REQUEST FOR PROPOSAL

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

Provide Lawn and Vegetation Management for the Utilities Commission, City of New Smyrna Beach

Notice is hereby given that sealed proposals will be received at 200 Canal Street, New Smyrna Beach, FL 32168, until 2:30 P.M. on December 1, 2020 at which time they will be publicly opened in the 3rd floor DeBerry Room.

Submit Proposals To: Maureen Lynch, CPPB
Materials Manager
Utilities Commission,
City of New Smyrna Beach
(386) 424.3046 Voice
(386) 424.2748 Fax
MLYNCH@UCNSB.ORG

Mailing Address: Post Office Box 100
New Smyrna Beach, FL
32170-0100

Walk In Delivery: 200 Canal Street
New Smyrna Beach, FL
32168

Proposers must indicate on the sealed envelope the following:

A. RFP Number
B. Hour and Date of Opening
C. Name of Proposer
UTILITIES COMMISSION
City of New Smyrna Beach
RFP 04-21
Lawn and Vegetation Management

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PROPOSAL SCHEDULE

- DISTRIBUTION OF THE REQUEST FOR PROPOSAL: October 30, 2020

- MANDATORY PRE-BID & SITE INSPECTION: November 6, 2020
  
  TIME: 8:30AM 3119 SR 44 Water Reclamation Facility
  (Behind Super Walmart)

- DEADLINE FOR FINAL QUESTIONS BY 2:30 P.M.: November 12, 2020
  
  ➢ E-MAIL TO MLYNCH@UCNSB.ORG

- ADDENDUM PUBLISHED BY 5:00 P.M.: November 18, 2020

- PROPOSAL RETURN DEADLINE BY 2:30 P.M.: December 1, 2020
  
  ➢ LOCATION: RECEPTION
  UTILITIES COMMISSION, CITY OF NEW SMYRNA BEACH, FL.
  200 CANAL STREET
  NEW SMYRNA BEACH FL, 32168
GENERAL TERMS AND CONDITIONS

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

2. **SEALED PROPOSALS**: An original proposal and 3 copies plus a USB Flash Drive must be in the Finance Department by the date and time specified.
   a. Name and address of Proposer
   b. RFP number
   c. Date and time of RFP Opening

3. **COMMISSION**: The term **COMMISSION** used herein refers to the Utilities Commission, City of New Smyrna Beach, Florida, or its duly authorized representative.

4. **PROPOSER**: The term **PROPOSER** used herein refers to the dealer/manufacturer/vendor or business organization submitting a proposal to the **COMMISSION** in response to this solicitation.

5. **COLLUSION**: The **PROPOSER** 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.

6. **PRICE WARRANTY**: The **PROPOSER** warrants that the prices of the items set forth herein do not exceed the prices charged by the **PROPOSER** under a contract with the State of Florida.

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

   Questions regarding any portion of this RFP shall be directed, in writing, to:
   Utilities Commission, City of New Smyrna Beach
   Maureen Lynch, CPPB
   Materials Manager
   mlynch@ucnsb.org
   or
   200 Canal Street
   New Smyrna Beach, FL
   32168
   All such requests must be received no later than 2:30 PM, Eastern Standard Time, 11/12/2020. Responses to all requests for more information will be included in any addenda and will be made available to all **PROPOSERS** on 11/18/2020 by 5:00PM.
Requests for additional information received after the 11/12/2020 deadline will not receive a response. Responses will not be made orally.

Any additional information pertaining to this RFP 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 PROPOSER’s reliance thereon.

8. **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.

9. **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 RFP 04-21 LAWN AND VEGETATION MANAGEMENT FOR THE UTILITIES COMMISSION CITY OF NEW SMYRNA BEACH

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.

10. **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 448.095includes, 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.

11. **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.

12. **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 PROPOSER to ensure that they have received all addenda before submitting their PROPOSALS.

13. **PREPARATION OF PROPOSAL**: 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 COMMISSION will not be responsible for errors or omissions made by proposer in determining proposal price(s). The proposal must contain a manual signature of an authorized representative of the agency proposing. In order to insure uniformity, proposals must be submitted on this Proposal Form and the attached pages.

14. **OBLIGATION OF PROPOSER**: By submitting a proposal, the Proposer 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.

15. **AMENDED OR WITHDRAWN PROPOSALS**: Proposals may be amended or withdrawn only by written notice prior to the PROPOSAL opening. Amendments will only be accepted in the form of a new PROPOSAL package. The proposer must pick up the original RFP package and submit an amended sealed proposal prior to the RFP’s closing date and time. Amendments or withdrawals received after the RFP opening will not be effective, and the original RFP submitted will be considered.

16. **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, supplier, 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
17. **CONSIDERATION OF PROPOSALS:** The COMMISSION reserves the right to award the contract to the Proposer(s) that the COMMISSION deems to offer the best overall proposal. The COMMISSION is therefore not bound to accept a proposal on the basis of lowest price. In addition, the COMMISSION at its sole discretion, reserves the right to cancel this Proposal, to reject any and all proposals, 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 Proposer in preparing or submitting a proposal or any cost prior to the execution of a contract agreement.

18. **TIE PROPOSAL:** In the event of a tie proposal where quality and service are equal; a preference is given to vendors submitting, with the proposal, a certification of a drug free work place in accordance with Section 287.087 Florida Statutes. Where tie proposals are between proposers, one of which is located in Volusia County and the other proposer is not, the recommended award shall be to the local proposer. 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.

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

20. **NO PROPOSAL:** In the event a Request for Proposal is returned as a no bid, "NO PROPOSAL" shall be properly marked on the outside of the envelope with the RFP number.

