

AGREEMENT FOR GROUNDS MAINTENANCE SERVICES – CITY COMPLEX

THIS AGREEMENT FOR GROUNDS MAINTENANCE SERVICES – CITY COMPLEX (“Agreement”) is entered into by and between the **CITY OF OCALA**, a Florida municipal corporation (“City”) and **RLS CONTRACTING, LLC**, a limited liability company duly organized and authorized to do business in the State of Florida (EIN: 83-3961206) (“Contractor”).

WHEREAS, on May 19, 2021, City issued a Request for Quotation (“RFQ”) for the provision of grounds maintenance services at the City Complex located at 1805 NE 30th Avenue, Ocala, FL 34470, ITB No.: PWD/210424 (the “Solicitation”); and

WHEREAS, six (6) firms responded to the Solicitation and, after consideration of price and other evaluation factors set forth in the Solicitation, the bid submitted by RLS Contracting, LLC was found to be the lowest; and

WHEREAS, Contractor was chosen as the intended awardee to provide grounds maintenance services at the City Complex located at 1805 NE 30th Avenue, Ocala, FL 34470; and

NOW THEREFORE, in consideration of the foregoing recitals, the following mutual covenants and conditions, and other good and valuable consideration, City and Contractor agree as follows:

1. **RECITALS.** City and Contractor hereby represent, warrant, and agree that the Recitals set forth above are true and correct and are incorporated herein by reference.
2. **CONTRACT DOCUMENTS.** The Contract Documents which comprise the entire understanding between City and Contractor shall only include this Agreement and those documents listed in this section as Exhibits to this Agreement. Each of these documents are incorporated herein by reference for all purposes. If there is a conflict between the terms of this Agreement and the Contract Documents, then the terms of this Agreement shall control, amend, and supersede any conflicting terms contained in the remaining Contract Documents.

Exhibits to Agreement: The Exhibits to this Agreement are as follows:

- Exhibit A: Scope of Work (A-1 through A-5)
- Exhibit B: Mowing Boundary Map (B-1)

If there is a conflict between the terms of this Agreement and the Contract Documents, then the terms of this Agreement shall control, amend, and supersede any conflicting terms contained in the remaining Contract Documents.

3. **SCOPE OF SERVICES.** Contractor shall provide all materials, labor, supervision, tools, accessories, equipment necessary for Contractor to perform its obligations under this Agreement as set forth in the attached **Exhibit A - Scope of Work**. The Scope of Work under this Agreement may only be adjusted by written amendment executed by both parties.

4. **COMPENSATION.** Contractor shall be paid a maximum limiting amount of **SIXTY-THREE THOUSAND, FOUR HUNDRED AND NO/100 DOLLARS (\$63,400)** over the initial contract term in accordance with the pricing set forth below. The pricing under this Agreement may only be adjusted by written amendment executed by both parties.

Item	Description	Cost per cut
1	Grounds Maintenance at City Complex	\$750.00
2	Grounds Maintenance - Rights of Way	\$100.00
3	Grounds Maintenance - SunTran Field	\$100.00

- A. **Invoice Submission.** All monthly invoices submitted by Contractor shall include the City Contract Number, an assigned Invoice Number, and an Invoice Date. Contractor shall submit the original invoice through the responsible City Project Manager at: **Public Works Department**, Attn: **Tom Casey**, E-Mail: tcasey@ocalafl.org; Telephone: (352) 351-6723.
- B. **Payment of Invoices by City.** The City Project Manager must review and approve all invoices prior to payment. City Project Manager's approval shall not be unreasonably withheld, conditioned, or delayed. Payments by City shall be made no later than the time periods established in section 218.735, Florida Statutes.
- C. **Withholding of Payment.** City reserves the right to withhold, in whole or in part, payment for any and all work that: (i) has not been completed by Contractor; (ii) is inadequate or defective and has not been remedied or resolved in a manner satisfactory to the City Project Manager; or (iii) which fails to comply with any term, condition, or other requirement under this Agreement. Any payment withheld shall be released and remitted to Contractor within **THIRTY (30)** calendar days of the Contractor's remedy or resolution of the inadequacy or defect.
- D. **Excess Funds.** If due to mistake or any other reason Contractor receives payment under this Agreement in excess of what is provided for by the Agreement, Contractor shall promptly notify City upon discovery of the receipt of the overpayment. Any overpayment shall be refunded to City within **THIRTY (30)** days of Contractor's receipt of the overpayment or must also include interest calculated from the date of the overpayment at the interest rate for judgment at the highest rate allowed by law.
- E. **Tax Exemption.** City is exempt from all federal excise and state sales taxes (State of Florida Consumer's Certification of Exemption 85-8012621655C-9). The City's Employer Identification Number is 59-60000392. Contractor shall not be exempted from paying sales tax to its suppliers for materials to fulfill contractual obligations with the City, nor will Contractor be authorized to use City's Tax Exemption Number for securing materials listed herein.

5. **EFFECTIVE DATE AND TERM.** This Agreement shall become effective and commence on **AUGUST 22, 2021** and continue in effect through and including **AUGUST 23, 2023**. This Agreement may be renewed for up to **TWO (2)** additional **ONE-YEAR** (1-year) periods by written consent between City and Contractor.

6. **FORCE MAJEURE.** Neither party shall be liable for delay, damage, or failure in the performance of any obligation under this Agreement if such delay, damage, or failure is due to causes beyond its reasonable control, including without limitation: fire, flood, strikes and labor disputes, acts of war, acts of nature, terrorism, civil unrest, pandemics, acts or delays in acting of the government of the United States or the several states, judicial orders, decrees or restrictions, or any other like reason which is beyond the control of the respective party ("Force Majeure"). The party affected by any event of force majeure shall use reasonable efforts to remedy, remove, or mitigate such event and the effects thereof with all reasonable dispatch.

The party affected by force majeure shall provide the other party with full particulars thereof including, but not limited to, the nature, details, and expected duration thereof, as soon as it becomes aware.

