

AGREEMENT #2017-06
IRRIGATION MAINTENANCE SERVICES

THIS AGREEMENT ("Agreement") is made and entered into this ____ day of _____, 2017, by and between the CITY OF NORTH PORT, a municipal corporation of the State of Florida, hereinafter referred to as "City" and American Irrigation, LLC, 1050 Innovation Avenue, Unit B110, North Port, 34289, a Florida Limited Liability Company, hereinafter referred to as "Contractor."

WITNESSETH:

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

1. CONTRACTOR'S SERVICES AND TERM

- A. The Contractor agrees to diligently and timely perform services for the City relating to Irrigation Maintenance Services as identified in the Request for Proposal No. 2017-06 and Contractor's proposal submitted December 15, 2016 (the "Project"). The overall Scope of Services is described in Attachment A.
- B. This Agreement shall commence March 1, 2017 upon the execution of this Agreement by both the City and the Contractor and shall remain in effect through February 29, 2020. This Agreement may be renewed for two (2) additional one (1) year terms, subject to the Contractor's satisfactory performance, by mutual agreement and within budgetary limitations, at the same terms and conditions.

2. COMPENSATION AND PAYMENT FOR CONTRACTOR'S SERVICES

A. COMPENSATION

- 1. The Contractor shall receive payments as set forth in the Scope of Services and Fee Schedule (Attachments A and B) as compensation for its services. This compensation shall include all profit, direct and indirect labor costs, personnel related costs, overhead and administrative costs, travel related out-of-pocket expenses and costs, and all other costs which are necessary to provide the services as outlined in this Agreement. The Scope of Services and Fee Schedule (Attachments A and B) are attached hereto and incorporated within.
- 2. The City's performance and obligation to pay under this Agreement are contingent upon an appropriation by the City Commission.

B. METHOD OF PAYMENT

- 1. The City shall pay the Contractor through payment issued by the Finance Department in accordance with the Florida Local Government Prompt Payment Act, Chapter 218, Florida Statutes, upon receipt of the Contractor's invoice and written approval of same by the City's Administrative Agent indicating that services have been rendered in conformity with this Agreement. The Contractor shall submit an invoice for payment to the City for those specific tasks as described in the Scope of Services that were completed during that invoicing period.

2. For those specific services that were partially completed, progress payments shall be paid in proportion to the percentage of completed work on those specific services approved in writing by the City's Administrative Agent based on the percentage of the amount for those specific services.
3. The Contractor's invoices shall be in a form satisfactory to the City of North Port Finance Department, which shall initiate disbursements.

3. LIABILITY OF CONTRACTOR

The Contractor shall be fully liable for the actions of its directors, officers, members, partners, or subcontractors, and the employees and agents of each of them, and shall fully indemnify, defend and hold harmless the City, its commissioners, employees, agents and assigns from all demands, claims, suits, actions, judgments, damages, fines, fees, taxes, assessments, penalties, losses, expenses, costs of every type and description, and reasonable attorneys' fees (at both trial and appellate levels), of any nature or kind whatsoever caused by, or arising out of or related to the performance or breach of this Agreement by the Contractor, its officers, directors, members, partners, or subcontractors, and employees or agents of any of them; provided, however, that the Contractor shall not indemnify for that portion of any loss or damages proximately caused by the negligent act or omission of the City.

To the extent applicable, the Contractor shall fully indemnify, defend and hold harmless the City, and its commissioners, agents, employees and assigns from any demands, claims, suits, actions, judgments, damages, fines, fees, taxes, assessments, penalties, losses, expenses, costs of every type and description, and reasonable attorneys' fees (at both trial and appellate level), arising from or relating to violation or infringement of a trademark, copyright, patent, trade secret or intellectual property right; provided, however, that the foregoing obligation shall not apply to the misuse or modification of the Contractor's products by the City or any of its commissioners, agents, employees, and assigns, or to the operation or use of the Contractor's products by the City or any of its commissioners, agents, employees, and assigns in a manner not contemplated by this Agreement.

In the event of a claim, the City shall promptly notify the Contractor in writing by prepaid certified mail (return receipt requested), or by delivery through any nationally recognized courier service (such as Federal Express or UPS) which provides evidence of delivery, at the address provided in Section 17. Notification may also be provided by fax transmission to the number provided in Section 17, if provided.

