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# **INVITATION TO BID**

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**Median Beautification  
Kimberly Blvd. (West)  
BID # 18-06-374**

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**June 2018**

**City of North Lauderdale  
701 SW 71<sup>st</sup> Avenue  
North Lauderdale, FL 33068  
954-722-0900**



**Date: June 10, 2018**

**INVITATION TO BID  
BID #18-06-374**

**ALL PROSPECTIVE BIDDERS:**

The City is requesting sealed bids for the Median Beautification Project-Kimberly Blvd (West) for the City of North Lauderdale. Sealed proposals addressed to the Purchasing Department of the City of North Lauderdale, Broward County, Florida, and will be accepted by the Office of the City Clerk, 701 SW 71<sup>st</sup> Avenue, North Lauderdale, Florida 33068 until 10:00 am local time, Friday, **June 29, 2018** for:

**Median Beautification Project-Kimberly Blvd (West)  
Bid #18-06-374**

The work on the Median Beautification Project-Kimberly Blvd (West) located on Kimberly Blvd. between Rock Island Road and 81<sup>st</sup> Avenue will consist of:

- Installation of irrigation, trees/plants/ground cover and pavers in the roadway medians.

Bid documents may be obtained from the City of North Lauderdale website at [www.nlauderdale.org](http://www.nlauderdale.org) or DemandStar at [www.demandstar.com](http://www.demandstar.com) which will be available on Monday June 11, 2018 at 5:00 pm. All communication regarding this bid shall be directed to Susan Nabors, Finance Director, via email at [snabors@nlauderdale.org](mailto:snabors@nlauderdale.org). There is no charge for the documents. The bid documents contain the specifications for median beautification.

**PRE-BID MEETING:**

A **pre-bid** meeting will be held on Tuesday, **June 19, 2018 at 9:00 am**. Interested Contractors are to meet in the 1<sup>st</sup> Floor Conference Room at City Hall located at 701 SW 71<sup>st</sup> Avenue, North Lauderdale, FL 33068 at 9:00 am.

The City of North Lauderdale reserves the right to reject any or all bids, to waive any informalities or irregularities in any bid received, to re-advertise for bids, or to take any other such actions that may be deemed to be in the best interest of the City. The City anticipates entering into a written contract with the bidder who submits the bid judged by the City to be the most advantageous, responsible, and most responsive.

Late bids will not be considered. The City of North Lauderdale is not liable for any costs incurred by a bidder in responding to this Invitation to Bid.

Susan Nabors, Finance Director

6/10/18, 6/17/18



**CITY OF NORTH LAUDERDALE**

**Median Beautification Project-Kimberly Blvd (West)**

**BID # 18-06-374**

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## GENERAL CONDITIONS

The following instructions are given for the purpose of guiding bidders in properly preparing their bids or proposals. These directions have equal force and weight with the specifications, and strict compliance is required with all provisions.

**QUALIFICATIONS OF BIDDERS** – No proposal will be accepted from, nor will any contract be awarded to, any person who is in arrears to the City of North Lauderdale, upon any debt or contract, or who has defaulted, as surety or otherwise, upon any obligations to the City, or who has been deemed irresponsible or unreliable to the City. The City is not required to award any jobs to a Contractor based solely on their bid being the lowest. Awards will be based on past performance and quality of work in addition to the Contractor's bid.

If selected for a project, all bidders must perform to the satisfaction of the City prior to being considered for award of additional contracts. Bidders whose performance is unsatisfactory will be excluded from bidding on future projects for one or more fiscal years. The decision to exclude a bidder and the number of years a bidder is excluded is in the sole and exclusive discretion of the City and is not subject to appeal.

**PERSONAL INVESTIGATION** – Bidders shall satisfy themselves by personal investigation and by such other means as they may deem necessary or desirable as to the conditions affecting the proposed work and the cost. No information derived from maps, plans, specifications, or from the Engineer, City Manager, or their assistants or any other department of the City shall relieve the contractor from any risk or from fulfilling all terms of the contract. The contractor is required to conduct a full and thorough investigation of the premises prior to submitting a bid. It is the Contractor's sole responsibility to determine the amount of labor and materials needed to complete all aspects of the project. If bidder does not attend a mandatory pre-bid meeting, it will result in an automatic rejection of bid.

**CONE OF SILENCE** - "Cone of Silence" means a prohibition on any communication regarding a particular Request for Proposals (RFP), Request for Qualifications (RFQ), Invitation for Bid (IFB), or other competitive solicitation between:

- (a) Any person who seeks an award therefrom, including a potential vendor or vendor's representative, and
- (b) The City Commission, City Attorney, and all City employees, and any non-employee appointed to evaluate or recommend selection in such procurement process.

The Cone of Silence shall not apply to communications with the Procurement Official to obtain clarification or information concerning the subject solicitation. Any such contact other than the Procurement Official may be considered grounds for disqualification. The City shall not be responsible for oral interpretations given by any City employee or its representative. For purposes of this section, "vendor's representative" means an employee, partner, director, or officer of a potential vendor, or consultant, lobbyist, or actual or potential subcontractor or subconsultant of a vendor, or any other individual acting through or on behalf of any person seeking an award.



**INCONSISTENCIES** – Any seeming inconsistency between different provisions of the plans, specifications, proposal or agreement, or any point requiring explanation must be inquired into by the bidder, in writing to the Purchasing Agent, at least five (5) days prior to the time set for the opening proposals but no later than the date specified in this proposal for acceptance of questions. After proposals are opened, the bidders shall abide by the decision of the City as to such interpretation.

**ADDENDA AND INTERPRETATIONS** – No interpretations of the meaning of the plans, specifications or other contract documents will be made orally to any bidder. Prospective bidders must request from the Purchasing Agent such interpretation in writing. To be considered, such request must be received at least five (5) days prior to the date fixed for the opening of bids but no later than the date specified in this proposal for acceptance of questions. Any and all interpretations and any supplemental instructions will be in the form of a written addenda which, if issued, will be sent by electronic mail and posted on the City website and DemandStar.com not later than (3) days prior to the date fixed for the opening of bids. Failure of any bidder to receive any such addenda or interpretation shall not relieve any bidder from any obligation under his bid as submitted. All addenda so issued shall become a part of the contract document. Contractor shall verify that he has all addenda before submitting his bid.

**LEGAL CONDITIONS** – Bidders are notified to familiarize themselves with the provisions of the law of the State of Florida relating to the hours of labor on municipal work, and with the provisions of the laws of the State of Florida and the Charter and the ordinances of the City of North Lauderdale.

**FORM OF PROPOSALS** – Each bid and its accompanying statements must be made on the blanks provided. The forms must be submitted in good order and with **all of the blanks filled in**. Incomplete forms will be rejected as non-responsive. The forms must be enclosed in a sealed envelope when submitted to the City Clerk's Office, City of North Lauderdale, Florida, 2nd Floor, City Hall, and must show the name of the bidder and a statement as to its contents. The proposal must be signed by one duly authorized to do so, and in case signed by a deputy or subordinate, the principal's properly written authority to such deputy or subordinate must accompany the proposal.

**FILLING IN BIDS** – All prices must be written on the specific form(s) provided in this bid. All proposals must fully cover all items for which proposals are asked and no other. Bidders are required to state the names and places of residence of all persons interested, and if no other person is interested, the bidder shall state that the proposal is, in all respects, fair and without collusion or fraud. Where more than one person is interested, it is required that all persons interested or their legal representative make all verification and subscribe to the proposal.

**NON-COLLUSION** – The bidder agrees that there has been no consorting with any other firm or employees from any other firm who will be submitting a bid on the same project.

**CAUSES FOR REJECTION** – No bid will be canvassed, considered, or accepted which, in the opinion of the City is incomplete, informal or unbalanced, or contains inadequate or unreasonable prices for any items; each item must carry its own proportion of the cost as nearly as is practicable. Any alteration, erasure, interlineations, or failure to specify bids for all items called for in the schedule shall render the proposal informal.



