

LEE COUNTY CONSTRUCTION CONTRACT  
AGREEMENT FORM

AGREEMENT

**THIS AGREEMENT** (“Agreement”), effective the date the Lee County Board of County Commissioners awarded the Solicitation to the Contractor, is made and entered into by both parties, by and between Lee County, a political subdivision of the State of Florida, hereinafter referred to as the "OWNER" or the “COUNTY” and JSM Services, Inc., a Florida corporation, whose address is 414 Lake Millsite Rd., Bartow, FL 33830, and whose Federal tax identification number is 59-3444761, hereinafter referred to as “CONTRACTOR”.

In consideration of the mutual covenants herein set forth, the COUNTY and the CONTRACTOR do hereby agree as follows:

ARTICLE 1. WORK

The CONTRACTOR shall perform all the Work required by the Contract Documents (the “Work”).

Scope of Work:

In full accordance with the drawings and as further elaborated in the specifications of Lee County Invitation to Bid No. B230516WCD (the “Solicitation”), a copy of which is on file with the Lee County Department of Procurement Management and is deemed incorporated into this Agreement, the CONTRACTOR shall provide all labor and materials to complete repair services to the existing Kelly Road Soccer Complex located at 10750 Kelly Rd., Fort Myers, FL 33908 and Harlem Heights Park Soccer Field located at 7340 Concourse Dr., Fort Myers, FL 33908.

Additionally, CONTRACTOR shall provide such services in compliance with all Federal terms, conditions, provisions, certifications, affidavits, and alike, as set forth in the Exhibit C, Project Funding Package, attached hereto and incorporated herein, which shall be inclusive of the original Solicitation with CONTRACTOR’s executed proposal documents, grant funding provision, and addenda.

PROJECT NAME: Kelly Road Soccer Field/Harlem Heights Turf Restoration-Hurricane Ian

LOCATION: Lee County, Florida

## ARTICLE 2. AMOUNT OF CONTRACT

2.1 The COUNTY shall pay the CONTRACTOR in current funds for the performance of the Work, subject to additions and deductions by Change Order as provided in the Contract Documents, the sum of: Two Million, Four Hundred Seventy-Seven Thousand, One Hundred-Two dollars and 00/100 (\$2,477,102.00).

2.2 All funds for payment by the County under this Agreement are subject to the availability of an annual appropriation for this purpose by the County. In the event of nonappropriation of funds by the County for the services provided under this Agreement, the County will terminate the contract, without termination charge or other liability, on the last day of the then current fiscal year or when the appropriation made for the then-current year for the services covered by this Agreement is spent, whichever event occurs first. If at any time funds are not appropriated for the continuance of this Agreement, cancellation shall be accepted by the CONTRACTOR on thirty (30) calendar days' prior written notice, but failure to give such notice shall be of no effect, and the County shall not be obligated under this Agreement beyond the date of termination.

## ARTICLE 3. PROGRESS PAYMENTS

Based upon Applications for payment submitted to the OWNER'S Representative by the CONTRACTOR, and Certificates for Payment issued by the OWNER'S Representative, the COUNTY shall make progress payments on account of the Contract Price to the CONTRACTOR as provided in the Contract Documents as follows:

3.1 Not later than fifteen (15) calendar days following the approval of an Application for payment, up to ninety-five percent (95%) of the portion of the Contract Price properly allocated to the aggregate of labor, materials, and equipment costs collectively incorporated in the Work and up to ninety-five percent (95%) of the portion of the Contract Price properly allocated to materials and equipment suitably stored at the site or some other location agreed upon in writing, for the period covered by the application for payment, less the aggregate of previous payments made by the COUNTY. In the event day fifteen (15) falls on a Saturday, Sunday, or Lee County recognized holiday, the deadline shall fall to the next Monday or non-Lee County recognized holiday.

