UTILITIES COMMISSION
City of New Smyrna Beach

ITB 09-21 TRANSMISSION ROW VEGETATION MANAGEMENT

INVITATION TO BID

The Utilities Commission, City of New Smyrna Beach, Florida (COMMISSION) is seeking bids from qualified vendors to:

ANNUAL CONTRACT DEEP TRANSMISSION ROW VEGETATION MANAGEMENT
FOR UCNSB ELECTRICAL UTILITY MAINTENANCE PROGRAM

Notice is hereby given that sealed bids will be received at 200 Canal Street, New Smyrna Beach, FL 32168, until 2:30 P.M. on April 15, 2021 at which time they will be publicly opened in the 3rd floor DeBerry Room.

Submit Bids To: Caleb Fisher, CPPB Procurement Supervisor Utilities Commission, City of New Smyrna Beach (386) 424.3045 Voice (386) 424.2748 Fax CFISHER@UCNSB.ORG

Mailing Address/Walk In Delivery: 200 Canal St New Smyrna Beach, FL 32168

Bidders must indicate on the sealed envelope the following:

A. Invitation To Bid Number
B. Hour and Date of Opening
C. Name of Bidder
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Attachments: ROW Maps
Airport Line Aerial
Field St Line Aerial
Cassadaga Line Aerial Set A
Cassadaga Line Aerial Set B
# BID SCHEDULE

<table>
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<th>Date</th>
<th>Event</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>March 15, 2021</td>
<td>DISTRIBUTION OF THE INVITATION TO BID</td>
<td></td>
</tr>
<tr>
<td>March 25, 2021</td>
<td><strong>MANDATORY PRE-BID W/SITE INSPECTION</strong></td>
<td>8:00AM 3119 SR 44 NEW SMYRNA BEACH FL 32168&lt;br&gt;UCNSB WASTEWATER TREATMENT PLANT (BEHIND SUPER WAL-MART)&lt;br&gt;Vendor must provide off-road transportation for this site visit.&lt;br&gt;Side x Side or equivalent type vehicle</td>
</tr>
<tr>
<td>April 01, 2021</td>
<td>DEADLINE FOR FINAL QUESTIONS BY 2:30 P.M.</td>
<td>E-MAIL: <a href="mailto:CFisher@ucnsb.org">CFisher@ucnsb.org</a></td>
</tr>
<tr>
<td>April 08, 2021</td>
<td>ADDENDUM PUBLISHED BY 5:00 P.M.</td>
<td></td>
</tr>
<tr>
<td>April 15, 2021</td>
<td>BID RETURN DEADLINE BY 2:30 P.M.</td>
<td>LOCATION: UTILITIES COMMISSION RECEPTION&lt;br&gt;200 CANAL STREET&lt;br&gt;NEW SMYRNA BEACH, FL 32169</td>
</tr>
</tbody>
</table>
GENERAL TERMS AND CONDITIONS

1. **INSTRUCTIONS TO BIDDERS:** To ensure consideration of your bid, please follow these instructions. Bids not in compliance with conditions specified herein are subject to rejection.

2. **SEALED BIDS:** AN ORIGINAL BID AND 1 COPY plus a USB Flash Drive or a CD must be in the Finance Department by the date and time specified. The Bid Reply, Certification of Drug-Free Workplace Form, Public Entity Crimes Form, Non-Collusion Affidavit of Prime Bidder Form, Evaluation Factors, Questionnaire, and any addenda issued must be included. Proposals must be sealed and clearly labeled with the following information:
   a. Name and address of Bidder
   b. Bid number
   c. Date and time of Bid Opening

3. **PREPARATION OF BID:** All information shall be entered in ink, typewritten, or produced by computer. It is your responsibility to make certain that unit prices and extended prices are correct. The UCNSB will not be responsible for errors or omissions made by the bidder in determining bid price(s). The bid must contain a manual signature of an authorized representative of the agency bidding. In order to ensure uniformity, bids must be submitted on this Bid Form and the attached pages.

4. **OBLIGATION OF BIDDER:** By submitting a BID, the bidder covenants and agrees that they have satisfied themselves from their own investigation of the conditions to be met, that they fully understand their obligation and that they will not make any claim for or have right to cancellation or relief from the contract because of any misunderstanding or lack of information.

5. **BID EXAMINATION:** BIDDERS are expected to examine, when applicable, the drawings, specifications, delivery requirements, performance sites and all instructions to satisfy themselves of conditions affecting cost of performing this contract.

6. **FURNISHED ITEMS:** No material, labor or facilities will be furnished by the COMMISSION unless specifically stated.

7. **COLLUSION:** The BIDDER hereby attests that the prices in this offer have been arrived at independently without consultation, communication or agreement with any competitor for the purpose of restricting competition.

8. **PRICE WARRANTY:** The BIDDER warrants that the prices of the items set forth herein do not exceed the prices charged by the BIDDER under a contract with the State of Florida.
9. **COMMERCIAL WARRANTY:** The BIDDER agrees that the supplies and services furnished under this award shall be covered by the most favorable commercial warranties the BIDDER gives any customers for comparable quantities of such supplies or services and that the rights and remedies provided herein are in addition to and do not limit any rights afforded to the COMMISSION by any other provision of this award.

10. **INSPECTION AND ACCEPTANCE:** A duly authorized representative of the COMMISSION will accomplish inspection and acceptance of the supplies/services purchased herein at the designated delivery point.

11. **QUESTIONS REGARDING BID:** COMMISSION has made every effort to provide prospective vendors with the information needed to appropriately respond to this bid. COMMISSION realizes that some clarification, interpretation, or additional information may be required.

    Questions regarding any portion of this bid shall be directed, in writing, to:
    Utilities Commission, City of New Smyrna Beach
    Caleb Fisher, CPPB Procurement Supervisor
    CFisher@ucnsb.org

    All such requests must be received no later than 2:30 PM, Eastern Standard Time, April 1, 2021. Responses to all requests for more information will be included in any addenda and will be made available to all BIDDERS on April 8, 2021.

    Requests for additional information received after April 1, 2021 deadline will not receive a response. Responses will not be made orally.

    Any additional information pertaining to this Bid or to the services being sought hereunder obtained in a manner other than as described in the preceding paragraph should be regarded as unofficial. COMMISSION will not be bound in any way by information so obtained, or by a Bidder’s reliance thereon.

12. **COMMUNICATIONS:** Any communication between any potential vendor, service provider, bidder, lobbyist or consultant and any U.C. Commission Member, staff member, or consultant of the U.C. regarding this procurement is strictly prohibited from the date on which the solicitation advertisement appears on the U.C.’s website, Demandstar, or newspaper through the date of contract award. Also, from the date of the filing of any notice of protest of award through resolution for the parties involved in the protest or contract award, whichever is longer. The only exceptions to this are communications with the U.C.’s Material Manager or the U.C.’s designated point of contact. Any violation shall constitute grounds for immediate and permanent disqualification of the offending firm and possible debarment or suspension. At the U.C.’s General Manager/CEO and Director of Finance (CFO)’s sole discretion, it may also serve as grounds for the voiding of any Contract with the violator and/or to temporarily or permanently debarring the violator from future work with the U.C. This process will safeguard the integrity of the U.C.’s procurement and protest process and also provide an ethical, equitable, and transparent procurement process.
13. **NON-DISCLOSURE:** The Utilities Commission understands the vendors concerns regarding confidential and/or proprietary information for both participating parties. In response UCNSB is incorporating the following verbiage into **ITB 09-21 TRANSMISSION ROW VEGETATION MANAGEMENT.** Upon receipt by UCNSB, responses to solicitations become public records subject to the provisions of Florida’s state policy on public records, Section 119 Florida Statutes. If you believe that any portion of your response is exempt you should clearly identify the specific documents for which confidentiality is claimed and provide specific legal authority of the asserted exemption.

14. **INVOICES:** All invoices resulting from the award of this bid will be paid within 30 days of receipt of invoice or receipt of goods or acceptance of work performed.

15. **E-VERIFY:** By [registering as a vendor, submitting a response to this solicitation, entering into a Contract], you are obligated to comply with the provisions of Section 448.095, Fla. Stat., "Employment Eligibility." Further, by your [registration as a vendor/response to this solicitation/entering into a contract] you affirm and represent that you are registered with the E-Verify system are using same, and will continue to use same as required by Section 448.095, F.S. Compliance with Section 448.095 includes, but is not limited to, utilization of the E-Verify System to verify the work authorization status of all newly hired employees, and requiring all subcontractors to provide an affidavit attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. Failure to comply will lead to termination [as a vendor, disqualifying you for award of this solicitation, entering into a contract and/or, cancellation of an active contract], or if your subcontractor knowingly violates the statute, the subcontract must be terminated immediately. Any challenge to termination under this provision must be filed in the Circuit Court no later than 20 calendar days after the date of termination. If terminated for a violation of the statute by the Vendor/Contractor, the Vendor/Contractor may not be allowed to do business with The Utilities Commission or be awarded a solicitation or contract for a period of 1 year after the date of termination. All costs incurred to initiate and sustain the aforementioned programs shall be the responsibility of the Vendor/Contractor.

16. **BID FORM:** A Bid Form is provided, and a completed original and one duplicate copy shall be returned in a sealed envelope properly marked with Bid number and acknowledgment of receipt of addenda where applicable. It is incumbent upon each bidder to ensure that they have received all addenda before submitting their bid.

17. **BID OPENING:** Bids will be publicly opened, read aloud and recorded, on the date and time indicated, at the location specified in the request for bid. It is the BIDDER’s sole responsibility to assure his/her bid is delivered at the proper time and place of the bid. The COMMISSION will not be responsible for late deliveries or delayed mail. Bids delivered after the time specified shall not be considered; such bids shall remain unopened.

18. **QUOTING PRICES:** Carelessness in quoting prices or in preparation of bid otherwise will not relieve the BIDDER. BIDDERS are expected to examine specifications, delivery schedule, extensions, and all terms and conditions in the bid documents. Bids having erasures or corrections must be initialed in ink by the BIDDER. In the event of an extension error(s), the unit price will prevail.
19. **AMENDED OR WITHDRAWN BIDS:** Bids may be amended or withdrawn only by written notice prior to the bid opening. Amendments will only be accepted in the form of a new bid package. The bidder must pick up the original bid package and submit an amended sealed bid prior to the bids closing date and time. Amendments or withdrawals received after the bid opening will not be effective, and the original bid submitted will be considered.

20. **PUBLIC ENTITY CRIMES:** UNDER SECTION 287.133(2)(a), FLORIDA STATUTES, a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, Contractor, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for Category two for a period of 36 months from the date of being placed on the convicted vendor list. See attachment “A”.

