

**RESOLUTION NO. 23-03-30**

**A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, APPROVING THE FINAL RECOMMENDATIONS OF THE RFQ 23-03 EVALUATION COMMITTEE FOR LANDSCAPING, TREE TRIMMING AND MANGROVE TRIMMING SERVICES; AUTHORIZING THE VILLAGE MANAGER AND VILLAGE ATTORNEY TO NEGOTIATE AND ENTER INTO NON-EXCLUSIVE CONTINUING SERVICES AGREEMENTS; AND PROVIDING AN EFFECTIVE DATE**

**WHEREAS**, Islamorada, Village of Islands, Florida (the "Village") desires to have a library of three (3) to five (5) experienced service providers to complete various landscaping, tree trimming and mangrove trimming projects on Village properties and rights-of-way; and

**WHEREAS**, the Village prepared and advertised a Request for Qualifications ("RFQ") for Landscaping, Tree Trimming and Mangrove Trimming Services, RFQ 23-03 ("RFQ 23-03") attached hereto as Exhibit "1"; and

**WHEREAS**, the Village received five (5) proposals in response to RFQ 23-03 following the advertising period from January 12, 2023 through February 13, 2023; and

**WHEREAS**, the Village Manager established an Evaluation Committee (the "Committee") to review proposals to RFQ 23-03 and make a recommendation to the Village Council for the selection of responsive proposals to create a library of service providers; and

**WHEREAS**, the Committee reviewed the five (5) proposals received and determined that all five (5) firms were qualified to provide one or more of the requested services; and

**WHEREAS**, the Village Council finds that approval and selection of the five (5) firms to create the library of Landscaping, Tree Trimming and Mangrove Trimming Services is in the best interest of the Village and its residents.

**NOW THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF ISLAMORADA,  
VILLAGE OF ISLANDS, FLORIDA, AS FOLLOWS:**

**Section 1.**     **Recitals.** The above recitals are true and correct and incorporated into this Resolution by this Reference.

**Section 2.**     **Approval of Selection.** The Village Council hereby approves the selection of the following firms for the library of Landscaping, Tree Trimming and Mangrove Trimming Services:

Avalon Gardens, Islamorada, Florida  
Blue Seas Lawncare, Key Largo, Florida  
Conch Tree & Landscape, Key Largo, Florida  
Efrain's Landscaping, Florida City, Florida  
Tim Matthews Tree & Landscape, Tavernier, Florida

**Section 3.**     **Authorization of Village Officials.** The Village Manager and/or his designee and the Village Attorney are authorized to negotiate the terms and conditions of Non-exclusive Continuing Services Agreements, substantially in the form attached hereto as Exhibit "B" to RFQ 23-03 provided as Exhibit "1", for each firm listed herein and enter into the Agreements with the firms.

**Section 4.**     **Effective Date.** This Resolution shall become effective immediately upon its adoption.

Motion to adopt by Council Member Mark Gregg, seconded by Council Member Elizabeth Jolin.

**FINAL VOTE AT ADOPTION**

**VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS**

Mayor Joseph B. Pinder III	<u>Yes</u>
Vice Mayor Sharon Mahoney	<u>Yes</u>
Councilman Mark Gregg	<u>Yes</u>
Councilwoman Elizabeth Jolin	<u>Yes</u>
Councilman Henry Rosenthal	<u>Yes</u>

PASSED AND ADOPTED THIS 30th DAY OF MARCH, 2023.

  
JOSEPH B. PINDER III, MAYOR

ATTEST:

  
MARNE MCGRATH, VILLAGE CLERK

APPROVED AS TO FORM AND LEGALITY  
FOR THE USE AND BENEFIT OF  
ISLAMORADA, VILLAGE OF ISLANDS:

  
JOHN J. QUICK, INTERIM VILLAGE ATTORNEY



**NON-EXCLUSIVE  
CONTINUING SERVICES AGREEMENT  
WITH SEPARATE STATEMENTS OF WORK  
BETWEEN  
ISLAMORADA, VILLAGE OF ISLANDS  
AND  
AVALON GARDENS, INC.**

**THIS AGREEMENT** (this "Agreement") is made effective as of the 2nd day of May, 2023 (the "Effective Date"), by and between the **ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA**, a Florida municipal corporation, (the "Village"), and **AVALON GARDENS, INC.**, a Florida Corporation, (the "Contractor").

**WHEREAS**, on January 12, 2023, the Village issued Request for Qualifications No. 22-03 ("RFQ") for Landscaping, Tree Trimming and Mangrove Trimming (the "Services"), on a non-exclusive basis; and

**WHEREAS**, in response to the RFQ, on , the Contractor submitted a proposal on February 13, 2023 ("Proposal"), which is attached hereto and incorporated herein by reference, as Exhibit "A," for the Services; and

**WHEREAS**, on March 30, 2023, the Village Council of Islamorada, Village of Islands adopted Resolution No. 23-03-30 approving the RFQ 23-03 Evaluation Committee recommendations to negotiate and enter into Non-exclusive Continuing Services Agreements with the five (5) firms that submitted proposals in response to the RFQ; and

**WHEREAS**, the Village desires to engage the Contractor to perform the Services and provide the deliverables periodically as specified below.

**NOW, THEREFORE**, in consideration of the mutual covenants and conditions contained herein, the Contractor and the Village agree as follows:

**1. Scope of Services.**

- 1.1.** The Contractor shall furnish the Services and provide deliverables on an as needed basis during the term of this Agreement, as requested by the Village and detailed in a "Statement of Work" (each a "Project") which the Village will provide the Contractor when engaging the Contractor to work on a specific Project.
- 1.2.** Prior to commencement of work on a specific Project, the Contractor will provide the Village with a fixed lump sum cost for the Services set forth in the Statement of Work provided by the Contractor and accepted by the Village for each Project.
- 1.3.** If the Village approves the fixed lump sum cost for the Project (each a "Contract Price"), the Village will provide the Contractor with a Notice to Proceed or Purchase Order to perform the Services set forth in the Statement of Work. Contractor acknowledges that it shall not

undertake to perform any Services on any Project until it has received from the Village the Notice to Proceed or Purchase Order for such Project.

- 1.4. Contractor shall furnish all reports, documents, and information obtained pursuant to this Agreement, and recommendations during the term of this Agreement (hereinafter "Deliverables") to the Village.
- 1.5. The Contractor shall abide by the terms and requirements of the RFQ, as though fully set forth herein.
- 1.6. **Non-Exclusive Agreement:** Notwithstanding anything to the contrary, the Village Manager may use any other consultant retained by the Village in connection with providing the Services at any time. Nothing in this Agreement shall be construed to give the Consultant a right to perform Services for any specific Project.

## 2. **Term/Commencement Date.**

- 2.1. This Agreement shall become effective upon the Effective Date and shall remain in effect for five (5) years thereafter, unless earlier terminated in accordance with Paragraph 8. Additionally, the Village Manager may renew this Agreement for one (1) additional five (5) year period on the same terms as set forth herein upon written notice to the Contractor.
- 2.2. Contractor agrees that time is of the essence for each Project and Contractor shall complete the Services within the timeframes set forth in the Statement of Work and the Notice to Proceed or Purchase Order for each Project in the manner provided in this Agreement, unless extended by the Village Manager.
- 2.3. Village and Contractor recognize that time is of the essence with respect to the completion of each Project and Village would suffer financial loss if the Services for each Project are not completed within the time specified in the timetable for completion set forth in the Statement of Work as mentioned above, subject to adjustments of such timetable as approved by the Village as provided in the RFQ and Proposal. Village and Contractor also recognize the expense and difficulties involved in proving with reasonable certainty the actual loss or damage suffered by Village if each Project is not completed on time. Accordingly, in lieu of requiring any such proof, Village and Contractor agree that, as liquidated damages for delays, or early termination of the Agreement, Contractor shall pay Village, in addition to any other damages and/or remedies to which Village may be entitled, the dollar amount equal to six one hundredths of a percent (0.06%) per day of total Contract Price for such Project for each calendar day within the first fifteen (15) days after the final completion date set forth in the timeline where the Contractor fails to reach final completion in accordance with the Statement of Work or in the event of early termination of the Agreement, for each calendar day within the first fifteen (15) days from termination to the stated completion date for such Project. For each calendar day after the first fifteen days following the final completion date for such Project provided in the timetable where the Contractor fails to

reach final completion as stated in the Statement of Work, the Village shall be entitled to the dollar amount equal to one tenth of one percent (0.1%) per day of total Contract Price until the Contractor achieves final completion with respect to a delay or in the event of earlier termination of the Agreement, for each calendar day after the first fifteen days from termination to the stated final completion date for such Project, the Village shall be entitled to the dollar amount equal to one percent (0.1%) per day of total Contract Price, for such Project. Contractor further agrees that the amount of liquidated damages assessed pursuant to this paragraph is reasonable and does not constitute a penalty. Although the parties recognize the difficulty of proving the loss or damage suffered by the Village due to delay or early termination, the Contractor acknowledges and agrees that the amount of liquidated damages approximate the loss anticipated at the time of execution of each Statement of Work.

### **3. Compensation and Payment.**

- 3.1.** Compensation for Services provided by Contractor for each Project shall be in accordance with the approved fixed lump sum set forth in the Statement of Work as provided by the Contractor and approved by the Village through the issuance of a Notice to Proceed or Purchase Order.
- 3.2.** During the course of each Project, Contractor shall deliver an invoice to Village no more than once per month detailing Services completed since the date of the previous invoice period or the commencement of such Project and the amount due to Contractor under the Statement of Work for such Project. Fees shall be paid in arrears each month, pursuant to Contractor's invoice, which shall be based upon the percentage of work completed for such Project. The Village shall pay the Contractor in accordance with the Florida Prompt Payment Act after approval and acceptance of the Services by the Village Manager.
- 3.3.** Contractor's invoices must contain the following information for prompt payment:
  - 3.3.1. Name and address of the Contractor;
  - 3.3.2. Purchase Order number;
  - 3.3.3. Date of invoice;
  - 3.3.4. Invoice number (Invoice numbers cannot be repeated. Repeated invoice numbers will be rejected);
  - 3.3.5. Name and type of Services;
  - 3.3.6. Timeframe covered by the invoice; and
  - 3.3.7. Total value of invoice.

Failure to include the above information will result in the delay of payment or rejection of the invoice. All invoices must be submitted electronically to [ap@islamorada.fl.us](mailto:ap@islamorada.fl.us).

### **4. Subcontractors.**

- 4.1.** The Contractor shall be responsible for all payments to any approved subcontractors and shall maintain responsibility for all work related to the Services and/or any Project.

- 4.2. Contractor may only utilize the services of a particular subcontractor with the prior written approval of the Village Manager, which approval shall be granted or withheld in the Village Manager's sole and absolute discretion.

**5. Village's Responsibilities.**

- 5.1. Village shall make available any maps, plans, existing studies, reports, staff and representatives, and other data pertinent to the Services and in possession of the Village, and provide criteria requested by Contractor to assist Contractor in performing the Services.
- 5.2. Upon Contractor's request, Village shall reasonably cooperate in arranging access to public information that may be required for Contractor to perform the Services.

**6. Contractor's Responsibilities; Representations and Warranties.**

- 6.1. The Contractor shall exercise the same degree of care, skill and diligence in the performance of the Services for each Project as is ordinarily provided by a contractor under similar circumstances. If at any time during the term of this Agreement or within six (6) months from the completion of any Project pursuant to this Agreement, it is determined that the Contractor's Deliverables or Services are incorrect, not properly rendered, defective, or fail to conform the Scope of Work, the Contractor shall at Contractor's sole expense, immediately correct its Deliverables or Services.
- 6.2. The Contractor hereby warrants and represents that at all times during the term of this Agreement it shall maintain in good standing all required licenses, certifications and permits required under Federal, State and local laws applicable to and necessary to perform the Services for Village as an independent contractor of the Village. Contractor further warrants and represents that it has the required knowledge, expertise, and experience to perform the Services and carry out its obligations under this Agreement in a professional and first class manner.
- 6.3. The Contractor represents that is an entity validly existing and in good standing under the laws of Florida. The execution, delivery and performance of this Agreement by Contractor have been duly authorized, and this Agreement is binding on Contractor and enforceable against Contractor in accordance with its terms. No consent of any other person or entity to such execution, delivery and performance is required.
7. **Conflict of Interest.** To avoid any conflict of interest or any appearance thereof, Contractor shall not, for the term of this Agreement, provide any consulting services to any private sector entities (developers, corporations, real estate investors, etc.), with any current, or foreseeable, adversarial issues in the Village.

## **8. Termination.**

- 8.1.** The Village Manager, without cause, may terminate this Agreement upon five (5) calendar days written notice to the Contractor, or immediately with cause.
- 8.2.** Upon receipt of the Village's written notice of termination, Contractor shall immediately stop work on any Project unless directed otherwise by the Village Manager.
- 8.3.** In the event of termination by the Village, the Contractor shall be paid for all work accepted by the Village Manager up to the date of termination, provided that the Contractor has first complied with the provisions of Paragraph 8.4.
- 8.4.** The Contractor shall transfer all books, records, reports, working drafts, documents, maps, and data pertaining to the Services and the project to the Village, in a hard copy and electronic format within fourteen (14) days from the date of the written notice of termination or the date of expiration of this Agreement.