3.1.1 The amount of retainage withheld from each subsequent progress payment made to the CONTRACTOR may not exceed 5%.

3.2 Upon final completion of the work and acceptance of the project, a sum sufficient to increase the total payments to one hundred percent (100%) of the Contract Price, less such amounts as the COUNTY shall determine for all incomplete Work, unsettled claims, or unused units as provided in the Contract Documents.

## ARTICLE 4. CONTRACT DOCUMENTS

This Contract executed this date by the Lee County Board of County Commissioners and the CONTRACTOR. WITNESSETH that the parties hereto do mutually agree as follows:

4.1 The CONTRACTOR shall furnish all labor, equipment, and materials and perform the Work above described for the amount stated above in strict accordance with the General Conditions, Supplementary Information, Plans and Specifications, and other Contract Documents, all of which are made a part hereof as if attached and enumerated as follows:

4.1.1 Lee County Invitation to Bid/Project Manual titled: Kelly Road Soccer Field/Harlem Heights Turf Restoration-Hurricane Ian dated September 12, 2023

4.1.2 Addendum Number 1 dated September 21, 2023

4.1.3 Addendum Number 2 dated September 25, 2023

4.1.4 CONTRACTOR's Bid Proposal dated October 4, 2023

4.2 The COUNTY shall pay the CONTRACTOR in accordance with the Exhibit A, Price Proposal, attached hereto and incorporated herein.

4.3 Public Payment and Performance Bond

4.4 Certificate of Insurance

4.5 Notice of Award

4.6 Documentation submitted by the CONTRACTOR prior to the Notice of Award: None.

4.7 CONTRACTOR's Background Screening Affidavit attached hereto and incorporated herein as Exhibit B.

4.8 The following, which may be delivered or issued after the effective date of the Agreement and are not attached hereto: All written amendments and other documents amending, modifying, or supplementing the Contract Documents pursuant to paragraphs 3.5 and 3.6 of the General Conditions.

4.9 All Federal terms, conditions, provisions, certifications, affidavits, and alike, as set forth in the Exhibit C, Project Funding Package, attached hereto and incorporated herein.

## ARTICLE 5. TIME OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

5.1 Work to be started on the date specified in the Official Notice to Proceed.

5.2 Substantial completion shall be achieved not later than the number of days specified in the Special Conditions and/or notice to proceed.

5.3 Final completion shall be achieved not later than the number of days specified in the Special Conditions and/or notice to proceed.

**Liquidated Damages for Delay:**

The COUNTY and CONTRACTOR recognize that time is of the essence of this Agreement and that the COUNTY will suffer financial loss if the work is not completed within the times specified in 5.2 and 5.3 above, plus any extensions thereof allowed by Change Order. They also recognize the delays, expense, and difficulties involved in proving in a legal proceeding the actual loss suffered by the COUNTY if the work is not completed on time. Accordingly, instead of requiring any such proof, COUNTY and CONTRACTOR agree that as Liquidated Damages for CONTRACTOR's delay (but not as a penalty), the sum of \$760.00 per calendar day shall be deductible from monies due to the CONTRACTOR or paid by the CONTRACTOR to the COUNTY for each calendar day that expires after the time specified for Substantial Completion and the project fails to reach Substantial Completion.

**Actual Damages for Breach Other than Delay:**

The CONTRACTOR shall also be liable for any Actual Damages sustained by the COUNTY due to the CONTRACTOR'S breach of this Agreement not otherwise addressed by liquidated damages. Actual Damages may include but are not limited to: costs related to supervision, inspection, rentals, testing, consulting fees, or replacement parts.

The County Manager, or designee, shall have the right to calculate and assess all appropriate damages due from the final payment request as well as retainage. However, prior to deducting damages, the COUNTY shall give the CONTRACTOR seven (7) calendar days' notice prior to submitting the adjusted amount due to the Clerk for payment. In the event of a dispute, the County Manager, or his or her designee, may negotiate the Liquidated Damages sum owed to the COUNTY by the CONTRACTOR.