21. **CONSIDERATION OF BIDS:** The COMMISSION reserves the right to award the contract to the Bidder(s) that the COMMISSION deems to offer the best overall bid. The COMMISSION is therefore not bound to accept a bid on the basis of lowest price. In addition, the COMMISSION at its sole discretion, reserves the right to cancel this Bid, to reject any and all bids, to waive any and all informalities and/or irregularities, to re-advertise with either the identical or revised specifications, or not award a contract at all if it is deemed to be in the best interest of the COMMISSION to do so. The COMMISSION also reserves the right to make multiple or split awards if it is deemed to be in the COMMISSION’S best interest. The COMMISSION shall not be responsible for any cost or expense incurred by the Bidder in preparing or submitting a bid or any cost prior to the execution of a contract agreement.

22. **TIE BID:** In the event of a tie bid where quality and service are equal; a preference is given to vendors submitting, with the proposal, a certification of a drug free workplace in accordance with Section 287.087 Florida Statutes. Where tie bids are between bidders, one of which is located in Volusia County and the other bidder is not, the recommended award shall be to the local bidder. Past Performance-Consideration will be given to a vendor based on previous history and performance on similar Utilities Commission projects or requirements. Delivery availability or completion period. Capacity to perform in terms of service availability, facilities, personnel or financial availability. Closeness to delivery point. If all conditions are equal, a flip of a coin, with two witnesses present, shall be the deciding factor.

23. **SUBMITTING BIDS:** Bids shall be addressed and mailed or delivered as specified on page one (1) to 200 Canal St. New Smyrna Beach, Florida 32168.

24. **NO BID:** In the event an Invitation to Bid is returned as a no bid, "NO BID" shall be properly marked on the outside of the envelope with the bid number.

25. **REJECTED BIDS:** The COMMISSION reserves the right to reject bids containing any additional terms or conditions not specifically requested in the original conditions and specifications.

26. **FAILURE OF THE CONTRACTOR TO DELIVER:** Failure of the contractor to deliver within the time specified, or within a reasonable time as interpreted by the COMMISSION or failure to make replacements of rejected articles as directed, shall permit the COMMISSION to purchase on the open market articles of comparable grade to take the place of those rejected or not delivered. On all such purchases, the contractor shall reimburse the COMMISSION, within a reasonable time specified by the Purchasing Authority, for any expenses incurred in excess of the defaulted price. Payments due the contractor by the COMMISSION may be withheld until reimbursement is received.

27. **BRAND OR TRADE NAMES:** When brand or trade names are used in the bid invitation, it is for the purpose of item identification and to establish standards for quality; style and features. Bids on equivalent items will be considered unless items are noted as no substitutes. Equivalent bids must be accompanied by descriptive literature and/or specifications to receive consideration. Demonstrations and/or samples may be required and shall be at no charge to the COMMISSION. The COMMISSION reserves the right to determine if bid goods are equivalent to specified goods.
28. **AWARDS:** Awards shall be made as required for the best interest of the **COMMISSION**. The right is reserved to make award(s) by individual items, group of items, all or none, or any combination thereof, with one or more Contractors.

29. **NON-WARRANTY OF SPECIFICATIONS:** Due care and diligence have been exercised in the preparation of this Bid and all information contained herein is believed to be substantially correct. However, the responsibility for determining the full extent of the exposures shall rest solely with the provider. Neither the Commission nor its representatives shall be responsible for any errors or omission in this Bid nor for the failure on the part of the bidder(s) to determine the full extent of exposures.

30. **BID AWARD:** Award is expected to be made to the Bidder who best meets the requirements of UCNSB considering responsibility, responsiveness and price. A written contract and/or purchase order detailing agreed terms will be rendered between the UCNSB and the agency achieving a successful proposal. Terms of the contract will include any and all items as specified in the bid, plus mutually agreed terms and conditions.

31. **CLARIFICATION:** The UCNSB reserves the right to request clarification of information submitted and to request additional information of one or more Bidders, if needed.

32. **OTHER AGENCIES:** All respondents awarded contracts from this solicitation may, upon mutual agreement, permit any municipality or other government agency to participate in the contract under the same prices, terms and conditions. If the period of time is not defined within this solicitation, the prices, terms and conditions shall be firm for 120 days from date of award. It is understood that at no time will any city or municipality or other agency be obligated for placing an order for any city municipality or agency, nor will any city municipality or agency be obligated for any bills incurred by any other city or municipality or agency. Further it is understood that each agency shall issue their own purchase order to the awarded respondent(s).
33. **INSURANCE**: The Contractor shall, at its sole expense, maintain in effect at all times during the performance of the services insurance coverage with limits not less than those set forth below and with insurers and under forms of policies satisfactory to COMMISSION.

<table>
<thead>
<tr>
<th>Coverage</th>
<th>Minimum Amounts and Limits</th>
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<tbody>
<tr>
<td>(a) Worker's Compensation</td>
<td>Statutory requirements at location of work</td>
</tr>
<tr>
<td>Employer's Liability</td>
<td>$ 100,000 Each occurrence</td>
</tr>
<tr>
<td></td>
<td>$ 300,000 Disease, aggregate</td>
</tr>
<tr>
<td></td>
<td>$ 100,000 Disease, each employee</td>
</tr>
<tr>
<td>(b) General Liability</td>
<td>$ 1,000,000 General Aggregate</td>
</tr>
<tr>
<td></td>
<td>$ 1,000,000 Products - Comp Ops Agg</td>
</tr>
<tr>
<td></td>
<td>$ 500,000 Each Occurrence</td>
</tr>
<tr>
<td></td>
<td>$ 50,000 Fire Damage</td>
</tr>
<tr>
<td></td>
<td>$ 5,000 Medical Expense</td>
</tr>
<tr>
<td>(c) Automobile Liability</td>
<td>$ 1,000,000 Combined Single Limit</td>
</tr>
<tr>
<td>(owned, hired and non-owned)</td>
<td></td>
</tr>
</tbody>
</table>

Option of Split Limits:

1. Bodily Injury
   - $ 500,000 Per Person
   - $ 1,000,000 Per Accident

2. Property Damage
   - $ 500,000

34. **INDEMNIFICATION FOR TORT ACTIONS/LIMITATION OF LIABILITY**:

   The provisions of Florida Statute 768.28 applicable to the Utilities Commission, City of New Smyrna Beach apply in full to this contract. Any legal actions to recover monetary damages in tort for injury or loss of property, personal injury, or death caused by the negligent or wrongful act or omission of any employee of the Utilities Commission acting within the scope of his/her office or employment are subject to the limitations specified in this statute.

   No officer, employee or agent of the Utilities Commission acting within the scope of his/her employment or function shall be held personally liable in tort or named as a defendant in any action for injury or damage suffered as a result of any act, event or failure to act.

   The Utilities Commission shall not be liable in tort for the acts or omissions of an officer, employee or agent committed while acting outside the course and scope of his/her employment. This exclusion includes actions committed in bad faith or with malicious purpose, or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.
To the fullest extent permitted by law, the vendor shall defend, indemnify, and hold harmless the Utilities Commission, its officials, agents, and employees from and against any and all claims, suits, judgments, demands, liabilities, damages, cost and expenses (including attorney’s fees) of any kind or nature whatsoever arising directly or indirectly out of or caused in whole or in part by any act or omission of the vendor or its subcontractors (if any), anyone directly or indirectly employed by them, or anyone for whose acts any of them may be liable; excepting those acts or omissions arising out of the sole negligence of the Utilities Commission.

Provided, however, if the contract between the Utilities Commission and the Contractor is deemed by a court of competent jurisdiction to be a construction contract for purposes of Section 725.06, Florida Statutes, any obligation of the Contractor to defend, indemnify or hold harmless the Utilities Commission, shall be limited to an obligation to indemnify or hold harmless the Utilities Commission, its officers and employees from liability damages, losses, and costs, including but not limited to reasonable attorney’s fees, to the extent caused by the negligence, recklessness or intentionally wrongful conduct of the contractor and persons employed or utilized by the Contractor in the performance of the contract.

35. **WARRANTY AND ACCEPTANCE**: All material shall be new, and workmanship shall be first class in every respect. The work shall be subject to inspection and acceptance by the Utilities Commission. Contractor guarantees its work hereunder for a period of twelve (12) months after completion and acceptance of the work unless otherwise set forth herein. In the event the Utilities Commission discovers defects in material or workmanship at any time before the expiration of the specified warranty period, Contractor shall, upon written notice from the Utilities Commission, repair or replace at its sole expense any such defects. The Utilities Commission may perform such repairs or replacements by other reasonable means and Contractor agrees to pay for such corrective measures. Neither acceptance of the work by the Utilities Commission nor payment shall relieve Contractor from liability under the indemnity clause or any of the guarantees or warranties contained or implied herein.

36. **CHANGES**: The Utilities Commission may, at any time, direct in writing additions, deletions or changes to all or any part of the work. If any such changes cause an increase or decrease in the cost of or in the time required to perform such work, Contractor shall submit detail information substantiating such claims and an equitable adjustment shall be made to the price or time of performance.

37. **CONFLICT OF INTEREST OF OFFICERS OR EMPLOYEES OF THE CONTRACTING ENTITY/LOCAL JURISDICTION, MEMBERS OF THE LOCAL GOVERNING BODY, OR OTHER ELECTED OFFICIALS**: No member or employee of the contracting entity/local jurisdiction or its designees or agents; no member of the governing body; and no other public official of the Utilities Commission who exercises any function or responsibility with respect to this contract, during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed. Further, the Contractor shall cause to be incorporated in all subcontracts, the language set forth in this paragraph prohibiting conflict of interest.
38. **EMPLOYEE CONFLICT OF INTEREST**: It shall be unethical for any COMMISSION employee to participate directly or indirectly in a procurement contract when the COMMISSION employee knows that:

   (1) The COMMISSION employee or any member of the COMMISSION employee's immediate family has a financial interest in the procurement contract; or

   (2) Any other person, business, or organization with whom the COMMISSION employee or any member of a COMMISSION employee's immediate family is negotiating or has an arrangement concerning prospective employment is involved in the procurement contract.

   A COMMISSION employee or any member of a COMMISSION employee's immediate family who holds a financial interest in a disclosed blind trust shall not be deemed to have a conflict of interest with regard to matters pertaining to that financial interest.

39. **GRATUITIES AND KICKBACKS**:

   (1) Gratuities. It shall be unethical for any person to offer, give, or agree to give any COMMISSION employee or former COMMISSION employee, or for any COMMISSION employee or former COMMISSION employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity COMMISSION in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefore.

   (2) Kickbacks. It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier sub-contractor or any person associated therewith, as an inducement for the award of a subcontract or order.

   (3) Contract Clause. The prohibition against gratuities and kickbacks prescribed in this Section shall be conspicuously set forth in every contract and solicitation, therefore.
IDENTICAL TIE BIDS - Preference shall be given to businesses with drug-free workplace programs. Whenever two or more bids which are equal with respect to price, quality, and service are received by the State or by any political subdivision for the procurement of commodities or contractual services, 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. Established procedures for processing tie bids will be followed if none of the tied vendors have a drug-free workplace program. In order to have a drug-free workplace program, a business shall:

1. Publish a statement notifying employees that the unlawful manufacture, Transmission, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.

2. Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.

3. Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in subsection (1).

