

PORT ST. LUCIE CITY COUNCIL  
AGENDA ITEM REQUEST

COUNCIL ITEM 7J  
DATE 11/13/12

Meeting Date: November 13, 2012

Public Hearing \_\_\_\_\_ Ordinance \_\_\_\_\_ Resolution \_\_\_\_\_ Motion X

Item: #20100015 - Lot Mowing-Code Enforcement Locations

Recommended Action:

Approval to re-assign the Fixed Price Contract with Nativeson Landscape Management to Fox Tail Landscaping, Inc. due to the sale of Nativeson.

Exhibits: Department memo attached [ ] Yes [X] No

Copies of Contract, Assignment Letter, Corporation documents, and W-9 Form

**Summary Explanation/Background Information:** Nativeson Landscape Management is one (1) of our contracted vendors for the Lot Mowing for Code Enforcement. This company was sold to Fox Tail Landscaping, Inc. and the new owners were assigned this contract. Fox Tail Landscaping agrees to honor all pricing set forth in the original contract with Nativeson.

Director of OMB concurs with award: ck City Manager concurs with award: [Signature]

Department requests 0 minutes to make a presentation.

Submitted by: Joel Dramis

Title: Building Code Administrator

Date Submitted: November 5, 2012

**RECEIVED**

NOV 06 2012

City Manager's Office

# CONTRACT ASSIGNMENT

This CONTRACT ASSIGNMENT Made this October 31, by and between Dennis Cunningham of 99 Rocky Ridge Drive Blue Ridge, Georgia 30513 hereafter referred to as "Assignor", and Antonio Francisco of 15045 Tiger Tail Court, Indiantown, Florida 34965 hereafter referred to as 'Assignee', in consideration of the mutual covenants herein contained and other good and valuable consideration, the sufficiency of which is hereby acknowledged, witnesseth:

WHEREAS, Assignor entered into Contracts, included as an attachment to this Agreement namely 20100015 Lot Mowing - for Code Enforcement hereinafter referred to as Contract with The City of Port St. Lucie hereafter 'Obligor'.

WHEREAS the Contract has an expiration date of June 20, 2014.

NOW THEREFORE, Assignor and Assignee hereby agree that the Assignor shall assign all its rights, title, interest, and delegate all obligations responsibilities and duties, in and to the Contract, to Assignee, pending consent of the Obligor.

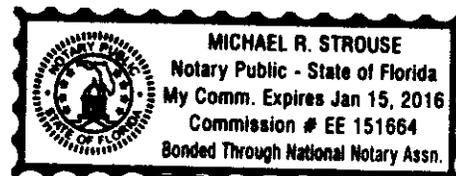
- 1 The Assignor in no way guarantees consent of the Obligor.
2. Notwithstanding the foregoing, Assignor agrees to defend and indemnify the Obligor from any and all claims, actions judgements, liabilities, Proceedings and costs, including reasonable attorneys fees and other costs of defense and damages, resulting from the Assignors performance prior to the assignment.
3. This Agreement is governed by the state of Florida, without regard to Florida's conflict or choice of law provisions, and both parties expressly consent to jurisdiction in such courts.

IN WITNESS WHEREOF the parties set their hands and seals as the date first above written.

  
-----  
Dennis Cunningham

  
-----  
Antonio Francisco

State of Georgia  
County of Union  
Notarizing Dennis Cunningham  

  
11-2-12  
For Antonio Francisco

Dennis Cunningham  
President  
Nativeson Landscape Management  
99 Rocky Ridge Dr.  
Blue ridge Ga.

**Date 10/31/12**

Dear Customer,

I would like to thank the City of Port St. Lucie for your patronage and inform you that Nativeson Landscape Management has been sold. The new owner is Antonio Francisco. Mr. Francisco has been in the landscape industry for the past 15 years and has owned a Foxtail Landscape for the past 7 years. Mr. Francisco is greatly experienced in the horticulture field and is diligent in his pursuit to providing the highest standard of customer service.

