract or any other Town contract until such indebtedness is paid in full to the Town.

#### **4.16 STAGING AND STORAGE OF VEHICLES AND EQUIPMENT**

Work shall be performed in a manner that minimizes the impact to vehicular traffic, pedestrians, homeowners, and use of the Town's park properties.

Staging and the location of all equipment used in the Work, including but not limited to dump trucks, trailers, chippers, loaders, dumpsters, and similar equipment shall be subject to the approval of the Project Manager. Where the Work requires that equipment be stored overnight on the public right-of-way, medians, swales, or other public property the Contractor must obtain the prior written authorization from the Project Manager.

The Project Manager may, at his sole discretion authorize the Contractor to store its vehicles and/or equipment on Town Property. Contractor should not anticipate the approval of long term storage or use of Town Property. Such authorization shall be granted in writing in advance any such storage. Should the Contractor store any of its equipment or vehicles on Town property, the Town assumes not liability or responsibility for the safety of such equipment of vehicles.

#### **4.17 VEHICLES AND EQUIPMENT**

Contractor shall have on hand at all times clean and in good working order such vehicles, machinery, tools, accessories, and other items necessary to perform the Work under this Contract. All equipment including shall be well maintained and all hand tools, including but not limited to chainsaws, pole cutters, pruners, etc. shall be properly sharpened to ensure no unnecessary damages is done to the Trees. The Town may require the repair or replacement of equipment as reasonably necessary. Contractor shall ensure that all equipment, shall be routinely cleaned of suckers.

In addition to the equipment mentioned above, and in Section 5 the Contractor must, at a minimum own or have under long term lease/rental contract for the term of the Contract the following

- 2 Trucks for the hauling and disposal of Tree cuttings, waste and debris.
- 2 Bucket trucks with one capable of cutting Trees 40' in height.
- Rubber tired vehicle required under Article 5.12
- Chipper(s)

Contractor shall list all equipment and vehicles owned or under lease or rental contract as part of its response to the Questionnaire in Section 7 of the ITB. Contractor may be required during the Bid evaluation process to provide supporting documentation

#### **4.18 REQUEST FOR INFORMATION**

The Contractor shall submit a Request for Information (RFI) where the Contractor believes that the Contract Documents' are unclear or conflict. All requests must be submitted in a manner that clearly identifies the specific article, section or portion of the Contract Documents where clarification or interpretation is being requested. As part of the RFI, Contractor shall include its recommendation for resolution. The Town shall respond in writing.

#### **4.19 WARRANTY**

Contractor warrants that all Work will be performed in accordance with the requirements of the Contract Documents. Where the Town determines that the Work has not been performed in accordance with the requirements of the Contract the Contractor shall correct the Work at no cost to the Town and/or the Town may deduct liquidated damages in accordance with Article 4.15, Liquidated Damages.

#### **4.20 ACCESS TO WATER AND UTILITIES**

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

Contractor shall also be responsible to provide all of its employees access to drinking water at the Work site(s).

The Town may at its sole discretion provide access to Town utilities and/or water should such be available at the Work site. However, the Contractor is responsible to ascertain the location and accessibility of any utilities sources necessary to perform the Work. The ability of the Town to make utilities available to the Contractor shall not form any basis for a change order of claim by the Contractor.

#### **4.21 RESTRICTION ON PARKING**

Where parking areas must be blocked off to perform the Work the Contractor can post "No Parking" notices or signs 48 hours in advance of the Work and may use barricades to block the spaces the day before the Work is to be performed.

#### **4.22 TRAINING**

Contractor shall provide all required training to its employees performing work under this Contract. Employees shall be provided training commensurate with the Work they will be performing an all employees performing Tree trimming services or supervising such workers shall at a minimum be provided the following training:

- Training on all tools used in the Work
- Work practices
- OSHA safety procedures and equipment
- ISA and ANSI Standards and requirements

Contractor shall provide proof of training of the workers who will perform Work under the Contract within ten (10) business days of award of the Contract or upon the request of the Project Manager. Where the Contractor replaces or adds workers to perform Work the Contractor shall provide proof of training prior to the worker performing any Work. The Project Manager may direct the Contractor to remove any worker for whom the training documentation has not be provided.

#### **4.23 REPORTS**

Contractor shall submit a report to the Project Manager with the application for payment for Work performed in a Designated Area identifying the Work performed in the previous month. The report must be signed by the Arborist. The format of the report shall be subject to the approval of the Project Manager and at a minimum must include:

- Trees trimmed, including GPS coordinates or Tree numbers. Tree numbers shall only be used where the numbers have been provided by the Project Manager.
- Type of trimming performed
- Any special information concerning the condition of the Trees
- Additional Services provided

**END OF SECTION**

## SECTION 5 –

### **PERFORMANCE WORK STATEMENT**

#### **5.1 OBJECTIVES**

The Town estimates that it has 10,000 Tree that will require periodic pruning services.