4. In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.

5. Impose a sanction on or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is so convicted.

6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As the person authorized to sign the statement, I certify that this firm complies fully with the above requirements.

VENDOR SIGNATURE
This sworn statement is submitted Bid, Bid or Contract for **TRANSMISSION ROW VEGETATION MANAGEMENT SERVICES FOR UCNSB ELECTRICAL UTILITY MAINTENANCE PROGRAM**.

1. This sworn statement is submitted by [name of entity submitting sworn statement] whose business address is: ____________________________ and (if applicable) its Federal Employer Identification Number (FEIN) is __________________________.  
   If entity has no FEIN, include the Social Security Number of the individual signing this sworn statement: ____________________________. 
2. My name is ____________________________ and my relationship to the entity named above is ____________________________. 
3. I understand that a “public entity crime” as defined in Paragraph 287.133 (1) (g), Florida Statutes, means a violation of any state of federal law be a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or 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. 
4. I understand that “convicted” or “conviction” as defined in Paragraph 287.133 (91) (b), Florida Statutes means a finding of guilt or a conviction of a public entity crime, with or without adjudication of guilt, in any federal or state trial court or recording, relating to charges brought by federal or state trial court or recording, relating to charges brought by federal or state trial court or recording, relating to charged brought by indictment or information after July 1, 1989, as a result of just verdict, non-jury trial, or entity of a plea of guilty or nolo contendere. 
5. I understand the “affiliate” as defined in Paragraph 287.133(1)(a), Florida Statutes, means: (1) A Predecessor or Successor of a person convicted of public crime: or (2) 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, shareholder, 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 public crime in Florida during the preceding 36 months shall be considered an affiliate.
6. I understand that a “person” as defined in Paragraph 287.133(1) (e), Florida Statutes, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts for the provisions 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.

7. Based on information and belief, that 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, or one more of the officers, directors, executives, partners, shareholders, employees, members or agents who are active in the management of the entity, nor any affiliate or the entity, has been charged with and convicted of public entity 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 Administrative 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 Administrative 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.]

Date        Signature

STATE OF: ___________________ COUNTY OF: ________________

PERSONALLY, APPEARED BEFORE ME, the undersigned authority, ___________________ [name of individual signing] who after first sworn by me affixed his/her signature in the space provided above on this_____ day of__________________,20_____.

My commission expires:        Personally, known to me, or
Produced Identification:

_________________________        ___________________________        ___________________________
Notary Public                  Print, Type or Notary Stamp           Type of I.D.
NON-COLLUSION AFFIDAVIT OF PRIME BIDDER FORM

State of ______________
County of ______________
_____________________________, being first duly sworn, deposes and says that:

He/she is ______________ of ___________________, Bidder that has submitted the attached Bid;

He/she is fully informed respecting the preparation and contents of the attached Bid and of all pertinent circumstances respecting such Bid;

Neither the said Bidder nor any of its officers, partners, owners, agent representatives, employees, or parties in interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly, sought by agreement or collusion or communication or conference with any other Bidder, firm or person, to fix the price or prices in the attached Bid or of any other Bidder, or to fix any overhead, profit or cost element 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 the COMMISSION.

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 of its agents, representatives, owners, employees, or parties in interest, including this affiant.

____________________________________
Signed

____________________________________
Title

Subscribed and sworn to before me this _____day of_______, 20__.

____________________________________
____________________________________
Title

My Commission Expires: ____________
W-9
Form
(Rv. October 2018)
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

Go to www.irs.gov/FormW9 for instructions and the latest information.

Give Form to the requester. Do not send to the IRS.

1. Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.

2. Business name/disregarded entity name, if different from above.

3. Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes.

☐ Individual/sole proprietor or single-member LLC
☐ Corporation
☐ S Corporation
☐ Partnership
☐ Trust/estate
☐ Limited liability company. Enter the tax classification (C=l-corporation, S=s corporation, P=partnership). 

Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.

☐ Other (see instructions) ▶

4. Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):

☐ Exempt payee code (if any) ☐

☐ Exemption from FATCA reporting code (if any) ☐

(Apply to accounts maintained outside the U.S.)

See Specific Instructions on page 6.

5. Address (number, street, and apt., or suite no.) See Instructions.

6. City, state, and ZIP code

Requester's name and address (optional)

7. List account number(s) here (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For entities, it is your employer identification number (EIN). If you do not have a number, see How to get a TIN, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see What Name and Number To Give the Requester for guidelines on whose number to enter.

Social security number

or

Employer identification number

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and

2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and

3. I am a U.S. citizen or other U.S. person (defined below); and

4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here

Signature of U.S. person ▶

Date ▶

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN), which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

• Form 1099-INT (interest earned or paid)

• Form 1099-DIV (dividends, including those from stocks or mutual funds)

• Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)

• Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)

• Form 1099-S (proceeds from real estate transactions)

• Form 1099-K (merchant card and third party network transactions)

• Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)

• Form 1099-C (canceled debt)

• Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.
VENDOR APPLICATION

In addition to General conditions, your BID may be disqualified if the following vendor information is not returned with your BID.

Vendor is:
( ) Corporation
( ) Partnership
( ) Sole Proprietorship
( ) Other ________________________________________________ (Explain)

Federal Employer Identification
Number or Social Security Number: _______________________________________

Do you collect Florida State Sales Tax? ( ) Yes ( ) No

Firm Name: ______________________________________________________

Mailing Address: __________________________________________________

________________________________________________

Telephone No. _________________________ Fax No. ____________________

Email Address: ____________________ Web Address: ____________________

Commodity or Service Supply: ________________________________________

If vendor is quoting, as a manufacturer’s representative and the purchase order should be addressed to the manufacturer in care of the vendor, so indicate.

If remittance address is different from the mailing address so indicate below.

Firm Name: ______________________________________________________

Mailing Address: __________________________________________________

________________________________________________________________

Submitted by: ____________________________________________________

Name & Title Printed: ______________________________________________
QUESTIONNAIRE

Additional space may be required. Please answer questions in the order presented. All questions must be answered, or contractor may be disqualified.

1. Has your company ever been denied insurance or had insurance canceled?

2. Is your company bondable? Has your company ever been denied bond? If yes, explain.

3. Can your insurance company produce a certificate of insurance stating your limits and naming UCNSB as an Additional Insured?

4. Since January 1, 2016, has your company been a defendant in any lawsuits?

5. Is your company a subsidiary or otherwise legally affiliated with any other company?

6. Is your company rated by Dunn & Bradstreet or any other rating agency? If yes, what is the name of the agency and rating?

7. Is your company in any stage of bankruptcy, including initial filing?

8. Has your company been disbarred by the Federal Government or any State Government?
Bidder acknowledges and agrees that it must clearly set forth below the name, location and Florida contractor license number of each subcontractor who will perform work or labor or render service to the Bidder in or about the construction of the Work or who will specially fabricate and install a portion of the Work according to detailed drawings contained in the plans and specifications in an amount in excess of one-half of one percent (0.5%) of Bidder’s total Bid and the kind of Work that each will perform. Vendors or suppliers of materials only do not need to be listed.

Bidder acknowledges and agrees that if Bidder fails to list as to any portion of Work, or if Bidder lists more than one subcontractor to perform the same portion of Work, Bidder must perform that portion itself or be subjected to penalty under applicable law. In case more than one subcontractor is named for the same kind of Work, state the portion of the kind of Work that each subcontractor will perform.

If alternate bids are called for and Bidder intends to use subcontractors different from or in addition to those subcontractors listed for work under the base Bid, Bidder must list subcontractors that will perform Work in an amount in excess of one half of one percent (0.5%) of Bidder’s total Bid, including alternates.

If further space is required for the list of proposed subcontractors, attach additional sheets showing the required information, as indicated below.

**Subcontractor Name:**___________________________________________________________

**FL Cont. Lic. #:**_________________________ **Location:**___________________________

**Portion of Work:**____________________________________________________________

**Subcontractor Name:**___________________________________________________________

**FL Cont. Lic. #:**_________________________ **Location:**___________________________

**Portion of Work:**____________________________________________________________

**Subcontractor Name:**___________________________________________________________

**FL Cont. Lic. #:**_________________________ **Location:**___________________________

**Portion of Work:**____________________________________________________________
REFERENCES

Provide the business names, contact persons and telephone numbers of three (3) references for which the firm has provided the services described in this RFQ. Include relationships with utility and governmental agencies. It is our intent to contact these references during the award process. Award of this contract will be based on price AS WELL AS REFERENCES AND EXPERIENCE.

1. Name of Company: ___________________________________
   Address: ____________________________________________
   Point of Contact: _____________________________
   Phone Number: ______________________________
   Dates of Service: _____________________________
   Service(s) Provided: __________________________________
   ___________________________________________
   ___________________________________________
   ___________________________________________

2. Name of Company: ___________________________________
   Address: ____________________________________________
   Point of Contact: _____________________________
   Phone Number: ______________________________
   Dates of Service: _____________________________
   Service(s) Provided: __________________________________
   ___________________________________________
   ___________________________________________
   ___________________________________________

3. Name of Company: ___________________________________
   Address: ____________________________________________
   Point of Contact: _____________________________
   Phone Number: ______________________________
   Dates of Service: _____________________________
   Service(s) Provided: __________________________________
   ___________________________________________
   ___________________________________________
   ___________________________________________
REQUIRED DISCLOSURE

At its sole discretion, the COMMISSION may reject any bidder the COMMISSION finds to lack, or whose present or former executive employees, officers, directors, stockholders, partners or owners are found by the COMMISSION to lack honesty, integrity, or moral responsibility. The discretion of the COMMISSION may be exercised based on the COMMISSION’S own investigation, public records, or any other reliable sources of information. By submitting a bid, bidder recognizes and accepts that the COMMISSION may reject the bid based upon the exercise of its sole discretion and bidder waives any claim it might have for damages or other relief resulting from the rejection of its bid based on these grounds.
BID SUBMITTAL REQUIREMENTS

Bids shall include all of the information solicited in this ITB, and any additional information that the BIDDER deems pertinent to the understanding and evaluating of the bid. Bids shall be organized, and sections tabbed in the following order. The BIDDER should not withhold any information from the written response in anticipation of presenting the information orally or in a demonstration, since oral presentations or demonstrations may not be solicited. All bids shall include, at a minimum, the following information. Failure to supply all of the information requested shall result in the bid being excluded from consideration. The COMMISSION reserves the right to request information or clarification from bidders following the bid opening if omissions are deemed curable.

TAB #1 Experience: Provide a profile showing company history, business structure, and a list of principals. A minimum of five (5) years in business is required.

TAB #2 References: Submit a detailed list of clients receiving similar services within the last two (2) years. Please include a brief description of the scope of work performed and the name, phone number and email address of the contact person.

TAB #3 Pricing: Complete, sign and submit the Bid Tabulation and Bid Forms.

TAB #4 Public Entity Crimes, Non-collusion Affidavit, Drug Free Workplace, Vendor Information & W9 Forms: All BIDDERs shall properly complete, notarize and submit attachments A, B, C,D & E here

TAB #5 Addenda Acknowledgement: Please submit all addenda (if any) related to this bid here.

