

CITY OF NAPLES, FLORIDA

AGREEMENT

Bid/Proposal No. 043-11

Contract No. _____

Project Name Crayton Road Tree Project

THIS AGREEMENT (the "Agreement") is made and entered into this _____ day of _____, 2011, by and between the City of Naples, a Florida municipal corporation, (the "CITY") and **Ameri-Pride, Inc.**, a Florida corporation, **the address of record of which is set out below**, (the "CONTRACTOR").

16604 US 19 North
Clearwater, FL 33764

WITNESS:

WHEREAS, the CITY desires to obtain the services of the CONTRACTOR concerning **certain services specified in this Agreement** (referred to as the "Project"); and

WHEREAS, the CONTRACTOR has submitted a proposal for provision of those services; and

WHEREAS, the CONTRACTOR represents that it has expertise in the type of services that will be required for the Project.

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

ARTICLE ONE CONTRACTOR'S RESPONSIBILITY

1.1. The Services to be performed by CONTRACTOR are generally described as Crayton Road Tree Project, and may be more fully described in the Scope of Services, attached as Exhibit A and made a part of this Agreement.

1.2. The CONTRACTOR agrees to obtain and maintain throughout the period of this Agreement all such licenses as are required to do business in the State of Florida, the City of Naples, and in Collier County, Florida, including, but not limited to, all licenses required by the respective state boards and other governmental agencies responsible for regulating and licensing the services to be provided and performed by the CONTRACTOR pursuant to this Agreement.

1.3. The CONTRACTOR agrees that, when the services to be provided hereunder relate to a service which, under Florida Statutes, requires a license, certificate of authorization or other form of legal entitlement to practice such services, it shall employ or retain only qualified personnel to provide such services.

1.4. CONTRACTOR agrees to employ and designate, in writing, within 5 calendar days after receiving its Notice to Proceed, or other directive from the CITY, a qualified licensed to serve as the CONTRACTOR's project manager (the "Project Manager"). The Project Manager shall be authorized and responsible to act on behalf of the CONTRACTOR with respect to directing, coordinating and administering all aspects of the services to be provided and performed under this Agreement.

1.5. The CONTRACTOR has represented to the CITY that it has expertise in the type of services that will be required for the Project. The CONTRACTOR agrees that all services to be provided by CONTRACTOR pursuant to this Agreement shall be subject to the CITY's review and approval and shall be in accordance with the generally accepted standards of practice in the State of Florida, **as may be applied to the type of services to be rendered**, as well as in accordance with all published laws, statutes, ordinances, codes, rules, regulations and requirements of any governmental agencies which regulate or have jurisdiction over the Project or the services to be provided and performed by CONTRACTOR. In the event of any conflicts in these requirements, the CONTRACTOR shall notify the CITY of such conflict and utilize its best judgment to advise CITY regarding resolution of the conflict.

1.6. The CONTRACTOR agrees not to divulge, furnish or make available to any third person, firm or organization, without CITY's prior written consent, or unless incident to the proper performance of the CONTRACTOR's obligations hereunder, or in the course of judicial or legislative proceedings where such information has been properly subpoenaed, any non-public information concerning the services to be rendered by CONTRACTOR hereunder, and CONTRACTOR shall require all of its employees, agents, subconsultants and subcontractors to comply with the provisions of this paragraph. **However, the CONTRACTOR shall comply with the Florida Public Records laws.**

1.7. The CONTRACTOR agrees not to employ or offer to employ any Elected Officer or City Managerial Employee of the CITY who in any way deals with, coordinates on, or assists with, the services provided in this Agreement, for a period of 2 years after termination of all provisions of this Agreement. For purposes of this paragraph, the term "Elected Officer" shall mean any member of the City Council. For purposes of this paragraph, the term "City Managerial Employee" shall mean the City Manager, the Assistant City Manager, the City Clerk, and any City department head or director. If the CONTRACTOR violates the provisions of this paragraph, the CONTRACTOR shall be required to pay damages to the CITY in an amount equal to any and all compensation which is received by the former Elected Officer or City Managerial Employee of the CITY from or on behalf of the contracting person or entity, or an amount equal to the former Elected Officer's or City Managerial Employee's last 2 years of gross compensation from the CITY, whichever is greater.

1.8. The CONTRACTOR agrees not to provide services for compensation to any other party other than the CITY on the same subject matter, same project, or scope of services as set forth in this Agreement without approval from the City Council of the CITY.

1.9. Except as otherwise provided in this Agreement, the CONTRACTOR agrees not to disclose or use any information not available to members of the general public and gained by reason of the CONTRACTOR's contractual relationship with the CITY for the special gain or benefit of the CONTRACTOR or for the special gain or benefit of any other person or entity.