## **9. Insurance.**

- 9.1.** Contractor shall secure and maintain throughout the duration of this agreement insurance of such types and in such amounts not less than those specified below as satisfactory to Village, naming the Village as an Additional Insured, underwritten by a firm rated A-X or better by A.M. Best and qualified to do business in the State of Florida. The insurance coverage shall be primary insurance with respect to the Village, its officials, employees, agents, and volunteers naming the Village as additional insured. Any insurance maintained by the Village shall be in excess of the Contractor's insurance and shall not contribute to the Contractor's insurance. The insurance coverages shall include at a minimum the amounts set forth in this section and may be increased by the Village as it deems necessary or prudent.
  - 9.1.1.** Commercial General Liability coverage with limits of liability of not less than a \$1,000,000 per Occurrence combined single limit for Bodily Injury and Property Damage. This Liability Insurance shall also include Completed Operations and Product Liability coverages and eliminate the exclusion with respect to property under the care, custody and control of Contractor. The General Aggregate Liability limit and the Products/Completed Operations Liability Aggregate limit shall be in the amount of \$2,000,000 each.
  - 9.1.2.** Workers Compensation and Employer's Liability insurance, to apply for all employees for statutory limits as required by applicable State and Federal laws. The policy(ies) must include Employer's Liability with minimum limits of \$1,000,000.00 each accident. No employee, subcontractor or agent of the Contractor shall be allowed to provide Services pursuant to this Agreement who is not covered by Worker's Compensation insurance.

9.1.3. Business Automobile Liability with minimum limits of \$500,000 per occurrence, combined single limit for Bodily Injury and Property Damage. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability policy, without restrictive endorsements, as filed by the Insurance Service Office, and must include Owned, Hired, and Non-Owned Vehicles.

9.1.4. Professional Liability Insurance in an amount of not less than One Million Dollars (\$1,000,000.00) per occurrence, single limit.

9.1.5. **Pollution Liability Insurance may apply to projects for which Contractor will conduct work from the water.** Pollution Liability Insurance in an amount of \$1,000,000 per claim and in the aggregate Contractor shall purchase and maintain pollution liability insurance against claims for damages arising out of the assessment, removal, remediation, transport and/or handling of hazardous materials, including but not limited to mold, asbestos, and lead. The policy shall include a minimum limit of not less than \$1,000,000.00 per claim and in the aggregate. Said pollution liability policy shall include and list as additional insureds the Village, include coverage for its respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of all such additional insureds; and, the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby (including as applicable those arising from both ongoing and completed operations) on a non-contributory basis.

**9.2. Certificate of Insurance.** Certificates of Insurance shall be provided to the Village, reflecting the Village as an Additional Insured (except with respect to Professional Liability Insurance and Worker's Compensation Insurance), no later than ten (10) days after award of this Agreement and prior to the execution of this Agreement by Village and prior to commencing Services. Each certificate shall include no less than (30) thirty-day advance written notice to Village prior to cancellation, termination, or material alteration of said policies or insurance. The Contractor shall be responsible for assuring that the insurance certificates required by this Section remain in full force and effect for the duration of this Agreement, including any extensions or renewals that may be granted by the Village. The Certificates of Insurance shall not only name the types of policy(ies) provided, but also shall refer specifically to this Agreement and shall state that such insurance is as required by this Agreement. The Village reserves the right to inspect and return a certified copy of such policies, upon written request by the Village. If a policy is due to expire prior to the completion of the Services, renewal Certificates of Insurance shall be furnished thirty (30) calendar days prior to the date of their policy expiration. Each policy certificate shall be endorsed with a provision that not less than thirty (30) calendar days' written notice shall be provided to the Village before any policy or coverage is cancelled or restricted. Acceptance of the Certificate(s) is subject to approval of the Village.

**9.3. Additional Insured.** Except with respect to Professional Liability Insurance and Worker's Compensation Insurance, the Village is to be specifically included as an Additional Insured for the liability of the Village resulting from Services performed by or on behalf

of the Contractor in performance of this Agreement. The Contractor's insurance, including that applicable to the Village as an Additional Insured, shall apply on a primary basis and any other insurance maintained by the Village shall be in excess of and shall not contribute to the Contractor's insurance. The Contractor's insurance shall contain a severability of interest provision providing that, except with respect to the total limits of liability, the insurance shall apply to each Insured or Additional Insured (for applicable policies) in the same manner as if separate policies had been issued to each.

**9.4. Deductibles.** All deductibles or self-insured retentions must be declared to and be reasonably approved by the Village. The Contractor shall be responsible for the payment of any deductible or self-insured retentions in the event of any claim.

**9.5.** The provisions of this section shall survive termination of this Agreement.

**10. Nondiscrimination.** During the term of this Agreement, Contractor shall not discriminate against any of its employees or applicants for employment because of their race, color, religion, sex, or national origin, and will abide by all Federal and State laws regarding nondiscrimination.

**11. Attorneys Fees and Waiver of Jury Trial.**

**11.1.** In the event of any litigation arising out of this Agreement, the prevailing party shall be entitled to recover its attorneys' fees and costs, including the fees and expenses of any paralegals, law clerks and legal assistants, and including fees and expenses charged for representation at both the trial and appellate levels.

**11.2.** IN THE EVENT OF ANY LITIGATION ARISING OUT OF THIS AGREEMENT, EACH PARTY HEREBY KNOWINGLY, IRREVOCABLY, VOLUNTARILY AND INTENTIONALLY WAIVES ITS RIGHT TO TRIAL BY JURY.

**12. Indemnification.**

**12.1.** Contractor shall indemnify and hold harmless the Village, its officers, agents and employees, from and against any and all demands, claims, losses, suits, liabilities, causes of action, judgment or damages, arising from Contractor's performance or non-performance of any provision of this Agreement, including, but not limited to, liabilities arising from contracts between the Contractor and third parties made pursuant to this Agreement. Contractor shall reimburse the Village for all its expenses including reasonable attorneys' fees and costs incurred in and about the defense of any such claim or investigation and for any judgment or damages arising from Contractor's performance or non-performance of this Agreement.

**12.2.** Nothing herein is intended to serve as a waiver of sovereign immunity by the Village nor shall anything included herein be construed as consent to be sued by third parties

in any matter arising out of this Agreement or any other contract. The Village is subject to section 768.28, Florida Statutes, as may be amended from time to time.

**12.3.** The provisions of this section shall survive termination of this Agreement.

**13. Notices/Authorized Representatives.** Whenever any party desires to give notice unto any other party, it must be given by written notice, sent by registered United States mail, with return receipt requested, addressed to the party for whom it is intended and the remaining party, at the places last specified, and the places for giving of notice shall remain such until they shall have been changed by written notice in compliance with the provisions of this section. For the present, the Contractor and the Village designate the following as the respective places for giving of notice:

Village: Village Manager  
Islamorada, Village of Islands  
86800 Overseas Highway  
Islamorada, Florida 33036

Copy To: Village Attorney  
Islamorada, Village of Islands  
86800 Overseas Highway  
Islamorada, Florida 33036

Contractor: Avalon Gardens, Inc.  
122 Mockingbird Road  
Islamorada, Florida 33070  
Attention: Brian Rogers, President

**14. Governing Law and Venue.** This Agreement shall be construed in accordance with and governed by the laws of the State of Florida. Venue for any proceedings arising out of this Agreement shall be proper exclusively in Monroe County, Florida.

**15. Entire Agreement/Modification/Amendment.**

**15.1.** This writing contains the entire Agreement of the parties and supersedes any prior oral or written representations. No representations were made or relied upon by either party, other than those that are expressly set forth herein.

**15.2.** No agent, employee, or other representative of either party is empowered to modify or amend the terms of this Agreement, unless executed with the same formality as this document.

## **16. Ownership and Access to Records and Audits.**

- 16.1.** Contractor acknowledges that all inventions, innovations, improvements, developments, methods, designs, analyses, drawings, reports, compiled information, and all similar or related information (whether patentable or not) which relate to Services to the Village which are conceived, developed or made by Contractor during the term of this Agreement ("Work Product") belong to the Village. Contractor shall promptly disclose such Work Product to the Village and perform all actions reasonably requested by the Village (whether during or after the term of this Agreement) to establish and confirm such ownership (including, without limitation, assignments, powers of attorney and other instruments).
- 16.2.** Contractor agrees to keep and maintain public records in Contractor's possession or control in connection with Contractor's performance under this Agreement. The Village Manager or her designee shall, during the term of this Agreement and for a period of three (3) years from the date of termination of this Agreement, have access to and the right to examine and audit any records of the Contractor involving transactions related to this Agreement. Contractor additionally agrees to comply specifically with the provisions of Section 119.0701, Florida Statutes. Contractor shall 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 Agreement, and following completion of the Agreement until the records are transferred to the Village.
- 16.3.** Upon request from the Village's custodian of public records, Contractor shall provide the Village 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 by Chapter 119, Florida Statutes, or as otherwise provided by law.
- 16.4.** Unless otherwise provided by law, any and all records, including but not limited to reports, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of the Village.
- 16.5.** Upon completion of this Agreement or in the event of termination by either party, any and all public records relating to the Agreement in the possession of the Contractor shall be delivered by the Contractor to the Village Manager, at no cost to the Village, within seven (7) days. All such records stored electronically by Contractor shall be delivered to the Village in a format that is compatible with the Village's information technology systems. Once the public records have been delivered upon completion or termination of this Agreement, the Contractor shall destroy any and all duplicate public records that are exempt or confidential and exempt from public records disclosure requirements.
- 16.6.** Any compensation due to Contractor shall be withheld until all records are received as provided herein.

**16.7.** Contractor's failure or refusal to comply with the provisions of this section shall result in the immediate termination of this Agreement by the Village.

**16.8.** Public Records. Village is a public agency subject to Chapter 119, Florida Statutes. To the extent that Village is acting on behalf of Village pursuant to Section 119.0701, Florida Statutes, Village shall:

16.8.1. Keep and maintain public records that ordinarily and necessarily would be required to be kept and maintained by Village were Village performing the services under this Agreement;

16.8.2. Provide the public with access to such public records on the same terms and conditions that the County would provide the records and at a cost that does not exceed that provided in Chapter 119, Florida Statutes, or as otherwise provided by law;

16.8.3. Ensure that public records that are exempt or that are confidential and exempt from public record requirements are not disclosed except as authorized by law; and

16.8.4. Meet all requirements for retaining public records and transfer to Village, at no cost, all public records in possession of the Village upon termination of this Agreement and destroy any duplicate public records that are exempt or confidential and exempt. All records stored electronically must be provided to the Village.

**IF CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 305-664-6412, Clerk@islamorada.fl.us, or by mail: Village Clerk, 868800 Overseas Highway, Islamorada, FL 33036.**

**17. Nonassignability.** This Agreement shall not be assignable by Contractor unless such assignment is first approved by the Village Manager. The Village is relying upon the apparent qualifications and expertise of the Contractor, and such firm's familiarity with the Village's area, circumstances and desires.

**18. Severability.** If any term or provision of this Agreement shall to any extent be held invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each remaining term and provision of this Agreement shall be valid and be enforceable to the fullest extent permitted by law.

- 19. Independent Contractor.** The Contractor and its employees, volunteers and agents shall be and remain an independent contractor and not an agent or employee of the Village with respect to all of the acts and services performed by and under the terms of this Agreement. This Agreement shall not in any way be construed to create a partnership, association or any other kind of joint undertaking, enterprise or venture between the parties.
- 20. Compliance with Laws.** The Contractor shall comply with all applicable laws, ordinances, rules, regulations, and lawful orders of public authorities in carrying out Services under this Agreement, and in particular shall obtain all required permits from all jurisdictional agencies to perform the Services under this Agreement at its own expense.
- 21. Waiver.** The failure of either party to this Agreement to object to or to take affirmative action with respect to any conduct of the other which is in violation of the terms of this Agreement shall not be construed as a waiver of the violation or breach, or of any future violation, breach or wrongful conduct.
- 22. Survival of Provisions.** Any terms or conditions of either this Agreement that require acts beyond the date of the term of the Agreement, shall survive termination of the Agreement, shall remain in full force and effect unless and until the terms or conditions are completed and shall be fully enforceable by either party.
- 23. Prohibition of Contingency Fees.** The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person(s), company, corporation, individual or firm, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement.
- 24. Public Entity Crimes Affidavit.** Contractor shall comply with Section 287.133, Florida Statutes (Public Entity Crimes Statute), notification of which is hereby incorporated herein by reference, including execution of any required affidavit.
- 25. Counterparts.** This Agreement may be executed in several counterparts, each of which shall be deemed an original and such counterparts shall constitute one and the same instrument.
- 26. Conflicts.** In the event of a conflict between the terms of this Agreement and any exhibits or attachments hereto, the terms of this Agreement shall control.
- 27. Scrutinized Companies.**
- 27.1.** Contractor certifies that it and its sub-consultants are not on the Scrutinized Companies that Boycott Israel List. Pursuant to Section 287.135, F.S., the Village may immediately terminate this Agreement at its sole option if the Contractor or its sub-consultants are found to have submitted a false certification; or if Contractor, or its sub-consultants are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Agreement.

