



INVITATION TO QUOTE/REQUEST FOR PROPOSALS NOTICE
HVAC SERVICES
Instructions to Proposers

I. Introduction

City Park Conservancy (CPC) is issuing an Invitation to Quote/Request for Proposals for **Inspections, Maintenance and Repairs of Heating, Ventilation, Air Conditioning (HVAC) systems for Various City Park Buildings and Facilities**. CPC is a 501(c)3 non-profit corporation that manages and oversees the day-to-day operations of New Orleans City Park ("City Park") a 1300-acre public park in New Orleans, Louisiana, founded 170 years ago.

CPC is soliciting quotes/proposals for a three-year Master Services Contract for Inspections, Maintenance and Repairs of Heating, Ventilation, Air Conditioning (HVAC) systems for various buildings and facilities within City Park. City Park anticipates awarding multiple Master Services Contracts and may award more than one service provider.

For questions regarding this solicitation, please contact Courtney Charbonnet, Manager of Purchasing & Contract Services (ccharbonnet@nocp.org).

II. Timeline

Solicitation Release: 03/01/2024
Questions Deadline: 03/11/2024
Responses to Questions Sent: 03/15/2024
Proposals Due: 03/20/2024
Anticipated Project Award: 03/22/2024

III. Response

Proposers must include in their Responses all requested information in the Proposal Specifications. Responding to this Invitation does not guarantee work or a contract. CPC will award the contract in its sole discretion. All Responses are due by **12:00pm CST on March 20, 2024** and may be submitted in any of the methods listed below. All provisions in this Invitation become binding on the selected Contractor(s) and will be made part of the Master Services Agreement.

Email: ccharbonnet@nocp.org

Hand Delivery: Responses should be presented in a sealed envelope with the project name listed. If delivering by hand, provide a flash drive with an electronic copy.

IV. Contract

The selected respondent will enter into a MASTER SERVICES AGREEMENT with City Park Conservancy, a draft of which is included in the RFP Documents.

ATTACHMENT A
PROPOSAL SPECIFICATIONS

1. Proposers should submit responses to this Invitation to Quote to Courtney Charbonnet, Manager of Purchasing & Contract Services, electronically (ccharbonnet@nocp.org) or in person at 1 Palm Drive, New Orleans on or before March 20, 2024 City Park Conservancy is soliciting quotes/proposals to obtain a three-year Master Services Agreement for Inspections, Maintenance and Repairs of Heating, Ventilation, Air Conditioning (HVAC) systems for various buildings and facilities within City Park (facility list attached).
2. City Park Conservancy anticipates selecting more than one service provider and will select providers in its sole discretion.
3. Proposers acknowledge that even upon entering into a Master Services Agreement, selected Contractors must still provide invoices for work performed and receive an approved Purchase Order from City Park Conservancy to receive payment.
4. Proposers may elect to request a site visit of buildings and facilities prior to submitting a proposal. Any such request shall be sent to Courtney Charbonnet, Manager of Purchasing & Contract Service, electronically (ccharbonnet@nocp.org). If scheduling site visits necessitates extending the response time, we will advise proposers.

Requirements:

1. Proposers must have a minimum of ten (10) years prior experience with commercial HVAC systems inspection, maintenance, and repair.
2. Proposers must have demonstrated ability to receive and respond to emergency repair requests and should provide an expected or standard response time in their proposal.
3. If certain equipment requires specific training or certification, proposer agrees to maintain technician certifications or subcontract certified technicians as necessary.
4. All work shall be performed by and under the supervision of skilled experienced personnel that have the appropriate licenses for the work being performed and must be directly employed/subcontracted and supervised by the selected Contractor(s).
5. All maintenance and repairs shall be completed to the engineered specifications and to the latest federal, state or local standards and shall meet highest industry standards.
6. Selected Contractor(s) will not perform any repairs beyond the scope of work requested by City Park Conservancy unless prior written approval is provided. Email or text approval shall suffice if the scope change is less than 10 percent of the total cost of the scope of work.