ARTICLE TWO CITY'S RESPONSIBILITIES

2.1. The CITY shall designate in writing a project coordinator to act as the CITY's representative with respect to the services to be rendered under this Agreement (the "Project Coordinator"). The Project Coordinator shall have authority to transmit instructions, receive information, interpret and define the CITY's policies and decisions with respect to the CONTRACTOR's services for the Project. However, the Project Coordinator is not authorized to issue any verbal or written orders or instructions to the CONTRACTOR that would have the effect, or be interpreted to have the effect, of modifying or changing in any way whatever:

- (a) The scope of services to be provided and performed by the CONTRACTOR;
- (b) The time the CONTRACTOR is obligated to commence and complete all such services; or
- (c) The amount of compensation the CITY is obligated or committed to pay the CONTRACTOR.

Any such modifications or changes ((a) (b) or (c)) shall only be made by or upon the authorization of the CITY's city manager as authorized by city council in the enabling legislation or in the CITY's procurement policies.

2.2. The Project Coordinator shall:

(a) Review and make appropriate recommendations on all requests submitted by the CONTRACTOR for payment for services and work provided and performed in accordance with this Agreement;

(b) Arrange for access to and make all provisions for the CONTRACTOR to enter the Project site to perform the services to be provided by the CONTRACTOR under this Agreement; and

(c) Provide notice to the CONTRACTOR of any deficiencies or defects discovered by the CITY with respect to the services to be rendered by the CONTRACTOR hereunder.

2.3. The CONTRACTOR acknowledges that access to the Project Site, to be arranged by the CITY for the CONTRACTOR, may be provided during times that are not the normal business hours of the CONTRACTOR.

ARTICLE THREE TIME

3.1. Services to be rendered by the CONTRACTOR shall be commenced subsequent to the execution of this Agreement upon written Notice to Proceed from the CITY for all or any designated portion of the Project and shall be for a period of twelve months upon receipt of the order to proceed. Time is of the essence with respect to the performance of this Agreement.

3.2. Should the CONTRACTOR be obstructed or delayed in the prosecution or completion of its services as a result of unforeseeable causes beyond the control of the CONTRACTOR, and not due to its own fault or neglect, including but not restricted to acts of God or of public enemy, acts of government or of the CITY, fires, floods, epidemics, quarantine regulations, strikes or lock-outs, then the CONTRACTOR shall notify the CITY in writing within 5 working days after commencement of such delay, stating the cause or causes thereof, or be deemed to have waived any right which the CONTRACTOR may have had to request a time extension.

3.3. No interruption, interference, inefficiency, suspension or delay in the commencement or progress of the CONTRACTOR's services from any cause whatsoever, including those for which the CITY may be responsible in whole or in part, shall relieve the CONTRACTOR of its duty to perform or give rise to any right to damages or additional compensation from the CITY. The CONTRACTOR's sole remedy against the CITY will be the right to seek an extension of time to its schedule. This paragraph shall expressly apply to claims for early completion, as well as claims based on late completion.

3.4. Should the CONTRACTOR fail to commence, provide, perform or complete any of the services to be provided hereunder in a timely and reasonable manner, in addition to any other rights or remedies available to the CITY hereunder, the CITY at its sole discretion and option may withhold any and all payments due and owing to the CONTRACTOR until such time as the CONTRACTOR resumes performance of its obligations hereunder in such a manner so as to reasonably establish to the CITY's satisfaction that the CONTRACTOR's performance is or will shortly be back on schedule.

**ARTICLE FOUR
COMPENSATION**

4.1. The total compensation to be paid the CONTRACTOR by the CITY for all Services shall not exceed **\$80,000.00** and shall be paid in the manner set forth in the "Basis of Compensation" , which is attached as **Exhibit B** and made a part of this Agreement.

**ARTICLE FIVE
MAINTENANCE OF RECORDS**

5.1. The CONTRACTOR will keep adequate records and supporting documentation which concern or reflect its services hereunder. The records and documentation will be retained by the CONTRACTOR for a minimum of five 5 years from the date of termination of this Agreement or the date the Project is completed, whichever is later. the CITY, or any duly authorized agents or representatives of the CITY, shall have the right to audit, inspect and copy all such records and documentation as often as they deem necessary during the period of this Agreement and during the 5 year period noted above; provided, however, such activity shall be conducted only during normal business hours. **If the CONTRACTOR desires to destroy records prior to the minimum period, it shall first obtain permission from the CITY in accordance with the Florida Public Records laws.**

**ARTICLE SIX
INDEMNIFICATION**

6.1. The CONTRACTOR agrees to indemnify and hold harmless the City from liabilities, damages, losses and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the CONTRACTOR and persons employer or utilized by the CONTRACTOR in the performance of the Contract.

