

AGREEMENT FOR TEMPORARY LABOR SERVICES - SANITATION

THIS AGREEMENT FOR TEMPORARY LABOR SERVICES ("Agreement") is entered into by and between the **CITY OF OCALA**, a Florida municipal corporation ("City"), and **SUNSHINE ENTERPRISE USA, L.L.C.**, a for-profit corporation duly organized and authorized to do business in the State of Florida (EIN: 82-2013540) ("Vendor").

RECITALS:

WHEREAS, on January 2, 2020, the City of Ocala issued an Invitation to Bid ("ITB") for the provision of temporary labor services for its Sanitation Department, ITB No.: PWD/190907 (the "Solicitation"); and

WHEREAS, two (2) firms responded to the Solicitation and, after consideration of price and other evaluation factors set forth in the Solicitation, the quotation submitted by Sunshine Enterprise USA, L.L.C. was found to be the highest ranked bid as scored by City; and

WHEREAS, Sunshine Enterprise USA, L.L.C. was chosen as the intended awardee to provide temporary labor services for the City of Ocala's Sanitation Department ("Services").

WHEREAS, Vendor certifies that it and its subcontractors are qualified and possess the required licensure and experience to perform the Services; and

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

TERMS OF AGREEMENT:

1. **RECITALS.** City and Vendor hereby represent, warrant, and agree that the Recitals set forth above are true and correct and are incorporated herein by reference.
2. **CONTRACT DOCUMENTS.** The contract documents which comprise the entire understanding between City and Vendor shall only include: (a) this Agreement; (b) those documents listed in this section as Exhibits to this Agreement; and (c) the City's Solicitation for the Services and the bid submitted by Vendor in response to same (the "Solicitation Documents"). Each of these documents are incorporated herein by reference for all purposes.

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

A. **Exhibits to Agreement:** The Exhibits to this Agreement are as follows:

Exhibit A: Scope of Work (A-1 through A-4)

3. **SCOPE OF SERVICES.** Vendor shall provide all materials, labor, supervision, tools, accessories, equipment, permits, certifications, and all other things necessary for Vendor to perform its obligations under this Agreement as set forth in the attached **Exhibit A - Scope of Work** and the Solicitation Documents. The Scope of Work may only be adjusted by written amendment executed by both parties.
4. **COMPENSATION.** Vendor shall be paid a maximum limiting amount not to exceed **TWO HUNDRED FORTY THOUSAND AND NO/100 DOLLARS (\$240,000)** (the "Contract Sum") as full and complete compensation for the timely and satisfactory provision of services over the course of the entire original Agreement term in accordance with the Contract Documents. In exchange for the labor utilized by City and the services provided by Vendor under this Agreement, City shall pay Vendor a fee equal to the base hourly wage for the laborers provided plus a set mark-up multiplier for each hour of labor utilized by City. Under no circumstances shall there be any additional costs of any kind assessed to or paid by City above the stated total cost per hour, as follows:

Base Wage Per Hour	Mark-Up Multiplier	Total Cost Per Hour
\$12.00	.35 (\$12.00 x .35 = \$4.20)	\$16.20

- A. **Base Wage:** City has determined, and Vendor agrees, that the base wage for sanitation laborers provided by Vendor shall be **TWELVE AND NO/100 DOLLARS PER HOUR (\$12.00/HOUR)** for work performed as set forth in Exhibit A – Scope of Work (the "Base Wage"). This base wage applies only to temporary sanitation laborers employed under this Agreement and shall remain firm for the entire Agreement term.
- B. **Mark-Up Multiplier:** Vendor shall be compensated for overhead and other costs incurred by Vendor for the provision of services under this Agreement by way of an additional mark-up multiplier of **THIRTY-FIVE PERCENT (35%)** of the base wage for every hour of labor utilized, or **FOUR AND 20/100 DOLLARS PER HOUR (\$4.20/HOUR)**. The mark-up multiplier is intended to cover all overhead and other costs incurred by Vendor for the provision of services under this Agreement, including, but not limited to:
 1. conducting the candidate selection process, to include face-to-face candidate behavioral interviews;
 2. completing employment verifications with the candidate's last two (2) employers;
 3. completing right-to-work verifications (E-Verify);
 4. completing national and local criminal background checks for final selection candidates;

5. maintaining Worker's Compensation insurance coverage as required by this Agreement;
6. maintaining Employer's Liability insurance coverage as required by this Agreement;
7. maintaining Commercial General Liability insurance coverage as required by this Agreement;
8. maintaining federal and state unemployment insurance as required by this Agreement*;
and
9. maintaining FICA matching funds.

