

**RESOLUTION NO. 11-896**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, APPROVING THE AWARD OF A CONTRACT FOR CANAL MAINTENANCE & HERBICIDE TREATMENT SERVICES TO SFM SERVICES INC.; AUTHORIZING TOWN MANAGER TO TAKE ALL NECESSARY STEPS TO IMPLEMENT THE TERMS AND CONDITIONS OF THE CONTRACT; AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE CONTRACT; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Miami Lakes (the "Town") issued an Invitation to Bid ("ITB") No. 2011-02 on March 2, 2011 for Canal Maintenance & Herbicide Treatment and four (4) firms submitted a response thereto; and

**WHEREAS**, lowest bidder, Florida Turf & Landscape Horticulture, Inc withdrew its bid; and

**WHEREAS**, the Town Manager, after conducting the necessary due diligence in evaluating the second lowest bidder, SFM Services, Inc. ; and

**WHEREAS**, the Town Manager has determined that SFM Services, Inc. is both responsive and responsible and its bid price is fair and reasonable; and

**WHEREAS**, the Town Council approves the recommendation of the Town Manager and authorizes the Town Manager to enter into a contract with SFM Services, Inc.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:**

**Section 1.     Recitals.** The foregoing Recitals are true and correct and incorporated herein by this reference.

**Section 2.     Approval of the Contract.** The Town Council hereby approves the award of ITB No. 2011-02, for Canal Maintenance and Herbicide Treatment to SFM Services, Inc. and the contract for same (the "SFM Contract")

**Section 3. Authorization of Town Manager.** The Town Manager and/or his designee and the Town Attorney are authorized take all steps necessary to implement the terms and conditions of the SFM Contract.

**Section 4. Authorization of Fund Expenditure.** The Town Manager is authorized to expend budgeted funds to implement the terms and conditions of the SFM Contract and to amend the SFM Contract to reflect the expenditure of said budgeted funds.

**Section 5. Execution of the Contract.** The Town Manager is authorized to execute the SFM Contract with SFM Services, Inc. on behalf of the Town, to execute any required agreements and/or documents to implement the terms and conditions of the SFM Contract and to execute any extensions and/or amendments to the SFM Contract, subject to the approval as to form and legality by the Town Attorney.

**Section 9. Effective Date.** This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED this 10th day of May, 2011.

Motion to adopt by Mayor Pizzi, second by Collins.

FINAL VOTE AT ADOPTION

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



Michael Pizzi  
MAYOR

ATTEST:

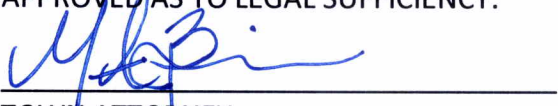


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Marjorie Tejada

TOWN CLERK

APPROVED AS TO LEGAL SUFFICIENCY:



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TOWN ATTORNEY

Weiss, Serota, Helfman, Pastoriza,  
Cole & Boniske, P.L.

**INVITATION TO BID**  
**CANAL MAINTENANCE AND HERBICIDE TREATMENT**

**ITB No. 2011-02**



**The Town of Miami Lakes Council:**

**Mayor Michael Pizzi**  
**Vice Mayor Nick Perdomo**  
**Councilmember Mary Collins**  
**Councilmember Timothy Daubert**  
**Councilmember Nelson Hernandez**  
**Councilmember Ceasar Mestre**  
**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: MARCH 2, 2011**

**CLOSING DATE: April 1, 2011**

# CANAL MAINTENANCE AND HERBICIDE TREATMENT

RFP 2011-02

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## SECTION 1

### NOTICE TO BIDDERS

#### TOWN OF MIAMI LAKES

#### CANAL MAINTENANCE AND HERBICIDE TREATMENT

The Town of Miami Lakes (the "Town") will be accepting sealed Bids for the Town's Canal Maintenance and Herbicide Treatment (the "Project"). **Sealed Bids 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 April 1, 2011. Please take note of the address of Town Hall has relocated to a new address.**

The nature and scope of this Project is:

Provide all labor, materials, equipment, and supervision required to perform canal maintenance and herbicide treatment for four (4) canals with the Town. The Work shall include aesthetic debris removal and herbicide treatment as specified in the Contract Documents for the following canals.