Tree Trimming and pruning objectives include, but are not limited to:

- Improve structural strength and reduce failure potential (including dead branch removal)
- Prevent or mitigate a pest problem
- Improve aesthetic characteristics
- Provide clearance for pedestrians, vehicles, and structures
- Improve safety and security for residents and visitors
- Repair structural damage from wind loading
- Reduce maintenance costs (i.e., when applied to young Trees)
- Influence flowering and fruiting of some species

#### **5.2 TREE TRIMMING/PRUNING STANDARDS**

Unless otherwise specified the following standards, and any subsequent updates or revisions, shall be used in the performance of the Work. Where there is a conflict in these standards the Contractor shall bring the conflict to the attention of the Project Manager who shall make the binding determination as to which standard(s) shall apply.

- ANSI A300-2008
- ANSI Z133.1 Safety Requirements for Arboricultural Operations
- ANSI Z133 Safety Requirements
- OSHA Electrical Power Standard 1910.269
- ISA Best Management Practices: Tree Pruning
- National Arborist Association Pruning Standards

#### **5.3 WORK PLAN**

The comprehensive work plan (“Comprehensive Work Plan”) will be a comprehensive proactive plan for tree trimming services throughout the Town, which will be developed as a collaborative effort of the Contractor(s) and the Town. The Town currently possesses information on approximately 4,600 Trees in the Town, which is provided in Appendix A. Maps reflecting the location of the 4,600 Trees is provided for information purposes only. The Town anticipates it will have add additional Tree during the term of the Contract as the Town’s Tree Survey is completed. Part of the goal of the Work Plan is to continually update the Comprehensive Work Plan, through the Reports required under Article 4.23 and the individual Designated Area Plans until the Comprehensive Work Plan includes all of the Trees covered under the Contract and the Town has a full developed Comprehensive Work Plan which can distribute to the Contractors on an annual basis.

Initially the Town will provide the Contractors with designated area(s) (“Designated Area”) for Pruning, with each Designated Area having a combined minimum total of 100 Trees.

Immediately upon execution of the Contract the Project Manager and designated Town Staff will meet with the Contractor(s) At this meeting the Project Manager will initially identify a minimum of two Designated Areas and establish a priority order for the Work to be performed. Within ten (10) calendar days of the meeting the Contractor(s) shall prepare an individual work plan (“Plan”) for each Designated Area that clearly identifies the location, need for Pruning, Pruning objectives, Pruning specifications, scope of Pruning, and frequency of Pruning, and the timeframe to complete the Work in the Designated Area. A checklist shall be developed by the Contractor as part of each of the Designated Areas, which will then be one of the tools used by the Town to determine if the Work has been properly completed.

The submittal of each Plan to the Project Manager shall occur within two weeks of the designated area(s) being assigned to the Contractor(s).

Upon completion of the initial Designated Areas shall meet with the Contractor(s) to review the performance of its Work. At this meeting the Project Manager will also determine how many new Designated Areas the Contractors will be provided. At the time new Designated Areas are provided the initial new Zone Work Plan will be due within ten (10) days of being provided new Designated Areas, unless otherwise agreed to by the Project Manager and the Contractor(s).

The assigning of new Designated Areas will be based on the Project Manager’s determination that the Contractor has complied with the requirements of the Contract Documents, inclusive of the standards established in the Contract for Pruning and Trimming.

The Plan(s) must be approved and signed by the Arborist and submitted to the Project Manager for review prior to the commencement of any Work. No Work shall be performed prior to the review and written acceptance of the Work Plan by the Project Manager.

Any Pruning that is requested by the Project Manager that is outside a designated area shall be assigned under Articles 4.12 and 4.13.

#### **5.4 METHODS AND AMOUNT OF PRUNING**

Pruning shall be performed in a manner that maximizes the production of energy by the Tree for growth and pest resistance and is consistent with industry practice for the size and species of the Tree being pruned. Pruning should be limited to that amount needed to accomplish the pruning objectives. Excessive pruning or overthinning, which can stimulate watersprout development should be avoided. Excessive pruning may also result in loss of Tree form and reduction of light penetration.