**REJECTION OF BIDS** – The City reserves the right to reject any bid if the evidence submitted by the bidder, or if the investigation of such bidder, fails to satisfy the City that such bidder is properly qualified to carry out the obligations and to complete the work contemplated. Any or all proposals will be rejected if there is reason to believe that collusion exists among bidders. A proposal shall be considered irregular and may be rejected, if it indicates serious omissions, alterations in form, additions not called for, conditions or unauthorized alternates, or irregularities of any kind. The City reserves the right to reject any or all proposals; to waive such technical errors; to waive informalities or irregularities in any bid received; to re-advertise; or to take any other actions as may be deemed best for the interests of the City. If bidder does not attend a mandatory pre-bid meeting, it will result in an automatic rejection of bid.

**WITHDRAWALS** – Any bidder may, without prejudice to himself, withdraw his proposal at any time prior to the expiration of the time during which proposals may be submitted. Such request for withdrawal must be in writing and signed in the same manner and by the same person who signed the proposal. After the expiration of the period for receiving proposals, no proposal can be withdrawn, modified, or explained.

**CONTRACT** – The bidder to whom award is made shall execute a written contract to do the work and maintain the same in good repair until final acceptance by the proper authorities within ten (10) days after receiving such contract for execution. If the bidder to whom the first award is made fails to enter into a contract as provided, the award may be annulled and the contract let to the next higher bidder who is reliable and responsible in the opinion of the City. Such bidder shall fulfill every stipulation as if it were the original party to whom award was made. The contract shall provide that the Contractor agrees to correct any defective or faulty work or material which may appear within one (1) year after completion of the work and receipt of the final payment.

**ENFORCEMENT OF SPECIFICATIONS** – Copies of the specifications shall be placed in the hands of the Director of Public Works, who shall enforce each and every requirement of the contract. There will be no varying from the specifications.

**HOURS OF WORK** – All work will be performed between the hours of 7:00 AM to 7:00 PM Monday through Friday. Saturday work shall be approved by the City's Project Manager. Under no circumstance will work be performed on a Sunday.

**COPIES OF SPECIFICATIONS** – Copies of the specifications, details, and contract are on file in the City Clerk's Office of the City of North Lauderdale.

**TERMS OF CONTRACT** – The project shall be completed substantially completed within **60** calendar days from the "notice to proceed" and Final Completion shall be within **30** calendar days. The issuance of the "notice to proceed" is done once all applicable permits are obtained.

**MEASUREMENT AND PAYMENT** – Payments and charges shall be in accordance with the Bid Proposal Schedules.



**SAFETY AND TRAFFIC CONTROL** – It shall be the responsibility of the Contractor to maintain proper traffic control and safety precautions including, but not limited to, the use of barricades, flagman, and portable electric traffic control devices. No extra payment shall be made for providing the necessary traffic control. Any questions regarding the requirements for traffic control shall be referred to the Director of Public Works/Utilities.

**OWNER MAY STOP THE WORK** – If the work performed by the contractor is deficient, contrary to the bid documents or contract, or the CONTRACTOR fails to perform work in such a way that the completed WORK will conform to the Contract Documents, the OWNER may order the CONTRACTOR to stop the WORK, or any portion thereof, until the cause for such order has been eliminated; however, the right of the OWNER to stop the WORK shall not give rise to any duty on the part of the OWNER to exercise this right for the benefit of the CONTRACTOR or any other party.

**TERMINATION** – N/A for this project.

**CUSTOMER RELATIONS** – The Contractor, all its employees and subcontractors under the supervision and control of the Contractor shall at all times at a site, office, or yard be required to conduct themselves in a professional and courteous manner and do all things necessary to insure good and harmonious customer relations. Continuous failure to abide by this requirement shall constitute a basis for termination of this agreement.

**APPLICATION FOR PROGRESS PAYMENT** –The contractor shall submit to the City for review, an Application for Payment filled out and signed by the contractor covering the work completed during the invoice period and accompanied by such supporting documentation as is required by the Contract Documents. The City shall withhold retainage in the amount of 10% and invoices can be made monthly. The use of standard AIA forms for payment are required. The project must pass final inspection before the final payment of retainage will be rendered.

**QUANTITIES** – The City reserves the right to add or delete from the estimated quantities listed in the proposal per Addendums during the bid process.

**BID BOND** – None required for this project.

**PERFORMANCE & PAYMENT BOND** – Shall be required.

All bonds – Performance, Payment and Warranty Bonds, shall meet the City's ratings.

**TAX EXEMPTION** – All bids must be submitted including all local, state and federal taxes, if applicable.

**BID PRICES** – All prices submitted must be firm through the completion of the project. Any bids containing escalation clauses will be rejected upon bid opening. The City of North Lauderdale will award payment within thirty (30) days of the conclusion of the work, and upon full acceptance.



## **EXCUSABLE INCLEMENT WEATHER DELAYS**

- A. The Contract Time will be extended for as many calendar days in excess of the average number of days of excusable inclement weather as defined in Paragraph entitled, "Excusable Inclement Weather Delays", as the CONTRACTOR is specifically required under the provisions of the Technical Specifications to suspend construction operations, or as many calendar days as the CONTRACTOR is prevented by excusable inclement weather , or conditions resulting immediately there from, from proceeding with at least 75 percent of the normal labor and equipment force engaged on the WORK.
- B. Excusable inclement weather is any weather condition, the duration of which varies in excess of the average conditions expected, which is unusual for the particular time and place where the WORK is to be performed, or which could not have been reasonable anticipated by the CONTRACTOR, as determined from U.S. Weather Bureau records for the preceding 3-year period. No extensions of Contract Time will be allowed for any inclement weather that could reasonably have been predicted from such weather records.
- C. Should the CONTRACTOR prepare to begin work at the regular starting time at the beginning of any regular work shift on any day on which excusable inclement weather, or the conditions resulting from the weather, or the condition of the WORK prevents work from beginning at the usual starting time, and the crew is dismissed as a result thereof, the CONTRACTOR will not be charged for a working day whether or not conditions change thereafter during said day, and the major portion of the day could be considered to be suitable for such construction operations.
- D. The CONTRACTOR shall base its construction schedule upon the inclusion of the number of days of excusable inclement. No extension of the Contract Time due to excusable inclement weather will be considered until after the said number of days of excusable inclement weather has been reached. However, no reduction in Contract Time would be made if said number of days of excusable inclement weather is not reached.

## **LIQUIDATED DAMAGES**

The Contractor shall pay to the City, as damages for non-completion of the work within the time stipulated for its completion, as outlined in the terms of contract, above in **Terms of Contract** listed above. Liquidated damages shall be **\$250** per day in excess of terms of contract.





## **SCOPE OF WORK**

The City of North Lauderdale, Florida, hereinafter referred to as the City, will receive sealed Bids and any other information relative to the experience, expertise, or proficiency of the Contractor, at City Hall, City Clerk's Office, 701 SW 71 Avenue, 2<sup>nd</sup> Floor, North Lauderdale, Florida 33063, for Median Beautification Project-Kimberly (West) of the property located on Kimberly Boulevard between Rock Island Road and SW 81<sup>st</sup> Ave as described in the categories/disciplines below.

The work includes the removal and replacement of soil in the medians, furnishing and installation of concrete pavers, furnishing and installing irrigation system, furnishing and installation of trees furnish and install sod and the coordination of shrub installation as specified in the contract drawings.

The successful bidder will be responsible for securing any and all necessary permits and for complying with any and all required inspections.

The bidder shall be solely and completely responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the work. Furthermore, the bidder is solely responsible for the training of all their employees on all safety issues as required by OSHA regulations for the project. The bidder shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent injury to, all employees on the work site and other persons including but not limited to, the general public who may be affected thereby.