- Red Road
- Peter's Pike
- Golden Glades
- Graham Dairy

#### **Minimum Qualification Requirements:**

Contractor must possess a minimum of five (5) years experience in projects of a similar size, scope, and complexity. Contractor must also hold a valid Certificate of Competency to perform aquatic pesticide application work issued by the State of Florida, Department of Agriculture and Consumer Services to perform the Work.

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.

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.*

Marjorie Tejeda  
Town Clerk



## SECTION 2

### INSTRUCTIONS TO BIDDERS

#### 2.1 DEFINITION OF TERMS

**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** contains the goods or services to be purchased and 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.

**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, all addendum, clarifications, directives, 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.

**MSDS** means the Material Safety Data Sheets provided by the Contractor for the chemicals used under the Contract

**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.

**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.

**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 Commission** means the legislative body of the Town of Miami Lakes.

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

**Work** 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.

## 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 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 QUALIFICATION OF BIDDERS**

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

#### **2.6 EXAMINATION OF CONTRACT DOCUMENTS AND SITE(S)**

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 site(s) (if applicable) to become familiar with conditions that may affect costs, progress, performance or furnishing of the Work.
- 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.

#### **2.7 INTERPRETATIONS AND CLARIFICATIONS**

All questions about the meaning or intent of the ITB and specifications shall be directed in writing to Gary Fabrikant, Procurement Manager, at 15700 NW 67th Avenue; Miami Lakes, FL 33014, Email: [fabrikantg@miamilakes-fl.gov](mailto:fabrikantg@miamilakes-fl.gov), Fax: 305-558-8511. 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.

**2.8 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.

**2.9 ACCEPTANCE OR REJECTION OF BIDS**

The Town reserves the right to reject any and all Bids, 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. 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.

**2.10 WITHDRAWAL OF BID**

A Bidder may withdraw his Bid at any date and time prior to the date and time the Bids are scheduled to be opened.

**2.11 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.

**2.12 AWARD OF CONTRACT**

The Award of the Contract will be to the lowest responsive and responsible Bidder, whose qualifications indicate the Award will be in the best interest of the Town and who's Bid complies with the requirements of the ITB. 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 own 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 Bidder(s) is qualified to perform the Work.

Town Ordinance 115, Section 2G provides for a local preference, which shall be applicable to this ITB, in determining the lowest responsive and responsible Bidder.

Where the solicitation contains multiple line items or unit pricing a Bid may be rejected if the Town Manager determines that the Bid is an unbalanced bid.

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 and the required Payment and Performance Bond(s), if required) in a timely manner, as determined by the Town Manager or designee. 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.

The Town, at its sole discretion, may consider the lowest Bidder as the Bidder who has the lowest base Bid or the lowest base Bid plus alternate Bid if an alternate Bid is included in the ITB.

### **2.13 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.

### **2.14 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.

### **2.15 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.

## 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.

#### **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:

Mr. Christian Infante  
Vice President  
SFM Services, Inc.  
9700 NW 79<sup>th</sup> Avenue  
Hialeah Gardens, Florida 33016

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

Where provisions of codes, manufacturer's specifications or industry standards are in conflict, the more restrictive or higher quality shall govern

### **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 \$500,000.00 per occurrence, combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than 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 \$500,000.00 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. **Jones Act Coverage:** Contractor shall provide coverage for the captain of the boat and crew.
- e. **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.

**f. 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 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 Contract a sufficient number of competent and qualified professionals and other personnel to meet the requirements of the Work to be performed.

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

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

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.

### **3.7 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.

### **3.8 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.

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

The Contractor shall continuously maintain adequate protection of all his Work from damage and shall protect public and private property from injury or loss arising in connection with the Work and take all necessary precautions to prevent accidents and injuries 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, walks, drives, or structures of the Town and of any land adjoining the work site, which may be caused by Contractor

**3.10 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.

**3.11 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,

**3.12 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. The Town may require the repair or replacement of equipment as reasonably necessary.

**3.13 SUPERVISION OF THE WORK**

Contractor shall have competent English speaking supervisor who shall represent Contractor and all directions given to the supervisor shall be as binding as if given to Contractor. Contractor will provide properly licensed personnel where such personnel are required by any rule, regulations, or law. Contractor shall give efficient supervision to the Work, using its best skill and attention.