21. **REJECTED PROPOSAL:** The COMMISSION reserves the right to reject proposals containing any additional OR EXCLUDED terms or conditions not specifically requested in the original conditions and specifications.

22. **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 suppliers.

23. **CHANGES:** 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.
24. **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 **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.

25. **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.

26. **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.

27. **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.
CERTIFICATION OF DRUG-FREE WORKPLACE FORM

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, distribution, 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
PUBLIC ENTITY CRIMES FORM
SWORN STATEMENT UNDER SECTION 287.133(3) (1) FLORIDA STATUTES

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

1. This sworn statement is submitted Bid, Bid or Contract for LAWN AND VEGETATION MANAGEMENT FOR THE UTILITIES COMMISSION CITY OF NEW SMYRNA BEACH

2. 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: ____________________________.

3. My name is ______________________________and my relationship to the entity named above is ____________________________________________.

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

5. I understand that “convicted” or “conviction” as defined in Paragraph 287.133 (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.

6. 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.
7. I understand that a “person” as defined in Paragraph 287.133(1) (e), Florida Statutes, means any natural person or entity organized under the laws of 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.

8. 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 __________________, PROPOSER that has submitted the attached PROPOSAL;

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 PROPOSER 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 PROPOSER, firm or person, to fix the price or prices in the attached Bid or of any other PROPOSER, or to fix any overhead, profit or cost element of the Bid price or the Bid price of any other PROPOSER, 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 PROPOSER 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: ___________
Request for Taxpayer Identification Number and Certification

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

2. Business name/described 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
   - Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership)
   - Other (see instructions)

4. Exemptions (codes apply only to certain entities, not individuals; see instructions on page 5):
   - Exempt payee code (if any) __________
   - Exemption from FATCA reporting code (if any) __________

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

6. City, state, and ZIP code

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 other 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

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, and 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

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 1098 (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 PROPOSAL may be disqualified if the following vendor information is not returned with your PROPOSAL.

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: __________________________________________________

Telephone No. _______________________ Fax No. ____________________

Email Address: ____________________ Web Address:____________________

Submitted by: _____________________________________________________

Name & Title Printed: _______________________________________________
Additional space may be required. Please answer questions in the order presented. All questions must be answered, or PROPOSER 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 COMMISSION as an Additional Insured?

4. Since January 1, 2011, 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?

9. How many employees does your company have?

   Staff Employees:     Full Time__________  Part Time__________

   Contract Employees: Full Time__________  Part Time__________
REQUIRED DISCLOSURE

At its sole discretion, the COMMISSION may reject any proposer 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 proposal, PROPOSER recognizes and accepts that the COMMISSION may reject the proposal based upon the exercise of its sole discretion and proposer waives any claim it might have for damages or other relief resulting from the rejection of its proposal based on these grounds.
The Utilities Commission, City of New Smyrna Beach is seeking qualified bidders to provide a mowing service contract for the next twelve (12) months with a renewal provision of three (3) one (1) year periods if agreeable to both parties. The contractor shall furnish all labor, materials, equipment, and supervision for the work performed. Prior to bidding, a pre-bid site review of all locations addressed in the specs will be held with interested bidders. Award to the low responsive bidder is expected to made no later than the January 2021 meeting of The Utilities Commission.

The initial term of this contract is to begin February 1, 2020.

A MANDATORY PRE-BID MEETING WILL BE HELD NOVEMBER 6, 2020 @ 8:30AM AT THE WATER RECLAMATION FACILITY, 3119 SR 44, NEW SMYRNA BEACH, FL 32170 WITH MANDATORY SITE INSPECTION FOLLOWING. VENDOR MUST SIGN-IN AND VISIT ALL SITES TO BE CONSIDERED.

LOCATIONS TO BE SERVICED

A) WASTEWATER DIVISION

Water Reclamation Facility & Perimeter of Well 24 Fence, 3119 SR 44
This approximate 10-acre site is the Water Reclamation Plant. Much of the property is tanks and structures. The remainder is areas that need to be mowed, trimmed, and maintained. This includes the area beginning with the start of the asphalt at the entrance to the plant and all areas within the fence line and enlarging the encroachment of perimeter.

April-September: Two (2) Cuts per Month with Weed Eat & Trim
October-March: One (1) Cut per Month with Weed Eat & Trim

Wet Weather Storage Pond, 3119 SR 44
13 Acre Pond, Berm, & Inside Fence

One Cut in Months of: February, May, July, September & November

Headend Building, 3129 SR 44

April-September: Two (2) Cuts per Month with Weed Eat & Trim Including Inside Fence Line
October-March: One (1) Cut per Month with Weed Eat & Trim Including Inside Fence Line
Lift Stations

a. #60 Across from old K-Mart S.R. 44
b. #3 Saxon Drive (Include Flower Bed)

April-September
Two (2) Cuts per Month with Weed Eat & Trim

October-March
One (1) Cut per Month with Weed Eat & Trim

B) WATER DIVISION

Water Treatment Plant, 2640 Paige Ave

NO WEED KILLER TO BE USED AT THIS OR ANY WATER FACILITY
Approximate 5-acre site supports the Water Treatment plant. Much of the property is tanks and structures. The remaining areas need to be mowed, trimmed, and maintained. All areas beginning with the start of the asphalt at the entrance to the plant and the area contained therein including inside and outside the fence lines, lagoon and berm areas, and six (6) semi-remote well houses. Additionally, enlarging the encroachment of perimeter of the plant is required. Maps are attached to assist you in understanding the area to be maintained surrounding properties well houses. Well Houses are indicated with G and a #. Areas within red lines are to be maintained. See Map.