All dead, broken, damaged, diseased, or insect infested limbs are to be removed at the trunk or main branch. All limbs 2" or greater shall be undercut to prevent splitting. The remaining limbs and branches are not be split or broken at the cut. All crossed or rubbing

limbs shall be removed unless removal will result in large gaps in the general outline of the Tree. Trees shall be pruned to thin smaller limbs to distribute the foliage evenly. Generally no more than 25% of the crown of a Tree shall be removed within an annual growing period. The percentage of foliage removed should be adjusted according to age, health, and consideration of the species.

#### **5.5 WHEN TO PRUNE**

Typically Trees can be pruned throughout the year. However, pruning should be avoided when leaves are forming or falling; during flowering periods (except when flowers cause allergic reactions; when pest problems may result from pruning; and when birds or other wildlife are actively nesting.

#### **5.6 WOUND TREATMENT**

Pruning wound treatments should not to be used unless the Town is provided clear and convincing scientific evidence that such treatment(s) reduce decay or accelerate wound closure. The use of such treatments shall be at the sole discretion of the Project Manager.

#### **5.7 PRUNING EQUIPMENT**

To promote callus development and wound closure, it is important to make clean pruning cuts. Bark surrounding the cut should not be torn, shredded, stripped away, or otherwise separated from the wood. This can be accomplished by using pruning equipment that is sharp and sized appropriately for the job. Clean, well-maintained equipment (blades, chains, bars, and air/fuel filters) produces cleaner cuts with less effort, improves worker safety, and reduces the potential for the spread of pathogens.

Climbing spikes, gaffs, spurs or **shall not** be used. Pruning tools shall be treated with a disinfectant (such as Lysol) when pruning Trees infected with a pathogen that may be transmitted (on tools) from one Tree to another. Disinfectants should be used before and after pruning individual Trees.

#### **5.8 PRUNING TYPES**

Different types of pruning can be used to achieve different objectives, including; thinning, restoration, raising, reduction, specialty, palm tree, hazard specialty, which must be performed as described in ANSI A300 Standards and ISA Best Management Practices: Tree Pruning. As such it is important to select the correct type of pruning to achieve the selected objective.

Cuts shall be made in a manner to promote fast callous growth and final pruning cuts are to be made without cutting into the branch collar or the branch ridge.

#### **5.9 PRUNING TYPES AND CUTS NOT TO BE USED OR PRIOR APPROVAL REQUIRED**

The following types of pruning or cuts are not approved or required prior approval of the Project Manager:

- Topping is not permitted.
- Lions Tailing is not permitted.

- Heading may only be performed with the prior written approval of the Town Manager.
- Pollarding may only be performed with the prior written approval of the Town Manager.
- Girdling or barking
- Any other pruning or actions that are not in accordance with the standards established by the Contract Documents.

#### **5.10 STRESSED TREES**

Generally, pruning should be limited to the removal of dead branches and significant structural defects. Removal of live branches and associated leaf area should be minimized or avoided.

#### **5.11 STREET PRUNING**

Trees shall be trimmed to provide a minimum clearance of fourteen (14) feet over roadways and ten (10) feet over walkways. Trees shall also be trimmed to remove any obstruction around traffic control devices, traffic signs and streetlights.

#### **5.12 PRUNING AT TOWN PARKS**

Contractor shall use caution in the performance of the Work in areas where the public is present in a Park.

Removal of Tree limbs and other debris shall be performed by human means to a location where a light weight all terrain type vehicle with a trailer can be used to haul the Tree limbs and debris from the site. The vehicle shall be have rubber tires and shall be similar to a John Deere Gator with a vehicle weight not exceeding 900lbs and the trailer should have a carrying capacity that does not exceed 400lbs. The use of any vehicle without rubber tires or exceeding the stated capacity must be approved by in writing by the Project Manager prior to the use of such equipment.

#### **5.13 PRUNING YOUNG & JUVENILE TREES**

Young Trees need to have a strong, well-established central leader, strong branch attachments, adequate spacing/distribution of scaffold branches, and temporary branches retained both between scaffolds and below the lowest scaffold. Training of young Trees is an on-going process for most species so structural characteristics need to be established as soon as possible.

Pruning should accentuate the natural branching habit of a Tree and should also correct structural problems. By correcting any defect in the structure of a young Tree, pruning helps develop a mechanically stronger and healthier Tree.

#### **5.14 PALM PRUNING**

Generally, only dead palm leave fronds should be removed. The removal of live fronds should be limited to those that are broken or severely chlorotic. Fronds should be should be severed close to the petiole base, being carefully to avoid damage to living tissue. All flower structures are fruit shall be removed at each pruning. To avoid transmitting disease-

causing organisms on pruning tools, it is important to disinfect tools before and after pruning individual Trees.