**ARTICLE 6. DISPUTE RESOLUTION**

6.1 In the event of a dispute or claim arising out of this Agreement, the parties agree first to try in good faith to settle the dispute by direct discussion. If this is unsuccessful, the parties may enter into mediation in Lee County, Florida, with the parties sharing equally in the cost of such mediation.

6.2 In the event mediation, if attempted, is unsuccessful in resolving a dispute, the parties may proceed to litigation as set forth below.

6.3 Any dispute, action, or proceeding arising out of or related to this Agreement will be exclusively commenced in the state courts of Lee County, Florida, or where proper subject matter jurisdiction exists in the United States District Court for the Middle District of Florida. Each party

irrevocably submits and waives any objections to the exclusive personal jurisdiction and venue of such courts, including any objection based on forum non conveniens.

6.4 This Agreement and the rights and obligations of the parties shall be governed by the laws of the State of Florida without regard to its conflict of laws principles.

6.5 Unless otherwise agreed in writing, the Contractor will be required to continue all obligations under this Agreement during the pendency of claim or dispute including, but not limited to, actual periods of mediation or judicial proceedings.

#### ARTICLE 7. MISCELLANEOUS PROVISIONS

7.1 Final payments, constituting the entire unpaid balance of the Contract Price shall be paid by the COUNTY to the CONTRACTOR when the work has been completed, the Contract fully performed, and a final Certificate for Payment, form No. CMO:013, has been approved by the COUNTY.

7.2 Terms used in the Agreement which are defined in the General Conditions of the Contract shall have the meaning designated in those conditions.

7.3 The COUNTY and CONTRACTOR each binds himself, his partners, successors, assigns and legal representatives to the other party hereto, his partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

7.4 The CONTRACTOR shall not assign or transfer any of its rights, benefits, or obligations, except for transfer that results from transfer or consolidation with a third party, without the prior written approval of the COUNTY. The CONTRACTOR shall have the right to employ other persons and/or firms to serve as sub-contractors in connection with the requirements of the Contract Documents.

7.5 The CONTRACTOR agrees through the signing of this agreement by an authorized party or agent that he shall hold harmless and defend the County of Lee and its agents and employees from all suits and action, including attorney's fees, and all cost of litigation and judgments of every name and description arising out of and incidental to the performance of this Contract Document or work performed thereunder, whether or not due to or caused by negligence of the COUNTY, excluding only the sole negligence of the COUNTY. This provision shall also pertain to any claims brought against the COUNTY by any employee of the CONTRACTOR, or sub-contractor(s), or anyone directly or indirectly employed by any of them. The CONTRACTOR'S obligation under this provision shall not be limited in any way to the agreed upon Contract Price as shown in this agreement or the CONTRACTOR'S limit of or lack of sufficient insurance protection.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date last below written.

WITNESS:

Signed By: Loretti Padilla

Print Name: Loretti Padilla

JSM SERVICES, INC.

Signed By: JWS Stamps

Print Name: James Stamps

Title: President

Date: 10/25/23

LEE COUNTY

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

BY: \_\_\_\_\_  
CHAIR

DATE: \_\_\_\_\_

ATTEST:  
CLERK OF THE CIRCUIT COURT

BY: \_\_\_\_\_  
DEPUTY CLERK

APPROVED AS TO FORM FOR THE  
RELIANCE OF LEE COUNTY ONLY:

BY: \_\_\_\_\_  
OFFICE OF THE COUNTY ATTORNEY

**EXHIBIT A**  
**PRICE PROPOSAL**

<b>Kelly Road Soccer Field Turf Restoration from Hurricane Ian</b>					
<b>Section 1 Field Preparation</b>					
Item	Description	Unit	Quantity	Unit Price	Extended Amount
1	MOBILIZATION	LS	2	\$4,500.00	\$9,000.00
2	DEBRIS REMOVAL	LS	1	\$4,000.00	\$4,000.00
3	SPRAY OUT EXISTING FIELD WITH 4% ROUNDUP SOLUTION	EA	2	\$3,700.00	\$7,400.00
4	SCRAPE SITE TO BARE SOIL	LS	1	\$10,000.00	\$10,000.00
5	REVERSE TILL FIELD	LS	1	\$50,000.00	\$50,000.00
<b>Section 1 Field Preparation Subtotal</b>					<b>\$80,400.00</b>
<b>Section 2 Irrigation</b>					
Item	Description	Unit	Quantity	Unit Price	Extension
6	REMOVE ALL SPRINKLER HEADS AND CAP TO BE RELOCATED (SAVE GOOD SPRINKLER HEADS)	EA	216	\$60.00	\$12,960.00
7	RAISE ALL SWING JOINTS TO MEET ELEVATION CHANGES	EA	216	\$60.00	\$12,960.00
8	REINSTALL SAVED SPRINKLER HEADS	EA	216	\$60.00	\$12,960.00
9	REPLACE ANY SPRINKLER HEADS THAT DO NOT OPERATE PROPERLY	EA	216	\$160.00	\$34,560.00
10	RAISE VALVE BOXES TO MEET NEW ELEVATION	EA	36	\$100.00	\$3,600.00
11	REPLACE ANY DAMAGED VALVE BOXES	EA	36	\$50.00	\$1,800.00
<b>Section 2 Irrigation Subtotal</b>					<b>\$ 78,840.00</b>
<b>Section 3 Grading/Leveling/Sod</b>					
Item	Description	Unit	Quantity	Unit Price	Extension
12	LASER GRADE FIELD	LS	1	\$85,000.00	\$85,000.00
13	TOP DRESSING SAND (90/10 Peat Mix)	TN	16,600	\$53.00	\$879,800.00
14	SUPPLY AND INSTALLATION OF PLATINUM TE PASPALUM ROLLED SOD OR EQUIVALENT	SF	827,400	\$1.30	\$1,075,620.00
15	MAINTENANCE FOR 30 DAY GROW IN (FERTILIZING, MOWING, WATERING, TOP DRESSING)	LS	1	\$65,000.00	\$65,000.00
<b>Section 3 Grading/Leveling/Sod Subtotal</b>					<b>\$2,105,420.00</b>

## Harlem Heights Soccer Field Turf Restoration

### Section 4 Field Preparation

Item	Description	Unit	Quantity	Unit Price	Extended Amount
16	MOBILIZATION	LS	1	\$4,500.00	\$4,500.00
17	DEBRIS REMOVAL	LS	1	\$750.00	\$750.00
18	SPRAY OUT EXISTING FIELD WITH 4% ROUNDUP SOLUTION	EA	2	\$900.00	\$1,800.00
19	SCRAPE SITE TO BARE SOIL	LS	1	\$3,500.00	\$3,500.00
20	REVERSE TILL FIELD	LS	1	\$5,500.00	\$5,500.00
<b>Section 4 Field Preparation Subtotal</b>					<b>\$16,050.00</b>

### Section 5 Irrigation

Item	Description	Unit	Quantity	Unit Price	Extension
21	REMOVE ALL SPRINKLER HEADS AND CAP TO BE RELOCATED (SAVE GOOD SPRINKLER HEADS)	LF	30	\$60.00	\$1,800.00
22	RAISE ALL SWING JOINTS TO MEET ELEVATION CHANGES	LF	30	\$60.00	\$1,800.00
23	REINSTALL SAVED SPRINKLER HEADS	EA	30	\$60.00	\$1,800.00
24	REPLACE ANY SPRINKLER HEADS THAT DO NOT OPERATE PROPERLY	EA	30	\$160.00	\$4,800.00
25	RAISE VALVE BOXES TO MEET NEW ELEVATION	EA	5	\$100.00	\$500.00
26	REPLACE ANY DAMAGED VALVE BOXES	EA	5	\$50.00	\$250.00
<b>Section 5 Irrigation Subtotal</b>					<b>\$10,950.00</b>

