

RESOLUTION NO. 2017-104

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PARKLAND, FLORIDA AWARDING ITB 2018-08 FOR "CITYWIDE LANDSCAPING SERVICES" TO THE LOWEST RESPONSIVE BIDDER, EDJ SERVICE, LLC., IN AN AMOUNT NOT TO EXCEED \$497,803.85 PER YEAR, FOR ONE (1) YEAR WITH THE OPTION OF TWO (2) ADDITIONAL ONE YEAR TERMS AND AUTHORIZING THE APPROPRIATE CITY OFFICIAL TO EXECUTE A CONTRACT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, in accordance with the City of Parkland's ("City") purchasing policy, City Staff advertised Invitation to Bid ("ITB") 2018-08 "City Landscaping Services" on October 29, 2017, for the purpose of obtaining a qualified and experienced contractor to provide grounds, landscape and tree maintenance at various city facilities and parks; and

WHEREAS, on November 22, 2017 the City received eight (8) proposals from the following bidders: Mainguy Landscape Services, EDJ Service, LLC., VisualScape, 4-Evergreen Group, LLC., Landscape Service Professionals, Inc., Tropical Touch Garden Centers, Inc., Superior Landscaping and Lawn Services, Inc., and Lukes Landscaping, Inc. and eight (8) bidders met the minimum qualifications; and

WHEREAS, after review and evaluation of the bid submittals, Staff determined that 4-Evergreen Group, LLC., submitted the lowest and most responsive bid at \$438,000; and

WHEREAS, 4-Evergreen Group, LLC representatives retacted their bid November 29, 2017; and

WHEREAS, EDJ Service, Inc. is the second lowest and responsive proposal at \$497,803.85; and

WHEREAS, Staff is requesting to award ITB 2018-08 "City Landscaping Services" to EDJ Service, LLC. as the lowest and responsive proposal; and

WHEREAS, the City Commission hereby determines it to be in the best interest of the health, safety and welfare of the citizens and residents to the City of Parkland for the City to enter into such a contract; and

NOW THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF PARKLAND, FLORIDA AS FOLLOWS:

**Section 1.** The foregoing "WHEREAS" clauses are confirmed and ratified as being true and correct and are hereby incorporated herein. All exhibits attached hereto are hereby incorporated herein.

**Section 2.** The City Commission hereby awards ITB 2018-08 "City Landscaping Services" to EDJ Service, LLC. in an amount not to exceed \$497,803.85 for one year, with an option to renew the contract for two (2) additional years, in one (1) year increments for the grounds, landscape and tree maintenance services, which is attached and incorporated herein.

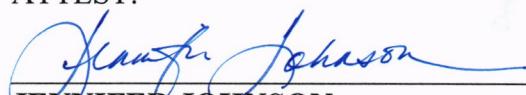
**Section 3.** The appropriate City Officials are hereby authorized and directed to execute the necessary documents to effectuate the purpose and intent of this resolution.

\* 54           **Section 4.** This Resolution shall become effective immediately upon adoption.  
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57 PASSED AND ADOPTED THIS 6th DAY OF December, 2017.  
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60 **CITY OF PARKLAND, FLORIDA**

61 ATTEST:  
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65 **JENNIFER JOHNSON**  
66 **CITY CLERK**

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68 **CHRISTINE HUNSCHOFSKY**  
69 **MAYOR**



**CONTRACT BETWEEN CITY OF PARKLAND AND EDJ SERVICE, LLC.**

THIS CONTRACT is entered into by and between the CITY OF PARKLAND (CITY), a municipal corporation and EDJ Service, LLC. (CONTRACTOR), as follows

**W I T N E S S E T H:**

**WHEREAS**, pursuant to ITB #2017-04 (the ITB) the CITY accepted competitive bids for CITYwide Landscaping Services (Various CITY facilities and parks); (the Services); and

**WHEREAS**, the Services are delineated in the ITB; and

**WHEREAS**, this Contract, the ITB and the CONTRACTOR's Response constitute the entire Contract and describes the Services; and