TAB #6 Questionnaire: The Questionnaire responses requested should be submitted here

TAB #7 Detailed Specifications: Business License, Insurance & Equipment List
CONTRACT SCOPE:

The Utilities Commission, City of New Smyrna Beach (UCNSB) is soliciting proposals for a qualified Vegetation Management Contractor to supply sufficient management, manpower and equipment to execute the UCNSB Transmission ROW Vegetation Management Program for its electric transmission network.

TERM OF AGREEMENT:

The term of this contract shall be for one (1) year. This agreement may be extended, at the option of the Commission, and the agreement of the contractor in one (1) year intervals for up to an additional three (3) years.

Unit pricing shall be firm for the original one (1) year term of the contract. Each contract renewal unit price may be negotiated and adjusted upon mutual agreement.

GENERAL REQUIREMENTS AND SPECIFICATIONS

TARIFFS, TOLLS, TAXES, PERMITS, AND LICENSES:

It shall be the Contractor’s responsibility to determine the applicable tariffs, tolls, taxes, permits, and licenses for the work completed under this contract. If the Contractor is in doubt as to whether or not a tariff, tax, permit or license is applicable, they shall state in their Proposal whether this item has been included in their proposal price and the amount of the applicable tariff, tax, permit or license in question.

REMOVAL/DISPOSAL OF TRASH, DEBRIS AND SOIL:

Upon completion of work in a Transmission Easement or ROW (Right-Of-Way), each property, shall be raked and refuse shall be disposed of using appropriate disposal practices. Any damage to customer property will be reported immediately to Contractor Supervision and the UCNSB Electric Department Designated Representative. Any damage caused by the Contractor is the responsibility of the Contractor and shall be restored to the customer’s satisfaction within forty-eight (48) hours from the end of that workday.

Unless otherwise approved, all line clearing refuse shall be disposed of at an approved disposal facility and the cost shall be included in the per-mile cost. The Contractor shall be responsible for identifying, transport and disposal of all clearing refuse. The disposal of all refuse shall be documented in daily reports which shall include the amount of refuse disposed. Copies of disposal receipts shall be submitted with associated invoices.

Before the work in a specific location is considered complete, all rubbish and unused material due to, or connected with, the work must be removed, and the premises left in a condition satisfactory to the UCNSB. All property, public or private, disturbed or damaged during the execution of the work shall be restored to its former condition.
PERMITS:

All necessary right-of-way utilization permits required in the performance of this contract, whether State, County, City or private, shall be obtained by the UCNSB. Contractor shall be responsible for notification to all applicable permitting agencies before commencement of work and receipt of any required validation numbers issued by such agencies.

TRAFFIC CONTROL:

The Contractor will be responsible for all traffic control devices such as barricades, lights, steel plates, warning signs, flagmen, arrow boards or any other means of warning to prevent accident and injury to persons and property. The use of such devices shall be considered incidental to the overall project and the cost for the use of such devices shall be included in the unit prices. Concrete barriers are not included.

Contractor will post signs five (5) working days prior to any construction activity in areas which is not having construction activities by other public agencies to inform the public. In residential areas the Contractor shall also go door to door and hand out notification of pending work 48 hours prior to the start of such work. The Contractor shall furnish the signs, however, the UCNSB Electric Department Administrator or their designee shall furnish to the Contractor the blank door notification notices.

The Contractor shall provide all traffic control plans required by UCNSB or governing agency. Work zone requiring traffic control will be in accordance with Manual on Uniform Traffic Control Devices and the State of Florida Utility Accommodation Guide. The Contractor will provide the necessary trained traffic control personnel as set forth in the Utility Accommodation Guide. The cost of this plan shall be considered incidental to the cost of the project. If signed and sealed traffic control plans are required by UCNSB or governing agency, Contractor will be compensated based on cost plus 5%.


To include Intermediate Traffic Control Course and Basic Flaggers Course, copies of current certificates will be supplied to the UCNSB Project Administrator or their Designated representative annually.
DAMAGE TO THE WORK AND SURROUNDING AREA:

The Contractor shall take all necessary precautions against damage to the work from the elements or any other causes whatsoever. The Contractor shall rebuild, repair, restore or make good, without charge to UCNSB, damages to any portion of the materials and work before its completion and acceptance.

Precautions to prevent erosion and weather-related damage to trenches shall be the Contractor's responsibility. The Contractor will be responsible for damages that might occur due to lack of adequate precautions.

All existing trees, fences, pipes, conduits, wire, manholes, embankments, or other structures in the vicinity of the work will be supported and protected from damage by the Contractor during the work. The Contractor will be liable for all damage done to such structures, as above provided and will save UCNSB harmless from any liability for expense or injuries, damages, or repairs. Mailboxes, signs, newspaper boxes, etc., may be removed and replaced.

CUSTOMER'S REFUSAL TO GRANT PERMISSION:

Every effort must be made by the Contractor to notify potentially impacted customers to prior to the start of any ROW clearing work. Efforts to contact customers shall be in the form of mailers, door hangers, and customer visits (if necessary).

CUSTOMER COMPLAINTS:

Contractor shall contact all customer complaints within two working days of the initial complaint and resolve any reasonable complaint or claim. The UCNSB Designated Representative shall be kept informed of the status of all complaints.

CONTRACTOR PERSONNEL:

All Contractor personnel shall be competent and skilled in the work that they are to execute and shall work in harmony with other personnel. The Contractor shall immediately remove any employees that are not satisfactory to the UCNSB.

PERSONNEL TRAINING:

Contractor shall employ certified personnel to perform work in this Bid Specification. Documentation of training and certifications shall be provided to the UCNSB before any employee is permitted on the job site. Contractor shall be responsible for implementing Maintenance of Traffic (MOT) procedures in accordance with Florida Department of Transportation (FDOT) regulations when working in the proximity of improved roads. Contractor shall be responsible for ensuring that safe conditions exist at all times.
IDENTIFICATION:

The Contractor shall supply all field and supervisory employees with identification having the employee's photograph, employee's name, Company logo, and telephone number permanently affixed. The Contractor's employees MUST always have this identification on their person and visible while working on/near UCNSB and UCNSB customer property.

FOREMAN / GENERAL FOREMAN / SUPERVISOR

These individuals are required to handle any vegetation clearance or treatment assignments safely and efficiently. They must be familiar with UCNSB’s specifications for Transmission ROW vegetation clearing and treatment and ensure quality control of all production conducted. They also must:

1. Have excellent communication skills to communicate clearly with UCNSB personnel, UCNSB customers and other Contractor employees on any topic related to the work assign the Contractor.
2. Be familiar with tree removal under all circumstances, ROW clearing and vegetation treatment methods used in ROW clearance and maintenance practices.
3. Be able to instruct others in safety, clearing practices, vegetation removals, equipment operation and maintenance, electrical hazards, & aerial rescue.
4. Be able to encourage, retain, and develop field personnel and must demonstrate ability to handle personnel on a crew and enforce rules effectively.
5. Be familiar with all city, state, and federal regulations pertaining to the utility industry ROW clearing and work zone traffic control (MOT) in the urban corridors.
6. Be responsible for increasing their knowledge base and proficiency of the work crew in addition to aiding in the training of personnel, when possible.
7. Be actively engaged in maintaining a good working relationship with the UCNSB personnel and ensuring that high standards of quality of work are met.
8. Be able to operate efficiently and productively all trucks and equipment used on electric utility Transmission ROW clearance operations. They must also maintain their equipment in excellent operating. This equipment includes but is not limited to:
   a. Aerial lifts
   b. Chipper
   c. Power chain saws
   d. Herbicide Spray Tools
9. The working foreman must be able to routinely contact utility customers and obtain permits to trim or remove trees.
10. Have developed an understanding of need for public relations.
11. Be able to make decisions regarding procedures to use in ROW clearance operations and know proper clearing techniques and how to use them.
12. Be familiar with First Aid, CPR, and aerial rescue.
TRIMMER/GROUNDS PERSON:

ROW clearance personnel must know emergency rescue procedures and how to operate all equipment in an emergency situation. In addition to knowing equipment operation and operator rescue procedures. They also:

1. Must have the skills to communicate clearly with UCNSB personnel, UCNSB customers and other Contractor employees on any topic related to the work assign the Contractor.
2. Should know all major trees, shrubs, grub and poisonous plant species in the area and be familiar with the growth and re-growth rates; strength of various woods; and how to determine hazard trees, etc.
3. Must become familiar with all Company and utility reporting procedures and be able to take over any crew in an emergency.
4. Must be able to read and understand work orders, maps and circuit diagrams; secure permissions, and be able to write out reports clearly.
5. Must also be familiar with and be able to perform First Aid, CPR, and aerial rescue.
6. Shall be familiar with various types of electrical transmission line, construction, installations and probable operating voltage of facility or equipment and safe approach distances.
7. The ROW clearance grounds persons must be able to handle all routine ROW clearance assignments.
8. They must learn the different ROW clearance methods, as specified.

FLORIDA LICENSED HERBICIDE SPRAY TECHNICIAN:

Contractor shall employ at least one Florida Licensed Herbicide Spray Technician for the initial clearing and ongoing ROW maintenance activities.

The General Foreman or Contractor Supervisor shall hold a current commercial State of Florida Herbicide applicator license to supervise proper application of all herbicides.

SAFETY AND TRAINING:

Contractor shall employ certified personnel to perform work. Documentation of training and certifications shall be provided to the UCNSB before any employee is permitted on the job site.

The Contractor shall provide training and on-the-job experience to ensure that all personnel performing vegetation clearing and treatment activities are fully trained and qualified in proper electric utility arboriculture and safety practices. This shall include all techniques applied to perform vegetation maintenance according to the UCNSB contract. Records of all personnel training shall be kept along with documented types of training and submitted to the UCNSB on an annual basis in the month of October.

Contractor shall be responsible for implementing Maintenance of Traffic (MOT) procedures in accordance with Florida Department of Transportation (FDOT) regulations when working in the proximity of improved roads. Contractor shall be responsible for ensuring that safe conditions exist at all times.
REPORTING OF CREW LOCATIONS:

Contractor shall provide daily reports to the UCNSB Electric Department Administrator as directed regarding the location and transfer all crews. Additionally, the Contractor shall report every instance of ending the workday before the scheduled time and must provide justification of such occurrence(s). Reports shall be transmitted to the UCNSB Electric Department Administrator via email before work for each day commences.

CREW TOOLS AND EQUIPMENT:

The Contractor shall furnish all labor, tools, equipment, transportation and materials. Trucks and equipment used in Time and Material work shall not be more than 7 years old, all other tools, trucks and equipment used within the contract shall be of high quality in every respect, their appearance and operability should reflect acceptable maintenance and shall be new or in like new condition.

Contractor's employees shall be clean and present as good an appearance as the job conditions permit. Crews shall conduct themselves in a professional and courteous manner. Contractor's equipment shall be kept in neat appearance and in good operating condition at all times. Modern tools shall be used and kept in good working order.