*In the event of any future mandated governmental increases to Federal and State Unemployment Insurance, Vendor is required to provide satisfactory evidence of said increase to City pursuant to the Notice provisions set forth herein. At that time, City may, at its sole discretion, opt to either pay the increased costs as a pass-through added fee or terminate the Agreement.

- C. **Transition to Permanent Employment Status and Placement Fee:** The City of Ocala is under no obligation to permanently employ any temporary laborer provided by Vendor under this Agreement. Before any temporary laborer provided by Vendor is eligible to become a permanent City employee, said laborer must have provided a minimum of **FIVE HUNDRED TWENTY (520)** service hours to City under this Agreement. Should the City, exercise its option to permanently employ any temporary laborer provided by Vendor under this Agreement, Vendor shall not be entitled to any "placement fee" for said laborer.
- D. **Invoice Submission:** All invoices submitted by Vendor shall include: (1) the City Contract Number; (2) the requesting Department (i.e. "Sanitation"); (3) the name of the temporary laborer; (4) all work hours completed by the temporary laborer for the preceding calendar week, regardless of the number of days worked.
1. Invoicing shall be on a Net 30 term.
 2. Vendor shall submit invoices via electronic mail through the responsible City Project Manager at: **City of Ocala Public Works Department**, Attn: **Dwayne Drake**, E-Mail: ddrake@ocalafl.org. All invoices must be reviewed and approved by the City Project Manager prior to payment. The City Project Manager's review and approval shall not be unreasonably withheld, conditioned, or delayed.
5. **EFFECTIVE DATE AND TERM.** This Agreement shall become effective and commence on **MARCH 17, 2020** and continue for a term of **THREE (3)** years, through and including **MARCH 16, 2023**. This Agreement may be renewed for up to **TWO (2)** additional, **ONE-YEAR** (1-year) periods by written consent between City and Vendor.

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

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

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

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

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

- (1) Vendor fails to timely and properly perform any of the services set forth in the specifications of the Agreement;
- (2) Vendor provides laborers that do not meet the requirements and/or specifications of the Agreement;

- (3) Vendor fails to complete the work required within the time stipulated in the Agreement;
or
- (4) Vendor fails to make progress in the performance of the Agreement and/or gives City reason to believe that Vendor cannot or will not perform to the requirements of the Agreement.
- B. **Vendor's Opportunity to Cure Default.** City may, in its sole discretion, provide Vendor with an opportunity to cure the violations set forth in City's notice of default to Vendor. Vendor shall commence to cure the violations immediately and shall diligently and continuously prosecute such cure to completion within a reasonable time as determined by City. If the violations are not corrected within the time determined to be reasonable by City or to the reasonable satisfaction of City, City may, without further notice, declare Vendor to be in breach of this Agreement and pursue all remedies available at law or equity, to include termination of this Agreement without further notice.
- C. **City's Remedies Upon Vendor Default.** In the event Vendor fails to cure any default under this Agreement within the time period specified in this section, City may pursue any remedies available at law or equity, including, without limitation, the following:
- (1) City shall be entitled to terminate this Agreement without further notice;
- (2) City shall be entitled to hire another vendor to complete the required work in accordance with the needs of City;
- (3) City shall be entitled to recover from Vendor all damages, costs, and attorney's fees arising from Vendor's default prior to termination; and
- (4) City shall be entitled to recovery from Vendor any actual excess costs by: (i) deduction from any unpaid balances owed to Vendor; and (ii) any other remedy as provided by law.
- D. **Termination for Non-Funding.** In the event that budgeted funds to finance this Agreement are reduced, terminated, or otherwise become unavailable, City may terminate this Agreement upon written notice to Vendor without penalty or expense to City. City shall be the final authority as to the availability of budgeted funds.
- E. **Termination for Convenience.** City reserves the right to terminate this Agreement in whole or in part at any time for the convenience of City without penalty or recourse. The Project Manager shall provide written notice of the termination. Upon receipt of the notice, Vendor shall immediately discontinue all work as directed in the notice, notify all subcontractors of the effective date of the termination, and minimize all further costs to City including, but not limited to, the placing of any and all orders for materials, facilities, or supplies, in