I have signed and completed the Contract Assignments the Office of Management and Budget has requested, for 20110069 Lot Mowing for NSP Housing and 2010015 Lot Mowing for Code Enforcement and sent them to Mr. Francisco to execute. I feel certain Mr. Francisco can perform to the letter of the contract and would ask the City Council to approve the assignment your earliest convenience.

Sincerely yours,



Dennis Cunningham

**Five References I provide with lawn service:**

Fred Guido (954)-401-7810

Anthony Stallon (561)-685-0410

Frank Nash (786)-269-5744

Terry Mahoney (561)-308-3733

Mike Denelli (954)-857-3004

# FLORIDA DEPARTMENT OF STATE DIVISION OF CORPORATIONS



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No Events

No Name History

## Detail by Entity Name

### Florida Profit Corporation

FOX TAIL LANDSCAPING INC.

### Filing Information

**Document Number** P12000070103  
**FEI/EIN Number** NONE  
**Date Filed** 08/14/2012  
**State** FL  
**Status** ACTIVE  
**Effective Date** 08/14/2012

### Principal Address

15045 SW TIGER TAIL CT  
INDIANTOWN FL 34956

### Mailing Address

15045 SW TIGER TAIL CT  
INDIANTOWN FL 34956

### Registered Agent Name & Address

FRANCISCO, ANTONIO P  
15045 SW TIGER TAIL CT  
INDIANTOWN FL 34956 US

### Officer/Director Detail

#### **Name & Address**

Title P

FRANCISCO, ANTONIO P  
15045 SW TIGER TAIL CT  
INDIANTOWN FL 34956 US

### Annual Reports

No Annual Reports Filed

### Document Images

08/14/2012 -- Domestic Profit

**Note:** This is not official record. See documents if question or conflict.

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**Electronic Articles of Incorporation  
For**

P12000070103  
FILED  
August 14, 2012  
Sec. Of State  
jshivers

FOX TAIL LANDSCAPING INC.

The undersigned incorporator, for the purpose of forming a Florida profit corporation, hereby adopts the following Articles of Incorporation:

**Article I**

The name of the corporation is:

FOX TAIL LANDSCAPING INC.

**Article II**

The principal place of business address:

15045 SW TIGER TAIL CT  
INDIANTOWN, FL. 34956

The mailing address of the corporation is:

15045 SW TIGER TAIL CT  
INDIANTOWN, FL. 34956

**Article III**

The purpose for which this corporation is organized is:

ANY AND ALL LAWFUL BUSINESS.

**Article IV**

The number of shares the corporation is authorized to issue is:

1000

**Article V**

The name and Florida street address of the registered agent is:

ANTONIO P FRANCISCO  
15045 SW TIGER TAIL CT  
INDIANTOWN, FL. 34956

I certify that I am familiar with and accept the responsibilities of registered agent.

Registered Agent Signature: ANTONIO P FRANCISCO

P12000070103  
FILED  
August 14, 2012  
Sec. Of State  
jshivers

## Article VI

The name and address of the incorporator is:

CARLOS RAMIREZ  
10632 S FEDERAL HWY

POR SAINT LUCIE FL 34952

Electronic Signature of Incorporator: CARLOS RAMIREZ

I am the incorporator submitting these Articles of Incorporation and affirm that the facts stated herein are true. I am aware that false information submitted in a document to the Department of State constitutes a third degree felony as provided for in s.817.155, F.S. I understand the requirement to file an annual report between January 1st and May 1st in the calendar year following formation of this corporation and every year thereafter to maintain "active" status.