**ARTICLE SEVEN
INSURANCE**

7.1. CONTRACTOR shall obtain and carry, at all times during its performance under **this Agreement**, insurance of the types and in the amounts set forth in the document titled General Insurance Requirements, which is attached as **Exhibit C and made a part of** this Agreement.

**ARTICLE EIGHT
SERVICES BY CONTRACTOR'S OWN STAFF**

8.1. The services to be performed hereunder shall be performed by the CONTRACTOR's own staff, unless otherwise authorized in writing by the CITY. The employment of, contract with, or use of the services of any other person or firm by the CONTRACTOR, as independent contractor or otherwise, shall be subject to the prior written approval of the CITY. No provision of this Agreement shall, however, be construed as constituting an agreement between the CITY and any such other person or firm. Nor shall anything contained in this Agreement be deemed to give any such party or any third party any claim or right of action against the CITY beyond such as may otherwise exist without regard to this Agreement.

**ARTICLE NINE
WAIVER OF CLAIMS**

9.1. The CONTRACTOR's acceptance of final payment shall constitute a full waiver of any and all claims, except for insurance company subrogation claims, by it against the CITY arising out of this Agreement or otherwise related to the Project, except those previously made in writing and identified by the CONTRACTOR as unsettled at the time of the final payment. Neither the acceptance of the CONTRACTOR's services nor payment by the CITY shall be deemed to be a waiver of any of the CITY's rights against the CONTRACTOR.

**ARTICLE TEN
TERMINATION OR SUSPENSION**

10.1. The CONTRACTOR shall be considered in material default of this Agreement and such default will be considered cause for the CITY to terminate this Agreement, in whole or in part, as further set forth in this section, for any of the following reasons: (a) failure to begin work under the Agreement within the times specified under the Notice(s) to Proceed, or (b) failure to properly and timely perform the services to be provided hereunder or as directed by the CITY, or (c) the bankruptcy or insolvency or a general assignment for the benefit of creditors by the CONTRACTOR or by any of the CONTRACTOR's principals, officers or directors, or (d) failure to obey laws, ordinances, regulations or other codes of conduct, or (e) failure to perform or abide by the terms or spirit of this Agreement, or (f) for any other just cause. The CITY may so terminate this Agreement, in whole or in part, by giving the CONTRACTOR at least **3** calendar days' written notice.

10.2. If, after notice of termination of this Agreement as provided for in paragraph 10.1 above, it is determined for any reason that the CONTRACTOR was not in default, or that its default was excusable, or that the CITY otherwise was not entitled to the remedy against the CONTRACTOR provided for in paragraph 10.1, then the notice of termination given pursuant to paragraph 10.1 shall be deemed to be the notice of termination provided for in paragraph 10.3 below and the CONTRACTOR's remedies against the CITY shall be the same as and limited to those afforded the CONTRACTOR under paragraph 10.3 below.

10.3. The CITY shall have the right to terminate this Agreement, in whole or in part, without cause upon 7 calendar day's written notice to the CONTRACTOR. In the event of such termination for convenience, the CONTRACTOR's recovery against the CITY shall be limited to that portion of the fee earned through the date of termination, together with any retainage withheld and any costs reasonably incurred by the CONTRACTOR that are directly attributable to the termination, but the CONTRACTOR shall not be entitled to any other or further recovery against the CITY, including, but not limited to, anticipated fees or profits on work not required to be performed.

**ARTICLE ELEVEN
CONFLICT OF INTEREST**

11.1. The CONTRACTOR represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of services required hereunder. The CONTRACTOR further represents that no persons having any such interest shall be employed to perform those services.

**ARTICLE TWELVE
MODIFICATION**

12.1. No modification or change in this Agreement shall be valid or binding upon the parties unless in writing and executed by the party or parties intended to be bound by it.

**ARTICLE THIRTEEN
NOTICES AND ADDRESS OF RECORD**

13.1. All notices required or made pursuant to this Agreement to be given by the CONTRACTOR to the CITY shall be in writing and shall be delivered by hand or by United States Postal Service Department, first class mail service, postage prepaid, return receipt requested, addressed to the following CITY's address of record:

City of Naples
735 Eighth Street South
Naples, Florida 34102-3796
Attention: **A. William Moss**, City Manager
Rev. 8/13/08

13.2. All notices required or made pursuant to this Agreement to be given by the CITY to the CONTRACTOR shall be made in writing and shall be delivered by hand or by the United States Postal Service Department, first class mail service, postage prepaid, return receipt requested, addressed to the following CONTRACTOR's address of record:

Ameri-Pride, Inc.
16604 US 19 North
Clearwater, FL 33764
Attn: Dominick A. Paternoster II, Manager

13.3. Either party may change its address of record by written notice to the other party given in accordance with requirements of this Article.

