

## **AGREEMENT FOR LANDSCAPE MAINTENANCE SERVICES**

**THIS AGREEMENT** is made this \_\_\_\_ day of \_\_\_\_\_, 2014, by and between the Village of Wellington, a municipal corporation (hereinafter referred to as "WELLINGTON"), whose address is 12300 Forest Hill Boulevard, Wellington, Florida 33414 and G&C Car Care Inc. DBA Wellington Professional Lawn Care (hereinafter referred to as "VENDOR"), whose address is 3132 Fortune Circle, D8, Wellington, FL 33414

**WHEREAS**, VENDOR bid on that certain specifications and bid documents for Landscape Maintenance Services, ITB Number 016-14/DZ (hereinafter referred to as "Project or Bid or ITB"), issued by WELLINGTON; The VENDOR'S bid submittal is attached as Exhibit "A" and by this reference incorporated herein; and

**WHEREAS**, VENDOR has been deemed to be the responsive bidder, and WELLINGTON desires to award the agreement to VENDOR on the terms and conditions more particularly described below and as contained in the specifications and bid documents for Landscape Services, ITB Number 016-14/DZ attached as Exhibit "B", and VENDOR'S response thereto, all of which are hereinafter incorporated by reference and are referred to as "Specifications and Bid Documents"; and

**WHEREAS**, VENDOR is desirous of entering into the agreement with WELLINGTON pursuant to the terms and conditions more particularly described herein and pursuant to the Specifications and Bid Documents; and

**NOW, THEREFORE**, in consideration of the mutual promises contained herein and other good and valuable consideration of which the parties hereto acknowledge, the parties agree as follows:

1. The above recitals are true and correct and are incorporated herein by reference.
2. VENDOR shall perform the services and duties as provided for in the Specifications and Bid Documents and comply with all of the terms provided for in the Specifications and Bid Documents.
3. The Agreement term shall be in accordance with the Specifications and Bid Documents. The Agreement amount shall be in accordance with the Specifications and Bid Documents, and all services and products to be purchased and work to be performed shall be done via a purchase order in such form as determined by WELLINGTON. Nothing herein, however, shall prevent WELLINGTON from seeking a budget amendment should it require additional sums of money for this Project and a change in the scope of services. All purchases pursuant to this Agreement shall be done in accordance with WELLINGTON'S Purchasing and Procurement Manual and procedures thereto. All purchases shall be evidenced by such approved purchase orders.
4. WELLINGTON shall pay VENDOR for each purchase order in accordance with the prices set forth in the attached Schedule of Values and in amounts not to exceed \$30,000.00 per year for Lift Stations and Well Point Sites. Payment is contingent upon the services being completed in accordance with the Specifications and Bid Documents. VENDOR shall be liable for and shall pay, and defend, hold harmless and indemnify WELLINGTON against, all contributions, interest accrued, penalties imposed, and all taxes, excises, assessments, and other charges levied by any government agency, authority or union on, or because of, the services furnished by VENDOR for or used in the performance of the work herein.

Payments to VENDOR may be withheld by WELLINGTON in its reasonable discretion on account of (i) defective work not remedied, (ii) claims filed against VENDOR, (iii) failure of VENDOR to make payments promptly to subcontractors for labor, materials, or equipment, (iv) damage to WELLINGTON'S property, (v) failure to carry out the Work in accordance with this

Agreement the Bid Documents and Vendor's response thereto or (vi) failure of VENDOR to bond off or satisfy the liens of any of its subcontractors, labors, or materialmen.