**WHEREAS**, after evaluation of price and other relevant factors by the evaluation committee and the CITY Commission of the CITY of Parkland, Florida, the CITY has determined that the best bid was submitted by CONTRACTOR and that CONTRACTOR has the necessary resources, experience and ability to perform the contract at a competitive price; and

**WHEREAS**, the CITY has awarded the Contract to CONTRACTOR for the Services on December 6, 2017, Resolution No. 2017-104; and

**WHEREAS**, the purpose of this Contract is to implement the ITB and the acceptance of CONTRACTOR's bid in a binding Contract which contains the terms required in the ITB and the CONTRACTOR's response, except as specifically modified herein.

**NOW THEREFORE**, be it agreed by and between the parties as follows:

**ARTICLE I****INTRODUCTION AND SCOPE OF SERVICES**

1.1 The above referenced Whereas clauses are true and correct and made a part hereof.

1.2 This Contract, the ITB, attached hereto as Exhibit A, together with the response to the ITB of CONTRACTOR, attached hereto as Exhibit B, shall constitute the entire Contract, except to the extent specifically modified on Exhibit C Additional Terms and Conditions (if no modifications, Exhibit C shall be left blank). The parties agree that the Scope of Services as defined in the ITB is a description of CONTRACTOR's obligations and responsibilities and is deemed to include preliminary considerations and prerequisites, and all labor, materials, tools, equipment and tasks which are such an inseparable part of the work described that exclusion would render performance by CONTRACTOR impractical, illogical, or unconscionable. The CITY Manager shall appoint a Contract Administrator to act on behalf of the CITY with respect to this Contract.

1.3 Except as specifically modified herein, CONTRACTOR shall be bound by the terms and conditions and prices as set forth in the ITB and the CONTRACTOR's Response to the ITB. When the terms and conditions of this Contract may be read as consistent with the ITB, then and in that respect, the terms of both the bid and this Contract shall be read as being consistent and shall be binding on both parties. Where terms and conditions of this Contract contradict anything as set forth in the bid or the response to the bid, then the terms and conditions of this Contract shall be binding and in full force and effect to the extent of any inconsistency.

1.4 This is a non-exclusive contract. The CITY may, in its sole and absolute discretion, utilize other parties to provide any of the services listed in the ITB, or any aspect of the Services if the CITY deems it to be in the best interest of the CITY.

1.5 CONTRACTOR acknowledges and agrees that the Contract Administrator has no authority to make changes that would increase, decrease, or otherwise modify the Scope of Services to be provided under this Contract.

## ARTICLE 2

### TERM AND TIME OF PERFORMANCE

2.1 The Contract term shall commence upon issuance of the purchase order for a one (1) year period commencing on the date that service commences provided that the Agreement has been executed by both parties prior to such date. Services shall commence on December 11, 2017, however the CITY, at its sole discretion, reserves the right to modify the aforementioned commencement date should it deem necessary. CITY shall not be responsible for any costs associated with such modifications.

The CITY reserves the right to renew the terms of this Agreement for two (2) additional years in one (1) year increments pending a mutual written agreement, signed by the CITY Manager or his designee, between the CITY and the Contractor and a review of Contractor's performance for the previous one-year period. Such review shall be done with a written notice to Contractor by CITY.

2.2 Time shall be deemed to be of the essence in performing the duties, obligations and responsibilities required by this Contract.

## ARTICLE 3

### COMPENSATION

3.1 CITY agrees to pay the CONTRACTOR, in the manner specified herein, the amounts set forth in CONTRACTOR's Response for work actually performed and completed pursuant to this Contract, which amount shall be accepted by CONTRACTOR as full compensation for all such work. It is acknowledged and agreed by CONTRACTOR that this amount is the maximum payable and constitutes a limitation upon CITY's

obligation to compensate CONTRACTOR for its services related to this Contract. This amount, however, does not constitute a limitation, of any sort, upon CONTRACTOR's obligation to perform all items of work required by or which can be reasonably inferred from the Scope of Services. No amount shall be paid to CONTRACTOR to reimburse its expenses.