The City shall provide all available information and assistance that the Contractor may reasonably require regarding any claim. This agreement for indemnification shall survive termination or completion of this Agreement. The insurance coverage and limits required in this Agreement may or may not be adequate to protect the City and such insurance coverage shall not be deemed a limitation on the Contractor's liability under the indemnity provided in this section. In any proceedings between the parties arising out of or related to this Indemnity provision, the prevailing party shall be reimbursed all costs, expenses and reasonable attorney fees through all proceedings (at both trial and appellate levels).

Nothing in this Agreement shall be deemed to affect the rights, privileges and immunities of the City as set forth in Florida Statutes Section 768.28.

4. CONTRACTOR'S INSURANCE

A. INSURANCE

Before performing any work, the Contractor shall procure and maintain, during the term of this Agreement, the insurance listed below, unless otherwise specified. The policies of insurance shall be primary and written on forms acceptable to the City and placed with insurance carriers approved and licensed by the Insurance Department of the State of Florida and meet a minimum financial AM Best and Company rating of no less than "Excellent." No changes are to be made to these specifications without prior written specific approval by the City Manager or designee. The City Manager or designee may alter the amounts or types of insurance policies required by this Agreement upon agreement with the Contractor.

1. Workers Compensation: Coverage to apply for all employees at the statutory limits provided by state and federal laws. The policy must include Employers' Liability with a limit of \$1,000,000 each accident; \$1,000,000 each employee; and \$1,000,000 policy limit for disease.
2. Comprehensive Commercial General Liability Insurance: Aggregate must apply separately to this Agreement. Minimum \$1,000,000 each occurrence; \$1,000,000 general aggregate; \$1,000,000 products and completed operations; and \$100,000 damage to rented premises.
3. Business Automobile Insurance: To include all vehicles owned, leased, hired and non-owned vehicles with limits of not less than \$1,000,000 per each accident and for property damage and bodily injury, with contractual liability coverage for all work performed under this Agreement.

SPECIAL REQUIREMENTS: Certificates of Insurance evidencing Claims Made or Occurrences form coverage and conditions to this Agreement, as well as this Agreement number and description of work, are to be furnished to the City's Purchasing Office (4970 City Hall Boulevard, Suite 337, North Port, FL 34286) prior to commencement of work AND a minimum of thirty (30) calendar days prior to expiration of the insurance contract when applicable. The Certificate of Insurance issued by the underwriting department of the insurance carrier shall certify compliance with the insurance requirements provided herein. ***Certificates of Insurance must be accompanied by a copy of the additional insured endorsement (CG 20101185 or combination CG20100704 and CG20370704 will be accepted).***

Any and all deductibles to the above-referenced policies are the responsibility of the Contractor. The Contractor's insurance is considered primary for any loss, regardless of any insurance maintained by the City. The Contractor is responsible for all insurance policy premiums, deductibles, SIR (self-insured retentions) or any loss or portion of any loss that is not covered by any available insurance policy.

All insurance policies must be issued by companies of recognized responsibility licensed to do business in Florida and must contain a provision that prohibits cancellation unless the City is provided notice as stated within the policy. It is the Contractor's responsibility to provide notice to the City.

B. WAIVER OF SUBROGATION

All required insurance policies are to be endorsed with a waiver of subrogation. The insurance companies, by proper endorsement or through other means, agree to waive all rights of subrogation against the City, its officers, officials, agents, employees, affiliates and volunteers, and the City's insurance carriers, for losses paid under the terms of these policies that arises from the contractual relationship or work performed by the Contractor for the City. It is the Contractor's responsibility to notify each insurance company of the Waiver of Subrogation and request written authorization or the proper endorsement. Additionally, the Contractor, its officers, officials, agents, employees, volunteers, and any subcontractors, agrees agree to waive all rights of subrogation against the City, its officers, officials, agents, employees, affiliates and volunteers, and the City's insurance carriers for any losses paid, sustained or incurred, but not covered by insurance, that arise from the contractual relationship or work performed. This waiver also applies to any deductibles or self-insured retentions for which the Contractor or its agents may be responsible for.