Repair Services:

1. If services are requested during the Contract Term, selected Contractor(s) shall provide an estimate for all work based on the rates established in this proposal, including an itemized listing of:
 - a. All labor costs
 - b. All replacement part costs
 - c. Availability or time lead for replacement parts
 - d. Timeline for completion for services rendered

Estimates must then be approved in writing by the City Park Conservancy designee prior to the start of work. Invoices for repair work must include estimated labor hours spent on the repair plus parts and equipment.

2. Selected Contractor(s) are expected to respond to a request for a repair within forty-eight (48) hours. Response does not include providing a full repair estimate, but rather a returned phone call or email.

Emergency Repair Service:

1. Selected Contractor(s) shall be available to receive and respond to emergency repair service requests seven (7) days a week, including holidays. Selected Contractor(s) is expected to respond to a request for an emergency repair within one (1) hour of notification by City Park Conservancy. City Park Conservancy will determine emergency status and will specify in the request for service that it is an emergency repair. City Park Conservancy Reserves the right to request emergency services from all vendors and preference will be given to the vendor who can provide the fastest response and activation time. Emergency repair work must begin within 24 hours of notification by City Park.

Replacement Parts and Equipment:

1. Replacement parts and equipment shall be fully prepared in accordance with industry standards and guidelines to be ready for operation after installation.
2. All replacement parts and equipment shall be OEM or an approved comparable that meets engineered specification to minimize depreciation and in order to protect the integrity of the system.
3. Any proposed substitutions must be made to City Park Conservancy's representative and approved prior to use.
4. All replacement parts and equipment shall be new and in working condition. Used, demonstration, rebuilt, or remanufactured parts and equipment shall be acceptable only if the parts include a warranty.

5. To support charges for replacement parts and equipment, the selected Contractor(s) shall provide City Park Conservancy valid copies of vendor invoices. If invoices are not available for materials from the Contractor stocks or equipment owned by the Contractor, the Contractor shall certify actual costs (at a reasonable level).
6. City Park Conservancy reserves the right to provide replacement parts and equipment. In this case, the Contractor will receive no payment for any costs, overhead, or profit arising from the value of the materials themselves.

Parts Availability:

1. There shall be no shipping or freight charges for any in stock parts.
2. Delivery of non-stocked parts shall be as soon as possible.
3. Rush or overnight delivery may incur shipping or freight charges, at cost. Rush or overnight delivery charges must be pre-approved by City Park Conservancy's authorized representative.

Work Schedule:

1. Normal Working hours of City Park facilities will be provided to selected Contractor(s).
2. Access to buildings and schedules for scheduled inspection and maintenance shall be coordinated in advance.
3. Supplies and Equipment:
 1. The Contractor shall furnish:
 - All labor, equipment, supplies, and materials(unless materials provided by CPC).
 - All required safety equipment and fall protection equipment for all staff in compliance with all applicable health and safety regulations.
 - All lifts, heavy equipment and/or scaffolding required for the performance of the work.
 2. The Contractor shall be responsible for the security of its equipment and material on site. City Park Conservancy will not take any responsibility for missing or damaged equipment, tools, or personal belongings.

Safety:

1. The Contractor must ensure all work is performed in accordance with all local, state, and federal laws, rules, and regulations, including OSHA safety regulations.
2. City Park Conservancy reserves the right to request the removal from the work site any supplies and/or equipment that does not meet City Park Conservancy's standards and regulations. In addition, City Park Conservancy may request the halt of any unsafe

practices observed in carrying out the contracted service. This will in no way relieve the Contractor of complying with the contract requirements.

- 3. The Contractor will make their safety plan available to City Park Conservancy upon request.