## Article VII

The initial officer(s) and/or director(s) of the corporation is/are:

Title: P  
ANTONIO P FRANCISCO  
15045 SW TIGER TAIL CT  
INDIANTOWN, FL. 34956 US

## Article VIII

The effective date for this corporation shall be:

08/14/2012

## Request for Taxpayer Identification Number and Certification

**Give Form to the  
 requester. Do not  
 send to the IRS.**

Print or type See Specific Instructions on page 2.	Name (as shown on your income tax return) <b>Antonio Pedro Francisco</b>	
	Business name/disregarded entity name, if different from above <b>Fox Tail Landscaping</b>	
	Check appropriate box for federal tax classification: <input checked="" type="checkbox"/> Individual/sole proprietor <input type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate  <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ _____  <input type="checkbox"/> Other (see instructions) ▶ _____	
	<input type="checkbox"/> Exempt payee	
	Address (number, street, and apt. or suite no.) <b>15045 Sw Tiger Tail Court</b>	Requester's name and address (optional)
City, state, and ZIP code <b>Indiantown, FL 34956</b>		
List account number(s) here (optional)		

**Part I Taxpayer Identification Number (TIN)**

Enter your TIN in the appropriate box. The TIN provided must match the name given on the "Name" line to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

**Note.** If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

<b>Social security number</b>	
[ ] [ ] [ ] - [ ] [ ] - [ ] [ ] [ ] [ ]	
<b>Employer identification number</b>	
4 6 - 0 7 8 8 4 1 2	

**Part II Certification**

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
- I am a U.S. citizen or other U.S. person (defined below).

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 4.

<b>Sign Here</b>	Signature of U.S. person ▶ <i>Antonio Francisco</i>	Date ▶ <i>11/2/12</i>
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**General Instructions**

Section references are to the Internal Revenue Code unless otherwise noted.

**Purpose of Form**

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

- Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
- Certify that you are not subject to backup withholding, or
- Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

**Note.** If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**Definition of a U.S. person.** For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

**Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

**3.7. Scope of Work**

**3.7.1 Work Assignments** – Code Enforcement will distribute lists of addresses to selected Proposer(s) via e-mail on a rotating basis. Guarantee is not given that lists will be equal in the number of addresses per list assignment.

**3.7.1.1** Selected Proposer agrees to complete a list of twenty (20) addresses within five (5) business days.

**3.7.2 Digital Photographs** - Each selected Proposer shall take before and after digital photographs of both front and back yards on the assignment list on the day of service. A yardstick shall be present in each photograph taken, in order to verify the grass height before mowing.

**3.7.2.1** If back yard is fenced and gate is locked, selected Proposer(s) take digital photograph of accessible areas and report to Code Enforcement project supervisor of inaccessible area(s).

**.3 Preparation** - Proposer shall remove all litter, trash, and debris from the lawn area.

**.4 Mowing** - All grass shall be mowed to a height of 4 inches (4").

All mowing shall be done in a way that ensures grass health and safety.

**.5 Raking** - Proposer shall rake all grass clippings from the lawn, and dispose of them in a driveway, sidewalk, or street.

There is to be no damage to the lawn or surrounding areas caused by mowing or raking.

**3.7.6** Proposer shall ensure that all posts, poles, and other objects are removed from the lawn area before mowing. If any objects are present, they shall be removed or manicured before mowing.

**3.7.7** Proposer shall ensure that the grass is mowed on the date of service and that the cuttings are removed.

**Note:** trash enclosures for lot mowing.

**3.7.8 Work Area:** Work area shall be usable. All work shall be completed. Selected items shall not be added.

**3.7.9 Fencing:** Fencing shall be installed. Proposer.

**4. INSURANCE REQUIREMENTS** – Proposers are required to submit proof of the types and dollar amount they are **currently** insured to the City with their Proposal. The Proposer, if awarded a Contract, shall maintain insurance coverage reflecting the minimum amounts and conditions required by the City as follows:

**4.1 Indemnification** - The selected Proposer shall indemnify and hold harmless the City, and its Officers and their employees, from liabilities, damages, losses, and costs, including but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the selected Proposer and all persons employed or utilized by the selected Proposer in the performance of the Contract. As consideration for this indemnity provision, the selected Proposer shall be paid the sum of \$10.00 (ten dollars) before execution of this Contract. This \$10.00 indemnification payment will be in effect for all work completed under this Contract.