### Section 6 Grading/Leveling/Sod

Item	Description	Unit	Quantity	Unit Price	Extension
27	LASER GRADE FIELD	LS	1	\$15,000.00	\$15,000.00
28	TOP DRESSING SAND (90/10 Peat Mix)	TN	1,500	\$53.00	\$79,500.00
29	SUPPLY AND INSTALLATION OF PLATINUM TE PASPALUM ROLLED SOD OR EQUIVALENT	SF	65,340	\$1.30	\$84,942.00
30	MAINTENANCE FOR 30 DAY GROW IN (FERTILIZING, MOWING, WATERING, TOP DRESSING)	LS	1	\$6,000.00	\$6,000.00
<b>Section 6 Grading/Leveling/Sod Subtotal</b>					<b>\$185,442.00</b>

### PROJECT TOTAL

<b>PROJECT TOTAL</b>					<b>\$2,477,102.00</b>
----------------------	--	--	--	--	-----------------------

EXHIBIT B

CONTRACTOR'S BACKGROUND SCREENING AFFIDAVIT



CONTRACTOR BACKGROUND SCREENING AFFIDAVIT

Florida Statutes Chapter 435 governs required background screenings for any employees, contractors, subcontractors, or agents of the Contractor who will have contact with any vulnerable person, as defined by statute, or who otherwise are required to undergo a Level 1 or Level 2 background screening in accordance with Florida law.

The Contractor is responsible for ensuring that such required background screenings are conducted in accordance with Florida Statutes Chapter 435. Documentation of such completed background screenings must be maintained for a period of no less than five (5) years and are subject to audit by Lee County at any time during such five (5) year period.

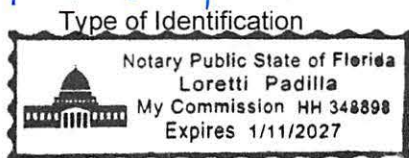
Under penalty of perjury, I declare that I have read and understand the requirements stated above, and that all required background screenings shall be conducted in accordance with this affidavit. I further understand that there may be additional local, state, and federal regulations that may require background screening, and that the Contractor will be solely responsible for complying with such legal requirements. Furthermore, the Contractor shall indemnify and hold Lee County harmless from any and all claims or actions resulting from failure to comply with this affidavit.

Date: 10/25/23

Signature: [Handwritten Signature]
Name/Title: James Stamp3 / Resident

STATE OF Florida
COUNTY OF Lee

The foregoing instrument was sworn to (or affirmed) and subscribed before me by means of [X] physical presence or [ ] online notarization, this 25th day of October, 2023, by the above-named person and in their stated capacity, and is either personally known to me or who has produced the following type of identification: N/A Personally known



[Stamp/seal required]

Signature, Notary Public: [Handwritten Signature]

NOTARY PUBLIC STATE OF FLORIDA

NOTARY PUBLIC STATE OF FLORIDA  
COMMISSION EXPIRES 12/31/2027

I, the undersigned, do hereby certify that the within and foregoing is a true and correct copy of the original as the same appears in the records of the office of the Notary Public for the State of Florida, at Tallahassee, Florida, this 12th day of January, 2027.

My commission expires on the 31st day of December, 2027.

Notary Public for the State of Florida  
Tallahassee, Florida

*[Handwritten signature]*

NOTARY PUBLIC STATE OF FLORIDA  
COMMISSION EXPIRES 12/31/2027

I, the undersigned, do hereby certify that the within and foregoing is a true and correct copy of the original as the same appears in the records of the office of the Notary Public for the State of Florida, at Tallahassee, Florida, this 12th day of January, 2027.