ARTICLE FOURTEEN MISCELLANEOUS

14.1. The CONTRACTOR, in representing the CITY, shall promote the best interest of the CITY and assume towards the CITY a duty of the highest trust, confidence, and fair dealing.

14.2. No modification, waiver, suspension or termination of the Agreement or of any terms thereof shall impair the rights or liabilities of either party.

14.3. This Agreement is not assignable, in whole or in part, by the CONTRACTOR without the prior written consent of the CITY.

14.4. Waiver by either party of a breach of any provision of this Agreement shall not be deemed to be a waiver of any other breach and shall not be construed to be a modification of the terms of this Agreement.

14.5. The headings of the Articles, Exhibits, Parts and Attachments as contained in this Agreement are for the purpose of convenience only and shall not be deemed to expand, limit or change the provisions in such Articles, Exhibits, Parts and Attachments.

14.6. This Agreement constitutes the entire agreement between the parties hereto and shall supersede, replace and nullify any and all prior agreements or understandings, written or oral, relating to the matter set forth herein, and any such prior agreements or understanding shall have no force or effect whatever on this Agreement.

14.7. The CONTRACTOR shall comply fully with all provisions of state and federal law, including without limitation all provisions of the Immigration Reform and Control Act of 1986 ("IRCA") as amended, as well as all related immigration laws, rules, and regulations pertaining to proper employee work authorization in the United States. The CONTRACTOR shall execute the Certification of Compliance with Immigration Laws, attached hereto as **Exhibit "D"**.

ARTICLE FIFTEEN APPLICABLE LAW

15.1. Unless otherwise specified, this Agreement shall be governed by the laws, rules, and regulations of the State of Florida, and by the laws, rules and regulations of the United States when providing services funded by the United States government. Any suit or action brought by either party to this Agreement against the other party relating to or arising out of this Agreement must be brought in the appropriate Florida state court in Collier County, Florida.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement for the day and year first written above.

ATTEST:

CITY:

CITY OF NAPLES, FLORIDA,
A Municipal Corporation

By: _____
Tara A. Norman, City Clerk

By: _____
A. William Moss, City Manager

Approved as to form
and legal sufficiency:

By: _____
Robert D. Pritt, City Attorney

CONTRACTOR:
Ameri-Pride, Inc.
A Florida Corporation

By: _____
Its _____

Witness

(CORPORATE SEAL)

General Contract (not Architects/Engineers)

EXHIBIT A

SCOPE OF SERVICES

The Services to be provided under this Agreement are those set out below [or in Exhibit A-1 through A-], attached and made part of this Exhibit A.



ORIGINAL
INVITATION TO BID
 CITY OF NAPLES
 PURCHASING DIVISION
 CITY HALL, 735 8TH STREET SOUTH
 NAPLES, FL 34102
 PH: 239-213-7100 FX: 239-213-7105

NOTIFICATION DATE:	TITLE	NUMBER:	OPENING DATE & TIME:
06/23/11	Crayton Road Tree Project	043-11	07/18/11 2:00 PM
PRE-BID DATE, TIME AND LOCATION:			

NAME OF PARTNERSHIP, CORPORATION OR INDIVIDUAL: <i>AMERI-PRIDE, INC.</i>		ORIGINAL
MAILING ADDRESS: <i>16604 US 19 NORTH</i>		
CITY-STATE-ZIP: <i>CLEARWATER FL</i>		
PH: <i>(727) 447-2186</i>	EMAIL: <i>dominick@ameriprideinc.com</i>	
FX: <i>(727) 447-1185</i>	WEB ADDRESS: <i>ameriprideinc.com</i>	

I certify that this bid is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting a bid for the same materials, supplies, or equipment and is in all respects fair and without collusion or fraud. I agree to abide by all conditions of this bid and certify that I am authorized to sign this bid for the bidder. In submitting a bid to the City of Naples the bidder offers and agrees that if the bid is accepted, the bidder will convey, sell, assign or transfer to the City of Naples all rights, title, and interest in and to all causes of action it may now or hereafter acquire under the Anti-trust laws of the United States and the State of FL for price fixing relating to the particular commodities or services purchased or acquired by the City of Naples. At the City's discretion, such assignment shall be made and become effective at the time the City tenders final payment to the bidder.

AUTHORIZED SIGNATURE <i>[Signature]</i>	DATE <i>7/14/11</i>	PRINTED NAME/TITLE <i>DOMINICK A. PATRICKOSTER, Acc. Mgr.</i>
<small>Please initial by all that apply</small>		
<small>_____ Addendum #1</small>	<small>_____ Addendum #2</small>	<small>_____ Addendum #3</small>

PLEASE NOTE THE FOLLOWING:

- > This page **must be completed and returned** with your bid.
- > Bids must be **submitted in a sealed envelope, marked with bid number & closing date.**
- > Bids received after the above closing date and time will not be accepted.
- > **If you do not have an email address** and you want a copy of the Bid Tab, please enclose a stamped, self-addressed envelope with your bid.