3.2 CONTRACTOR may submit invoices for compensation no more often than on a monthly basis, but only after the services for which the invoices are submitted have been completed. An original invoice plus one copy are due within fifteen (15) days of the end of the month except for the final invoice which must be received no later than sixty (60) days after this Contract expires. Invoices shall designate the nature of the services performed in detail and/or the expenses incurred (itemized) and shall be in form as determined by the CITY.

3.3 CITY shall pay CONTRACTOR within thirty (30) calendar days of receipt of CONTRACTOR's proper invoice. To be deemed proper, all invoices must comply with the requirements set forth in this Contract and must be submitted on the form and pursuant to instructions prescribed by the Contract Administrator. Payment may be withheld for failure of CONTRACTOR to comply with any term, condition, or requirement of this Contract; such withholding of payment shall not be grounds for discontinuance of service by the CONTRACTOR.

3.4 Notwithstanding any provision of this Contract to the contrary, CITY may withhold, in whole or in part, payment to the extent necessary to protect itself from loss on account of inadequate or defective work which has not been remedied or resolved in a manner satisfactory to the Contract Administrator or failure to comply with this Contract. The amount withheld shall not be subject to payment of interest by CITY.

#### ARTICLE 4

#### INDEMNIFICATION

CONTRACTOR shall at all times hereafter indemnify, hold harmless and, at the CITY Attorney's option, defend or pay for an attorney selected by the CITY Attorney to defend CITY, its officers, agents, servants, and employees from and against any and all causes of action, demands, claims, losses, liabilities and expenditures of any kind, including attorney fees, court costs, and expenses, caused or alleged to be caused by intentional or negligent act of, or omission of, CONTRACTOR, its employees, agents, servants, or officers, or accruing, resulting from, or related to the subject matter of this Contract including, without limitation, any and all claims, losses, liabilities, expenditures, demands or causes of action of any nature whatsoever resulting from injuries or damages sustained by any person or property. In the event any lawsuit or other proceeding is brought against CITY by reason of any such claim, cause of action or demand, CONTRACTOR shall, upon written notice from CITY, resist and defend such lawsuit or proceeding by counsel satisfactory to CITY or, at CITY's option, pay for an attorney selected by CITY Attorney to defend CITY. The provisions and obligations of this section shall survive the

expiration or earlier termination of this Contract. To the extent considered necessary by the Contract Administrator and the CITY Attorney, any sums due CONTRACTOR under this Contract may be retained by CITY until all of CITY's claims for indemnification pursuant to this Contract have been settled or otherwise resolved; and any amount withheld shall not be subject to payment of interest by CITY. Nothing herein shall be deemed a waiver or limitation on CITY'S sovereign immunity or any limitations on CITY liability in any state statute or as otherwise provided by law.

## ARTICLE 5

### INSURANCE

CONTRACTOR shall provide the insurance to the extent required in the bid. Evidence of said insurance shall be provided at time of execution of this Contract or prior to the commencement of any work, whichever event occurs first.

## ARTICLE 6

### TERMINATION OR SUSPENSION

6.1 This Contract may be terminated for convenience by the CITY at any time. Termination for convenience by the CITY shall be effective on the termination date stated in written notice provided by CITY, which termination date shall be not less than thirty (30) days after the date of such written notice. This Contract may also be terminated by the CITY Manager upon such notice as the CITY Manager deems appropriate under the circumstances in the event the CITY Manager determines that termination is necessary to protect the public health or safety. The parties agree that if CITY erroneously, improperly or unjustifiably terminates for cause, such termination shall be deemed a termination for convenience, which shall be effective thirty (30) days after such notice of termination for cause is provided.