**27.2.** If this Agreement is for more than one million dollars, Contractor certifies that it and its sub-consultants are also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in Section 287.135, F.S. Pursuant to Section 287.135, F.S., the Village may immediately terminate this Agreement at its sole option if Contractor, its affiliates, or its sub-consultants are found to have submitted a false certification; or if Contractor, its affiliates, or its sub-consultants are placed on the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of the Agreement.

**27.3.** Contractor agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Agreement.


**27.4.** As provided in Subsection 287.135(8), F.S., if federal law ceases to authorize the above-stated contracting prohibitions then they shall become inoperative.

**28. E-Verify Affidavit.** In accordance with Section 448.095, Florida Statutes, the Village requires all contractors doing business with the Village to register with and use the E-Verify system to verify the work authorization status of all newly hired employees. The Village will not enter into a contract unless each party to the contract registers with and uses the E-Verify system. The contracting entity must provide of its proof of enrollment in E-Verify. For instructions on how to provide proof of the contracting entity's participation/enrollment in E-Verify, please visit: <https://www.e-verify.gov/faq/how-do-i-provide-proof-of-my-participationenrollment-in-e-verify>. By entering into this Agreement, the Contractor acknowledges that it has read Section 448.095, Florida Statutes; will comply with the E-Verify requirements imposed by Section 448.095, Florida Statutes, including but not limited to obtaining E-Verify affidavits from subcontractors; and has executed the required affidavit attached hereto and incorporated herein.


**[Remainder of page intentionally left blank. Signature pages follow.]**

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed the day and year as first stated above.

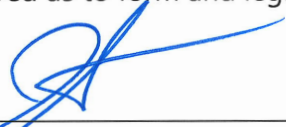
**ISLAMORADA, VILLAGE OF ISLANDS**

By:   
Ted Yates  
Village Manager

Attest:

By:   
Marne McGrath  
Village Clerk


Approved as to form and legal sufficiency:

By:   
Weiss Serota Helfman Cole & Bierman, P.L.  
Village Attorney

**CONTRACTOR**

By:   
Name: Brian Rogers  
Title: President

Entity: Avalon Gardens, Inc.

Witness:   
Name: Tina Rogers  
[Print]

## E-VERIFY AFFIDAVIT

In accordance with Section 448.095, Florida Statutes, the Village requires all contractors doing business with the Village to register with and use the E-Verify system to verify the work authorization status of all newly hired employees. The Village will not enter into a contract unless each party to the contract registers with and uses the E-Verify system.

**The contracting entity must provide of its proof of enrollment in E-Verify.** For instructions on how to provide proof of the contracting entity's participation/enrollment in E-Verify, please visit: <https://www.e-verify.gov/faq/how-do-i-provide-proof-of-my-participationenrollment-in-e-verify>

By signing below, the contracting entity acknowledges that it has read Section 448.095, Florida Statutes and will comply with the E-Verify requirements imposed by it, including but not limited to obtaining E-Verify affidavits from subcontractors.

☒ **Check here to confirm proof of enrollment in E-Verify has been attached to this Affidavit.**

In the presence of:

Signed, sealed and delivered by:

Witness #1 Print Name: Josh P Gallo

Print Name: Brian Rogers

Witness #2 Print Name: CHRISTINE ROGERS

Title: Pres

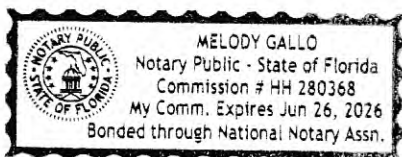
Entity Name: Avalon Gardens

## ACKNOWLEDGMENT

State of Florida

County of Monroe

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 17<sup>th</sup> day of April, 2023, by Brian Rogers (name of person) as President (type of authority) for Avalon Gardens (name of party on behalf of whom instrument is executed).



Melody Gallo

Notary Public (Print, Stamp, or Type as Commissioned)

☐ Personally known to me; or

☒ Produced identification (Type of Identification: FL/DL)

☐ Did take an oath; or

☐ Did not take an oath

**EXHIBIT “A”**  
**SCOPE OF SERVICES**

The Scope of Services are those contained in the RFQ 23-03 dated January 12, 2023 and Contractor's Proposal received on February 13, 2023, attached hereto and incorporated herein by reference.

# Avalon Gardens



122 Mockingbird Road, Islamorada, Florida 33070  
786.252.3901 [avalon-gardens.net](http://avalon-gardens.net)

## RFQ 23-03 Landscaping, Tree Trimming and Mangrove Trimming

With over one hundred years of cumulative experience in the field, Avalon Gardens has the ability to take on any project Islamorada could present to us. We are part of the community and would be fully committed to any project that we would be awarded.

Over the years we have successfully finished everything from a large hospital campus designed around a sustainable native wildlife habitat (Nicklaus Children's Hospital in Miami) to parks to hundreds of beautiful waterfront homes throughout South Florida.

Our specific experience extends to tree planting, removal, preservation, watering, relocation, stump removal, root control, site clearing, site filling, mulching and landscape design and an extensive knowledge of native plants and habitats.

Thanks for your consideration,

A handwritten signature in black ink, appearing to read "Brian Rogers". The signature is fluid and cursive, with a long horizontal stroke at the end.

Brian Rogers  
Avalon Gardens President and Owner

# Avalon Gardens



## Company Overview:

We are based out of our home office in Islamorada so we can respond quickly to any issues that may arise. Our equipment yard and plant nursery are nearby in Homestead giving us easy access to projects and follow up care. Owners Brian and Tina Rogers (based in Islamorada) have been in the landscape business since the 1990's and have built a successful family business all through word of mouth advertising. Our main focus has been native landscapes that are sustainable and adapted to South Florida's unique conditions. Our crew foremen, Austin and Martin have 30+ years of combined experience and are based out of Homestead.

## Project Management Experience/Project Examples:

We have CDL drivers and a certified arborist on staff. Brian Rogers has studied landscape architecture and design. We are also able to deliver detailed 3d renderings as needed (see examples on our website: [www.avalon-gardens.net](http://www.avalon-gardens.net))

Our equipment includes Trucks, Trailers, Backhoe, Skidsteer Loaders and a Mini Excavator.

We have a tree farm located in Homestead.

## Similar Projects completed:

Nicklaus Children's Hospital, Miami, FL

Bayside Inn, Key Largo

## Private residences:

200 Ballast Trail, Tavernier

380 S Coconut Palm Blvd, Islamorada

150 Plantation Blvd, Islamorada

144 Madeira Road, Islamorada

2 Thurmond Street, Key Largo

2128 North Bay Road, Miami Beach, FL

## Communities:

Royal Harbour Yacht Club, Miami, FL

Townhomes at Oak Lane, South Miami, FL

Pine Manor Townhomes, South Miami, FL

## Private Club:

Coral Reef Yacht Club, Coconut Grove, FL

# Avalon Gardens



## Contractor References:

Brett Ekblom, Native Construction  
100 Wrenn Street, Tavernier  
(305) 394-2990  
[brett@nativeconstruction.com](mailto:brett@nativeconstruction.com)

Tom Nagy  
380 S Coconut Palm Blvd, Islamorada, FL  
(574) 536-0958  
[tnagy82158@gmail.com](mailto:tnagy82158@gmail.com)

Jim VanBuren, Coral Reef Yacht Club  
2484 S Bayshore Drive, Coconut Grove, FL 33133  
(305) 858-1733  
[vanburen@coralreefyachtclub.org](mailto:vanburen@coralreefyachtclub.org)

## State and Local Authorization to Transact Business:

The State of Florida does not provide a license for landscaping.  
Avalon Gardens is an active Florida corporation and Brian Rogers has a Certificate of Competency for Monroe County.

**NON-EXCLUSIVE  
CONTINUING SERVICES AGREEMENT  
WITH SEPARATE STATEMENTS OF WORK  
BETWEEN  
ISLAMORADA, VILLAGE OF ISLANDS  
AND  
CONCH TREE & LANDSCAPE PROFESSIONALS, INC.**

**THIS AGREEMENT** (this "Agreement") is made effective as of the 13th day of April, 2023 (the "Effective Date"), by and between the **ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA**, a Florida municipal corporation, (the "Village"), and **CONCH TREE & LANDSCAPE PROFESSIONALS, INC.**, a Florida Corporation, (the "Contractor").

**WHEREAS**, on January 12, 2023, the Village issued Request for Qualifications No. 22-03 ("RFQ") for Landscaping, Tree Trimming and Mangrove Trimming (the "Services"), on a non-exclusive basis; and

**WHEREAS**, in response to the RFQ, the Contractor submitted a proposal dated February 9, 2023 ("Proposal"), which is attached hereto and incorporated herein by reference, as Exhibit "A," for the Services; and

**WHEREAS**, on March 30, 2023, the Village Council of Islamorada, Village of Islands adopted Resolution No. 23-03-30 approving the RFQ 23-03 Evaluation Committee recommendations to negotiate and enter into Non-exclusive Continuing Services Agreements with the five (5) firms that submitted proposals in response to the RFQ; and

**WHEREAS**, the Village desires to engage the Contractor to perform the Services and provide the deliverables periodically as specified below.

**NOW, THEREFORE**, in consideration of the mutual covenants and conditions contained herein, the Contractor and the Village agree as follows:

**1. Scope of Services.**

- 1.1.** The Contractor shall furnish the Services and provide deliverables on an as needed basis during the term of this Agreement, as requested by the Village and detailed in a "Statement of Work" (each a "Project") which the Village will provide the Contractor when engaging the Contractor to work on a specific Project.
- 1.2.** Prior to commencement of work on a specific Project, the Contractor will provide the Village with a fixed lump sum cost for the Services set forth in the Statement of Work provided by the Contractor and accepted by the Village for each Project.
- 1.3.** If the Village approves the fixed lump sum cost for the Project (each a "Contract Price"), the Village will provide the Contractor with a Notice to Proceed or Purchase Order to perform

the Services set forth in the Statement of Work. Contractor acknowledges that it shall not undertake to perform any Services on any Project until it has received from the Village the Notice to Proceed or Purchase Order on such Project.

- 1.4. Contractor shall furnish all reports, documents, and information obtained pursuant to this Agreement, and recommendations during the term of this Agreement (hereinafter "Deliverables") to the Village.
- 1.5. The Contractor shall abide by the terms and requirements of the RFQ, as though fully set forth herein.
- 1.6. **Non-Exclusive Agreement:** Notwithstanding anything to the contrary, the Village Manager may use any other consultant retained by the Village in connection with providing the Services at any time. Nothing in this Agreement shall be construed to give the Consultant a right to perform Services for any specific Project.

## **2. Term/Commencement Date.**

- 2.1. This Agreement shall become effective upon the Effective Date and shall remain in effect for five (5) years thereafter, unless earlier terminated in accordance with Paragraph 8. Additionally, the Village Manager may renew this Agreement for one (1) additional five (5) year period on the same terms as set forth herein upon written notice to the Contractor.
- 2.2. Contractor agrees that time is of the essence for each Project and Contractor shall complete the Services within the timeframes set forth in the Statement of Work and the Notice to Proceed or Purchase Order for each Project in the manner provided in this Agreement, unless extended by the Village Manager.
- 2.3. Village and Contractor recognize that time is of the essence with respect to the completion of each Project and Village would suffer financial loss if the Services for each Project are not completed within the time specified in the timetable for completion set forth in the Statement of Work as mentioned above, subject to adjustments of such timetable as approved by the Village as provided in the RFQ and Proposal. Village and Contractor also recognize the expense and difficulties involved in proving with reasonable certainty the actual loss or damage suffered by Village if each Project is not completed on time. Accordingly, in lieu of requiring any such proof, Village and Contractor agree that, as liquidated damages for delays, or early termination of the Agreement, Contractor shall pay Village, in addition to any other damages and/or remedies to which Village may be entitled, the dollar amount equal to six one hundredths of a percent (0.06%) per day of total Contract Price for such Project for each calendar day within the first fifteen (15) days after the final completion date set forth in the timeline where the Contractor fails to reach final completion in accordance with the Statement of Work or in the event of early termination of the Agreement, for each calendar day within the first fifteen (15) days from termination to the stated completion date for such Project. For each calendar day after the first fifteen days following the final

completion date for such Project provided in the timetable where the Contractor fails to reach final completion as stated in the Statement of Work, the Village shall be entitled to the dollar amount equal to one tenth of one percent (0.1%) per day of total Contract Price until the Contractor achieves final completion with respect to a delay or in the event of earlier termination of the Agreement, for each calendar day after the first fifteen days from termination to the stated final completion date for such Project, the Village shall be entitled to the dollar amount equal to one percent (0.1%) per day of total Contract Price, for such Project. Contractor further agrees that the amount of liquidated damages assessed pursuant to this paragraph is reasonable and does not constitute a penalty. Although the parties recognize the difficulty of proving the loss or damage suffered by the Village due to delay or early termination, the Contractor acknowledges and agrees that the amount of liquidated damages approximate the loss anticipated at the time of execution of each Statement of Work.