Contractor's Employees:

- 1. Contractor personnel shall have company identification with them at all times while on City Park property.
- 2. Contractor personnel shall not use any City Park Conservancy equipment or supplies without the express permission of City Park Conservancy.
- 3. Contractor personnel shall not smoke within 25 feet of any building.
- 4. Contractor personnel shall not be present on City Park property while under the influence of drugs or alcohol or any substance which affect or could affect judgment, performance, or safety.
- 5. Contractor personnel shall adhere to the City Park Contractor Conduct Requirements attached hereto.

Proposal Specifications (including all acknowledgements contained herein):

- 1. Acknowledge that bid prices do not include sales tax for materials purchases, as City Park Conservancy will provide a Contractor Sales Tax Exemption Certificate.

_____ Initials

- 2. Acknowledge Net 30 payment terms:

_____ Initials



3. Provide 3 references for similar services (below or note attached):

4. Rates:

<u>Repair Rates:</u>		
<u>*Information provided in response can be supplemented by type of worker as needed</u>		
<u>Item</u>	<u>Description</u>	<u>Hourly Rate</u>
1	Regular Working Hours Labor Rate	
Indicate Regular Working Hours:		
2		
3		
4	Holiday Working Hours Labor Rate	
5	Emergency Repair Labor Rate	
<u>Repair Parts and Equipment</u>		
<u>Item</u>	<u>Description</u>	<u>Percent % Markup</u>
6	This cost shall be the verifiable vendor cost plus the percentage (%) markup by the vendor.	
Business Name:		
Print Name & Title:		
Authorized Signature:		
Date:		

➤ Include corporate board resolution establishing authority to sign contracts, if needed.

5. Proposals will be formally accepted and executed via standard CITY PARK CONSERVANCY CONTRACTOR AGREEMENT. See attached sample contract.



CITY PARK CONSERVANCY CONTRACTOR AGREEMENT

This Agreement is made and entered into by and between the City Park Conservancy (hereinafter referred to as the "CITY PARK") and **XXXX** located at XXXXX, hereinafter referred to as the "CONTRACTOR."

SCOPE OF WORK: The CONTRACTOR will provide all services, staff, and materials necessary or incidental to the performance of the "Work," which is defined herein as XXXXXX, as set forth in the Scope of Work and Proposal attached as **Exhibit A**.

CONTRACT MANAGERS: The Contract Manager for each of the parties shall be the contact person for all communications and billings regarding the performance of the Agreement. The Contract Manager for City Park is XXXX and the Contract Manager for the CONTRACTOR is XXXXXX.

TERM: This Agreement shall commence on XXX and shall expire on XXX (the "Initial Term"), unless terminated as allowed by this Agreement. This Agreement may be extended beyond the Initial Term only by written agreement signed by both parties prior to the expiration of the Initial Term. Commencement of the Work is contingent upon Contractor providing City Park with a W9 and Certificate of Insurance compliant with this Agreement.

COMPENSATION: The Total Compensation payable to the CONTRACTOR for acceptable performance of the Work under this Agreement shall not to exceed XXXX and as set forth in Exhibit A. Pricing includes all material, installation, tax, freight, transition strips, complete manufacturer's warranties and a 12-month installation warranty.

TERMS AND CONDITIONS: The Contractor Agreement General Terms and Conditions ("Terms and Conditions") attached hereto are hereby incorporated into this Agreement for all purposes, and CONTRACTOR agrees to be bound by the General Terms and Conditions. The Agreement, its exhibits and the Terms and Conditions form the entire agreement of the parties herein to the exclusion of any other documents that are mutually agreed upon. By its execution and/or acceptance of this Agreement, CONTRACTOR unconditionally and irrevocably accepts these Terms and Conditions, which shall not be waived, modified or amended without the express written consent of City Park. Terms and conditions contained within any other document or agreement issued by CONTRACTOR, whether conflicting with the Terms and Conditions hereof or not, shall be of no force and effect. Any documents that CONTRACTOR may use including, but not limited to, purchase orders or sales acknowledgement forms shall be deemed to be for the administrative convenience of CONTRACTOR only, and not binding on City Park.