**4.2 Workers' Compensation** - The selected Proposer shall agree to maintain Workers' Compensation Insurance & Employers' Liability in accordance with Chapter 440, Florida Statutes. **Waiver of Subrogation is required.**

**4.3 Business Auto Policy** - Selected Proposer shall agree to maintain Business Automobile Liability at a limit of liability not less than \$500,000 each occurrence for all owned, non-owned and hired automobiles. In the event, the Proposer does not own any automobiles; the Business Auto Liability requirement shall be amended allowing Proposer to agree to maintain only Hired & Non-Owned Auto Liability. This amended requirement may be satisfied by way of endorsement to the Commercial General Liability, or separate Business Auto Coverage form. **City must be named as Additional Insured.**

**4.4 Commercial General Liability** - Commercial General Liability for public liability during the lifetime of this Contract shall have minimum limits of \$1,000,000 per claim, \$2,000,000 per occurrence for Personal Injury, Bodily Injury, and Property Damage Liability Policy. Coverage shall include Premises and/or Operations, Independent Contractors, Products and/or Complete Operations, Contractual Liability and Broad Form Property Damage Endorsements. Coverage shall not contain an exclusion or limitation endorsement for Contractual Liability or Cross Liability. All insurance policies shall be issued from a company or companies duly licensed by the State of Florida. All policies shall be on an occurrence made basis; the City shall not accept claims-made policies. Specific endorsements will be requested depending upon the type and scope of work to be performed. **City must be named as Additional Insured and a Waiver of Subrogation is required.**

# Contract Renewal Form

Contract #20100015

Date: May 14, 2012

Contract Title: Lot Mowing for Code Violations

Contractor's Name: Native Son Landscape Management

Current Expiration: 06/20/2012

Revised Expiration: 06/20/2014

The above contract is hereby renewed pursuant to Section XXI until the revised expiration date indicated above. All other terms and conditions of the original contract and/or Addenda are unchanged, with the exception that the City's performance and obligation to pay is contingent upon an annual appropriation by City Council for the period of this contract beyond September 30th of this year.

As a result of the Contractor's acceptance to provide the "Renewal Option" as specified in the original contract, the following modifications to the original contract will become effective June 21, 2012.

1. The contract period June 21, 2012 through June 20, 2014.
2. Prices applicable to the above period will be as follows:

Lawns with grass/weeds under 2' tall	\$ 51.45 per lot
Lawns with grass/weeds - 2' to under 4' tall	\$ 81.90 per lot
Lawns with grass/weeds - 4' tall and over	\$102.90 per lot
4. All other terms and conditions of the original contract and/or Addenda apply.

*(Balance of page left intentionally blank)*

IN WITNESS WHEREOF, the parties have executed this contract at Port St. Lucie Florida, this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

CITY OF PORT ST. LUCIE FLORIDA

By: \_\_\_\_\_  
City Manager

ATTEST:

By: Kim A Phillips  
City Clerk

By: \_\_\_\_\_  
Authorized Representative: Native Son Landscape Management

State of: GA

County of: FANNIN

Before me personally appeared: DENNIS J CUNNINGHAM  
(please print)

Please check one:

Personally known \_\_\_\_\_

Produced Identification/Type of Identification ✓

Identification No. GA D/L 058097194

known to me to be the person described in and who executed the foregoing instrument, and acknowledged to and before me that he executed said instrument for the purposes therein expressed.  
(he/she)

WITNESS my hand and official seal, this 04 day of JUNE, 2012.

Stephanie D Dittman  
Notary Signature

Notary Public-State of GA at Large

My Commission Expires: 10/18/14



**CITY OF PORT SAINT LUCIE  
CONTRACT FORM**

This CONTRACT, executed this 28th day of June, 2010, by and between the CITY OF PORT ST. LUCIE, FLORIDA, a municipal corporation, duly organized under the laws of the State of Florida, hereinafter called "City" party of the first part, and Native Son Landscape Management; P.O. Box 1455, Palm City, FL 34991 Telephone # (772) 370-5660, and Fax #-none available, hereinafter called "Contractor", party of the second part.

**RECITALS**

In consideration of the below agreements and covenants set forth herein, the parties agree as follows: to perform mowing services on Code Enforcement locations throughout the City on a rotating assignment basis.