6.2 This Contract may be terminated for cause upon 7 days' notice for reasons including, but not limited to, CONTRACTOR's repeated (whether negligent or intentional) submission for payment of false or incorrect bills or invoices, failure to suitably perform the work; or failure to continuously perform the work in a manner calculated to meet or accomplish the objectives as set forth in this Contract.

6.3 Notice of termination shall be provided in accordance with the "NOTICES" section of this Contract except that notice of termination by the CITY Manager, which the CITY Manager deems necessary to protect the public health, safety, or welfare may be verbal notice that shall be promptly confirmed in writing in accordance with the "NOTICES" section of this Contract.

6.4 In the event this Contract is terminated for convenience, CONTRACTOR shall be paid for any services properly performed under the Contract through the termination date specified in the written notice of termination. CONTRACTOR acknowledges and agrees that it has received good, valuable and sufficient consideration from CITY, the receipt and

adequacy of which are, hereby acknowledged by CONTRACTOR, for CITY's right to terminate this Contract for convenience.

6.5 In the event this Contract is terminated for any reason, any amounts due to CONTRACTOR shall be withheld by CITY until all documents are provided to CITY pursuant to Section 8.1 of Article 8.

6.6 Should at any time during the term of this Contract, including any option terms, the CONTRACTOR is in violation of any of the terms and conditions of this Contract, the CITY shall have the right to suspend the CONTRACTOR until the violation is resolved to the satisfaction of the CITY. If the violation is not promptly resolved or is of such serious nature that the CITY determines that suspension is not adequate, the CITY reserves the right to terminate for cause.

6.6.1 In the event a CONTRACTOR is terminated, the CITY may assign the Contract to another CONTRACTOR, or seek a new CONTRACTOR, until the Contract is re-let, or until the end of the Contract term then in effect, at its sole option and shall reserve all legal remedies for damages and other relief.

## ARTICLE 7

### EEO AND ADA COMPLIANCE

7.1 CONTRACTOR shall not unlawfully discriminate on the basis of race, color, national origin, sex, religion, age, political affiliation or disability in the performance of this Contract, the solicitation for or purchase of goods or services relating to this Contract, or in subcontracting work in the performance of this Contract. CONTRACTOR shall include the foregoing or similar language in its contracts with any subcontractors or sub-consultants, except that any project assisted by the U.S. Department of Transportation funds shall comply with the non-discrimination requirements in 49 C.F.R. Parts 23 and 26, as amended. Failure to comply with the foregoing requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as CITY deems appropriate.

7.2 CONTRACTOR shall not unlawfully discriminate against any person in its operations and activities or in its use or expenditure of funds in fulfilling its obligations under this Contract. CONTRACTOR shall affirmatively comply with all applicable provisions of the Americans with Disabilities Act (ADA) in the course of providing any services funded by CITY, including Titles I and II of the ADA (regarding nondiscrimination on the basis of disability), and all applicable regulations, guidelines, and standards. In addition, CONTRACTOR shall take affirmative steps to ensure nondiscrimination in employment against disabled persons.

ARTICLE 8  
MISCELLANEOUS

**8.1     RIGHTS IN DOCUMENTS AND WORK**

Any and all reports, photographs, surveys, and other data and documents provided or created in connection with this Contract are and shall remain the property of CITY; and, if a copyright is claimed, CONTRACTOR grants to CITY a non-exclusive license to use the copyrighted item(s) indefinitely, to prepare derivative works, and to make and distribute copies to the public. In the event of termination of this Contract, any reports, photographs, surveys, and other data and documents prepared by CONTRACTOR, whether finished or unfinished, shall become the property of CITY and shall be delivered by CONTRACTOR to the Contract Administrator within seven (7) days of termination of this Contract by either party. Any compensation due to CONTRACTOR shall be withheld until all documents are received as provided herein.

**8.2     AUDIT RIGHT AND RETENTION OF RECORDS**

CITY shall have the right to audit the books, records, and accounts of the CONTRACTOR and its subcontractors that are related to this Project. CONTRACTOR and its subcontractors shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to the Project. All books, records, and accounts of CONTRACTOR and its subcontractor shall be kept in written form, or in a form capable of conversion into written form within a reasonable time, and upon request to do so, CONTRACTOR or its subcontractor, as applicable, shall make same available at no cost to CITY in written form.

