



**City of Pompano Beach, Purchasing Division  
1190 N.E. 3rd Avenue, Building C  
Pompano Beach, Florida, 33060**

## **BID T-04-21 – LOT MOWING AND RELATED SERVICES FOR THE CODE COMPLIANCE UNIT**

December 9, 2020

The City of Pompano Beach and the Pompano Beach Community Redevelopment Association (CRA) is currently soliciting bids to establish agreements for lot mowing and related services as needed for the Code Compliance Unit. Sealed bids will be received until **2:00 p.m. (local), January 12, 2021**. Bids must be submitted electronically through the eBid System on or before the due date/time stated above. A list of bidders will be read aloud in a virtual public forum. To attend the virtual public meeting, go to <https://pompanobeachfl.gov/pages/meetings> to find the link. Bid openings are open to the public. All bidders and/or their representatives are invited to be present. Any bid received after the due date and time specified, will not be considered. Any uncertainty regarding the time a bid is received will be resolved against the Bidder.

Bidders must be registered on the City's eBid System in order to view the bid documents and respond to this solicitation. The complete solicitation document can be downloaded for free from the eBid System as a pdf at: <https://pompanobeachfl.ionwave.net/CurrentSourcingEvents.aspx>. The City is not responsible for the accuracy or completeness of any documentation the Bidder receives from any source other than from the eBid System. Bidder is solely responsible for downloading all required documents.

Once opened, the bids will be tabulated, evaluated, and presented to the appropriate City officials for contract award.

There are two (2) sections in this bid: Specifications/Special Conditions, General Conditions, and Proposal. Please read all sections thoroughly. Complete the bid in accordance with the instructions. Failure to do so may result in the rejection of your bid.

If you need any additional information regarding this bid, please contact Tammy Thompkins, Purchasing Agent, at (954) 786-4098.

## SECTION I - SPECIFICATIONS/SPECIAL CONDITIONS

### A. Intent

The intent of this bid solicitation is to establish multiple contracts for the completion of Nuisance Abatement work, including but not limited to lot mowing, clearing and debris removal as required. These services shall be performed at specific vacant, abandoned, or occupied properties, as designated by the Code Compliance Unit in order to correct violations of Chapter 96 of the City Code of Ordinances.

Chapter 96 states that if it is determined by the City that a public nuisance exists on private property, and the property owner does not remove the condition(s) causing the nuisance, the City shall have the condition(s) corrected at the owner's expense.

Successful bidder(s) must be able to perform all of the following within the time limit specified:

1. Mowing, edging and trimming of all ground cover (grass, weeds, etc.) on the properties assigned.
2. Removal from the lot of hard trash and refuse, including but not limited to garbage, household items, debris, rubbish, tires, appliances, commercial trash, and similar items. (No motor vehicles to be removed.) The contractor shall place all debris (vegetation, trash, landscape debris, tires and/or other bulk trash) at the curb in accordance with the Solid Waste Department garbage and bulk trash collection rules. Debris must be properly separated into piles of Vegetation, Tires, and other bulk trash. Cubic yardage will be verified by the Code Compliance Unit. It is the contractor's responsibility to remove all debris that is less than two (2) cubic yards at no cost to the City.
3. Removal of dense growth (plant material having stem diameters exceeding one-half inch (1/2") and other vegetation at the direction of the Code Compliance Unit. This may include trees or tree limbs and other light pruning up to a maximum height of ten feet (10'). Horticultural debris may be chipped and dispersed on site unless otherwise directed by the Code Compliance Unit. Any tree trimming must be performed by a Broward County Licensed Tree Trimmer.
4. Removal of standing and/or fallen trees, living or dead, at the direction of the Code Compliance Unit. A tree, for the purposes of this contract and subsequent work is a woody perennial plant having a single main trunk with a caliper of two inches (2") measured four and a half feet (4 1/2') above grade and a height exceeding seven feet (7').

5. Leveling and/or spreading of pile(s) of fill material including but not limited to dirt, sand, gravel, and similar materials at the direction of the Code Compliance Unit.

B. Contract Period

The initial contract period shall be one year, commencing upon award by the appropriate City officials and execution of the service contract.

The resulting contract will be for a term of five (5) years or less beginning with the date the resulting contract is fully executed by both parties. City may, at its sole discretion, issue a contract for a shorter term. City also reserves the right to add a five (5) year renewal to the contract.

In the event service is scheduled to end because of the expiration of this contract, the Contractor shall continue to deliver/service upon the request of the City. The extension period shall not extend for more than ninety (90) days beyond the expiration date of the existing contract. The Contractor shall be compensated for the product/service at the rate in effect when this extension clause is invoked by the City.

C. Quantities

No warranty or guarantee is given or implied as to the total value of work to be assigned. Work will be ordered as needed.

D. Rotating List / Eligibility

The intent of this solicitation is to establish a list of multiple qualified vendors to be assigned work on a rotating basis.

In order to be eligible to be included on the rotating list a firm must:

1. submit a complete response to this solicitation in the City's eBid system by the deadline stated in this document.
2. have a current business tax receipt as required to perform work in the City of Pompano Beach.
3. have a current working automatic fax and/or email to receive work orders,
4. provide the required proof of insurance
5. complete the work as assigned with fewer than three call-backs.

Insurance must be continuously in force during the contract term; replacement certificates must be provided to the City before the expiration date of the current certificate or your firm will be removed from the rotating list.

A firm will be removed from the rotating list for failure to complete the work as assigned, requiring a call back to correct deficiencies, three or more times. Firms previously eliminated from this program due to negligent, or poor performance will not be considered.