**Median Beautification Project-Kimberly Blvd (West)**

**Bid #18-06-374**

**TENTATIVE SCHEDULE OF EVENTS**

<b>Event</b>	<b>Time &amp;/or Date</b>
Invitation to Bid Advertised	6/10/2018 & 6/17/2018
Pre-Bid Meeting	6/19/2018 @ 9:00 AM
Question Due Date	6/22/2018 @ 10:00 AM
Responses to Questions in form of Addenda	6/26/2018 @ 10:00 AM
Due Date and Time for receipt of Proposals	6/29/2018 @ 10:00 AM
Opening of Proposals	6/29/2018 @ 10:05 AM
Evaluation of Proposals by Staff	6/29/2018 – 7/3/2018
Recommendation to City Commission of Award to Contractor	7/10/2018 (tentative)

**Bid Submittal Checklist**

- **One (1) Original, Two (2) copies and one (1) single pdf file on flash drive**
- **Bid Proposal Pages**
- **Bonds**
- **Qualification Statement**
- **Public Entity Crimes Form**
- **Non-Collusive Affidavit**



**INVITATION TO BID #18-06-374**

**Median Beautification Project-Kimberly Blvd (West)**

**BID PROPOSAL**

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

ITEM NO.	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	AMOUNT
	<b>GENERAL ITEMS</b>				
1	Site Mobilization/General Requirements	1	LS		
2	Mulch 3" Depth	193	CY		
3	Excavation	1,440	CY		
4	Planting Soil	1,873	CY		
5	Irrigation - New System Utilizing Existing Meters and Backflows	1	LS		
6	MOT Approx. 60 days @500.00	1	LS		
				<b>SUBTOTAL</b>	
	<b>HARDSCAPE</b>				
7	Sub-base Prep and Compaction	1	LS		
8	Concrete Unit Pavers - Color Blue	2,839	SF		
9	Concrete Unit Pavers - Color Beige	5,069	SF		
10	Concrete Unit Pavers - Color Red	4,675	SF		
				<b>SUBTOTAL</b>	



ITEM NO.	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	AMOUNT
	<b>PLANT MATERIAL</b>				
11	Crape Myrtle - Purple - F.G. 12'Min. HT X 4' CT., 2" DBH. - Single Trunk Standard	9	EA		
12	Phoenix Sylvestris - F.G. 8' Wood, 20' O.A.	7	EA		
13	Alexander Solitaire Palm - F.G. 10' O.A., 6' C.T.	21	EA		
14	Foxtail Palm - F.G. 14' O.A., 6' Wood Matched	64	EA		
				<b>SUBTOTAL</b>	
	<b>PLANT MATERIALS - SHRUBS</b>				
15	St. Augustine 'Floritam' Sod	56,375	SF		
				<b>SUBTOTAL</b>	

TOTAL

\$ \_\_\_\_\_

**Total (written out)**

\_\_\_\_\_

\_\_\_\_\_



**INVITATION TO BID #18-06-374**

**Median Beautification Project-Kimberly Blvd (West)**

**BID PROPOSAL**

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

Contact Person: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email: \_\_\_\_\_

I hereby submit the following bid in accordance with the special terms, conditions and specifications contained within this request on behalf of

\_\_\_\_\_  
Business Name

\_\_\_\_\_  
Signature

Bid Price \$ \_\_\_\_\_

Completion Time: **90** calendar days from the date listed on the City's Notice to Proceed.

Performance/Payment Bond: 100 % of bid price covered

Addendum #1 Acknowledgement: \_\_\_\_\_

Addendum #2 Acknowledgement: (If Applicable) \_\_\_\_\_

Addendum #3 Acknowledgement: (If Applicable) \_\_\_\_\_

Addendum #4 Acknowledgement: (If Applicable) \_\_\_\_\_

Addendum #5 Acknowledgement: (If Applicable) \_\_\_\_\_



**QUALIFICATION STATEMENT**

PROPOSER shall furnish the following information. Failure to comply with this requirement will render Bid non-responsive and shall cause its rejection. Additional sheets shall be attached as required.

PROPOSER'S Name and Principal Address:

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

Contact Person's Name & Title: \_\_\_\_\_

PROPOSER'S Telephone: (\_\_\_\_\_) \_\_\_\_\_

Fax (\_\_\_\_\_) \_\_\_\_\_

Email \_\_\_\_\_

PROPOSER'S License Number: \_\_\_\_\_

**(Please attach certificate of status, competency, and/or state registration.)**

Number of years your organization has been in business \_\_\_\_\_

State the number of years your firm has been in business under your present business name \_\_\_\_\_

State the number of years your firm has been in business in the work specific to this bid: \_\_\_\_\_

Names and Titles of all officers, partners or individuals doing business under trade name:

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

The business is a: Sole Proprietorship \_\_\_\_\_ Partnership \_\_\_\_\_ Corporation \_\_\_\_\_

**IF USING A FICTITIOUS NAME, SUBMIT EVIDENCE OF COMPLIANCE WITH FLORIDA FICTITIOUS NAME STATUTE.**



Under what former name has your business operated? Include a description of the business. Failure to include such information shall be deemed to be intentional misrepresentation by the City and shall render the proposer bid submittals non-responsive.

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At what address was that business located?

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Name, address, and telephone number of surety company and agent who will provide the required bonds on this contract:

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Have you ever failed to complete work awarded to you. If so, when, where and why?

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Have you personally inspected the proposed WORK SITE and do you have a complete plan for its performance?

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Will you subcontract any part of this WORK? If so, give details including a list of each sub contractor(s) that will perform work in excess of ten percent (10%) of the contract amount and the work that will be performed by each subcontractor(s).

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\*The foregoing list of subcontractor(s) may not be amended after award of the contract without the prior written approval of the City Contract Project Representative, whose approval shall not be reasonably withheld.

List and describe all bankruptcy petitions (voluntary or involuntary) which have been filed by or against the Proposer, its parent or subsidiaries or predecessor organizations during the past five (5) years. Include in the description the disposition of each such petition.

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List and describe all successful Bond claims made to your surety (ies) during the last five (5) years. The list and descriptions should include claims against the bond of the Proposer and its predecessor organization(s).

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List all claims, arbitrations, administrative hearings and lawsuits brought by or against the Proposer or its predecessor organizations(s) during the last (10) years. The list shall include all case names; case, arbitration or hearing identification numbers; the name of the project over which the dispute arose; and a description of the subject matter of the dispute.

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List and describe all criminal proceedings or hearings concerning business related offenses in which the Proposer, its principals or officers or predecessor organization(s) were defendants.

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Has the Proposer, its principals, officers or predecessor organization(s) been CONVICTED OF A Public Entity Crime, debarred or suspended from bidding by any government entity? If so, provide details.

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Are you an  Original provider  sales representative  distributor,  broker,  manufacturer  other, of the commodities/services proposed upon? If other than the original provider, explain below.

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Have you ever been debarred or suspended from doing business with any governmental agency? If yes, please explain:

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Describe the firm's local experience/nature of service with contracts of similar size and complexity, it the previous three (3) years:

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The PROPOSER acknowledges and understands that the information contained in response to this Qualification Statement shall be relied upon by CITY in awarding the contract and such information is warranted by PROPOSER to be true. The discovery of any omission or misstatement that materially affects the PROPOSER'S qualifications to perform under the contract shall cause the CITY to reject the Bid, and if after the award, to cancel and terminate the award and/or contract.

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By \_\_\_\_\_  
(Signature)



### INSURANCE REQUIREMENTS

CONTRACTOR shall not commence performance hereunder until it has obtained all insurance required under this paragraph and such insurance has been approved by the Risk Manager of the CITY nor shall the CONTRACTOR allow any subcontractor to commence work on his subcontract until all similar such insurance required of the subcontractor has been obtained and similarly approved.