As used herein, the Contract Supervisors shall mean Anthony Veltre at (772) 344-4131 or Greg Bender at (772) 344-4130 or their designee.

As used herein, the Native Son Landscape Management shall be Dennis Cunningham. Mr. Cunningham's email address is [Dennis@NativesonLawnCare.com](mailto:Dennis@NativesonLawnCare.com)

**SECTION I  
DESCRIPTION OF SERVICES TO BE PROVIDED**

Contractor agrees to perform all work pursuant to this RFQ #20100015 Lot Mowing-Code Enforcement Locations, incorporated herein by this reference.

**SECTION II  
TIME OF PERFORMANCE**

Contract period shall commence June 21, 2010 and terminate twenty-four (24) months thereafter June 20, 2012. In the event all work required in the proposal specifications has not been completed by the specified date, the Contractor agrees to provide work as authorized by the Contract Supervisor until all work specified in the Request for Qualifications has been rendered.

**SECTION III  
COMPENSATION**

The City agrees to pay the unit price per lot mowed listed below. Payment will be disbursed in full upon completion of service provided Contract Supervisor approves invoice as provided in Section XII.

Lawns with grass/weeds under 2' tall	\$49.00 per lot
Lawns with grass/weeds - 2' to under 4' tall	\$78.00 per lot
Lawns with grass/weeds - 4' tall and over	\$98.00 per lot

The Contractor shall not be paid additional compensation for any loss, and/or damage arising out of the nature of the work, from the action of the elements, or from any delay or unforeseen obstruction or difficulties encountered in the prosecution of the work, or for any expenses incurred by or in consequence of the suspension or discontinuance of the work.

#### Lot Mowing-Code Enforcement Locations

Invoices for services shall be submitted once a month, by the 10th of the month, and payments shall be made NET thirty (30) days unless vendor has chosen to take advantage of the Purchasing Card Program, which guarantees payment within several days. Payments shall be made provided the submitted invoice is accompanied by adequate supporting documentation and approved by Contract Supervisor as provided in Section XII.

All invoices and correspondence relative to this Contract must contain the Purchase Order number and Contract number.

### SECTION IV CONFORMANCE WITH PROPOSAL

It is understood that the materials and/or work required herein are in accordance with the proposal made by the Contractor pursuant to the Request for Qualifications and Specifications on file in the Office of Management and Budget of the City. All documents submitted by the Contractor in relation to said RFQ, and all documents promulgated by the City for inviting proposals are, by reference, made a part hereof as if set forth herein in full.

### SECTION V INDEMNIFICATION/INSURANCE

The Contractor shall indemnify and hold harmless the City, and its Officers and their employees, from liabilities, damages, losses, and costs, including but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the Contractor and all persons employed or utilized by the Contractor in the performance of the Contract. As consideration for this indemnity provision the Contractor shall be paid the sum of \$10.00 (ten dollars) before execution of this Contract.

The Contractor shall, on a primary basis and at its sole expense, agree to maintain in full force and effect at all times during the life of this Contract, insurance coverage, limits, including endorsements, as described herein. The requirements contained herein, as well as City's review or acceptance of insurance maintained by the Contractor are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by Contractor under the Contract.

**Worker's Compensations and Employer's Liability** - The Contractor shall carry or require that there be carried Workers' Compensation Insurance and Employer's Liability coverage in accordance with Chapter 440, Florida Statutes. **Waiver of Subrogation is required.**

**Automobile Liability** - The Contractor shall agree to maintain Business Automobile Liability at a limit of liability not less than \$500,000 each occurrence for any auto, owned, non-owned and hired automobiles. In the event the Contractor does not own any automobiles the Business Auto Liability requirement shall be amended allowing Contractor to agree to maintain only Hired & Non-Owned Auto Liability. This amended requirement may be satisfied by way of endorsement to the Commercial General Liability, or separate Business Auto Coverage form. **The City shall be named as Additional Insured.**