5. VENDOR shall provide to WELLINGTON all services, work, and products that are necessary to fulfill its obligations pursuant to the Project and the Specifications and Bid Documents. All prices for the items and work herein shall be in accordance with VENDOR'S response to the Project and in accordance with the Specifications, Bid Documents and this Agreement. All purchases shall be evidenced by a purchase order from WELLINGTON.
6. VENDOR shall maintain all insurance as is required by the Specifications and Bid Documents. Prior to commencing any work, performing services, or supplying products, VENDOR shall provide to WELLINGTON such insurance coverage that WELLINGTON has requested in the Specifications and Bid Documents. In addition, VENDOR agrees to provide to WELLINGTON such other insurance coverage requested by WELLINGTON'S Department of Risk Management and with such coverage amounts and deductibles as is requested by such Department.
7. All renewals of this Agreement shall be pursuant to the Specifications and Bid Documents. This Agreement and any renewals thereto are subject to annual appropriations by the Village of Wellington, and this Agreement is subject to fiscal funding out by WELLINGTON.
8. VENDOR agrees, warrants, covenants, and represents that all products, work, and services that it shall perform pursuant to this Agreement, the Project, and the Specifications and Bid Documents as it relates to WELLINGTON, including any work done by its subcontractors or at its direction, shall be free from all defects and done in a workmanlike manner. VENDOR warrants the merchantability and fitness of the products and services as contemplated in this Agreement, the Project, and the Specifications and Bid Documents.
9. VENDOR agrees to supply to WELLINGTON adequate personnel to provide timely completion of all projects and support contemplated by this Agreement and pursuant to the Project and the Specifications and Bid Documents. The parties hereto agree that time is of the essence, and VENDOR agrees to pursue the services that are provided for in the Specifications and Bid Documents and as are determined by WELLINGTON for failure to comply with such timelines may result in deduction of payment as provided for therein.
10. VENDOR agrees to protect, defend, indemnify, and hold harmless WELLINGTON, its employees, and representatives from any and all claims, liabilities, damages, losses, and costs, including, but not limited to, reasonable attorney's fees and court costs, including appeals, for which WELLINGTON, its employees, and representatives can or may be held liable to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of VENDOR, its employees, or agents arising out of or connected with this Agreement. Nothing contained herein shall be construed or interpreted as consent by WELLINGTON to be sued, nor as a waiver of sovereign immunity beyond the waiver or monetary limits provided in Section 768.28, Florida Statutes
11. In performance of its obligations hereunder, VENDOR agrees to comply with all applicable laws, rules, regulations, orders, codes, criteria, and standards, whether state or federal.
12. WELLINGTON reserves the right to accept the use of a subcontractor or to reject the selection of a particular subcontractor. If a subcontractor fails to perform as required by this Agreement and it is necessary to replace the subcontractor in order to provide services as required, VENDOR shall promptly do so, subject to acceptance of the new subcontractor by WELLINGTON.

13. The parties to this Agreement understand that WELLINGTON is a tax-exempt organization; nothing herein, however, shall exempt VENDOR from paying all of its taxes pursuant to this Agreement.
14. In addition to any other termination provision found in the Specifications and Bid Documents, this Agreement may be terminated by VENDOR upon thirty (30) days' prior written notice to WELLINGTON in the event of substantial failure by WELLINGTON to perform in accordance with the terms of this Agreement through no fault of VENDOR. In addition to any other termination provisions found in the Specifications and Bid Documents, this Agreement may be terminated by WELLINGTON, with or without cause, upon thirty (30) days' written notice to VENDOR. Unless VENDOR is in breach of this Agreement, VENDOR shall be paid for services and products rendered to WELLINGTON'S satisfaction up to the date of termination. After receipt of a termination notice, and except as otherwise directed by WELLINGTON, VENDOR shall stop work on the date specified. VENDOR shall not be entitled to any claim of loss of profits from a termination by WELLINGTON.
15. Neither WELLINGTON nor VENDOR shall be considered to be in default of this Agreement if delays in or failure of performance shall be due to Uncontrollable Forces, the effect of which, by the exercise of reasonable diligence, the nonperforming party could not avoid. The term "Uncontrollable Forces" shall mean any event that results in the prevention or delay of performance by a party of its obligations under this Agreement and which is beyond the reasonable control of the nonperforming party. It includes, but is not limited to, fire, flood, earthquake, storms, lightning, epidemic, war, riots, civil disturbance, sabotage, and governmental actions.