#### **5.15 ROOT PRUNING**

Root pruning should be considered only when other options for correcting a conflict between roots and infrastructure are deemed not practical as this practice results in the loss of roots impacting both Tree health and structural stability. Certain Trees should not be root pruned, such as Trees in poor condition or Trees that are leaning. In addition, some species do not respond well to root pruning.

Trees requiring root pruning should be included as part of the Work Plan. Where root pruning is identified at a later date an assessment and plan shall be performed and developed by the Arborist. The assessment and plan must be signed by the Arborist and submitted to the Project Manager prior to the performance of any Work. To minimize root-pruning impacts, a Tree assessment should be conducted prior to pruning. Both Tree and site conditions need to be evaluated to determine the potential for injury and structural stability loss. Following the assessment, a plan should be developed that identifies the maximum allowable size of roots to be cut, allowable proximity to the trunk for cuts, time of year when root cutting is allowable, and the most suitable method for making cuts. Both the assessment and plan should be completed by a qualified arborist. Crown pruning prior to or following root pruning shall be done only in cases where the potential for structural failure may increase substantially because of root pruning.

#### **5.16 HERBICIDAL TREATMENT**

Prior to pruning any Tree(s) Contractor shall inspect the Tree(s) for any infestation, mold, disease, or any other adverse conditions. Contractor shall immediately notify the Project Manager of such condition in writing within two (2) business days of discovery and shall also include such information in its monthly report. The Project Manager may direct the Contractor, as and Additional Service, to provide a Work Order Proposal for the treatment of the Tree(s). The Bid Form requires that prices be provided for the treatment of whitefly bases on the DBH of a Tree(s). Contractor shall not be required to treat for whitefly unless the Project Manager issues a Work Order.

**SECTION 6 –**

**BID FORM**

Bid submittal of \_\_\_\_\_  
(Name of Bidder)

\_\_\_\_\_  
(Address)

Submitted on: \_\_\_\_\_  
(Date)

to furnish all Work as stated in the ITB and Contract Documents for the

**Tree Trimming Service  
Bid No: 2012-02**

To: Town of Miami Lakes, Florida  
Attn: Town Clerk  
Town Hall  
15150 NW 79<sup>th</sup> Court  
Miami Lakes, Florida 33016

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The undersigned, as Bidder, hereby declares that the only person or persons interested in this Bid, as principal(s) are named herein and that no other person than herein mentioned has any interest in this Bid or in the Contract to be entered into or which the Work pertains; that this Bid is made without connection with any other person, company, firm, or parties making a Bid; and that the Bid is, in all respects, made fairly and in good faith without collusion or fraud.

The Bidder further declares that it has performed sufficient investigations, and informed itself fully of the suitability of the Work and all conditions pertaining to the place where the Work is to be done; that it has examined the ITB and all of the Contract Documents and all addenda thereto issued prior to Bid opening, as acknowledged in its Bid; and that it has satisfied itself about the Work to be performed; and that it has submitted the Bid Guaranty, if required; and all other required information with the Bid; and that this Bid is submitted voluntarily and willingly.

The Bidder agrees, if this Bid is accepted, to timely execute a contract with the Town, pursuant to the terms and conditions of the Contract Documents and to furnish all necessary materials, equipment, machinery, tools, apparatus, means of transportation, and all labor necessary to complete the Work.

**BID FORM:** (Page 2 of 6)

The undersigned further agrees that the Bid guaranty, if required, accompanying the Bid shall be forfeited if Bidder fails to execute said Contract, or fails to furnish the required Performance Bond.

Our **TOTAL BID AMOUNT** includes the total cost and mark-up for the Work to be performed under this solicitation, including all direct and indirect costs such as supervision, mobilization, overhead, profit, etc. in accordance with the Contract Documents.

In the event of arithmetical errors, the Bidder agrees that these errors are errors which may be corrected by the Town. In the event of a discrepancy between the price Bid in figures and the price Bid in words, the price in words shall govern. Bidder agrees that any unit price listed in the Bid is to be multiplied by the stated quantity requirements in order to arrive at the extended value and the unit price shall prevail over the extended value.