C. POLICY FORM

1. All policies required by this Agreement, with the exception of Workers Compensation, or unless specific approval is given by Risk Management through the City's Purchasing Office, are to be written on an occurrence basis and shall name the City of North Port, its Commissioners, officers, agents, employees and volunteers as additional insureds as their interests may appear under this Agreement. Insurer(s), with the exception of Workers Compensation, shall agree to waive all rights of subrogation against the City of North Port, its Commissioners, officers, agents, employees or volunteers.
2. Insurance requirements itemized in this Agreement and required of the Contractor, shall be provided by or on behalf of all subcontractors to cover their operations performed under this Agreement. The Contractor shall be held responsible for any modifications, deviations, or omissions in these insurance requirements as they apply to subcontractors.
3. Each insurance policy required by this Agreement shall:
 - Apply separately to each insured against whom claim is made and suit is brought, except with respect to limits of the insurer's liability.
 - Be endorsed to state that coverage shall not be suspended, voided or cancelled by either party except after notice is delivered in accordance with the policy provisions. The Contractor is to notify the City Purchasing Office by written notice via certified mail, return receipt requested.
4. The City shall retain the right to review, at any time, coverage, form, and amount of insurance.
5. **The procuring of required policies of insurance shall not be construed to limit Contractor's liability nor to fulfill the indemnification provisions and requirements of this Agreement. The extent of Contractor's liability for indemnity of the City shall not be limited by insurance coverage or lack thereof, or unreasonably delayed for any reason, including but not limited to, insurance coverage disputes between the Contractor and its carrier.**

6. Claims Made Policies will be accepted for professional liability and hazardous materials and such other risks as are authorized by the City's Purchasing Office. All Claims Made Policies contributing to the satisfaction of the insurance requirements herein shall have an extended reporting period option or automatic coverage of not less than two (2) years. If provided as an option, the Contractor agrees to purchase the extended reporting period on cancellation or termination unless a new policy is affected with a retroactive date, including at least the last policy year.
7. Notices of Accidents (Occurrences) and Notices of Claims associated with work being performed under this Agreement shall be provided to the Contractor's insurance company and the City's Purchasing Office as soon as practicable after notice to the insured.

5. RESPONSIBILITY OF THE CONTRACTOR

- A. The Contractor shall be responsible for the professional quality, technical accuracy, and the coordination of all reports, designs, specifications, other documents and data used or produced by or at the behest of the Contractor under this Agreement. The Contractor shall, without additional compensation, correct or revise any errors or deficiencies in its reports, designs, specifications, other documents and data.
- B. If the Contractor is comprised of more than one legal entity, each entity shall be jointly and severally liable hereunder.
- C. 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, 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 of this Agreement.
- D. Contractor shall perform its services in accordance with generally accepted industry standards and practices customarily utilized by competent Contractor firms in effect at the time Contractor's services are rendered. The Contractor covenants and agrees that it and its employees shall be bound by the Standards of Conduct of Florida Statutes Section 112.313, as it relates to work performed under this Agreement. The Contractor agrees to incorporate the provisions of this paragraph in any subcontract into which it might enter with reference to the work performed.
- E. The Contractor shall comply with all federal, state, and local laws, regulations and ordinances applicable to the work or payment for work thereof, and shall not discriminate on the grounds of race, color, religion, sex, or national origin in the performance of work under this Agreement.
- F. The Contractor shall maintain books, records, documents, and other evidence directly pertaining to or connected with the services under this Agreement which shall be available and accessible at the Contractor's offices for the purpose of inspection, audit, and copying during normal business hours by the City, or any of its authorized representatives. Such records shall be retained for a minimum of three (3) years after completion of the services.
- G. In accordance with Florida Statutes Section 119.0701, Contractor shall comply with all public records laws, and shall specifically:

1. Keep and maintain public records required by the City to perform the service.
 - a. The timeframes and classifications for records retention requirements must be in accordance with the General Records Schedule GS1-SL for State and Local Government Agencies. (See <http://dos.dos.state.fl.us/library-archives/records-management/general-records-schedules/>).
 - b. "Public records" means and includes those items specified in Florida Statutes Section 119.011(12), as amended from time to time, and currently defined as: All documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business with the City. Contractor's records under this Agreement include but are not limited to, supplier/subcontractor invoices and contracts, Project documents, meeting notes, emails and all other documentation generated during this Agreement.
2. Upon request from the City's custodian of public records, provide the City, at no cost, 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 for by law. All records kept electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.
3. Ensure that Project 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, if the Contractor does not transfer the records to City following completion of the contract, for the time period specified in General Records Schedule GS1-SL for State and Local Government Agencies.
4. Upon completion of the contract, transfer, at no cost, to the City all public records in Contractor's possession or keep and maintain public records required by the City to perform the service. If the Contractor transfers all public records to the City upon completion of the contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon the completion of the contract, the Contractor shall meet all applicable requirements for retaining public records.
5. IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT CUSTODIAN OF PUBLIC RECORDS, 4970 CITY HALL BOULEVARD, NORTH PORT, FLORIDA 34286, (941) 429-7056 OR HOTLINE 429-7270; EMAIL padkins@cityofnorthport.com.