CONTRACTOR AGREES THAT IT HAS FULLY READ AND UNDERSTAND THIS AGREEMENT, THE TERMS AND CONDITIONS AND ANY EXHIBITS, AND THAT IT HAS ENTERED INTO THIS AGREEMENT FREELY AFTER HAVING CONSULTED WITH PROFESSIONALS OF ITS CHOICE.

CONTRACTOR: _____ EIN: _____

ADDRESS, CITY, STATE, ZIP: _____

NAME OF CONTRACTOR AGENT: _____ TITLE: _____

CONTRACTOR AGENT SIGNATURE: _____ DATE: _____

SIGNATURE OF CITY PARK: _____ DATE: _____



CONTRACTOR AGREEMENT GENERAL TERMS AND CONDITIONS

Unless otherwise agreed to in writing by City Park ("CITY PARK"), these General Terms and Conditions shall apply to all Contractor Agreements in addition to any terms and conditions set forth in any Exhibits to such Contractor Agreements. Any defined terms used herein shall have the meanings ascribed thereto in these General Terms and Conditions. In the event there is conflict between these General Terms and Conditions and any Exhibits to the Contractor Agreement, the terms set forth in any such Exhibits shall govern.

A. TERMINATION—City Park shall have the right to terminate this Agreement with or without cause at any time upon not less than fifteen (15) days written notice to the CONTRACTOR, which notice shall specify the date upon which the Agreement shall terminate (the "Termination Date"). In the event City Park terminates the Agreement pursuant to this Paragraph A, the CONTRACTOR will be paid for the reasonable value of the Work performed prior to the termination, which shall not include profit. In the event that CONTRACTOR does not complete the Work under this Agreement or abandons the Work before it is completed, CONTRACTOR agrees to pay City Park for any and all costs and damages occasioned thereby.

B. BILLING PROCEDURES AND PAYMENT—City Park will pay the CONTRACTOR upon its acceptance of the Work, which City Park decides in its sole discretion, and receipt of properly completed invoices, which shall be submitted in accordance with Exhibit A and/or as follows:

All invoices shall describe and document, to City Park's satisfaction, the Work performed by the CONTRACTOR, the progress of the Work, if applicable, and the CONTRACTOR's fee.

The CONTRACTOR shall not receive reimbursement for travel and other expenses unless authorized in advance by City Park, or as set forth in Exhibit A.

City Park may, in its sole discretion, terminate the Agreement and/or withhold payments claimed by the CONTRACTOR for services rendered if the CONTRACTOR fails to comply with any term or condition of this Agreement. City Park may also, in its sole discretion, offset any expenses, costs, damages or losses it has incurred as a result of the CONTRACTOR's Work, against any amounts owed to the CONTRACTOR under this Agreement.

C. INSURANCE (check all that are applicable)—The CONTRACTOR shall provide insurance coverage, which shall be maintained in full force and effect during the term of the Agreement, as follows:

Commercial General Liability Insurance—Policy shall include coverage for the following, without limitation: comprehensive liability, premises/operations liability, products/completed operations liability, contractual liability, broad form property damage, bodily injury, and death. Coverage must include a limit of not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate. Coverage must be "occurrence based" not "claims made."

Automobile Liability Insurance—In the event that services delivered pursuant to this Agreement involve the use of vehicles, either owned or unowned by the CONTRACTOR, automobile liability insurance shall be required with coverage in an amount of not less than \$1,000,000 per occurrence (combined single limit) for all autos, owned, non-owned and hired.

Worker's Compensation and Disability Benefits (if applicable)—Policy must include coverage per statutory limits with respect to operations in the State of Louisiana in accordance with Louisiana Labor Code.

Employer's Liability Insurance—Policy must include not less than \$1,000,000 coverage for bodily injury by accident, and bodily injury by disease.

Design and Engineering Professional Liability—Policy must include not less than \$1,000,000 per occurrence.

Builder's Risk covering full replacement cost of all improvements.