CONTRACTOR and its subcontractors shall preserve and make available, at reasonable times for examination and audit by CITY, all financial records, supporting documents, statistical records, and any other documents pertinent to this Contract for the required retention period of the Florida Public Records Act, Chapter 119, Florida Statutes, as may be amended from time to time, if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after termination of this Contract. 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 CITY to be applicable to CONTRACTOR's and its subcontractor's records, CONTRACTOR and its subcontractor shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by CONTRACTOR or its subcontractor. Any incomplete or incorrect

entry in such books, records, and accounts shall be a basis for CITY's disallowance and recovery of any payment upon such entry.

CONTRACTOR shall comply with all public records laws in accordance with Chapter 119.Fla.Stat. In accordance with state law, CONTRACTOR agrees to:

- Keep and maintain all records that ordinarily and necessarily would be required by the CITY to perform the service.
- Provide the public with access to public records on the same terms and conditioned that the CITY would provide for the records and at a cost that does not exceed the cost provided in Chapter 119.Fla. Stat. or as otherwise provided by law.
- Ensure the public records that are exempt or confidential and exempt from public records disclosure are not disclosed except as authorized by law.
- Meet all requirements for retaining public records and transfer, at no cost, to the CITY all records in possession of the Contractor at the termination of the contract 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 CITY in a format that is compatible with the information technology systems to the CITY. All records shall be transferred to the CITY prior to final payment being made to the CONTRACTOR.
- If CONTRACTOR does not comply with this section, the CITY shall enforce the contract in accordance with the contract and may unilaterally cancel this contract in accordance with state law.

CONTRACTOR shall, by written contract, require its subcontractors to agree to the requirements and obligations of this section 8.2.

#### 8.3 BACKGROUND CHECKS:

The CITY reserves the right to require background checks of any personnel assigned by the successful proposer to perform services under this contract.

#### 8.4 COMPLAINTS AND DISPUTES:

All complaints concerning misconduct on the part of the CONTRACTOR or disputes between CITY staff and the CONTRACTOR are referred to the CITY Manager or his/her designee, who shall conduct investigations and inquiries, including discussions with the CONTRACTOR and involved staff. The determinations of the CITY Manager or designee shall be binding upon the parties, and failure of the CONTRACTOR to follow any such determination could be considered a material breach and subject the CONTRACTOR to termination for cause. The CONTRACTOR agrees that any complaints received by the CITY concerning misconduct on the part of the CONTRACTOR, such as excessive charges, poor business practices etc., will be referred to the Office of the CITY Manager

for appropriate action. The CONTRACTOR agrees to make any complaints concerning the CITY available to the Office of the CITY Manager for action as required.

#### 8.5 PUBLIC ENTITY CRIME ACT

CONTRACTOR represents that the execution of this Contract will not violate the Public Entity Crime Act, Section 287.133, Florida Statutes, as may be amended from time to time, which essentially provides that a person or affiliate who is a contractor, consultant, or other provider and 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 CITY, may not submit a bid on a contract with CITY for the construction or repair of a public building or public work, may not submit bids on leases of real property to CITY, may not be awarded or perform work as a contractor, vendor, supplier, subcontractor, or consultant under a contract with CITY, and may not transact any business with CITY in excess of the threshold amount provided in Section 287.017, Florida Statutes, as may be amended from time to time, for category two purchases for a period of 36 months from the date of being placed on the convicted vendor list. Violation of this section shall result in termination of this Contract and recovery of all monies paid by CITY pursuant to this Contract, and may result in debarment from CITY's competitive procurement activities.

In addition to the foregoing, CONTRACTOR further represents that there has been no determination, based on an audit, that it committed an act defined by Section 287.133, Florida Statutes, as a "public entity crime" and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether CONTRACTOR has been placed on the convicted vendor list.