G5 G2 G1 Maintain large easement area to the east. Weed eat inside fence.
G6 Maintain 20’ Perimeter. Weed eat inside fence.
G8 Maintain a 20’ Perimeter. Weed eat inside fence.

April-September: Two (2) Cuts per Month with Weed Eat & Trim
October-March: One (1) Cut per Month with Weed Eat & Trim

Pumping Stations

NO WEED KILLER TO BE USED AT THIS OR ANY WATER FACILITY

South Beach (4510 S. Atlantic Ave.)
3rd Avenue (728 E. Third Ave)

To be maintained, including from the pole to the asphalt on the north side. Sea grapes and hedges at both locations to be trimmed quarterly. Include landscaping inside and outside the fence at both locations, including weeding the flower beds.

April-September: Two (2) Cuts Per Month with Weed Eat & Trim
October-March: One (1) Cut Per Month with Weed Eat & Trim
413 Smith Street

**NO WEED KILLER TO BE USED AT THIS OR ANY WATER FACILITY**

This site is to be maintained before or after working hours due to the large number of personal vehicles parked on the grass M-F 7am-3:30pm

Mow, weed eat, and trim. Include 30’ strip outside south fence, outside the fence, between the sidewalk and fence on the west and north sides, outside the fence between the alley and fence/building.
Maintain fence line, keeping vines under control.

April-September: Two (2) Cuts per Month

October-March: One (1) Cut per Month

**Wells**

**NO WEED KILLER TO BE USED AT THIS OR ANY WATER FACILITY**

The contractor shall be responsible for maintaining the road leading through the well field.

**Six (6) at Western Wellfield 4646 SR 44**

**Six (6) at Samsula Wellfield along SR 44**

April-September: Two (2) Cuts per Month; One (1) with Weed Eat & Trim

October-March: One (1) Cut with Weed Eat & Trim per Month

**De-Chlorination Site (18 North Causeway)**

**NO WEED KILLER TO BE USED AT THIS OR ANY WATER FACILITY**

Mow, weed eat and trim

April-September: Two (2) Cuts per Month; One (1) with Weed Eat & Trim

October-March: One (1) Cut per Month with Weed Eat & Trim

**C) ELECTRIC DIVISION**

**Slaton/Field Street Facilities, 305 Slaton Ave/1151 Field Street**

**Sites must be maintained before or after business hours which are 7am to 3:30 pm M - F**

Contractor shall maintain roadway leading into the office building, managing encroachment.

Contractor shall maintain flower beds in front of office building.

Cut and String Trim
Initial Clean up and Maintenance of Fence Line (Field St. Sub and Warehouse Yard)

1000 Field Street
Mow, weed eat and trim and enlarging the encroachment of perimeter

Substations

#1 Substation N. Dixie Freeway
Mowing and enlarging the encroachment of perimeter

Airport Substation on Turnbull Bay Road
Mowing and enlarging the encroachment of perimeter

Schoolway Substation on Saxon
Maintain grass and vegetation at substation
Contractor must maintain fence line

Smyrna Substation
Mow ROW and perimeter around enclosure. Includes weed eat and trim.

All Locations:
April-September: Two (2) Visits per Month
October-March: One (1) Visit per Month

D) FLEET MAINTENANCE FACILITY, 2195 BOAT RAMP DRIVE
The City of New Smyrna Beach maintains the drive leading to and all parking and boat ramp facilities. UCNSB Fleet Maintenance is the area inside the fence line. In addition, a small amount of warehouse inventory is stored here.

Mow, weed eat, and trim
April-September: Two (2) Visits per Month
October-March: One (1) Visit per Month

E) CENTRAL OFFICE BUILDING, 200 CANAL STREET
This site is the Central Office Building of the Utilities Commission. The area to be maintained is a combination of structures and a parking lot with trees and mulch beds. Areas need to be
weeded, trimmed and kept clean of debris. This is a high visibility area. Additional services may be requested after a heavy leaf fall or special event.

April-September: (2) Visits per Month
October-March: One (1) Visit per Month

**F) SUGAR MILL WATER RECLAMATION FACILITY, 401 Clubhouse Blvd.**

This site is the former location of Utilities Commission Water Reclamation Facility. The operation is abandoned, however UCNSB maintains ownership of the site and utilizes the property for overflow of reclaim water.

Mow, weed eat, and trim. Maintain fence line.

April-September: Two (2) Visits per Month
October-March: One (1) Visit per Month

**OTHER CONDITIONS:**

1. All the facilities require full security considerations. Remote sites and pumping stations remain under lock and key and will require an escort.
2. Invoicing must be within one week of work completion. **BILLING IN ADVANCE IS NOT PERMITTED.**
3. Additional mowing must obtain prior approval and will be paid at the ‘per cut’ rate.
4. Contractor must be licensed and insured to perform all aspects of the work required.

**Service Times**

All services, unless otherwise coordinated (or listed above) and approved by the Fleet/Facilities Manager (FFM), and/or designee, shall be provided by the Contractor between the hours of 7:00 a.m. and 7:00 p.m. local time, Monday through Friday, excluding State holidays.

**General Facility Site Procedures**

For each visit to a facility to perform work under this Contract, the entire Contractor's staff shall:

- Check in and out with the FFM or designee at each visit.
- Protect existing facilities from damage by workmen, and shall repair or replace, at the Contractor’s expense, any damage to the property caused by its employees or suppliers.
• Keep premises free from accumulation of waste materials or rubbish caused by operations, and from leaks and spillage from equipment. Upon completion of the work, all waste materials and rubbish will be removed.
• The Contractor shall provide the following lawn care services within the boundaries of each facility that include, but are not limited to:
  o Mowing, edging, pruning, watering and cleanup of shrubs, trees and other plantings.
  o Open field mowing.
  o Retention Basin Maintenance.