Certificates of Insurance reflecting evidence of the required insurance shall be filed with the City’s Risk Manager prior to the commencement of this Agreement. These Certificates shall contain a provision that coverages afforded under these policies will not be cancelled until at least thirty days (30) prior written notice has been given to the CITY. Policies shall be issued by companies authorized to do business under the laws of the State of Florida. Financial Ratings must be not less than “A-VI” in the latest edition of “Best Key Rating Guide”, published by A.M. Best Guide.

Insurance shall be in force until the obligations required to be fulfilled under the terms of the Agreement are satisfied. In the event the insurance certificate provided indicates that the insurance shall terminate and lapse during the period of this Agreement, then in that event, the CONTRACTOR shall furnish, at least forty-five (45) days prior to the expiration of the date of such insurance, a renewed certificate of insurance as proof that equal and like coverage for the balance of the period of the Agreement and extension thereunder is in effect. The CONTRACTOR shall not commence nor continue to provide any services pursuant to this Agreement unless all required insurance remains in full force and effect. CONTRACTOR shall be liable to CITY for any lapses in service resulting from a gap in insurance coverage.

#### REQUIRED INSURANCE

Comprehensive General Liability insurance to cover liability bodily injury and property damage. Exposures to be covered are premises, operations, products\completed operations, and certain contracts. Coverage must be written on an occurrence basis, with the following limits of liability:

A.	Bodily Injury	
1.	Each Occurrence	\$1,000,000
2.	Annual Aggregate	1,000,000
B.	Property Damage	
1.	Each Occurrence	1,000,000
2.	Annual Aggregate	1,000,000
C.	Personal Injury	
	Annual Aggregate	1,000,000



D. Completed Operations and Products Liability shall be maintained for two (2) years after the final payment.

E. Property Damage Liability Insurance shall include Coverage for the following hazards: X - explosion, C - Collapse, U - underground.

Worker's Compensation Insurance shall be maintained during the life of this contract to comply with statutory limits for all employees. The following limits must be maintained:

- A. Worker's Compensation      Statutory
- B. Employer's Liability      \$100,000 each accident  
    \$500,000 Disease-policy limit  
    \$100,000 Disease-each employee

If CONTRACTOR claims to be exempt from this requirement, CONTRACTOR shall provide CITY proof of such exemption along with a written request for CITY to exempt CONTRACTOR, written on CONTRACTOR letterhead.

Comprehensive Auto Liability – coverage shall include owned, hired and non-owned vehicles.

- A. Bodily Injury
  - 1. Each Occurrence      \$1,000,000
  - 2. Annual Aggregate      \$1,000,000
- B. Property Damage
  - 1. Each Occurrence      \$1,000,000
  - 2. Annual Aggregate      \$1,000,000

CONTRACTOR shall name the CITY, as an additional insured on each of the policies required herein and shall hold the CITY, its agents, officers and employees harmless on account of claims for damages to persons, property or premises arising out of the services provided hereunder.

Any insurance required of CONTRACTOR pursuant to this Agreement must also be required by any subcontractor in the same limits and with all requirements as provided herein, including naming the CITY as an additional insured, in any work that is subcontracted unless such subcontractor is covered by the protection afforded by the CONTRACTOR and provided proof of such coverage is provided to CITY. The CONTRACTOR and any subcontractors shall maintain such policies during the term of this Agreement.

The CITY reserves the right to require any other insurance coverage it deems necessary depending upon the exposures.



**PUBLIC ENTITY CRIMES**

Section 287.132-133(3)(a), Florida Statutes, effective July 1, 1989 require that no public entity shall enter into a contract, award of bid, or transact business in excess of \$10,000.00 with any person or affiliate who has been convicted of a public entity crime. Prior to entering into a sworn statement with the Purchasing Department on form 7088.

A copy of the form is reproduced below. This completed form must be on file prior to the issuing of a Purchasing Order.

**Bid #18-06-374**

**Sworn Statement Under Section 287.133(3)(a),  
Florida Statutes, on Public Entity Crimes**

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

1. This sworn statement is submitted with **Bid #18-06-374 - Median Beautification Project-Kimberly Blvd (West)**.
2. This sworn statement is submitted by \_\_\_\_\_ whose business address is \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ and (if applicable) it's Federal Employer Identification No. (FEIN) is \_\_\_\_\_  
(If the entity has no FEIN, include the Social Security Number of the individual signing this sworn statement.
3. My name is \_\_\_\_\_ and my relationship to the entity named above is \_\_\_\_\_.
4. I understand that a "public entity crime" as defined in Paragraph 287.133(1)(g), 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 of with an agency or political subdivision of any other state or with the United States, including but not limited to, any bid or contract for goods or services to be provided to any public entity or an agency or political subdivision of any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.
5. I understand that "convicted or conviction" as defined in Paragraph 287.133(1)(b), Florida Statutes, means a finding or fault or a conviction of a public entity crime, with or without adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, non-jury trial, or entry of a plea of guilty or nolo contendere.
6. I understand that 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.

7. 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 the 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 management of an entity.

8. Based on information and belief, the statement which I have marked below is true in relation to the entity submitting this sworn statement. (Please 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 management of the entity, nor the affiliate of the entity have 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 the officers, directors, executives, partners, shareholders, employees, members, or agents who are active in management of the entity, have been charged with and convicted of a public entity crime subsequent to July 1, 1989, AND (Please indicate which additional statement applies.)

\_\_\_ There has been a proceeding concerning the conviction before a hearing officer of the State of Florida, Division of Administration Hearings. The final order entered by the hearing officer did not place the person or affiliate on the convicted vendor list. (Please attach a copy of the Final Order.)

\_\_\_ The person or affiliate was placed on the convicted vendor list. There has been a subsequent proceeding before a hearing officer of the State of Florida, Division of Administration Hearings. The final order entered by the hearing officer determined that it was in the public interest to remove the person or affiliate from the convicted vendor list. (Please attach a copy of the Final Order.)

\_\_\_ The person or affiliate has not been placed on the convicted vendor list. (Please describe any action taken by or pending with the Department of General Services.)



\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

State of \_\_\_\_\_

County of \_\_\_\_\_

PERSONALLY APPEARED BEFORE ME, the undersigned authority,  
\_\_\_\_\_, who after first being sworn by me, affixed his/her  
signature in the space provided above on this \_\_\_\_\_ day of \_\_\_\_\_,  
\_\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_



**NON-COLLUSIVE AFFIDAVIT**

State of \_\_\_\_\_)

)ss.

County of \_\_\_\_\_)

\_\_\_\_\_ being first duly sworn,  
deposes and says that:

(1) He/she is the

\_\_\_\_\_, (Owner, Partner, Officer,  
Representative or Agent) of

\_\_\_\_\_ the Bidder that has  
submitted the attached Bid;

(2) He/she is fully informed respecting the preparation and contents of the attached Bid and of  
all pertinent circumstances respecting such Bid:

(3) Such Bid is genuine and is not a collusive or sham Bid;

(4) 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 or  
agreed, directly or indirectly, with any other Bidder, firm, or person to submit a collusive or sham  
Bid in connection with the Work for which the attached Bid has been submitted; or to refrain from  
bidding in connection with such Work; or have in any manner, directly or indirectly, sought by  
agreement or collusion, or communication, or conference with any Bidder, firm or person to fix any  
overhead, profit, or cost elements of the Bid price or the Bid 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;

(5) The price or prices quoted in the attached Bid 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:

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

BY: \_\_\_\_\_

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

\_\_\_\_\_  
(Title)



**ACKNOWLEDGMENT**

State of Florida  
County of \_\_\_\_\_

On this the \_\_\_\_ day of \_\_\_\_\_, 2017, before me, the undersigned Notary Public of the State of Florida, personally appeared \_\_\_\_\_ and whose name(s) is/are (Name(s) of individual(s) who appeared before notary). Subscribed to the within instrument, and he/she/they acknowledge that he/she/they executed it.