#### 8.6 INDEPENDENT CONTRACTOR

CONTRACTOR is an independent CONTRACTOR under this Contract. Services provided by CONTRACTOR pursuant to this Contract shall be subject to the supervision of CONTRACTOR. In providing such services, neither CONTRACTOR nor its agents shall act as officers, employees, or agents of CITY. No partnership, joint venture, or other joint relationship is created hereby. CITY does not extend to CONTRACTOR or CONTRACTOR's agents any authority of any kind to bind CITY in any respect whatsoever. CONTRACTOR IS BEING HIRED FOR ITS TRAINING, EDUCATION, AND EXPERIENCE AND WILL NOT BE TRAINED BY THE CITY. THE CONTRACTOR SHALL PROVIDE ITS SERVICES BASED ON ITS TRAINING AND EXPERIENCE AND SHALL DETERMINE THE APPROPRIATE AND PROFESSIONAL MANNER IN WHICH TO PROVIDE THE SERVICES PROVIDED FOR HEREIN.

In providing the services, CONTRACTOR shall determine the employees and subcontractor necessary to provide the services and shall be responsible for their supervision. CONTRACTOR shall be entitled to no CITY employment benefits of any kind whatsoever.

#### 8.7 THIRD PARTY BENEFICIARIES

Neither CONTRACTOR nor CITY intends to directly or substantially benefit a third party by this Contract. Therefore, the parties agree that there are no third party beneficiaries to this Contract and that no third party shall be entitled to assert a right or claim against either of them based upon this Contract.

#### 8.8 NOTICES

Whenever either party desires to give notice to the other, such notice must be in writing, sent by certified United States Mail, postage prepaid, return receipt requested, or sent by commercial express carrier with acknowledgement of delivery, or by hand delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the parties designate the following:

FOR CITY:

CITY Manager  
Parkland CITY Hall  
6600 University Drive  
Parkland, Florida 33067

FOR CONTRACTOR:

Evelyn Pagni  
EDJ Service, LLC.  
4861 SW 106<sup>th</sup> Avenue  
Davie, Florida 33328

#### 8.9 ASSIGNMENT AND PERFORMANCE

Neither this Contract nor any right or interest herein shall be assigned, transferred, or encumbered without the written consent of the other party. CITY may terminate this Contract, effective immediately, if there is any assignment, or attempted assignment, transfer, or encumbrance, by CONTRACTOR of this Contract or any right or interest herein without CITY's written consent.

CONTRACTOR represents that each person who will render services pursuant to this Contract is duly qualified to perform such services by all appropriate governmental authorities, where required, and that each such person is experienced and skilled in the area(s) for which he or she will render his or her services.

CONTRACTOR shall perform its duties, obligations, and services under this Contract in a skillful and respectable manner. The quality of CONTRACTOR's performance and all interim and final product(s) provided to or on behalf of CITY shall be comparable to the best local and national standards.

#### 8.10 CONFLICTS

Neither CONTRACTOR nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with CONTRACTOR's loyal and conscientious exercise of judgment and care related to its performance under this Contract.

CONTRACTOR further agrees that none of its officers or employees shall, during the term of this Contract, serve as an expert witness against CITY in any legal or administrative proceeding in which he, she, or CONTRACTOR is not a party, unless compelled by court process. Further, CONTRACTOR agrees that such persons shall not give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of CITY in connection with any such pending or threatened legal or administrative proceeding unless compelled by court process. The limitations of this section shall not preclude CONTRACTOR or any persons in any way from representing themselves, including giving expert testimony in support thereof, in any action or in any administrative or legal proceeding.

In the event CONTRACTOR is permitted pursuant to this Contract to utilize subcontractors to perform any services required by this Contract, CONTRACTOR agrees to require such subcontractors, by written contract, to comply with the provisions of this section to the same extent as CONTRACTOR.