### **3. Compensation and Payment.**

- 3.1.** Compensation for Services provided by Contractor for each Project shall be in accordance with the approved fixed lump sum set forth in the Statement of Work as provided by the Contractor and approved by the Village through the issuance of a Notice to Proceed or Purchase Order.
- 3.2.** During the course of each Project, Contractor shall deliver an invoice to Village no more than once per month detailing Services completed since the date of the previous invoice period or the commencement of such Project and the amount due to Contractor under the Statement of Work for such Project. Fees shall be paid in arrears each month, pursuant to Contractor's invoice, which shall be based upon the percentage of work completed for such Project. The Village shall pay the Contractor in accordance with the Florida Prompt Payment Act after approval and acceptance of the Services by the Village Manager.
- 3.3.** Contractor's invoices must contain the following information for prompt payment:
  - 3.3.1. Name and address of the Contractor;
  - 3.3.2. Purchase Order number;
  - 3.3.3. Date of invoice;
  - 3.3.4. Invoice number (Invoice numbers cannot be repeated. Repeated invoice numbers will be rejected);
  - 3.3.5. Name and type of Services;
  - 3.3.6. Timeframe covered by the invoice; and
  - 3.3.7. Total value of invoice.

Failure to include the above information will result in the delay of payment or rejection of the invoice. All invoices must be submitted electronically to [ap@islamorada.fl.us](mailto:ap@islamorada.fl.us).

#### **4. Subcontractors.**

- 4.1.** The Contractor shall be responsible for all payments to any approved subcontractors and shall maintain responsibility for all work related to the Services and/or any Project.
- 4.2.** Contractor may only utilize the services of a particular subcontractor with the prior written approval of the Village Manager, which approval shall be granted or withheld in the Village Manager's sole and absolute discretion.

#### **5. Village's Responsibilities.**

- 5.1.** Village shall make available any maps, plans, existing studies, reports, staff and representatives, and other data pertinent to the Services and in possession of the Village, and provide criteria requested by Contractor to assist Contractor in performing the Services.
- 5.2.** Upon Contractor's request, Village shall reasonably cooperate in arranging access to public information that may be required for Contractor to perform the Services.

#### **6. Contractor's Responsibilities; Representations and Warranties.**

- 6.1.** The Contractor shall exercise the same degree of care, skill and diligence in the performance of the Services for each Project as is ordinarily provided by a contractor under similar circumstances. If at any time during the term of this Agreement or within six (6) months from the completion of any Project pursuant to this Agreement, it is determined that the Contractor's Deliverables or Services are incorrect, not properly rendered, defective, or fail to conform the Scope of Work, the Contractor shall at Contractor's sole expense, immediately correct its Deliverables or Services.
- 6.2.** The Contractor hereby warrants and represents that at all times during the term of this Agreement it shall maintain in good standing all required licenses, certifications and permits required under Federal, State and local laws applicable to and necessary to perform the Services for Village as an independent contractor of the Village. Contractor further warrants and represents that it has the required knowledge, expertise, and experience to perform the Services and carry out its obligations under this Agreement in a professional and first class manner.
- 6.3.** The Contractor represents that is an entity validly existing and in good standing under the laws of Florida. The execution, delivery and performance of this Agreement by Contractor have been duly authorized, and this Agreement is binding on Contractor and enforceable against Contractor in accordance with its terms. No consent of any other person or entity to such execution, delivery and performance is required.

- 7. Conflict of Interest.** To avoid any conflict of interest or any appearance thereof, Contractor shall not, for the term of this Agreement, provide any consulting services to any private

sector entities (developers, corporations, real estate investors, etc.), with any current, or foreseeable, adversarial issues in the Village.

## **8. Termination.**

**8.1.** The Village Manager, without cause, may terminate this Agreement upon five (5) calendar days written notice to the Contractor, or immediately with cause.

**8.2.** Upon receipt of the Village's written notice of termination, Contractor shall immediately stop work on any Project unless directed otherwise by the Village Manager.

**8.3.** In the event of termination by the Village, the Contractor shall be paid for all work accepted by the Village Manager up to the date of termination, provided that the Contractor has first complied with the provisions of Paragraph 8.4.

**8.4.** The Contractor shall transfer all books, records, reports, working drafts, documents, maps, and data pertaining to the Services and the project to the Village, in a hard copy and electronic format within fourteen (14) days from the date of the written notice of termination or the date of expiration of this Agreement.

## **9. Insurance.**

**9.1.** Contractor shall secure and maintain throughout the duration of this agreement insurance of such types and in such amounts not less than those specified below as satisfactory to Village, naming the Village as an Additional Insured, underwritten by a firm rated A-X or better by A.M. Best and qualified to do business in the State of Florida. The insurance coverage shall be primary insurance with respect to the Village, its officials, employees, agents, and volunteers naming the Village as additional insured. Any insurance maintained by the Village shall be in excess of the Contractor's insurance and shall not contribute to the Contractor's insurance. The insurance coverages shall include at a minimum the amounts set forth in this section and may be increased by the Village as it deems necessary or prudent.

9.1.1. Commercial General Liability coverage with limits of liability of not less than a \$1,000,000 per Occurrence combined single limit for Bodily Injury and Property Damage. This Liability Insurance shall also include Completed Operations and Product Liability coverages and eliminate the exclusion with respect to property under the care, custody and control of Contractor. The General Aggregate Liability limit and the Products/Completed Operations Liability Aggregate limit shall be in the amount of \$2,000,000 each.

9.1.2. Workers Compensation and Employer's Liability insurance, to apply for all employees for statutory limits as required by applicable State and Federal laws. The policy(ies) must include Employer's Liability with minimum limits of \$1,000,000.00 each accident. No employee, subcontractor or agent of the Contractor shall be

allowed to provide Services pursuant to this Agreement who is not covered by Worker's Compensation insurance.

9.1.3. Business Automobile Liability with minimum limits of \$500,000 per occurrence, combined single limit for Bodily Injury and Property Damage. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability policy, without restrictive endorsements, as filed by the Insurance Service Office, and must include Owned, Hired, and Non-Owned Vehicles.

9.1.4. Professional Liability Insurance in an amount of not less than One Million Dollars (\$1,000,000.00) per occurrence, single limit.

9.1.5. **Pollution Liability Insurance may apply to projects for which Contractor will conduct work from the water.** Pollution Liability Insurance in an amount of \$1,000,000 per claim and in the aggregate Contractor shall purchase and maintain pollution liability insurance against claims for damages arising out of the assessment, removal, remediation, transport and/or handling of hazardous materials, including but not limited to mold, asbestos, and lead. The policy shall include a minimum limit of not less than \$1,000,000.00 per claim and in the aggregate. Said pollution liability policy shall include and list as additional insureds the Village, include coverage for its respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of all such additional insureds; and, the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby (including as applicable those arising from both ongoing and completed operations) on a non-contributory basis.

**9.2. Certificate of Insurance.** Certificates of Insurance shall be provided to the Village, reflecting the Village as an Additional Insured (except with respect to Professional Liability Insurance and Worker's Compensation Insurance), no later than ten (10) days after award of this Agreement and prior to the execution of this Agreement by Village and prior to commencing Services. Each certificate shall include no less than (30) thirty-day advance written notice to Village prior to cancellation, termination, or material alteration of said policies or insurance. The Contractor shall be responsible for assuring that the insurance certificates required by this Section remain in full force and effect for the duration of this Agreement, including any extensions or renewals that may be granted by the Village. The Certificates of Insurance shall not only name the types of policy(ies) provided, but also shall refer specifically to this Agreement and shall state that such insurance is as required by this Agreement. The Village reserves the right to inspect and return a certified copy of such policies, upon written request by the Village. If a policy is due to expire prior to the completion of the Services, renewal Certificates of Insurance shall be furnished thirty (30) calendar days prior to the date of their policy expiration. Each policy certificate shall be endorsed with a provision that not less than thirty (30) calendar days' written notice shall be provided to the Village before any policy or coverage is cancelled or restricted. Acceptance of the Certificate(s) is subject to approval of the Village.

**9.3. Additional Insured.** Except with respect to Professional Liability Insurance and Worker's Compensation Insurance, the Village is to be specifically included as an Additional Insured for the liability of the Village resulting from Services performed by or on behalf of the Contractor in performance of this Agreement. The Contractor's insurance, including that applicable to the Village as an Additional Insured, shall apply on a primary basis and any other insurance maintained by the Village shall be in excess of and shall not contribute to the Contractor's insurance. The Contractor's insurance shall contain a severability of interest provision providing that, except with respect to the total limits of liability, the insurance shall apply to each Insured or Additional Insured (for applicable policies) in the same manner as if separate policies had been issued to each.

**9.4. Deductibles.** All deductibles or self-insured retentions must be declared to and be reasonably approved by the Village. The Contractor shall be responsible for the payment of any deductible or self-insured retentions in the event of any claim.

**9.5.** The provisions of this section shall survive termination of this Agreement.

**10. Nondiscrimination.** During the term of this Agreement, Contractor shall not discriminate against any of its employees or applicants for employment because of their race, color, religion, sex, or national origin, and will abide by all Federal and State laws regarding nondiscrimination.

**11. Attorneys Fees and Waiver of Jury Trial.**

**11.1.** In the event of any litigation arising out of this Agreement, the prevailing party shall be entitled to recover its attorneys' fees and costs, including the fees and expenses of any paralegals, law clerks and legal assistants, and including fees and expenses charged for representation at both the trial and appellate levels.

**11.2.** IN THE EVENT OF ANY LITIGATION ARISING OUT OF THIS AGREEMENT, EACH PARTY HEREBY KNOWINGLY, IRREVOCABLY, VOLUNTARILY AND INTENTIONALLY WAIVES ITS RIGHT TO TRIAL BY JURY.

**12. Indemnification.**

**12.1.** Contractor shall indemnify and hold harmless the Village, its officers, agents and employees, from and against any and all demands, claims, losses, suits, liabilities, causes of action, judgment or damages, arising from Contractor's performance or non-performance of any provision of this Agreement, including, but not limited to, liabilities arising from contracts between the Contractor and third parties made pursuant to this Agreement. Contractor shall reimburse the Village for all its expenses including reasonable attorneys' fees and costs incurred in and about the defense of any such claim or investigation and for any judgment or damages arising from Contractor's performance or non-performance of this Agreement.

**12.2.** Nothing herein is intended to serve as a waiver of sovereign immunity by the Village nor shall anything included herein be construed as consent to be sued by third parties in any matter arising out of this Agreement or any other contract. The Village is subject to section 768.28, Florida Statutes, as may be amended from time to time.

**12.3.** The provisions of this section shall survive termination of this Agreement.

**13. Notices/Authorized Representatives.** Whenever any party desires to give notice unto any other party, it must be given by written notice, sent by registered United States mail, with return receipt requested, addressed to the party for whom it is intended and the remaining party, at the places last specified, and the places for giving of notice shall remain such until they shall have been changed by written notice in compliance with the provisions of this section. For the present, the Contractor and the Village designate the following as the respective places for giving of notice:

Village: Village Manager  
Islamorada, Village of Islands  
86800 Overseas Highway  
Islamorada, Florida 33036

Copy To: Village Attorney  
Islamorada, Village of Islands  
86800 Overseas Highway  
Islamorada, Florida 33036

Contractor: Conch Tree & Landscape Professionals, Inc.  
209 N. Airport Road  
Tavernier, Florida 33070  
Attention: Martin S. Volland, President

**14. Governing Law and Venue.** This Agreement shall be construed in accordance with and governed by the laws of the State of Florida. Venue for any proceedings arising out of this Agreement shall be proper exclusively in Monroe County, Florida.

**15. Entire Agreement/Modification/Amendment.**

**15.1.** This writing contains the entire Agreement of the parties and supersedes any prior oral or written representations. No representations were made or relied upon by either party, other than those that are expressly set forth herein.

**15.2.** No agent, employee, or other representative of either party is empowered to modify or amend the terms of this Agreement, unless executed with the same formality as this document.