E. Proposal for Work

When work is deemed to be necessary on a property, the Code Compliance Unit will prepare a "Proposal for Work" for that property. This proposal shall be based on the required work measured and valued according to the measurements and pricing provided for on the "Proposal Acceptance Form".

Once created, the Code Compliance Unit will forward the Proposal for Work to the next eligible vendor on the rotating list. That vendor will have twenty-four (24) hours to contact and schedule an initial inspection with the Code Compliance Unit. During the initial inspection the Code Compliance Unit will detail all work being required on the property upon acceptance of the proposal. At the conclusion of this inspection the vendor will have the opportunity to either accept or reject the required work at the proposed price.

Should the next eligible vendor reject a proposal made by the Code Compliance Unit, or fail to schedule an initial inspection within the allotted time, that vendor will be moved to the end of the rotation, and the Proposal for Work shall be issued to the next eligible vendor. Should the same vendor refuse three (3) or more proposals, that vendor shall be removed from the rotating list.

In an instance where every eligible vendor refuses the same Proposal for Work, the Code Compliance Unit shall retract, reevaluate and reissue a new proposal to the next eligible vendor.

Code Compliance reserves the right to group lots in close geographical proximity as one work order.

F. Completion

After acceptance of a Proposal for Work, the Code Compliance Unit will schedule a start date and time with the accepting vendor. All work orders are to be completed as soon after the start date as is reasonable possible. At no time and for no reason shall a work order be outstanding for greater than seven (7) calendar days. The Code Compliance Unit shall be contacted immediately upon completion of all work for a final inspection.

G. Insurance

CONTRACTOR shall not commence services under the terms of this Agreement until certification or proof of insurance detailing terms and provisions has been received and approved in writing by the CITY's Risk Manager. If you are responding to a bid and have questions regarding the insurance requirements hereunder, please contact the City's Purchasing Department at (954) 786-4098. If the contract has already been awarded, please direct any queries and proof of the requisite insurance coverage to City staff responsible for oversight of the subject project/contract.

CONTRACTOR is responsible to deliver to the CITY for timely review and written approval/disapproval Certificates of Insurance which evidence that all insurance required hereunder is in full force and effect and which name on a primary basis, the CITY as an additional insured on all such coverage.

Throughout the term of this Agreement, CITY, by and through its Risk Manager, reserve the right to review, modify, reject or accept any insurance policies required by this Agreement, including limits, coverages or endorsements. CITY reserves the right, but not the obligation, to review and reject any insurer providing coverage because of poor financial condition or failure to operate legally.

Failure to maintain the required insurance shall be considered an event of default. The requirements herein, as well as CITY's review or acceptance of insurance maintained by CONTRACTOR, are not intended to and shall not in any way limit or qualify the liabilities and obligations assumed by CONTRACTOR under this Agreement.

Throughout the term of this Agreement, CONTRACTOR and all subcontractors or other agents hereunder, shall, at their sole expense, maintain in full force and effect, the following insurance coverages and limits described herein, including endorsements.

- A. Worker's Compensation Insurance covering all employees and providing benefits as required by Florida Statute, Chapter 440, regardless of the size of the company (number of employees) or the state in which the work is to be performed or of the state in which Contractor is obligated to pay compensation to employees engaged in the performance of the work. Contractor further agrees to be responsible for employment, control and conduct of its employees and for any injury sustained by such employees in the course of their employment.
  
- B. Liability Insurance
  - (1) Naming the City of Pompano Beach and Pompano Beach Community Redevelopment (CRA) as an additional insured as City's interests may appear, on General Liability Insurance only, relative to

claims which arise from Contractor's negligent acts or omissions in connection with Contractor's performance under this Agreement.

(2) Such Liability insurance shall include the following checked types of insurance and indicated minimum policy limits.

A. Financial Responsibility

The City reserves the right to request additional information to ensure the bidder is financially solvent and has sufficient financial resources to perform the contract and shall provide proof thereof of its financial solvency. The City may as at its sole discretion ask for additional proof of financial solvency, including additional documents post bid opening, and prior to evaluation that demonstrates the Bidder's ability to perform the resulting contract and provide the required materials and/or services.

B. Questions And Communication

All questions regarding the solicitation are to be submitted using the Questions feature in the eBid System. Questions must be received at least seven (7) calendar days before the scheduled solicitation opening. Oral and other interpretations or clarifications will be without legal effect. Addenda will be posted to Bid solicitation in the eBid System, and it is the Bidder's responsibility to obtain all addenda before submitting a response to the solicitation.

**Type of Insurance**

**Limits of Liability**

**GENERAL LIABILITY:**

Minimum \$1,000,000 Per Occurrence and \$2,000,000 Per Aggregate

\* Policy to be written on a claims incurred basis

XX comprehensive form  
 — **premises - operations**  
 — **explosion & collapse**

bodily injury and property damage  
**bodily injury and property damage**

— hazard  
 — underground hazard

XX products/completed operations hazard  
 XX contractual insurance  
 XX broad form property damage  
 XX independent contractors  
 XX personal injury

bodily injury and property damage combined  
 bodily injury and property damage combined  
 bodily injury and property damage combined  
 personal injury

— sexual abuse/molestation

Minimum \$1,000,000 Per Occurrence and Aggregate

— liquor legal liability

Minimum \$1,000,000 Per Occurrence and Aggregate

**AUTOMOBILE LIABILITY:**

Minimum \$1,000,000 Per Occurrence and Aggregate.  
 Bodily injury (each person) bodily injury (each accident),  
 Property damage, bodily injury and property damage

combined.

- XX comprehensive form
- XX owned
- XX hired
- XX non-owned

**REAL & PERSONAL PROPERTY**

\_\_\_ comprehensive form                      Agent must show proof they have this coverage.