When force majeure circumstances arise, the parties shall negotiate in good faith any modifications of the terms of this Agreement that may be necessary or appropriate in order to arrive at an equitable solution. Contractor performance shall be extended for a number of days equal to the duration of the force majeure. Contractor shall be entitled to an extension of time only and, in no event, shall Contractor be entitled to any increased costs, additional compensation, or damages of any type resulting from such force majeure delays.

7. **INSPECTION AND ACCEPTANCE OF THE WORK.** All services, work, and materials provided by Contractor under this Agreement shall be provided under the direction and to the satisfaction and approval of the Project Manager.

The Project Manager shall decide all questions regarding the quality, acceptability, and/or fitness of materials furnished or workmanship performed, the rate of progress of the work, the interpretation of the plans and specifications, and the acceptable fulfillment of the Agreement, in his or her sole discretion, based upon both the requirements set forth by City and the information provided by Contractor in its quotation. The authority vested in the Project Manager pursuant to this paragraph shall be confined to the direction or specification of what is to be performed under this Agreement and shall not extend to the actual execution of the work.

Neither the Project Manager's review of Contractor's work nor recommendations made by Project Manager pursuant to this Agreement will impose on Project Manager any responsibility to supervise, direct, or control Contractor's work in progress or for the means, methods, techniques, sequences, procedures, or safety precautions or programs incident Contractor's furnishing and performing the work.

8. **TERMINATION AND DEFAULT.** Either party, upon determination that the other party has failed or refused to perform or is otherwise in breach of any obligation or provision under this Agreement or the Contract Document, may give written notice of default to the defaulting party in the manner specified for the giving of notices herein. Termination of this Agreement by either party for any reason shall have no effect upon the rights or duties accruing to the parties prior to termination.

A. **Termination by City for Cause.** City shall have the right to terminate this Agreement immediately, in whole or in part, upon the failure of Contractor to carry out any obligation, term, or condition of this Agreement. City's election to terminate the Agreement for default shall be communicated by providing Contractor written notice of termination in the manner specified for the giving of notices herein. Any notice of termination given to Contractor by City shall be effective immediately, unless otherwise provided therein, upon the occurrence of any one or more of the following events:

- (1) Contractor fails to timely and properly perform any of the services set forth in the specifications of the Agreement;
- (2) Contractor provides material that does not meet the specifications of the Agreement;
- (3) Contractor fails to complete the work required within the time stipulated in the Agreement; or
- (4) Contractor fails to make progress in the performance of the Agreement and/or gives City reason to believe that Contractor cannot or will not perform to the requirements of the Agreement.

B. **Contractor's Opportunity to Cure Default.** City may, in its sole discretion, provide Contractor with an opportunity to cure the violations set forth in City's notice of default to Contractor. Contractor shall commence to cure the violations immediately and shall diligently and continuously prosecute such cure to completion within a reasonable time as determined by City. If the violations are not corrected within the time determined to be reasonable by City or to the reasonable satisfaction of City, City may, without further notice, declare Contractor to be in breach of this Agreement and pursue all remedies available at law or equity, to include termination of this Agreement without further notice.

- C. **City's Remedies Upon Contractor Default.** In the event that Contractor fails to cure any default under this Agreement within the time period specified in this section, City may pursue any remedies available at law or equity, including, without limitation, the following:
 - (1) City shall be entitled to terminate this Agreement without further notice;
 - (2) City shall be entitled to hire another vendor to complete the required work in accordance with the needs of City;
 - (3) City shall be entitled to recover from Contractor all damages, costs, and attorney's fees arising from Contractor's default prior to termination; and
 - (4) City shall be entitled to recovery from Contractor any actual excess costs by: (i) deduction from any unpaid balances owed to Contractor; or (ii) any other remedy as provided by law.
 - D. **Termination for Non-Funding.** In the event that budgeted funds to finance this Agreement are reduced, terminated, or otherwise become unavailable, City may terminate this Agreement upon written notice to Contractor without penalty or expense to City. City shall be the final authority as to the availability of budgeted funds.
 - E. **Termination for Convenience.** City reserves the right to terminate this Agreement in whole or in part at any time for the convenience of City without penalty or recourse. The Project Manager shall provide written notice of the termination. Upon receipt of the notice, Contractor shall immediately discontinue all work as directed in the notice, notify all subcontractors of the effective date of the termination, and minimize all further costs to City including, but not limited to, the placing of any and all orders for materials, facilities, or supplies, in connection with its performance under this Agreement. Contractor shall be entitled to receive compensation solely for: (1) the actual cost of the work completed in conformity with this Agreement; and/or (2) such other costs incurred by Contractor as permitted under this Agreement and approved by City.
9. **PERFORMANCE EVALUATION.** At the end of the contract, City may evaluate Contractor's performance. Any such evaluation will become public record.
10. **NOTICE REGARDING FAILURE TO FULFILL AGREEMENT.** Any vendor who enters into an Agreement with the City of Ocala and fails to complete the contract term, for any reason, shall be subject to future bidding suspension for a period of **ONE (1)** year and bid debarment for a period of up to **THREE (3)** years for serious contract failures.
11. **CONTRACTOR REPRESENTATIONS.** Contractor expressly represents that:
- A. Contractor has read and is fully familiar with all of the terms and conditions of this Agreement, the Contract Documents, and other related data and acknowledges that they

are sufficient in scope and detail to indicate and convey understanding of all terms and conditions of the work to be performed by Contractor under this Agreement.