connection with its performance under this Agreement. Vendor shall be entitled to receive compensation solely for: (1) the actual cost of the work completed in conformity with this Agreement; and/or (2) such other costs incurred by Vendor as permitted under this Agreement and approved by City.

8. **PERFORMANCE EVALUATION.** At the end of the contract, City may evaluate Vendor's performance. Any such evaluation will become public record.
9. **NOTICE REGARDING FAILURE TO FULFILL AGREEMENT.** Any Vendor who enters into an Agreement with the City of Ocala and fails to complete the contract term, for any reason, shall be subject to future bidding suspension for a period of one (1) year and bid debarment for a period of up to three (3) years for serious contract failures.
10. **VENDOR REPRESENTATIONS.** Vendor expressly represents that:
 - A. Vendor has read and is fully familiar with all the terms and conditions of this Agreement, the Contract Documents, and other related data and acknowledges that they are sufficient in scope and detail to indicate and convey understanding of all terms and conditions of the work to be performed by Vendor under this Agreement.
 - B. Vendor has disclosed, in writing, all known conflicts, errors, inconsistencies, discrepancies, or omissions discovered by Vendor in the Contract Documents, and that the City's written resolution of same is acceptable to Vendor.
 - C. Vendor is familiar with all local, state, and Federal laws, regulations, and ordinances which may affect cost, progress, or its performance under this Agreement whatsoever.
 - D. Vendor represents that neither Vendor, its parent corporations, subsidiaries, members, shareholders, partners, officers, directors or executives, nor any of its affiliates, contractors, suppliers, subcontractors, or consultants under this Agreement have been placed on the convicted vendor list following a conviction of a public entity crime. Vendor understands that a "public entity crime" as defined in section 287.133(1)(g), Florida Statutes, is "a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or with the United States..." Vendor further understands that any person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime (1) may not submit a bid, proposal, or reply on a contract: (a) to provide any goods or services to a public entity; (b) for the construction or repair of a public building or public work; or (c) for leases of real property to a public entity; (2) may not be awarded or perform work as a Vendor, supplier, subcontractor, or consultant under a contract with any public entity; and (3) may not transact business with any public entity in excess of the threshold

amount provided in section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

11. **VENDOR RESPONSIBILITIES.** Except as otherwise specifically provided for in this Agreement, the following provisions are the responsibility of the Vendor:
 - A. Vendor shall competently and efficiently supervise, inspect, and direct all work to be performed under this Agreement (i.e. candidate selection process, completion of employment and other verification and background screening, etc.), devoting such attention thereto and applying such skills and expertise as may be necessary to perform the work in accordance with the Contract Documents.
 - B. Vendor shall be solely responsible for the means, methods, techniques, sequences, procedures, and safety precautions or programs incident thereto.
 - C. Vendor shall be responsible to see that the work complies accurately with the terms of this Agreement and the intent thereof.
 - D. Vendor shall comply with all local, state, and Federal laws, regulations, and ordinances which may affect cost, progress, or its performance under this Agreement, and be responsible for all costs associated with same.
 - E. Vendor shall continue its performance under this Agreement during the pendency of any dispute or disagreement arising out of or relating to this Agreement, except as Vendor and City may otherwise agree in writing.
12. **NO EXCLUSIVITY.** It is expressly understood and agreed by the parties that this is not an exclusive agreement. Nothing in this Agreement shall be construed as creating any exclusive arrangement with Vendor or as prohibit City from either acquiring similar, equal, or like goods and/or services or from executing additional contracts with other entities or sources.
13. **COMMERCIAL AUTO LIABILITY INSURANCE.** Vendor shall procure and maintain, for the life of this Agreement, commercial auto liability insurance covering all automobiles owned, non-owned, hired, and scheduled by Vendor with a combined limit of not less than One Million Dollars (\$1,000,000) for bodily injury and property damage for each accident. Vendor shall name City as an additional insured under the insurance policy.
14. **GENERAL LIABILITY INSURANCE.** Vendor shall procure and maintain, for the life of this Agreement, commercial general liability insurance with minimum coverage limits not less than:
 - A. One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) aggregate limit for bodily injury, property damage, and personal and advertising injury; and