Furnish all labor and equipment for the purchase and planting of trees and palms throughout the City. The maintenance of the plant material for a period of 12-months and a warranty are included.

CONDUCT

The contractor and his employees will conduct themselves in such a manner as to avoid embarrassment to the City of Naples, and shall at all times be courteous to the public. Although uniforms are not required, proper clothing shall be worn at all times to include shirts, necessary safety equipment, pants, short or long, and proper footwear. Proper safety equipment shall be worn at all times.

CONTRACTORS EQUIPMENT

All vehicles and equipment must be maintained in good repair, appearance and sanitary condition at all times. Vehicles must be clearly identified with the name of the company and phone number clearly visible. In addition, the contractor will be responsible for using the necessary safety equipment according to State DOT standards while working on City, County, or State roads as a sub-contractor of the City.

DISPOSAL OF DEBRIS

The contractor shall dispose of all debris and other materials gathered from the described work in compliance with City and County Laws.

SCHEDULING OF WORK

1. All work will be performed Monday through Friday, unless prior approval has been obtained from the Contract Manager.
2. The Contractor within three (3) working days from notification must correct work deficiencies and/or problems pointed out by the Contract Manager.

PAYMENT REQUESTS, INVOICES AND WORK REPORTS

1. Invoices shall be submitted after work is completed with a detailed description of the work performed.
2. Vendor will meet with Contract Manager and set up procedures prior to the start of work.

RETAINAGE

As a method to assure completion of the total project, retainage in the amount of ten percent (10%) of all work completed will be withheld from the payment. The ten percent (10%) will not be released until all work; including proper watering, weed treatment, sprout removal, and replacement of any dead trees or palms has been completed, inspected and accepted by the City. The retainage will be released upon completion of the warranty period.

NON-PERFORMANCE

The City reserves the right to cancel the contract with a seven (7) day notice should the Contractor fail to perform up to the requirements and standards identified in the specifications. The City may withhold part or all payments due to the Contractor until correction is made.

INSPECTION

The Contract Manager will make visits to the site at intervals appropriate to the various stages to observe the progress and quality of the executed work and determine if the work is proceeding in accordance with the Contract Documents.

Contract Manager may authorize minor variations in the planting from the requirements of the Contract Documents.

REJECTING DEFECTIVE WORK

The Contract Manager will have the authority to disapprove or reject work, which he believes to be unacceptable work and not in accordance with Contract Documents. Parks & Parkways Superintendent will be the final interpreter of the requirements of the Contract Documents and judge of the acceptability of the work performed. City will notify the contractor within three (3) working days, in writing, of unacceptable work. If work has been rejected, contractor shall correct all defective work within three (3) working days and bear all costs to correct the defective work. If the contractor fails within three (3) working days after written notice to correct the defective work, or if the contractor fails to perform the work in accordance with the Contract Documents, the City may correct and remedy any such deficiency, with the contractor to bear all costs to correct the defective work.

PROTECTION OF PUBLIC AND PRIVATE PROPERTY

Contractor shall assume full responsibility for any damage to any property including but not limited to trees, shrubs, lawns, walks, pavements, roadways, structures, utilities, dog fencing, and underground facilities, resulting from the performance of the work.

The contractor upon receipt of either written or oral notice to discontinue such practice shall immediately discontinue any practice obviously hazardous in the opinion of the Contract Manager. The contractor shall comply with all OSHA and other Federal and State safety standards. Blocking of the public street, except under extreme emergency conditions, shall not be permitted unless prior arrangements have been made with the Contract Manager and the City Police and Fire Departments and other agencies having jurisdiction over the street to be closed.

PROTECTION OF OVERHEAD UTILITIES

The operations will be conducted in many areas where overhead electric, telephone, and cable television facilities exist. The contractor shall protect all utilities from damage, shall immediately contact the appropriate utility if damage has occurred, and shall be responsible

for all claims for damage due to his operations. The contractor shall make arrangements with the utility for the removal of necessary limbs and branches, which may conflict with, or create a personal injury hazard in the removal of the tree. Delays encountered by the contractor in waiting for the utility to complete its work shall not be the responsibility of the contractor.

PROTECTION OF UNDERGROUND UTILITIES

The Contractor will be responsible for following the Florida Underground Facility Damage Prevention & Safety Act (556), OSHA Standard 1926.651, Florida Trench and Safety Act (Chapter 90-96) and obtaining utility locations by calling Sunshine State One-Call of Florida Inc. at 1-800-432-4700. Contractor shall have full responsibility for reviewing and checking all information and data for locating all underground facilities.