- B. Contractor has disclosed, in writing, all known conflicts, errors, inconsistencies, discrepancies, or omissions discovered by Contractor in the Contract Documents, and that the City's written resolution of same is acceptable to Contractor.
- C. Contractor has had an opportunity to visit, has visited, and has had an opportunity to examine and ask questions regarding the sites upon which the work is to be performed and is satisfied with the site conditions that may affect cost, progress, and performance of the work, as observable or determinable by Contractor's own investigation.
- D. Contractor is familiar with all local, state, and Federal laws, regulations, and ordinances which may affect cost, progress, or its performance under this Agreement whatsoever.
- E. Neither Contractor, its parent corporations, subsidiaries, members, shareholders, partners, officers, directors or executives, nor any of its affiliates, contractors, suppliers, subcontractors, or consultants under this Agreement have been placed on the convicted vendor list following a conviction of a public entity crime. Contractor understands that a "public entity crime" as defined in section 287.133(1)(g), Florida Statutes, is "a violation of any state or 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..." Contractor further understands that any person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime (1) may not submit a bid, proposal, or reply on a contract: (a) to provide any goods or services to a public entity; (b) for the construction or repair of a public building or public work; or (c) for leases of real property to a public entity; (2) may not be awarded or perform work as a Contractor, supplier, subcontractor, or consultant under a contract with any public entity; and (3) may not transact business with any public entity in excess of the threshold amount provided in section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

12. **CONTRACTOR RESPONSIBILITIES.** Except as otherwise specifically provided for in this Agreement, the following provisions are the responsibility of the Contractor:

- A. Contractor shall competently and efficiently supervise, inspect, and direct all work to be performed under this Agreement, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the work in accordance with the Contract Documents.

- B. Contractor shall be solely responsible for the means, methods, techniques, sequences, or procedures, and safety precautions or programs incident thereto.
 - C. Contractor shall be responsible to see that the finished work complies accurately with the contract and the intent thereof.
 - D. Contractor shall comply with all local, state, and Federal laws, regulations, and ordinances which may affect cost, progress, or its performance under this Agreement, and be responsible for all costs associated with same.
 - E. Contractor shall continue its performance under this Agreement during the pendency of any dispute or disagreement arising out of or relating to this Agreement, except as Contractor and City may otherwise agree in writing.
13. **NO EXCLUSIVITY.** It is expressly understood and agreed by the parties that this is not an exclusive agreement. Nothing in this Agreement shall be construed as creating any exclusive arrangement with Contractor or as prohibit City from either acquiring similar, equal, or like goods and/or services or from executing additional contracts with other entities or sources.
14. **RESPONSIBILITIES OF CITY.** City or its Representative shall issue all communications to Contractor. City has the authority to request changes in the work in accordance with the terms of this Agreement and with the terms in **Exhibit A**. City has the authority to stop work or to suspend any work.
15. **COMMERCIAL AUTO LIABILITY INSURANCE.** Contractor shall procure and maintain, for the life of this Agreement, commercial automobile liability insurance covering all automobiles owned, non-owned, hired, and scheduled by Contractor with a combined limit of not less than One Hundred Thousand Dollars (\$100,000) for bodily injury and Three Hundred Thousand Dollars (\$300,000) for property damage for each accident.
16. **GENERAL LIABILITY INSURANCE.** Contractor shall procure and maintain, for the life of this Agreement, commercial general liability insurance with minimum coverage limits not less than:
- A. One Million Dollars (\$1,000,000) per occurrence and One Million Dollars (\$2,000,000) aggregate limit for bodily injury, property damage, and personal and advertising injury; and
 - B. One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) aggregate limit for products and completed operations.
 - C. Coverage for contractual liability is also required.
 - D. City, a political subdivision of the State of Florida, and its officials, employees, and volunteers shall be covered as an additional insured with a CG 20 26 04 13 Additional Insured – Designated Person or Organization Endorsement or similar endorsement

providing equal or broader Additional Insured Coverage regarding liability arising out of activities performed by or on behalf of Contractor. The coverage shall contain no special limitation on the scope of protection afforded to City, its officials, employees, or volunteers.

17. **WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY.** Contractor shall procure and maintain, for the life of this Agreement, Workers' Compensation insurance and employer's liability insurance in amounts required by applicable statutes. Contractor shall ensure any and all subcontractors have coverage as required by applicable statutes. Contractor is not required to name City as an additional insured under the policies, but a subrogation waiver endorsement is required. **Exceptions and exemptions may be allowed by City's HR/Risk Director, so long as they are in accordance with Florida Statute.**

18. **MISCELLANEOUS INSURANCE PROVISIONS.**

- A. Insurance Requirements. These insurance requirements shall not relieve or limit the liability of Contractor. City does not in any way represent that these types or amounts of insurance are sufficient or adequate to protect Contractor's interests or liabilities, but are merely minimums. No insurance is provided by the City under this contract to cover Contractor. **No work shall be commenced under this contract until the required Certificate(s) of Insurance have been provided.** Work shall not continue after expiration (or cancellation) of the Certificates of Insurance and shall not resume until new Certificate(s) of Insurance have been provided. Insurance written on a "Claims Made" form is not acceptable without consultation with City of Ocala Risk Management.
- B. Deductibles. Contractor's deductibles/self-insured retentions shall be disclosed to the City and may be disapproved by City. Contractor is responsible for the amount of any deductible or self-insured retention.
- C. Certificates of Insurance. Contractor shall provide a Certificate of insurance, issued by an agency authorized to do business in the State of Florida and with an A.M. Best rating* of at least an A, showing the "City of Ocala" as an Additional Insured. Shown on the certificate as the certificate holder should be: **City of Ocala, Contracting Department- 3rd Floor, 110 SE Watula Ave, Ocala, FL 34471, e-mail: vendors@ocalafl.org.** Renewal certificates must also be forwarded to the Contracting Department prior to the policy expiration. **TEN (10)** days written notice must be provided to the City in the event of cancellation.

*Non-rated insurers must be pre-approved by the City Risk Manager.

- D. Failure to Maintain Coverage. In the event Contractor fails to disclose each applicable deductible/self-insured retention or obtain or maintain in full force and effect any insurance coverage required to be obtained by Contractor under this Agreement, Contractor shall be considered to be in default of this Agreement.
- E. Severability of Interests. Contractor shall arrange for its liability insurance to include General Liability, Business Automobile Liability, and Excess/Umbrella Insurance, or be endorsed to include, a severability of interests/cross liability provision, so that the "City of Ocala" (where named as an additional insured) will be treated as if a separate policy were in existence, but without increasing the policy limits.
- F. Exceptions and exemptions to these insurance requirements may be allowed at the discretion of the City's HR/Risk Director on a case-by-case basis and evidenced by a separate waiver attached to this Agreement and incorporated herein.