- B. One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) aggregate limit for products and completed operations.
 - C. Coverage for contractual liability is also required.
 - D. City, a political subdivision of the State of Florida, and its officials, employees, and volunteers shall be covered as an additional insured with a CG 20 26 04 13 Additional Insured – Designated Person or Organization Endorsement or similar endorsement providing equal or broader Additional Insured Coverage regarding liability arising out of activities performed by or on behalf of Vendor. The coverage shall contain no special limitation on the scope of protection afforded to City, its officials, employees, or volunteers.
15. **WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY.** Vendor shall procure and maintain, for the life of this Agreement, Workers' Compensation insurance and employer's liability insurance in amounts required by applicable statutes. Vendor shall ensure any and all subcontractors have coverage as required by applicable statutes. Vendor is not required to name City as an additional insured under the policies, but a subrogation waiver endorsement is required. Exceptions and exemptions may be allowed by City's HR/Risk Director, so long as they are in accordance with Florida Statute.
16. **MISCELLANEOUS INSURANCE PROVISIONS.**
- A. Insurance Requirements. These insurance requirements shall not relieve or limit the liability of Vendor. City does not in any way represent that these types or amounts of insurance are sufficient or adequate to protect Vendor's interests or liabilities, but are merely minimums. No insurance is provided by the City under this contract to cover Vendor. **No work shall be commenced under this contract until the required Certificate(s) of Insurance have been provided.** Work shall not continue after expiration (or cancellation) of the Certificates of Insurance and shall not resume until new Certificate(s) of Insurance have been provided. Insurance written on a "Claims Made" form is not acceptable without consultation with City of Ocala Risk Management.
 - B. Deductibles. Vendor's deductibles/self-insured retentions shall be disclosed to the City and may be disapproved by City. Vendor is responsible for the amount of any deductible or self-insured retention.
 - C. Certificates of Insurance. Vendor shall provide a Certificate of insurance, issued by an agency authorized to do business in the State of Florida and with an A.M. Best rating* of at least A, showing the "City of Ocala" as an Additional Insured. Shown on the certificate as the certificate holder should be: **City of Ocala, Contracting Department- 3rd FL, 110 SE Watula Ave, Ocala, FL 34471.** Renewal certificates must also be forwarded to the Contracting

Department prior to the policy expiration. **TEN (10)** days written notice must be provided to the City in the event of cancellation.

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

- D. Failure to Maintain Coverage. In the event Vendor fails to disclose each applicable deductible/self-insured retention or obtain or maintain in full force and effect any insurance coverage required to be obtained by Vendor under this Agreement, Vendor shall be considered to be in default of this Agreement.
- E. Severability of Interests. Vendor shall arrange for its liability insurance to include General Liability, Business Automobile Liability, and Excess/Umbrella Insurance, or to be endorsed to include a severability of interests/cross liability provision so that the "City of Ocala" (where named as an additional insured) will be treated as if a separate policy were in existence, but without increasing the policy limits.