**EXCESS LIABILITY**

Per Occurrence    Aggregate

___ other than umbrella	bodily injury and property damage combined	\$1,000,000	\$1,000,000
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**PROFESSIONAL LIABILITY**

Per Occurrence    Aggregate

___ * Policy to be written on a claims made basis		\$1,000,000	\$1,000,000
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(3) If Professional Liability insurance is required, Contractor agrees the indemnification and hold harmless provisions set forth in the Agreement shall survive the termination or expiration of the Agreement for a period of four (4) years unless terminated sooner by the applicable statute of limitations.

**CYBER LIABILITY**

Per Occurrence    Aggregate

___ * Policy to be written on a claims made basis		\$1,000,000	\$1,000,000
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- \_\_\_ Network Security / Privacy Liability
- \_\_\_ Breach Response / Notification Sublimit (minimum limit of 50% of policy aggregate)
- \_\_\_ Technology Products E&O - \$1,000,000 (only applicable for vendors supplying technology related services and or products)
- \_\_\_ Coverage shall be maintained in effect during the period of the Agreement and for not less than four (4) years after termination/ completion of the Agreement.

C. Employer's Liability. If required by law, CONTRACTOR and all subcontractors shall, for the benefit of their employees, provide, carry, maintain and pay for Employer's Liability Insurance in the minimum amount of One Hundred Thousand Dollars (\$100,000.00) per employee, Five Hundred Thousand Dollars (\$500,000) per aggregate.

D. Policies: Whenever, under the provisions of this Agreement, insurance is required of the CONTRACTOR, the CONTRACTOR shall promptly provide the following:

- (1) Certificates of Insurance evidencing the required coverage;
- (2) Names and addresses of companies providing coverage;
- (3) Effective and expiration dates of policies; and

(4) A provision in all policies affording CITY thirty (30) days written notice by a carrier of any cancellation or material change in any policy.

E. Insurance Cancellation or Modification. Should any of the required insurance policies be canceled before the expiration date, or modified or substantially modified, the issuing company shall provide thirty (30) days written notice to the CITY/CRA.

H. Cancellation of Project

The City reserves the right to cancel any project at any time, if the contractor has not initiated any performance of that project. Contractor must call the Code Compliance Inspector at (954) 786-4361 at least one working day before commencing any work.

I. Contact

The contractor is to contact the Code Compliance Unit at the start of a job, and immediately after its completion. Code Compliance will inspect the lot within three (3) working days after notification from the contractor that the job has been completed. The Code Compliance Inspector will notify the contractor if the work is not acceptable; in the event the Inspector deems the work has not been satisfactorily completed, the contractor shall perform the necessary tasks to satisfactorily complete the project within 48 hours of notice from the Inspector (this is considered a call back). The contractor is to be available by telephone between the hours of 7:00 am and 6:00 p.m., Monday through Friday.

J. Detail Specifications

1. General

- a. The contractor shall protect all structures, surfaces and remaining plant material from harm or injury during operations on site.



b. The contractor is responsible for the condition of the site from the issuance of the work order up until the final inspection. It is in the contractor's best interest to complete the work in the shortest possible amount of time. Maximum time to complete all work is seven (7) days from notification by the City to start work.

## 2. Work Procedures

- a. All work orders issued will include the removal of all litter and hard trash, and the City expects that this will be the first task undertaken on a Nuisance Abatement site. If any litter, debris or other hard trash is uncovered during other clearing operations it shall also be removed. The property must be free of litter, debris and all other hard trash in order to pass final inspection. Contractor will remove all trash and debris of two cubic yards or less at no additional charge when the work order includes mowing.
- b. Unless specifically exempted by the Code Compliance Unit all Nuisance Abatement sites are to be mowed and edged. All ground cover is to be mechanically cut to a height of five inches (5"). All equipment used for this purpose is to be clean and sharp. All cuttings are to be ground fine and evenly distributed across the property. All cuttings that through mowing procedures end up littering streets and roadways or other hardscape surfaces are to be blown or swept back onto the pervious area of the property.
- c. The removal of dense growth will be at the direction of the Code Compliance Unit. This type of work can include the removal of saplings and stands of brush, as well as fence clearing, light pruning, removing vines from trees, and other related activities. Dense undergrowth will be cut flush with the grade and poisoned with an appropriate herbicide to eliminate regrowth. All horticultural debris, with the exception of seed-bearing Florida Holly (*Schinus terebinthifolius*) can be chipped and dispersed evenly over the site. If off-site disposal of horticultural debris is required by the Code Compliance Unit, the contractor will be informed of such at the time the work is assigned. The Code Compliance Unit reserves the right to require off-site disposal, such as in the case of a property containing an occupied structure.
- d. The removal of trees will be at the direction of the Code Compliance Unit. Trees will be cut flush with grade and poisoned with an appropriate herbicide to eliminate regrowth. All horticultural debris (with the exception of seed-bearing Florida Holly) may be chipped and evenly distributed over the site. All due care shall be taken during tree removal operations to prevent damage or injury to

neighboring structures, properties, utility structures, the members of the work crew, their equipment and to all members of the general public.