<b>Type of Tree Pruning</b>	<b>Per Tree</b>	<b>Unit Price</b>	<b>Estimated Quantity</b>	<b>Extended Price</b>
<b>Complete Tree Pruning</b>				
	0"-6" DBH		476	
	7" to 12" DBH		1396	
	13' to 18" DBH		1085	
	19" to 24" DBH		819	
	25" to 30" DBH		289	
	Over 30" DBH		206	
<b>Palm Tree Pruning</b>				
	0'-50' tall			
	Over 50' tall			
<b>Root Pruning</b>	Per Tree			
<b>Total Bid Amount</b>				

**BID FORM:** (Page 3 of 6)

<b>Emergency Response</b>	Fee Per Call	\$
<b>Additional Services</b>		
Arborist	Hourly rate	\$
Supervisor	Hourly rate	\$
Tree Trimmer	Hourly rate	\$
MOT	Fee Per Work Order	\$
<b>Specialty Type Tree Pruning</b>		
less than 19" DBH	Per Hour	
19" to 24" DBH	Per Hour	
25" to 36" DBH	Per Hour	
Over 30" DBH	Per Hour	
<b>Hazard Type Tree Pruning</b>		
0"-6" DBH	Per Hour	
7" to 12" DBH	Per Hour	
13' to 18" DBH	Per Hour	
19" to 24" DBH	Per Hour	
Over 24" to 36" DBH	Per Hour	
Over 30" DBH	Per Hour	
<b>Whitefly Treatment</b>		
0"-6" DBH	Per Tree	
7" to 12" DBH	Per Tree	
13" to 18" DBH	Per Tree	
19" to 24" DBH	Per Tree	
25" to 30" DBH	Per Tree	
Over 30" DBH	Per Tree	
<b>Removal of Tree Suckers*</b>	Per Tree	
<b>Root Pruning</b>	Per Tree	

\*This Fee only applies the only Work being performed is the removal of the Tree Suckers and no Tree Trimming is performed.

Firm's Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Printed Name/Title: \_\_\_\_\_

Town/State/Zip: \_\_\_\_\_

Telephone No.: \_\_\_\_\_

Facsimile No.: \_\_\_\_\_ E-Mail Address: \_\_\_\_\_

Social Security No. or Federal  
I.D.No.: \_\_\_\_\_

Dun and  
Bradstreet No.: \_\_\_\_\_  
(if applicable)

**END OF SECTION**

**ADDENDUM ACKNOWLEDGEMENT FORM**

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**Part I:** Listed below are the dates of issue for each Addendum received in connection with this Bid:

Addendum No. _____,	Dated _____
Addendum No. _____,	Dated _____
Addendum No. _____,	Dated _____
Addendum No. _____,	Dated _____
Addendum No. _____,	Dated _____
Addendum No. _____,	Dated _____
Addendum No. _____,	Dated _____
Addendum No. _____,	Dated _____
Addendum No. _____,	Dated _____

\_\_\_\_\_ No Addendum issued for this ITB

Firm's Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Printed Name/Title: \_\_\_\_\_

**CERTIFICATE OF AUTHORITY  
(IF CORPORATION)**

I HEREBY CERTIFY that at a meeting of the Board of Directors of \_\_\_\_\_, a corporation organized and existing under the laws of the State of \_\_\_\_\_, held on the \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, a resolution was duly passed and adopted authorizing (Name) \_\_\_\_\_ as (Title) \_\_\_\_\_ of the corporation to execute bids on behalf of the corporation and providing that his/her execution thereof, attested by the secretary of the corporation, shall be the official act and deed of the corporation. I further certify that said resolution remains in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand this \_\_\_\_\_, day of \_\_\_\_\_, 20\_\_\_\_.

Secretary: \_\_\_\_\_  
Print: \_\_\_\_\_

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**CERTIFICATE OF AUTHORITY  
(IF PARTNERSHIP)**

I HEREBY CERTIFY that at a meeting of the Board of Directors of \_\_\_\_\_, a partnership organized and existing under the laws of the State of \_\_\_\_\_, held on the \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, a resolution was duly passed and adopted authorizing (Name) \_\_\_\_\_ as (Title) \_\_\_\_\_ of the to execute bids on behalf of the partnership and provides that his/her execution thereof, attested by a partner, shall be the official act and deed of the partnership.

I further certify that said partnership agreement remains in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand this \_\_\_\_\_, day of \_\_\_\_\_, 20\_\_\_\_.

Partner: \_\_\_\_\_  
Print: \_\_\_\_\_

---

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**CERTIFICATE OF AUTHORITY  
IF JOINT VENTURE)**

Joint ventures must submit their joint venture agreement indicating that the person signing this Bid is authorized to sign Bid documents on behalf of the joint venture and submit the appropriate Certificate of Authority (corporate, partnership, or individual).

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**CERTIFICATE OF AUTHORITY  
(IF INDIVIDUAL)**

I HEREBY CERTIFY that, I (Name) \_\_\_\_\_, individually and doing business as (d/b/a) \_\_\_\_\_ (If Applicable) have executed and am bound by the terms of the Bid to which this attestation is attached.

