

Exhibit "F"

Form of Agreement

STATE OF TEXAS §

COUNTY OF WILLIAMSON §

This Contract for Landscape Maintenance Services ("Contract") is entered into between **Brushy Creek Municipal Utility District**, a conservation and reclamation district (the "District"), and _____, a _____ ("Contractor"). The District and Contractor are collectively referred to herein as the "Parties" or individually as a "Party."

Recitals

A. Whereas, the District owns a number of tracts of real property for which it desires to retain a qualified contractor to perform landscape maintenance services; and

B. Whereas, the Contractor has agreed to provide landscape maintenance services at the District's properties in accordance with the terms and conditions of this Agreement.

Now, Therefore, for and in consideration of the payment terms and performance obligations herein described, the sufficiency of which are hereby acknowledged, the Parties agree as follows:

Agreement

ARTICLE 1. SERVICES TO BE PROVIDED

1.1 Scope of Work. Contractor agrees to provide landscape maintenance services (the "Services") on behalf of the District. The parks, trails, greenbelts, medians, and other locations at which the Services shall be provided by Contractor, along with a description of the services and frequency of performance, are set forth on **Exhibit "D"** attached hereto. The Contractor shall provide all labor, equipment and process machinery required for the Services.

1.2. Specifications

1.2.1 Contractor shall perform all service in accordance with the specifications attached hereto as **Exhibit "D"** (the "Specifications"). The Specifications are hereby incorporated into, and made a part of, this Contract.

1.2.2 The Parties agree that the Specifications represent the general requirements for maintenance of District landscaping. The Contractor shall be responsible for providing Services that meet or exceed all of the requirements as set forth in the Specifications.

1.3 Changes in Work. The District may request additional Services or changes in the Services. If so, changes in the Services shall only be initiated by a written change order ("Change Order") signed by an authorized representative of each Party. Verbal Change Orders shall have no effect, except in cases of an emergency threatening personal injury or property damage.

1.4 Additional Maintenance. The District may from time to time request that the Contractor perform maintenance services at individual District properties more frequently than the schedule set forth on **Exhibit "B"** attached hereto. The Contractor agrees to perform any additional maintenance services requested by the District, and shall be entitled to additional compensation for such additional Services in accordance with Section 3.2 below.

1.5 Penalties for Non-Performance. The District may assess penalties for non-performance of the Services or for Contractor's failure to perform the Services on a timely basis. A penalty of \$100 per day may be assessed and deducted by the District from the subsequent monthly payment for each day that one or more of the Services (including submittal of the required reports) is not completed on time and after the District has notified the Contractor in writing and given the Contractor at least three business days to complete the incomplete Services and notify the District of completion. For example, if a District property is scheduled to be mowed on **October 1, 2016**, but is not mowed and the District notifies the Contractor of the missed mowing on **October 3, 2016**, the Contractor would have until **October 8, 2016** to complete the missed mowing and notify the District of completion. For each day after October 8th that the mowing is not completed and Contractor fails to provide notice of completion to the District, the District may assess the Contractor a \$100 per day penalty that would be deducted from the next month's payment.

ARTICLE 2. TERM

This Contract shall commence on **October 1, 2016** and shall terminate on **September 30, 2017**, unless expressly extended by a Change Order or earlier terminated in accordance with the terms of this Contract.

ARTICLE 3. PRICE

3.1 The monthly price to be paid by the District to Contractor for the Services shall be \$_____per month.

3.2 In the event that the District requests that Services be performed by Contractor at individual properties of the District more frequently than set forth on Exhibit "A" attached hereto, then the District shall provide compensation for such additional services at the "price per additional time" rate identified in Exhibit "A" attached hereto.

ARTICLE 4. PAYMENT

4.1 Payments will be made within thirty days after the District receives a correct invoice for the Services.

4.2 Invoices for payment under this Contract shall be sent to:

Brushy Creek Municipal Utility District
Accounts Payable
16318 Great Oaks Drive
Round Rock, Texas 78681

In no event shall Contractor invoice the District more than once a month.

THE DISTRICT WILL NOT AUTHORIZE PAYMENT FOR ANY AMOUNT OVER THE PRICE SET FORTH HEREIN UNLESS THE OVERCHARGE HAS BEEN REQUESTED OR APPROVED IN WRITING BY THE DISTRICT.