Adequate first aid supplies shall be available in all vehicles. UCNSB shall provide decals identifying the Contractor as an UCNSB vendor; the decal shall be attached to all vehicles where it is clearly visible. UCNSB shall not be responsible nor be charged any fees because of inoperative equipment. The rates for downtime credits shall be in accordance with the Proposal Data section of these documents.

EQUIPMENT MAINTENANCE:

No charges shall be made to the Commission for inoperative equipment or the transfer of equipment for repair or maintenance. The rates for downtime credits will be those as agreed upon in the contract pricing.

QUALITY CONTROL:

All work performed by the Contractor is subject to inspection and approval by the Commission. Any work not meeting Commission or generally accepted line clearance standards or turned in falsely will be redone at no cost to the Commission. The actual cost of the second inspection will be billed to Contractor. A pre-inspection and post inspection shall be conducted to insure overall consistency and quality control of vegetation maintenance. The Contractor shall maintain a weekly contract maintenance schedule indicating treatment progress. A formal review of production progress shall be conducted quarterly.
MISCELLANEOUS:

1. The Contractor must adhere to all applicable current OSHA standards and guidelines plus the UCNSB safe work practices.

2. Upon request the Contractor shall submit copies of safe work practices manual for review by the UCNSB’s Safety Manager section.

3. Regular meetings will be held with the Contractor's Contract Manager/Project Manager or their Designee (a person generally familiar with the outstanding work and capable of making a decision for the Contractor) to discuss such things as: General Performance, Issues that have arisen, Resolution of items, and Transmission ROW clearing schedules.

4. Confidentiality of the UCNSB Furnished Information: Any information of a restricted nature provided to the Contractor by the UCNSB shall be handled by them in strict accordance with restrictions placed thereon by UCNSB. Information or documentation generated by the Contractor during the course of the Contract shall be subject to handling and dissemination restrictions established by the UCNSB.

5. The Contractor shall be licensed, as required, by the city, county, state or Federal government to perform the work requested by the UCNSB.

6. This Proposal is not for an exclusive contract. The UCNSB reserves the right to separately contract for other Vegetation Management type work.

7. Work found during the inspections not meeting code or unsatisfactory shall be redone by the Contractor at no additional cost.

8. Each party shall grant the other, its agents and employees, throughout the duration of this contract, reasonable access to the other's premises for the purpose of fulfilling the obligations under this Contract. Each party agrees to comply with reasonable safety standards adopted by the other while on their property.

9. All of the Contractor's vehicles must have the company logo clearly visible somewhere on its body.

10. The Contractor or subcontractor's personnel who perform the work in connection with this Contract shall meet UCNSB’s drug policy. A copy will be provided by the UCNSB.

11. The Contractor shall furnish a copy of the insurance certificates for all insurances required in the General Conditions section of the Contract Documents prior to starting any work on site.

12. Contractor shall provide UCNSB with the material safety data sheets (MSDS) for all chemicals used in the performance work under this contract.
UCNSB TRANSMISSION SPECIFICATIONS

SCOPE:

The scope of this Agreement is to provide labor and equipment to complete the power line clearing program by trimming or removing trees and other vegetation in close proximity to energized Transmission power lines located on public and/or private rights-of-way. Trimming work includes both non-truck accessible and truck accessible of facilities.

These specifications detail desired services to provide vegetation management of the UCNSB Commission's 3 Transmission lines and associate Right-of-Way consisting of approximately 20.7 miles of overhead transmission facilities. The UCNSB is transitioning from annual hot spot tree trimming to a Year 1 - ROW Clearing and Clean Up including complete clearing all UCNSB Transmission ROW's. Post-Year 1 - On-going ROW Maintenance, the UCNSB will be request the contractor to complete a review of these locations, create a plan and complete the necessary work needed to keep the ROW assets maintained, cleared, and mowed to maintain the ROWs at the level of the work completed in the Year 1 ROW Clearing and Clean Up work.

Vegetation management will be scheduled and administered by the Contractor in conjunction Designated UCNSB Representative in accordance with these specifications.

CONTRACT SPECIFICATIONS:

The work performed under this contract will be performed near energized electrical conductors of the UCNSB Electric Transmission System. The Contractor will establish and conform to safe work practices appropriate for such work. The Contractor will comply with operating procedures established by the Commission for such work and all procedures used to perform such work shall conform to federal OSHA, ANSI Z-133, State of Florida Bill 980, and local government requirements such as historic canopy areas. It is the responsibility of the Contractor to document instruction and training of their employees of possible hazards involved in working around energized conductors.

The Contractor shall coordinate their schedule based on all work locations with the UCNSB representative in order to assure continuity and maximum benefit. Fueling and icing of crew vehicles will be completed on Contractor's own time.

CREW STRUCTURE:

For the purpose of the ROW Maintenance Activities, the total available crew structure shall meet requirements to enable the scheduled work to be completed during the specified time period. The Contractor must manage crew resources to compensate for circuits with higher foliage density, roadway permits, and or circuits with higher non-truck accessible lines. Crew resources must be dedicated and in addition to crew resources needed for other vegetation contract related project work. The following are the minimum requirements for the production crew structure; modifications to this structure must be approved in writing by the UCNSB Designated Representative.
The contractor shall have a foreman and or working foreman on the job at all times while work is being performed. The foreman shall have excellent communication skills and maintain a continuous awareness of the quality and completeness for the work. The contractor’s foreman shall be available to inspect the grounds with the UCNSB representative upon request.

Contractor shall be registered with the City of New Smyrna Beach, Florida, and possess a current City Occupational License before proceeding with any work.

**EQUIPMENT:**

The Contractor shall provide hooks, safety belts and any other miscellaneous items required for the work covered by these specifications. Adequate spare equipment and tools shall be maintained and readily available to ensure that no tree trimming employee is delayed in performing the required work. The billing rate for equipment shall be all-inclusive, including fuels, lubricants and maintenance, but not limited to only these items.

**INVOICES**

Invoices will be rendered monthly for payments. These invoices shall contain at least the following information:

A. Invoice period  
B. Crew members by classification  
C. Vehicles by type and number  
D. Equipment and tools used  
E. Billing rates  
F. Maps identifying completed work invoiced for ROW Clearing or Maintenance 
G. H. Invoice total
COST SCHEDULE

A. TRANSMISSION ROW MAINTENANCE – YEAR 1 CLEARING AND CLEAN UP

Provide vegetation treatment as outlined in the contract specifications for ROW corridors based upon unit pricing per square foot of Transmission Line ROW. Unit pricing shall include (but not be limited to all labor, equipment, materials and disposal to clear and clean up each ROW. The Contractor shall provide a General Foreman to oversee the treatment.

MOT shall be included in pricing where applicable.

<table>
<thead>
<tr>
<th>Transmission Line Segment</th>
<th>Methods of Treatment</th>
<th>Measured Square Footage</th>
<th>Price Per Square Ft Year 1 Clearing and Clean Up</th>
</tr>
</thead>
<tbody>
<tr>
<td>Smyrna</td>
<td>Mechanical and or Manual Cutting, HV/LV Herbicide, or Mowing (Contractor may propose Viable alternatives)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cassadaga</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Field Street</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Note: A 10ft cleared radius for access is required around all Transmission Line structures including Transmission Poles, Anchors and Guys.

TREE REMOVAL – YEAR 1 CLEARING AND CLEAN UP

The Annual Transmission ROW Maintenance pricing (Section A above) shall include a provision to remove trees less than 6" as measured at Diameter Breast Height (DBH), which in the opinion of the UCNSB Electric Division Director or designee and the Contractor Supervisor shall be removed to avoid future contact with power lines. Removal of trees greater than 6” DBH shall be priced below.
Unit pricing shall include all labor, equipment and materials for tree removal. Tree removal will be determined by UCNSB Electric Division Director or designee and the Contractor Supervisor and shall be removed to avoid future contact with power lines.

The removal of any trees must follow the guidelines set forth in “Notifications to Customers”.

Tree Removal in excess of 6" DBH:

<table>
<thead>
<tr>
<th>Diameter Breast Height</th>
<th>Price Per Tree</th>
</tr>
</thead>
<tbody>
<tr>
<td>0&quot; to 6&quot; DBH</td>
<td>No Cost</td>
</tr>
<tr>
<td>6&quot; to 8&quot; DBH</td>
<td>$</td>
</tr>
<tr>
<td>9&quot; to 18” DBH</td>
<td>$</td>
</tr>
<tr>
<td>19&quot; to 24&quot; DBH</td>
<td>$</td>
</tr>
<tr>
<td>Other (if applicable)</td>
<td>$</td>
</tr>
</tbody>
</table>

**GRINDING OF TREE STUMPS (Price Per Stump):**

Unit pricing shall include all labor, equipment and materials for grinding of tree stumps to sufficient depth below grade. The price shall include cleanup and disposal as appropriate.

<table>
<thead>
<tr>
<th>STUMP DIAMETER</th>
<th>UNIT COST</th>
</tr>
</thead>
<tbody>
<tr>
<td>Small 6&quot;- 12&quot;</td>
<td>$</td>
</tr>
<tr>
<td>Medium 13&quot;- 24&quot;</td>
<td>$</td>
</tr>
<tr>
<td>Large 25&quot;-36&quot;</td>
<td>$</td>
</tr>
</tbody>
</table>
B. **ANNUAL ON-GOING TRANSMISSION ROW MAINTENANCE (POST YEAR 1 ROW MAINTENANCE)**

Provide vegetation treatment as outlined in the contract specifications for ROW corridors based upon unit pricing per square foot of Transmission Line ROW. Unit pricing shall include (but not be limited to all labor, equipment, materials and disposal to clear and clean up each ROW. The Contractor shall provide a General Foreman to oversee the treatment.

MOT shall be included in pricing where applicable.

<table>
<thead>
<tr>
<th>Transmission Line Segment</th>
<th>Methods of Treatment</th>
<th>Measured Square Footage</th>
<th>Price Per Square Ft Year 1 Clearing and Clean Up</th>
</tr>
</thead>
<tbody>
<tr>
<td>Smyrna</td>
<td>Mechanical and or Manual Cutting, HV/LV Herbicide, or Mowing (Contractor may propose Viable alternatives)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cassadaga</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Field Street</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Note:** A 10ft cleared radius for access is required around all Transmission Line structures including Transmission Poles, Anchors and Guys.

**TREE REMOVAL – ANNUAL ON-GOING MAINTENANCE**

The Annual Transmission ROW Maintenance pricing (Section B above) shall include a provision to remove trees less than 6" as measured at Diameter Breast Height (DBH), which in the opinion of the UCNSB Electric Division Director or designee and the Contractor Supervisor shall be removed to avoid future contact with power lines. Removal of trees greater than 6” DBH shall be priced below.
Unit pricing shall include all labor, equipment and materials for tree removal. Tree removal will be determined by UCNSB Electric Division Director or designee and the Contractor Supervisor and shall be removed to avoid future contact with power lines.

