



PERFORMANCE CONTRACT

AN AGREEMENT BETWEEN THE TOWN OF HUNTERSVILLE PARKS AND RECREATION DEPARTMENT, HEREIN THE "TOWN" AND _____, THE "CONTRACTOR", FOR THE PROVISION OF ROUTINE MOWING SERVICES IN TOWN PARKS AND PROPERTIES DETAILED HEREIN.

In consideration of the mutual promises and conditions herein, and in recognition of your role as an independent Contractor and not an employee of the TOWN, do with the TOWN agree as follows:

DUTIES OF THE CONTRACTOR:

The Contractor shall:

1. Provide all routine mowing, grass trimming and edging services as defined by the Department beginning March 1, 2016.
2. The Contractor and the firm's staff shall exercise extreme caution when mowing or weed trimming around trees or other landscape material so as to not damage this plant material. Trees up to 3" in caliper that are struck by the Contractors' firm's mowers, resulting in a 50% or greater loss of bark at the tree's base, will be replaced with a similar size and species tree at the Contractor's expense. This would include both tree purchase and installation. Damaged trees having a caliper greater than 3" will be paid for by the Contractor based on standard nursery evaluations. Mulched tree wells must not be struck by the mowing units when mowing. If the mulch ring is struck, it will be re-established by the Contractor. Areas around tree wells should be trimmed with a string trimmer. The Contractor will not damage wooden signposts with mowers or string trimmers. The Contractor will be responsible for replacement of posts, including painting, should damage occur.
3. The Contractor will be responsible for any damages to irrigation system(s) that occur as a result of the Contractor's activities on athletic fields or other irrigated park property. All repairs made to damaged irrigation heads or other irrigation components must meet with the approval of the Town representative. The system must be returned to its original condition by these repairs, using only county approved parts and methods. Additionally, the Contractor will be responsible for any damages to any other park property or fixtures that occur as a result of the Contractor's activities. The Contractor will either repair damaged

4. Property or fixtures to its original condition, or the Contractor will be held financially responsible for the employ of appropriate tradesmen to repair the damage.

The Town will determine whether or not the Contractor is qualified to make the required repairs. This determination will be based upon the nature of the repair and the background of the Contractor (i.e. electrical repairs will have to be done by a licensed electrician).

5. Turf

Common Area Turf- The mowing of common area turf will be done according to departmentally accepted turf grass standards. All glass, paper, limbs, trash or other hazards must be removed prior to mowing. Common Area turf will be mowed to a height of three and one-half (3 ½") inches. The Town reserves the right to determine the interval between mowings. This interval will be based on appropriate turf grass management practices.

Athletic Field Turf- All Athletic Field turf MUST BE cut at (1") one to two (2") inches. The mowing height will be determined by the town. Mowing direction must be alternated between each mow. The Town has the right to change the mowing practices on athletic fields at any time if the Town decides to upgrade the maintenance on these fields. This may involve mowing the fields with a reel mower. If the Contractor is interested in performing this reel mowing, he will have the opportunity to submit a bid on this service. If the Town accepts the Contractors' bid, this new service and the cost will be indicated in a contract amendment and his contract adjusted accordingly. If the Contractor is not selected for this service due to cost, inadequate equipment as determined by the Town, or other reasons, the Contractor's contract will be adjusted to exclude payment for those fields.

The Park Maintenance Superintendent shall act as the Town representative, under the direction of the Assistant Director, and be the individual responsible for making this determination. No mowing will occur if the Park Maintenance Superintendent or his designee does not approve mowing. At no time will the turf be mowed when the soil base is excessively wet and thus results in rutting. If the grass becomes excessively long and windrowing or clumping of cut grass occurs, this excess grass will be removed immediately. Scalping of turf will not be tolerated. If excessive scalping occurs the Contractor will be responsible for reestablishing the turf. Mowing should occur with well-maintained equipment. Blades will always be kept sharp to prevent tearing or uneven cut.

