

# CITY OF EDEN CEMETERY MAINTENANCE AGREEMENT

## CARE AND MAINTENANCE OF THE CITY OF EDEN CEMETERY (MCCORD ROAD) AND PIONEER REST CEMETERY (LEE STREET)

1. **TERM:** This contract will be for 12 months beginning on the 13<sup>th</sup> day of September 2022 and will be paid monthly at a rate of **\$2000 per month**. Upon the expiration of the initial period and upon agreement of the parties this contract may be extended for an additional twelve months annually.
2. **EQUIPMENT AND MATERIALS:** All equipment shall be furnished by the Contractor. Any material needed for fertilizing, weeding, brush control shall be furnished by the Contractor.
3. **MOWING:** General mowing of all grass as often as needed to maintain a consistent height. Cut grass will be mulched or removed so as to avoid unsightly mounds or piles. Grass in the curbed areas and around headstones must also be cut in such manner as Contractor deems appropriate but to a height consistent.

**\*\*Special attention should be given to the cemeteries looking very neat and clean prior to the following holidays:**

- |                        |                                |
|------------------------|--------------------------------|
| a. Mother's Day (May)  | d. July 4 <sup>th</sup> (July) |
| b. Memorial Day (May)  | e. Labor Day (September)       |
| c. Father's Day (June) | f. Veterans' Day (November)    |

4. **MAINTAIN FENCE ROWS AND ENTRANCES:** Control weeds, brush and vines to maintain access and an aesthetically pleasing presentation.
5. **DEBRIS REMOVAL:** All trash and other debris must be removed before mowing. Removal of faded or deteriorating artificial flowers and decorations from graves is authorized.
6. **SUNKEN AREAS:** Sunken or irregular ground within the cemeteries must be filled in and leveled regularly, as needed. Grave sites which have decorative material should be leveled in a manner respectful of the owners with the material reused, if possible. Improvements or restoration of the grave site is not the responsibility of the City of Eden or Contractor. Private arrangements between the Contractor or a third party and the grave site owner can be entered into, but in no case shall such activity expand beyond the site nor shall the City of Eden nor the Contractor be responsible for care and maintenance of such materials.
7. **Weed Control:** Weed, cactus and thistle control is at the discretion of the Contractor but shall be performed in a manner consistent with good maintenance of the grounds. No spraying will be undertaken immediately prior to or during one of the above-mentioned high traffic holidays.
8. **PERFORMANCE BY CONTRACTOR:**
  - a. As a Contractor for the City of Eden, the Contractor and any employees will be courteous to and considerate of the guests at the cemeteries. Performance of work on the grounds must not be undertaken in proximity to individuals visiting the grounds.
  - b. The Contractor will report any needed maintenance or repairs beyond the scope of his duties to the City of Eden within two (2) business days.
  - c. The Contractor will address work orders from the City of Eden in a timely manner.
9. **FAILURE TO PERFORM:** Should work be deemed unsatisfactory by the City Council, the Contractor will be notified in writing. If a satisfactory resolution is not made within ten (10) business days, the contract may be terminated and Contractor paid for work performed up to that date.
10. **DISPUTE RESOLUTION:** This contract is governed and to be interpreted by the Laws of the State of Texas. Any legal action must be filed in and pursued in Concho County, Texas.
11. **WAIVER:** A waiver by a Party of any breach of any term, covenant or condition contained herein shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition contained herein, whether of the same or a different character.

12. COMPLIANCE WITH ALL LAWS: The Parties shall at their own cost and expense comply with all statutes, ordinances, regulations and requirements of all governmental entities, including federal, state, county or municipal, whether now in force or hereinafter enacted. In no case shall the City of Eden be responsible for the acts or omissions of the Contractor, any employees or agents of the Contractor or sub-contractors hired by the Contractor.

13. INDEMNIFICATION:

**TO THE EXTENT PERMITTED BY LAW CONTRACTOR SHALL INDEMNIFY, HOLD HARMLESS AND DEFEND CITY OF EDEN, ITS OFFICERS, AGENTS, AND EMPLOYEES FROM AND AGAINST ALL LIABILITY FOR ANY AND ALL CLAIMS, LIENS, SUITS, DEMANDS AND/OR ACTIONS FOR DAMAGES, INJURIES TO PERSONS (INCLUDING DEATH), PROPERTY DAMAGE (INCLUDING LOSS OF USE) AND EXPENSES INCLUDING COURT COSTS, ATTORNEY'S FEES AND OTHER REASONABLE COSTS OCCASIONED BY OR RESULTING FROM THE NEGLIGENT OR INTENTIONAL ACTS OR OMISSIONS OF CONTRACTOR, HIS AGENTS OR EMPLOYEES DURING THE PERFORMANCE OF THE WORK HEREIN DESCRIBED.**

**IN THE EVENT OF LIABILITY FROM CLAIMS, LIENS, SUITS, DEMANDS OR ACTIONS ARISING OUT OF OR OCCASIONED BY THE NEGLIGENCE OR INTENTIONAL ACTS BY BOTH CONTRACTOR AND CITY OF EDEN THEIR OFFICERS, AGENTS OR EMPLOYEES IN THE PERFORMANCE OF THIS AGREEMENT, EACH PARTY SHALL CONTRIBUTE TOWARD THE SATISFACTION OF THE LIABILITY ITS PROPORTIONATE SHARES, WHICH SHARE SHALL BE EQUAL TO THE PERCENTAGE OF NEGLIGENCE OR INTENTIONAL ACTION ATTRIBUTABLE TO THAT PARTY, AS PERMITTED BY LAW, EXCEPT IN THE CASE OF GROSS NEGLIGENCE OR WILLFUL MISCONDUCT BY THE CITY OF EDEN OR CONTRACTOR REPRESENTATIVES, AGENTS, CONTRACTORS, EMPLOYEES, SUCCESSORS AND ASSIGNS.**

14. CONFLICT AND SEVERABILITY: If any provision of this Contract conflicts with a state or federal law or constitution, the state or federal law or constitution shall control. The invalidity of any provision of this Contract as determined by a court of competent jurisdiction shall in no way affect the validity of any other provision hereof.

15. ENTIRE AGREEMENT: This contract is the entire agreement of the parties and any prior representations, warranties, agreements, promises or negotiations, verbal or otherwise, pertaining to this agreement have no force and effect.

Date of Execution: 9/21/2022, 2022.

THE CITY OF EDEN, TEXAS

  
MAYOR  
AGAPITO TORRES, MAYOR

CONTRACTOR

  
BRENT FRAZIER

ATTESTED:

  
LAURA BEESON, CITY SECRETARY

  
CHAD MILLER