Neither party shall, however, be excused from performance if nonperformance is due to forces which are preventable, removable, or remediable, and which the nonperforming party could have, with the exercise of reasonable diligence, prevented, removed, or remedied with reasonable dispatch. The nonperforming party shall, within a reasonable time of being prevented or delayed from performance by an uncontrollable force, give written notice to the other party describing the circumstances and uncontrollable forces preventing continued performance of the obligations of this Agreement.
16. This Agreement shall be construed in accordance with the laws of the State of Florida. Should any dispute arise from this Agreement, venue shall lie in Palm Beach County, Florida.
17. This Agreement shall not be construed against the party who drafted the same as all parties to this Agreement have had legal and business experts review the adequacy of the same.
18. This Agreement is binding upon the parties hereto, their heirs, successors, and assigns.
19. VENDOR warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, gender, age, or national origin.
20. A waiver by either WELLINGTON or VENDOR of any breach of this Agreement shall not be binding upon the waiving party unless such waiver is in writing. In the event of a written waiver, such a waiver shall not affect the waiving party's rights with respect to any other or further breach. The making or acceptance of a payment by either party with knowledge of the existence of a default or breach shall not operate or be construed to operate as a waiver of any subsequent default or breach. Further, a written waiver in part shall not constitute a waiver of any other part of this Agreement.
21. The invalidity, illegality, unenforceability of any provision of this Agreement, or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of the Agreement. Any void provision shall be deemed severed from the Agreement, and the balance of the Agreement shall be

construed and enforced as if the Agreement did not contain the particular portion or provision held to be void. The parties further agree to reform the Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision.

The provisions of this section shall not prevent the entire Agreement from being void should a provision, which is of the essence of the Agreement, be determined to be void.

22. WELLINGTON and VENDOR agree that this Agreement sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. This Agreement supersedes all prior agreements, contracts, proposals, representations, negotiations, letters, or other communications between WELLINGTON and VENDOR pertaining to this Agreement, whether written or oral. None of the provisions, terms, and conditions contained in the Agreement may be added to, modified, superseded, or otherwise altered, except by written instrument executed by the parties hereto.
23. This Agreement may not be modified unless such modifications are evidenced in writing, signed by both WELLINGTON and VENDOR. Such modifications shall be in the form of a written amendment executed by both parties.
24. Any notice, demand, communication, or request required or permitted hereunder shall be in writing and delivered in person or sent by certified mail, postage prepaid as follows:

As to WELLINGTON:

Village Manager  
Village of Wellington  
12300 Forest Hill Blvd.  
Wellington, FL 33414

As to VENDOR:

Geoff Phillips  
Wellington Professional Lawn Care  
PO Box 1134  
Loxahatchee, FL 33470

Notices shall be effective when sent to the addresses as specified above and as provided here in. Changes in the respective addresses to which such notice is to be directed may be made from time to time by either party by written notice to the other party. Facsimile transmission is acceptable notice effective when sent with a printed confirmation of receipt of the same; however, facsimile transmission received (i.e., printed) after 6:00 p.m. or on weekends or holidays will be deemed received on the next business day. The original of the notice must additionally be mailed certified mail return receipt requested. All mail shall be deemed received upon five (5) business days. The parties may also use overnight delivery services such as Federal Express, however all such services must have confirmation of delivery. Notice shall be deemed effective under this type of service when received.

Nothing contained in this section shall be construed to restrict the transmission of routine communications between representatives of VENDOR and WELLINGTON.

25. In accordance with Palm Beach County ordinance number 2011-009, the VENDOR understands that this Agreement may be subject to investigation and/or audit by the Palm Beach County Inspector General. The VENDOR has reviewed Palm Beach County ordinance number 2011-009 and is aware of its rights and/or obligations under such ordinance.
26. This Agreement is subject to any and all applicable conflict of interest provisions found in the policies or Code of Ordinances of Wellington, the Palm Beach County Code of Ethics and Ch. 112, Part III, Florida Statutes. During the term of this Agreement and any renewals or extensions thereof, the VENDOR shall continue to disclose to WELLINGTON any possible conflicts of interests. The VENDOR's duty to disclose is of a continuing nature and any conflict of interest shall be immediately brought to the attention of WELLINGTON.

**IN WITNESS WHEREOF**, WELLINGTON and VENDOR have executed this Agreement all as of the day and year first above written.

**ATTESTS:**

**VILLAGE OF WELLINGTON, FLORIDA**

By: \_\_\_\_\_  
Awilda Rodriguez, Village Clerk

By: \_\_\_\_\_  
Bob Margolis, Mayor

**APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY**

(SEAL)

By: \_\_\_\_\_  
Village Attorney

**WITNESS:**

**VENDOR  
G&C CAR CARE INC  
DBA WELLINGTON PROFESSIONAL LAWN  
CARE**

\_\_\_\_\_  
  
\_\_\_\_\_

By: \_\_\_\_\_  
As President

\_\_\_\_\_

Print Name

(CORPORATE SEAL)