## **16. Ownership and Access to Records and Audits.**

- 16.1.** Contractor acknowledges that all inventions, innovations, improvements, developments, methods, designs, analyses, drawings, reports, compiled information, and all similar or related information (whether patentable or not) which relate to Services to the Village which are conceived, developed or made by Contractor during the term of this Agreement ("Work Product") belong to the Village. Contractor shall promptly disclose such Work Product to the Village and perform all actions reasonably requested by the Village (whether during or after the term of this Agreement) to establish and confirm such ownership (including, without limitation, assignments, powers of attorney and other instruments).
- 16.2.** Contractor agrees to keep and maintain public records in Contractor's possession or control in connection with Contractor's performance under this Agreement. The Village Manager or her designee shall, during the term of this Agreement and for a period of three (3) years from the date of termination of this Agreement, have access to and the right to examine and audit any records of the Contractor involving transactions related to this Agreement. Contractor additionally agrees to comply specifically with the provisions of Section 119.0701, Florida Statutes. Contractor shall 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 Agreement, and following completion of the Agreement until the records are transferred to the Village.
- 16.3.** Upon request from the Village's custodian of public records, Contractor shall provide the Village 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 by Chapter 119, Florida Statutes, or as otherwise provided by law.
- 16.4.** Unless otherwise provided by law, any and all records, including but not limited to reports, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of the Village.
- 16.5.** Upon completion of this Agreement or in the event of termination by either party, any and all public records relating to the Agreement in the possession of the Contractor shall be delivered by the Contractor to the Village Manager, at no cost to the Village, within seven (7) days. All such records stored electronically by Contractor shall be delivered to the Village in a format that is compatible with the Village's information technology systems. Once the public records have been delivered upon completion or termination of this Agreement, the Contractor shall destroy any and all duplicate public records that are exempt or confidential and exempt from public records disclosure requirements.
- 16.6.** Any compensation due to Contractor shall be withheld until all records are received as provided herein.

**16.7.** Contractor's failure or refusal to comply with the provisions of this section shall result in the immediate termination of this Agreement by the Village.

**16.8.** Public Records. Village is a public agency subject to Chapter 119, Florida Statutes. To the extent that Village is acting on behalf of Village pursuant to Section 119.0701, Florida Statutes, Village shall:

16.8.1. Keep and maintain public records that ordinarily and necessarily would be required to be kept and maintained by Village were Village performing the services under this Agreement;

16.8.2. Provide the public with access to such public records on the same terms and conditions that the County would provide the records and at a cost that does not exceed that provided in Chapter 119, Florida Statutes, or as otherwise provided by law;

16.8.3. Ensure that public records that are exempt or that are confidential and exempt from public record requirements are not disclosed except as authorized by law; and

16.8.4. Meet all requirements for retaining public records and transfer to Village, at no cost, all public records in possession of the Village upon termination of this Agreement and destroy any duplicate public records that are exempt or confidential and exempt. All records stored electronically must be provided to the Village.

**IF CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 305-664-6412, Clerk@islamorada.fl.us, or by mail: Village Clerk, 868800 Overseas Highway, Islamorada, FL 33036.**

**17. Nonassignability.** This Agreement shall not be assignable by Contractor unless such assignment is first approved by the Village Manager. The Village is relying upon the apparent qualifications and expertise of the Contractor, and such firm's familiarity with the Village's area, circumstances and desires.

**18. Severability.** If any term or provision of this Agreement shall to any extent be held invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each remaining term and provision of this Agreement shall be valid and be enforceable to the fullest extent permitted by law.

- 19. Independent Contractor.** The Contractor and its employees, volunteers and agents shall be and remain an independent contractor and not an agent or employee of the Village with respect to all of the acts and services performed by and under the terms of this Agreement. This Agreement shall not in any way be construed to create a partnership, association or any other kind of joint undertaking, enterprise or venture between the parties.
- 20. Compliance with Laws.** The Contractor shall comply with all applicable laws, ordinances, rules, regulations, and lawful orders of public authorities in carrying out Services under this Agreement, and in particular shall obtain all required permits from all jurisdictional agencies to perform the Services under this Agreement at its own expense.
- 21. Waiver.** The failure of either party to this Agreement to object to or to take affirmative action with respect to any conduct of the other which is in violation of the terms of this Agreement shall not be construed as a waiver of the violation or breach, or of any future violation, breach or wrongful conduct.
- 22. Survival of Provisions.** Any terms or conditions of either this Agreement that require acts beyond the date of the term of the Agreement, shall survive termination of the Agreement, shall remain in full force and effect unless and until the terms or conditions are completed and shall be fully enforceable by either party.
- 23. Prohibition of Contingency Fees.** The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person(s), company, corporation, individual or firm, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement.
- 24. Public Entity Crimes Affidavit.** Contractor shall comply with Section 287.133, Florida Statutes (Public Entity Crimes Statute), notification of which is hereby incorporated herein by reference, including execution of any required affidavit.
- 25. Counterparts.** This Agreement may be executed in several counterparts, each of which shall be deemed an original and such counterparts shall constitute one and the same instrument.
- 26. Conflicts.** In the event of a conflict between the terms of this Agreement and any exhibits or attachments hereto, the terms of this Agreement shall control.
- 27. Scrutinized Companies.**
- 27.1.** Contractor certifies that it and its sub-consultants are not on the Scrutinized Companies that Boycott Israel List. Pursuant to Section 287.135, F.S., the Village may immediately terminate this Agreement at its sole option if the Contractor or its sub-consultants are found to have submitted a false certification; or if Contractor, or its sub-consultants are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Agreement.

**27.2.** If this Agreement is for more than one million dollars, Contractor certifies that it and its sub-consultants are also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in Section 287.135, F.S. Pursuant to Section 287.135, F.S., the Village may immediately terminate this Agreement at its sole option if Contractor, its affiliates, or its sub-consultants are found to have submitted a false certification; or if Contractor, its affiliates, or its sub-consultants are placed on the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of the Agreement.

**27.3.** Contractor agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Agreement.

**27.4.** As provided in Subsection 287.135(8), F.S., if federal law ceases to authorize the above-stated contracting prohibitions then they shall become inoperative.

**28. E-Verify Affidavit.** In accordance with Section 448.095, Florida Statutes, the Village requires all contractors doing business with the Village to register with and use the E-Verify system to verify the work authorization status of all newly hired employees. The Village will not enter into a contract unless each party to the contract registers with and uses the E-Verify system. The contracting entity must provide of its proof of enrollment in E-Verify. For instructions on how to provide proof of the contracting entity's participation/enrollment in E-Verify, please visit: <https://www.e-verify.gov/faq/how-do-i-provide-proof-of-my-participationenrollment-in-e-verify>. By entering into this Agreement, the Contractor acknowledges that it has read Section 448.095, Florida Statutes; will comply with the E-Verify requirements imposed by Section 448.095, Florida Statutes, including but not limited to obtaining E-Verify affidavits from subcontractors; and has executed the required affidavit attached hereto and incorporated herein.

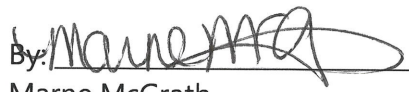
**[Remainder of page intentionally left blank. Signature pages follow.]**

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed the day and year as first stated above.

**ISLAMORADA, VILLAGE OF ISLANDS**

By:   
Ted Yates  
Village Manager

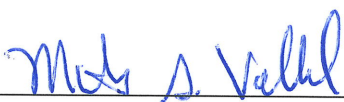
Attest:

By:   
Marne McGrath  
Village Clerk


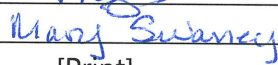
Approved as to form and legal sufficiency:

By:   
Weiss Serota Helfman Cole & Bierman, P.L.  
Village Attorney

**CONTRACTOR**

By:   
Name: Martin S. Volland  
Title: President

Entity: Conch Tree & Landscape  
Professionals, Inc.

Witness:   
Name:   
[Print]

## E-VERIFY AFFIDAVIT

In accordance with Section 448.095, Florida Statutes, the Village requires all contractors doing business with the Village to register with and use the E-Verify system to verify the work authorization status of all newly hired employees. The Village will not enter into a contract unless each party to the contract registers with and uses the E-Verify system.

**The contracting entity must provide of its proof of enrollment in E-Verify.** For instructions on how to provide proof of the contracting entity's participation/enrollment in E-Verify, please visit: <https://www.e-verify.gov/faq/how-do-i-provide-proof-of-my-participation/enrollment-in-e-verify>

By signing below, the contracting entity acknowledges that it has read Section 448.095, Florida Statutes and will comply with the E-Verify requirements imposed by it, including but not limited to obtaining E-Verify affidavits from subcontractors.

☒ **Check here to confirm proof of enrollment in E-Verify has been attached to this Affidavit.**

In the presence of:

Signed, sealed and delivered by:

Witness #1 Print Name: Jonathan Vaughn

Martin A. Vallin  
Print Name: Monroe S. Vallin

Witness #2 Print Name: Travis Cooper

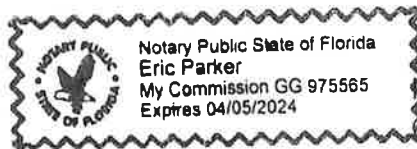
Title: PRESIDENT  
Entity Name: Cone & Terrace Homecare Pros

### ACKNOWLEDGMENT

State of Florida

County of Monroe

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 31 day of Jan, 2023, by Martin Vallin (name of person) as owner (type of authority) for (name of party on behalf of whom instrument is executed).



Eric Parker  
Notary Public (Print, Stamp, or Type as commissioned)

- ☒ Personally known to me; or  
☐ Produced identification (Type of Identification: \_\_\_\_\_)  
☐ Did take an oath; or  
☐ Did not take an oath

**EXHIBIT “A”**  
**SCOPE OF SERVICES**

The Scope of Services are those contained in the RFQ 23-03 dated January 12, 2023 and Contractor's Proposal received on February 9, 2023, attached hereto and incorporated herein by reference.

# *Conch Tree and Landscape Pro's Inc.*

PO Box 372283  
Key Largo FL 33037  
Phone 305-451-1900  
Fax 844-213-1809  
Licensed & Insured

February 9, 2023

Attn: Marne McGrath  
Village Clerk  
86800 Overseas Hwy  
Islamorada Fl 33036

*I would like to express our companies interest in the newly formatted Work Authorization under Continuing Services agreement for Landscaping, Tree Trimming and Mangrove trimming requested by the Islamorada: village of Islands.*

*Conch Tree and Landscape Professionals Inc has been a Florida S Corporation since August of 2003. We are fully licensed in the county with an occupational license and a competency license held by Martin Shane Volland one of the owners. Martin S Volland also holds a pesticide license Commercial Landscape Maintenance Holder from the state of Florida.*

*It is our understanding that the Islamorada: Village of Islands is looking for contractors that possess the ability to:*

- 1) trim mangroves, trim, remove, plant, preserve, water, and relocate trees also remove stumps and root control of trees.*
- 2) Site clearing, site filling, mulching and landscape design.*
- 3) Company must have local knowledge of native and exotic plant species.*
- 4) Invasive species control*
- 5) Knowledge and experience with herbicide and pesticide application*
- 6) Knowledge and experience with the equipment to perform the above duties.*

*Conch Tree and Landscape Professionals Inc has performed all the above duties for local residential clients, commercial clients, county, city and state governments. We feel we are uniquely positioned to be one of the qualified companies as we have worked with the Village on many projects in the past and would hope to continue our relationship in the future.*

*Sincerely,*



*Martin S Volland*

*Conch Tree and Landscape Professionals Inc.*  
*Owner*

### Company Overview

*Conch Tree and Landscape Professionals Inc. operates out of a small home office located in Islamorada, Village of Islands. Our yard is located at MM 101650 in Key Largo where all of our equipment is kept and maintained.*

*Our staff is made up of longtime professionals in the Florida Keys Tree industry.*

*Our foreman has 10 years of experience running excavating machinery, trimming trees, roping trees, climbing trees.*

*Our main tree trimmer has 20 years of tree trimming, roping and climbing experience and our third tree trimmer has 6 years of trimming experience from bucket truck and lifts.*

*Our Ground Crew consists of 2 employees with more than 6 years of experience and our third ground crew employee has 3 years of experience.*

*We do not maintain an arborist within the company but have two consulting arborists available to work with us on any mangrove jobs located within the keys.*

### Project Management

*Current equipment available from Conch Tree and Landscape Professionals Inc. include bucket truck, chipper, chip box truck, dump trucks, pickup trucks, nifty lift, skid steer, backhoe, mini excavator, stump grinders, augers, brush hog, flat bed trailers, grapple loader for skid steer.*

*Mangrove trimming: Seagulls Condominium two sets of mangroves. One set on the Condo association property and the other across the road on Monroe County land owned by Coral Shores High School.*

*City Of Layton: trim all mangroves along the canals for the city.*

*Native Restoration Projects: Specialty -we have worked with State Fish and Wildlife Commission on many projects throughout the upper and lower keys. Also have over 15 restoration projects that we have done for residents that have over cleared and helped them with their Code enforcement situations.*

*Tree Trimming: Maria Bagiotti and Lisa Watts have us trimming Founders Park coconut trees and large native trees throughout the park every year.*

*We have over 20 associations, municipalities, state and local governments, not to mention 100's of residential customers that we trim trees for every year.*

### Contractor References

- 1) *Pete Frezza-Environmental Islamorada 305-664-6427 email:*  
*[peter.frezza@islamorada.fl.us](mailto:peter.frezza@islamorada.fl.us)*
- 2) *Daniel Parabok- Biologist Islamorada 305-664-6497*
- 3) *Maria Bagioti- Director Founders Park 305-481-3479 email:*  
*[maria.bagiotti@islamorada.fl.us](mailto:maria.bagiotti@islamorada.fl.us)*
- 4) *Lisa Watts- Dock Master Founders Park 305-852-2381email:*  
*[lisa.watts@islamorada.fl.us](mailto:lisa.watts@islamorada.fl.us)*
- 5) *Eva Korous-Biologist Monroe County 305-916-9605 email:*  
*[korous-eva@monroecounty-fl.gov](mailto:korous-eva@monroecounty-fl.gov)*
- 6) *Rob Guerra-Manager Futura Yacht Club-305-853-0530 email: [rob4FYC@gmail.com](mailto:rob4FYC@gmail.com)*  
*Address: 88540 Overseas Highway Islamorada Fl 33036*
- 7) *Mari Joiner-Manager Port Antigua Property Owners Association 305-522-3648 email:*  
*[info@portantigua.net](mailto:info@portantigua.net)*

CONTRACTOR ID / LICENSE #  
09943 / 09943

CERTIFICATE OF COMPETENCY NUMBER:  
SP3836

CERTIFICATE TYPE:  
LANDSCAPING SPECIALTY CONTRACT



## MONROE COUNTY GROWTH MANAGEMENT - BUILDING DEPARTMENT

Middle Keys/Main Office: 2798 Overseas Highway, Marathon, FL (305) 289-2501

Lower Keys Office: 5503 College Road, Key West, FL (305) 295-3990

Upper Keys Office: 102050 Overseas Highway, Key Largo, FL (305) 453-8800  
11601 CR 905, Key Largo, FL (305) 453-8765

### CERTIFICATE OF COMPETENCY

#### ! IMPORTANT: CONTRACTOR CERTIFICATE OF COMPETENCY ENCLOSED !

VOLLAND, MARTIN S.  
209 N AIRPORT RD

TAVERNIER FL, 33070

Dear Certificate of Competency Holder:

Please find below your renewed Monroe County Certificate of Competency.