IN WITNESS WHEREOF, I have hereunto set my hand this \_\_\_\_\_, day of \_\_\_\_\_, 20\_\_\_\_.

Signed: \_\_\_\_\_  
Print: \_\_\_\_\_

**NOTARIZATION**

STATE OF \_\_\_\_\_ )

\_\_\_\_\_ ) SS:  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, who is personally known to me or who has produced \_\_\_\_\_ as identification and who (did / did not) take an oath.

\_\_\_\_\_  
SIGNATURE OF NOTARY PUBLIC  
STATE OF FLORIDA

\_\_\_\_\_  
PRINTED, STAMPED OR TYPED  
NAME OF NOTARY PUBLIC

**Section 7**

**Attachments**

**QUESTIONNAIRE**

**This Completed Form Must Be Submitted With The Bid, The Town May, At Its Sole Discretion, Require That The Bidder Submit Additional Information Not Included In The Submitted Form. Such Information Must Be Submitted Within Seven (7) Calendar Days of the Town’s Request. Failure To Submit The Form Or Additional Information Upon Request By The Town Shall Result In The Rejection Of The Bid As Non-Responsive. Additional Pages May Be Used Following The Same Format And Numbering. Some Information May Not Be Applicable Apply. In Such Instances Insert “N/A”.**

By submitting its Bid the Bidder certifies the truth and accuracy of all information contained herein.

**A. Business Information**

1. How many years has your company been in business under its current name and ownership?

a. Professional Licenses/Certifications (include name and number)\* Issuance Date

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(\*include active certifications of small or disadvantage business & name of certifying entity)

b. Date company licensed by the State of Florida or Miami-Dade County: \_\_\_\_\_

c. State and Date of Incorporation: \_\_\_\_\_

c. What is your primary business? \_\_\_\_\_

(This answer should be specific)

d. Name of licensed/certified employee(s), license/certification number, and relationship to company:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

2. Name and Licenses of any prior companies

Name of Company License No. Issuance Date

\_\_\_\_\_

\_\_\_\_\_

3. Type of Company:

Corporation  "S" Corporation  LC  Sole Proprietorship  Other: \_\_\_\_\_

**(Corporations will be required to provide a copy of their corporate resolution prior to executing a contract)**

4. Company Ownership

a. identify all owners of the company

Name	Title	% of ownership
_____		
_____		
_____		

b. Is any owner identified above an owner in another company?  Yes  No  
 If yes, identify the name of the owner, other company names, and % ownership

\_\_\_\_\_

\_\_\_\_\_

c. Identify all individuals authorized to sign for the company, indicating the level of their authority ( check applicable boxes and for other provide specific levels of authority)

Name	Title	Signatory Authority			
		All	Cost	No-Cost	Other
_____		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Explanation for Other: \_\_\_\_\_

5. Employee Information

Total No. of Employees: \_\_\_\_\_ Number of Managerial/Admin. Employees: \_\_\_\_\_

Number of Trades Personnel and total number per classification:  
 (Apprentices must be listed separately for each classification)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

6. Has any owner or employee of the company ever been convicted of a federal offense or moral turpitude: If yes, please explain:

---

7. Insurance & Bond Information

a. Insurance Carrier name & address: \_\_\_\_\_

\_\_\_\_\_

b. Insurance Contact Name, telephone, & e-mail: \_\_\_\_\_

\_\_\_\_\_

c. Insurance Experience Modification Rating (EMR): \_\_\_\_\_  
(if no EMR rating please explain why)

d. Number of Insurance Claims paid out in last 5 years & value: \_\_\_\_\_

e. Bond Carrier name & address: \_\_\_\_\_

\_\_\_\_\_

f. Bond Carrier Contact Name, telephone, & e-mail: \_\_\_\_\_

\_\_\_\_\_

g. Number of Bond Claims paid out in last 5 years & value: \_\_\_\_\_

8. Have any claims lawsuits been file against your company in the past 5 years, If yes, identify all where your company has either settle or an adverse judgment has been issued against your company. Identify the year basis for the claim or judgment & settlement unless the value of the settlement is covered by a written confidentiality agreement.

\_\_\_\_\_

\_\_\_\_\_

9. To the best of your knowledge is your company or any officers of your company currently under investigation by any law enforcement agency or public entity. If yes, provide details:

\_\_\_\_\_

\_\_\_\_\_

10. Has your company been assessed liquidated damages or defaulted on a project in the past five (5) years?  Yes  No (If yes, provide an attachment that provides an explanation of the project and an explanation.