**Witness** my hand and official seal

\_\_\_\_\_  
**NOTARY PUBLIC, STATE OF FLORIDA**

**NOTARY PUBLIC  
SEAL OF OFFICE:**

\_\_\_\_\_  
(Name of Notary Public: Print Stamp or type as Commissioned)

- Personally known to me, or
- Produced identification:

\_\_\_\_\_  
(Type of identification)

DID take oath, or  DID NOT take oath

OPTIONAL INFORMATION:

Type of Document: \_\_\_\_\_ Number of Pages: \_\_\_\_ Number of Signatures Notarized \_\_\_\_





**OFFEROR'S CERTIFICATION**

**WHEN OFFEROR IS AN**

\_\_\_ **INDIVIDUAL** \_\_\_ **SOLE PROPRIETORSHIP** \_\_\_ **PARTNERSHIP** \_\_\_ **CORPORATION**

**IN WITNESS WHEREOF**, the Offeror hereto has executed this Proposal Form this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

By: \_\_\_\_\_  
Signature of Individual

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Printed Name of Individual

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Business Address

\_\_\_\_\_  
City/State/Zip

\_\_\_\_\_  
Business Phone Number

State of Florida  
County of \_\_\_\_\_

On this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, before me, the undersigned Notary Public of the State of Florida, personally appeared \_\_\_\_\_ and whose name(s) is/are (Name(s) of individual(s) who appeared before notary). Subscribed to the within instrument, and he/she/they acknowledge that he/she/they executed it.

**Witness** my hand and official seal

**NOTARY PUBLIC, STATE OF FLORIDA**

**NOTARY PUBLIC  
SEAL OF OFFICE:**

\_\_\_\_\_  
(Name of Notary Public: Print Stamp or type as Commissioned)

- Personally known to me, or
- Produced identification:

\_\_\_\_\_  
(Type of identification)

DID take oath, or  DID NOT take oath

**OPTIONAL INFORMAITON:**

Type of Document: \_\_\_\_\_ Number of Pages: \_\_\_\_ Number of Signatures Notarized \_\_\_\_



**AGREEMENT**

**THIS IS AN AGREEMENT**, dated the \_\_\_\_\_ day of \_\_\_\_\_, 2018, by and between:

**THE CITY OF NORTH LAUDERDALE**, a municipal corporation of the State of Florida with a business address of 701 SW 71<sup>st</sup> Avenue, Florida 33068 hereinafter referred to as "CITY",

and

\_\_\_\_\_, a company authorized to do business in the State of Florida, with a business address \_\_\_\_\_, hereinafter referred to as "CONTRACTOR".

**WITNESSETH**

**WHEREAS**, The CITY has heretofore invited bids for a CITY median beautification project ("Project") identified by bid number and project number **Bid #18-06-374** and commonly referred to as: **Median Beautification Project-Kimberly Blvd (West) (the "Project")**.

**WHEREAS**, Contractor, in compliance with the bidding requirements announced by the CITY, submitted a bid on the \_\_\_\_\_ day of \_\_\_\_\_, 2018, for the total bid amount of \$ \_\_\_\_\_; and

**WHEREAS**, on the \_\_\_\_\_ day of \_\_\_\_\_, 2018, the CITY Commission designated CONTRACTOR as having submitted the bid that was most advantageous to the CITY and authorized the execution of this Contract; and,

**WHEREAS**, the Parties agree that the Project is scheduled to achieve Substantial Completion without interruption within **(60)** calendar days as specified in the Notice to Proceed, subject to CITY approved time extensions and Final Completion within **30** calendar days.

**ARTICLE 1**  
**PREAMBLE**

In order to establish the background, context and form of reference for this Agreement, and to generally express the objectives and intentions of the respective parties herein, the following statements, representations, and explanations shall be accepted as predicates for the undertakings and commitments included within the provisions which follow, and may be relied upon by the parties as essential elements of the mutual considerations upon which this Agreement is based.



1.1 The Parties agree that:

- 1.1.1. The foregoing "Whereas" clauses are true and correct and incorporated herein by this reference, as if fully set forth herein.
- 1.1.2 On \_\_\_\_\_, the bids were opened at the offices of the City Clerk.
- 1.1.3 On \_\_\_\_\_, the CITY awarded the bid to CONTRACTOR and authorized the proper CITY officials to negotiate and enter into an agreement with CONTRACTOR to render the services more particularly described herein below.

1.2 Negotiations pertaining to the services to be performed by the CONTRACTOR were undertaken and this Agreement incorporates the results of such negotiation.

**ARTICLE 2**  
**SERVICES AND RESPONSIBILITIES**

2.1 CONTRACTOR hereby agrees to perform the services for the "**Median Beautification Project-Kimberly Blvd (West) – Bid #18-06-374**", as more particularly described in the Technical Plan Sheets prepared by Calvin Giordano and Associates. CONTRACTOR agrees to do everything required by this Agreement, the Sealed Bid Package, Addenda to this Agreement, and Commission award complete with proposal form.

2.2 CONTRACTOR shall furnish all services, labor, equipment, tools, supplies, and materials necessary and as may be required in the performance of this Agreement, except as otherwise specifically provided for herein, and all work performed under this Agreement shall be done in a professional manner.

2.3 CONTRACTOR shall supervise the work force to ensure that all workers conduct themselves and perform their work in a safe and professional manner. CONTRACTOR shall comply with all OSHA safety rules and regulations in the operation of equipment and in the performance of the work. CONTRACTOR shall at all times have a competent field supervisor on the job site to enforce these policies and procedures at the CONTRACTOR'S expense.

2.4 CONTRACTOR shall schedule regular meetings with the CITY representatives to discuss the progress of the work, as more specifically described in Exhibit A.

2.5 CONTRACTOR hereby represents to CITY, with full knowledge that CITY is relying upon these representations when entering into this Agreement with CONTRACTOR, that CONTRACTOR has the professional expertise, experience and manpower to perform the services to be provided by CONTRACTOR pursuant to the terms of this Agreement.



2.6 CONTRACTOR hereby represents to CITY that CONTRACTOR is properly licensed by the applicable federal, state, and local agencies to provide the services under this Agreement. Furthermore, CONTRACTOR agrees to maintain such licenses during the term of this Agreement and provided documentation of such to the Building Department during the permitting process. If CONTRACTOR's license is revoked, suspended, or terminated for any reason by any governmental agency, CONTRACTOR shall notify the CITY immediately.

2.7 CONTRACTOR shall comply with any and all Federal, State, and local laws and regulations now in effect, or hereinafter enacted during the term of this Agreement, which are applicable to CONTRACTOR, its employees, agents or subcontractors, if any, with respect to the work and services described herein. A violation of any federal, state, or local law or regulation may be cause for breach, allowing the CITY to terminate this Agreement.

2.8 CONTRACTOR shall:

- 2.8.1 Guarantee all work and materials for a period of one (1) year.
- 2.8.2 Pay promptly, before final settlement, any and all claims or liens by subcontractors or material suppliers, incurred in and about this work.
- 2.8.3 Remove and clean up all rubbish, debris, excess material, temporary structures, tools and equipment from streets, alleys, parkways and adjacent property that may have been used or worked on by the CONTRACTOR in connection with the Project promptly as such section or portion is completed and ready for use, leaving the same in a neat and presentable condition.
- 2.8.4 Observe and comply with the provisions of the charter, ordinances, codes and regulations of the CITY.
- 2.8.5 Obtain written approval from the CITY of all subcontractors not disclosed in the CONTRACTOR's bid document.
- 2.8.6 Perform such other tasks as set forth in the Contract Documents.
- 2.8.7 Shall provide all required bonds, insurance certificates and any other required security for performance of the Project within ten (10) calendar days of the award of the Project.
- 2.8.8. The CONTRACTOR will be held responsible for the care, protection and condition of all work until final completion and acceptance thereof, and will be required to make good at its own cost any damage or injury occurring from any cause resulting from its acts or omissions, or the acts or omissions of their subcontractors or suppliers.
- 2.8.9. The CONTRACTOR warrants that quoted prices include the protection and continuous use of all existing work in process, property or operations of the CITY.