19. **SAFETY/ENVIRONMENTAL.** Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the work. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:

- A. All employees on the work and other persons that may be affected thereby;
- B. All work, materials and equipment to be incorporated therein, whether in storage on or off the site; and
- C. Other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities.

All, injury, or loss to any property caused, directly or indirectly, in whole or in part, by Contractor, any subcontractor, or anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, shall be remedied by Contractor. Contractor's duties and responsibilities for the safety and protection of the work shall continue until such time as the work is completed and accepted by City.

20. **TRAFFIC CONTROL AND BARRICADES.** Contractor shall mitigate impact on local traffic conditions to all extents possible. Contractor is responsible for establishing and maintaining appropriate traffic control and barricades. Contractor shall provide sufficient signing, flagging and barricading to ensure the safety of vehicular and pedestrian traffic at all locations where work is being done under this Agreement.

21. **NON-DISCRIMINATORY EMPLOYMENT PRACTICES.** During the performance of the contract, the Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, sexual orientation, gender identity, marital or domestic partner status, familial

status, or veteran status and shall take affirmative action to ensure that an employee or applicant is afforded equal employment opportunities without discrimination. Such action shall be taken with reference to, but not limited to: recruitment, employment, termination, rates of pay or other forms of compensation and selection for training or retraining, including apprenticeship and on-the-job training.

22. **SUBCONTRACTORS.** Nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by City or its representatives to any subcontractor of Contractor or any other persons or organizations having a direct contract with Contractor, nor shall it create any obligation on the part of City or its representatives to pay or seek payment of any monies to any subcontractor of Contractor or any other persons or organizations having a direct contract with Contractor, except as may otherwise be required by law. City shall not be responsible for the acts or omissions of any Contractor, subcontractor, or of any of their agents or employees. nor shall it create any obligation on the part of City or its representatives to pay or to seek the payment of any monies to any subcontractor or other person or organization, except as may otherwise be required by law.

23. **DELAYS AND DAMAGES.** The Contractor agrees to make no claim for extra or additional costs attributable to any delays, inefficiencies, or interference in the performance of this contract occasioned by any act or omission to act by the City except as provided in the Agreement. The Contractor also agrees that any such delay, inefficiency, or interference shall be compensated for solely by an extension of time to complete the performance of the work in accordance with the provision in the standard specification.

24. **EMERGENCIES.** In an emergency affecting the welfare and safety of life or property, Contractor, without special instruction or authorization from the City Project Manager, is hereby permitted, authorized and directed to act at its own discretion to prevent threatened loss or injury. Except in the case of an emergency requiring immediate remedial work, any work performed after regular working hours, on Saturdays, Sundays or legal holidays, shall be performed without additional expense to the City unless such work has been specifically requested and approved by the City Project Manager. Contractor shall be required to provide to the City Project Manager with the names, addresses and telephone numbers of those representatives who can be contacted at any time in case of emergency. Contractor's emergency representatives must be fully authorized and equipped to correct unsafe or excessively inconvenient conditions on short notice by City or public inspectors.

25. **INDEPENDENT CONTRACTOR STATUS.** Contractor acknowledges and agrees that under this Agreement, Contractor and any agent or employee of Contractor shall be deemed at all times to be an independent contractor and shall be wholly responsible for the manner in which it

performs the services and work required under this Agreement. Neither Contractor nor its agents or employees shall represent or hold themselves out to be employees of City at any time. Neither Contractor nor its agents or employees shall have employee status with City. Nothing in this Agreement shall constitute or be construed to create any intent on the part of either party to create an agency relationship, partnership, employer-employee relationship, joint venture relationship, or any other relationship which would allow City to exercise control or discretion over the manner or methods employed by Contractor in its performance of its obligations under this Agreement.

26. **ACCESS TO FACILITIES.** City shall provide Contractor with access to all City facilities as is reasonably necessary for Contractor to perform its obligations under this Agreement.
27. **ASSIGNMENT.** Neither party may assign its rights or obligations under this Agreement to any third party without the prior express approval of the other party, which shall not be unreasonably withheld.
28. **RIGHT OF CITY TO TAKE OVER CONTRACT.** Should the work to be performed by Contractor under this Agreement be abandoned, or should Contractor become insolvent, or if Contractor shall assign or sublet the work to be performed hereunder without the written consent of City, the City Project Manager shall have the power and right to hire and acquire additional men and equipment, supply additional material, and perform such work as deemed necessary for the completion of this Agreement. Under these circumstances, all expenses and costs actually incurred by City to accomplish such completion shall be credited to City along with amounts attributable to any other elements of damage and certified by the Project Manager. The City Project Manager's certification as to the amount of such liability shall be final and conclusive.
29. **PUBLIC RECORDS.** Contractor shall comply with all applicable provisions of the Florida Public Records Act, Chapter 119, Florida Statutes. Specifically, Contractor shall:
 - A. Keep and maintain public records required by the public agency to perform the service.
 - B. Upon request from the public agency's custodian of public records, provide the public agency 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 Chapter 119, Florida Statutes, or as otherwise provided by law.
 - C. 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 Contractor does not transfer the records to the public agency.

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

IF CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT: CITY OF OCALA, OFFICE OF THE CITY CLERK; 352-629-8266; E-mail: clerk@ocalafl.org; City Hall, 110 SE Watula Avenue, Ocala, FL 34471.

