

Janaury 12, 2007

LANDSCAPE MANAGEMENT AGREEMENT

Villas at Coconut Shores
Bonita Springs, FL

SECTION 1 - DEFINITION

The following Landscape Management Agreement establishes the standard for grounds maintenance for Coconut Shores Villas located South Coconut Island Drive. This standard outlines an efficient and horticulturally sound program of the highest quality, promoting the healthy growth of turf and plant material while ensuring the continual neat appearance of the site. This agreement shall be in effect for the period of March 1, 2007 to February 29, 2008. Unless terminated pursuant to Section III. of the Terms and Conditions at the expiration of the term, this agreement shall automatically renew.

The prices stated under this Agreement are binding unless Owner/Client fails to accept this agreement within 30 days from the date on which it was submitted by Contractor.

SECTION 2 -- CONTRACTOR'S PERSONNEL

2.1 ValleyCrest Landscape Maintenance, Inc. shall designate a qualified representative with experience in the services being provided. This representative will be knowledgeable in horticulture, agronomy and landscape management.

The Contractor shall have properly trained personnel on site to ensure that all operations are performed safely and effectively.

All Contractor personnel shall be in uniform and look presentable at all times.

A representative of ValleyCrest Landscape Maintenance, Inc. shall be available for site walk-through's with the property manager, and encourages this to be done on a monthly basis.

Client/Owner initials RP

Contractor initials JE

SECTION 3 - SCOPE OF WORK

- 3.1 The Contractor shall provide all necessary labor, material, equipment, and fully-trained supervisory personnel to properly maintain all developed landscaped areas within the contract limits.

SECTION 4 - TURF MANAGEMENT

4.1 GENERAL:

- A. Turf shall be cut at a height of 3-4" as conditions dictate using a rotary-type mower. When Bermuda grass is used, a separate set of specs will be provided. Blades will be balanced and sharpened as needed.
- B. The total number of mowings in this agreement is 40.
- C. Clippings shall be removed from all paved and mulched surfaces after each mowing.
- D. Trimming around trees, shrubs, signs and foundations shall be performed with each mowing. Work shall be performed using hand tools or mechanical devices to present a neat and manicured appearance.

4.2 EDGING:

- A. All accessible curbing shall be edged using mechanical methods 40 times per year.
- B. All accessible concrete walks shall be edged using mechanical methods 40 times per year.
- C. All dirt and debris resulting from edging operations shall be removed from curbs, walks, driveways and patios.

Client/Owner initials AP

Contractor initials Ⓢ

SECTION 5 - SHRUB AND FORMAL HEDGE MANAGEMENT

5.1 PRUNING:

- A. All shrubs shall be pruned 9 times per year. Care shall be taken not to remove too much of the flowering surface branches when pruning. Pruning shall include the removal of wood that is dead, diseased or infested with insects. Suckers, shoots and irregular growth shall also be removed.
- B. Hand-pruning shall be utilized as necessary for certain shrubs. All other pruning shall be performed by mechanical hedge trimmers.

5.2 WEED CONTROL:

- A. Physical removal and post-emergent weed control such as Round-Up shall be used in treating problem weed areas and weeds that appear in bed areas and tree rings. Care shall be taken to prevent damage to plant material and turf areas.
- B. All paved areas, beds and tree rings shall be sprayed 12 times per year, to the contract to control weed populations.

SECTION 6 - LANDSCAPE TREE MANAGEMENT

6.1 PRUNING:

- A. All dead palm fronds up to 12' shall be removed as needed while the property is being pruned. All palms should be formally trimmed every year, and is a service that is strongly recommended by ValleyCrest Landscape Maintenance. This annual tree trimming will be at an additional cost to this agreement.
- B. Low hanging branches on trees shall be lifted to a height of 8', four times throughout the year.

Client/Owner initials RP
Contractor initials SE

SECTION 7 - FERTILIZATION

7.1 TURF APPLICATIONS

- A. All turf areas shall be fertilized 5 times per year with the proper blend for each season.
- B. Herbicides shall be added to the fertilizer for 2 applications during the winter season to assist in the reduction of the weeds.
- C. Insecticide shall be added to the fertilizer for 2 applications during the summer season to assist in the reduction of turf-damaging insects. This application does not prevent the presence of fire ants.