TRAFFIC CONTROL

1. Contractor will be required to furnish traffic control and/or barricades as needed or as required by the State of Florida. Barricading and detouring of the traffic shall be accomplished in conformance with the State of Florida Manual of Uniform Traffic Control Devices for Highway Construction and Maintenance Operations, latest edition. A flagman is required when two-way traffic is obstructed by the removal operation.
2. Contractor will be responsible for adequate barricades, warning devices, and the necessary safety equipment according to State DOT standards while working on City, County or State roads as a sub-Contractor of the City.

SPECIFICATIONS

PLANT QUANTITIES AND QUALITY

1. **Plant Quantities:** The list of locations and plant quantities will vary depending upon the amount of conflicts encountered with buried utilities. Prior to plant purchases, the Contract Manager will confirm the total amount of trees or palms which are able to be planted.
2. **Plant Quality:** All plant material shall be a Florida #1 or better as outlined in "Grades and Standards for Nursery Plants," State of Florida Division of Plant Industry. All plants are to be field-grown, referred to as balled and burlapped (B&B). All plants shall be in a healthy and thriving condition, free of pests and diseases when planted.

All plants shall be inspected by the Contract Manager upon delivery to the planting site. Plant Material will be inspected for, but not limited to, canopy and root conditions. Inspections will be conducted using the standards as outlined in "Grades and Standards for Nursery Plants," State of Florida Division of Plant Industry. Plant Material with "circling" roots will not be accepted. It will be the Contractor's responsibility to provide an acceptable tree. No material is to be

planted without being inspected and approved by the Contract Manager.

3. **Nurseries:** All plant material must come with documentation of purchase from a Florida Certified Nursery or Florida Certified Stock Dealer with the Florida Department of Agriculture and Consumer Services, Division of Plant Industry.

Additional documentation is required for Coconut Palms (*Cocos nucifera*) to show plantings are from certified seed.

4. **Transportation:** All trees and palms shall be transported to the job site using a truck with a tree bar. The trees and palms will be tied to prevent rolling and the covered tightly during transport.
5. **Guarantee:** The contractor furnishing and maintaining the trees shall warrantee all plant material for twelve months after the time of acceptance by the City of Naples. Any trees or palms lost shall be replaced by the contractor at no cost to the City. The trees or palms that are lost shall be watered for a one year period post planting.

LANDSCAPE SPECIFICATIONS

1. **Planting Hole:** The planting hole shall be no less than twice the diameter of the container root ball. The depth of the hole shall not be greater than the depth of the root ball or six inches greater than the root ball, whichever is smaller. The space around the root ball shall be filled with existing soil. Each planting hole shall have a four-inch dirt rim to contain water during the establishment period. The dirt rim shall be removed at the end of the maintenance period. Excess dirt from the planting hole shall be removed from the planting site.
2. **Root Trimming:** Trees shall have roots trimmed to ensure and prevent "circling or girdling" roots. Each plant shall have the entire outer inch of the sides and bottom of the root ball removed. Be sure to cut through roots just before the point where they turn or circle.
3. **Planting Procedure:** Planting shall follow sound accepted nursery practice of the area. The trees and palms shall be handled in a manner to prevent mechanical breakage which will, in any way, affect the physical appearance or vitality of the plant concerned. The planting soil around the root ball shall be flooded with water, at the time of planting, as to cause compaction of the planting soil and elimination of air space or pockets. When finished planting, the trees and palms shall not have any excess soil on the trunk of tree or palm. Final grade shall be level with the root initiation zone of the tree or palm. The trees and palms shall have a finished grade equal to the elevation of the surrounding street right-of-way.

4. **Bracing:** Trees shall be triple staked with three (3) two-inch diameter cypress or approved equal poles. Trees shall be tied with tree tie webbing that is ¾-inch wide polypropylene approximately 900# break strength. Ties shall be placed at no less than 1/2 of the height of the plant material. Bracing shall be removed upon request from the City.
5. **Size and Grade:** The size of the plant material shall be as called for in the specifications section of this document. All plant material shall be a Florida #1 or better as outlined in "Grades and Standards for Nursery Plants," State of Florida Division of Plant Industry.
6. **Pruning:** The amount of pruning shall be limited to the minimum necessary to remove dead or injured twigs, branches or fronds. Pruning shall be done in such a manner as to not change the natural shape of the plant.
7. **City Responsibility:** The Contract Manager will review the utility locates and make adjustments in the planting locations to accommodate any conflicts.