6. Failure of the Contractor to comply with these requirements shall be a material breach of this Agreement. Further, the Contractor may be subject to penalties under Florida Statutes Section 119.10.

6. TIMELY PERFORMANCE OF CONTRACTOR'S PERSONNEL

The timely performance and completion of the required services is vitally important to the interest of the City. The Contractor shall assign a Project Manager, together with such other personnel as are necessary, to assure faithful prosecution and timely delivery of services pursuant to the requirements of this Agreement. The personnel assigned by the Contractor to perform the services of this Agreement shall comply with the information presented in the professional services response proposal made a part hereof by reference. The Contractor shall ensure that all key personnel, support personnel, and other agents are fully qualified and capable to perform their assigned tasks. Any change or substitution to the Contractor's key personnel must receive the City's Administrative Agent's written approval before said changes or substitution can become effective.

- A. The services to be rendered by the Contractor shall commence within one (1) week of the Contractor's receipt of written Notice to Proceed from the City.
- B. The Contractor specifically agrees that all work performed under the terms and conditions of this Agreement shall be completed within the time limits as set forth, subject only to delays caused through no fault of the Contractor or the City.
- C. The Contractor agrees to provide to the City's Administrative Agent, weekly written progress reports concerning the status of the work. The City's Administrative Agent may determine the format for this progress report. The City shall be entitled at all times to be advised at its request, and in writing, as to the status of work to be performed by the Contractor.
- D. In the event unreasonable delays occur on the part of the City or regulatory agencies as to the approval of any plans, permits, reports or other documents submitted by the Contractor which delay the Project Schedule completion date, the City shall not unreasonably withhold the granting of an extension of the Project Schedule time limitation equal to the aforementioned delay.

7. OBLIGATIONS OF CITY

- A. The City's Administrative Agent is designated to serve as project coordinator and to do all things necessary to properly administer the terms and conditions of this Agreement. If necessary, a specific program manager will be authorized to perform the responsibilities of the City's Administrative Agent. The City shall designate any specific program manager in the Notice to Proceed. The responsibility of the City's Administrative Agent shall include:
 1. Examination of all reports, sketches, drawings, estimates, proposals, and other documents presented by the Contractor, and render in writing, decisions pertaining thereto within a reasonable time.
 2. Transmission of instructions, receipt of information, interpretation and definition of City policies and decisions with respect to design, materials, and other matters pertinent to the work covered by this Agreement.

3. Review for approval or rejection all of the Contractor's documents and payment requests.
- B. The City shall, upon request, furnish the Contractor with all existing data, plans, studies and other information in the City's possession which may be useful in connection with the work of the Project, all of which shall be and remain the property of the City and shall be returned to the City's Administrative Agent upon completion of the services to be performed by the Contractor.
- C. The City's Administrative Agent shall conduct periodic reviews of the work of the Contractor necessary for the completion of the Contractor's services during the period of this Agreement, and may make other City personnel available, where required and necessary to assist the Contractor. The availability and necessity of said personnel to assist the Contractor shall be determined solely within the discretion of the City. The City's technical obligations to the Project, if any, are stated in Letters of Interest and Work Authorizations.
- D. The City shall not provide any services to the Contractor in connection with any claim brought on behalf of or against the Contractor.

8. TERMINATION

- A. The City Manager or designee shall have the right at any time upon thirty (30) calendar days' written notice to the Contractor to terminate the services of the Contractor and, in that event, the Contractor shall cease work and shall deliver to the City all documents (including but not limited to reports, designs, specifications, and all other data) prepared or obtained by the Contractor in connection with its services. The City shall, upon receipt of the aforesaid documents, pay to the Contractor and the Contractor shall accept as full payment for its services, a sum of money equal to: (1) the fee for each completed and accepted task as shown in Attachment A – Scope of Services and Attachment B – Fee Schedule, plus (2) the percentage of the work completed in any commenced but uncompleted task, less (3) all previous payments in accordance with Section 2 and any amounts withheld by the City to settle claims against or to pay indebtedness of the Contractor in accordance with the provisions of this Agreement.
- B. FUNDING IN SUBSEQUENT FISCAL YEARS: It is expressly understood by the City and the Contractor that funding for any subsequent fiscal year of this Agreement is contingent upon appropriation of monies by the City Commissioners, and the continuing receipt of state or federal grant funding, if applicable. In the event that funds are not available or appropriated, the City reserves the right to terminate this Agreement. The City will be responsible for payment of any outstanding invoices and work completed by the Contractor prior to such termination.
- C. In the event that the Contractor has abandoned performance under this Agreement, then the City Manager or designee may terminate this Agreement upon three (3) calendar days' written notice to the Contractor indicating its intention to do so. The written notice shall state the evidence indicating the Contractor's abandonment.
- D. The Contractor shall have the right to terminate services only in the event of the City failing to pay the Contractor's properly documented and submitted invoice within ninety (90) calendar days of the approval by the City's Administrative Agent.