**General Liability** - The Contractor shall maintain, during the lifetime of this Contract, at his/her own expense, insurance coverage for public liability with limits of not less than \$1,000,000 per claim and \$2,000,000 per occurrence. Coverage shall include Premises and/or Operations, Independent Contractors, Products and/or Completed Operations, Contractual Liability, and Broad Form Property Damage Endorsements. A Business Auto Policy or similar form shall have minimum limits of \$500,000 per Occurrence Combined Single Limit for Bodily Injury and Property Damage Liability Policy. This shall include all owned, hired, and non-owned vehicles. All insurance policies shall be issued from a company or companies duly licensed by the

**Lot Mowing-Code Enforcement Locations**

State of Florida. All policies shall be on an occurrence-made basis; the City shall not accept claims-made policies. **The City shall be named as Additional Insured and a Waiver of Subrogation is required.**

**Additional Insured** - Except as to Workers' Compensation and Employers' Liability, said Certificate(s) shall clearly state that coverage required by the Contract has been endorsed to include the City of Port St. Lucie, a political subdivision of the State of Florida, its officers, agents and employees as **Additional Insured** with a CG 2026-Designated Person or Organization endorsement, or similar endorsement, to its Commercial General Liability Policy. **The name for the Additional Insured endorsement issued by the insurer shall read "City of Port St. Lucie, political subdivision of the State of Florida, its officers, employees and agents Contract #90-206414-20100015-0-0.** The Certificate of Insurance shall unequivocally provide thirty (30) days written notice to the City prior to any adverse changes, cancellation, or non-renewal of coverage thereunder. Said liability insurance must be acceptable by and approved by the City as to form and types of coverage. In the event that the statutory liability of the City is amended during the term of this agreement to exceed the above limits, the Contractor shall be required, upon thirty (30) days written notice by the City, to provide coverage at least equal to the amended statutory limit of liability of the City.

**Waiver of Subrogation** - Contractor shall agree by entering into the Contract to a **Waiver of Subrogation for each required policy.** When required by the insurer, or should a policy condition not permit an Insured to enter into a pre-loss agreement to waive subrogation without an endorsement then Contractor shall agree to notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy, which a condition to the policy specifically prohibits such an endorsement, or voids coverage should Contractor enter into such an agreement on a pre-loss basis.

It shall be the responsibility of the Contractor to insure that all subcontractors comply with the same insurance requirements referenced above. All deductible amounts shall be paid for and be the responsibility of the Contractor and/or any subcontractor for any and all claims under this Contract. The failure on the part of the Contractor to execute the Contract and/or punctually deliver the required Insurance Certificates and other documentation will be cause for the annulment of the award.

**SECTION VI  
PROHIBITION AGAINST FILING OR MAINTAINING LIENS AND SUITS**

Subject to the laws of the State of Florida and of the United States, neither Contractor nor any subcontractor, supplier of materials, laborer or other person shall file or maintain any lien for labor or materials delivered in the performance of this Contract against the City. The right to maintain such lien for any or all of the above parties is hereby expressly waived.

**SECTION VII  
WORK CHANGES**

The City reserves the right to order work changes in the nature of additions, deletions or modifications without invalidating the Contract, and agrees to make corresponding adjustments in the Contract price and time for completion. Any and all changes must be authorized by a written change order signed by the Director of OMB or his designee as representing the City. Work shall be changed and the Contract price and completion time shall be modified only as set out in the written change order. Any adjustment in the Contract price resulting in a credit or a charge to the City shall be determined by mutual agreement of the parties before starting the work involved in the change.

**SECTION VIII  
COMPLIANCE WITH LAWS**

The Contractor shall give all notices required by and shall otherwise comply with all applicable laws, ordinances and codes and shall, at his own expense, secure and pay the fees and charges for all permits required for the performance of the Contract. All materials furnished and work done are to comply with all local state and federal laws and regulations.

#### **SECTION IX CLEANING UP**

Contractor shall, during the performance of this Contract, remove and properly dispose of resulting residue and debris, and keep the work area reasonably clear. On completion of the work, Contractor shall remove all Contractors' equipment, haul away any and all excess materials, and leave the entire work area in a neat, clean and orderly condition.