Please note:

- You have agreed to abide by the requirements found in Monroe County Code 6-234
- It is the certificate holder's responsibility to notify this office in writing of any legal name and/or address changes by completing the Name and/or Address Change Form. (Obtained from our website at [www.monroecounty-fl.gov](http://www.monroecounty-fl.gov)).
- Journeyman and Masters are NOT contractors, and therefore, are prohibited from contracting, and shall only perform work in their trade while under the supervision and direction of a licensed contractor of same category.
- Contracting shall only be done under the qualified business name. This license does NOT belong to the Company and may NOT be renewed or used by another individual or company other than the license holder named herein for any construction purposes
- If you are inactive, you may NOT contract to do work or pull a permit, and you do not need to have current insurances on file.

Thank you.

### MONROE COUNTY GROWTH MANAGEMENT BUILDING DEPARTMENT CERTIFICATE OF COMPETENCY

This is to certify that the contractor listed is in good standing.

This certificate according to law of competency is valid and in force unless revoked until the noted expiration date below.

*Rick Griffin*

BUILDING OFFICIAL

Issue date: 10/21/2021  
Expiration date: 10/31/23  
Qualifier: VOLLAND, MARTIN S.  
Company name: CONCH TREE & LANDSCAPE PROF INC  
License type: LANDSCAPING SPECIALTY CONTRACT (SP16 )  
County license: SP3836

RECEIPT #: 30018297

Cont.ID: 09943

AMOUNT PAID \$ 150.00

**2022 / 2023**  
**MONROE COUNTY BUSINESS TAX RECEIPT**  
**EXPIRES SEPTEMBER 30, 2023**

Business Name: CONCH TREE & LANDSCAPE  
PROFESSIONALS INC

RECEIPT# 30140-98172

Owner Name: MARTIN & AIMEE VOLLAND, MARTIN S  
Mailing Address: VOLLAND QUALIFIER  
209 N AIRPORT RD  
TAVERNIER, FL 33070

Business Location: MO CTY  
KEY LARGO, FL 33037  
Business Phone: 305-451-1900  
Business Type: CONTRACTOR (CONTRACTORS/LANDSCAPING)

Employees 1

COMP CARD: SP 3836

Tax Amount	Transfer Fee	Sub-Total	Penalty	Prior Years	Collection Cost	Total Paid
20.00	0.00	20.00	0.00	0.00	0.00	20.00

Paid 000-21-00035103 07/02/2022 20.00

THIS BECOMES A TAX RECEIPT  
WHEN VALIDATED

**Sam C. Steele, CFC, Tax Collector**  
**PO Box 1129, Key West, FL 33041**

THIS IS ONLY A TAX.  
YOU MUST MEET ALL  
COUNTY AND/OR  
MUNICIPALITY  
PLANNING, ZONING AND  
LICENSING  
REQUIREMENTS.

**MONROE COUNTY BUSINESS TAX RECEIPT**

P.O. Box 1129, Key West, FL 33041-1129

EXPIRES SEPTEMBER 30, 2023

Business Name: CONCH TREE & LANDSCAPE  
PROFESSIONALS INC

RECEIPT# 30140-98172

Owner Name: MARTIN & AIMEE VOLLAND, MARTIN S  
Mailing Address: VOLLAND QUALIFIER  
209 N AIRPORT RD  
TAVERNIER, FL 33070

Business Location: MO CTY  
KEY LARGO, FL 33037  
Business Phone: 305-451-1900  
Business Type: CONTRACTOR (CONTRACTORS/LANDSCAPING)

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20.00	0.00	20.00	0.00	0.00	0.00	20.00

Paid 000-21-00035103 07/02/2022 20.00

STATE OF FLORIDA  
Department of Agriculture and Consumer Services  
BUREAU OF LICENSING AND ENFORCEMENT

Date	File No.	Expires
April 7, 2022	LC157559	February 28, 2023

THE COMMERCIAL LANDSCAPE MAINT. HOLDER NAMED BELOW  
HAS REGISTERED UNDER THE PROVISIONS OF CHAPTER 482 FOR  
THE PERIOD EXPIRING: February 28, 2023

MARTIN SHANE VOLLAND  
209 N AIRPORT RD  
TAVERNIER, FL 33070

*Nicole Fried*  
NICOLE "NIKKI" FRIED, COMMISSIONER

STATE OF FLORIDA  
Department of Agriculture and Consumer Services  
BUREAU OF LICENSING AND ENFORCEMENT

MARTIN SHANE VOLLAND  
COMMERCIAL LANDSCAPE MAINT. HOLDER

LC157559

HAS PAID THE FEE REQUIRED BY CHAPTER 482 FOR THE PERIOD  
EXPIRING February 28, 2023

*Nicole Fried* Signature  
COMMISSIONER

Wallet Card - Fold Here

BUREAU OF LICENSING & ENFORCEMENT  
3125 CONNER BLVD, BLDG. 8  
TALLAHASSEE, FLORIDA 32399-1650

Affidavit  
For Certification as a Local Business

State of Florida  
County of Monroe

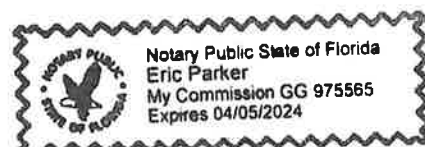
BEFORE ME, the undersigned authority, personally appeared MARTIN S. VALLBO  
(Affiant's Name), as PRESIDENT (Title) of Corelt Tree + Landscape  
Pro's Inc. (Name of Company), a S CORPORATION (Type of  
Entity), who after having been sworn, deposes and states:

1. My name is MARTIN S. VALLBO.
2. I am the PRESIDENT (Title) of Corelt Tree + Landscape Pro's Inc.  
(Name of Firm), and I have personal knowledge of the facts stated herein.
3. Corelt Tree + Landscape Pro's Inc. (Name of Firm) seeks certification as a  
local business pursuant to Ordinance 2-327(e), Islamorada, Village of  
Islands, and RFQ 23-03; and
4. Corelt Tree + Landscape Pro's Inc. (Name of Firm) has a current Monroe  
County occupational license or business tax receipt, with a principal office  
located at 209 N. AIRPORT RD TAVANNA FL 33070  
(Physical Address), which is between MM 72.658 and the  
Miami-Dade County boundary line; and
5. The principal office has been established a minimum of 18 consecutive months  
prior to the date of the solicitation and operates or performs business on a day-  
to-day basis that is a substantial component of the goods or services being  
offered to the Village; and
6. A minimum of 51 percent of the labor or personnel used to perform the  
purchase or contract reside in the Upper Keys (MM72.658 to the Miami-Dade  
County boundary line) at the time of submittal; and
7. A minimum of 51 percent of the business' owners reside in the Upper Keys (MM  
72.658 to the Miami-Dade County boundary line) at the time of submittal.

Martin S. Vallbo  
Affiant

Sworn to and subscribed before me, this 7<sup>th</sup> day of Jan, 2023.

[Signature]  
Notary Public  
☐ Personally known  
☐ Produced identification  
☐ Type of identification produced



## E-VERIFY AFFIDAVIT

In accordance with Section 448.095, Florida Statutes, the Village requires all contractors doing business with the Village to register with and use the E-Verify system to verify the work authorization status of all newly hired employees. The Village will not enter into a contract unless each party to the contract registers with and uses the E-Verify system.

**The contracting entity must provide of its proof of enrollment in E-Verify.** For instructions on how to provide proof of the contracting entity's participation/enrollment in E-Verify, please visit: <https://www.e-verify.gov/faq/how-do-i-provide-proof-of-my-participation/enrollment-in-e-verify>

By signing below, the contracting entity acknowledges that it has read Section 448.095, Florida Statutes and will comply with the E-Verify requirements imposed by it, including but not limited to obtaining E-Verify affidavits from subcontractors.

☒ **Check here to confirm proof of enrollment in E-Verify has been attached to this Affidavit.**

In the presence of:

Signed, sealed and delivered by:

Witness #1 Print Name: Jonathan Vaughn

Martin A. Vallin  
Print Name: Monroe S. Vallin

Witness #2 Print Name: Travis Cooper

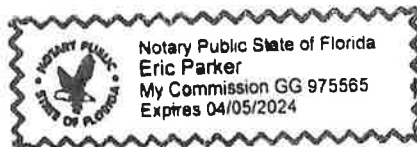
Title: PRESIDENT  
Entity Name: Cone & Terrace Homecare Pros

### ACKNOWLEDGMENT

State of Florida

County of Monroe

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 31 day of Jan, 2023, by Martin Vallin (name of person) as owner (type of authority) for (name of party on behalf of whom instrument is executed).



Eric Parker  
Notary Public (Print, Stamp, or Type as commissioned)

- ☒ Personally known to me; or  
☐ Produced identification (Type of Identification: \_\_\_\_\_)  
☐ Did take an oath; or  
☐ Did not take an oath



Company ID Number: 296542

Client Company ID Number: 2069590

### Information Required for the E-Verify Program

#### Information relating to your Company:

Company Name	Conch Tree & Landscape Professionals, Inc.
Company Facility Address	209 N Airport Rd Tavernier, FL 33070
Company Alternate Address	
County or Parish	MONROE
Employer Identification Number	260257867
North American Industry Classification Systems Code	561
Parent Company	
Number of Employees	5 to 9
Number of Sites Verified for	1 site(s)



Company ID Number: 296542

Client Company ID Number: 2069590

**Approved by:**

<b>Employer</b> Conch Tree & Landscape Professionals, Inc.	
<b>Name (Please Type or Print)</b> Aimee Volland	<b>Title</b>
<b>Signature</b> Electronically Signed	<b>Date</b> 01-27-2023
<b>E-Verify Employer Agent</b> FrankCrum 1, Inc.	
<b>Name (Please Type or Print)</b> Danielle A Ward	<b>Title</b>
<b>Signature</b> Electronically Signed	<b>Date</b> 01-27-2023
<b>Department of Homeland Security – Verification Division</b>	
<b>Name (Please Type or Print)</b> USCIS Verification Division	<b>Title</b>
<b>Signature</b> Electronically Signed	<b>Date</b> 01-27-2023

**NON-EXCLUSIVE  
CONTINUING SERVICES AGREEMENT  
WITH SEPARATE STATEMENTS OF WORK  
BETWEEN  
ISLAMORADA, VILLAGE OF ISLANDS  
AND  
TIM MATTHEWS TREE & LANDSCAPING, INC.**

**THIS AGREEMENT** (this "Agreement") is made effective as of the \_\_\_\_\_ day of April, 2023 (the "Effective Date"), by and between the **ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA**, a Florida municipal corporation, (the "Village"), and **TIM MATTHEWS TREE & LANDSCAPING, INC.**, a Florida Corporation, (the "Contractor").

**WHEREAS**, on January 12, 2023, the Village issued Request for Qualifications No. 22-03 ("RFQ") for Landscaping, Tree Trimming and Mangrove Trimming (the "Services"), on a non-exclusive basis; and

**WHEREAS**, in response to the RFQ, the Contractor submitted a proposal dated February 7, 2023 ("Proposal"), which is attached hereto and incorporated herein by reference, as Exhibit "A," for the Services; and

**WHEREAS**, on March 30, 2023, the Village Council of Islamorada, Village of Islands adopted Resolution No. 23-03-30 approving the RFQ 23-03 Evaluation Committee recommendations to negotiate and enter into Non-exclusive Continuing Services Agreements with the five (5) firms that submitted proposals in response to the RFQ; and

**WHEREAS**, the Village desires to engage the Contractor to perform the Services and provide the deliverables periodically as specified below.