- E. The City Manager or designee reserves the right to terminate and cancel this Agreement in the event the Contractor shall be placed in either voluntary or involuntary bankruptcy, a receiver is appointed for the Contractor or an assignment is made for the benefit of creditors.
- F. In the event Contractor breaches this Agreement, the City shall provide written notice of the breach and Contractor shall have ten (10) days from the date the notice is received to cure. If Contractor fails to cure within the ten (10) days, the City Manager or designee shall have the right to immediately terminate this Agreement and/or refuse to make any additional payment, in whole or in part, and, if necessary, may demand the return of a portion or the entire amount previously paid to Contractor due to:
 - 1. The quality of a portion or all of the Contractor's work not being in accordance with the requirements of this Agreement;
 - 2. The quantity of the Contractor's work not being as represented in the Contractor's Payment Request, or otherwise;
 - 3. The Contractor's rate of progress being such that, in the City's opinion, substantial or final completion, or both, may be inexcusably delayed;
 - 4. The Contractor's failure to use Agreement funds, previously paid the Contractor by the City, to pay Contractor's Agreement related obligations including, but not limited to, subcontractors, laborers and material and equipment suppliers;
 - 5. Claims made, or likely to be made, against the City or its property;
 - 6. Loss caused by the Contractor;
 - 7. The Contractor's failure or refusal to perform any of the obligations to the City, after written notice and a reasonable opportunity to cure as set forth above.

In the event that the City makes written demand upon the Contractor for amounts previously paid by the City as contemplated in the clause, the Contractor shall promptly comply with such demand. The City's rights hereunder survive the term of this Agreement, and are not waived by final payment and/or acceptance.

9. INDEPENDENT CONTRACTOR

The Contractor is, and shall be, in the performance of all work services and activities under this Agreement, an independent contractor, and not an employee, agent or servant of the City. All persons engaged in any of the work or services performed pursuant to this Agreement shall at all times, and in all places, be subject to the Contractor's sole direction, supervision, and control. The Contractor shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the Contractor's relationship and the relationship of its employees to the City shall be that of an independent contractor and not as employees or agents of the City. The Contractor does not have the power or authority to bind the City in any promise, agreement or representation other than as specifically provided for in this Agreement. The Contractor shall not pledge the City's credit or make it a guarantor of payment of surety for any contract, debt, obligation, judgment, lien or any form of indebtedness. The Contractor further

warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Agreement.

10. ENTIRE AGREEMENT

This Agreement constitutes the sole and complete understanding between the parties and supersedes all agreements between them, whether oral or written with respect to the subject matter.

11. AMENDMENT

No amendment, change or addendum to this Agreement is enforceable unless agreed to in writing by both parties and incorporated into this Agreement. For any increase in the compensation for the services, the City Commissioners for the City and the duly authorized representative for the Contractor shall agree in writing to this change. For all other changes, the City's Administrative Agent and the Contractor's representative shall agree in writing to the change.

12. ASSIGNMENT

The Contractor shall not assign any interest in this Agreement and shall not transfer any interest in same (whether by assignment or novation) without prior written consent of the City Manager or designee, except that claims for the money due or to become due the Contractor from the City under this Agreement may be assigned to a financial institution or to a trustee in bankruptcy without such approval from the City. Notice of any such transfer or assignment due to bankruptcy shall be promptly given to the City.

13. WAIVER

The exercise by either party of any rights or remedies provided herein shall not constitute a waiver of any other rights or remedies available under this Agreement or any applicable law.

14. GOVERNING LAW, VENUE AND SEVERABILITY

The rights, obligations and remedies of the parties under this Agreement shall be governed by the laws of the State of Florida and the exclusive venue for any legal or judicial proceedings in connection with the enforcement or interpretation of this Agreement shall be in Sarasota County, Florida. If any term, condition or covenant of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions of this Agreement shall be valid and binding on each party.

15. AUTHORITY

The parties covenant and agree that each is duly authorized to enter into and perform this Agreement and those executing this Agreement have all requisite power and authority to bind the parties.