Liquor Liability Insurance—Policy must include not less than \$1,000,000 coverage per occurrence.

City Park may require other insurance coverage in addition to those marked above at City Park's sole discretion. Additional insurance requirements are noted in Exhibit A.

The CONTRACTOR shall provide Certificates of Insurance for all insurance coverage required by this Agreement. All Certificates of Insurance shall name as additional insured: City Park Conservancy, New Orleans City Park Improvement Association, Botanical Garden Foundation, State of Louisiana, and City of New Orleans, and their officers, trustees, employees, volunteers, and agents as additional insureds.



The insurer shall waive all rights of subrogation against City Park Conservancy, New Orleans City Park Improvement Association, Botanical Garden Foundation; State of Louisiana, PEPCO, City of New Orleans, and their officers, trustees, agents, volunteers, and employees.

Original Certificates of Insurance for all insurance policies shall be delivered to City Park prior to the commencement of the Work, and shall be from companies that are (1) authorized to do business in the State of Louisiana, and (2) have a Best's rating of at least B+ and a financial size of Class VI or better. Certificates confirming renewals of insurance shall be submitted prior to the expiration date of coverage until operations under the Agreement are deemed completed.

Comprehensive General Liability Insurance policies must be maintained in force through the term of the Agreement until the receipt of final payment by the CONTRACTOR. The Certificates of Insurance shall have endorsed thereon: "No cancellation or termination of or change in this policy shall be effective until after 30-days notice sent by certified mail to City Park, Fiscal Department." Policy renewal certificates shall be received no later than 14 days prior to expiration. This applies to each type of insurance and their respective policy expiration dates.

- D. SUBCONTRACTORS**—The CONTRACTOR shall supervise and direct the Work and is solely responsible for, and has control over, construction means, methods, techniques, and procedures. CONTRACTOR is fully responsible for all Work performed, or for material and equipment supplied by, or for goods sold by or provided as part of the Work by any affiliate, contractor, subcontractor, vendor, consultant, or supplier of CONTRACTOR. CONTRACTOR is also fully responsible for ensuring that all affiliates, contractors, subcontractors, vendors, consultants, or suppliers comply with all obligations that CONTRACTOR is subject to under this Agreement. The CONTRACTOR shall be responsible to the Owner for acts and omissions of the CONTRACTOR's employees, subcontractors and their agents and employees, and other persons or entities performing portions of the Work, for, or on behalf of the CONTRACTOR or any of its subcontractors. A copy of all insurance policies of CONTRACTOR's subcontractors shall be provided to CITY PARK, as well as any contracts between CONTRACTORS and its subcontractors.
- E. INDEMNIFICATION**—THE CONTRACTOR, INCLUDING ITS EMPLOYEES, OFFICERS, DIRECTORS, OWNERS, MEMBERS, MANAGERS, AFFILIATES, SUBSIDIARIES, PARENTS, AGENTS, REPRESENTATIVES,

SUBCONTRACTORS, CONSULTANTS, PREDECESSORS, SUCCESSIONS, ASSIGNS AND INVITEES, AGREES TO RELEASE, ACQUIT, DEFEND, INDEMNIFY, AND HOLD HARMLESS CITY PARK AND THE CITY OF NEW ORLEANS, INCLUDING ALL OF THEIR EMPLOYEES, OFFICERS, DIRECTORS, OWNERS, MEMBERS, MANAGERS, AFFILIATES, SUBSIDIARIES, PARENTS, AGENTS, REPRESENTATIVES, PREDECESSORS, SUCCESSIONS, ASSIGNS, AND INVITEES, AGAINST ALL CLAIMS (WHETHER DIRECT OR FROM A THIRD PARTY), DEMANDS, DAMAGES, INJURIES, LOSSES, FEES, COSTS, LIENS, EXPENSES, PENALTIES, FINES, CHARGES, CAUSES OF ACTION, AND/OR JUDGEMENTS (INCLUDING FOR PROPERTY DAMAGE, BODILY INJURY OR DEATH) THAT IN ANY WAY RELATE TO OR ARISE, DIRECTLY OR INDIRECTLY, FROM THE WORK TO BE PERFORMED BY THE CONTRACTOR OR THIS AGREEMENT. THIS INDEMNITY IS INTENDED TO BE FULL INDEMNIFICATION OF CITY PARK, EXCEPT FOR DAMAGES OR LOSSES CAUSED BY THE GROSS NEGLIGENCE OR INTENTIONAL CONDUCT OF CITY PARK.