Any clippings that are blown into paved areas, warning tracks, and infield areas during mowing will be removed on the same day as mowed. Clippings must not be blown into landscape beds and baseball clay infield areas. If this occurs, they must be removed. The Contractor should make every effort to complete a site in one days' time. If this is not possible, the site must be completed the next day. All areas around beds, trees, curbing, buildings or other areas not accessible to mowers will be trimmed with string trimmers after each mowing.

6. Storm water Ponds

All storm water ponds on all properties shall be considered as part of the common area turf. Inlets and outlets must be kept clear from overgrown vegetation. Dry pond turf must be kept below 10 inches at all times.

7. Safety

Mowing operations are not permitted on weekends or holidays in the parks, or the day directly preceding the holiday. If the Contractor encounters high visitor use during mowing on a weekday, mowing of that site must be stopped and accomplished when the visitors leave.

Equipment must be maintained in a safe condition at all times. Blades should be kept sharp, and blades showing excessive wear or damage must not be used. All brakes on the mowing equipment must be properly maintained and operative. All mowing equipment must be equipped with safety guards to prevent the mowers from throwing rocks or debris. Guards must be in place and in a down position while mowing is occurring. The Contractor will be expected to immediately correct any safety concerns that are communicated in writing by the Park Maintenance Superintendent or his designee.

The Contractor's employees will wear approved safety glasses, hearing protection, etc.

The Contractor's personnel working in the parks shall be clean and neat and wear appropriate clothing. Shirts will be worn at all times. The Contractor's dress code policy will, at a minimum, ensure identifiable uniforms, vehicles and heavy equipment with the Contractor's name and logo.

The Contractor's work will be subject to inspection by the Park Maintenance Superintendent or his designee. The inspector, using the department's standardized mowing inspection form, will produce a final score, which will affect the Contractor's overall rating and payment. See inspection scoring sheet on the last page.

Ratings will be as follows:

150-130: Above Expected
120-100: Expected
99-70: Below Expected (80% of payment)
69-40: Unacceptable (50% of payment)
39-0: No Payment.

Full payment will be made to Contractors rated above expected or expected. Contractors rated below expected will receive 80% of their contracted payment. Contractors rated unacceptable will receive 50% of their contracted payment. Contractors rated below "unacceptable" will receive no payment as the Town will consider that no mowing service was provided. Contractors rated "below expected" or less will be expected to immediately return to the mowing site to correct deficiencies noted in the report. When these deficiencies are corrected and the mowing job is rated "Expected" or higher, full payment will be made. Three (3) ratings of "Below Expected" or lower during a fiscal year will constitute grounds for contract termination.

The Contractor shall be required to meet monthly with the Park Maintenance Superintendent to discuss mowing inspections, requirements, and to submit invoices for the previous month's mowing.

8. The Contractor shall maintain an adequate and proper staff. If it is Determined that staffing levels are not adequate to perform the required work, this may constitute grounds for contract termination.
9. The Contractor agrees to perform mowing services at the following charges. Charges listed are on a **PER MOW BASIS**:

District One

<u>Abernathy Park</u>	\$
<u>Bradford Park</u>	
Common Areas	\$
Softball Fields (5) only	\$
Soccer Fields (3) only	\$
Disc Golf Course only	\$
<u>Dellwood Center</u>	\$
<u>Waymer Park</u>	
Common Areas	\$
Athletic Fields (1-softball & 1 soccer) only	\$
<u>Veterans Park</u>	\$
<u>Huntersville Arts and Cultural Center</u>	\$
<u>Old Jail</u>	\$
<u>TOTAL FOR DISTRICT ONE PARKS</u>	\$

District Two

<u>Barry Park</u>	
Common Areas	\$
Soccer Fields (6) only	\$
Barry Park Hills (3) between soccer fields	\$
<u>Bradley Middle School</u>	
Football Field (1) only	\$
Baseball Fields (2) only	\$
<u>Huntersville Athletic Park</u>	
Common Areas	\$
Baseball Fields (4) only	\$
Soccer Fields (2) only	\$

<u>Holbrook Park</u>	\$
<u>Greenway Park</u>	\$
<u>North Mecklenburg Park</u>	
Common Areas	\$
Softball Fields (4) only	\$
Soccer Fields (2) only	\$
<u>TOTAL FOR DISTRICT TWO PARKS</u>	\$

10. The Contractor understands that during the life of this contract minor changes may occur in the mowing areas of each park due to either areas being taken out of mowing or areas being added to mowing. If this area of change would ever exceed 10% of the total mowing area, either as an increase or decrease, the Town will alter the Contractor's payment by an amount proportional to the area increased or decreased. If this change is less than 10% of the total area, no change in the payment will occur.