The removal of any trees must follow the guidelines set forth in “Notifications to Customers”.

Tree Removal in excess of 6” DBH:

<table>
<thead>
<tr>
<th>Diameter Breast Height</th>
<th>Price Per Tree</th>
</tr>
</thead>
<tbody>
<tr>
<td>0” to 6” DBH</td>
<td>No Cost</td>
</tr>
<tr>
<td>6” to 8” DBH</td>
<td>$</td>
</tr>
<tr>
<td>9” to 18” DBH</td>
<td>$</td>
</tr>
<tr>
<td>19” to 24” DBH</td>
<td>$</td>
</tr>
<tr>
<td>Other (if applicable)</td>
<td>$</td>
</tr>
</tbody>
</table>

**Grinding of Tree Stumps (Price Per Stump):**

Unit pricing shall include all labor, equipment and materials for grinding of tree stumps to sufficient depth below grade. The price shall include cleanup and disposal as appropriate.

<table>
<thead>
<tr>
<th>STUMP DIAMETER</th>
<th>UNIT COST</th>
</tr>
</thead>
<tbody>
<tr>
<td>Small 6&quot;- 12&quot;</td>
<td>$</td>
</tr>
<tr>
<td>Medium 13&quot;- 24&quot;</td>
<td>$</td>
</tr>
<tr>
<td>Large 25&quot;-36&quot;</td>
<td>$</td>
</tr>
</tbody>
</table>
C. OPTIONAL: NON-ANNUAL PLAN PROJECT WORK/STORM SUPPORT

PRICING:

THE FOLLOWING PRICING IS ONLY APPLICABLE TO WORK OUTSIDE OF THE ANNUAL WORK PLANS PRICED IN SECTION A AND B ABOVE (FOR EXAMPLE AFTER STORM EVENTS OR FOR PLANNED CAPITAL PROJECT WORK WHERE THE UC REQUESTS THE CONTRACTOR TO ASSIST IN TRANSMISSION ROW CLEARING ON PLANNED CAPITAL PROJECTS).

Time and material rates shall apply to crews, when they are utilized for work orders, storm work or other UCNSB scheduled demand work.

Additional crews may be requested for both seasonal and projected long-term requirements by the UCNSB Designated Representative. Completing project specific, storm work or other demand work shall not impact the completion of the annual UCNSB Transmission trimming and vegetation management plan.

Contractor Job Description Class and minimum length of experience must be submitted for all personnel proposed for work under this contract. The UCNSB Designated Representative shall authorize time and material rates for emergency conditions, call-out and or work orders outside of scheduled maintenance. Overtime shall be paid at a rate of 1.5 per hour on an exception basis with prior approval from the UCNSB Designated Representative.

PERSONNEL RATES:

<table>
<thead>
<tr>
<th>CLASSIFICATION</th>
<th>REGULAR HOURLY RATE</th>
<th>OVERTIME HOURLY RATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Journeyman Trimmer</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Apprentice Trimmer</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Working Foreman</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Other</td>
<td>$</td>
<td>$</td>
</tr>
</tbody>
</table>
### EQUIPMENT RATES:  Equipment Listing with hourly rates plus any mobilization charges

<table>
<thead>
<tr>
<th>EQUIPMENT DESCRIPTION</th>
<th>HOURLY RATES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aerial Lift 75'</td>
<td>$</td>
</tr>
<tr>
<td>Aerial Lift 75' Four Wheel Drive</td>
<td></td>
</tr>
<tr>
<td>Aerial Lift 50'</td>
<td></td>
</tr>
<tr>
<td>Aerial Lift 50' Four Wheel Drive</td>
<td></td>
</tr>
<tr>
<td>Aerial Lift 37'</td>
<td></td>
</tr>
<tr>
<td>Brush Chipper</td>
<td></td>
</tr>
<tr>
<td>Disc Chipper</td>
<td></td>
</tr>
<tr>
<td>Mower Bat Wing - Minimum Width 15'</td>
<td></td>
</tr>
<tr>
<td>Chain Saw - Small</td>
<td></td>
</tr>
<tr>
<td>Chain Saw - Medium</td>
<td></td>
</tr>
<tr>
<td>Chain Saw - Large</td>
<td></td>
</tr>
<tr>
<td>Dump truck</td>
<td></td>
</tr>
<tr>
<td>General Foreman Vehicle</td>
<td></td>
</tr>
<tr>
<td>Spray Truck (High Volume Pump)</td>
<td></td>
</tr>
<tr>
<td>Spray Truck Four Wheel Drive (High Volume Pump)</td>
<td></td>
</tr>
<tr>
<td>Laptop Computer with Wireless Field Communication</td>
<td></td>
</tr>
<tr>
<td>Tablet PC with Wireless Field Communication</td>
<td></td>
</tr>
</tbody>
</table>

**Notes:**

Add additional sheets as necessary to complete the list of equipment.
Includes overheads, fuel, mobilization, mileage, repair, normal maintenance, etc.  
(All inclusive)
TREE REMOVAL:

Non-Annual Transmission Line work pricing will be billed as outlined in the table below. Tree removal will be determined by UCNSB Electric Division Director or designee and the Contractor Supervisor and shall be removed to avoid future contact with power lines.

The removal of any trees must follow the guidelines set forth in Notifications to Customers”. Trees shall not be removed without customer permission.

<table>
<thead>
<tr>
<th>DIAMETER BREAST HEIGHT</th>
<th>PRICE PER TREE</th>
</tr>
</thead>
<tbody>
<tr>
<td>0” to 6” DBH</td>
<td>$</td>
</tr>
<tr>
<td>6” to 8” DBH</td>
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<tr>
<td>19” to 24” DBH</td>
<td>$</td>
</tr>
<tr>
<td>Other (if applicable)</td>
<td>$</td>
</tr>
</tbody>
</table>

MOWING:

a. Unit Price Per Acre

The UCNSB currently has mowing along distribution and transmission corridor ROW and access roads, as well as around specific UCNSB towers. Mowing may also be used to supplement scheduled vegetation maintenance. Unit pricing for mechanical mowing as directed by the UCNSB to include all labor, equipment and material. At the discretion of the Commission, the UCNSB may elect to use time and material mowing rates.

<table>
<thead>
<tr>
<th>METHOD</th>
<th>CLEARANCES</th>
<th>UNIT COST PER ACRE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mowing</td>
<td>Floor</td>
<td>$</td>
</tr>
</tbody>
</table>
b. Mowing & Herbicide Treatment

Transmission Corridor overall Unit Pricing for mechanically mowed in conjunction with Herbicide treatment applied by mowing equipment, as directed by the UCNSB to include all Labor, Equipment and Materials. Herbicides costs are to be included in the per acre price.

<table>
<thead>
<tr>
<th>METHOD</th>
<th>CLEARANCES</th>
<th>UNIT COST PER ACRE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mowing &amp; Herbicide</td>
<td>Floor</td>
<td>$</td>
</tr>
</tbody>
</table>


c. Limited Access Mowing & Herbicide Treatment

Transmission Corridor overall Unit Pricing for mechanically mowed and Herbicide treatment, similar to Diamond Wet Blade™, for limited access as directed by the UCNSB, to include all Labor, Equipment and Materials. Herbicides costs are to be included in the per acre price.

<table>
<thead>
<tr>
<th>METHOD</th>
<th>CLEARANCES</th>
<th>UNIT COST PER ACRE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mowing &amp; Herbicide similar to Diamond</td>
<td>Floor</td>
<td>$</td>
</tr>
<tr>
<td>Wet Blade™</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

GRINDING OF TREE STUMPS (Price Per Stump):

Unit pricing shall include all labor, equipment and materials for grinding of tree stumps to sufficient depth below grade. The price shall include cleanup and disposal as appropriate.

<table>
<thead>
<tr>
<th>STUMP DIAMETER</th>
<th>UNIT COST</th>
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</thead>
<tbody>
<tr>
<td>Small 6&quot;-12&quot;</td>
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</tr>
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<td>$</td>
</tr>
<tr>
<td>Large 25&quot;-36&quot;</td>
<td>$</td>
</tr>
</tbody>
</table>
BID FORM

The Utilities Commission reserves the right to waive informalities in any bid, to reject any and all bids in whole or in part, with or without cause, and/or accept the bid or portions thereof that are in the best interest of the Utilities Commission. The prices are valid for Ninety (90) days from the date of bid opening unless specified otherwise. Bids will be evaluated on price, availability of contractor to meet needs of UCNSB with best references and potential cost saving alternatives.

Submitted By:
Name of Company: ______________________________________________
(Please Print)

Name & Title: __________________________________________________
(Please Print)

Signature: _____________________________________________________

Telephone No. ___________________ Facsimile No.___________________

E-Mail: _______________________________________________________

BIDDERS MUST SIGN BID FORM.
UTILITIES COMMISSION
City of New Smyrna Beach

ITB 09-21 TRANSMISSION ROW VEGETATION MANAGEMENT

STATEMENT OF NO BID

If you do NOT intend to bid on this requirement/project, please return this form immediately. Thank you, Utilities Commission, City of New Smyrna Beach, Florida

We, the undersigned have declined to submit a bid due to the following reason(s):

☐ Specifications too “tight”, i.e. geared toward one brand/manufacturer service only (explain below).
☐ Unable to meet time period for responding to bid.
☐ We do not offer this product or service.
☐ Our schedule would not permit us to perform.
☐ Unable to meet specifications.
☐ Unable to meet Bond/Insurance requirement(s).
☐ Specifications unclear (explain below).
☐ Unable to meet insurance requirements.
☐ Please remove us from your “bidder’s list”.
☐ Other (specify below).

REMARKS: ____________________________________________________________

____________________________________________________________________
____________________________________________________________________
____________________________________________________________________
____________________________________________________________________
____________________________________________________________________

We understand that if the “No Bid” letter is not executed and returned our name may be deleted from the bidder’s list of the Utilities Commission, City of New Smyrna Beach, FL.

Company Name: ___________________________ E-mail: ___________________________

Bid Number: ___________________________ Date: ___________________________

Signature: ___________________________ Fax: ___________________________

Telephone: ___________________________
THIS AGREEMENT FOR CONTINUING PROFESSIONAL SERVICES (“AGREEMENT”) is made and entered into this ______ day of ______________, 20__, by and between the UTILITIES COMMISSION, CITY OF NEW SMYRNA BEACH, FLORIDA, (hereafter "COMMISSION"), located at 200 Canal Street, New Smyrna Beach, Florida 32168, and ________________________, (hereafter SERVICE PROVIDER"), located at ___________________________ ____________________________.

RECITALS

1. The COMMISSION was created by special act of the Florida Legislature as a political subdivision of the State of Florida with certain powers, authorities, and duties related to the provision of water, wastewater, reclaimed water, and electric utility services, including the authority to enter into contracts.