30. **AUDIT.** Contractor shall comply and cooperate immediately with any inspections, reviews, investigations, or audits relating to this Agreement as deemed necessary by the Florida Office of the Inspector General, the City's Internal or External auditors or by any other Florida official with proper authority.
31. **PUBLICITY.** Contractor shall not use City's name, logo, seal or other likeness in any press release, marketing materials, or other public announcement without City's prior written approval.
32. **E-VERIFY.** In accordance with Executive Order 11-116, Contractor shall utilize the U.S. Agency of Homeland Security's E-Verify system, <https://e-verify.uscis.gov/emp>, to verify the employment eligibility of all employees hired during the term of this Agreement. Contractor shall also require all subcontractors performing work under this Agreement to utilize the E-Verify system for any employees they may hire during the term of this Agreement.
33. **CONFLICT OF INTEREST.** Contractor is required to have disclosed, with the submission of their bid, the name of any officer, director, or agent who may be employed by the City. Contractor shall further disclose the name of any City employee who owns, directly or indirectly, any interest in Contractor's business or any affiliated business entity. Any additional

conflicts of interest that may occur during the contract term must be disclosed to the City of Ocala Procurement Department.

34. **WAIVER.** The failure or delay of any party at any time to require performance by another party of any provision of this Agreement, even if known, shall not affect the right of such party to require performance of that provision or to exercise any right, power or remedy hereunder. Any waiver by any party of any breach of any provision of this Agreement should not be construed as a waiver of any continuing or succeeding breach of such provision, a waiver of the provision itself, or a waiver of any right, power or remedy under this Agreement. No notice to or demand on any party in any circumstance shall, of itself, entitle such party to any other or further notice or demand in similar or other circumstances.
35. **SEVERABILITY OF ILLEGAL PROVISIONS.** Wherever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under the applicable law. Should any portion of this Agreement be declared invalid for any reason, such declaration shall have no effect upon the remaining portions of this Agreement.
36. **INDEMNITY.** Contractor shall indemnify City and its elected officials, employees and volunteers against, and hold City and its elected officials, employees and volunteers harmless from, all damages, claims, losses, costs, and expenses, including reasonable attorneys' fees, which City or its elected officials, employees or volunteers may sustain, or which may be asserted against City or its elected officials, employees or volunteers, arising out of the activities contemplated by this Agreement including, without limitation, harm or personal injury to third persons during the term of this Agreement to the extent attributable to the actions of Contractor, its agents, and employees.
37. **NO WAIVER OF SOVEREIGN IMMUNITY.** Nothing herein is intended to waive sovereign immunity by the City to which sovereign immunity may be applicable, or of any rights or limits of liability existing under Florida Statute § 768.28. This term shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until any proceeding brought under this Agreement is barred by any applicable statute of limitations.
38. **NOTICES.** All notices, certifications or communications required by this Agreement shall be given in writing and shall be deemed delivered when personally served, or when received if by facsimile transmission with a confirming copy mailed by registered or certified mail, postage prepaid, return receipt requested. Notices can be concurrently delivered by e-mail. All notices shall be addressed to the respective parties as follows:

If to Contractor: RLS Contracting, LLC
Attention: Rick Smith
10 Pecan Run Court
Ocala, Florida 34472
Phone: 352-342-4424
E-mail: rcopsmith@yahoo.com

If to City of Ocala: Tiffany Kimball, Contracting Officer
110 SE Watula Avenue, 3rd Floor
Ocala, Florida 34471
Phone: 352-629-8366
Fax: 352-690-2025
E-mail: tkimball@ocalafl.org

Copy to: Robert W. Batsel, Jr.
Gilligan, Gooding, Batsel & Anderson, P.A.
1531 SE 36th Avenue
Ocala, Florida 34471
Phone: 352-867-7707
Fax: 352-867-0237
E-mail: rbatsel@ocalalaw.com

39. **ATTORNEYS' FEES.** If any civil action, arbitration or other legal proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any provision of this Agreement, the successful or prevailing party shall be entitled to recover reasonable attorneys' fees, sales and use taxes, court costs and all expenses reasonably incurred even if not taxable as court costs (including, without limitation, all such fees, taxes, costs and expenses incident to arbitration, appellate, bankruptcy and post-judgment proceedings), incurred in that civil action, arbitration or legal proceeding, in addition to any other relief to which such party or parties may be entitled. Attorneys' fees shall include, without limitation, paralegal fees, investigative fees, administrative costs, sales and use taxes and all other charges reasonably billed by the attorney to the prevailing party.

40. **JURY WAIVER.** IN ANY CIVIL ACTION, COUNTERCLAIM, OR PROCEEDING, WHETHER AT LAW OR IN EQUITY, WHICH ARISES OUT OF, CONCERNS, OR RELATES TO THIS AGREEMENT, ANY AND ALL TRANSACTIONS

CONTEMPLATED HEREUNDER, THE PERFORMANCE HEREOF, OR THE RELATIONSHIP CREATED HEREBY, WHETHER SOUNDING IN CONTRACT, TORT, STRICT LIABILITY, OR OTHERWISE, TRIAL SHALL BE TO A COURT OF COMPETENT JURISDICTION AND NOT TO A JURY. EACH PARTY HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY. NEITHER PARTY HAS MADE OR RELIED UPON ANY ORAL REPRESENTATIONS TO OR BY ANY OTHER PARTY REGARDING THE ENFORCEABILITY OF THIS PROVISION. EACH PARTY HAS READ AND UNDERSTANDS THE EFFECT OF THIS JURY WAIVER PROVISION.