ARTICLE 5. INDEPENDENT CONTRACTOR

Contractor shall perform in all respects as an independent contractor and not as an employee, partner, joint venturer or agent of the District. The Services to be performed by Contractor shall be subject to the District's review, approval and acceptance, but the detailed manner and method of performance shall be under the control of Contractor. The accuracy, completeness and scheduling of the Services and the application of proper means and methods for performance of the Services are entirely the responsibility of Contractor. Contractor shall be solely responsible for hiring, supervising and paying its employees, subcontractors and suppliers. Contractor shall be solely responsible for payment of all (i) compensation, including any employment benefits, to its employees, (ii) taxes, including withholding for federal income tax purposes, employment and unemployment taxes, and (iii) such other expenses as may be owed to Contractor's employees. However, because Contractor's Services may be associated in the minds

of the public with District, Contractor shall ensure that all Services by its employees, subcontractors and agents are performed in an orderly, responsible and courteous manner.

ARTICLE 6. LICENSES AND PERMITS

6.1 Contractor shall procure and maintain at its expense all licenses and permits necessary for it to perform the Services.

6.2 Contractor shall ensure that its and its subcontractors' employees and other trades-people are all properly licensed to perform their respective portions of the Services.

ARTICLE 7. GOVERNING LAWS, REGULATIONS & STANDARDS

7.1 This Contract shall be governed, interpreted and enforced under the laws of the State of Texas, without regard to its conflict of law principles. In the event of litigation between the Parties arising out of this Contract issued under it, venue for such litigation shall be in a court of competent jurisdiction in Williamson County, Texas.

7.2 Contractor shall be aware of and shall comply with all federal, state and local laws, ordinances, codes (including applicable professional codes) and regulations applicable to the Services. If any of the Services fails to comply with such laws, ordinances, codes and regulations, Contractor shall bear any expense arising from that failure, including the costs to bring the Services into compliance.

7.3 Contractor is solely responsible to ensure that its employees and those of its subcontractors and suppliers, who are not citizens of the United States, hold all documentation required under U.S. immigration law to lawfully work in the United States. **CONTRACTOR SHALL INDEMNIFY AND HOLD HARMLESS, DISTRICT, ITS AFFILIATES, THEIR BOARDS OF DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES FROM AND AGAINST ANY EXPENSE (INCLUDING ATTORNEYS' FEES, COURT COSTS AND EXPERT WITNESS FEES), LOSS, FINE, SANCTION, PENALTY, LAWSUIT, JUDGMENT OR OTHER PROCEEDING ARISING IN CONNECTION WITH THE VIOLATION OR ALLEGED VIOLATION OF THIS OBLIGATION.**

ARTICLE 8. INTOXICANTS & DRUGS: EMPLOYEE CONDUCT

Intoxicants or illegal drugs are prohibited on the District's properties. Contractor shall not at any time allow personnel for whom it is responsible on the jobsite if they are under the influence of any substance that may impair their performance. Contractor shall promptly remove from the jobsite any person who is or appears to be under the influence of any of these substances or is otherwise unsafe or disorderly. Contractor shall ensure that its employees, subcontractors and their employees avoid excessive noise, exceeding speed limits or reckless driving, use of weapons or trespass on land not owned by or under easement to District. If private property must be entered or crossed to perform the Services, Contractor shall obtain permission from the property owner before entering.

ARTICLE 9. WARRANTIES

General Warranty of the Services. Contractor warrants that all Services shall be performed in a good and workmanlike manner consistent with industry standards and to any higher standard required in this Contract, including the attached Specifications. Contractor shall correct, without delay and at its own expense, any portion of the Services that does not meet the warranty.

The Contractor shall be responsible for damage to the District's equipment and/or property, the workplace and its contents by its work, negligence in work, its personnel and equipment.

ARTICLE 10. GENERAL INDEMNITY

10.1 CONTRACTOR SHALL HOLD THE DISTRICT AND ITS BOARD OF DIRECTORS, DIRECTORS, OFFICERS, EMPLOYEES, AGENTS AND OTHER CONTRACTORS HARMLESS FROM ALL CLAIMS, DAMAGES, LOSSES AND EXPENSES (JOINTLY "CLAIMS"), INCLUDING REASONABLE ATTORNEYS' FEES, ARISING OUT OF, OR RESULTING FROM OR ARISING UNDER THIS CONTRACT, OR ANY CLAIMED DEFECT IN THE SERVICES, PROVIDED THAT ANY SUCH CLAIM, DAMAGE, LOSS OR EXPENSE IS CAUSED, IN WHOLE OR IN PART, BY THE NEGLIGENT OR GROSSLY NEGLIGENT ACT OR WILLFUL MISCONDUCT OF CONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY IT, OR ANYONE FOR WHOSE ACTS IT MAY BE LIABLE.