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MAINTENANCE PROGRAM

1. **Guarantee:** Plant material shall be warranted of twelve months. The contractor shall replace any palm or tree if it dies due to planting and/or maintenance practices.
2. **Watering:** The contractor shall water all trees and palms regularly. The contractor shall provide schedules for all watering performed at least one week prior to commencement. The contractor shall notify the City prior to watering at the time outlined herein and must adhere to the schedule. The City will have the right to alter said schedules due to events or projects that may conflict or require immediate attention. In the first two weeks, watering should occur 4 times a week. The saucers around the trees and palms should be filled with a minimum of three inches of water. From the third week through the eight-week watering should be done 3 times a week. From the ninth week through the 52nd week watering should be done twice a week or more if needed. This is the minimum-watering schedule desired. If site conditions require more water, it is the responsibility of the contractor to make those scheduling changes. The City has the right at anytime during the maintenance period to require additional watering.
3. **Weed Control:** The contractor shall keep the watering saucers free of weeds during the maintenance period.
4. **Pest Control:** The contractor shall be responsible for all pest control, including but not limited to ants, aphids, Royal Palm bug, mealy bugs, scales, caterpillars and beetles. The contractor shall also treat for fungus problems on the tree leaves and palm fronds.

5. **Plant Condition:** The contractor shall remove any damaged fronds or tree limbs as they may occur from storms or vandalism. The stakes and ties should always be in good condition. Stakes and ties will be removed in the eighth month of the maintenance program. All sucker growth shall be removed when it occurs on specific trees.
6. **Storm Clean-up:** The contractor shall be responsible for the trees and palms after a storm. This includes straightening, staking adjustments, and removal any damaged fronds or tree limbs, etc.

END OF EXHIBIT A

EXHIBIT B

BASIS OF COMPENSATION

As consideration for providing the Services as set forth in the Agreement, the CITY agrees to pay, and the CONTRACTOR agrees to accept payment on a time and reimbursement cost basis [or other basis] as follows [or in Exhibit B-1, which is attached and made part of this Agreement]:

TREE NAME		CALIPER SIZE	ESTIMATE NUMBER	UNIT PRICE			TOTAL
BOTANICAL	COMMON			TREE & PLANTING	1-YEAR WARRENTY	12-MO. MAINTENANCE	
Swietenia mahogany	Mahogany	5 1/2-inch	122	365 ⁰⁰	36 ⁵⁰	160 ⁰⁰	561 ⁵⁰

PRICES BELOW ARE PER BID 036-11

TREE NAME		CALIPER SIZE	UNIT PRICE			TOTAL
BOTANICAL	COMMON		TREE & PLANTING	1-YEAR WARRENTY	12-MO. MAINTENANCE	
Ligustrum japonicum	Ligustrum	2 1/2-inch	150 ⁰⁰	15 ⁰⁰	20 ⁰⁰	185 ⁰⁰
Quercus virginiana	✓ Live Oak	2 1/2-inch	168 ⁰⁰	16 ⁰⁰	20 ⁰⁰	204 ⁰⁰
Lysiloma sabicu	Lysiloma	2 1/2-inch	242 ⁰⁰	24 ⁰⁰	20 ⁰⁰	286 ⁰⁰
Noronhia emarginata	Madagascar Olive	2 1/2-inch	240 ⁰⁰	24 ⁰⁰	20 ⁰⁰	284 ⁰⁰
Hibiscus illicaeus	Maho	2 1/2-inch	240 ⁰⁰	24 ⁰⁰	20 ⁰⁰	284 ⁰⁰
Swietenia mahogany	✓ Mahogany	2 1/2-inch	161 ⁰⁰	16 ⁰⁰	10 ⁰⁰	187 ⁰⁰
Rhizophora mangle	Mangroves	2 1/2-inch	100 ⁰⁰	10 ⁰⁰	20 ⁰⁰	130 ⁰⁰
Albizia julibrissin	Mimosa Tree	2 1/2-inch	195 ⁰⁰	19 ⁰⁰	20 ⁰⁰	234 ⁰⁰ 233⁰⁰

END OF EXHIBIT B

GENERAL INSURANCE REQUIREMENTS

The Contractor shall not commence work until he has obtained all the insurance required under this heading, and until such insurance has been approved by the CITY, nor shall the Contractor allow any subcontractor to commence work until all similar insurance required of the subcontractor has also been obtained and approved by the CITY.

Certificates of insurance must be issued by an authorized representative of the insurance company at the request and direction of the policyholder and must include sufficient information so as to identify the coverage and the contract for CITY's improvements for which they are issued. Certificates of insurance must be issued by a nationally recognized insurance company with a Best's Rating of no less than B+VII, satisfactory to the CITY, and duly licensed to do business in the state of said Contract.