#### 8.11 MATERIALITY AND WAIVER OF BREACH

CITY and CONTRACTOR agree that each requirement, duty, and obligation set forth herein was bargained for at arms-length and is agreed to by the parties in exchange for quid pro quo, that each is substantial and important to the formation of this Contract and that each is, therefore, a material term hereof.

CITY's failure to enforce any provision of this Contract shall not be deemed a waiver of such provision or modification of this Contract. A waiver of any breach of a provision of this Contract shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Contract.

#### 8.12 COMPLIANCE WITH LAWS

CONTRACTOR shall comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations pursuant to this Contract.

#### 8.13 SEVERANCE

In the event a portion of this Contract is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless CITY or CONTRACTOR elects to terminate this Contract. An election to terminate this Contract based upon this provision shall be made within seven (7) days after the finding by the court becomes final.

#### 8.14 JOINT PREPARATION

Each party and its counsel have participated fully in the review and revision of this Contract and acknowledge that the preparation of this Contract has been their joint effort. The language agreed to expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other. The language in this Contract shall be interpreted as to its fair meaning and not strictly for or against any party.

#### 8.15 JURISDICTION, VENUE, WAIVER OF JURY TRIAL

This Contract shall be interpreted and construed in accordance with and governed by the laws of the state of Florida. All parties agree and accept that jurisdiction of any controversies or legal problems arising out of this Contract, and any action involving the enforcement or interpretation of any rights hereunder, shall be exclusively in the state courts of the Seventeenth Judicial Circuit in Broward County, Florida, and venue for litigation arising out of this Contract shall be exclusively in such state courts, forsaking any other jurisdiction which either party may claim by virtue of its residency or other jurisdictional device. **BY ENTERING INTO THIS CONTRACT, CONTRACTOR AND CITY HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS CONTRACT.**

#### 8.16 AMENDMENTS

No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Contract and executed by the CITY and CONTRACTOR or others delegated authority to or otherwise authorized to execute same on their behalf.

#### 8.17 PRIOR CONTRACTS

This document represents the final and complete understanding of the parties and incorporates or supersedes all prior negotiations, correspondence, conversations, Contracts, and understandings applicable to the matters contained herein. The parties agree that there is no commitment, Contract, or understanding concerning the subject matter of this Contract that is not contained in this written document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representation or Contract, whether oral or written.

#### 8.18 INCORPORATION BY REFERENCE

The truth and accuracy of each "Whereas" clause set forth above is acknowledged by the parties. The ITB Exhibit "A", the CONTRACTOR'S Response, Exhibit "B", and the attached Exhibit "C" Background Check Affidavit are incorporated into and made a part of this Contract.

#### 8.19 REPRESENTATION OF AUTHORITY

Each individual executing this Contract on behalf of a party hereto hereby represents and warrants that he or she is, on the date he or she signs this Contract, duly authorized by all necessary and appropriate action to execute this Contract on behalf of such party and does so with full legal authority.

#### 8.20 MULTIPLE ORIGINALS

Multiple copies of this Contract may be executed by all parties, each of which, bearing original signatures, shall have the force and effect of an original document.

#### 8.21 PUBLIC RECORDS

The CONTRACTOR shall comply with Chapter 119, Florida Public Records Law and shall:

1. Keep and maintain public records required by the CITY to perform the service.
2. Upon request from the CITY's custodian of public records, provide the CITY with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.
3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the records to the CITY.
4. Upon completion of the contract, transfer, at no cost, to the CITY all public records in possession of the contractor or keep and maintain public records required by the CITY to perform the service. If the contractor transfers all public records to the CITY upon completion of the contract, the contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the contractor keeps and maintains public records upon completion of the contract, the contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the CITY, upon request from the CITY's custodian of public records, in a format that is compatible with the information technology systems of the CITY.