11. Has your company been cited for any OSHA violations in the past five (5) years? If yes, please provide an attachment including all details on each citation,  Yes  No

12. Provide an attachment listing all of the equipment and vehicles owned or under lease or rental agreement, which will be used in the performance of the Work. Contractor shall clearly identify which equipment and vehicles are owned versus rented or leased. During the Bid evaluation process the Town may request copies of rented or leased equipment.

**B. Project Management & Subcontract Details**

1. Supervisor for this Contract:

a. Name: \_\_\_\_\_

b. Years with Company: \_\_\_\_\_

c Licenses/Certifications: \_\_\_\_\_

d. List 3 contracts with the company including role, scope of work, & value of the contracts:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Arborist for this Contract:

a. Name: \_\_\_\_\_

b. Years with Company: \_\_\_\_\_

c Licenses/Certifications: \_\_\_\_\_

d. List 3 contracts with the company including role, scope of work, & value of the contracts:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Subcontractors: (See Contract restrictions on Subcontracting)

Name	Trade/Work to be performed	% of Work	License No.
------	----------------------------	-----------	-------------

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**C. Current and Prior Experience:**

1. Current Experience including current under projects or contracts, recently awarded, or pending award (Provide an attachment to this questionnaire that lists all such contracts or projects, including the owner’s name, title and value of project, scope of work, projected or actual start date, projected completion date.
2. Prior contracts or projects of a similar size, scope, and complexity: Provide an attachment to this Questionnaire that includes contracts or projects the Bidder

considers of a similar, size, scope and complexity that the Town should consider in determining the Bidders responsiveness and responsibility. This attachment must include the contracts or projects that meet the minimum number of contracts or projects identified by the bid solicitation. Information provided must include the owner's name , address and contract person, including telephone & e-mail, title of contract or project, location of project, scope, initial value and final cost of the contract or project, projected and final timeframes for completion in calendar days. A reference letter is to be completed by the owner of the Contract and submitted as part of the Bid submission.

#### **D. Bidder's References**

Bidders are to include a minimum of five (5) references from contracts or projects listed in C.2 above. The attached form is to be used and is to be included with the Bid submission. The Town, at its sole discretion may allow the Bidder to submit the references after the specified date for Bid submission.



# *Town of Miami Lakes*

To Whom it May Concern

Subject: Reference Letter

Name of Bidder: \_\_\_\_\_

The above referenced contractor is submitting on a bid solicitation that has been issued by the Town. We require that the Bidder provide written references with their Bid submission and by providing you with this document the Contractor is requesting that you provide the following reference information. We would appreciate you providing the information requested below as well as any other information your feel is pertinent:

**Name of Project:**

Scope of work: \_\_\_\_\_

Value of Contract \$ \_\_\_\_\_ Is contract active or expired?  Active  Expired

Was the work performed timely:  Yes  No

Was the work performed to acceptable quality standards?  Yes  No

Would you enter into a contract with the Contractor in the future?  Yes  No

If not to either of the above please provide details:

\_\_\_\_\_

Comments:

\_\_\_\_\_

\_\_\_\_\_

Thank you for your assistance in helping us in evaluating our bid solicitation.

Name of individual completing this form: \_\_\_\_\_ Date: \_\_\_\_\_

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

Telephone: \_\_\_\_\_ E-mail: \_\_\_\_\_

Sincerely,

Gary Fabrikant  
Procurement Manager

**ANTI-KICKBACK AFFIDAVIT**

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

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

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

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

Sworn and subscribed before this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Notary Public, State of Florida

\_\_\_\_\_  
(Printed Name)

My commission expires: \_\_\_\_\_





**SWORN STATEMENT ON PUBLIC ENTITY CRIMES**

**SECTION 287.133(3)(a), FLORIDA STATUTES**

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

1. This sworn statement is submitted to the Town of Miami Lakes

by \_\_\_\_\_  
[print individual's name and title]

for \_\_\_\_\_  
[print name of entity submitting sworn statement]

whose business address is

\_\_\_\_\_

\_\_\_\_\_

and (if applicable) its Federal Employer Identification Number (FEIN) is \_\_\_\_\_

(If the entity has no FEIN, include the Social Security Number of the individual

signing this sworn statement: \_\_\_\_\_ )

2. I understand that a "public entity crime" as defined in Paragraph 287.133(1)9g), Florida Statutes, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or the United States, including, but not limited to, any bid or contract for goods and services to be provided to any public entity or an agency or political subdivision of any other state or of the United States involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.