- 17. **NON-DISCRIMINATORY EMPLOYMENT PRACTICES**. During the performance of the contract, Vendor shall not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, sexual orientation, gender identity, marital or domestic partner status, familial status, or veteran status and shall take affirmative action to ensure that an employee or applicant is afforded equal employment opportunities without discrimination. Such action shall be taken with reference to, but not limited to: recruitment, employment, termination, rates of pay or other forms of compensation and selection for training or retraining, including apprenticeship and on-the-job training.
- 18. **INDEPENDENT CONTRACTOR STATUS**. Vendor acknowledges and agrees that under this Agreement, Vendor and any agent or employee of Vendor shall be deemed at all times to be an independent contractor and shall be wholly responsible for the manner in which it performs the services and work required under this Agreement. Neither Vendor nor its agents or employees shall represent or hold themselves out to be employees of City at any time. Neither Vendor nor its agents or employees shall have employee status with City. Nothing in this Agreement shall constitute or be construed to create any intent on the part of either party to create an agency relationship, partnership, employer-employee relationship, joint venture relationship, or any other relationship which would allow City to exercise control or discretion over the manner or methods employed by Vendor in its performance of its obligations under this Agreement.
- 19. **ACCESS TO FACILITIES**. City shall provide Vendor with access to all City facilities as is reasonably necessary for Vendor to perform its obligations under this Agreement.

20. **ASSIGNMENT.** Neither party may assign or subcontract its rights or obligations under this Agreement to any third party without the prior express approval of the other party, which shall not be unreasonably withheld.
21. **RIGHT OF CITY TO TAKE OVER CONTRACT.** Should the work to be performed by Vendor under this Agreement be abandoned, or should Vendor become insolvent, or if Vendor shall assign or sublet the work to be performed hereunder without the written consent of City, the City Project Manager shall have the power and right to hire and acquire additional men and equipment, supply additional material, and perform such work as deemed necessary for the completion of this Agreement. Under these circumstances, all expenses and costs actually incurred by City to accomplish such completion shall be credited to City along with amounts attributable to any other elements of damage and certified by the Project Manager. The Project Manager's certification as to the amount of such liability shall be final and conclusive.
22. **PUBLIC RECORDS.** Vendor shall comply with all applicable provisions of the Florida Public Records Act, Chapter 119, Florida Statutes. Specifically, Vendor shall:
- A. Keep and maintain public records required by the public agency to perform the service.
 - B. Upon request from the public agency's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
 - C. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if Vendor does not transfer the records to the public agency.
 - D. Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of Vendor or keep and maintain public records required by the public agency to perform the service. If Vendor transfers all public records to the public agency upon completion of the contract, Vendor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Vendor keeps and maintains public records upon completion of the contract, Vendor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.

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

23. **AUDIT.** Vendor shall comply and cooperate immediately with any inspections, reviews, investigations, or audits relating to this Agreement as deemed necessary by the Florida Office of the Inspector General, the City's Internal or External auditors or by any other Florida official with proper authority.
24. **PUBLICITY.** Vendor shall not use City's name, logo, seal or other likeness in any press release, marketing materials, or other public announcement without City's prior written approval.
25. **CONFLICT OF INTEREST.** Vendor must have disclosed with the submission of their bid, the name of any officer, director, or agent who may be employed by City. Vendor must disclose the name of any City employee who owns, directly or indirectly, any interest in Vendor or any affiliated business entity. Any additional conflicts of interest that may occur during the contract term must be disclosed to the City of Ocala Procurement Department.
26. **WAIVER.** The failure or delay of any party at any time to require performance by another party of any provision of this Agreement, even if known, shall not affect the right of such party to require performance of that provision or to exercise any right, power or remedy hereunder. Any waiver by any party of any breach of any provision of this Agreement should not be construed as a waiver of any continuing or succeeding breach of such provision, a waiver of the provision itself, or a waiver of any right, power or remedy under this Agreement. No notice to or demand on any party in any circumstance shall, of itself, entitle such party to any other or further notice or demand in similar or other circumstances.
27. **SEVERABILITY OF ILLEGAL PROVISIONS.** Wherever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under the applicable law. Should any portion of this Agreement be declared invalid for any reason, such declaration shall have no effect upon the remaining portions of this Agreement.
28. **INDEMNITY.** Vendor shall indemnify City and its elected officials, employees and volunteers against, and hold City and its elected officials, employees and volunteers harmless from, all damages, claims, losses, costs, and expenses, including reasonable attorneys' fees, which City or

its elected officials, employees or volunteers may sustain, or which may be asserted against City or its elected officials, employees or volunteers, arising out of the activities contemplated by this Agreement including, without limitation, harm or personal injury to third persons during the term of this Agreement to the extent attributable to the actions of Vendor, its agents, and employees.