**3.14 SUBCONTRACTORS**

Contractor is solely responsible for all acts and omissions of its Subcontractors. Nothing in the Contract Documents shall create any contractual relationship between any Subcontractor and the Town. Contractor is responsible for the timely payment of its Subcontractors and suppliers as required by Florida Statute. Failure to comply with these payment requirements will place the Contractor in default of the Contract.

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

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

**3.15 INSPECTION OF THE WORK**

The Town Manager or designee, other Town representatives, and inspectors representing the Town and other public entities having jurisdiction over the Work shall at all times have access to the Work

Should the Contract Documents, or any laws, ordinances, or any public authority require any of the Work to be tested, Contractor shall provide timely notice of readiness of the Work for testing and timely notice shall be given of the date fixed for such testing so that the appropriate representatives of the Town, DERM, or other entities can be present for such testing. All testing reports are to be sent directly to the Town Manager or designee by the testing firm, with a copy to the Contractor.

**3.16 NON-COMPLIANT WORK**

The Town Manager or designee shall have the authority to reject or disapprove Work that is not in compliance with the requirements of the Contract. If required Contractor shall promptly either correct all non-compliant Work. Contractor shall bear all direct, indirect and consequential costs of such removal or corrections.

Should Contractor fail or refuse to remove or correct any defective or non-compliant Work or to make any necessary and appropriate action in accordance with the requirements of the Contract Documents within the time indicated in writing by the Town Manager, the Town Manager shall have the authority to cause the non-compliant Work corrected as may be necessary at Contractor's expense. Any expense incurred by the Town in making such corrections shall be paid for out of any monies due or which may become due to Contractor, or may be charged against the Performance Bond, if required by the Contract Documents. In the event of failure of Contractor to make all necessary repairs promptly and fully, the Town Manager or designee may declare the Contractor in default.

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

**3.17 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.

### **3.18 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.

### **3.19 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.

### **3.20 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).

### **3.21 CLAIMS**

Any claim for a change in the Contract time for completion of any Work, 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 ten (10)

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 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.

### **3.22 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 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.

### **3.23 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.

### **3.24 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.

### **3.25 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 Manger 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.

### **3.26 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 its 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.

Should the Contractor leave any open trenches at any time that Work is not being performed the Town may have the open trenches covered and deduct any cost incurred from any outstanding payments due or to become due to the Contractor. The Town may also invoice the Contractor for the incurred costs.

### **3.27 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

### **3.28 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.

**3.29 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.

### **3.30 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.

### **3.31 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.

### **3.32 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 Contract. Contractor shall comply with all applicable federal, State of Florida, Miami-Dade County, and Town rules regulations, laws, and ordinance as applicable.

### **3.33. 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.

**3.34. 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.

**3.35. 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.

**3.36. 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.

**3.37 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.

**3.38 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.

**3.39 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.

**3.40 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.

**3.41 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.

**3.42 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.

**3.43 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.

**3.44 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.

**3.45 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.

**3.46 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.

**3.47. 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**

The Contractor shall provide all labor, materials, equipment, and supervision required to perform canal maintenance and herbicide treatment for four (4) canals with the Town. The Work shall include aesthetic debris removal and herbicide treatment as specified in the Contract Documents for the following canals.

- Red Road
- Peter's Pike
- Golden Glades
- Graham Dairy

A canal location map is included as Attachment A.

The Contractor shall perform the Work as specified in Section 7, Specifications.

**4.2 CONTRACT TERM**

This Agreement 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 up to two (2) additional one (1) year extensions (the "Options"). 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.

**4.4 HOURS FOR PERFORMING WORK**

All Work shall be performed in accordance with the hours set forth in the Town's noise Ordinance No. 04-50.

Any Work to be performed outside these hours will require the prior written approval of the Town Manager. A Work Order may establish different working hours than those stated herein.

**4.5 COMPENSATION**

Contractor shall provide the Town with an invoice within thirty (30) days of the date services were rendered. At a minimum the invoice must contain the following information:

- Name and address of the Contractor

- Contract number
- Date of invoice
- Invoice numbers (Invoice numbers cannot be repeated)
- Work performed, including a detailed list of area where Work was performed, the products and applicable quantities applied per area of Work.
- Monthly or quarterly price(s) of Work performed
- Total value of the invoice

Failure to include the above information will delay payment. Payments will not be made based on statements of accounts.