41. **GOVERNING LAW.** This Agreement is and shall be deemed to be a contract entered and made pursuant to the laws of the State of Florida and shall in all respects be governed, construed, applied and enforced in accordance with the laws of the State of Florida.
42. **JURISDICTION AND VENUE.** The parties acknowledge that a majority of the negotiations, anticipated performance and execution of this Agreement occurred or shall occur in Marion County, Florida. Any civil action or legal proceeding arising out of or relating to this Agreement shall be brought only in the courts of record of the State of Florida in Marion County or the United States District Court, Middle District of Florida, Ocala Division. Each party consents to the exclusive jurisdiction of such court in any such civil action or legal proceeding and waives any objection to the laying of venue of any such civil action or legal proceeding in such court and/or the right to bring an action or proceeding in any other court. Service of any court paper may be effected on such party by mail, as provided in this Agreement, or in such other manner as may be provided under applicable laws, rules of procedures or local rules.
43. **REFERENCE TO PARTIES.** Each reference herein to the parties shall be deemed to include their successors, assigns, heirs, administrators, and legal representatives, all whom shall be bound by the provisions hereof.
44. **MUTUALITY OF NEGOTIATION.** Contractor and City acknowledge that this Agreement is a result of negotiations between Contractor and City, and the Agreement shall not be construed in favor of, or against, either party because of that party having been more involved in the drafting of the Agreement.
45. **SECTION HEADINGS.** The section headings herein are included for convenience only and shall not be deemed to be a part of this Agreement.

46. **RIGHTS OF THIRD PARTIES.** Nothing in this Agreement, whether express or implied, is intended to confer any rights or remedies under or because of this Agreement on any persons other than the parties hereto and their respective legal representatives, successors and permitted assigns. Nothing in this Agreement is intended to relieve or discharge the obligation or liability of any third persons to any party to this Agreement, nor shall any provision give any third persons any right of subrogation or action over or against any party to this Agreement.
47. **AMENDMENT.** No amendment to this Agreement shall be effective except those agreed to in writing and signed by both parties to this Agreement.
48. **COUNTERPARTS.** This Agreement may be executed in counterparts, each of which shall be an original and all of which shall constitute the same instrument.
49. **ELECTRONIC SIGNATURE(S).** Contractor, if and by offering an electronic signature in any form whatsoever, will accept and agree to be bound by said electronic signature to all terms and conditions of this Agreement. Further, a duplicate or copy of the Agreement that contains a duplicated or non-original signature will be treated the same as an original, signed copy of this original Agreement for all purposes.
50. **ENTIRE AGREEMENT.** This Agreement, including exhibits, (if any) constitutes the entire Agreement between the parties hereto with respect to the subject matter hereof. There are no other representations, warranties, promises, agreements or understandings, oral, written or implied, among the Parties, except to the extent reference is made thereto in this Agreement. No course of prior dealings between the parties and no usage of trade shall be relevant or admissible to supplement, explain, or vary any of the terms of this Agreement. No representations, understandings, or agreements have been made or relied upon in the making of this Agreement other than those specifically set forth herein.
51. **LEGAL AUTHORITY.** Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK. SIGNATURE PAGE TO FOLLOW.]

IN WITNESS WHEREOF, the parties have executed this Agreement on _____.

ATTEST:

CITY OF OCALA

Angel B. Jacobs
City Clerk

Justin Grabelle
City Council President

Approved as to form and legality:

RLS CONTRACTING, LLC

Robert W. Batsel, Jr.

Robert W. Batsel, Jr.
City Attorney

Rick Smith

By: _____ RLS Contracting, LLC
(Printed Name)

Title: _____ Owner MGR
(Manager/Member)

BACKGROUND

1. Contractor shall provide grounds maintenance services at the City Complex, located at 1805 NE 30th Avenue, Ocala, Florida 34470.
2. Work shall be coordinated with the City Project Manager Tom Casey, 352-351-6723, e-mail: tcasey@ocalafl.org.
3. Services include maintaining City-owned right-of-way parcels and other designated areas as indicated in **Exhibit B - Mowing Boundary Map**.

LICENSING AND EXPERIENCE REQUIREMENTS

1. **Licensing Requirement:** If using restricted herbicides Contractor must be a licensed as a commercial applicator with the Florida Department of Agriculture and Consumer Services.

DEFINITIONS

1. **Trash:** Trash is defined as anything loose and useless (examples but not limited to) bottles, cans, paper, plastic bags, plastic bottles, plastic food wrappers and Styrofoam cups and plates.
2. **Debris:** Debris is defined as objects lying on the ground in an area to be mowed that are mostly organic (examples but not limited to) tree limbs less than six inches (6") in diameter and smaller than six feet (6') in length, tree branches, twigs, hedge clippings and sapling trimmings. One or two broken concrete blocks would qualify as debris, but an abundance of blocks would be the City's responsibility to remove.

If the Contractor finds large items such as old tires, concrete blocks, old chairs or sofas, dead car batteries, etc., on a site to be mowed, Contractor shall contact the City Project Manager to report the findings and the City will remove and properly dispose of the debris. Otherwise, it is the Contractor's responsibility to remove and properly dispose of debris before mowing.

MOWING

1. Mow at a height of two inches (2").
2. All mowing will be performed **ON WEEKENDS ONLY**. Any change to days and/or times must be approved by the City Project Manager.
3. Contractor must pick up trash and debris in and around the area to be mowed (to include fence lines) before mowing and properly dispose of it so it is not chopped up by the mower. Contractor is responsible for a clean area (free of trash and debris) with neat appearance, even cut and no clumps of grass to remain in the mowed areas.
4. Proper equipment must be used to prevent scalping, rutting, or cutting off tops of slopes with mowing equipment, causing soil erosion.
5. All equipment must be properly maintained with sharp blades, so the grass is cut and not torn, causing damage to the grass plants.