#### **SECTION X NOTICE OF PERFORMANCE**

When Contractor has completed assigned work, Contractor shall send an e-mail notification of completion to the Contract Supervisor.

#### **SECTION XI DELIVERY DOCUMENTATION**

Contractor shall submit, electronically, the assignment sheet, complete with date mowing was completed, and digital photographs, which properly show the grass height of both front and back yards, before and after cutting.

#### **SECTION XII INSPECTION AND CORRECTION OF DEFECTS**

In order to determine whether the required work has been performed in accordance with the terms and conditions of the Contract documents, the Contract Supervisor shall make inspection as soon as practicable after receipt from the Contractor of a Notice of Performance. If such inspection shows that the required work performed in accordance with terms and conditions of the Contract documents and that the material and work is entirely satisfactory, the Contract Supervisor shall approve the invoice when it is received. Thereafter the Contractor shall be entitled to payment, as described in Section III. If, on such inspection the Contract Supervisor is not satisfied, he shall as promptly as practicable inform the parties hereto of the specific respects in which his findings are not favorable. Contractor shall then be afforded an opportunity if desired by him, to correct the deficiencies so pointed out at no additional charge to the City, and otherwise on terms and conditions specified by the Contract Supervisor. Such examination, inspection, or tests made by the Contract Supervisor, at any time, shall not relieve Contractor of his responsibility to remedy any deviation, deficiency, or defect.

#### **SECTION XIII ADDITIONAL REQUIREMENTS**

In the event of any conflict between the terms and conditions, appearing on any purchase order issued relative to this Contract, and those contained in this Contract and the Specifications herein referenced, the terms of this Contract shall apply.

#### **SECTION XIV LICENSING**

Lot Mowing-Code Enforcement Locations

Contractor warrants that he possesses all licenses and certificates necessary to perform required work and is not in violation of any laws. Contractor warrants that his license and certificates are current and will be maintained throughout the duration of the Contract.

**SECTION XV  
SAFETY PRECAUTIONS**

Precaution shall be exercised at all times for the protection of persons, including employees, and property. The safety provisions of all applicable laws and building and construction codes shall be observed.

**SECTION XVI  
ASSIGNMENT**

Contractor shall not delegate or subcontract any part of the work under this Contract or assign any monies due him hereunder without first obtaining the written consent of the City.

**SECTION XVII  
TERMINATION, DELAYS AND LIQUIDATED DAMAGES**

**A. Termination of Contract.** If the Contractor refuses or fails to deliver material as required and/or prosecute the work with such diligence as will insure its completion within the time specified in this Contract, or as modified as provided in this Contract, the City by written notice to the Contractor, may terminate Contractor's rights to proceed. On such termination, the City may take over the work and prosecute the same to completion, by Contract or otherwise, and the Contractor shall be liable to the City for any additional cost incurred by it in its completion of the work. Contractor shall also be liable to the City for liquidated damages for any delay in the completion of the work as provided below. If the Contractor's right to proceed is so terminated, the City may take possession of and utilize in completing the work such materials, tools, equipment and facilities as may be on the site of the work and necessary therefore.

**B. Liquidated Damages for Delays.** If work is not completed within the time stipulated in this Contract, including any extensions of time for excusable delays as herein provided, (it being impossible to determine the actual damages occasioned by the delay) the Contractor shall provide to the City one hundred dollars (\$100.00) as fixed, agreed and liquidated damages for each calendar day of delay until the work is completed. The Contractor shall be liable to the City for the amount thereof.

**C. Excusable Delays.** The right of the Contractor to proceed shall not be terminated nor shall the Contractor be charged with liquidated damages for any delays in the completion of the work or delivery of materials due to: (1) any acts of the Federal Government, including controls or restrictions or requisitioning of materials, equipment, tools or labor by reason of war, national defense or any other national emergency, (2) any acts of the City, (3) causes not reasonably foreseeable by the parties at the time of the execution of the Contract that are beyond the control and without the fault or negligence of the Contractor, including but not restricted to, acts of God, acts of the public enemy, acts of another Contractor in the performance of some other Contract with the City, fires, floods, epidemics, quarantine, restrictions, strikes, freight embargoes and weather of unusual severity such as hurricanes, tornadoes, cyclones and other extreme weather conditions, and (4) any delay of any subcontractor occasioned by any of the above mentioned causes. However, the Contractor must promptly notify the City in writing within two (2) days of the cause of delay. If, on the basis of the facts and the terms of this Contract, the delay is properly excusable the City shall extend the time for completing the work for a period of time commensurate with the period of excusable delay.