- e. The leveling or spreading of piles of fill material will be at the direction of the Code Compliance Unit. All materials are to be evenly distributed over the site.
- f. The contractor, during all operations on any site, shall take all due care not to damage utilities, the utility's supporting structures, other structures or obstructions or any remaining trees or plant material. The contractor shall be held responsible for any needed repairs or replacements.
- g. The contractor shall place all debris (vegetation, trash, landscape debris, tires and/or other bulk trash) at the curb in accordance with the Solid Waste Department garbage and bulk trash collection rules. The Code Compliance Unit shall notify the City's Solid Waste Department of the location of the property where debris is to be removed upon issuance of a start date. Debris must be properly separated into piles of Vegetation, Tires, and other bulk trash. Cubic yardage will be verified by the Code Compliance Unit.
- h. The contractor must take before and after pictures (depicting the condition of the property, address of the property, case number, and contractor name) of the job site. The pictures must have a date and time stamp on them. The contractor shall download the pictures into a word document photo template (to be provided to the contractor by the Code Compliance Unit.) The contractor shall submit the pictures to the Code Compliance Inspector in the form of a hard copy.

### 3. Miscellaneous Criteria

- a. Per the City's Noise Ordinance, all work shall be performed only between the hours of 8:00 a.m. and 9:00 p.m.
- b. Work will be assigned in writing, either by email or fax; bidders must have a working automatic fax and/or email.
- c. All herbicides and all other compounds and chemicals that the contractor intends to utilize during the performance of nuisance abatement work shall be stored and used from approved containers. All such material shall be used in accordance with manufacturer's label, all applicable local, state and federal laws. A copy of the material label and a copy of the MSDS information for each chemical

to be used on a site must be submitted to the Code Compliance Unit prior to commencement of any nuisance abatement work.

- d. All equipment required to perform all work is to be supplied by the contractor. The equipment is to be designed for or suited to lot clearing tasks. All equipment is to be kept clean, sharp and in good working order. Upon specific request by the Code Compliance Unit, the contractor shall supply a current list of equipment used on City assigned work. This list might be required to include the item, model, manufacturer, year of manufacture and the serial number. The Code Compliance Unit shall have the right to reject the use of any specific piece of contractor supplied equipment for any reason and at any time.
- e. All tree trimming work must be performed by a company with a valid Broward County Tree Trimmer License. Either the Contractor (awarded bidder), or his subcontractor, must have a current License. The Contractor will be required to provide a photocopy of the applicable license at the time he meets at the job site with the Code Compliance Inspector to review the initial Proposal for Work.
- f. Mobilization Fee -- Contractor, after receiving a work order, is to contact the Code Compliance Inspector who issued the work order for final authorization to commence work. If, after receiving final authorization from the Code Compliance Inspector, the contractor arrives at the job location and determines that another party has already performed the work specified by the City, the contractor is to immediately inform the Code Compliance Inspector of the situation by telephone. If the contractor goes to the job location, and incurs costs (wages, fuel, etc.), but does not perform the specified work, the contractor may invoice a mobilization fee not to exceed \$50.00 to cover such costs. Such mobilization fee will be included in the City's assessment notice to the property owner.

K. Proposal Pricing

Prices listed on the Proposal Acceptance Form will be firm for the entire contract period. Agreement to participate in this program requires agreement to all service pricing listed.

Square footage to be cleared shall be based on the lot size, as provided by the Broward County Property Appraiser's records. Areas occupied by structures and/or other areas which cannot or will not be cleared as part of the abatement will be subtracted from the square footage.

Tree trimming shall be based on the square footage of a tree's canopy. Vendor will be required to clear all tree overgrowth and underbrush up to 10 feet in height.

Tree removal shall be based on the linear foot price multiplied by the circumference measured at four and a half feet (4 1/2') above grade.

Cubic yardage of litter and hard trash to be removed shall be based on an estimate made by the Code Compliance Unit during initial violation citation. There shall be a room for error of  $\pm 2$  cubic yards on all cubic yardage estimates made by the Code Compliance Unit. Cubic yardage on final invoices will only be adjusted if the cubic yardage should fall outside of these parameters. Adjustments shall be based on measurements taken and/or approved by the Code Compliance Unit upon final inspection.

It is the contractor's responsibility to remove all debris that is less than two (2) cubic yards at no cost to the City.

L. Special Bid Requirements

The Code Compliance Unit shall "bid out" any property requiring a service which is not specifically accounted for on the Proposal Acceptance Form. All eligible vendors will be forwarded the specifications of the work being requested to be bid on. Vendors will have forty-eight (48) hours to respond to a Special Bid Request to be eligible for award. Vendors will only bid on the work specifically identified in the Special Bid Request.

The Code Compliance Unit will accept the lowest bidder and forward to that vendor the Request for Work, which will include the remaining work required, for acceptance. Should the lowest bidder refuse the Request for Work, all requested work will be forwarded to the next lowest bidder on the Special Bid Request. Special Bid Requests shall not affect the order of the rotating list.

In the event that a proposal which is received on a special bid request should exceed five hundred dollars (\$500.00), the Code Compliance Unit will first receive authorization from the City Manager, or his designee, prior to issuing an approval and start date.

M. Invoicing

Final invoices are to be submitted to the Code Compliance office. A separate invoice must be submitted for each property. The invoice must include the P.O. number, property address, date service performed, specific services performed, quantities, unit prices, and total cost. Final invoices shall include all agreed upon line item adjustments from the original Proposal for Work. Invoices will be paid only after approval by the Code Compliance Unit.

N. Independent Contractor

The Contractor shall be deemed an independent Contractor for all purposes, and the employees of the Contractor or any of its contractors, subcontractors and the employees thereof, shall not in any manner be deemed to be employees of City. As such, the employees of the Contractor, its Contractors or subcontractors, shall not be subject to any withholding for tax, social security or other purposes by City, nor shall such Contractor, subcontractor or employee be entitled to sick leave, pension benefits, vacation, medical benefits, life insurance, workers or unemployment compensation or the like from City.