16. NO HIRE

The Contractor shall not hire any City employee associated with the Project during the term of this Agreement and for a period of one (1) year after this Agreement terminates.

17. NOTICES

Any notices, invoices, reports, or any other type of documentation required by this Agreement shall be sent by certified mail, return receipt requested, or via a recognized national courier service in a manner that provides for written or electronic record of delivery, to the addresses listed below:

CONTRACTOR'S REPRESENTATIVE:

Jeremy Hampson
Managing Member
American Irrigation, LLC.
4366 Shorewood Street
North Port, FL 34286
TEL 941.587.2027
FAX 941.240.0155
EMAIL: info@americanirrigationfl.com

CITY'S ADMINISTRATIVE AGENT:

Operations Manager
City of North Port, Public Works
1100 N. Chamberlain Blvd
North Port, FL 34286
TEL 941.240-8079
FAX 941.240.8063
EMAIL: rstlouis@cityofnorthport.com

A party may change its address by providing written notice to the other party.

18. PARAGRAPH HEADINGS

Paragraph headings are for the convenience of the parties and for reference purposes only and shall be given no legal effect.

19. ATTORNEYS' FEES

In any proceedings between the parties arising out of or related to this Agreement, the prevailing party shall be reimbursed all costs, expenses and reasonable attorney fees through all proceedings (at both trial and appellate levels).

20. CONFLICTS

In the event of any conflict between the provisions of this Agreement and RFP No. 2017-06 or the Contractor's response, which are made a part hereof by reference, this Agreement shall control.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

ATTEST:

CITY OF NORTH PORT, FLORIDA

By: _____
Patsy C. Adkins, City Clerk, MMC

By: _____
Jonathan R. Lewis, City Manager, ICMA-CM

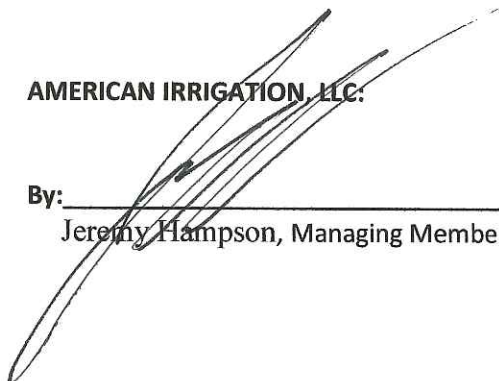
APPROVED AS TO FORM AND CORRECTNESS:

By: _____
Mark Moriarty, City Attorney

WITNESS:

AMERICAN IRRIGATION, LLC:

By:  _____

By:  _____
Jeremy Hampson, Managing Member

ATTACHMENT A – SCOPE OF SERVICES

SCOPE OF SERVICES: The scope of work is a general guide to the work the City expects to be performed by the Contractor, and is not a complete listing of all services that may be required or desired. All work must be in accordance with the Specifications and generally accepted practices for operating, adjusting and maintaining Irrigation Systems.

The Contractor must provide all labor, equipment, and materials necessary to program, test, monitor, maintain and repair existing Irrigation Systems at locations identified by the City. It is the Contractor's responsibility to complete all specified work as required to meet scheduled activities. It is also the Contractor's responsibility to maintain a database of all as-built irrigation plans and to review street opening requests to identify conflicts with existing water and electrical lines associated with the irrigations systems. Review of street opening requests must be responded to within 24 hours. Please note that all replacement equipment and materials are to be new. Recycled and previously used equipment and materials will not be allowed.

Irrigation Maintenance

- The Contractor is responsible for monitoring each irrigation system, adjusting timers, moisture sensors, rain gauges and all associated mechanisms to insure that proper water quantities are applied, at the best duration and time of day for each plant group.
- Necessary repairs to all appropriate landscape irrigation systems shall be performed. Irrigation systems shall be maintained in satisfactory operating condition to provide adequate coverage to all turf and plant bed areas. Wells, pumps, and any other supporting equipment shall be considered part of the irrigation system.
- Labor, tools, equipment, parts and supplies necessary to repair or maintain the system in the required working order shall be provided. Irrigation systems shall be inspected on a weekly basis to ensure proper functioning of time clocks, valves, heads, and including all filters and backflow valves. The City shall be informed of all problems and repairs in a timely fashion.
- All repairs shall be made with the same or equal quality new parts. Head nozzles shall be selected to ensure maximum efficiency of the system and full coverage potential of each head.
- Monthly inspection –the Contractor shall physically inspect the operation of all systems on a monthly basis while the system is in operation. The Contractor shall maintain all sprinkler systems in such a way as to guarantee proper coverage and full working capability, and make whatever adjustments necessary to prevent excessive overspray/runoff into street right-of-ways or other areas not intended to receive irrigation overspray/runoff.
- Contractor is responsible for maintenance of all wells and pumps supplying water to any irrigation systems.
- Contractor shall clean and adjust any spray nozzles, heads and/or bubblers that have an erratic spray. Any dirt/silt and debris shall be removed, cleaned & reset.
- The irrigation Contractor will work directly with the Landscape Contractor to determine the correct system setting based upon current and seasonal weather conditions.
- Maintenance shall include but not be limited to:
 1. Testing all zones. Verify each flushing valve operation. Clean each filter and each circuit.
 2. Clean clogged water lines and outlets, and spray nozzles, heads and/or bubblers and filters.
 3. Test entire system for overall performance.
 4. Observe for visual evidence of water leaks.