29. **NO WAIVER OF SOVEREIGN IMMUNITY.** Nothing herein is intended to waive sovereign immunity by the City to which sovereign immunity may be applicable, or of any rights or limits of liability existing under Florida Statute § 768.28. This term shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until any proceeding brought under this Agreement is barred by any applicable statute of limitations.
30. **NOTICES.** All notices, certifications or communications required by this Agreement shall be given in writing and shall be deemed delivered when personally served, or when received if by facsimile transmission with a confirming copy mailed by registered or certified mail, postage prepaid, return receipt requested. Notices can be concurrently delivered by e-mail. All notices shall be addressed to the respective parties as follows:

If to Vendor:

Sunshine Enterprise USA, L.L.C.
Attention: Sam Faragalla
2759 Meadow Sage Court
Oviedo, Florida 32765
Phone: 407-308-7989
E-mail: raniah@seu-usa.com

If to City of Ocala:

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

Copy to:

Patrick G. Gilligan, Esquire
Gilligan, Gooding, Franjola & Batsel, P.A.
1531 SE 36th Avenue
Ocala, Florida 34471
Phone: 352-867-7707 Fax: 352-867-0237
E-mail: pgilligan@ocalalaw.com

31. **ATTORNEYS' FEES.** If any civil action, arbitration or other legal proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any provision of this Agreement, the successful or prevailing party shall be entitled to recover reasonable attorneys' fees, sales and use taxes, court costs and all expenses reasonably incurred even if not taxable as court costs (including, without limitation, all such fees, taxes, costs and expenses incident to arbitration, appellate, bankruptcy and post-judgment proceedings), incurred in that civil action, arbitration or legal proceeding, in addition to any other relief to which such party or parties may be entitled. Attorneys' fees shall include, without limitation, paralegal fees, investigative fees, administrative costs, sales and use taxes and all other charges reasonably billed by the attorney to the prevailing party.
32. **JURY WAIVER.** IN ANY CIVIL ACTION, COUNTERCLAIM, OR PROCEEDING, WHETHER AT LAW OR IN EQUITY, WHICH ARISES OUT OF, CONCERNS, OR RELATES TO THIS AGREEMENT, ANY AND ALL TRANSACTIONS CONTEMPLATED HEREUNDER, THE PERFORMANCE HEREOF, OR THE RELATIONSHIP CREATED HEREBY, WHETHER SOUNDING IN CONTRACT, TORT, STRICT LIABILITY, OR OTHERWISE, TRIAL SHALL BE TO A COURT OF COMPETENT JURISDICTION AND NOT TO A JURY. EACH PARTY HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY. NEITHER PARTY HAS MADE OR RELIED UPON ANY ORAL REPRESENTATIONS TO OR BY ANY OTHER PARTY REGARDING THE ENFORCEABILITY OF THIS PROVISION. EACH PARTY HAS READ AND UNDERSTANDS THE EFFECT OF THIS JURY WAIVER PROVISION.
33. **GOVERNING LAW.** This Agreement is and shall be deemed to be a contract entered and made pursuant to the laws of the State of Florida and shall in all respects be governed, construed, applied and enforced in accordance with the laws of the State of Florida.
34. **JURISDICTION AND VENUE.** The parties acknowledge that a majority of the negotiations, anticipated performance and execution of this Agreement occurred or shall occur in Marion County, Florida. Any civil action or legal proceeding arising out of or relating to this Agreement shall be brought only in the courts of record of the State of Florida in Marion County or the United States District Court, Middle District of Florida, Ocala Division. Each party consents to the exclusive jurisdiction of such court in any such civil action or legal proceeding and waives any objection to the laying of venue of any such civil action or legal proceeding in such court and/or the right to bring an action or proceeding in any other court. Service of any court paper may

be effected on such party by mail, as provided in this Agreement, or in such other manner as may be provided under applicable laws, rules of procedures or local rules.