O. Questions and Communication

All questions regarding the solicitation are to be submitted using the Questions feature in the eBid System. Questions must be received at least seven (7) calendar days before the scheduled solicitation opening. Oral and other interpretations or clarifications will be without legal effect. Addenda will be posted to Bid solicitation in the eBid System, and it is the Bidder's responsibility to obtain all addenda before submitting a response to the solicitation.

P. Agreement

By submitting a bid, the Bidder agrees if awarded the contract from this bid, to sign the City's service contract form, attached to this bid as Exhibit 1. City reserves the right to make minor changes to the attached sample service contract.

## SECTION II - PROPOSAL

Lot mowing, edging, and collect litter/trash/debris:	\$ <u>0.015</u> /s.f.
Hedge cutting and trimming:	\$ <u>0.30</u> /c.f.
Removal of dense overgrowth:	\$ <u>0.15</u> /s.f.
Tree trimming up to 10 feet:	\$ <u>0.15</u> /s.f.
Palm tree trimming, trees between 10 and 25 feet:	\$ <u>25.00</u> /each
Palm tree trimming between 25 and 40 ft.:	\$ <u>60.00</u> /each
Tree removal, to be multiplied by circumference of the tree:	\$ <u>10.00</u> /l.f.
Stump grinding	\$ <u>150.00</u> /each
Debris pick up (over 2 cubic yards):	\$ <u>10.00</u> /c.y.
Leveling off of fill or similar material:	\$ <u>20.00</u> /c.y.

**REQUESTED INFORMATION BELOW IS ON THE ATTRIBUTES TAB FOR THE BID IN THE EBID SYSTEM. PROVIDE THIS INFORMATION ELECTRONICALLY.**

Conflict of Interest: For purposes of determining any possible conflict of interest, all bidders must disclose if any City of Pompano Beach employee is also an owner, corporate officer, or employee of their business. Indicate either "Yes" (a City employee is also associated with your business), or "No". If yes, give person(s) name(s) and position(s) with your business. (Note: If answer is "Yes", you must file a statement with the Supervisor of Elections, pursuant to Florida Statutes 112.313.)

No  Yes  Name & position \_\_\_\_\_

Drug-Free Workplace: Whenever two or more bids which are equal with respect to price, quality, and service are received for the procurement of commodities or contractual service, a bid received from a business that certifies that it has implemented a Drug-free Workplace Program shall be given preference in the award process. If bidder's company has a Drug-free Workplace Program as outlined in General Conditions, section 32., so certify below:

Yes, bidder has a drug-free workplace program  No

Business Tax Receipt (B.T.R.) #: .....

B.T.R. Issued By: .....  
(submit a copy of the B.T.R. with your bid)

Does your company have a Broward County Tree Trimmers License? yes no

Tree Trimmers License #: ..... Expires: .....  
(submit a copy of the License with your bid)

EXHIBIT 1.  
**SAMPLESERVICE CONTRACT**

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**THIS AGREEMENT** is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by the City of Pompano Beach (“City”) and \_\_\_\_\_, a \_\_\_\_\_ corporation **OR** limited liability company (“Contractor”).

**WHEREAS**, City requires services which Contractor is capable of providing under the terms and conditions described herein; and

**WHEREAS**, Contractor is able and prepared to provide such services to City under the terms and conditions set forth herein.

**NOW, THEREFORE**, in consideration of those mutual promises and the terms and conditions set forth hereafter, the parties agree as follows:

1. Contract Documents. This Agreement consists of the Scope of Work set forth in Exhibit “A” (the “Work”) and, the Insurance Requirements set forth in Exhibit “B”, both of which are attached hereto and made a part hereof; and all written change orders and modifications issued after execution of this Agreement.

2. Purpose. City contracts with Contractor to provide \_\_\_\_\_ services upon the terms and conditions set forth herein.

3. Scope of Work. Contractor shall provide the Scope Services set forth in Exhibit “A” and insurance set forth in Exhibit “B” both attached hereto and made a part hereof. If the Work requires Contractor to provide materials or complete the Work within a specified time frame or in accordance with certain plans and specifications, these terms and conditions shall be set forth and included in Exhibit A and Contractor agrees to provide said materials or Work in accordance therewith. Contractor and Contractor’s heirs, executors, administrators, successors and assigns, do hereby agree to full performance of all covenants contained herein on Contractor’s part.

4. Term of Contract. This Contract shall be for a term of five (5) year or less beginning with the date this Contract is fully executed by both parties.

5. Renewal. In the event City determines Contractor to be in full compliance with this Agreement and Contractor’s performance thereunder to be satisfactory, then City, with City Commission approval, shall have the option to renew this Agreement for an additional five (1) year term upon the written consent of both City and Contractor provided that City provides written notice of its intention to renew within sixty (60) days of the termination date of this Agreement. **OR** Remove the following language if not applicable: This Contract is not subject to renewal.

6. Maximum Obligation. City agrees to pay Contractor for providing the Work and insurance required hereunder. Both parties agree that unless otherwise directed by City in writing, Contractor shall continue to provide the Work for the term of this Agreement.

7. Price Formula, Payment and Invoices.  
A. Price Formula. City agrees to pay Contractor for performance of the Work set forth in this Agreement as follows:

Payment of a not to exceed Fixed Fee of \$ \_\_\_\_\_ per month **OR** a Not to Exceed Fixed Fee of  
\$ \_\_\_\_\_.



B. Payment. All payments by City shall be made after the Work has been verified and completed. Unless disputed by City as provided herein, upon City's receipt of a Proper Invoice as defined in §218.72, Florida Statutes, as amended, City shall forward Contractor payment for (i) construction services defined as all labor, services, and materials provided in connection with the construction, alteration, repair, demolition, reconstruction, or any other improvement to real property that require a license under Parts I and II of Chapter 489, Florida Statutes, within twenty-five (25) business days and (ii) forty five (45) days for all goods and services provided other than construction services.