10.2 THE FOREGOING INDEMNITY PROVISION SHALL BE DEEMED AN INDEPENDENT COVENANT AND SHALL SURVIVE COMPLETION OF OR ANY TERMINATION OF THE CONTRACT OR ANY CLAIMED BREACH THEREOF. CONTRACTOR'S INDEMNITY RESPONSIBILITY AS SPECIFIED IN THIS ARTICLE SHALL NOT INCLUDE SPECIAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES.

ARTICLE 11. INSURANCE

The Contractor shall procure and maintain at its sole cost and expense for the duration of this Contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work as a result of this bid by the successful bidder, its agents, representatives, volunteers, employees or subcontractors. Certificates of Insurance and endorsements shall be furnished to the District and approved by the District before commencement of Services.

The following standard insurance policies shall be required each in an amount not less than \$1,000,000:

- General Liability Policy
- Automobile Liability Policy
- Worker's Compensation Policy (Statutory)

ARTICLE 12. HEALTH AND SAFETY REQUIREMENTS

12.1 General. Contractor shall perform all Services required by this Contract in a safe and healthy manner. During the course of Services, the Contractor is directly responsible for; shall comply with; and enforce all laws, rules, regulations, and good industry practices applicable to worker safety and health.

12.2 Scope of Health and Safety Requirements. Contractor and its agents employed by District are responsible for complying with and enforcing these requirements; Contractor will manage all its subcontractors on site and will be accountable for subcontractor performance with respect to health and safety.

12.3 Limitation of Liability. District shall not be liable for damages or expenses related to any suspension or stoppage of work, loss of business, or other special, incidental, consequential or punitive damages in connection with any failure on the Contractor's part to establish, enforce, or adequately monitor its health and safety program.

ARTICLE 13. ASSIGNMENT

This Contract is to be considered a personal services contract. Contractor may not assign this Contract without the consent of District. Any permitted assignee must notify the District in writing that it accepts the assignment on the same terms and conditions contained in this Contract. No permitted assignment shall limit Contractor's responsibility for performance of this Contract. Attempted assignment or delegation of this Contract, including obligations under it, without the written consent of District shall be void, and not merely voidable.

ARTICLE 14. TERMINATION FOR CONVENIENCE

14.1 District shall have the right to terminate this Contract for its convenience at any time. After receipt of the notice of termination, the Contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due at that point in the Contract:

- (1) Stop all ongoing Services;
- (2) Place no further subcontracts or orders for materials or Services;
- (3) Terminate all subcontracts;
- (4) Cancel all materials and equipment orders, as applicable; and
- (5) Take any action that is necessary to protect and preserve all property related to this Contract that is in the possession of the Contractor.

14.2 In the event of a termination under paragraph (a) of this Article, District shall pay for Services completed as of the date of termination. If the date of termination is other than the end of a month, then the compensation for Services rendered through the date of termination shall be prorated according to the Services completed prior to termination (relative to the total quantity of Services to be performed in a month).

ARTICLE 15. NOTICES

All notices or other communications required under this Contract may be made in writing and sent either by mail or fax to the other Party.

To the District:

Brushy Creek Municipal Utility District
Attn: General Manager
16318 Great Oaks Drive
Round Rock, Texas 78681

To the Contractor:

ARTICLE 16. CONTRACT NON-EXCLUSIVE

The Contract is not exclusive. Contractor has the right to perform services for others during the term of the Contract, and District has the right to hire others to perform the same or similar tasks.

ARTICLE 17. SEVERABILITY

This Contract is severable and if any one or more parts of it are found to be invalid, such invalidity shall not affect the remainder of this Contract if it can be given effect without the invalid parts.

ARTICLE 18. THIRD PARTY BENEFICIARIES

There are no third party beneficiaries to this Contract and the provisions of this Contract shall not create any legal or equitable right, remedy or claim enforceable by any person, firm or organization other than the Parties and their permitted successors and permitted assigns.

ARTICLE 19. INTEGRATION & CONTRACT MODIFICATION

This Contract contains the entire and integrated agreement between Contractor and District as to its subject matter and supersedes all prior and contemporaneous negotiations, correspondence, understandings, representations and agreements, written or oral, related to it.

**Brushy Creek Municipal
Utility District:**

_____:

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Exhibit “B”

Description of District Facilities and Frequency of Services to be Provided at Each Facility

Exhibit “D”

Landscape Maintenance Specifications