6. Contractor shall mow all grassed areas in accordance with the frequencies indicated below:

Month	Cuts per Month City Complex & ROW	Cuts per Month SunTran Field
January	1	0
February	1	0
March	2	0
April	4	1
May	4	1
June	4	1
July	5	2
August	4	2
September	4	2
October	4	1
November	2	1
December	1	0
Total cuts per year:	36	11

7. The SunTran Field (outlined in blue on **Exhibit B**) shall be mowed with a tractor bush hog mower with deck, weed control around any poles, concrete structures and trees.
8. City does not include an allowance for delays caused by the effects of inclement weather; however, the City will grant time extensions, on a day-to-day basis, for delays caused by the effects of rains or other inclement weather conditions. No additional compensation will be made for delays caused by the inclement weather. The Contractor shall submit a written request to the City Project Manager (e-mail is the preferred method) for additional days for which work is suspended or delayed by weather.
9. Contractor shall be responsible for all damages incurred to any water sprinkler systems, shrubs, trees, etc. while performing grounds maintenance services. All damages shall be immediately reported to the City Project Manager who will determine the need for replacement and/or repairs. All replacement and/or repairs for damage done by Contractor shall be performed at no additional cost to the City. Any damaged ground sprinklers shall be repaired immediately to comply with water conservation regulations.
10. Backflow assemblies are located in various areas throughout the City Complex. In the event a backflow assembly unit is damaged or destroyed by the Contractor, the Contractor shall be liable for all damages and shall be responsible for any costs associated with the repair or replacement of the unit(s). The Contractor's employees shall always have a wrench in their possession to shut off the water, should damage occur to a backflow assembly.
11. Mowing areas include tops (inside and outside fenced-in area), any easement leading to retention pond including entire Right of Way (ROW) that borders the retention pond.
12. The slopes and bottoms of the retention ponds will not be cut by the Contractor.

TRIMMING

1. Trimming shall be done in areas inaccessible by mowers (fence lines, trees, signs, etc.).
2. When using chemicals to treat fence lines, special care shall be used to ensure chemicals are not sprayed onto adjacent private property. No blue dyes with herbicide.
3. A three-inch (3") swath shall be sprayed on either side of the fence to maintain grass and weed control, providing the adjacent side of the fence is not private property. If the adjacent side is private property only a three-inch (3") swath shall be sprayed on the City property. Once the vegetation has been treated with chemicals, the dead grass, weeds, and vines shall be removed with a weed-eater or similar device down to ground level and the remaining dead vegetation removed from the fence.
4. A one-foot (1') diameter area from the base of trees shall be maintained when trimming around trees. Contractor shall chemically kill or retard the growth directly under trees using Roundup or other suitable and equally effective herbicide. When chemically trimming around trees, special care shall be given as not to spray the suckers growing from the ground around the tree; as this may damage or kill the tree. Removal of the bark greater than 25% of the diameter of the tree shall require the tree to be replaced. This is common around Crape Myrtles and not normally found around oaks and other common hardwood trees.
5. Grass debris shall never be blown into roadways. Grass clippings shall be blown away from roadways, but not into retention ponds. Contractor shall ensure all cuttings are kept off the streets and sidewalks.
6. Sidewalks and curbs shall be edged. In areas where there are cracks in the sidewalks with grass and weeds growing through the cracks, the vegetation shall be sprayed with an approved herbicide. After the vegetation is dead, it shall be removed with a weed-eater or similar string device.

CONTRACTOR RESPONSIBILITIES

1. Contractor is responsible for any and all damages including but not limited to buildings, curbing, pavement, landscaping or irrigation systems caused by their activity. Should any public or private property be damaged or destroyed, the contractor at their expense, shall repair or make restoration as acceptable to the City of destroyed or damaged property no later than one (1) month from the date damage occurred.
2. Contractor shall complete all work performed under this solicitation in accordance with policies and procedures of the City of Ocala and all applicable State and Federal laws, policies, procedures, and guidelines.
3. Contractor shall obtain and pay for any and licenses, additional equipment, dumping and/or disposal fees, etc., required to fulfill this contract.
4. At least one crew member must communicate fluently in English.
5. Contractor's employees shall wear shirts or have a badge which identifies the company, and all trucks belonging to the Contractor must display the company's name.
6. When working near roadways, the employee shall wear an FDOT (Florida Department of Transportation) approved vest and place FDOT-approved safety cones and FDOT approved "Men Working Signs" in front of, and behind, company vehicles.
7. Sinkholes: Contractor shall report any sinkholes found to the Public Works Department: 352-351-6733.

8. Properties having gates: Contractor shall report any gates needing repair for failure to close, open, or lock to the City Project Manager, Tom Casey, e-mail: tcasey@ocalafl.org. All gates must be closed and locked when finished mowing at the City Complex.
9. Locations: Contractor shall submit a list of all locations which have been mowed at the end of each working day.
10. After completion of each location: Contractor shall take a cellphone photo using the Solocator app of the property, and email to the City designated e-mail address. Please visit www.solocator.com for details.

CONTRACTOR EMPLOYEES AND EQUIPMENT

1. An employee roster must be provided to City.
2. Contractor must utilize competent employees in performing work under this Agreement. Employees performing the work must be properly licensed or qualified as required by this Scope of Work.
3. Contractor shall provide an assigned Project Manager, who will be the primary point of contact. Contractor must provide a valid telephone number and address at all times to the City Project Manager. The telephone must be answered during normal working hours or voicemail must be available to take a message.
4. At the request of the City, Contractor must replace any incompetent, unfaithful, abusive or disorderly person in his or her employment. The City and Contractor must each be promptly notified by the other of any complaints received.
5. Contractor's employees must wear suitable work clothes and personal protective equipment as defined by OSHA. Employees shall be clean and in as good appearance as the job conditions permit.
6. Contractor will operate as an independent contractor and not as an agent, representative, partner or employee of the City of Ocala, and shall control its operations at the work site, and be solely responsible for the acts or omissions of its employees.
7. No smoking is allowed on City property or projects.
8. Contractor must possess/obtain all required equipment to perform the work. A list of equipment shall be provided to the City upon request.