City may temporarily remove for review any disputed amount, by line item, from an invoice and shall timely provide Contractor written notification of any such disputed charge. Contractor shall provide clarification and a satisfactory explanation to City, along with revised copies of all such documents if inaccuracies or errors are discovered, within ten (10) days of receipt of City's notice of the disputed amount

In the event City has a claim against Contractor for Work performed hereunder which has not been timely remedied in accordance with the provisions of this Article 7, City may withhold payment for the contested amount, in whole or in part, to protect itself from loss on account of defective Work, claims filed or reasonable evidence indicating probable filing of claims by other parties against Contractor, and/or Contractor's failure to make proper payments to subcontractors or vendors for material or labor. When the reason(s) for withholding payment are removed or resolved in a manner satisfactory to City, payment shall be made.

Resolution of improper payment requests or invoices shall be in accordance with §218.76, Florida Statutes, as amended.

C. Invoices. If required by City, Contractor shall submit invoices to City on a monthly basis or on \_\_\_\_\_.

8. Disputes. Any factual disputes between City and the Contractor in regard to this Agreement shall be directed to the City Manager for the City, and such decision shall be final.

9. Contract Administrators, Notices and Demands.

A. Contract Administrators. During the term of this Agreement, the City's Contract Administrator shall be \_\_\_\_\_ and the Contractor's Contract Administrator shall be \_\_\_\_\_ (or their authorized written designee) as further identified below.

B. Notices and Demands. A notice, demand, or other communication hereunder by either party to the other shall be effective if it is in writing and sent via email, facsimile, registered or certified mail, postage prepaid to the representatives named below or is addressed and delivered to such other authorized representative at the address as that party, from time to time may designate in writing and forward to the other as provided herein.

**If to Contractor:** \_\_\_\_\_

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

Office:  
Cell:  
Email:  
Fax:

**If to City:** \_\_\_\_\_, Contract Administrator

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

Office:  
Cell:  
Email:  
Fax:

**With a copy to:** Antonio Pucci, Contract Manager  
100 West Atlantic Blvd.  
Pompano Beach, FL 33060  
Phone: (954) 786-5574  
Email: antonio.pucci@copbfl.com

10. Ownership of Documents and Information. All information, data, reports, plans, procedures or other proprietary rights in all Work items, developed, prepared, assembled or compiled by Contractor as required for the Work hereunder, whether complete or unfinished, shall be owned by the City without restriction, reservation or limitation of their use and made available at any time and at no cost to City upon reasonable written request for its use and/or distribution as City deems appropriate provided City has compensated Contractor for said Work product. City's re-use of Contractor's Work product shall be at its sole discretion and risk if done without Contractor's written permission. Upon completion of all Work contemplated hereunder or termination of this Agreement, copies of all of the above data shall be promptly delivered to the City's Contract Administrator upon written request. The Contractor may not disclose, use, license or sell any work developed, created, or otherwise originated hereunder to any third party whatsoever. The rights and obligations created under this Article shall survive the termination or expiration of this Agreement.

To the extent it exists and is necessary to perform the Work hereunder, City shall provide any information, data and reports in its possession to Contractor free of charge.

11. Termination. City shall have the right to terminate this Agreement, in whole or in part, for convenience, cause, default or negligence on Contractor's part, upon ten (10) business days advance written notice to Contractor. Such Notice of Termination may include City's proposed Transition Plan and timeline for terminating the Work, requests for certain Work product documents and materials, and other provisions regarding winding down concerns and activities.

If there is any material breach or default in Contractor's performance of any covenant or obligation hereunder which has not been remedied within ten (10) business days after City's written Notice of Termination, City, in its sole discretion, may terminate this Agreement immediately and Contractor shall not be entitled to receive further payment for services rendered from the effective date of the Notice of Termination.

In the event of termination, City shall compensate Contractor for all authorized Work satisfactorily performed through the termination date under the payment terms set forth in Article 7 above and all Work product documents and materials shall be delivered to City within ten (10) business days from the Notice of Termination. If any Work hereunder is in progress but not completed as of the date of the termination, then upon City's written approval, this Agreement may be extended until said Work is completed and accepted by City.

12. Force Majeure. Neither party shall be obligated to perform any duty, requirement or obligation hereunder if such performance is prevented by fire, hurricane, earthquake, explosion, war, civil disorder, sabotage, accident, flood, acts of nature or by any reason of any other matter or condition beyond the control of either party which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall economic hardship or lack of funds be considered an event of Force Majeure. If either party is unable to perform or delayed in their performance of any obligations hereunder by reason of any event of Force Majeure, such inability or delay shall be excused at any time during which compliance therewith is prevented by such event and during such period thereafter as may be reasonably necessary for either party to correct the adverse effect of such event of Force Majeure.

Contractor must follow all Federal, State, County, and City safety guidelines, including all CDC safety guidelines in effect during the term of the program, including but not limited to social distancing, and personal protection equipment. Inability to conduct the program and follow any and all required safety guidelines from the COVID-19 crisis or other similar emergency, or failure to follow such requirements, including but not limited to, social distancing, shall constitute grounds for immediate cancellation of this Agreement unilaterally by the City upon written notice, which may be provided via electronic mail.

The parties, by mutual agreement, may reschedule the performance of the services to a later date pursuant to the terms of this agreement.

13. Insurance. Contractor shall maintain insurance in accordance with Exhibit "B" throughout the term of this Agreement.

14. Indemnification. Except as expressly provided herein, no liability shall attach to the City by reason of entering into this Agreement.