7.2 TREE/SHRUB APPLICATION

- A. The fertilization program for trees and established shrub beds shall provide the proper blend of micro and macro-nutrients for each season. There will be 3 applications per year.
- B. Fertilizer shall be commercial grade, mixed granules or pelletized fertilizer, with not less than 50% of the total nitrogen being slowly soluble.
- C. Material shall be applied in accordance with the manufacturers recommendation and in compliance with the Environmental Protection Agency's regulations.

7.3 PALM APPLICATION:

- A. All palms shall be fertilized 3 times per year. The fertilizer blend applied shall include magnesium, manganese and micro-nutrients necessary for proper health and growth.

SECTION 8- IRRIGATION

8.1 IRRIGATION REPAIRS:

- A. The Irrigation system will be inspected 12 times with attention given to

Client/Owner initials RP

Contractor initials JE

proper coverage and zone settings. All adjustments and cleaning of heads will be included in this inspection. Any necessary repairs or replacements will be tagged and brought to the attention of the property manager for their approval. Repairs that are performed by ValleyCrest Landscape Maintenance will be billed at \$45 per hour, plus parts.

- B. The contractor is not responsible for damage they cause in situations where any components of the irrigation system have been improperly installed. Any other damage caused by the Contractor shall be repaired at no cost to Owner/Client.

SECTION 9 – OTHER

9.1 MULCH:

- A. Mulch shall be applied as directed by the property manager and included in the contract price.

9.2 SEASONAL COLOR:

- A. Seasonal color shall be installed, fertilized, maintained and billed separately at owners request.

9.3 BIO-HAZARDS:

- A. Contractor shall not be responsible for policing, picking up, removing or disposing of certain materials that may be bio-hazards on the Owner/Client's property. This includes, but is not limited to, items such as hypodermic needles (Sharps (needles) will not be handled by the Contractor's employees at any time), condoms, feminine hygiene products, clothing or materials used in the process of cleaning up bodily fluids. Contractor shall only be obligated to report/communicate any observations of potential bio-hazards to the Owner/Client for their appropriate removal by others, unless previously arranged by the Owner/Client and Contractor

9.4 PRODUCT CONTROL & PEST CONTROL:

- A. Contractor shall be responsible for selecting control materials from a list

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Contractor initials JE

of products approved for specific use by the US Environmental Protection Agency and affirmed for that use by the appropriate State or Tribal Government. Control products are approved on crop (plant species) and site (Residential Sports or Golf) specific bases. As for any uncontrollable pest, where no effective product has been discovered and approved for the specific plant and site use, or where approval of effective control products have been cancelled by regulating authorities, the Contractor will not be accountable for the control or repair of any damage associated with the uncontrollable pest. Furthermore, where new pest problems develop that are not controllable by the reasonable legal use of available approved pest control materials, the Contractor will not be responsible for control or repair of damage caused by such uncontrollable pests.

SECTION 10 – PAYMENT

10.1 PAYMENT:

All labor necessary to accomplish the work outlined in this agreement shall be provided for the sum of Fifty Thousand Nine Hundred Sixteen Dollars (\$50,916) per year payable in 12 monthly installments of \$4,243 **beginning** March 2007 **and ending** February 2008.

A service charge of 1 1/2% per month will be added to all balances not paid within 30 days of invoice. This represents an annual rate of 18%. Should it become necessary for ValleyCrest Landscape Maintenance, Inc. to pursue collections of outstanding invoices, Villas of Coconut Shores, agrees to pay attorney's fees, court costs, interest and all expenses incurred in said collections.

GENERAL TERMS AND CONDITIONS

I. Contractor's Responsibility:

The contractor shall recognize and perform in accordance with the written terms, specifications and drawings, contained or referred to herein.

Contractor reserves the right to renegotiate the contract when price or scope of work is affected by changes to any local, state, or federal law, regulation or ordinance that goes into effect after the Agreement is signed.

Client/Owner initials AP
Contractor initials CF

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A. Work Force:

All employees shall be competent and qualified, and shall be U.S. citizens or legal residents, and authorized to work in the United States.

B. Materials:

All materials shall conform to bid specifications. Contractor will meet all Agricultural licensing and reporting requirements.