2. The COMMISSION wishes to obtain __________________ services.

3. The SERVICE PROVIDER is willing to provide such services.

ACCORDINGLY, for and in consideration of the Recitals hereof, the mutual undertakings and agreements herein contained and assumed, and other good and valuable consideration the receipt and sufficiency of which are acknowledged by the Parties, the Parties hereby covenant and agree as follows:

SECTION 1. RECITALS. The above Recitals are true and correct and form a material part of this Agreement.

SECTION 2. TERM. This Agreement is to become effective upon execution by both parties. The initial term shall be for ONE (1) year(s). Additionally, the parties agree that this Agreement may be renewed beyond the initial term, up to Three (3) additional one-year periods upon mutual agreement in writing. Either party may elect to terminate the Agreement by giving written notice prior to THIRTY DAYS (30).

SECTION 3. DESCRIPTION OF SERVICES. SERVICE PROVIDER agrees to perform Transmission Line and ROW Vegetation Management services as specified in attached to and incorporated into this Agreement.

SECTION 4. CHANGES IN THE SCOPE OF WORK.

4.1 COMMISSION may make changes in the services at any time by giving written notice to SERVICE PROVIDER. If such changes increase, decrease or eliminate any amount of work, COMMISSION and SERVICE PROVIDER will negotiate any change in total cost or schedule modifications. If COMMISSION approves, COMMISSION shall
amend the Scope of Services to reflect the modifications; and SERVICE PROVIDER shall be compensated for said services in accordance with the terms of Section 5 herein. All change orders shall be in writing and executed by both COMMISSION'S designated representative and the SERVICE PROVIDER.

4.2 All of COMMISSION's said Scope of Services and amendments thereto shall be performed in strict accordance with the terms of this Agreement insofar as they are applicable.

SECTION 5. SCHEDULE AND PERIOD OF PERFORMANCE.

5.1 SERVICE PROVIDER shall perform its services in conformance with the agreed upon schedule. SERVICE PROVIDER shall complete all of said services in a timely manner and will keep COMMISSION apprised of the status of work on a monthly basis. Should SERVICE PROVIDER fall behind the agreed-upon schedule, it shall employ such resources so as to comply with the agreed-upon schedule.

5.2 No extension for completion of services shall be granted to SERVICE PROVIDER without COMMISSION's prior written consent, except as provided in Sections 4.1 and 22.1 herein.

SECTION 6. COMPENSATION FOR SERVICES. COMMISSION agrees to compensate SERVICE PROVIDER for services properly performed at the Per Unit rates of _______________.

SECTION 7. PAYMENT; INVOICES.

7.1 Invoices for SERVICE PROVIDER'S services shall be submitted to the COMMISSION at monthly intervals for services rendered during the previous period. Each invoice shall delineate the period in which the services were rendered; shall include a summary of the progress to date as a percentage of the major phases of the work. Each invoice shall be certified as correct by a duly authorized representative of SERVICE PROVIDER. The bill[s] shall identify the services completed and the amount charged.

7.2 COMMISSION or its authorized representative shall have the right, at all reasonable times, at its own expense, to inspect and audit the books and records of SERVICE PROVIDER insofar as they pertain to the direct charges payable by COMMISSION under this Agreement and such audit is performed within three (3) years after the expiration of this Agreement. The composition of fixed rates will not be subject to audit.

7.3 All invoices shall be due and payable thirty (30) days from receipt thereof by COMMISSION, subject to COMMISSION'S right to contest, in good faith, all or any part of the charges set forth therein. Payment of invoices shall not be unreasonably withheld by COMMISSION, but the COMMISSION reserves the right to reject any statement which fails to adequately describe the services rendered by SERVICE PROVIDER. Upon written notice to SERVICE PROVIDER, payment may be withheld, in whole or in part, for
SERVICE PROVIDER’S failure to comply with a term, condition or requirement of this Agreement. SERVICE PROVIDER will help effect resolution and transmit a revised invoice as necessary. Thereafter, the withheld amount(s) shall be paid upon SERVICE PROVIDER’S satisfactory demonstration of compliance to the COMMISSION. Amounts not questioned by COMMISSION shall be promptly paid to SERVICE PROVIDER in accordance with the above payment procedures.

SECTION 8. RIGHT TO INSPECTION. COMMISSION or its affiliates shall at all times have the right to review or observe the services performed by SERVICE PROVIDER. No inspection, review, or observation shall relieve SERVICE PROVIDER of its responsibility under this Agreement.

SECTION 9. COMMERCIAL WARRANTY. The SERVICE PROVIDER agrees that the supplies and services furnished under this award shall be covered by the most favorable commercial warranties the SERVICE PROVIDER gives any customers for comparable quantities of such supplies or services and that the rights and remedies provided herein are in addition to and do not limit any rights afforded to the COMMISSION by any other provision of this award.

SECTION 10. INSPECTION AND ACCEPTANCE. A duly authorized representative of COMMISSION will accomplish inspection and acceptance of the supplies/services purchased herein at the designated delivery point.

SECTION 10. SAFETY. To the extent the COMMISSION’S safety standards do not violate other County, State or Federal standards, SERVICE PROVIDER agrees to comply with COMMISSION’S safety standards while on the property of the COMMISSION. SERVICE PROVIDER shall have full responsibility and assume all liability for the safety and supervision of its employees while performing services provided hereunder.

SECTION 11. INSURANCE.

11.1 SERVICE PROVIDER shall maintain in force during the term of this Agreement, at its own expense, public liability insurance and other insurance coverage as set forth in Exhibit "A" which is hereby made a part of this Agreement.

11.2 SERVICE PROVIDER and COMMISSION waive all rights against each other and their respective directors, officers, partners, commissioners, officials, agents, subcontractors, SERVICE PROVIDERs, and employees for damages covered by any type of property insurance during and after the completion of the services. A similar provision shall be incorporated into all construction contractual arrangements entered into by COMMISSION and shall protect COMMISSION and SERVICE PROVIDER to the same extent. All project contractors shall be required to include COMMISSION and SERVICE PROVIDER as additional insureds on their general liability insurance policies.
SECTION 12. STANDARDS OF CONDUCT; COMPLIANCE WITH FEDERAL, STATE, AND LOCAL LAWS.

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

12.2 The SERVICE PROVIDER covenants that it or any of its employees presently has no interest and shall not acquire any interest, direct or indirect, financial or otherwise, that would conflict in any manner or degree with performance of services hereunder.

12.3 The SERVICE PROVIDER agrees that it and its employees shall be bound by the Standards of Conduct provided in Section 112.313, Florida Statutes, as it relates to services performed under this Agreement, which standards will by reference be made a part of this Agreement as though set forth in full. The SERVICE PROVIDER agrees to incorporate the provisions of this paragraph in any subcontract into which it might enter with reference to the services performed.

12.4 The SERVICE PROVIDER shall comply with all federal, state, and local laws and ordinances applicable to the work or payment for work thereof, and shall not discriminate on the grounds of race, color, religion, sex, or national origin in the performance of work under this Agreement.

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

12.6 SERVICE PROVIDER is subject to the provisions of Section 287.133(2)(a), Florida Statutes, on Public Entity Crimes.

SECTION 13. SERVICE PROVIDER’S REPRESENTATIONS. On behalf of its employees, agents, servants and contractors, SERVICE PROVIDER represents and warrants to the COMMISSION each of the following:

13.1 SERVICE PROVIDER represents that the services provided hereunder shall conform to all requirements of this Agreement; shall be consistent with recognized and sound consulting practices and procedures; and shall conform to the professional standards of care, skill, and diligence appropriate to the nature of the services rendered.
13.2 SERVICE PROVIDER represents that the personnel furnishing such services shall be qualified and competent to perform the services assigned to them and that such guidance given by and the recommendations and performance of such personnel shall reflect their best personal knowledge and judgment.

13.3 SERVICE PROVIDER represents that if SERVICE PROVIDER, through its negligent acts, errors, or omissions, causes any injury to COMMISSION or causes any physical damage to, or destruction of, any of COMMISSION's property during the term of this Agreement, it shall be liable for said injuries and/or damages, including reasonable attorney fees and costs incurred as a result therefrom.

13.4 SERVICE PROVIDER represents that none of SERVICE PROVIDER's principals or the immediate family of SERVICE PROVIDER's principals has a compensation arrangement of any kind with City. For purposes of this subsection, the term “immediate family” shall include a spouse, natural or adoptive parent, child or sibling, stepparent, stepchild, stepbrother or stepsister, father-in-law, mother-in-law, grandparent, grandchild or spouse of a grandparent or grandchild. For purposes of this subsection, compensation shall be defined as any type of remuneration directly or indirectly, overtly or covertly, paid in cash or in kind.

13.5 SERVICE PROVIDER represents that it is not undergoing any type of audit by a public or private, state or regulatory body or auditing entity.

13.6 SERVICE PROVIDER represents that it and its principals have not engaged in, and during the term of this Agreement agree not to engage in, any activities prohibited under the federal anti-kickback laws (42 U.S.C. 1320a-7, 1320a-7a, 1320a-7b), the regulations promulgated pursuant to such federal statutes, related state or local statutes or regulations, or rules of professional conduct.

13.7 Should SERVICE PROVIDER breach the representations set forth above, COMMISSION shall have such remedies as are set forth in this Agreement. To the extent an applicable remedy is not provided herein, both Parties shall have all such remedies as allowed under the laws of the State of Florida. Additionally, without limiting the generality of the foregoing, if prior to the expiration of two (2) years from the date SERVICE PROVIDER completes its services hereunder, SERVICE PROVIDER'S services are negligent or erroneous and COMMISSION notifies SERVICE PROVIDER in writing that a negligent error or omission has been discovered in SERVICE PROVIDER'S services, SERVICE PROVIDER shall correctly perform such negligent services at no additional cost to COMMISSION and within a reasonable time period.

SECTION 14. GUARANTEE AGAINST INFRINGEMENT. SERVICE PROVIDER guarantees that all services provided under this Agreement shall be free from claims of patent, copyright, and trademark infringement. SERVICE PROVIDER shall indemnify, hold harmless, and defend COMMISSION, its officers, directors, employees, agents, assigns, and servants from and against any and all liability, including expenses, legal or otherwise, for actual or alleged infringement of any patent, copyright, or trademark.
resulting from the use of any goods, services, or other item delivered under this Agreement.

**SECTION 15. INDEMNIFICATION.** SERVICE PROVIDER shall defend, indemnify, and hold harmless the COMMISSION, its officers, agents, and employees, from and against any and all demands, claims, losses, suits, liabilities, causes of action, judgment or damages, arising out of, related to, or any way connected with SERVICE PROVIDER'S negligent performance or non-performance of any provision of this Agreement including, but not limited to, liabilities arising from Agreements between the SERVICE PROVIDER and third parties made pursuant to this Agreement. SERVICE PROVIDER shall reimburse the COMMISSION for all its expenses including reasonable attorneys' fees and costs incurred in and about the defense of any such claim or investigation and for any judgment or damages arising out of, related to, or in any way connected with SERVICE PROVIDER'S performance or non-performance of this Agreement. This section shall be interpreted and construed in a manner to comply with any applicable Florida Statutes, including without limitation Sections 725.06 and 725.08, Fla. Stat., if applicable. The provisions of this section shall survive termination of this Agreement. Ten dollars ($10) of the payments made by the COMMISSION constitute separate, distinct, and independent consideration for the granting of this indemnification, the receipt and sufficiency of which is voluntary and knowingly acknowledged by the SERVICE PROVIDER.