A. Contractor shall at all times indemnify, hold harmless and defend the City, its officers, officials, employees, volunteers and other authorized agents from and against any and all claims, demands, suit, damages, attorneys' fees, fines, losses, penalties, defense costs or liabilities suffered by the City arising directly or indirectly from any act, breach, omission, negligence, recklessness or misconduct of Contractor and/or any of its agents, officers, or employees hereunder, including any inaccuracy in or breach of any of the representations, warranties or covenants made by the Contractor, its agents, officers and/or employees, in the performance of services of this contract. Contractor agrees to investigate, handle, respond to, provide defense for, and defend any such claims at its sole expense and to bear all other costs and expenses related thereto, even if the claim(s) is/are groundless, false or fraudulent. To the extent considered necessary by City, any sums due Contractor hereunder may be retained by City until all of City's claims for indemnification hereunder have been settled or otherwise resolved, and any amount withheld shall not be subject to payment of interest by City.

B. Contractor acknowledges and agrees that City would not enter into this Agreement without Contractor's indemnification of the City. The parties agree that one percent (1%) of the total compensation paid to

Contractor hereunder shall constitute specific consideration to Contractor for the indemnification provided under this Article and these provisions shall survive expiration or early termination of this Agreement.

15. Sovereign Immunity. Nothing in this Agreement shall constitute a waiver by the City of its sovereign immunity limits as set forth in section 768.28, Florida Statutes. Nothing herein shall be construed as consent from either party to be sued by third parties.

16. Non-Assignability and Subcontracting.

A. Non-Assignability. This Agreement is not assignable and Contractor agrees it shall not assign or otherwise transfer any of its interests, rights or obligations hereunder, in whole or in part, to any other person or entity without City's prior written consent which must be sought in writing not less than fifteen (15) days prior to the date of any proposed assignment. Any attempt by Contractor to assign or transfer any of its rights or obligations hereunder without first obtaining City's written approval shall not be binding on City and, at City's sole discretion, may result in City's immediate termination of this Agreement whereby City shall be released of any of its obligations hereunder. In addition, this Agreement and the rights and obligations herein shall not be assignable or transferable by any process or proceeding in court, or by judgment, execution, proceedings in insolvency, bankruptcy or receivership. In the event of Contractor's insolvency or bankruptcy, City may, at its option, terminate and cancel this Agreement without any notice of any kind whatsoever, in which event all rights of Contractor hereunder shall immediately cease and terminate.

B. Subcontracting. Prior to subcontracting for Work to be performed hereunder, Contractor shall be required to obtain the written approval of the City's Contract Administrator. If the City's Contract Administrator, in his/her sole discretion, objects to the proposed subcontractor, Contractor shall be prohibited from allowing that subcontractor to provide any Work hereunder. Although Contractor may subcontract Work in accordance with this Article, Contractor remains responsible for any and all contractual obligations hereunder and shall also be responsible to ensure that none of its proposed subcontractors are listed on the *Convicted Vendors List* referenced in accordance with the provisions of Article 28 below.

17. Performance Under Law. The Contractor, in the performance of duties under the Agreement, agrees to comply with all applicable local, state and/or federal laws and ordinances including, but not limited to, standards of licensing, conduct of business and those relating to criminal activity, and the Americans with Disabilities Act (ADA).

18. Audit and Inspection Records. The Contractor shall permit the authorized representatives of the City to inspect and audit all data and records of the Contractor, if any, relating to performance under the contract until the expiration of three years after final payment under this contract.

The Contractor further agrees to include in all his subcontracts hereunder a provision to the effect that the subcontractor agrees that City or any of their duly authorized representatives shall, until the expiration of three years after final payment under the subcontractor, have access to and the right to examine any directly pertinent books, documents, papers and records of such subcontractor, involving transactions related to the subcontractor.

19. Adherence to Law. Both parties shall adhere to all applicable laws governing their relationship with their employees including, but not limited to, laws, rules, regulations and policies concerning worker's compensation, unemployment compensation and minimum wage requirements.

20. Independent Contractor. The Contractor shall be deemed an independent Contractor for all purposes, and the employees of the Contractor or any of its contractors, subcontractors and the employees thereof, shall not in any manner be deemed to be employees of City. As such, the employees of the Contractor, its Contractors or subcontractors, shall not be subject to any withholding for tax, social security or other purposes by City, nor shall such Contractor, subcontractor or employee be entitled to sick leave, pension benefits, vacation, medical benefits, life insurance, workers or unemployment compensation or the like from City.

21. Contractor cooperation. The Contractor recognizes that the performance of this contract is essential to the provision of vital public services and the accomplishment of the stated goals and mission of City. Therefore, the Contractor shall be responsible to maintain a cooperative and good faith attitude in all relations with City and shall

actively foster a public image of mutual benefit to both parties. The Contractor shall not make any statements or take any actions detrimental to this effort.

22. Public Records.

A. The City of Pompano Beach is a public agency subject to Chapter 119, Florida Statutes. The Contractor shall comply with Florida's Public Records Law, as amended. Specifically, the Contractor shall:

1. Keep and maintain public records required by the City in order to perform the service.

2. Upon request from the City's custodian of public records, provide the City with a copy of requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law.

3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the Contractor does not transfer the records to the City.

4. Upon completion of the contract, transfer, at no cost to the City, all public records in possession of the Contractor, or keep and maintain public records required by the City to perform the service. If the Contractor transfers all public records to the City upon completion of the contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records in a format that is compatible with the information technology systems of the City.

B. Failure of the Contractor to provide the above described public records to the City within a reasonable time may subject Contractor to penalties under 119.10, Florida Statutes, as amended.