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

The Contractor shall be compensated at the line item prices specified in the Proposal/Bid Form of the Contract.

#### **4.6 MATERIAL SAFETY DATA SHEETS**

The Contractor shall furnish the Town with the Material Safety Data Sheets (MSDS) for review and approval prior to the Work. Where the Contractor requests a substitution as stipulated below the Contractor shall provide the MSDS to the Town for review before the Town will consider any substitution. No chemicals shall be used without a MSDS being provided to and approved by the Town.

#### **4.7 DEBRIS HAULING AND DISPOSAL**

All debris removed from the canals during the performance of the Work shall be hauled and disposed of in accordance with all applicable codes, laws, rules, and regulations. These include, but are not limited to the Town, Miami-Dade County, DERM, FDEP, and FDOT.

#### **4.8 INSPECTION OF THE WORK**

The Town may, at its sole option, inspect the Work. Contractor shall notify the Town's representative at least 48 hours prior to the Work being performed. The Town does not waive any of its subsequent rights should it elect not to inspect the Work immediately after it is performed.

#### **4.9 SUBSTITUTIONS**

The Contractor may request the Town to approve substitution where the specified materials are not available or to in an effort to improve the treatment of the canals. Such requests must be submitted in writing to the Town's representative in advance with sufficient information to evaluate the substitution. The Contractor must provide the substitute materials plant designation, type, grade, quality, and size. Acceptance of substitutions shall be at the sole discretion of the Town. The Town may require an adjustment in price based on any proposed substitution.

The Contractor must also obtain the written approval of DERM's Stormwater Utility Section for any substitution. The Town will not consider any substitution without DERM's written approval.

**4.10 WARRANTY**

The Contractor warrants that the canal herbicide treatment (Treatment) will be effective for a period of forty-five (45) days. Should the Town Manager determine that the Treatment has not been effective the Town Manager shall direct the Contractor to retreat the canal at no additional cost to the Town.

**4.11 STAGING SITE**

The Contractor is solely responsible for making all arrangements for daily staging site(s) that may be necessary for the performance of the Work. The Town shall not be responsible for any security or any loss, damage or theft to the Contractor's vehicles, equipment or materials. The Contractor shall also be responsible for restoring the site to its pre-existing condition prior to the Contractor's use of the site should the Contractor cause any damage to the area.

**4.12 DERM PERMITS AND APPROVALS**

Upon award of the Contract and prior to a Notice to Proceed being issued by the Town the Contractor shall contact DERM's Stormwater Utility Section and obtain all required permits and approvals for the application of the chemicals to be used under the Contract.

Some of the DERM approved herbicides have been identified in Section 7 for use in the treatment of the canals. However, the use of these or any other chemicals for treatment are subject to EPA guidelines and DERM approval. DERM and EPA at times may change the chemicals approved for use and the Contractor is responsible for obtaining such approvals and should the DERM or the EPA change their list approved chemicals the Contractor shall make any required changes at no cost to the Town.

In addition to notifying the Town representative prior to the any herbicide treatment, as stated in Article 4.8, the Contractor shall also notify DERM's Stormwater Utility Section 48 hours in advance of performing any herbicide treatment application.



**SECTION 5 -**

**BID FORM**

Bid submittal of SFM Services INC.  
(Name of Bidder)

9700 NW 79TH Avenue  
(Address)

Submitted on: 4-1-2011  
(Date)

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

**Canal Maintenance and Herbicide Treatment  
Bid No: 2011-02**

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

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 examined the geographic location(s) of the Work, 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 had determined based on its business and profession expertise that the Work can be performed and completed in accordance with the Contract Documents.

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.

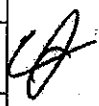
The Bidder also agrees to furnish the required Performance Bond and Payment Bond or alternative form of security acceptable to the Town, if required by the Contract Documents, each for not less than the total Bid price plus alternates, if any, and to furnish the required Certificate(s) of Insurance.

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, if required by the Contract Documents, or fails to furnish the required Certificate(s) of Insurance within fifteen (15) calendar days after being notified of the award of the Contract.

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.

**Note:** Bidders are bidding on a line item price basis and Bidder must submit a price for each line item on the Bid Form. Failure to submit a prices for both Bid Items will result in the Bid being determined non-responsive. Award of the Bid will be based on the lowest responsive and responsible Bidder submitting the lowest Total Bid Amount. The Town reserves the right, in its sole discretion to award only one Bid Item, both Bid Item, or make no award.