Lawns shall be mowed at the appropriate height (suggested to be three to four inches above root) to keep a neat appearance. Considering topography, the Contractor is required to use the proper mowing equipment to provide a high-quality cut and minimize the occurrence of unnecessary scalping due to uneven terrain.

Excessive clippings are to be collected and removed from the job site at the end of each mowing. Clippings and debris on non-lawn areas are to be cleared at the end of each mowing. The use of bagging attachments is recommended, but not required.

Permanent fixtures in the lawn areas are to be trimmed with weed eaters to avoid unsightly growth at the base. Care is always to be taken when operating around fixtures to prevent damage to them.

Apply pre-emergent weed control in spring and fall.

Edging and trimming along walks, bed edges and tree wells shall be done to keep a neat appearance. All hard edges shall be mechanically edged every mowing to maintain definition of edges.

Turf along curbs and sidewalks that cannot be addressed with routine edging operations due to broken curbs or uneven borders are to be treated chemically and/or physically removed with a spade.

Edging that cannot be addressed during regular visits, due to vehicle obstructions, should be discussed with the FFM to achieve a solution.

During routine maintenance visits, the Contractor is responsible for removing trash and debris from the property.

All lawn areas, except as stipulated herein, shall be treated with broadleaf weed control, or other applicable pesticide, as agreed upon in the weed/lawn control maintenance program. The Contractor is to provide pricing and other options for GREEN Technology.
Shrubs, Trees and Other Plantings

All plant and tree material is to be pruned in a manner to provide a neat natural appearance, promote bloom, and meet accepted horticultural practices. Limbs that obstruct buildings, walkways, signs, windows, ventilation units or vehicular traffic shall be removed. All shearing and selective pruning techniques are left to the discretion of the Contractor; however, prior approval of technique to be used and areas affected must be obtained from the FFM.

Weeds must be eradicated and removed to present a neat, well maintained appearance at all times. Weeds that cannot be removed by hand should be treated with post-emergence herbicides. Dead or damaged portions of plants shall be removed to maintain an attractive appearance and promote healthy plant growth.

Mulch in planting beds must be maintained at a minimum depth of three inches during all seasons of the year. Mulch must be Red Mulch, Cypress Mulch, Rubber Mulch, or Pine Straw as determined by the FFM. (material price list to be included on separate sheet with bid)

Shrub beds and tree wells are to be mulched a minimum of twice a year. The Contractor shall avoid excessive application of mulch around and on top of plants and shrubs.

Trees, shrubs, grasses and other plants shall show no sign of excess dryness or excessive watering.

Groundcover shall be kept trimmed within curbs and along walkways. Groundcover shall not be allowed to grow into or through shrubs or other plantings.

The Contractor shall monitor trees and shrubs for signs of disease and insect infestations. If plants are over 12 feet in height, appropriate recommendations for treatment shall be submitted to the FFM. If plants affected are less than 12 feet in height, spot treatments are the responsibility of the Contractor.

Tree branches must be thinned and elevated as needed. This applies to tree branches/limbs and palm fronds within 15 feet or less of the ground.

Plant material shall be inspected (and treated if needed) at each service to detect potential infestations of insects and/or disease. A preventative spray program is to be implemented by the Contractor to provide protection against potential infestations. Legally approved chemicals are to be used to treat the problem. Due care will be taken at all times when applying pesticides and must be performed by or under the direct supervision of a licensed applicator. Upon award, the Contractor will provide a preventative spray program in writing for all lawn, weed, shrub, tree, and bed maintenance to be reviewed and approved by the Company within 30 days of Contract execution.

Deep but selective pruning and hard cutbacks will be performed on plant material during winter months (if applicable to the climate) for corrective and restorative purposes. The FFM shall be informed before any drastic cutbacks are performed.
Xeriscape Landscaping

The Contractor will assist with implementing and maintaining Xeriscape Landscaping where possible to support water conservation measures.

Color displays shall provide fullness and impact and shall look fresh at all times. Plant selected must be compatible with the climate for which they are installed. Overall design must be in harmony and scale with the existing landscape and planting area.

All new plants shall be installed at the appropriate depth and on-center spacing. New planting shall be watered in. All nursery tags shall be removed from planting material.

The Contractor is responsible for monitoring the water needs of all seasonal color beds and coordinating the appropriate irrigation settings. The Contractor shall make provisions to provide watering services up to two times per week for non-irrigated areas such as containers. The Contractor is responsible for insuring that all local codes, ordinances, and other applicable regulations are followed.

Paved Areas

Edging and trimming along curbs, walks, bed edges and tree wells shall be done to keep a neat appearance. All hard edges shall be mechanically edged every mowing to maintain definition of edges.

Turf along curbs and sidewalks that cannot be addressed with routine edging operations due to broken curbs or uneven borders are to be treated chemically and/or physically removed with a spade.

Edging that cannot be addressed during regular visits, due to vehicle obstructions, should be discussed with the FFM to achieve a solution. Sidewalks, gutters, roadways and other surfaces surrounding the facilities shall be free of leaves and other debris.

All paved surfaces will be maintained free of unnatural foreign material at all times. Natural debris will be removed. Ground cover plant material that infringes on paved surfaces will be trimmed (edged) in conjunction with landscape maintenance.

Mowers and other motorized equipment will be operated in a manner as to avoid leaving tire marks on sidewalks.

The Contractor will be responsible for cleaning up spills or excessive drainage of fluids from equipment onto paved areas.
Schedule of Services to Be Provided

All grounds to be policed and cleaned of accumulated trash and debris prior to any other services being provided. This should be accomplished each time services are scheduled and performed.