DUTIES OF THE TOWN

The TOWN shall:

1. Provide for all turf improvements including overseeding, fertilizing, aerifying, verticutting, or other activities. The TOWN will notify the Contractor of these activities in advance so that work schedules will be compatible.
2. Perform all major landscape bed maintenance such as mulching, plant replacement, insect control, weed control, etc.
3. Inspect all Contractor's work promptly.

DURATION OF THE CONTRACT:

This contract shall be in force from March 1, 2016 until March 1, 2019 for all contracted locations. The contract will be in place during these periods providing the Contractor abides by the terms of this contract AND that the appropriate contract monies are approved by the Huntersville Town Board. At that time the TOWN, at its sole discretion, reserves the right to renew any contract for one additional year, or to terminate any contract in place and re-bid only those affected mowing sites.

Minority and Women's Business Enterprises Provision

It is the policy of Huntersville Parks and Recreation Department to provide minorities and women equal opportunity for participating in all aspects of the Town's contracting and procurement programs, including but not limited to employment, construction development projects, materials/services contracts and /or lease agreements, consistent with the laws of the State of North Carolina. It is further the policy of Huntersville Parks and Recreation Department to prohibit discrimination against any person or business in

pursuit of these opportunities on the basis of race, color, national origin, religion, sex, age, handicap, or veteran's status. It is further the policy of Huntersville Parks and Recreation Department to conduct its contracting and procurement programs so as to prevent such discrimination.

The Americans with Disabilities Act of 1990 makes it unlawful to discriminate against individuals with a disability in State and local government services and public accommodations. Both parties certify that it and its agents will comply with regulations in A D A Title I (Employment~), Title II (Public Services), and Title III (Public Accommodations in fulfilling the obligations under this agreement.

Indemnity and Insurance

The Contractor shall indemnify and save harmless the TOWN, its agents and employees and assigns from and against all loss, cost, damages, expense and liability caused by an accident or other occurrence resulting in bodily injury, including death, sickness and disease to any person; or damage or destruction to property, real or personal; arising directly or indirectly from operations, products, or services rendered under this contract.

The Contractor further agrees to purchase and maintain during the life of the contract with an insurance company acceptable to the TOWN, authorized to do business in the State of North Carolina, the following insurance: Comprehensive General Liability—Bodily Injury and Property Damage Liability Insurance as shall protect the Contractor and any subcontractor performing work under this contract from claims of bodily injury or property damage which arise from operations of this contract whether such operation be performed by the Contractor, any subcontractor or anyone directly or indirectly employed by either. The amounts of such insurance shall not be less than \$1,000,000 bodily injury and \$1,000,000 property damage liability each occurrence/aggregate. This insurance shall include coverage for products/completed operations, contractual liability assumed under the indemnity provisions of this contract and broad form property damage.

Vehicle Insurance

Bodily injury and property damage liability covering all owned, non-owned, and hired vehicles for limits of not less than \$1,000,000 each person, \$1,000,000 each occurrence bodily injury liability and \$1,000,000 each occurrence property damage liability.

Workers' Compensation and Occupational Disease Insurance

The Contractor shall meet the statutory requirements of the State of North Carolina.

Certificates of such insurance will be furnished to the TOWN and shall contain the provision that the TOWN be given thirty (30) days written notice of any intent to amend or terminate either the Contractor or the issuing company.

Cancellations, Options for Termination

Upon the occurrence of any one or more events that violate the provisions of this contract, this mowing contract may be subject to cancellation. As a condition precedent, the Operations Supervisor shall give the Contractor ten (10) days notice by registered or

certified mail of the date set for cancellation, the grounds of cancellation, and shall provide the Contractor with an opportunity to be heard by date of cancellation, and shall provide the Contractor, with an opportunity to be heard by the Park Maintenance Superintendent with respect to the proposed cancellations, on or before the effective date of cancellation if a timely request is made by the Contractor.