**2.9 CITY'S OBLIGATIONS:**

- 2.9.1 CITY shall provide a written Notice to Proceed.
- 2.9.2 Make timely payments for the work in accordance with the procedures and time frames set forth in the Contract Documents. Contract documents shall mean:
  - a. This Agreement
  - b. Scope of Work
  - c. Technical Specifications
  - e. Invitation to Bid
  - f. Instructions to Bidders
  - g. Offeror's certification
  - i. All required insurance
  - j. All City forms
  - k. Permits, approved permit drawings and their conditions
  - l. Constructions plans
  - m. Construction specifications
  - n. General Conditions
  - o. Supplemental conditions, if any
  - p. Supplemental specifications, if any
  - q. Addenda
- 2.9.3 On satisfactory completion of the Project, provide a written final acceptance and payment within thirty (30) days for the final retainage.

**2.10 COMMENCEMENT OF WORK**

- 2.10.1 CONTRACTOR hereby agrees to commence work under this contract within 48 hours of the Commencement Date specified in the written "Notice to Proceed."
- 2.10.2 Time is the essence of the Contract. In the event the CONTRACTOR shall fail to timely commence the work following Notice to Proceed or fail in the performance of the work specified and required to be performed within the time limit set forth in the Contract, after due allowance for any extension or extensions of time made in accordance with the Contract Documents, the CONTRACTOR shall be liable to the CITY, as liquidated damages, the amount stipulated in Section 14.1.2 herein below for each and every calendar day that the CONTRACTOR shall be in default of achieving certification of Substantial Completion.
- 2.10.3 CONTRACTOR shall notify the Project Manager in writing of any change in the names and addresses of each subcontractor proposed for principal parts of work, and any changes in subcontractors from those proposed in CONTRACTOR's bid proposal, and for such others as the Project Manager may direct, and shall not employ any that CITY may, within a reasonable time, object to as incompetent or as unfit.



**ARTICLE 3**  
**TERM AND TERMINATION**

3.1 CONTRACTOR shall perform the work attached hereto and made part hereof, within ten (10) days of the City's Issuance of the Notice to Proceed.

3.2 This Agreement may terminated by the City at any time before the Notice to Proceed. If this Agreement is canceled in this manner, the CONTRACTOR shall not be entitled to any compensation as a result of this Agreement.

3.3 Termination for Convenience: This Agreement may be terminated by CITY for convenience after the Notice to Proceed has been issued, upon seven (7) calendar days of written notice by the terminating party to the other party for such termination in which event CONTRACTOR shall be paid its compensation for services performed to termination date, including services reasonably related to termination. In the event that CONTRACTOR abandons this Agreement or causes it to be terminated, CONTRACTOR shall indemnify CITY against loss pertaining to this termination.

3.4 Default by CONTRACTOR: In addition to all other remedies available to CITY, this Agreement shall be subject to cancellation by CITY for cause, should CONTRACTOR neglect or fail to perform or observe any of the terms, provisions, conditions, or requirements herein contained, if such neglect or failure shall continue for a period of ten (10) days after receipt by CONTRACTOR of written notice of such neglect or failure. The determination as to whether CONTRACTOR has defaulted is in the sole, exclusive, and unilateral discretion of the City.

**ARTICLE 4**  
**COMPENSATION AND METHOD OF PAYMENT**

4.1 The City will make monthly progress payments under this contract. Upon completion of project, the contractor shall submit to the City for review an Application for Payment filled out and signed by the contractor using the standard AIA form covering the work completed within the month billing period with any accompanied by such supporting documentation as is required by the Contract Documents. The Application for Payment shall also be accompanied by a bill of sale, invoice, or other documentation warranting that the owner has received the materials and equipment free and clear of all liens, charges, security interests, and encumbrances (which are hereinafter in these General Conditions referred to as "Liens") and evidence that the materials and equipment are covered by appropriate property insurance and other arrangements to protect the owner's interest therein, all of which will be satisfactory to the owner. The project must pass final inspection before all retainage is released.

4.2 All payments shall be governed by the Florida Prompt Payment Act, as set forth in Part VII, Chapter 218, Florida Statutes.



**ARTICLE 5**  
**CHANGES IN SCOPE OF WORK**

5.1 CITY or CONTRACTOR may request changes that would increase, decrease, or otherwise modify the Scope of Services, as described in the Plan Sheets to be provided under this Agreement as described in Article 2 of this Agreement. These changes will affect the compensation accordingly. No changes will be permitted to the Contract Agreement unless of an emergency nature, code violations, a requirement by the Building Department or other instances as deemed necessary and executed by the Contractor and the City Representative prior to the start of the change order work. The contractor must email the Public Works Director at [gkrawczyk@nlauderdale.org](mailto:gkrawczyk@nlauderdale.org) as designated in this Agreement in regards to any concerns that are discovered along with documentation in order to have the Inspector visit the job site and confirm any conditions. Once the conditions are confirmed, the Contractor must submit a written request for amendment that includes the item(s) to be changed, cost of materials and cost of labor. The City will review and if approved, the change order will be executed by the parties hereto, with the same formality, equality and dignity herewith prior to any deviation from the terms of this Agreement, including the initiation of any additional or extra work. The Contractor shall not perform any change order work unless and until the request is signed by the City. The determination as to whether a condition could have been discovered during the pre-bid inspection shall be in the sole, exclusive, and unilateral discretion of the City.

5.2 In no event will the CONTRACTOR be compensated for any work performed which has not been described in a separate written Change Order agreement executed by the parties hereto.

**ARTICLE 6**  
**INDEMNIFICATION**

6.1 CONTRACTOR shall indemnify and save harmless and defend the CITY, its trustees, elected and appointed officials, agents, servants and employees from and against any and all claims, demands, or causes of action of whatsoever kind or nature sustained by the CITY or any third party arising out of, or by reason of, or resulting from acts, error, omission, or negligent act of CONTRACTOR, its agents, servants or employees in the performance under this Agreement, for all costs, losses, and expenses, including but not limited to, damages to persons or property, judgments and attorneys' fees arising out of or in connection with the performance by CONTRACTOR pursuant to this Agreement.

6.2 CONTRACTOR shall indemnify CITY for all loss, damage, expense, or liability including, without limitation, court costs and attorneys' fees that may result by reason of any infringement or claim of infringement of any patent, trademark, copyright, trade secret or other proprietary right relating to services furnished pursuant to this Agreement. CONTRACTOR will defend and/or settle at its own expense, with legal counsel chosen by CITY, any action brought against the CITY to the extent that it is based on a claim that products or services furnished to CITY by CONTRACTOR pursuant to this Agreement, or if any portion of the services or goods related to the performance of the service becomes unusable as a result of any such infringement or claim.



6.3 The Parties recognize that various provisions of this Agreement, including but not limited to this Section, provide for indemnification by the CONTRACTOR and requires a specific consideration be given therefor. The Parties therefore agree that the sum of Ten Dollars and 00/100 (\$10.00), receipt of which is hereby acknowledged, is the specific consideration for such indemnities, and the providing of such indemnities is deemed to be part of the specifications with respect to the services to be provided by CONTRACTOR.

6.3.1 Furthermore, the Parties understand and agree that the covenants and representations relating to this indemnification provision shall serve the term of this Agreement and continue in full force and effect as to the Party's responsibility to indemnify.

6.4 Nothing contained herein is intended nor shall be construed to waive City's rights and immunities under the common law or §768.28, Florida Statutes, as may be amended from time to time.