<u>Bid Item No.</u>	<u>DESCRIPTION</u>	<u>Estimated Quantity</u>	<u>Unit</u>	<u>Unit Price</u>	<u>Annual Value</u>
1	Canal Maintenance	12 times per year	EA	\$2,834. <sup>00</sup>	\$34,008. <sup>00</sup>
2	Herbicide Treatment	4 times per year	EA	\$23,873. <sup>00</sup>	\$95,492. <sup>00</sup>



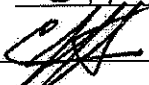
**BID FORM:** (Page 3 of 3)

Our **TOTAL BID AMOUNT** includes the total cost for the Work specified in this solicitation, consisting of furnishing all materials, labor, equipment, supervision, mobilization, overhead & profit required, in accordance with the Contract Documents.

Total Bid Amount: \$ 129,500.<sup>00</sup> per year

One Hundred twenty nine thousand Five hundred Dollars  
Total Bid Amount (in Words)

Firm's Name: SFM Services INC

Signature: 

Printed Name/Title: CHRISTIAN INFANTE

City/State/Zip: 9700 NW 7th Avenue

Telephone No.: 305-818-2424

Facsimile No.: 305-818-3510 E-Mail Address: cinfante@sfmtservices.com

Social Security No. or Federal  
I.D.No.: 59-2766887

Dun and  
Bradstreet No.: 60-436-9199  
(if applicable)

**END OF SECTION**

**ADDENDUM ACKNOWLEDGEMENT FORM**

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

Addendum No. <u>1</u>	Dated <u>Does not contain date</u> <i>CA</i>
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: SFM Services INC

Signature: *CA*

Printed Name/Title: CHRISTIAN INFANTE / VICE-PRESIDENT

**CERTIFICATE OF AUTHORITY  
(IF CORPORATION)**

I HEREBY CERTIFY that at a meeting of the Board of Directors of SFM SERVICES, INC., a corporation organized and existing under the laws of the State of FLORIDA, held on the 31 day of MARCH, 2011 a resolution was duly passed and adopted authorizing (Name) CHRISTIAN INFANTE as (Title) VICE PRESIDENT 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 31, day of MARCH, 2011.

Secretary: [Signature]  
Print: JOSE INFANTE

**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 N/A, 20\_\_\_\_.

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

**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).

**CERTIFICATE OF AUTHORITY  
(IF INDIVIDUAL)**

I HEREBY CERTIFY that, I (Name) N/A, 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 FLORIDA )

COUNTY OF MIAMI-DADE ) SS:

The foregoing instrument was acknowledged before me this 21 day of MARCH, 2011, by CHRISTIAN INFANTE, who is personally known to me or who has produced \_\_\_\_\_ as identification and who (did / did not) take an oath.

V. Figarola  
SIGNATURE OF NOTARY PUBLIC  
STATE OF FLORIDA



V. FIGAROLA  
PRINTED, STAMPED OR TYPED  
NAME OF NOTARY PUBLIC

Section 6- 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

SFM SERVICES, INC. (see attached)

(\*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: (see attached)

c. State and Date of Incorporation: FLORIDA,

c. What is your primary business? Maintenance Services  
(This answer should be specific)

d. Name of Qualifier, license number, and relationship to company:

JOSE INFANTE, PRESIDENT (see attached)

e. Names of previous Qualifiers during the past five (5) years including, license numbers, relationship to company and years as qualifier for the company

Same

2. Name and Licenses of any prior companies

Name of Company License No. Issuance Date

NONE

3. Type of Company:

Corporation  "S" Corporation  LLC  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
JOSE INFANTE	PRESIDENT	90%
CHRISTIAN INFANTE	VICE-PRESIDENT	10%

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
JOSE INFANTE	PRESIDENT	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
CHRISTIAN INFANTE	VICE-PRES.	<input checked="" 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: N/A

5. Employee Information

Total No. of Employees: 480 Number of Managerial/Admin. Employees: 15

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

460



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

NO

7. Insurance & Bond Information

a. Insurance Carrier name & address: BROWN & BROWN INSURANCE

14900 NW 79 Ave. MIAMI LKS, FL. 33016, Ste 200

b. Insurance Contact Name, telephone, & e-mail: Frank Rosell

305-714-4422 ext. 4422 frosele@hbains.com

c. Insurance Experience Modification Rating (EMR): 1.34  
(if no EMR rating please explain why)

d. Number of Insurance Claims paid out in last 5 years & value: None

e. Bond Carrier name & address: Security Bond Assoc.