SAFETY

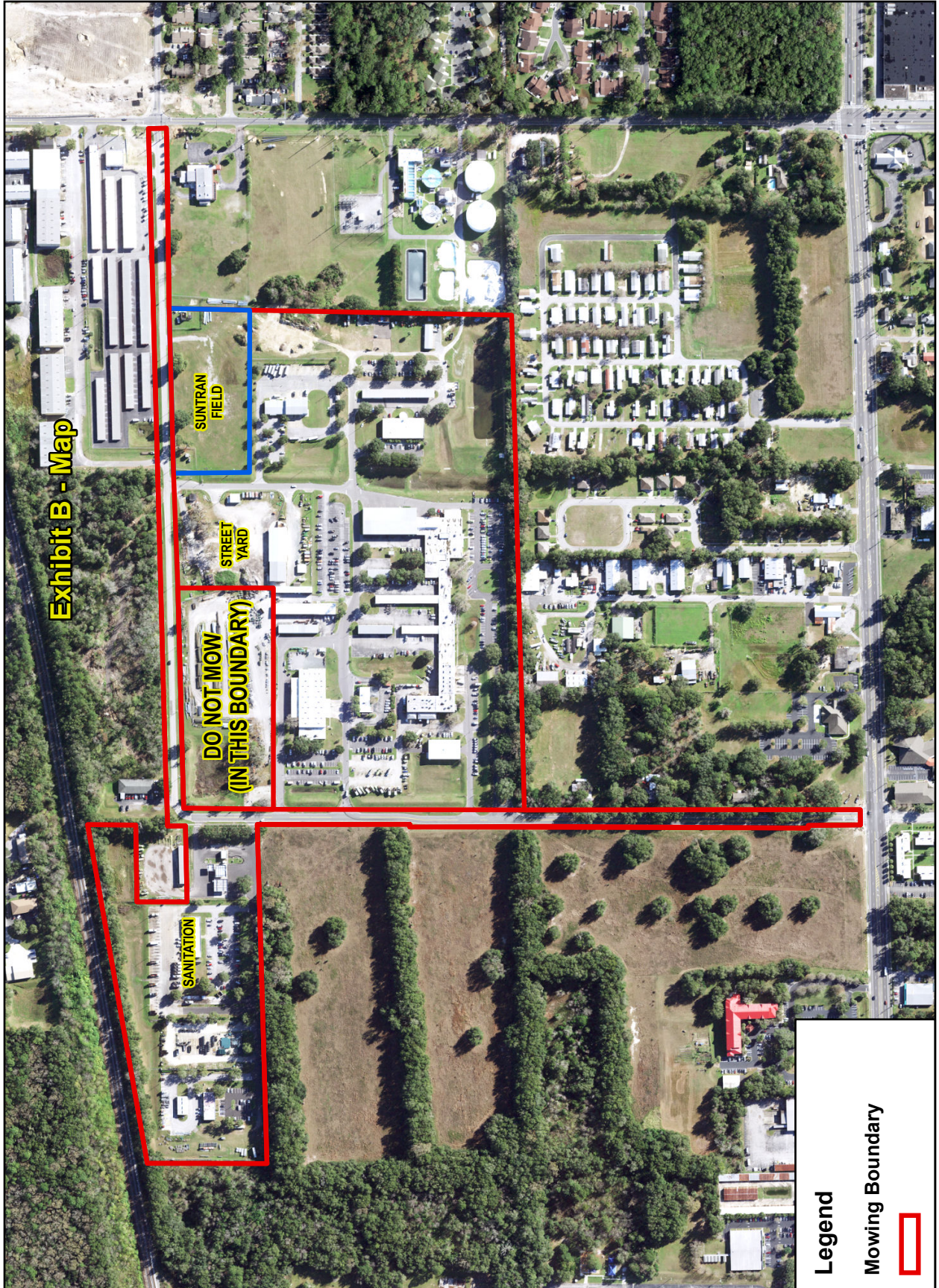
1. Contractor shall be fully responsible for meeting all OSHA, local, state and national codes concerning safety provisions for their employees, sub-contractors, staff, public, etc.
2. In no event shall the City be responsible for any damages to any of Contractor's lost, damaged, destroyed or stolen equipment or clothing.

HOLIDAY SCHEDULE

1. Contractor shall not perform grounds maintenance services on City-observed holidays.
2. The City of Ocala recognizes the following holidays:

New Year's Day	January 1 st
Dr. Martin Luther King, Jr.	3 rd Monday in January
Memorial Day	Last Monday in May
Independence Day	July 4 th
Labor Day	1 st Monday in September
Veterans' Day	November 11 th
Thanksgiving Day	4 th Thursday in November
Thanksgiving Day (day after)	4 th Friday in November
Christmas Eve	December 24 th
Christmas Day	December 25 th
3. If the holiday falls on a Saturday, the holiday shall be observed on the preceding Friday. If the holiday falls on a Sunday, the holiday shall be observed on the following Monday or as designated by the City Manager.

Exhibit B - Mowing Boundary Map



Legend
Mowing Boundary



TITLE	For Signature: City Complex Grounds Maintenance Services...
FILE NAME	FOR SIGNATURES - ... PWD 21042.._.pdf
DOCUMENT ID	9317f8e1a6b039be47a6137c13c569f06ccf18d9
AUDIT TRAIL DATE FORMAT	MM / DD / YYYY
STATUS	● Completed

Document History



SENT

06 / 29 / 2021

08:56:45 UTC-4

Sent for signature to Robert W. Batsel, Jr. (rbatsel@ocalalaw.com) and RLS Contracting, LLC (rcopsmith@yahoo.com) from plewis@ocalafl.org
IP: 67.231.55.34



VIEWED

07 / 07 / 2021

10:35:57 UTC-4

Viewed by Robert W. Batsel, Jr. (rbatsel@ocalalaw.com)
IP: 216.255.247.51



SIGNED

07 / 07 / 2021

10:37:42 UTC-4

Signed by Robert W. Batsel, Jr. (rbatsel@ocalalaw.com)
IP: 216.255.247.51



VIEWED

07 / 13 / 2021

06:59:53 UTC-4

Viewed by RLS Contracting, LLC (rcopsmith@yahoo.com)
IP: 73.120.145.34



SIGNED

07 / 14 / 2021

13:29:14 UTC-4

Signed by RLS Contracting, LLC (rcopsmith@yahoo.com)
IP: 73.120.145.34



COMPLETED

07 / 14 / 2021

13:29:14 UTC-4

The document has been completed.