- F. LIMITATION AND WAIVER OF CONSEQUENTIAL DAMAGES**—The CONTRACTOR waives claims against City Park Conservancy, New Orleans City Park Improvement Association, Botanical Garden Foundation; State of Louisiana, and City of New Orleans, for any and all consequential, punitive, exemplary and/or special damages, including but not limited to damages incurred by the CONTRACTOR for rental expenses, losses of use, lost profits or income, loss of reputation or business, loss or employee productivity, and/or business interruption. Any recovery of the CONTRACTOR for claims asserted under this Agreement is limited to the Total Compensation as defined in this Agreement.
- G. WARRANTIES**—Any Work provided by the CONTRACTOR pursuant to this Agreement shall be of the highest quality expected in the industry and performed with good workmanship, free from defects and in complete conformity with the CONTRACTOR'S proposal and any applicable specifications in all respects (as determined by City Park in its sole discretion), and any and all services furnished hereunder shall be of the highest quality expected in the industry and performed in a professional and workmanlike manner that is free from defects.

The Work shall be conducted in accordance with the most stringent safety regulations, precautions and procedures and by employing and providing all personnel with all necessary or desirable protective equipment and the latest safety and protective equipment devices. The CONTRACTOR shall take all precautions to ensure the

safety of all persons within the Park, all Park Property, material and equipment at the site, adjacent property, and all trees, shrubs, lawns, walks, pavements, structures and utilities not designated for removal, relocation, or replacement.

CONTRACTOR covenants, represents and warrants that all equipment and materials provided will be in first-class working order and condition, free from defects in design, material and workmanship and fit for the use intended.

CONTRACTOR further covenants, represents and warrants that CONTRACTOR, at its own expense, shall procure and keep in force, in the name of CONTRACTOR, all permits, licenses and other authorizations under all applicable federal, state and local laws, and regulations required to perform all the Work.

- H. OWNERSHIP OF INTELLECTUAL PROPERTY**—(if applicable) – The CONTRACTOR acknowledges and agrees that all of the Work performed by the CONTRACTOR in accordance with this Agreement, including, without limitation, all technology of any nature whatsoever, all notes, records, drawings, designs, inventions, improvements, developments, discoveries, trade secrets, and patentable or copyrightable material which relate, directly or indirectly, in any manner to the subject matter of this Agreement, including any derivative works of any of the foregoing, is the sole and exclusive property of City Park. The CONTRACTOR agrees that the Work constitutes “work made for hire” within the meaning of the Copyright Act of 1976, as amended. The CONTRACTOR hereby assigns to City Park, without further compensation, all of its right, title and interest (whether arising prior to this Agreement, now in existence or hereafter arising) in and to the Work, in the United States and elsewhere. Upon request, the CONTRACTOR will sign all applications, assignments, agreements, documents, instruments and papers and perform all acts necessary or desired by City Park to assign the Work, or any portion thereof, fully and completely to City Park and to enable City Park, its successors and assigns to secure and enjoy the full and exclusive benefits and advantages thereof.
- I. ASSURANCES**—The CONTRACTOR represents and warrants that it shall comply with all federal, state and local laws, rules, regulations and ordinances which are now or hereafter become applicable to the rendition of the Work. The CONTRACTOR is responsible for reporting any and all income derived from this Agreement and paying applicable taxes. The CONTRACTOR represents that he/she/it has a legal right to work in the United States and the State of Louisiana. CONTRACTOR further covenants, represents and warrants that CONTRACTOR shall not

employ any employee whose employment violates any applicable laws, and that CONTRACTOR shall keep on the job a competent superintendent(s) who shall be in charge of the Work with authority to supply personnel, materials, supplies and equipment as required for the expeditious prosecution of the Work in strict conformity with this Agreement.