The Contractor shall procure and maintain, during the life of this Contract, Workmen's Compensation Insurance for all of his employees to be engaged in work under this Contract, and he shall require any subcontractor similarly to provide Workmen's Compensation Insurance for all of the latter's employees to be engaged in such work, unless such employees are covered by the protection afforded by the Contractor's insurance. In case any employees are to be engaged in hazardous work under this Contract, and are not protected under this Workmen's Compensation statute, the Contractor shall provide, and shall cause each subcontractor to provide, adequate coverage for the protection of such employees. It is acceptable to use a State-approved Workmen's Compensation Self-Insurance fund.

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The Contractor shall take out and maintain during the life of this Contract, Public Liability and Property Damage and shall include Contractual Liability, Personal Injury, Libel, Slander, False Arrest, Malicious Prosecution, Wrongful Entry or Eviction, Broad Form Property Damage, Products, Completed Operations and XCU Coverage to be included on an occurrence basis, and to the full extent of the Contract to protect him, the CITY, and any subcontractor performing work covered by this Contract from damages for personal injury, including accidental death, as well as from claims for property damage, which may arise from operations under this contract, whether such operations be by himself or by a subcontractor, or by anyone directly or indirectly employed by either of them. The Contractor shall also maintain automobile liability insurance including "non-owned and hired" coverage. The entire cost of this insurance shall be borne by the Contractor.

The amount of such insurance shall be no less than \$1,000,000 annual aggregate for bodily injury and property damage combined per occurrence.

The City of Naples and their Engineer must be named as **Additional Insured** on the insurance certificate **and the following must also be stated on the certificate.** "These coverages are primary to all other coverages the City possesses for this contract only." The City of Naples shall be named as the Certificate Holder. **The Certificate Holder shall read as follows:**

**The City of Naples
735 Eighth Street South
Naples, Florida 34102**

No City Division, Department, or individual name should appear on the Certificate.
No other format will be acceptable.

Thirty (30) days cancellation notice required.

The Certificate must state the bid number and title.

When using the "Accord" form of insurance certificate, please note that under the cancellation clause, the following must be deleted: "endeavor to" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company"

[If other insurance or insurance requirements or any waivers, attach as Exhibit C-1 through C-__]

EXHIBIT D

CERTIFICATION OF COMPLIANCE WITH IMMIGRATION LAWS

The undersigned, is the _____ of **Ameri-Pride, Inc.** (“the CONTRACTOR”), and hereby certifies to the following:

1. The CONTRACTOR is in full compliance with all provisions of the Immigration Reform and Control Act of 1986 (“IRCA”), as well as all related immigration laws, rules, regulations pertaining to proper employee work authorization in the United States.

2. The undersigned has verified that the CONTRACTOR has obtained and maintains on file, and will continue to obtain and maintain on file, all documentation required by law, including but not limited to, Form I-9, Employment Eligibility Verification, for all persons employed by or working for the CONTRACTOR in any capacity on any project for the City of Naples (CITY). All such persons have provided evidence of identity and eligibility to work to the CONTRACTOR in accordance with the IRCA and related law. The undersigned hereby affirms that no person has been or will be employed by the CONTRACTOR to work on projects for the CITY who is not authorized to work under law. The undersigned further affirms that the CONTRACTOR’s files will be updated by written notice any time that additional employees work on projects for the CITY.

3. The CONTRACTOR will have its contractors, subcontractors, suppliers and vendors who are involved in projects for the CITY to sign a written acknowledgment that they too are in compliance with immigration law. It is understood that failure to do so could result in the CONTRACTOR being liable for any violation of the law by such third parties.

4. The CONTRACTOR will fully cooperate with and have its contractors, subcontractors, suppliers and vendors to fully cooperate with, all inquiries and investigations conducted by any governmental agency in connection with proper compliance with the laws pertaining to appropriate work authorization in the United States.

5. The undersigned, on behalf of the CONTRACTOR, acknowledges that this Certification may be relied upon by the CITY, its officers, directors, employees, and affiliates or related persons and entities.

6. If it is found that the CONTRACTOR has not complied with the laws pertaining to proper employment authorization, and any legal and administrative action ensues against the CITY, the CONTRACTOR will indemnify, defend and hold the CITY harmless along with their officers, directors, employees, and affiliated or related persons and entities.

7. The CONTRACTOR acknowledges that the CITY by their authorized representatives shall have the right, at any time, upon 24 hours notice, to examine the CONTRACTOR’s books and records to confirm that the CONTRACTOR is in compliance with the terms of this certification.

Executed this _____ day of _____, 2011.

By: _____

ACKNOWLEDGMENT

STATE OF _____

COUNTY OF _____

SWORN TO AND SUBSCRIBED before me this _____ day of _____, 2011.

The Affiant, _____, is [] personally known to me or [] has produced _____ as identification, which is current or has been issued within the past five years and bears a serial number of other identifying number.

Print Name:

NOTARY PUBLIC - STATE
OF _____

Commission Number: _____
My Commission Expires: _____
(Notary Seal)