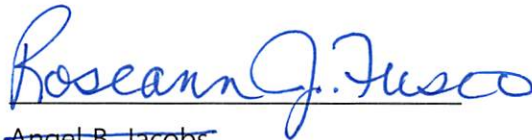
35. **REFERENCE TO PARTIES.** Each reference herein to the parties shall be deemed to include their successors, assigns, heirs, administrators, and legal representatives, all whom shall be bound by the provisions hereof.
36. **MUTUALITY OF NEGOTIATION.** Vendor and City acknowledge that this Agreement is a result of negotiations between Vendor and City, and the Agreement shall not be construed in favor of, or against, either party because of that party having been more involved in the drafting of the Agreement.
37. **SECTION HEADINGS.** The section headings herein are included for convenience only and shall not be deemed to be a part of this Agreement.
38. **RIGHTS OF THIRD PARTIES.** Nothing in this Agreement, whether express or implied, is intended to confer any rights or remedies under or because of this Agreement on any persons other than the parties hereto and their respective legal representatives, successors and permitted assigns. Nothing in this Agreement is intended to relieve or discharge the obligation or liability of any third persons to any party to this Agreement, nor shall any provision give any third persons any right of subrogation or action over or against any party to this Agreement.
39. **AMENDMENT.** No amendment to this Agreement shall be effective except those agreed to in writing and signed by both parties to this Agreement.
40. **COUNTERPARTS.** This Agreement may be executed in counterparts, each of which shall be an original and all of which shall constitute the same instrument.
41. **ELECTRONIC SIGNATURE(S).** Vendor, if and by offering an electronic signature in any form whatsoever, will accept and agree to be bound by said electronic signature to all terms and conditions of this Agreement. Further, a duplicate or copy of the Agreement that contains a duplicated or non-original signature will be treated the same as an original, signed copy of this original Agreement for all purposes.
42. **ENTIRE AGREEMENT.** This Agreement, including exhibits, (if any) constitutes the entire Agreement between the parties hereto with respect to the subject matter hereof. There are no other representations, warranties, promises, agreements or understandings, oral, written or implied, among the Parties, except to the extent reference is made thereto in this Agreement. No course of prior dealings between the parties and no usage of trade shall be relevant or admissible to supplement, explain, or vary any of the terms of this Agreement. No representations, understandings, or agreements have been made or relied upon in the making of this Agreement other than those specifically set forth herein.

43. **LEGAL AUTHORITY.** Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement on the 17th day of March, 2020.

ATTEST:

CITY OF OCALA



~~Angel B. Jacobs~~

~~City Clerk~~

Roseann J. Fusco
Deputy City Clerk

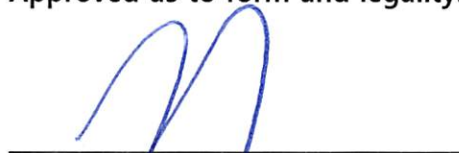


Jay A. Musleh

City Council President

Approved as to form and legality:

SUNSHINE ENTERPRISE USA, LLC



Robert W. Batsel, Jr.

Assistant City Attorney

W. James Gooding III
Assistant City Attorney



Signature of Vice President or Higher

Printed Name of Vice President or Higher



ACCEPTED BY CITY COUNCIL
March 17, 2020
DATE
OFFICE OF THE CITY CLERK

[Faint, illegible handwriting]

W. J. [illegible]
[illegible]

OFFICE OF THE CITY CLERK
[illegible]
[illegible]

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Exhibit A- Scope of Work

Vendor shall be responsible for providing temporary laborers to work with the City of Ocala's Sanitation Department to collect litter manually, using hands and hand-operated tools, on a daily basis in numerous City-owned parks and along City road rights-of-way.

Employment Status of Temporary Laborers:

The term "temporary laborers" shall mean flexible, temporary staff support provided by an agency to meet specific business needs for either short- or long-term assignments. **At all times, temporary laborers provided by Vendor shall be deemed to be employees of Vendor and shall not, in any form or for any purpose, be considered employees of the City of Ocala.**

Description of Work Performed by Temporary Laborers:

1. Temporary laborers shall report to the Sanitation Department Project Manager.
2. Temporary laborers shall be required to comply with all City of Ocala employment policies.
3. Temporary laborers shall not work more than eight (8) hours per day, for a maximum of forty (40) hours per week, without prior authorization from the Sanitation Department Project Manager.
4. Temporary laborers will be expected to collect litter manually, using hands and hand operated tools, on a daily basis in numerous City-owned parks and along City road rights-of-way.
5. The term "litter" shall include any type of debris that is found in the work area including, but not limited to, cigarette butts and tires. Litter must be placed in plastic bags and disposed of into City-owned trash dumpsters.
6. Temporary laborers will be expected to dump garbage from heavy duty plastic or light metal garbage cans located in the work area.
7. Temporary laborers may be expected to walk over rough terrain for prolonged periods of time.
8. Occasionally, temporary laborers will be expected to pick-up and properly dispose of dead animals.
9. All work must be performed regardless of weather conditions, which may be adverse at times. City shall provide protective safety vests for temporary laborers as required.

Exhibit A- Scope of Work

Vendor Responsibilities:

1. Vendor must be able to fulfill the City's request for temporary laborers with next day service.
2. Vendor acknowledges and agrees that all temporary laborers provided by Vendor under this Agreement shall be deemed to be independent and shall not be considered to be employees of the City of Ocala. As such, temporary laborers shall have no claim against the City as to pension, workers compensation, unemployment compensation, insurance, salary, wages, or other employee rights or privileges granted by operation of law or by the City to its officers and employees.
3. Vendor shall be fully responsible for meeting all OSHA, local, state and national codes concerning safety provisions for their employees, sub-contractors, all building and site occupants, staff, public, etc.
4. Vendor must have an established Drug Free Workplace program. Vendor's employees are prohibited from consuming alcohol during working hours, from working under the influence of alcohol or illegal substances, and from smoking while on City-owned property.
5. Vendor understands and acknowledges that working hours for all temporary laborers shall be mutually agreed upon by the Vendor and the Sanitation Department Project Manager prior to the start of each assignment.
6. Vendor understands and acknowledges that all temporary labor services utilized under this Agreement may be terminated at will. City shall notify Vendor in writing or via electronic mail when the services of a temporary laborer are no longer needed or desired.

Vendor Fulfillment of Temporary Labor Requests:

1. After a request is made by the City for a temporary laborer, Vendor will select appropriate candidate(s) from their can pool.
2. Vendor will ensure that any employee referred to the City has completed the Vendor's interview process and passed all required background checks.
3. City reserves the option to require a lengthier interview process which will include the following:
 - a. Vendor shall send resumes of pre-interviewed candidates to the Sanitation Department Project Manager.

Exhibit A- Scope of Work

- b. Sanitation Department Project Manger will identify those candidates that it desires to personally interview for the position.
 - c. Vendor will notify potential candidates of interview selection and schedule appointments for interviews with City personnel.
 - d. City will conduct interviews and notify Vendor of its selection.
 - e. If a suitable candidate is not found, Vendor shall perform additional search with subsequent selections until a proper candidate is found.
 - f. After a candidate is selected by the City, Vendor will perform all required background checks and verifications and provide results to City.
- 4. Vendor will instruct the selected temporary laborer to report to the work site at the location and time specified by the Sanitation Department Project Manager.
 - 5. Labor hours shall be verified via email every Monday for any work completed by a temporary laborer during the prior week.

TITLE	FOR REVIEW AND SIGNATURE: UPDATED--TEMPORARY LABOR SERVICES
FILE NAME	CITY COUNCIL PWD-...ises USA, LLC.pdf
DOCUMENT ID	618c4acaef8b7c5ab7b26e640d8d4c4158dd063c
AUDIT TRAIL DATE FORMAT	MM / DD / YYYY
STATUS	● Completed

Document History



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03 / 23 / 2020

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Sent for signature to Sam Faragalla (Raniah@SEU-USA.com)
from slewis-lake@ocalafl.org
IP: 216.255.240.104



VIEWED

03 / 23 / 2020

15:37:23 UTC-5

Viewed by Sam Faragalla (raniah@seu-usa.com)
IP: 104.136.163.166



SIGNED

03 / 23 / 2020

15:38:33 UTC-5

Signed by Sam Faragalla (raniah@seu-usa.com)
IP: 104.136.163.166



COMPLETED

03 / 23 / 2020

15:38:33 UTC-5

The document has been completed.