- J. CITY PARK CHARACTER AND CONDUCT POLICY**—It is acknowledged and agreed that the CITY PARK “Character and Conduct of Contractor’s Employees and Subcontractors” policy, which is incorporated herein for all purposes, has been provided to CONTRACTOR, and that CONTRACTOR (as well as its employees, consultants, subcontractors and any other persons or entities under its control) are obligated to comply with the policy in all respects.
- K. INDEPENDENT CONTRACTOR**—The CONTRACTOR agrees that the Work shall be performed by the CONTRACTOR, its employees, agents, suppliers and approved subcontractors, as independent contractors, and not as employees of City Park, and that such persons performing the Work shall not be considered or represent themselves as agents or employees of City Park. The manner, means, details, and/or methods by which the CONTRACTOR performs his/her/its obligations under this Agreement shall be solely within the discretion of the CONTRACTOR. City Park shall not have the authority to, nor shall it, supervise, direct, or control the manner, means, details, or methods utilized by the CONTRACTOR to perform his/her/its obligations under this Agreement, and nothing in this Agreement shall be construed to grant City Park any such authority. The CONTRACTOR shall be free to dispose of such portions of his/her/its time, energy, and skill as he/she/it is not obligated to devote under this Agreement in such manner as he/she/it sees fit and to such persons, firms, or corporations as he/she/it deems advisable, limited only by the terms contained herein. Nothing in this Agreement shall be construed to interfere with or otherwise affect the rendering of services by the CONTRACTOR in accordance with his/her/its independent judgment. The CONTRACTOR shall perform his/her/its services substantially in accordance with generally accepted practices and principles of the industry. Nothing contained in this Agreement shall be construed to (i) give

CITY PARK the authority to direct and control the day-to-day activities of the CONTRACTOR; or (ii) allow the CONTRACTOR to create or assume obligations on behalf of or otherwise bind City Park. Nothing in this Agreement creates, or should be construed as creating any fiduciary or other relationship of trust or confidence. The relationship of the parties herein is merely that of an independent contractor.

- L. **LIENS**—CONTRACTOR shall pay promptly all indebtedness for labor, materials and equipment used in performance of the Work. CONTRACTOR shall make, pay and discharge all valid taxes, lienable claims, charges, payments to all vendors, suppliers, workers, materialmen and subcontractors and take all other action necessary to keep the Park and the Work free of liens. If a lien attaches to the Park or the Work, CONTRACTOR shall promptly procure a **RELEASE** of the lien on behalf of City Park and **INDEMNIFY** City Park against all damage and expense incident thereto, and City Park may make any payment necessary to discharge the lien, and it may offset the amount of the payment, including, but not limited to, court costs, expenses, and reasonable attorneys' fees that it incurs because of the lien or its discharge, against any payment owing or to be owed to CONTRACTOR. CONTRACTOR shall furnish, on request by City Park, receipts and releases with respect to the Work that show that all costs and expenses of the Work have been paid, and that no claims, liens, or rights to liens exist against City Park or its property.
- M. **THIRD PARTY BENEFICIARY**— The parties acknowledge and agree that the State of Louisiana is a third-party beneficiary of this Agreement as well as its Terms and Conditions, including a beneficiary of all of CONTRACTOR's obligations, representations and warranties in this Agreement.
- N. **GOVERNING LAW**—This Agreement shall be governed by and construed in accordance with the laws of the State of Louisiana.
- O. **DISPUTE RESOLUTION AND MANDATORY VENUE**—Mandatory venue for all disputes, controversies, or claims arising out of or relating in any way to this Agreement shall in any state or federal court located in Orleans Parish, Louisiana. In any action for breach of this Agreement, the losing party is responsible for paying the reasonable and necessary attorneys' fees of the prevailing party.
- P. **ENTIRE AGREEMENT**—This Agreement, including any and all referenced exhibits, represents all the terms and conditions agreed upon by the parties. No other statements or representations, written or oral, shall be deemed a part hereof. None of the parties have relied on any agreements, discussions, negotiations, arrangements, promises, understandings, statements or representations that have been made by any other party that are not set forth in this Agreement, and no party is entitled to rely on any such agreement, discussion, negotiation, arrangement, promise, understanding, statement or representation.
- Q. **SEVERABILITY**—If any provision of this Agreement is held unenforceable for any reason, each and all other provision(s) shall nevertheless remain in full force and effect.
- R. **NO WAIVER**—The failure by one party to require performance of any provision of this Agreement shall not affect that party's right to require performance at any time thereafter, nor shall a waiver of any breach or default of this Agreement constitute a waiver of any subsequent breach or default or a waiver of the provision itself.
- S. **NO ASSIGNMENT**—No assignment of this Agreement by CONTRACTOR, in whole or in part, will be effective without the prior written approval of City Park.
- T. **MODIFICATION**—The Agreement may be altered, amended, or waived only by a written amendment executed by both parties.
- U. **APPROVAL**—This Agreement shall be subject to the written approval of City Park's authorized representative and shall not be binding until so approved.