Clean parking areas, walkways and drive lanes of all debris generated from each service.

Bi-Weekly (every two weeks / twice per month)
All grassy areas will be mowed a minimum of once bi-weekly during the periods specified above under each location.

Edging of all driveways, sidewalks, street curbs and flower beds during the period of December through March. All edging shall be done by mechanical means.

Clean parking areas, walkways and drive lanes of all debris generated from each service.

Monthly
All bushes, hedges, flowerbeds and ornamental vines will be trimmed and/or shaped at least monthly. Certain areas may require trimming more often for aesthetic reasons. Additional trimming will be at the discretion of the FFM.

Clean parking areas, walkways and drive lanes of all debris generated from each service.

Open fields and/or other areas designated as part of the site are to be mowed on a monthly basis. Areas of this nature will be identified during the required site visit.

Semi-Annual
New mulch will be put down in the months of March and September. (Three-inch depth to be maintained throughout the year).

All grass, trees, plants and shrubs are to be fertilized according to industry standards applicable to geographic locations, plant material and grass type. Minimum application will take place no less than twice a year.

Clean parking areas, walkways and drive lanes of all debris generated from each service.

Hurricane Season/Pre Named Storm
Prior to a named storm event, Contractor shall perform additional work to clear areas of debris and trim tree limbs at each of the following locations:

Water Reclamation Facility & Perimeter of Well 24 Fence, 3119 SR 44
Water Treatment Plant, 2640 Paige Ave
413 Smith Street
Slaton/Field Street Facilities, 305 Slaton Ave/1151 Field Street
1000 Field Street
#1 Substation N. Dixie Freeway
Airport Substation on Turnbull Bay Road
School way Substation on Saxon
Smyrna Substation
Fleet Maintenance Facility, 2195 Boat Ramp Drive
Central Office Building, 200 Canal Street

Weed, Pest and Disease Control

All herbicides, fungicides and insecticides will be as specified in “Your Florida Landscape: A Complete Guide to Planting and Maintenance” or “The Florida Lawn Handbook.”

Weed control is to be by whatever method necessary, including manual extraction.

The Integrated Pest Management (IPM) Program shall be utilized to minimize the use of pesticides. The Contractor must develop and follow a pest control program, applying the concepts of IPM to minimize the use of pesticides.

Proper culture, pest monitoring, sanitation and timing are all part of the IPM program. Pest control shall be accomplished primarily by granular application except for spot spraying of insecticide.

The Integrated Disease Management (IDM) Program shall be utilized in conjunction with the IPM. The Contractor must develop and follow a pest control program, applying the concepts of IDM for all exterior trees, plants, shrubs and lawns. This program must be preventative as well as remedial. Upon Contract execution, the Contractor will provide a written preventative spray program for all lawn weed, shrubbery, tree and bed maintenance to be reviewed and approved by the Company.

For any applications of fertilizer and/or pesticides and herbicides, the Contractor or subcontractor must have and maintain a pest control or herbicide applicator license.

Once product submittals have been submitted and approved by the FFM and the Contractor commences work, the Contractor must not change the approved products at any time during the term of this Contract without prior written approval from the FFM.

Contractor Staff Requirements

The Contractor’s staff shall, at a minimum, wear a company shirt provided by the Contractor, and an identification badge that includes the employee’s full name, photograph (portrait), and company name.

Within 10 days after Contract execution, the Contractor shall identify its team members who will be performing services at the UC’s facilities. Each team member will be required to have an
FDLE background screening check prior to performing work at any UC facility, and then annually thereafter.

**Reporting Requirements**

The Contractor shall inspect all grass areas, plants and trees for signs of disease, infestation, yellowing of leaves or insect-ridden conditions each service and treat as needed. The results of these inspections and treatments will be reported to the FFM during each visit and recorded in a Monthly Summary Report.

A Monthly Summary Report will be submitted to the FFM by the Contractor on a monthly basis, as a means to verify the performance of services in order to establish a proportional deduction in payment, if services are not performed as required by the Contract. The Monthly Summary Report shall include photos of unmanned locations pre/post service. Although the Contract price was bid as a yearly Contract amount, it is the express intent of the Parties that the Contract be paid monthly and that the value of each monthly invoice is for one-twelfth of the annual Contract amount. The monthly payments are directly related to the work performed each month and submitted in the Contractor’s monthly invoice, with supporting documentation including required reports. The FFM shall review, approve, and submit said invoice for payment. The FFM shall work with the Contractor to clarify any discrepancies that may exist prior to payment. Under no circumstances will the annual total of the monthly invoices exceed the yearly Contract amount.
PROPOSAL SUBMITTAL REQUIREMENTS AND EVALUATION FACTORS

Proposals shall include all of the information as listed below, and any additional information that the PROPOSER deems pertinent to the understanding and evaluating of the proposal. Proposals shall be organized for evaluation in tabbed sections. Submittals must be clear, concise, typed on letter size paper and individually bound. Submittals should contain no more than (30), double sided, single spaced pages, at least #10 fonts. Longer submittals may be discarded. The PROPOSER 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. Failure to supply all of the information requested shall result in the proposal being excluded from consideration. The COMMISSION reserves the right to request information or clarification from PROPOSERs following the bid opening if omissions are deemed curable.

COMMISSION WILL CONSIDER THE FOLLOWING WEIGHTED FACTORS IN THE EVALUATION OF THE PROPOSALS RECEIVED.

EVALUATION FACTOR # 1: STAFFING – MAXIMUM POINTS OF 25
Ability and capacity of proposer to perform and comply with required services.

Include a listing of staff. Include the number of staff which would be assigned to this account.