3. I understand that "convicted" or "conviction" as defined in Paragraph 287.133(1)(b), Florida Statutes, means a finding of guilt or a conviction or a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.

4. I understand than an "affiliate" as defined in Paragraph 287.133(1)(a), Florida Statutes, means:

- a. A predecessor or successor of a person convicted of a public entity crime; or
- b. An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate.

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

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

6. Based on information and belief, the statement that I have marked below is true in relation to the entity submitting this sworn statement. **[Indicate which statement applies.]**

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

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

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

**I UNDERSTAND THAT THE SUBMISSION OF THIS FORM TO THE CONTRACTING OFFICER FOR THE PUBLIC ENTITY IDENTIFIED IN PARAGRAPH 1 ABOVE IS FOR THAT PUBLIC ENTITY ONLY AND, THAT THIS FORM IS VALID THROUGH DECEMBER 31 OF THE CALENDAR YEAR IN WHICH IT IS FILED. I ALSO**

**UNDERSTAND THAT I AM REQUIRED TO INFORM THE PUBLIC ENTITY PRIOR TO ENTERING INTO A CONTRACT IN EXCESS OF THE THRESHOLD AMOUNT PROVIDED IN SECTION 287.017,**

**FLORIDA STATUTES, FOR CATEGORY TWO OF ANY CHANGE IN THE INFORMATION CONTAINED IN THIS FORM.**

\_\_\_\_\_  
Signature of Entity Submitting Sworn Statement

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Personally known \_\_\_\_\_

OR produced identification \_\_\_\_\_ Notary Public – State of \_\_\_\_\_

\_\_\_\_\_  
(type of identification) My commission expires \_\_\_\_\_

\_\_\_\_\_  
(Printed, typed or stamped commissioned name notary public)

**END OF SECTION**

**SECTION 8**  
**CONTRACT EXECUTION FORM**

This Contract \_\_\_\_\_ **(contract number)** made this \_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_ in the amount of \$\_\_\_\_\_ by and between the Town of Miami Lakes, Florida, hereinafter called the "Town," and **(name of Contractor)**

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

Attest:

TOWN OF MIAMI LAKES

By: \_\_\_\_\_  
Marjorie Tejada, Town Clerk

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

By: \_\_\_\_\_  
Town Attorney

Signed, sealed and witnessed in the presence of:

As to the Contractor:

**(Contractor's Name)**

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

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

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

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

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

**CORPORATE RESOLUTION**

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

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

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

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

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

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

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

(Corporate Seal)

## Appendix A

**The Town of Miami Lakes**  
**TREE TRIMMING SERVICES**  
**ITB # 2011-02**  
**PERFORMANCE BOND**

(Page 1 of3)

KNOW ALL MEN BY THESE PRESIDENTS:

That we, as Principal, hereinafter Called Contractor, and

\_\_\_\_\_, as Surety, are bond to the Town of Miami Lakes, Florida, as Obligee, hereinafter called Owner, in the amount of **One hundred thousand dollars (\$100,000.00)** for the payment whereof Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally.

WHEREAS, Contractor has by written agreement entered into a Contract, Tree Trimming Services, RFP# 2012-02, awarded the day\_\_\_\_\_ of \_\_\_\_\_, 2012, with Owner for \_\_\_\_\_, in accordance with specifications prepared by the Town of Miami Lakes and made part hereof, and is hereafter referred to as the Contract;

THE CONDITION OF THIS BOND is that if the Contractor:

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

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

- 4.1. Complete the Contract in accordance with its terms and conditions; or

The Town of Miami Lakes  
TREE TRIMMING SERVICES

ITB # 2012-02

PERFORMANCE BOND

(Page 2 of 3)

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

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

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

Signed and sealed this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

WITNESSES:

\_\_\_\_\_  
(Name of Corporation)

\_\_\_\_\_  
Secretary

By \_\_\_\_\_  
(Signature and Title)

(CORPORATE SEAL)

\_\_\_\_\_  
(Type Name and Title signed above)

**The Town of Miami Lakes**  
**TREE TRIMMING SERVICES**  
**ITB # 2012-02**  
**PERFORMANCE BOND**  
(Page 3 of 3)

IN THE PRESENCE OF:

INSURANCE COMPANY

\_\_\_\_\_ By: \_\_\_\_\_  
Agent and Attorney-in-Fact

\_\_\_\_\_ Address: \_\_\_\_\_  
(Street)

\_\_\_\_\_ (City/State/Zip Code)

\_\_\_\_\_ Telephone No.: \_\_\_\_\_

**[END OF SECTION]**