Either party has the right to terminate this agreement by providing thirty (30) days written notice, by registered or certified mail, to the other party.

As stated in the contract, the Contractor is required to have sufficient equipment and personnel to perform the work. The Contractor is also responsible to ensure that the dollar amount bid is sufficient to allow him to do the work in accordance with the specifications outlined in the contract. If a Contractor is awarded and accepts a contract that he/she cannot fulfill due to inadequate equipment and/or personnel, or because the Contractor underbid, or the Contractor cancels the contract without proper notice as dictated in the contract, this Contractor shall indemnify the TOWN against any losses suffered by the TOWN due to the Contractors' inability to fulfill the obligations of the contract. This will include, but not be limited to, providing compensation to the TOWN at an hourly rate equivalent to the staff's salary for the staff time involved in the preparation and administration of the RFP and any other costs associated with the RFP and the bidding process. The TOWN shall be entitled to take any steps it believes appropriate to lessen its actual or threatened loss, which steps may include termination of the contract or withholding payment sufficient to cover the loss.

E-VERIFY. CONTRACTOR shall comply with the requirements of Article 2 of Chapter 64 of the General Statutes of North Carolina. Further, if CONTRACTOR utilizes a subcontractor, CONTRACTOR shall require the subcontractor to comply with the requirements of Article 2 of Chapter 64 of the General Statutes of North Carolina.

Method of Payment

The Contractor shall submit a written invoice to the Park Maintenance Superintendent at the regularly scheduled monthly mowing meeting. This invoice will individually list each mowing performed by site, the date it was performed and the charge for each individual service. The Contractor should allow two (2) weeks for processing between invoicing and payments. The TOWN will not be responsible for delays in issuing checks due to the Contractor's failure to meet invoice submission deadlines.

Date: _____

In WITNESS THEREOF, the parties have executed this Contract as of the date first above written.

CONTRACTOR:

Contractor

By

Address

City, State, Zip

Business Phone

TOWN OF HUNTERSVILLE:

Director, Parks and Recreation

Mowing Inspection Score Sheet

Scoring

130 – 150: Grass is mowed at the correct height with no scalping and with no clippings left on grass. Mowing direction on athletic fields were changed. All fence lines, poles, sidewalks, mulch beds & etc. are edged and trimmed. All Clippings are blown off of sidewalks, streets, parking lots, and other areas. No clippings in warning tracks, clay areas and mulch beds.

100 – 120: Grass is mowed at the correct height with no scalping and with little clippings left on grass. Mowing direction on athletic fields were changed. All fence lines, poles, sidewalks, mulch beds & etc. are edged and trimmed with just a few low visible areas not edged or trimmed. All Clippings are blown off of sidewalks, streets, parking lots, and other areas. Very little amounts of clippings in warning tracks, clay areas and mulch beds.

70 - 99: Grass is not mowed at the correct height with scalping being very visible and with large amounts clippings left on grass. Mowing direction was not changed. Some fence lines, poles, sidewalks, mulch beds & etc. are not edged and trimmed. Some Clippings are left on sidewalks, streets, parking lots, and other areas. Some clippings are blow into warning tracks, clay areas and mulch beds.

40 – 69: Grass is not mowed at the correct height with scalping in many areas and with large amounts clippings left on grass. Mowing direction was not changed. Fence lines, poles, sidewalks, mulch beds & etc. are not edged and trimmed in many areas. Some Clippings are left on sidewalks, streets, parking lots, and other areas. Many clippings are blow into warning tracks, clay areas and mulch beds.

0 – 39: Grass is not mowed at the correct height with scalping in the majority of the areas mowed and with large amounts clippings left on grass. Mowing direction was not changed. Fence lines, poles, sidewalks, mulch beds & etc. are not edged and trimmed in the majority of areas. Lots of clippings are left on sidewalks, streets, parking lots, and other areas. Large amounts of clippings are blow into warning tracks, clay areas and mulch beds.