**NOW, THEREFORE**, in consideration of the mutual covenants and conditions contained herein, the Contractor and the Village agree as follows:

**1. Scope of Services.**

- 1.1.** The Contractor shall furnish the Services and provide deliverables on an as needed basis during the term of this Agreement, as requested by the Village and detailed in a "Statement of Work" (each a "Project") which the Village will provide the Contractor when engaging the Contractor to work on a specific Project.
- 1.2.** Prior to commencement of work on a specific Project, the Contractor will provide the Village with a fixed lump sum cost for the Services set forth in the Statement of Work as provided by the Contractor and accepted by the Village for each Project
- 1.3.** If the Village approves the fixed lump sum cost for the Project (each a "Contract Price"), the Village will provide the Contractor with a Notice to Proceed or Purchase Order to perform

the Services set forth in the Statement of Work. Contractor acknowledges that it shall not undertake to perform any Services on any Project until it has received from the Village the Notice to Proceed or Purchase Order on such Project.

- 1.4. Contractor shall furnish all reports, documents, and information obtained pursuant to this Agreement, and recommendations during the term of this Agreement (hereinafter "Deliverables") to the Village.
- 1.5. The Contractor shall abide by the terms and requirements of the RFQ, as though fully set forth herein.
- 1.6. **Non-Exclusive Agreement:** Notwithstanding anything to the contrary, the Village Manager may use any other consultant retained by the Village in connection with providing the Services at any time. Nothing in this Agreement shall be construed to give the Consultant a right to perform Services for any specific Project.

## **2. Term/Commencement Date.**

- 2.1. This Agreement shall become effective upon the Effective Date and shall remain in effect for five (5) years thereafter, unless earlier terminated in accordance with Paragraph 8. Additionally, the Village Manager may renew this Agreement for one (1) additional five (5) year period on the same terms as set forth herein upon written notice to the Contractor.
- 2.2. Contractor agrees that time is of the essence for each Project and Contractor shall complete the Services within the timeframes set forth in the Statement of Work and the Notice to Proceed or Purchase Order for each Project in the manner provided in this Agreement, unless extended by the Village Manager.
- 2.3. Village and Contractor recognize that time is of the essence with respect to the completion of each Project and Village would suffer financial loss if the Services for each Project are not completed within the time specified in the timetable for completion set forth in the Statement of Work as mentioned above, subject to adjustments of such timetable as approved by the Village as provided in the RFQ and Proposal. Village and Contractor also recognize the expense and difficulties involved in proving with reasonable certainty the actual loss or damage suffered by Village if each Project is not completed on time. Accordingly, in lieu of requiring any such proof, Village and Contractor agree that, as liquidated damages for delays, or early termination of the Agreement, Contractor shall pay Village, in addition to any other damages and/or remedies to which Village may be entitled, the dollar amount equal to six one hundredths of a percent (0.06%) per day of total Contract Price for such Project for each calendar day within the first fifteen (15) days after the final completion date set forth in the timeline where the Contractor fails to reach final completion in accordance with the Statement of Work or in the event of early termination of the Agreement, for each calendar day within the first fifteen (15) days from termination to the stated completion date for such Project. For each calendar day after the first fifteen days following the final

completion date for such Project provided in the timetable where the Contractor fails to reach final completion as stated in the Statement of Work, the Village shall be entitled to the dollar amount equal to one tenth of one percent (0.1%) per day of total Contract Price until the Contractor achieves final completion with respect to a delay or in the event of earlier termination of the Agreement, for each calendar day after the first fifteen days from termination to the stated final completion date for such Project, the Village shall be entitled to the dollar amount equal to one percent (0.1%) per day of total Contract Price, for such Project. Contractor further agrees that the amount of liquidated damages assessed pursuant to this paragraph is reasonable and does not constitute a penalty. Although the parties recognize the difficulty of proving the loss or damage suffered by the Village due to delay or early termination, the Contractor acknowledges and agrees that the amount of liquidated damages approximate the loss anticipated at the time of execution of each Statement of Work.

### **3. Compensation and Payment.**

- 3.1.** Compensation for Services provided by Contractor for each Project shall be in accordance with the approved fixed lump sum set forth in the Statement of Work as provided by the Contractor and approved by the Village through the issuance of a Notice to Proceed or Purchase Order.
- 3.2.** During the course of each Project, Contractor shall deliver an invoice to Village no more than once per month detailing Services completed since the date of the previous invoice period or the commencement of such Project and the amount due to Contractor under the Statement of Work for such Project. Fees shall be paid in arrears each month, pursuant to Contractor's invoice, which shall be based upon the percentage of work completed for such Project. The Village shall pay the Contractor in accordance with the Florida Prompt Payment Act after approval and acceptance of the Services by the Village Manager.
- 3.3.** Contractor's invoices must contain the following information for prompt payment:
  - 3.3.1. Name and address of the Contractor;
  - 3.3.2. Purchase Order number;
  - 3.3.3. Date of invoice;
  - 3.3.4. Invoice number (Invoice numbers cannot be repeated. Repeated invoice numbers will be rejected);
  - 3.3.5. Name and type of Services;
  - 3.3.6. Timeframe covered by the invoice; and
  - 3.3.7. Total value of invoice.

Failure to include the above information will result in the delay of payment or rejection of the invoice. All invoices must be submitted electronically to [ap@islamorada.fl.us](mailto:ap@islamorada.fl.us).

#### **4. Subcontractors.**

- 4.1. The Contractor shall be responsible for all payments to any approved subcontractors and shall maintain responsibility for all work related to the Services and/or any Project.
- 4.2. Contractor may only utilize the services of a particular subcontractor with the prior written approval of the Village Manager, which approval shall be granted or withheld in the Village Manager's sole and absolute discretion.

#### **5. Village's Responsibilities.**

- 5.1. Village shall make available any maps, plans, existing studies, reports, staff and representatives, and other data pertinent to the Services and in possession of the Village, and provide criteria requested by Contractor to assist Contractor in performing the Services.
- 5.2. Upon Contractor's request, Village shall reasonably cooperate in arranging access to public information that may be required for Contractor to perform the Services.

#### **6. Contractor's Responsibilities; Representations and Warranties.**

- 6.1. The Contractor shall exercise the same degree of care, skill and diligence in the performance of the Services for each Project as is ordinarily provided by a contractor under similar circumstances. If at any time during the term of this Agreement or within six (6) months from the completion of any Project pursuant to this Agreement, it is determined that the Contractor's Deliverables or Services are incorrect, not properly rendered, defective, or fail to conform the Scope of Work, the Contractor shall at Contractor's sole expense, immediately correct its Deliverables or Services.
- 6.2. The Contractor hereby warrants and represents that at all times during the term of this Agreement it shall maintain in good standing all required licenses, certifications and permits required under Federal, State and local laws applicable to and necessary to perform the Services for Village as an independent contractor of the Village. Contractor further warrants and represents that it has the required knowledge, expertise, and experience to perform the Services and carry out its obligations under this Agreement in a professional and first class manner.
- 6.3. The Contractor represents that is an entity validly existing and in good standing under the laws of Florida. The execution, delivery and performance of this Agreement by Contractor have been duly authorized, and this Agreement is binding on Contractor and enforceable against Contractor in accordance with its terms. No consent of any other person or entity to such execution, delivery and performance is required.

7. **Conflict of Interest.** To avoid any conflict of interest or any appearance thereof, Contractor shall not, for the term of this Agreement, provide any consulting services to any private

sector entities (developers, corporations, real estate investors, etc.), with any current, or foreseeable, adversarial issues in the Village.

## **8. Termination.**

- 8.1.** The Village Manager, without cause, may terminate this Agreement upon five (5) calendar days written notice to the Contractor, or immediately with cause.
- 8.2.** Upon receipt of the Village's written notice of termination, Contractor shall immediately stop work on any Project unless directed otherwise by the Village Manager.
- 8.3.** In the event of termination by the Village, the Contractor shall be paid for all work accepted by the Village Manager up to the date of termination, provided that the Contractor has first complied with the provisions of Paragraph 8.4.
- 8.4.** The Contractor shall transfer all books, records, reports, working drafts, documents, maps, and data pertaining to the Services and the project to the Village, in a hard copy and electronic format within fourteen (14) days from the date of the written notice of termination or the date of expiration of this Agreement.

## **9. Insurance.**

- 9.1.** Contractor shall secure and maintain throughout the duration of this agreement insurance of such types and in such amounts not less than those specified below as satisfactory to Village, naming the Village as an Additional Insured, underwritten by a firm rated A-X or better by A.M. Best and qualified to do business in the State of Florida. The insurance coverage shall be primary insurance with respect to the Village, its officials, employees, agents, and volunteers naming the Village as additional insured. Any insurance maintained by the Village shall be in excess of the Contractor's insurance and shall not contribute to the Contractor's insurance. The insurance coverages shall include at a minimum the amounts set forth in this section and may be increased by the Village as it deems necessary or prudent.

9.1.1.+Commercial General Liability coverage with limits of liability of not less than a \$1,000,000 per Occurrence combined single limit for Bodily Injury and Property Damage. This Liability Insurance shall also include Completed Operations and Product Liability coverages and eliminate the exclusion with respect to property under the care, custody and control of Contractor. The General Aggregate Liability limit and the Products/Completed Operations Liability Aggregate limit shall be in the amount of \$2,000,000 each.

9.1.2.Workers Compensation and Employer's Liability insurance, to apply for all employees for statutory limits as required by applicable State and Federal laws. The policy(ies) must include Employer's Liability with minimum limits of \$1,000,000.00 each accident. No employee, subcontractor or agent of the Contractor shall be

allowed to provide Services pursuant to this Agreement who is not covered by Worker's Compensation insurance.

9.1.3. Business Automobile Liability with minimum limits of \$300,000 per occurrence, combined single limit for Bodily Injury and Property Damage. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability policy, without restrictive endorsements, as filed by the Insurance Service Office, and must include Owned, Hired, and Non-Owned Vehicles.

9.1.4. Professional Liability Insurance in an amount of not less than One Million Dollars (\$1,000,000.00) per occurrence, single limit.

9.1.5. **Pollution Liability Insurance may apply to projects for which Contractor will conduct work from the water.** Pollution Liability Insurance in an amount of \$1,000,000 per claim and in the aggregate Contractor shall purchase and maintain pollution liability insurance against claims for damages arising out of the assessment, removal, remediation, transport and/or handling of hazardous materials, including but not limited to mold, asbestos, and lead. The policy shall include a minimum limit of not less than \$1,000,000.00 per claim and in the aggregate. Said pollution liability policy shall include and list as additional insureds the Village, include coverage for its respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of all such additional insureds; and, the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby (including as applicable those arising from both ongoing and completed operations) on a non-contributory basis.

**9.2. Certificate of Insurance.** Certificates of Insurance shall be provided to the Village, reflecting the Village as an Additional Insured (except with respect to Professional Liability Insurance and Worker's Compensation Insurance), no later than ten (10) days after award of this Agreement and prior to the execution of this Agreement by Village and prior to commencing Services. Each certificate shall include no less than (30) thirty-day advance written notice to Village prior to cancellation, termination, or material alteration of said policies or insurance. The Contractor shall be responsible for assuring that the insurance certificates required by this Section remain in full force and effect for the duration of this Agreement, including any extensions or renewals that may be granted by the Village. The Certificates of Insurance shall not only name the types of policy(ies) provided, but also shall refer specifically to this Agreement and shall state that such insurance is as required by this Agreement. The Village reserves the right to inspect and return a certified copy of such policies, upon written request by the Village. If a policy is due to expire prior to the completion of the Services, renewal Certificates of Insurance shall be furnished thirty (30) calendar days prior to the date of their policy expiration. Each policy certificate shall be endorsed with a provision that not less than thirty (30) calendar days' written notice shall be provided to the Village before any policy or coverage is cancelled or restricted. Acceptance of the Certificate(s) is subject to approval of the Village.

**9.3. Additional Insured.** Except with respect to Professional Liability Insurance and Worker's Compensation Insurance, the Village is to be specifically included as an Additional Insured for the liability of the Village resulting from Services performed by or on behalf of the Contractor in performance of this Agreement. The Contractor's insurance, including that applicable to the Village as an Additional Insured, shall apply on a primary basis and any other insurance maintained by the Village shall be in excess of and shall not contribute to the Contractor's insurance. The Contractor's insurance shall contain a severability of interest provision providing that, except with respect to the total limits of liability, the insurance shall apply to each Insured or Additional Insured (for applicable policies) in the same manner as if separate policies had been issued to each.

**9.4. Deductibles.** All deductibles or self-insured retentions must be declared to and be reasonably approved by the Village. The Contractor shall be responsible for the payment of any deductible or self-insured retentions in the event of any claim.

