

AGREEMENT  
BETWEEN OWNER AND CONTRACTOR  
FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)

THIS AGREEMENT is by and between \_\_\_\_\_ (“Owner”) and  
\_\_\_\_\_  
\_\_\_\_\_ (“Contractor”).

Owner and Contractor hereby agree as follows:

**ARTICLE 1 – WORK**

1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows: **turf and right-of-way maintenance on designated City properties, trails, and ROWs**, in accordance with the Maintenance Standards outlined in this contract.

**ARTICLE 2 – THE PROJECT**

2.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows: **FY2026 Turf and Right-of-Way Maintenance**.

**ARTICLE 3 – REPRESENTATIVE**

3.01 The City of Boerne Director of Parks and Recreation (“Director”) will act as Owner’s representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer/Owner in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents, including General Conditions and Special Conditions.

**ARTICLE 4 – CONTRACT TIMES**

4.01 *Contract Times: Dates*

- A. The Work will be completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions on or before December 31, 2026.
- B. This contract shall be effective upon approval by City Council and execution by both parties. The term of this Contract shall be from the Notice to Proceed date until December 31, 2026, with the option of two (2) additional one-year renewals, subject to City approval and appropriated funds.  
  
Each renewal may allow for a price increase not to exceed three percent (3%) of the previous year’s unit bid prices.
- C. This Contract may be terminated by either party upon thirty (30) days’ written notice stating the reason for termination.
- D. The City reserves the right to award the remainder of the contract to the next lowest and best bidder if deemed in the City’s best interest.

## ARTICLE 5 – CONTRACT PRICE

- 5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents the amounts that follow, subject to adjustment under the Contract:
- A. For all Work, at the prices stated in Contractor’s Bid, attached hereto as an exhibit.
  - B. **As provided in Paragraph 13.03 of the General Conditions, estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by the Director.**

## ARTICLE 6 – PAYMENT PROCEDURES

### 6.01 *Submittal and Processing of Payments*

- A. Contractor shall submit Applications for Payment in accordance with Article 15 of the General Conditions. Applications for Payment will be processed by Director as provided in the General Conditions.

### 6.02 *Progress Payments*

- A. Payment shall be made monthly upon satisfactory completion of services and approval by the City’s Representative. Payment will be based on completed units per cycle. The City may withhold payment for unsatisfactory work or contract violations.

### 6.03 *Performance and Inspections*

- A. All work is subject to inspection by the City’s Representative. Deficiencies must be corrected within twenty-four (24) hours of notification (“Call Back”). Two call-backs per property per cycle will be permitted before a zero payment is issued for that property.
- B. The City may issue a Vendor Performance Form to document exceptional or unsatisfactory performance. Failure to correct deficiencies or respond to corrective action requests may result in termination of the contract.

## ARTICLE 7 – CONTRACTOR’S REPRESENTATIONS

- 7.01 In order to induce Owner to enter into this Contract, Contractor makes the following representations:
- A. Contractor has examined and carefully studied the Contract Documents, and any data and reference items identified in the Contract Documents.
  - B. Contractor has visited the Site, conducted a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
  - C. Contractor is familiar with and is satisfied as to all Laws and Regulations that may affect cost, progress, and performance of the Work.
  - D. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
  - E. Contractor has given Director written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Director is acceptable to Contractor.

- F. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
- G. Contractor's entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.

## **ARTICLE 8 – CONTRACT DOCUMENTS**

### **8.01 Contents**

- A. The Contract Documents consist of the following:
  - 1. This Agreement (pages 1 to , inclusive).
  - 2. Performance bond (pages  to , inclusive).
  - 3. Payment bond (pages  to , inclusive).
  - 4. General Conditions (pages  to , inclusive).
  - 5. Supplementary Conditions (pages  to , inclusive).
  - 6. Specifications as listed in the table of contents of the Project Manual.
  - 7. Addenda (numbers  to , inclusive).
  - 8. Exhibits to this Agreement (enumerated as follows):
    - a. Contractor's Bid (pages  to , inclusive).
    - b. Vendor Performance Form
    - c. Scope of Services
    - d. Maintenance Map
  - 9. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:
    - a. Notice to Proceed.
    - b. Change Orders.
- B. The documents listed in Paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 9.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in the General Conditions.

## **ARTICLE 9 – MISCELLANEOUS**

### **9.01 Terms**

- A. Terms used in this Agreement will have the meanings stated in the General Conditions and the Supplementary Conditions.

### **9.02 Assignment of Contract**

- A. Unless expressly agreed to elsewhere in the Contract, no assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto

without the written consent of the party sought to be bound; and, specifically but without limitation, money that may become due and money that is due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

9.03 *Successors and Assigns*

- A. Owner and Contractor each binds itself, its successors, assigns, and legal representatives to the other party hereto, its successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

9.04 *Severability*

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

9.05 *Contractor's Certifications*

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 10.05:
1. "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the bidding process or in the Contract execution;
  2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
  3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
  4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement.

This Agreement will be effective on \_\_\_\_\_ (which is the Effective Date of the Contract).

OWNER:

CONTRACTOR:

\_\_\_\_\_

\_\_\_\_\_

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

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

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

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

*(If Contractor is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.)*

Attest: \_\_\_\_\_

Attest: \_\_\_\_\_

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

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

Address for giving notices:

Address for giving notices:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

License No.: \_\_\_\_\_

*(where applicable)*

*(If Owner is a corporation, attach evidence of authority to sign. If Owner is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of this Agreement.)*

*NOTE TO USER: Use in those states or other jurisdictions where applicable or required.*