10131 S.W. 40 ST., MIAMI, FL. 33165-3947

f. Bond Carrier Contact Name, telephone, & e-mail: BURT HARRIS

305-552-5414 harrisbond@aol.com

g. Number of Bond Claims paid out in last 5 years & value: None

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.

NO

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:

NO

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, with a value of \$3,000 or greater, owned by your company. See Attached
13. Provide an attachment listing of all equipment that your company does not own but plans to rent, lease, or borrow for the performance of the Work

**B. Project Management & Subcontract Details**

1. Project Manager for this Project:

a. Name: Alain Barrero

b. Years with Company: 5yrs

c Licenses/Certifications: Horticulture

d. Last 3 projects with the company including role, scope of work, & value of project:

Town of Miami Lakes Landscape Maint. \$455,000.00 p/yr

Town of Miami Lakes Canal Maintenance. \$46,000.00 p/yr

City of Sunny Isles Landscape Maintenance \$350,000.00 p/yr

2. Subcontractors:

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

<u>None</u>			

3. Scope of actual Work to be performed by your company and the corresponding percentage of the work: (This does not include such items as insurance \* bonds, dumpsters, trailers, and other similar non-construction work items)

100% by SFM Services, Inc.

**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. Please see Attached)

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 Project 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.

*Please See Attached*

**ANTI-KICKBACK AFFIDAVIT**

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

I, the undersigned, hereby duly sworn, depose and say that no portion of the sum herein bid will be paid to any employees of the Town of Miami Lakes, its elected officials, and ~~STMS SERVICES~~ or its 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: CHRISTIAN INFANTE

Title: VICE-PRESIDENT

Sworn and subscribed before this

31 day of MARCH, 2011

[Signature]

Notary Public, State of Florida

V. FIGAROLA

(Printed Name)



My commission expires: 5-3-2011

**NON-COLLUSIVE AFFIDAVIT**

State of FLORIDA }

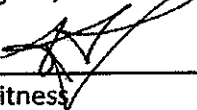
County of MIAMI-DADE } SS:

CHRISTIAN INFANTE being first duly sworn, deposes and says that:


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

The price or prices quoted in the attached Proposal are fair and proper and are not tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the Bidder or any other of its agents, representatives, owners, employees or parties in interest, including this affiant.

Signed, sealed and delivered in the presence of:

  
\_\_\_\_\_  
Witness

Beatriz Alvarez  
Witness

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

CHRISTIAN INFANTE  
(Printed Name)

VICE-PRESIDENT  
(Title)

**NON-COLLUSIVE AFFIDAVIT (CONTINUED)**

**ACKNOWLEDGMENT**

State of FLORIDA )  
County of MIAMI-DADE <sup>SS:</sup>

BEFORE ME, the undersigned authority, personally appeared CHRISTIAN INFANTE to me well known and known by me to be the person described herein and who executed the foregoing Affidavit and acknowledged to and before me that he executed said Affidavit for the purpose therein expressed.

WITNESS, my hand and official seal this 31 day of March, 2011

My Commission Expires: 5/3/2011



[Handwritten Signature]

Notary Public State of Florida at Large

**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 CHRISTIAN INFANTE, VICE-PRESIDENT  
[print individual's name and title]

for SFM SERVICES, INC.  
[print name of entity submitting sworn statement]

whose business address is

9700 N.W. 79 AVENUE

Hiawath Gardens, FL 33016

and (if applicable) its Federal Employer Identification Number (FEIN) is 59-2766887

(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.

*[Handwritten Signature]*

Signature of Entity Submitting Sworn Statement

Sworn to and subscribed before me this 31 day of MARCH 2011.