**SECTION 16. AUDIT; PUBLIC RECORDS RETENTION; DOCUMENTS; OWNERSHIP.**

16.1 Upon COMMISSION'S or its designated Project Leader's request, at any time during the term of this Agreement or upon completion or termination of this Agreement, SERVICE PROVIDER shall provide COMMISSION or its designated Project Leader with a copy of all documents prepared by SERVICE PROVIDER under this Agreement. Documents shall be original and PDF versions.

16.2 The parties acknowledge that the COMMISSION is a part of the government of the City of New Smyrna Beach, Florida, and subject to the Florida Public Records Law. SERVICE PROVIDER has been advised the COMMISSION that all its activities are subject to the Public Records Law (Chapter 119, Florida Statutes) and the Sunshine Law (Section 286.011, Florida Statutes), and agrees to maintain all records necessary to comply with the requirements of such laws, and for the proper supervision of the services performed pursuant to this Agreement. SERVICE PROVIDER agrees to comply with all COMMISSION policies and procedures in observing the requirement of said laws. SERVICE PROVIDER shall allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, made or received by the SERVICE PROVIDER in conjunction with this AGREEMENT. Specifically, the SERVICE PROVIDER must:

(1) Keep and maintain public records that ordinarily and necessarily would be required by the COMMISSION in order to perform the services being performed by the SERVICE PROVIDER.
(2) Provide the public with access to public records on the same terms and conditions that the COMMISSION 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.

(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.

(4) Meet all requirements for retaining public records and transfer, at no cost, to the COMMISSION all public records in possession of the SERVICE PROVIDER upon termination of the AGREEMENT and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the COMMISSION in a format that is compatible with the information technology systems of the COMMISSION.

The SERVICE PROVIDER shall promptly provide the COMMISSION with a copy of any request to inspect or copy public records in possession of the SERVICE PROVIDER and shall promptly provide the COMMISSION a copy of the SERVICE PROVIDER’S response to each such request. Failure to grant such public access will be grounds for immediate termination of this AGREEMENT by the COMMISSION.

16.3 COMMISSION shall have the right to audit the books, records and accounts of SERVICE PROVIDER that are related to the performance of Services pursuant to this Agreement. SERVICE PROVIDER shall keep such books, records and accounts as may be necessary in order to record complete and correct entries related to this Agreement. SERVICE PROVIDER shall preserve and make available, at reasonable times for examination and audit by COMMISSION, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Florida Statutes), if applicable, or if the Florida Public Records Act is not applicable for a minimum period of three (3) years after termination of this Agreement. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by COMMISSION to be applicable to SERVICE PROVIDER’S records, SERVICE PROVIDER shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by SERVICE PROVIDER. Any incomplete or incorrect entry in such books, records and accounts shall be a basis for COMMISSION disallowance and/or recovery of any payment upon such entry. The SERVICE PROVIDER shall retain all records relating to this Agreement for five years after the COMMISSION makes final payment and all other pending matters are closed.

16.4 Any and all reports, photographs, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of COMMISSION. In the event of termination of this Agreement, any reports, photographs, surveys, and other data and documents prepared by SERVICE
SECTION 17. ASSIGNMENT

17.1 SERVICE PROVIDER shall not assign or subcontract this Agreement or any rights or any monies due or to become due hereunder without the prior, written consent of COMMISSION. All requirements to be observed by the SERVICE PROVIDER shall be observed by all subcontractors.

17.2 If upon receiving written approval from COMMISSION, any part of this Agreement is subcontracted by SERVICE PROVIDER, SERVICE PROVIDER shall be fully responsible to COMMISSION for all acts and/or omissions performed by the subcontractor as if no subcontract had been made.

17.3 If COMMISSION determines that any subcontractor is not performing in accordance with this Agreement, COMMISSION shall so notify SERVICE PROVIDER who shall take immediate steps to cancel the subcontract, or correct the deficiency. COMMISSION shall also be given permission to communicate directly to the subcontractor, which communication shall not constitute interference with contractor/subcontractor relationship, provided that COMMISSION notifies SERVICE PROVIDER in writing of said communication.

17.4 If any part of this Agreement is subcontracted by SERVICE PROVIDER prior to commencement of any work by the subcontractor, SERVICE PROVIDER shall require the subcontractor to provide COMMISSION with insurance coverage as set forth by Section 11 and Exhibit "B".

SECTION 18. INDEPENDENT CONTRACTOR. The parties intend that an independent contractor relationship will be created by this Agreement. It is understood that COMMISSION does not agree to use SERVICE PROVIDER exclusively. It is further understood that SERVICE PROVIDER is free to contract for similar services to be performed for others while under contract with COMMISSION. The parties expressly acknowledge that SERVICE PROVIDER is an independent SERVICE PROVIDER, and nothing contained in this Agreement will be deemed or construed to create a partnership or joint venture between COMMISSION and SERVICE PROVIDER or any other relationship between the parties. Additionally, nothing in this Agreement is intended nor shall be construed to create an employer/employee relationship, or to allow COMMISSION, or its agents, representative, or employees, to exercise control or direction over the manner or method by which SERVICE PROVIDER performs any services which are the subject of this Agreement.

SECTION 19. AUTHORIZATION. SERVICE PROVIDER shall not, without authorization first being given by COMMISSION: a) Use or pledge money or credit of the COMMISSION, except in the usual and regular course of business and on account of or
for the benefit of the COMMISSION; b) Release or discharge any debt due to COMMISSION without receiving the full amount thereof; c) Commit any act causing seizure or attachment of the COMMISSION'S property; or d) Cause COMMISSION to become a guarantor, surety, or endorser, or give any note which obligates the COMMISSION.

SECTION 20. TAXES. SERVICE PROVIDER shall assume full responsibility for payment of all federal, state, and local taxes or contributions imposed or required under unemployment insurance, Social Security, and income tax laws, with respect to SERVICE PROVIDER'S performance of this Agreement.

SECTION 21. DEFAULT. If, during the term of this Agreement, SERVICE PROVIDER shall be in default of any provision of this Agreement, COMMISSION may suspend its payment or performance hereunder until such delinquency or default has been corrected; provided, however, that no suspension shall be effective unless and until COMMISSION gives notice of the default to SERVICE PROVIDER with at least ten (10) days to cure such default.

SECTION 22. TERMINATION. Notwithstanding any other provision of this Agreement, COMMISSION may, upon fifteen (15) days written notice to SERVICE PROVIDER, terminate this Agreement if: (a) SERVICE PROVIDER is adjudged to be bankrupt; (b) SERVICE PROVIDER makes a general assignment for the benefit of its creditors; (c) SERVICE PROVIDER fails to comply with any of the conditions or provisions of this Agreement; or (d) SERVICE PROVIDER is experiencing a labor dispute which threatens to have a substantial, adverse impact upon performance of this Agreement, without prejudice to any other right or remedy COMMISSION may have under this Agreement; or (e) when deemed by the COMMISSION (in its sole discretion) is in the best interest of the COMMISSION. In the event of such termination, COMMISSION shall be liable only for the payment of all unpaid charges, determined in accordance with the provisions of this Agreement, for work properly performed prior to the effective date of termination.

SECTION 23. FORCE MAJEURE. Any delay or failure of either party in the performance of its required obligations hereunder shall be excused if and to the extent caused by acts of God; fire; flood; windstorm; explosion; riot; war; sabotage; strikes; extraordinary breakdown or damage to COMMISSION's generating plants, their equipment, or facilities; court injunction or order; federal and/or state law or regulation; order by any regulatory agency; or cause or causes beyond the control of the party affected; provided that prompt notice of such delay is given by such party to the other and each of the parties hereunto shall be diligent in attempting to remove such cause or causes.
SECTION 24. NOTICE. Any notices required to be given by the terms of this Agreement shall be delivered by hand or mailed, postage prepaid, to:

For SERVICE PROVIDER:

For COMMISSION:
Utilities Commission, City of New Smyrna Beach, Florida
Attention: Materials Manager
P.O. Box 100
New Smyrna Beach, FL 32170-0100
(386) 427-1361

SECTION 25. GOVERNING LAW. This Agreement is made and shall be interpreted, construed, governed, and enforced in accordance with the laws of the State of Florida.

SECTION 26. SEVERABILITY. In the event any portion of part of this Agreement is deemed invalid, against public policy, void, or otherwise unenforceable by a court of competent jurisdiction, the parties shall negotiate an equitable adjustment in the affected provision of this Agreement. The validity and enforceability of the remaining parts thereof shall otherwise be fully enforceable.

SECTION 27. WAIVER AND ELECTION OF REMEDIES.

27.1 Waiver by COMMISSION of any term, condition, or provision of this Agreement shall not be considered a waiver of any term, condition, or provision in the future.

27.2 No waiver, consent, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of each party hereto.

27.3 Notwithstanding any other provision of this Agreement, the provisions of Sections 14, 15 and 16 shall survive the termination or expiration of this Agreement.

SECTION 28. THIRD PARTY RIGHTS. Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than COMMISSION and SERVICE PROVIDER.
SECTION 29. LIMITATION OF LIABILITY. To the fullest extent permitted by law, SERVICE PROVIDER’S total liability for any and all claims, losses, damages and expenses resulting in any way from this Agreement shall not exceed the total compensation received by SERVICE PROVIDER under the applicable Scope of Services notwithstanding the fault, tort (including negligence), strict liability or other basis of legal liability of the SERVICE PROVIDER and shall extend to its officers, directors, employees, licensors, agents, subcontractors, vendors and related entities.

SECTION 30. CONSEQUENTIAL DAMAGES. Notwithstanding any provision in this Agreement to the contrary, and to the fullest extent permitted by law, SERVICE PROVIDER shall not be liable to COMMISSION for loss of profits, revenue, use, opportunity, and goodwill; cost of substitute facilities, goods, and services; cost of capital; and increased operating costs.

SECTION 31. ENTIRE AGREEMENT. This Agreement, including Exhibits "A" and "B" constitutes the entire agreement between COMMISSION and SERVICE PROVIDER with respect to the services specified and all previous representations relative thereto, either written or oral, are hereby annulled and superseded.

SECTION 32. JOINT PREPARATION. Preparation of this Agreement has been a joint effort of COMMISSION and SERVICE PROVIDER and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than any other.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the date first written above.

COMMISSION:

UTILITIES COMMISSION, CITY OF NEW SMYRNA BEACH, FLORIDA

By:___________________________________   By:________________________

Director of Finance/CFO   Its:________________________

ATTEST:_________________________   ATTEST:_________________________

By:_____________________________   Its:_________________________

(CORPORATE SEAL)

Director of Department