(3) REQUEST FOR RECORDS; NONCOMPLIANCE.—

- (a) A request to inspect or copy public records relating to a CITY's contract for services must be made directly to the CITY. If the CITY does not possess the requested records, the CITY shall immediately notify the contractor of the request, and the contractor must provide the records to the CITY or allow the records to be inspected or copied within a reasonable time.
- (b) If a contractor does not comply with the CITY's request for records, the CITY shall enforce the contract provisions in accordance with the contract.
- (c) A contractor who fails to provide the public records to the CITY within a reasonable time may be subject to penalties under s. 119.10.

**(THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.)**

**IN WITNESS WHEREOF** the parties have caused these presents to be executed.

Witnesses:

Stephanie Ival

Deputy City Clerk

**CITY OF PARKLAND**

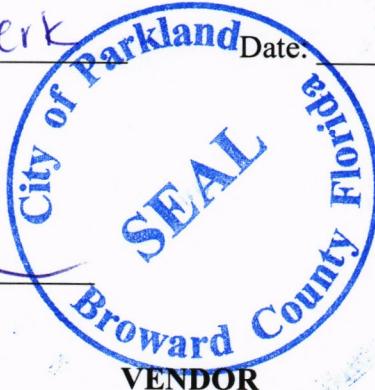
By:

Christine Hunschofsky  
CHRISTINE HUNSCHOFSKY, MAYOR

Date:

ATTEST:

Janet Johnson  
CITY CLERK



Witnesses:

Claudia Chabot

Gary Schneier

By:

Title:

Printed Name:

Date:

Evelyn R. Payne

President

EVELYN R. PAYNE

12-11-2017

**EXHIBIT “A”**  
**Invitation to Bid – CITYwide Landscaping Services – ITB # 2018-08**

**EXHIBIT “B”**  
**Contractor’s Response to**  
**Invitation to Bid – CITYwide Landscaping Services – ITB # 2018-08**

**EXHIBIT "C"**  
**BACKGROUND CHECK AFFIDAVIT**

STATE OF FLORIDA                  )  
  )  
COUNTY OF \_\_\_\_\_ )

I, the undersigned, being first duly sworn, do hereby state under oath and under penalty of perjury that the following facts are true:

1. I am over the age of 18 and am a resident of the State of Florida.
2. I am the \_\_\_\_\_ (title) of \_\_\_\_\_ and I certify that I have the authority to make the representations set forth within this Affidavit.
3. \_\_\_\_\_ has entered into a Contract with the CITY of Parkland to provide professional services.
4. I hereby certify that in accordance with requirements of Section of the CITY of Parkland's Code of Ordinances, a criminal background check has been obtained through State, National and Sexual Offender/Predator criminal record databases on \_\_\_\_\_, 2016 for the employees of \_\_\_\_\_ and the employees of subcontractors of \_\_\_\_\_. A list of such employees is set forth on Exhibit "D", attached hereto and made a part hereof.
5. I also certify that no employee \_\_\_\_\_ nor any employee of any subcontractor of \_\_\_\_\_ who will be performing services for the CITY on CITY property or right-of-way has a conviction or a plea of nolo contendere, regardless of when the plea or conviction occurred, for a felony or misdemeanor involving terrorist behavior, violence, use of a dangerous weapon, crimes of moral turpitude or breach of trust/fiduciary responsibility or which raises concerns about building, system, or personal security or is otherwise a job-related crime.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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

By \_\_\_\_\_  
(Name and Title)

The foregoing was acknowledged before me this \_\_\_\_\_ day of  
\_\_\_\_\_, 20\_\_, by \_\_\_\_\_ who is  
personally known to me or who has produced \_\_\_\_\_ as identification and  
who did take an oath.

WITNESS my hand and official seal, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

(NOTARY SEAL)

\_\_\_\_\_  
(Signature of person taking  
acknowledgment)

\_\_\_\_\_  
(Name of officer taking acknowledgment)  
**typed, printed or stamped**

\_\_\_\_\_  
(Title or rank)

My commission expires: \_\_\_\_\_  
(Serial number, if any)

## **Background Check Affidavit**

## **Exhibit “C”**

## List of Employees

**Name (First, Last)**

## Result