5. Make necessary adjustments. Including head, valve, and controller adjustments.
 6. Replace any and all batteries as frequently as necessary.
 7. Shut down power supply to irrigation controllers if damaged. Power must be terminated within one (1) hour of notification during normal working hours and a maximum of two (2) hours during all other times.
- Drip Irrigation Systems shall be flushed at least once a year. Open ends of drip lines and run for at least 15 minutes at full flow to flush. It may be necessary to install flush outlets in order to flush the drip system.

General

- Contractor will have an office or yard located within a one (1) hour response time to all job sites.
- Response time to outstanding issues brought up by the City or emergencies shall be within one (1) hour during normal working hours and a maximum of two (2) hours during all other times.
- Contractor shall provide a 24-hour contact phone number that will be answered at all times.
- Complaints or deficiencies shall be addressed within 24 hours after notification. Deficiencies include irrigation leaks or similar conditions not generally acceptable for proper irrigation maintenance.
- Any damages to public or private property resulting from excessive irrigation water or irrigation water runoff shall be charged against the Contractor's payment unless immediate repairs are made by the Contractor to the satisfaction of the Contract Administrator.
- Any areas identified by the City of North Port during the pre-proposal meeting, verbally or by map, shall be included.
- Sufficient personnel shall be provided to accomplish work within the scheduled allotted time frames.
- All field personnel shall wear standard uniform with company identification.
- All licenses, permits and certifications are required to be provided to the Contract Administrator prior to award of contract and whenever updated during the contract period, without additional expense to the City. Such licenses, permits, and certifications shall be maintained for the term of the contract.
- All maintenance work shall be accomplished between the hours of 7 am and 7 pm, Monday through Friday. No maintenance functions that generate excessive noise, which would cause annoyance to residents of any area, shall be commenced before 8 am. The City may grant, on an individual basis, permission to perform maintenance at other hours.
- Integral to this contract is the review of street opening requests for any conflicts to existing irrigation electrical and water supply lines. The contractor will maintain the as-built irrigation library as a reference, making adjustments to the data as changes are made or more accurate information becomes available. The Contractor will recommend to the Contract Administrator when the City's utility location vendor is needed as well as when the street opening request poses no concern. If the City receives requests for street openings, the Contractor may be asked to review these requests for conflicts with existing water and electric supply lines. Requests may be e-mailed and the Contractor is expected to respond within twenty-four (24) hours.

Submittals

- A list of all supervisory staff (including cell telephone numbers) responsible for work to be performed shall be provided to the City.

- A weekly maintenance schedule shall be e-mailed or delivered to the City by 5 pm Friday of the previous week, indicating the time frames when items of work shall be accomplished per the performance requirements and to further delineate the week's work.
- A weekly completed performance sheet and inspection checklist report (to include but no be limited to, controller location, address, site inspections, and repairs made) shall be e-mailed or delivered to the Contract Administrator or designee by 8 am every Monday morning.

Vehicles and Equipment

- All vehicles and equipment shall be neat in appearance and easily identified.
- Identification on vehicles shall consist of at a minimum, company name, local telephone number, and services provided in print no less than eight (8) eight inches tall.
- Vehicles and equipment shall be maintained in safe and mechanically sound condition.
- All necessary equipment, tools and supplies to properly perform irrigation services shall be provided.

Locations

- Location 1, L-1, is the median strips and rights-of-way located on Sumter Boulevard from just south of Sylvania Avenue, south to U.S. 41.
- Location 2, L-2, is the median strips and rights-of-way located on Toledo Blade Boulevard from just south of I-75 (N Cranberry Boulevard and Plantation Boulevard) south to Hillsborough.
- Location 3, L-3, is the median strips on Biscayne Drive from Elyton Drive to the Myakkahatchee Creek (under design/construction with anticipated completion by Summer 2017). This location also includes the eastern side of the Biscayne right of way from East Hyde Park Avenue to East Sydney Avenue
- It is highly recommended that the areas be reviewed in person before submitting.