## **ARTICLE 7**

### **NON-DISCRIMINATION & EQUAL OPPORTUNITY EMPLOYMENT**

7.1 During the performance of the Agreement, neither CONTRACTOR nor its subcontractors shall discriminate against any employee or applicant for employment because of race, religion, color, gender, national origin, sex, age, marital status, political affiliation, familial status, sexual orientation, or disability if qualified. CONTRACTOR will take affirmative action to ensure that employees are treated during employment, without regard to their race, religion, color, gender, national origin, sex, age, marital status, political affiliation, familial status, sexual orientation, or disability if qualified. Such actions must include, but not be limited to, the following: employment, promotion; demotion or transfer; recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. CONTRACTOR shall agree to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause. CONTRACTOR further agrees that he/she/it will ensure that subcontractors, if any, will be made aware of and will comply with this nondiscrimination clause.





**ARTICLE 8**  
**INDEPENDENT CONTRACTOR**

8.1 This Agreement does not create an employee/employer relationship between the parties. It is the intent of the parties that the CONTRACTOR is an independent contractor under this Agreement and not the CITY's employee for all purposes, including but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, the State Workers' Compensation Act, and the State unemployment insurance law. The CONTRACTOR shall retain sole and absolute discretion in the judgment of the manner and means of carrying out CONTRACTOR's activities and responsibilities hereunder provided, further that administrative procedures applicable to services rendered under this Agreement shall be those of CONTRACTOR, which policies of CONTRACTOR shall not conflict with CITY, State, H.U.D., or United States policies, rules or regulations relating to the use of CONTRACTOR's Funds provided for herein. The CONTRACTOR agrees that it is a separate and independent enterprise from the CITY, that it has full opportunity to find other business, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the work. This Agreement shall not be construed as creating any joint employment relationship between the CONTRACTOR and the CITY and the CITY will not be liable for any obligation incurred by CONTRACTOR, including but not limited to unpaid minimum wages and/or overtime premiums.

**ARTICLE 9**  
**UNCONTROLLABLE FORCES**

9.1 Neither CITY nor CONTRACTOR shall be considered to be in default of this Agreement if delays in or failure of performance shall be due to Uncontrollable Forces, the effect of which, by the exercise of reasonable diligence, the non-performing party could not avoid. The term "Uncontrollable Forces" shall mean any event which results in the prevention or delay of performance by a party of its obligations under this Agreement and which is beyond the reasonable control of the nonperforming party. It includes, but is not limited to fire, flood, earthquakes, storms, lightning, epidemic, war, riot, civil disturbance, sabotage, and governmental actions.

9.2 Neither party shall, however, be excused from performance if nonperformance is due to forces, which are preventable, removable, or remediable, and which the nonperforming party could have, with the exercise of reasonable diligence, prevented, removed, or remedied with reasonable dispatch. The nonperforming party shall, within a reasonable time of being prevented or delayed from performance by an uncontrollable force, give written notice to the other party describing the circumstances and uncontrollable forces preventing continued performance of the obligations of this Agreement.



**ARTICLE 10**  
**AGREEMENT SUBJECT TO FUNDING**

10.1 This agreement shall remain in full force and effect only as long as the expenditures provided for in the Agreement have been appropriated by the City Commission of the City of North Lauderdale in the annual budget for each fiscal year of this Agreement, and is subject to termination based on lack of funding.

**ARTICLE 11**  
**VENUE**

11.1 This Agreement shall be governed by the laws of the State of Florida as now and hereafter in force. The venue for actions arising out of this agreement shall be in Broward County, Florida.

**ARTICLE 12**  
**SIGNATORY AUTHORITY**

12.1 CONTRACTOR shall provide CITY with copies of requisite documentation evidencing that the signator for CONTRACTOR has the authority to enter into this Agreement.

**ARTICLE 13**  
**MERGER; AMENDMENT**

13.1 This Agreement constitutes the entire Agreement between CONTRACTOR and CITY, and negotiations and oral understandings between the parties are merged herein. This Agreement can be supplemented or amended only by a written document executed by both CONTRACTOR and CITY with the same formality and equal dignity herewith.

**ARTICLE 14**  
**DEFAULT OF CONTRACT & REMEDIES**

14.1.1 **Damages.** CITY reserves the right to recover any ascertainable actual damages incurred as a result of the failure of CONTRACTOR to perform in accordance with the requirements of this Agreement, or for losses sustained by CITY resultant from CONTRACTOR's failure to perform in accordance with the requirements of this Agreement.

14.1.2 **Liquidated Damages.** As a breach of the service provided by this Agreement would cause serious and substantial damage to Property, and the nature of this Agreement would render it impracticable or extremely difficult to fix the actual damage sustained by CITY by such breach, it is agreed that, in case of breach of service wherein CONTRACTOR fails to maintain the Property, leaving the said property in disrepair, CITY may elect to collect liquidated damages for each such breach, and CONTRACTOR will pay CITY as liquidated damages, and not as penalty, TWO HUNDRED FIFTY DOLLARS ([\$250.00]) for every day of such malfunction. This sum is the agreed upon amount by which CITY will be damaged by the breach of such service. An election to seek such remedies shall not be construed as a waiver of any legal remedies CITY may have as to any subsequent breach of service under this Agreement.



14.1.3 **Correction of Work.** If, in the judgment of CITY, work provided by CONTRACTOR does not conform to the requirements of this Agreement, or if the work exhibits poor workmanship, CITY reserves the right to require that CONTRACTOR correct all deficiencies in the work to bring the work into conformance without additional cost to CITY, and / or replace any personnel who fail to perform in accordance with the requirements of this Agreement. CITY shall be the sole judge of non-conformance and the quality of workmanship.

14.2 **Default of Contract.** The occurrence of any one or more of the following events shall constitute a default and breach of this Agreement by CONTRACTOR:

14.2.1. The abandonment of the Property by CONTRACTOR for a period of more than seven (7) days.

14.2.2 The abandonment, unnecessary delay, refusal of, or failure to comply with any of the terms of this Agreement or neglect, or refusal to comply with the instructions of the Public Services Director relative thereto.

14.2.3. The failure by CONTRACTOR to observe or perform any of the terms, covenants, or conditions of this Agreement to be observed or performed by CONTRACTOR, where such failure shall continue for a period of three (3) days after written notice thereof by CITY to CONTRACTOR; provided, however, that if the nature of CONTRACTOR's default is such that more than three (3) days are reasonably required for its cure, then CONTRACTOR shall not be deemed to be in default if CONTRACTOR commences such cure within said three (3) day period and thereafter diligently prosecutes such cure to completion.

14.2.4. The assignment and/or transfer of this Agreement or execution or attachment thereon by CONTRACTOR or any other party in a manner not expressly permitted hereunder.

14.2.5. The making by CONTRACTOR of any general assignment or general arrangement for the benefit of creditors, or the filing by or against CONTRACTOR of a petition to have CONTRACTOR adjudged a bankruptcy, or a petition for reorganization or arrangement under any law relating to bankruptcy (unless, in the case of a petition filed against CONTRACTOR, the same is dismissed within sixty (60) days); or the appointment of a trustee or a receiver to take possession of substantially all of CONTRACTOR's assets, or for CONTRACTOR's interest in this Agreement, where possession is not restored to CONTRACTOR within thirty (30) days; for attachment, execution or other judicial seizure of substantially all of CONTRACTOR's assets, or for CONTRACTOR's interest in this Agreement, where such seizure is not discharged within thirty (30) days.

14.3 **Remedies in Default.** In case of default by CONTRACTOR, CITY shall notify CONTRACTOR, in writing, of such abandonment, delay, refusal, failure, neglect, or default and direct him to comply with all provisions of the Agreement. A copy of such written notice shall be mailed to the Surety on the Performance Bond. If the abandonment, delay, refusal, failure, neglect or default is not cured within three (3) days of when notice was sent by CITY, CITY may declare a default of the Agreement and notify CONTRACTOR of such declaration of default and terminate the Agreement.