**D. Termination** - The City may terminate this Contract with or without cause by giving the Contractor thirty (30) days notice in writing. Upon delivery of said notice and upon expiration of the thirty (30) day

Lot Mowing-Code Enforcement Locations

period, the Contractor shall discontinue all services in connection with the performance of this Contract and shall proceed to cancel promptly all related existing third party Contracts. Termination of the Contract by the City pursuant to this paragraph shall terminate the City's obligations hereunder and no charges, penalties or other costs shall be due Contractor except for work timely completed.

**SECTION XVIII  
LAW**

This Contract is to be construed as though made in and to be performed in the State of Florida and is to be governed by the laws of Florida in all respects without reference to the laws of any other state or nation. The venue of any action taken pursuant to this Contract shall be in St. Lucie County, Florida.

**SECTION XIX  
REIMBURSEMENT FOR INSPECTION**

Not Applicable

**SECTION XX  
APPROPRIATION APPROVAL**

The Contractor acknowledges that this Contract is subject to approval by City Council of budget appropriation for the Contract period beyond September 30<sup>th</sup> of this year. The Contractor agrees that, in the event such appropriation is not forthcoming, this Contract may be terminated by the City and that no charges, penalties or other costs shall be assessed.

**SECTION XXI  
RENEWAL OPTION**

In the event Contractor offers in writing, prior to the termination of this Contract, to provide the identical services required in this Contract for the identical period of time in the subsequent two (2) calendar periods and the City agrees that said services are required and that the cost is acceptable, then the City, without additional bidding or negotiation, may, with the mutual agreement of the Contractor, extend this Contract at the agreed upon price for two (2) additional two (2) year terms. Upon each Contract renewal period, a not to exceed 5% CPI-U adjustment is allowed. *There is no guarantee as to the amount of services the City may purchase during the term of the Contract.*

**NOTE: Contractor may exercise the option to renew by submitting a written submission three (3) months prior to the termination of the Contract period.**

**SECTION XXII  
ENTIRE AGREEMENT**

The written terms and provisions of this Contract shall supersede all prior verbal statements of any official or other representative of the City. Such statements shall not be effective or be construed as entering into, or forming a part of, or altering in any manner whatsoever, this Contract or Contract documents.

*Balance of page intentionally left blank.*

IN WITNESS WHEREOF, the parties have executed this Contract at Port St. Lucie, Florida, the day and year first above written.

CITY OF PORT ST. LUCIE FLORIDA

By:

JERRY A. BENTROTT, Jerry A. Bentrott City Manager

ATTEST:

By:

KAREN A. PHILLIPS, Karen A. Phillips City Clerk

By:

[Signature]  
Authorized Representative of Native Son Landscape Management

State of:

Florida

County of:

Wester

Before me personally appeared:

Carey Cunningham  
(please print)

Personally known

Produced Identification: \_\_\_\_\_  
(type of identification)

Identification No. \_\_\_\_\_

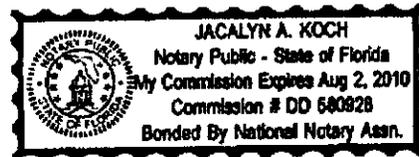
and known to me to be the person described in and who executed the foregoing instrument, and acknowledged to and before me that he executed said instrument for the purposes therein expressed.  
(s/he)

WITNESS my hand and official seal, this 15<sup>th</sup> day of June, 2010.

Jacalyn A. Koch  
Notary Signature

Notary Public-State of Florida at Large

My Commission Expires Aug 2, 2010.



(seal)