APPENDIX: Character and Conduct of Contractor's Employees and Subcontractors (as applicable)

- The Contractor's employees and Subcontractors shall bear some means of company identification such as a company uniform with name badges, name tags or identifications marks. Vehicles and equipment shall also bear some means of company identification. Contractor must inform City Park of forms of identification prior to commencing work.
- No parking under any circumstances on turf unless the vehicle's equipment is imperative to performing work on the site. All employees and agents of the Contractor must be told to not park on turf.
- The Contractor shall perform the Work with as little noise and as little disturbance to Park users and surrounding property owners as possible.
- Care shall be taken by Contractor to prevent damage to property, including lawns, shrubs, flowers, trees, and other plants of the Park, Park users and third parties.
- Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work and to be fully compliant with all applicable programs.
- If work is estimated to exceed one work day, materials and jobsite will be secured by panel fencing, with green screen attached.
- Unless otherwise specified by City Park, any temporary panel fencing used in the park include green screening.
- All materials and equipment will be secured inside temporary fencing at the end of day; whenever contractor is not on the jobsite.
- Contractor shall promptly notify City Park of all damage to property belonging to City Park or Third Parties, or injuries incurred by persons other than employees of Contractor in no case later than 12 hours after the injury or damage occurred.
- Contractor must ensure the public's safety when performing services.
- Contractor shall behave and operate in an environmentally and professionally sound way as to not create damage or cause exposure by virtue of negligence or omission.
- Contractor shall ensure that equipment is properly maintained in accordance with the manufacturer's specifications and are maintained so to not endanger the operator or any person in the vicinity of operations.
- Contractor is responsible for damage to the irrigation system caused by Contractor.
- Contractor is responsible for damage to persons and property caused during the performance of contracted work.
- The Contractor will be held responsible for any damages to trees, plants, shrubs, etc. that is caused by the Contractor's errors or their failure to comply with the requirements of these specifications and will be assessed a fee.
- Any application of chemicals must be approved in advance by City Park. Contractor is responsible for applying all chemicals in a safe manner consistent with the label directions and federal and state laws and regulations. Application rates and frequencies are determined by the manufacturer's recommendations. Chemical mixing and application shall be supervised by a Licensed Pesticide Applicator. Records must be maintained according to applicable licensing regulatory body.
- Contractor is responsible for public notification when pesticides are to be applied 72 hours in advance in coordination with City Park. Notification as is to include when, what, where, and how much. Verification of completion is to be noted.