EVALUATION FACTOR # 2: EQUIPMENT - MAXIMUM POINTS 25
Availability of equipment necessary to perform and comply with required services.

Provide a complete list of equipment.

EVALUATION FACTOR # 3: WORK HISTORY AND EXPERIENCE - MAXIMUM POINTS 30
Number of years doing similar work. Educational background, experience of key personnel.

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.

EVALUATION FACTOR #4 PRICE MAXIMUM POINTS 15

Please include bid tabulation included on pages 31 and 32
EVALUATION FACTOR # 5:  COMPLETED FORMS - MAXIMUM POINTS 5

Please complete the enclosed forms

Certification of Drug-Free Workplace
Public Entity Crimes
Non-collusion Affidavit
Request for Taxpayer Identification Number and Certification W-9 Form
Vendor Application
Questionnaire
Required Disclosure
Addenda Acknowledgement
Include a copy of your current Occupational License from an authorizing government agency

For Lawn and Vegetation Management, the total MAXIMUM POINTS for evaluation by Committee is 100.
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<th>Location</th>
<th>Est. Number of Cuts Annually</th>
<th>Unit Price</th>
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<td>Per Cut Wet Weather Storage Pond</td>
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<td>Per Cut w/Weed &amp; Trim Rate: Headend Building 3129 SR 44</td>
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### Utilitiea Commission
City of New Smyrna Beach
RFP 4-21
Lawn and Vegetation Management

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<td>D</td>
<td>Per Cut Rate: 2195 Boat Ramp Drive</td>
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<td>Central Office Building 200 Canal</td>
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<td>Hourly Labor Rate Mulching/Planting/Xeriscape (Material Price sheet must be provided with bid)</td>
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<td>Hourly Labor Rate Storm Prep (work to be done as noted in preparation for Hurricane season as requested)</td>
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UTILITIES COMMISSION
City of New Smyrna Beach
RFP 4-21
Lawn and Vegetation Management

PROPOSAL FORM

PROPOSERS NAME: ____________________________________________________________

The undersigned hereby declares that the following list states any and all variations from, and
exceptions to, the requirements of the scope of work.

________________________________________________________________________

These Prices are valid for orders placed within ninety days from date of award.

Submitted By:

Company ____________________________

Name and Title ______________________ Signature ____________________________

Telephone No. ______________________ e-mail ____________________________

The COMMISSION reserves the right to award the contract to the
PROPOSER(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 PROPOSER in preparing or
submitting a bid or any cost prior to the execution of a contract agreement.

As representative for the PROPOSER, I have read and understand this statement.

Name and Title ______________________ Signature ____________________________
AGREEMENT FOR LAWN AND VEGETATION MANAGEMENT

THIS AGREEMENT FOR CONTINUING PROFESSIONAL SERVICES ("AGREEMENT") is made and entered into this 1__day of ________________, 2020, 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 Lawn and Vegetation 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 Lawn and Vegetation Management Services as specified in Exhibit “A” 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 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. WARRANTY AND ACCEPTANCE. The SERVICE PROVIDER agrees that 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 COMMISSION. SERVICE PROVIDER guarantees its work hereunder for a period of 12 months after completion and acceptance of the work unless otherwise set forth herein. In the event COMMISSION discovers defects in material or workmanship at any time before the expiration of the specified warranty period, SERVICE PROVIDER shall, upon written notice from the COMMISSION, repair or replace at its sole expense any such defects. The COMMISSION may perform such repairs or replacements by other reasonable means and SERVICE PROVIDER agrees to pay for such corrective measures. Neither acceptance of the work by the COMMISSION nor payment shall relieve SERVICE PROVIDER from liability under the indemnity clause or any of the guarantees or warranties contained or implied herein.

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 "B" 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 requirement 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 PROVIDER, whether finished or unfinished, shall become the property of COMMISSION and shall be delivered by SERVICE PROVIDER to the COMMISSION within seven (7) days of termination of this Agreement by either party. Any compensation due to SERVICE PROVIDER may be withheld until all documents are received as provided herein.

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: Procurement Manager
P.O. Box 100
New Smyrna Beach, FL 32170-0100
(386) 424-3046

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 13, 14 and 15 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, COMMISSION shall not be liable to SERVICE PROVIDER 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: ________________________________

______________________________

Director of Finance/CFO

ATTEST: _________________________

______________________________

ATTEST: _________________________

Director of Department

**SERVICE PROVIDER:**

By: ________________________________

______________________________

Its: _________________________

______________________________

Its: _________________________

(CORPORATE SEAL)
EXHIBIT "A": SERVICES TO BE PROVIDED

A) WASTEWATER DIVISION

Water Reclamation Facility & Perimeter of Well 24 Fence, 3119 SR 44
This approximate 10-acre site is the Water Reclamation Plant. Much of the property is tanks and structures. The remainder is areas that need to be mowed, trimmed, and maintained. This includes the area beginning with the start of the asphalt at the entrance to the plant and all areas within the fence line and enlarging the encroachment of perimeter.