C. License and Permits:

Contractor to maintain a Landscape Contractor's license, if so required by State or local law, and will comply with all other license and permit requirements of the City, State and Federal Governments, as well as all other requirements of law.

D. Taxes

Contractor agrees to pay taxes applicable to it's work under this contract, including sales tax on material supplied where applicable.

E. Insurance

Contractor agrees to provide General Liability Insurance, Automotive Liability Insurance, Worker's Compensation Insurance, and any other insurance required by law or Owner/Client.

F. Liability

It is understood and agreed that the Contractor is not liable for any damage of any kind whatsoever that is not caused by the negligence of the Contractor, it's agents or employees.

G. Subcontracts

Contractor reserves the right to hire qualified subcontractors to perform specialized functions or work requiring specialized equipment.

H. Invoicing

Contractor will submit monthly service invoices for the amount set forth under the prices and terms shown in Section 10 of this Agreement. Any services rendered, that are in addition to or beyond the scope of work required by this Agreement shall be separately billed.

I. **Owner's/Client's Responsibility:**

Client/Owner initials RF

Contractor initials JF

A. Utilities:

All utilities shall be provided by the Owner/Client.

B. Access to Jobsite:

Owner/Client shall furnish access to all parts of jobsite where Contractor is to perform work as required by this Agreement or other functions related thereto, during normal business hours and other reasonable periods of time, and in the case of after hours emergencies.

C. Payment:

Owner/Client shall review invoices submitted by Contractor and payment shall be due 15 days following the date of the invoice and delinquent if not paid by that date. Contractor may cancel Agreement by giving 7 days written notice for nonpayment, after the payment is delinquent.

D. Notice of Defect:

Owner/Client shall give Contractor at least 7 days **written** notice to correct any problem or defect discovered in the performance of the work required under this Agreement. Contractor will not accept any deduction or offset unless such **written** notice is given.

II. Other Terms:

The Owner/Client and the Contractor respectively, bind themselves, their partners, successors, assignees and legal representative to the other party with respect to all covenants of this Agreement. Neither the Owner/Client nor the Contractor shall assign or transfer any interest in this Agreement without the written consent of the other.

The parties agree that in the interest of economy, speed and insuring continued good relationships, any questions arising out of the operation of this Agreement which the parties cannot resolve between themselves shall be referred to binding arbitration under the rules of the American Arbitration Association.

III. Termination:

This agreement may be terminated by either party with or without cause, upon thirty (30) days written notice to the other party. This agreement may be terminated by the Owner/Client for non-performance by Contractor, upon thirty (30) days written notice. This agreement may be terminated by Contractor for non-payment by Owner/Client, upon seven (7) days written notice as stated above. Either party shall be entitled to cure any deficiencies of performance on payment within seven (7) days of being notified of deficiency(s). If the Owner/Client makes payment in full within seven (7) days of receipt of the written notice, the grounds for termination shall be deemed cured. If Contractor corrects the deficiency identified in the written notice within seven (7) days of

Client/Owner initials AL

Contractor initials JF

receipt of the notice, or if the deficiency is of such a nature that it cannot reasonably be corrected within seven (7) days and the Contractor commences a good faith effort to correct the deficiency within seven (7) days of receipt of notice, the grounds for the termination shall be deemed cured.

For the convenience of Owner/Client only, the monthly charge under this agreement is an average of the total charge for all work to be performed under the agreement divided by the number of calendar months included in the payment period of the agreement. In the event this agreement is terminated early by either party, the Contractor shall be entitled to recover his unrecovered costs incurred through the date of termination, including a reasonable amount of overhead and profit, and any amount in excess of the monthly charges paid by the Owner/Client through the date of termination. This is because substantial portions of the work for the year, may be performed in the early months of each year of the agreement including potentially significant mobilization costs in start-up and the cost of the work will not be fully recovered by the Contractor until all monthly payments under the agreement have been received.

I have read the foregoing proposal, including the terms and conditions, and hereby accept it on behalf of the Owner/Client.

Client/Owner:

By: Richard Powers
Signature

RICHARD POWERS
Print Name/Title

Date: 2/9/07

Contractor:

**ValleyCrest Landscape
Maintenance, Inc.**

By: Jim Fogle
Signature

JIM FOGLE
VCLM Branch Manager

Date: 1.16.07

Client/Owner initials _____

Contractor initials JF