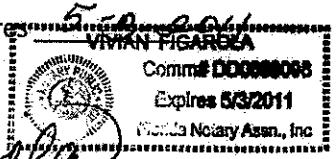
Personally known

OR produced identification \_\_\_\_\_

Notary Public – State of FLORIDA

\_\_\_\_\_  
(type of identification)

My commission expires 5-31-2011



*[Handwritten Signature]*

(Printed, typed or stamped commissioned name notary public)

END OF SECTION

SECTION 6

CONTRACT EXECUTION FORM

This Contract 2011-02 made this 10<sup>th</sup> day of May in the year 2011 in the amount of \$129,500.00 by and between the Town of Miami Lakes, Florida, hereinafter called the "Town," and SFM Services, Inc.

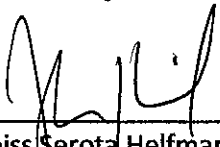
IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

Attest:

TOWN OF MIAMI LAKES

By:   
Matjorie Tejada, Town Clerk

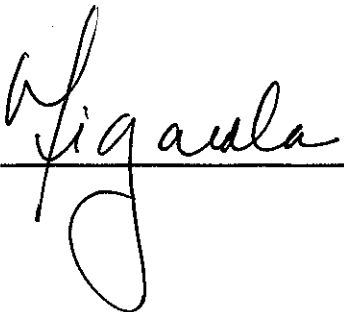
By:   
Alex Rey, Town Manager

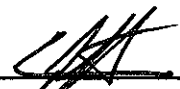
By:   
Weiss Serota Helfman  
Pastoriza Cole & Boniske, P.L.,  
Town Attorney

Signed, sealed and witnessed in the presence of:

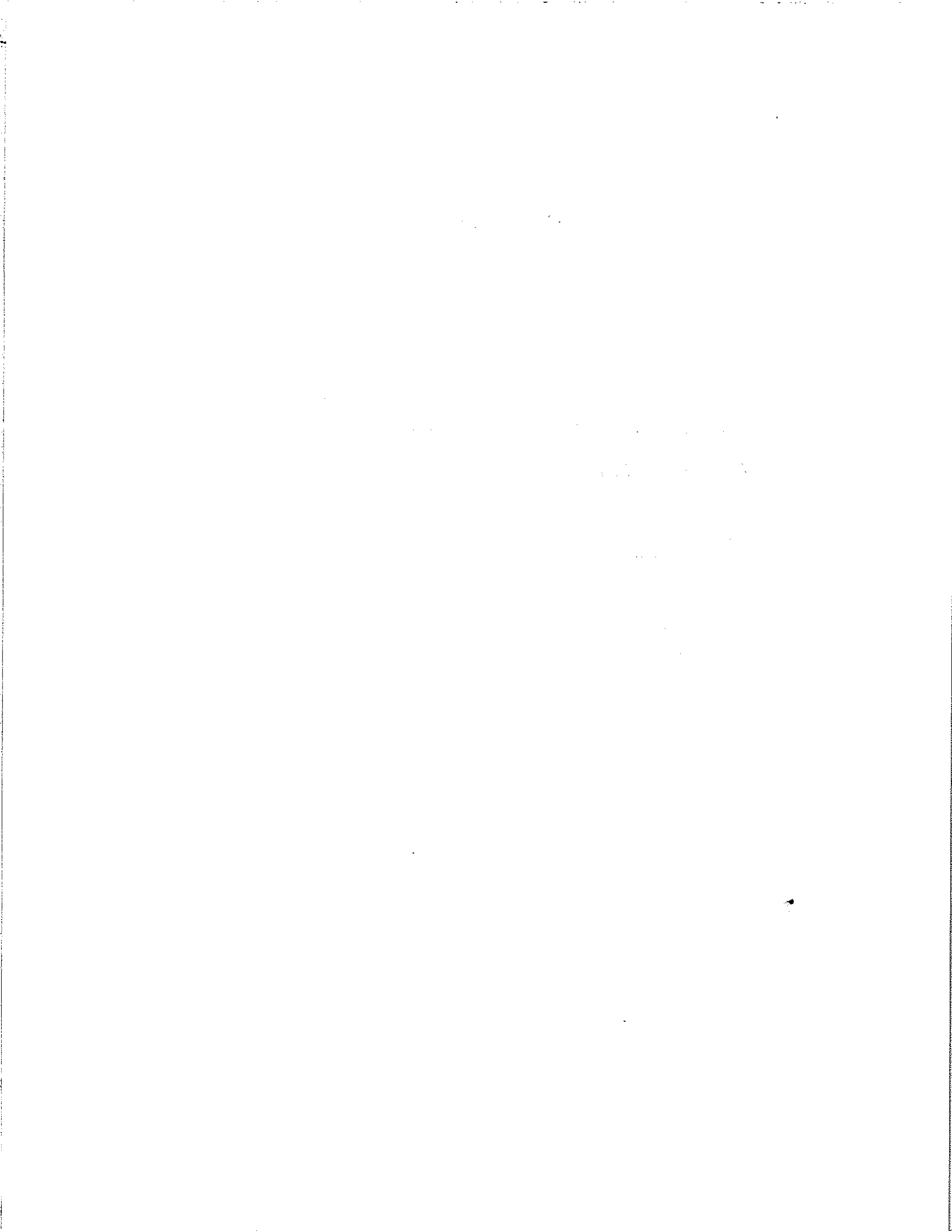
As to the Contractor:

SFM Services, Inc

By: 

By:   
Name: Christian Trujillo  
Title: Vice President

(\* 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**

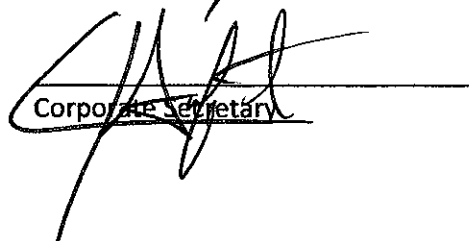
WHEREAS, SFM Services, Inc. desires to enter into a contract with the Town of Miami Lakes for the purpose of performing the work described in the contract to which this resolution is attached; and

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 Vice President  
(type title of officer)  
Christian Infante, 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 3 day of May, 2011.

  
Corporate Secretary

(Corporate Seal)

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1. The first part of the report deals with the general situation in the country. It is noted that the economy is in a state of depression and that the government is unable to meet its obligations. The report also mentions that the population is suffering from widespread poverty and unemployment.

2. The second part of the report discusses the political situation. It is noted that the government is weak and that there is a lack of unity among the political parties. The report also mentions that the military is a powerful force in the country and that it is not subject to civilian control.

3. The third part of the report deals with the social situation. It is noted that the majority of the population is illiterate and that there is a lack of basic social services. The report also mentions that there is a high level of corruption in the government and that the judicial system is inefficient.

4. The fourth part of the report discusses the foreign relations of the country. It is noted that the country is isolated and that it has few friends in the international community. The report also mentions that the country is a member of the United Nations and that it is seeking to improve its relations with other countries.

5. The fifth part of the report deals with the recommendations of the commission. It is recommended that the government should be reformed and that there should be a new constitution. It is also recommended that there should be a new election and that the military should be brought under civilian control.

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**SECTION 7  
SPECIFICATIONS**

**Item 1: CANAL MAINTENANCE**

**7.1 General**

- a. The Contractor shall remove all floating trash, litter, and any other debris, including but not limited to, algae, grass trimming, any items that do not belong in the canal, and any other objects in the canal that are not visually pleasing to the adjacent homeowners.
- b. The Work shall include above water culvert cleaning consisting of removing all trash, litter and floating debris at the culvert mouth.

**7.2- Acreage and Culvert Detail**

The following table provides the acreage and culvert detail for each of the canals.

Canal	Acreage	Culverts
Red Road	10.6	7
Peter's Pike	5.7	1
Golden Glades	6.9	2
Graham Dairy	22.1	0

**Item 2: HERBICIDE TREATMENT**

**7.3 General**

The herbicide treatment is to reduce the amount of aquatic vegetation, both floating and submerged, to provide adequate flow of water and to minimize the potential for flooding.

**7.4 Herbicide Application**

- a. The Contractor shall apply the herbicide to all canals and grass edges to two (2) feet above the canal banks. Canal acreages are provided in Article 7.2.
- b. Herbicide applications shall be performed in accordance with all manufacturer's labels and MSDS requirements.
- c. No application of herbicides will be performed until the Contractor has obtained the required permit(s) and provided DERM with a copy of the permit(s).

**7.5 Currently Approved Herbicides**

- a. Herbicides currently approved for use by DERM include, but are not limited to:
  - i. Sepro Nautique
  - ii. Sepro Komeen
  - iii. Syngenta Reward (formally known as Diquat)
  - iv. Dow Rodeo
- b. Substitutions may be requested in accordance with Article 4.9

**END OF SECTION**