April-September: Two (2) Cuts per Month with Weed Eat & Trim
October-March: One (1) Cut per Month with Weed Eat & Trim

Wet Weather Storage Pond, 3119 SR 44
13 Acre Pond, Berm, & Inside Fence

One Cut in Months of: February, May, July, September & November

Headend Building, 3129 SR 44

April-September: Two (2) Cuts per Month with Weed Eat & Trim Including Inside Fence Line
October-March: One (1) Cut per Month with Weed Eat & Trim Including Inside Fence Line

Lift Stations

c. #60 Across from old K-Mart S.R. 44
d. #3 Saxon Drive (Include Flower Bed)

April-September
Two (2) Cuts per Month with Weed Eat & Trim
October-March
One (1) Cut per Month with Weed Eat & Trim

B) WATER DIVISION

Water Treatment Plant, 2640 Paige Ave

NO WEED KILLER TO BE USED AT THIS OR ANY WATER FACILITY
Approximate 5-acre site supports the Water Treatment plant. Much of the property is tanks and structures. The remaining areas need to be mowed, trimmed, and maintained. All areas beginning with the start of the asphalt at the entrance to the plant and the area contained therein including inside and outside the fence lines, lagoon and berm areas, and six (6) semi-remote well houses. Additionally, enlarging the encroachment of perimeter of the plant is required. Maps are attached
to assist you in understanding the area to be maintained surrounding properties well houses. Well Houses are indicated with G and a #. Areas within red lines are to be maintained. See Map.

**G5 G2 G1** Maintain large easement area to the east. Weed eat inside fence.
**G6** Maintain 20’ Perimeter. Weed eat inside fence.
**G7** Maintain entire corner of Glencoe and Paige Ave. Weed eat inside fence.
**G8** Maintain a 20’ Perimeter. Weed eat inside fence.

April-September: Two (2) Cuts per Month with Weed Eat & Trim
October-March: One (1) Cut per Month with Weed Eat & Trim

**Pumping Stations**

*NO WEED KILLER TO BE USED AT THIS OR ANY WATER FACILITY*

**South Beach (4510 S. Atlantic Ave.)**

3rd Avenue (728 E. Third Ave)

To be maintained, including from the pole to the asphalt on the north side.
Sea grapes and hedges at both locations to be trimmed quarterly.
Include landscaping inside and outside the fence at both locations, including weeding the flower beds.

April-September: Two (2) Cuts Per Month with Weed Eat & Trim
October-March: One (1) Cut Per Month with Weed Eat & Trim

**413 Smith Street**

*NO WEED KILLER TO BE USED AT THIS OR ANY WATER FACILITY*
This site is to be maintained before or after working hours due to the large number of personal vehicles parked on the grass M-F 7am-3:30pm

Mow, weed eat, and trim. Include 30’ strip outside south fence, outside the fence, between the sidewalk and fence on the west and north sides, outside the fence between the alley and fence/building.
Maintain fence line, keeping vines under control.

April-September: Two (2) Cuts per Month
October-March: One (1) Cut per Month

**Wells**

*NO WEED KILLER TO BE USED AT THIS OR ANY WATER FACILITY*
The contractor shall be responsible for maintaining the road leading through the well field.

**Six (6) at Western Wellfield 4646 SR 44**
Six (6) at Samsula Wellfield along SR 44

April-September: Two (2) Cuts per Month; One (1) with Weed Eat & Trim

October-March: One (1) Cut with Weed Eat & Trim per Month

De-Chlorination Site (18 North Causeway)

*NO WEED KILLER TO BE USED AT THIS OR ANY WATER FACILITY*

Mow, weed eat and trim

April-September: Two (2) Cuts per Month; One (1) with Weed Eat & Trim

October-March: One (1) Cut per Month with Weed Eat & Trim

C) ELECTRIC DIVISION

Slaton/Field Street Facilities, 305 Slaton Ave/1151 Field Street

*Sites must be maintained before or after business hours which are 7am to 3:30 pm M - F*

Contractor shall maintain roadway leading into the office building, managing encroachment.

Contractor shall maintain flower beds in front of office building.

Cut and String Trim

Initial Clean up and Maintenance of Fence Line (Field St. Sub and Warehouse Yard)

1000 Field Street

Mow, weed eat and trim and enlarging the encroachment of perimeter

Substations

#1 Substation N. Dixie Freeway

Mowing and enlarging the encroachment of perimeter

Airport Substation on Turnbull Bay Road

Mowing and enlarging the encroachment of perimeter

Schoolway Substation on Saxon

Maintain grass and vegetation at substation

*Contractor must maintain fence line*

Smyrna Substation
Mow ROW and perimeter around enclosure. Includes weed eat and trim.

All Locations:

April-September: Two (2) Visits per Month
October-March: One (1) Visit per Month

D) FLEET MAINTENANCE FACILITY, 2195 BOAT RAMP DRIVE

The City of New Smyrna Beach maintains the drive leading to and all parking and boat ramp facilities. UCNSB Fleet Maintenance is the area inside the fence line. In addition, a small amount of warehouse inventory is stored here.

Mow, weed eat, and trim

April-September: Two (2) Visits per Month
October-March: One (1) Visit per Month

E) CENTRAL OFFICE BUILDING, 200 CANAL STREET

This site is the Central Office Building of the Utilities Commission. The area to be maintained is a combination of structures and a parking lot with trees and mulch beds. Areas need to be weeded, trimmed and kept clean of debris. This is a high visibility area. Additional services may be requested after a heavy leaf fall or special event.

April-September: (2) Visits per Month
October-March: One (1) Visit per Month

F) SUGAR MILL WATER RECLAMATION FACILITY, 401 Clubhouse Blvd.

This site is the former location of Utilities Commission Water Reclamation Facility. The operation is abandoned, however UCNSB maintains ownership of the site and utilizes the property for overflow of reclaim water.

Mow, weed eat, and trim. Maintain fence line.

April-September: Two (2) Visits per Month
October-March: One (1) Visit per Month
OTHER CONDITIONS:

5. All the facilities require full security considerations. Remote sites and pumping stations remain under lock and key and will require an escort.