Compensation

- Payment shall be monthly, based on work completed.
- All invoices for work performed under this contract shall be submitted in a format approved by the Contract Administrator or designee.
- Invoices shall include the Contractor's invoice number, dates of service, location with line item cost, wholesale material cost, and total.
- Parts costs shall be the actual cost paid by the contractor reflecting the best price, including discounts available. Receipts shall be required for reimbursements.
- Additional maintenance may be added to this contract based on monthly price per location and additional repairs based on contract rates.

Price Adjustment (Capped Rate): The Contractor must furnish a guarantee for the Irrigation System Maintenance and Repair Service provided under this contract in accordance with the standard guarantee regularly supplied. At a minimum, the Contractor hereby guarantees for a period of one (1) year from the date of a repair, that it will, at its own expense and without any cost to the City, replace all defective parts and make any repairs that may be required or made necessary by reason of defective design, material or workmanship, or by reason of non-compliance with these specifications. The guarantee period will commence on the first day after the repair is made by the Contractor. If a longer guarantee can be

furnished, at no additional cost to the City, the longer period will prevail.

Guarantee: The Contractor must furnish a guarantee for the Irrigation System Maintenance and Repair Service provided under this contract in accordance with the standard guarantee regularly supplied. At a minimum, the Contractor hereby guarantees for a period of one (1) year from the date of a repair, that it will, at its own expense and without any cost to the City, replace all defective parts and make any repairs that may be required or made necessary by reason of defective design, material or workmanship, or by reason of non-compliance with these specifications. The guarantee period will commence on the first day after the repair is made by the Contractor. If a longer guarantee can be furnished, at no additional cost to the City, the longer period will prevail.

REFERENCES/CLIENT LISTING: The City will only entertain proposals from proposers with a minimum of three years' experience in projects of similar scope and size. Additionally, Proposers shall submit a commercial client listing, with at least five accounts, detailing the longevity of the accounts and disclosing the contact name and phone number for each account, project description, and area included in "Scope of Work". The City reserves the right to make contact with any or all of the clients to acquire a reference; however, the Proposer is encouraged to submit written recommendations from his client(s).

FAILURE TO PERFORM: Failure to perform as described, or not complete all activities as required and as provided herein, shall be just cause for the assessment of damages, as described below, and such damages shall be considered, not as a penalty, but as liquidation of damages sustained. In the event all of the required work is not completed as actually reflected in the invoice when the frequency requires, corrections of all discrepancies shall be performed between the hours of 7:00 AM and 7:00 PM the following work day. These corrections shall be completely performed in accordance with the specification requirements. Failure to appear and perform the required duties without the advance approval of the City shall result in the deduction of the total cost of the service from the invoice. These charges are intended to act as an incentive to perform in full compliance with the specifications. Deductions shall be applied in accordance with the cost proposal form "prices." A full deduction "price" shall be levied each time services are not performed in full accordance with work specifications. Such deductions will continue until said work is properly performed or the contract is cancelled. Acknowledgment and agreement is given by both parties that the amount herein above set is not intended to be, nor shall be deemed to be, in the nature of a penalty.

END OF ATTACHMENT A

**ATTACHMENT B – FEE SCHEDULE
(PRICES SUBMITTED AS SCHEDULE A – COST PROPOSAL)**

MONTHLY MAINTENANCE

Code	Location	Quantity	Unit of measure	Unit Price	Extended Total Price
L-1	Sumter Blvd.	12	Month	\$1,590.00	\$ 19,080.00
L-2	Toledo Blade Blvd.	12	Month	\$ 925.00	\$11,100.00
L-3	Biscayne	12	Month	\$675.00	\$8,100.00
Total Amount (Lines 1 through 3)					\$ 38,280.00

REPAIRS: PART AND LABOR

REPAIR	Labor Rate per Hour
	Regular Hours \$60.00 per man hour
	After Hours (including weekends) \$100.00 per man hour
PARTS	Part cost will be reimbursed at cost plus 10% for material handling. The City reserves the right to request a copy of the original part invoice.

***Note: Due to construction, services for L-3 Biscayne Drive in the first year of the agreement are not expected to commence until June 1, 2017. Normal services as indicated above will resume thereafter.**

END OF ATTACHMENT B