## **PUBLIC RECORDS CUSTODIAN**

**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 THE CUSTODIAN OF PUBLIC RECORDS AT:**

### **CITY CLERK**

**100 W. Atlantic Blvd., Suite 253**

**Pompano Beach, Florida 33060**

**(954) 786-4611**

**[RecordsCustodian@copbfl.com](mailto:RecordsCustodian@copbfl.com)**

23. Governing Law. Agreement must be interpreted and construed in accordance with and governed by the laws of the State of Florida. The exclusive venue for any lawsuit arising from, related to, or in connection with this Agreement will be in the state courts of the Seventeenth Judicial Circuit in and for Broward County, Florida. If any claim arising from, related to, or in connection with this Agreement must be litigated in federal court, the exclusive

venue for any such lawsuit will be in the United States District Court or United States Bankruptcy Court for the Southern District of Florida. BY ENTERING INTO THIS AGREEMENT, THE PARTIES HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT.

24. Waiver and Modification.

A. No waiver made by either party with respect to performance, manner, time, or any obligation of either party or any condition hereunder shall be considered a waiver of that party's rights with respect to the particular obligation or condition beyond those expressly waived in writing or a waiver of any other rights of the party making the waiver or any other obligations of the other party.

B. No Waiver by Delay. The City shall have the right to institute such actions or proceedings as it may deem desirable for effectuating the purposes of this Agreement provided that any delay by City in asserting its rights hereunder shall not operate as a waiver of such rights or limit them in any way. The intent of this provision is that City shall not be constrained to exercise such remedy at a time when it may still hope to otherwise resolve the problems created by the default or risk nor shall any waiver made by City with respect to any specific default by Contractor be considered a waiver of City's rights with respect to that default or any other default by Contractor.

C. Either party may request changes to modify certain provisions of this Agreement; however, unless otherwise provided for herein, any such changes must be contained in a written amendment executed by both parties with the same formality of this Agreement.

25. No Contingent Fee. Contractor warrants that other than a bona fide employee working solely for Contractor, Contractor has not employed or retained any person or entity, or paid or agreed to pay any person or entity, any fee, commission, gift or any other consideration to solicit or secure this Agreement or contingent upon or resulting from the award or making of this Agreement. In the event of Contractor's breach or violation of this provision, City shall have the right to terminate this Agreement without liability and, at City's sole discretion, to deduct from the Price Formula set forth in Article 7 or otherwise recover the full amount of such fee, commission, gift or other consideration.

26. Attorneys' Fees and Costs. In the event of any litigation involving the provisions of this Agreement, both parties agree that the prevailing party in such litigation shall be entitled to recover from the non-prevailing party reasonable attorney and paraprofessional fees as well as all out-of-pocket costs and expenses incurred thereby by the prevailing party in such litigation through all appellate levels.

27. No Third Party Beneficiaries. Contractor and City agree that this Agreement and other agreements pertaining to Contractor's performance hereunder shall not create any obligation on Contractor or City's part to third parties. No person not a party to this Agreement shall be a third-party beneficiary or acquire any rights hereunder.

28. Public Entity Crimes Act. As of the full execution of this Agreement, Contractor certifies that in accordance with §287.133, Florida Statutes, it is not on the *Convicted Vendors List* maintained by the State of Florida, Department of General Services. If Contractor is subsequently listed on the *Convicted Vendors List* during the term of this Agreement, Contractor agrees it shall immediately provide City written notice of such designation in accordance with Article 9 above.

29. Entire Agreement. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained herein, and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

30. Headings. The headings or titles to Articles of this Agreement are not part of the Agreement and shall have no effect upon the construction or interpretation of any part of this Agreement.

31. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. A photocopy, email or facsimile copy of this Agreement and any signatory hereon shall be considered for all purposes as original.

32. Approvals. Whenever CITY approval(s) shall be required for any action under this Agreement, said approval(s) shall not be unreasonably withheld.

33. Absence of Conflicts of Interest. Both parties represent they presently have no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with their performance under this Agreement and that no person having any conflicting interest shall be employed or engaged by either party in their performance hereunder.

34. Binding Effect. The benefits and obligations imposed pursuant to this Agreement shall be binding and enforceable by and against the parties hereto.

35. Severability. Should any provision of this Agreement or the applications of such provisions be rendered or declared invalid by a court action or by reason of any existing or subsequently enacted legislation, the remaining parts of provisions of this Agreement shall remain in full force and effect.

**THE REMAINDER OF THE PAGE IS INTENTIONALLY LEFT BLANK**

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed the day and year hereinabove written.

Attest:

**CITY OF POMPANO BEACH**

\_\_\_\_\_  
ASCELETA HAMMOND, CITY CLERK

By: \_\_\_\_\_  
REX HARDIN, MAYOR

(SEAL)

By: \_\_\_\_\_  
GREGORY P. HARRISON, CITY MANAGER

APPROVED AS TO FORM:

\_\_\_\_\_  
MARK E. BERMAN, CITY ATTORNEY



**“CONTRACTOR”**

Witnesses:

\_\_\_\_\_

(Print or Type Name)

\_\_\_\_\_

(Print or Type Name)

\_\_\_\_\_  
(Print or type name of company here)

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

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

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

Business License No. \_\_\_\_\_

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

COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me, by means of  physical presence or  online notarization, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_ as \_\_\_\_\_ of \_\_\_\_\_

\_\_\_\_\_, a Florida corporation on behalf of the corporation **Or** a Florida limited liability company on behalf of the company. He/she is personally known to me or who has produced \_\_\_\_\_ (type of identification) as identification.

NOTARY’S SEAL:

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

\_\_\_\_\_  
(Name of Acknowledger Typed, Printed or Stamped)

\_\_\_\_\_  
Commission Number