6. Invoicing must be within one week of work completion. **BILLING IN ADVANCE IS NOT PERMITTED.**

7. Additional mowing must obtain prior approval and will be paid at the ‘per cut’ rate.

8. Contractor must be licensed and insured to perform all aspects of the work required.

Service Times

All services, unless otherwise coordinated (or listed above) and approved by the Fleet/Facilities Manager (FFM), and/or designee, shall be provided by the Contractor between the hours of 7:00 a.m. and 7:00 p.m. local time, Monday through Friday, excluding State holidays.
EXHIBIT "B": INSURANCE REQUIREMENTS

I. INSURANCE: Except as otherwise specified in this contract, the SERVICE PROVIDER and its subcontractors of any tier will be required at their own expense to maintain in effect at all times during the performance of the work insurance coverage with limits set forth below with insurers and under forms of policies satisfactory to the COMMISSION. It shall be the responsibility of the SERVICE PROVIDER and its subcontractors to maintain adequate insurance coverage and to assure that subcontractors are adequately insured at all times. Failure of the SERVICE PROVIDER and its subcontractors to maintain adequate coverage shall not relieve it of any contractual responsibility or obligation.

The SERVICE PROVIDER and its subcontractors shall furnish to the COMMISSION such Certificates of Insurance or endorsements required by the provisions set forth herein, which Certificates of Insurance shall name the COMMISSION as Additional Insured. All Certificates of Insurance must be provided by an acceptable insurance carrier to the COMMISSION and that the carrier should have no less rating than A - X by A.M. Best and Company. COMMISSION reserves the right to accept or decline carrier providing coverage.

II. CERTIFICATES OF INSURANCE: At the time of the execution of this contract and each subcontract, but in any event, prior to commencing work, the SERVICE PROVIDER and its subcontractors shall furnish the COMMISSION with Certificates of Insurance as evidence that the policies providing the required coverages and limits of insurance are in full force and effect. The Certificates shall provide that any company issuing an insurance policy for the work under this contract shall provide not less than thirty (30) days' advance notice to the COMMISSION in writing of cancellation, non-renewal, or material change in the policy of insurance. In addition, the SERVICE PROVIDER shall immediately provide written notice to the COMMISSION upon receipt of notice of cancellation of an insurance policy or a decision to terminate or alter any insurance policy. All Certificates of Insurance shall clearly state that all applicable requirements have been satisfied including certification that the Comprehensive General Liability policies are of the "occurrence form". Certificates of Insurance for SERVICE PROVIDER and subcontractor-furnished insurance and notices of any cancellations, terminations, or alterations of such policies shall be mailed to the COMMISSION's office, ATTN: Procurement Manager, at P.O. Box 100, New Smyrna Beach, Florida 32170-0100.

III. ADDITIONAL INSURED: All insurance coverages (except Workers' Compensation and Professional Liability) furnished under this contract shall include the SERVICE PROVIDER, the COMMISSION and its commissioners, officials, directors, officers, agents, and employees as Additional Insured's with respect to the activities of the SERVICE PROVIDER and its subcontractors.

These policies shall contain a "cross-liability" or "severability of interest" clause or endorsement. Notwithstanding any other provisions of these policies, the insurance afforded shall apply separately to each insured, named insured, or Additional Insured
with respect to any claim, suit, or judgment made or brought by or for any other insured, named insured, or Additional Insured as though a separate policy had been issued to each, except the insurer's liability shall not be increased beyond the amount or amounts for which the insurer would have been liable had only one insured been named.

IV. WAIVER OF SUBROGATION: The SERVICE PROVIDER and its subcontractors shall require their insurance carrier, with respect to all insurance policies, to waive all rights of subrogation against the COMMISSION, its commissioners, officials, directors, officers, agents, and employees.

V. COMPREHENSIVE GENERAL LIABILITY: This insurance shall be an occurrence-type policy written in comprehensive form and shall protect the SERVICE PROVIDER and its subcontractors and the Additional Insured's against all claims arising from bodily injury, sickness, disease, or death of any person other than the SERVICE PROVIDER's employees or damage to property of the COMMISSION or others arising out of the act or omission of the SERVICE PROVIDER or its subcontractors or their agents, employees, or subcontractors. This policy shall include protection against claims insured by usual Personal Injury Liability coverage and an endorsement (Protective Liability) to insure the contractual liability assumed by the SERVICE PROVIDER and its subcontractors under the Section entitled "Indemnification," as well as Completed Operations, Products Liability, Contractual Liability, Broad Form Property Coverage, Premises/Operations, and Independent Contractors.

       Combined Single Limit: $1,000,000 per claim and annual aggregate of $2,000,000.

VI. COMPREHENSIVE AUTOMOBILE LIABILITY: This insurance shall be written in the comprehensive form and shall protect the SERVICE PROVIDER and its subcontractors and the Additional Insured's against all claims for injuries to members of the public and damage to property of others arising from the use of motor vehicles and shall cover operation on and off the site of all motor vehicles licensed for highway use, whether they are owned, non-owned, or hired. The liability shall not be less than:

       Combined Single Limit: $1,000,000 per claim and annual aggregate of $2,000,000.

VII. WORKERS’ COMPENSATION AND EMPLOYERS’ LIABILITY: The insurance shall protect the SERVICE PROVIDER and its subcontractors against all claims under applicable state workers’ compensation laws. The insured shall also be protected against claims for injury, disease, or death of employees which, for any reason, may not fall within the provisions of workers’ compensation laws. This policy shall include an all-states endorsement. The liability limits shall not be less than:

       Workers’ Compensation: Statutory

       Employers’ Liability: $100,000 each accident;
$500,000 disease policy limit; and
$100,000 disease, each employee.

VIII. PROFESSIONAL LIABILITY: Professional Liability insurance shall be provided in an amount of $100,000.