**ARTICLE 15**  
**BANKRUPTCY**

15.1 It is agreed that if CONTRACTOR is adjudged bankrupt, either voluntarily or involuntarily, then this Agreement shall terminate effective on the date and at the time the bankruptcy petition is filed.

**ARTICLE 16**  
**DISPUTE RESOLUTION**

16.1 **Operations During Dispute.**

16.1.1 In the event that a dispute, if any, arises between CITY and CONTRACTOR relating to this Agreement, performance or compensation hereunder, CONTRACTOR shall continue to render service in full compliance with all terms and conditions of this Agreement as interpreted by CITY regardless of such dispute.

16.1.2 CONTRACTOR expressly recognizes the paramount right and duty of CITY to provide adequate maintenance of CITY's Property, and further agrees, in consideration for the execution of this Agreement, that in the event of such a dispute, if any, it will not seek injunctive relief in any court, but will negotiate with CITY for an adjustment on the matter or matters in dispute and, upon failure of said negotiations to resolve the dispute, may present the matter to a court of competent jurisdiction in an appropriate suit therefore instituted by it or by CITY.

16.1.3 Notwithstanding the other provisions in this Section, CITY reserves the right to terminate the Agreement at any time, whenever the service provided by CONTRACTOR fails to meet reasonable standards of the trade after CITY gives written notice to the CONTRACTOR of the deficiencies as set forth in the written notice within fourteen calendar (14) days of the receipt by CONTRACTOR of such notice from CITY.

**ARTICLE 17**  
**MISCELLANEOUS**

17.1 **Ownership of Documents.** Reports, surveys, studies, and other data provided in connection with this Agreement are and shall remain the property of CITY, whether or not the project for which they are made is completed.

17.2 **Legal Representation.** It is acknowledged that each party to this agreement had the opportunity to be represented by counsel in the preparation of this Agreement, and accordingly, the rule that a contract shall be interpreted strictly against the party preparing same shall not apply herein due to the joint contributions of both parties.

17.3 **Records.** CONTRACTOR shall keep such records and accounts and require any and all subcontractors to keep records and accounts as may be necessary in order to record complete and correct entries as to personnel hours charged to this engagement, and any expenses for which CONTRACTOR expects to be reimbursed. Such books and records will be available at all



reasonable times for examination and audit by CITY and shall be kept for a period of ten (10) years after the completion of all work to be performed pursuant to this Agreement. Incomplete or incorrect entries in such books and records will be grounds for disallowance by CITY of any fees or expenses based upon such entries.

17.4 **Assignments; Amendments.** This Agreement, and any interests herein, shall not be assigned, transferred or otherwise encumbered, under any circumstances, by CONTRACTOR without the prior written consent of CITY. For purposes of this Agreement, any change of ownership of CONTRACTOR shall constitute an assignment which requires CITY approval. However, this Agreement shall run to the benefit of CITY and its successors and assigns.

It is further agreed that no modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

17.5 **No Contingent Fees.** CONTRACTOR warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for CONTRACTOR to solicit or secure this Agreement, and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for CONTRACTOR any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of this provision, CITY shall have the right to terminate the Agreement without liability at its discretion, to deduct from the contract price, or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

17.6 **Notice.** Whenever any party desires to give notice unto any other party, it must be given by written notice, sent by certified United States mail, with return receipt requested, addressed to the party for whom it is intended and the remaining party, at the places last specified, and the places for giving of notice shall remain such until they shall have been changed by written notice in compliance with the provisions of this section. For the present, CONTRACTOR and CITY designate the following as the respective places for giving of notice:

CITY                      Ambreen Bhatti, City Manager  
City of North Lauderdale  
701 SW 71 Avenue  
North Lauderdale, Florida 33068  
Telephone No.                      (954) 722-0900

Copy To:                      Samuel S. Goren, City Attorney  
Goren, Cherof, Doody & Ezrol, P.A.  
3099 East Commercial Boulevard, Suite 200  
Fort Lauderdale, Florida 33308  
Telephone No.                      (954) 771-4900  
Facsimile No.                      (954) 771-4923



Contractor [VENDOR NAME].  
[VENDOR ADDRESS]  
[VENDOR CITY, STATE, & ZIP CODE]  
Telephone No. \_\_\_\_\_  
Facsimile No. \_\_\_\_\_

17.7 **Binding Authority.** Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

17.8 **Headings.** Headings herein are for the convenience of reference only and shall not be considered in any interpretation of this Agreement.

17.9 **Exhibits.** Each Exhibit referred to in this Agreement forms an essential part of this Agreement. The exhibits if not physically attached should be treated as part of this Agreement and are incorporated herein by reference.

17.10 **Severability.** If any provision of this Agreement or application thereof to any person or situation shall to any extent, be held invalid or unenforceable, the remainder of this Agreement, and the application of such provisions to persons or situations other than those as to which it shall have been held invalid or unenforceable, shall not be affected thereby, and shall continue in full force and effect, and be enforced to the fullest extent permitted by law.

17.11 **Extent of Agreement.** This Agreement represents the entire and integrated agreement between CITY and CONTRACTOR and supersedes all prior negotiations, representations or agreements, either written or oral.

17.12 **Waiver.** Failure of CITY to insist upon strict performance of any provision or condition of this Agreement, or to execute any right therein contained, shall not be constructed as a waiver or relinquishment for the future of any such provision, condition, or right, but the same shall remain in full force and effect.

17.13 **Disputes.** Any claim, objection, or dispute arising out of the terms of this Agreement shall be litigated in the Seventeenth Judicial Circuit Court in and for Broward County. Each Party waives its right to trial by jury in any dispute during this agreement.

17.14 **Attorney's Fees.** In the event that either party brings suit for enforcement of this Agreement, each party shall bear its own attorney's fees and court costs, except as otherwise provided under the indemnification provisions set forth herein above.

17.15 **Protection of City Property.** At all times during the performance of this Agreement, CONTRACTOR shall protect CITY's property from all damage whatsoever on account of the work being carried on under this Agreement.



17.16 **Public Records.** In order to comply with Florida's public records laws, the CONTRACTOR shall:

- A. Keep and maintain public records that ordinarily and necessarily would be required by the CITY in order to perform the services under this Contract.
- B. Provide the public with access to public records on the same terms and conditions that the CITY would provide the records and at a cost that does not exceed the cost provided in Chapter 119 Florida Statutes or as otherwise provided by law.
- C. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.
- D. Meet all requirements for retaining public records and transfer, at no cost, to the CITY all public records in possession of CONTRACTOR upon termination of this Contract and destroy any duplicate public records that are confidential and/or exempt from public records disclosure requirements. All records stored electronically must be provided to the CITY in a format that is compatible with the information technology systems of the CITY.

17.17 **Conflict.** In the event of a conflict between this Agreement and the other Contract Documents, the terms of this Agreement shall prevail.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT PATRICIA VANCHERI, CITY CLERK, THE CUSTODIAN OF PUBLIC RECORDS (954) 724-7056, [pvancheri@nlauderdale.org](mailto:pvancheri@nlauderdale.org), 701 SW 71 Avenue, North Lauderdale, Florida 33068.



*City of North Lauderdale*

*Purchasing Office*

IN WITNESS WHEREOF, the parties to these presents have executed this contract in three (3) counterparts, each of which shall be deemed an original, in the Year and Day first mentioned above.

ATTEST:

\_\_\_\_\_  
Patricia Vancheri, CMC

\_\_\_\_\_  
Ambreen Bhatti, City Manager

(SEAL)

\_\_\_\_\_  
WITNESS

\_\_\_\_\_  
WITNESS

\_\_\_\_\_  
CONTRACTOR

ADDRESS:  
\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

PHONE: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
Samuel Goren, City Attorney