**9.5.** The provisions of this section shall survive termination of this Agreement.

**10. Nondiscrimination.** During the term of this Agreement, Contractor shall not discriminate against any of its employees or applicants for employment because of their race, color, religion, sex, or national origin, and will abide by all Federal and State laws regarding nondiscrimination.

**11. Attorneys Fees and Waiver of Jury Trial.**

**11.1.** In the event of any litigation arising out of this Agreement, the prevailing party shall be entitled to recover its attorneys' fees and costs, including the fees and expenses of any paralegals, law clerks and legal assistants, and including fees and expenses charged for representation at both the trial and appellate levels.

**11.2.** IN THE EVENT OF ANY LITIGATION ARISING OUT OF THIS AGREEMENT, EACH PARTY HEREBY KNOWINGLY, IRREVOCABLY, VOLUNTARILY AND INTENTIONALLY WAIVES ITS RIGHT TO TRIAL BY JURY.

**12. Indemnification.**

**12.1.** Contractor shall indemnify and hold harmless the Village, its officers, agents and employees, from and against any and all demands, claims, losses, suits, liabilities, causes of action, judgment or damages, arising from Contractor's performance or non-performance of any provision of this Agreement, including, but not limited to, liabilities arising from contracts between the Contractor and third parties made pursuant to this Agreement. Contractor shall reimburse the Village for all its expenses including reasonable attorneys' fees and costs incurred in and about the defense of any such claim or investigation and for any judgment or damages arising from Contractor's performance or non-performance of this Agreement.

**12.2.** Nothing herein is intended to serve as a waiver of sovereign immunity by the Village nor shall anything included herein be construed as consent to be sued by third parties in any matter arising out of this Agreement or any other contract. The Village is subject to section 768.28, Florida Statutes, as may be amended from time to time.

**12.3.** The provisions of this section shall survive termination of this Agreement.

**13. Notices/Authorized Representatives.** Whenever any party desires to give notice unto any other party, it must be given by written notice, sent by registered United States mail, with return receipt requested, addressed to the party for whom it is intended and the remaining party, at the places last specified, and the places for giving of notice shall remain such until they shall have been changed by written notice in compliance with the provisions of this section. For the present, the Contractor and the Village designate the following as the respective places for giving of notice:

Village: Village Manager  
Islamorada, Village of Islands  
86800 Overseas Highway  
Islamorada, Florida 33036

Copy To: Village Attorney  
Islamorada, Village of Islands  
86800 Overseas Highway  
Islamorada, Florida 33036

Contractor: Tim Matthews Tree & Landscaping, Inc.  
160 Florida Ave.  
Tavernier, Florida 33070  
Attention: Tim Matthews, President

**14. Governing Law and Venue.** This Agreement shall be construed in accordance with and governed by the laws of the State of Florida. Venue for any proceedings arising out of this Agreement shall be proper exclusively in Monroe County, Florida.

**15. Entire Agreement/Modification/Amendment.**

**15.1.** This writing contains the entire Agreement of the parties and supersedes any prior oral or written representations. No representations were made or relied upon by either party, other than those that are expressly set forth herein.

**15.2.** No agent, employee, or other representative of either party is empowered to modify or amend the terms of this Agreement, unless executed with the same formality as this document.

## **16. Ownership and Access to Records and Audits.**

- 16.1.** Contractor acknowledges that all inventions, innovations, improvements, developments, methods, designs, analyses, drawings, reports, compiled information, and all similar or related information (whether patentable or not) which relate to Services to the Village which are conceived, developed or made by Contractor during the term of this Agreement ("Work Product") belong to the Village. Contractor shall promptly disclose such Work Product to the Village and perform all actions reasonably requested by the Village (whether during or after the term of this Agreement) to establish and confirm such ownership (including, without limitation, assignments, powers of attorney and other instruments).
- 16.2.** Contractor agrees to keep and maintain public records in Contractor's possession or control in connection with Contractor's performance under this Agreement. The Village Manager or her designee shall, during the term of this Agreement and for a period of three (3) years from the date of termination of this Agreement, have access to and the right to examine and audit any records of the Contractor involving transactions related to this Agreement. Contractor additionally agrees to comply specifically with the provisions of Section 119.0701, Florida Statutes. Contractor shall 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 Agreement, and following completion of the Agreement until the records are transferred to the Village.
- 16.3.** Upon request from the Village's custodian of public records, Contractor shall provide the Village 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 by Chapter 119, Florida Statutes, or as otherwise provided by law.
- 16.4.** Unless otherwise provided by law, any and all records, including but not limited to reports, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of the Village.
- 16.5.** Upon completion of this Agreement or in the event of termination by either party, any and all public records relating to the Agreement in the possession of the Contractor shall be delivered by the Contractor to the Village Manager, at no cost to the Village, within seven (7) days. All such records stored electronically by Contractor shall be delivered to the Village in a format that is compatible with the Village's information technology systems. Once the public records have been delivered upon completion or termination of this Agreement, the Contractor shall destroy any and all duplicate public records that are exempt or confidential and exempt from public records disclosure requirements.
- 16.6.** Any compensation due to Contractor shall be withheld until all records are received as provided herein.

**16.7.** Contractor's failure or refusal to comply with the provisions of this section shall result in the immediate termination of this Agreement by the Village.

**16.8.** Public Records. Village is a public agency subject to Chapter 119, Florida Statutes. To the extent that Village is acting on behalf of Village pursuant to Section 119.0701, Florida Statutes, Village shall:

16.8.1. Keep and maintain public records that ordinarily and necessarily would be required to be kept and maintained by Village were Village performing the services under this Agreement;

16.8.2. Provide the public with access to such public records on the same terms and conditions that the County would provide the records and at a cost that does not exceed that provided in Chapter 119, Florida Statutes, or as otherwise provided by law;

16.8.3. Ensure that public records that are exempt or that are confidential and exempt from public record requirements are not disclosed except as authorized by law; and

16.8.4. Meet all requirements for retaining public records and transfer to Village, at no cost, all public records in possession of the Village upon termination of this Agreement and destroy any duplicate public records that are exempt or confidential and exempt. All records stored electronically must be provided to the Village.

**IF CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 305-664-6412, [Clerk@islamorada.fl.us](mailto:Clerk@islamorada.fl.us), or by mail: Village Clerk, 868800 Overseas Highway, Islamorada, FL 33036.**

**17. Nonassignability.** This Agreement shall not be assignable by Contractor unless such assignment is first approved by the Village Manager. The Village is relying upon the apparent qualifications and expertise of the Contractor, and such firm's familiarity with the Village's area, circumstances and desires.

**18. Severability.** If any term or provision of this Agreement shall to any extent be held invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each remaining term and provision of this Agreement shall be valid and be enforceable to the fullest extent permitted by law.


- 19. Independent Contractor.** The Contractor and its employees, volunteers and agents shall be and remain an independent contractor and not an agent or employee of the Village with respect to all of the acts and services performed by and under the terms of this Agreement. This Agreement shall not in any way be construed to create a partnership, association or any other kind of joint undertaking, enterprise or venture between the parties.
- 20. Compliance with Laws.** The Contractor shall comply with all applicable laws, ordinances, rules, regulations, and lawful orders of public authorities in carrying out Services under this Agreement, and in particular shall obtain all required permits from all jurisdictional agencies to perform the Services under this Agreement at its own expense.
- 21. Waiver.** The failure of either party to this Agreement to object to or to take affirmative action with respect to any conduct of the other which is in violation of the terms of this Agreement shall not be construed as a waiver of the violation or breach, or of any future violation, breach or wrongful conduct.
- 22. Survival of Provisions.** Any terms or conditions of either this Agreement that require acts beyond the date of the term of the Agreement, shall survive termination of the Agreement, shall remain in full force and effect unless and until the terms or conditions are completed and shall be fully enforceable by either party.
- 23. Prohibition of Contingency Fees.** The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person(s), company, corporation, individual or firm, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement.
- 24. Public Entity Crimes Affidavit.** Contractor shall comply with Section 287.133, Florida Statutes (Public Entity Crimes Statute), notification of which is hereby incorporated herein by reference, including execution of any required affidavit.
- 25. Counterparts.** This Agreement may be executed in several counterparts, each of which shall be deemed an original and such counterparts shall constitute one and the same instrument.
- 26. Conflicts.** In the event of a conflict between the terms of this Agreement and any exhibits or attachments hereto, the terms of this Agreement shall control.
- 27. Scrutinized Companies.**
- 27.1.** Contractor certifies that it and its sub-consultants are not on the Scrutinized Companies that Boycott Israel List. Pursuant to Section 287.135, F.S., the Village may immediately terminate this Agreement at its sole option if the Contractor or its sub-consultants are found to have submitted a false certification; or if Contractor, or its sub-consultants are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Agreement.

- 27.2.** If this Agreement is for more than one million dollars, Contractor certifies that it and its sub-consultants are also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in Section 287.135, F.S. Pursuant to Section 287.135, F.S., the Village may immediately terminate this Agreement at its sole option if Contractor, its affiliates, or its sub-consultants are found to have submitted a false certification; or if Contractor, its affiliates, or its sub-consultants are placed on the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of the Agreement.
- 27.3.** Contractor agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Agreement.
- 27.4.** As provided in Subsection 287.135(8), F.S., if federal law ceases to authorize the above-stated contracting prohibitions then they shall become inoperative.
- 28. E-Verify Affidavit.** In accordance with Section 448.095, Florida Statutes, the Village requires all contractors doing business with the Village to register with and use the E-Verify system to verify the work authorization status of all newly hired employees. The Village will not enter into a contract unless each party to the contract registers with and uses the E-Verify system. The contracting entity must provide of its proof of enrollment in E-Verify. For instructions on how to provide proof of the contracting entity's participation/enrollment in E-Verify, please visit: <https://www.e-verify.gov/faq/how-do-i-provide-proof-of-my-participationenrollment-in-e-verify>. By entering into this Agreement, the Contractor acknowledges that it has read Section 448.095, Florida Statutes; will comply with the E-Verify requirements imposed by Section 448.095, Florida Statutes, including but not limited to obtaining E-Verify affidavits from subcontractors; and has executed the required affidavit attached hereto and incorporated herein.

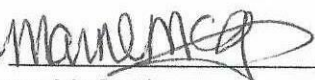
**[Remainder of page intentionally left blank. Signature pages follow.]**

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed the day and year as first stated above.


**ISLAMORADA, VILLAGE OF ISLANDS**

By:   
\_\_\_\_\_  
Ted Yates  
Village Manager

Attest:

By:   
\_\_\_\_\_  
Marne McGrath  
Village Clerk

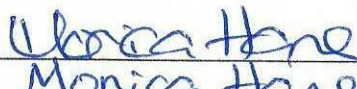

Approved as to form and legal sufficiency:

By:   
\_\_\_\_\_  
Weiss Serota Helfman Cole & Bierman, P.L.  
Village Attorney

**CONTRACTOR**

By:   
\_\_\_\_\_  
Name: Tim Matthews  
Title: President

Entity: Tim Matthews Tree & Landscaping,  
Inc.

Witness:   
\_\_\_\_\_  
Name:   
[Print]

# E-VERIFY AFFIDAVIT

In accordance with Section 448.095, Florida Statutes, the Village requires all contractors doing business with the Village to register with and use the E-Verify system to verify the work authorization status of all newly hired employees. The Village will not enter into a contract unless each party to the contract registers with and uses the E-Verify system.

**The contracting entity must provide of its proof of enrollment in E-Verify.** For instructions on how to provide proof of the contracting entity's participation/enrollment in E-Verify, please visit: <https://www.e-verify.gov/faq/how-do-i-provide-proof-of-my-participationenrollment-in-e-verify>

By signing below, the contracting entity acknowledges that it has read Section 448.095, Florida Statutes and will comply with the E-Verify requirements imposed by it, including but not limited to obtaining E-Verify affidavits from subcontractors.

☒ **Check here to confirm proof of enrollment in E-Verify has been attached to this Affidavit.**

In the presence of:

Signed, sealed and delivered by:

Witness #1 Print Name: Violet Holgate-Johnson

Print Name: TIM MATTHEWS

Witness #2 Print Name: Naiva Rosales

Title: PRESIDENT

Entity Name: TIM MATTHEWS  
TREE LANDSCAPE

## ACKNOWLEDGMENT

State of Florida

County of Monroe

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 26 day of June, 2023 by Tim Matthews (name of person) as President (type of authority) for Tim Matthews (name of party on behalf of whom instrument is executed) Tree & Landscape



Monica Hane  
Notary Public (Print, Stamp, or Type as Commissioned)

- ☒ Personally known to me; or  
☐ Produced identification (Type of Identification: \_\_\_\_\_)  
☐ Did take an oath; or  
☐ Did not take an oath

**EXHIBIT "A"**  
**SCOPE OF SERVICES**

The Scope of Services are those contained in the RFQ 23-03 dated January 12, 2023 and Contractor's Proposal received on February 7, 2023, attached hereto and incorporated herein by reference.