



VILLAGE OF BISCAYNE PARK
Village Commission Agenda Report

#Item 8.d

CONSENT RESOLUTION

TO: Honorable Mayor & Members of the
Biscayne Park Village Commission

FROM: Sharon P. Ragoonan, Village Manager

DATE: February 8, 2017

TITLE: Approve Resolution 2017-05 to execute the contract with Ballpark
Maintenance, Inc.

Recommendation

It is recommended the Village Commission approve Resolution 2017-05 to execute a contract with Ballpark Maintenance, Inc. for the maintenance of the field at the recreation center.

Background

On December 5, 2016, the Village of Biscayne Park released a Request for Proposal (RFP) for field maintenance at the Ed Burke Recreation Center. The amended submission deadline was January 3, 2017 and Ballpark Maintenance, Inc. responded to the solicitation. The scope of work covers fertilization (pre-emergent and soil nutrients), aeration (perforation of soil), topdressing (sand or prepared soil mix), disease and pest management (preventative and curative treatments), and herbicides (destroy unwanted vegetation). The Village has utilized their services in the past on small projects.

Additionally, Village staff contacted one of their clients – City of Miami Springs – who rated the performance of the company as “very good” and in cooperation with the contractor, they were able to achieve the maximum results possible given their limited budget.

Village staff recommends Ballpark Maintenance, Inc. as the vendor to rehabilitate and maintain the recreation center field.

Resource Impact

The Village Commission earmarked \$17,500 in the 2016/2017 fiscal year to cover the cost of this contractual arrangement.

G/L Number	Description	Adopted Budget	Projected Expense	Balance
001-539-5460000.100	Repairs and Maintenance - Landscaping	\$17,500	\$17,263	\$237

Attachments

Exhibit 1 – Resolution to approve the contract with Ballpark Maintenance, Inc.

Exhibit 2 – Agreement for Field Maintenance Services

Exhibit 3 – Projected maintenance cost

Prepared by: Sharon P. Ragoonan, Village Manager

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3 **RESOLUTION NO. 2017-05**
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5 **A RESOLUTION OF THE VILLAGE COMMISSION**
6 **OF THE VILLAGE OF BISCAYNE PARK, FLORIDA**
7 **AUTHORIZING THE VILLAGE MANAGER TO**
8 **EXECUTE THE AGREEMENT BETWEEN THE**
9 **VILLAGE OF BISCAYNE PARK AND BALLPARK**
10 **MAINTENANCE, INC. FOR FIELD MAINTENANCE**
11 **AT THE ED BURKE RECREATION CENTER;**
12 **PROVIDING FOR AN EFFECTIVE DATE.**
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14 WHEREAS, the Village of Biscayne Park has the need to procure the services for field
15 maintenance at the Ed Burke Recreation Center; and,
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17 WHEREAS, the Village competitively bid for field maintenance services at the Ed
18 Burke Recreation Center (RFP No. 2016-01); and
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20 WHEREAS, Ballpark Maintenance, Inc., (hereinafter referred to as "Contractor"),
21 submitted a qualified bid in response to RFP 2016-01; and
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23 WHEREAS, the Village desires to retain the services of Contractor establishing this
24 agreement; and
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26 WHEREAS, the Village Commission finds it to be in the best interests of the residents
27 of the Village to enter into an agreement with the Contractor for field maintenance services at
28 the Ed Burke Recreation Center, and to further authorize the Village Manager to execute the
29 agreement for services.
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31 NOW THEREFORE BE IT RESOLVED BY THE VILLAGE COMMISSION OF THE
32 VILLAGE OF BISCAYNE PARK, FLORIDA:
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34 **Section 1.** The foregoing "Whereas" clauses are hereby ratified and confirmed as
35 being true and correct and hereby made a specific part of this Resolution upon adoption hereof.
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37 **Section 2.** The Village Manager is authorized to execute the Agreement for Field
38 Maintenance Services at the Ed Burke Recreation Center between the Village of Biscayne Park
39 and Ballpark Maintenance, Inc., attached hereto as Exhibit "1".
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41 **Section 3.** This Resolution shall become effective upon adoption.
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45 PASSED AND ADOPTED this ___ day of _____, 2017.
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**The foregoing resolution upon being
put to a vote, the vote was as follows:**

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Tracy Truppman, Mayor

Attest:

Maria C. Camara, Village Clerk

Approved as to form:

John J. Hearn, Village Attorney

Mayor Truppman: ____
Vice Mayor Coviello: ____
Commissioner Johnson-Sardella: ____
Commissioner Ross: ____
Commissioner Tudor: ____

AGREEMENT FOR FIELD MAINTENANCE
ED BURKE RECREATION CENTER

THIS IS AN AGREEMENT, dated this _____ day of _____, 2017, by and between:

VILLAGE OF BISCAYNE PARK
a Florida municipal corporation
640 NE 114th Street
Biscayne Park, Florida 33161
(hereinafter "VILLAGE")

AND

BALLPARK MAINTENANCE, INC.
8836 SW 131st Street
Miami, Florida 33176
(hereinafter "CONTRACTOR")

WITNESSETH:

In consideration of the mutual terms and conditions, promises, covenants and payments hereinafter set forth, VILLAGE and CONTRACTOR agree as follows:

ARTICLE 1
PREAMBLE

In order to establish the background, context and form of reference for this Agreement and to generally express the objectives, and intentions of the respective parties herein, the following statements, representations and explanations shall be accepted as predicates for the undertakings and commitments included within the provisions which follow and may be relied upon by the parties as essential elements of the mutual considerations upon which this Agreement is based.

- 1.1 The VILLAGE advertised an Invitation to Bid number RFP 2016-01 on December 6, 2016, (hereinafter "RFP") which set forth the VILLAGE's desire to hire a firm to perform field maintenance services at the Ed Burke Recreation Center.
- 1.2 Consistent with the RFP requirements, the VILLAGE selected CONTRACTOR to render the professional services more particularly described herein below.

ARTICLE 2
SERVICES AND RESPONSIBILITIES

- 2.1 Subject to the terms and conditions of this Agreement, the VILLAGE hereby retains CONTRACTOR to provide the services detailed in the Scope of Work, attached hereto and incorporated herein as Exhibit "1".

2.2 CONTRACTOR shall furnish all services, labor, equipment, and materials necessary and as may be required in the performance of this Agreement and all work performed under this Agreement shall be done in a timely and professional manner.

2.3 CONTRACTOR hereby represents to VILLAGE, with full knowledge that VILLAGE is relying upon these representations when entering into this Agreement with CONTRACTOR, that CONTRACTOR has the professional expertise, experience and manpower to perform the services to be provided by CONTRACTOR pursuant to the terms of this Agreement.

2.4 CONTRACTOR assumes professional and technical responsibility for performance of its services to be provided hereunder in accordance with recognized professional standards of good engineering practice. If within one year following completion of its services, such services fail to meet the aforesaid standards, and the VILLAGE promptly advises CONTRACTOR thereof in writing, CONTRACTOR agrees to re-perform such deficient services without charge to the VILLAGE.

2.5 CONTRACTOR shall not utilize the services of any sub-contractor without the prior written approval of VILLAGE.

ARTICLE 3
TIME FOR PERFORMANCE

The schedule for the performance of each service is outlined in Exhibit "1".

ARTICLE 4
COMPENSATION AND METHOD OF PAYMENT

4.1 VILLAGE agrees to pay to CONTRACTOR an amount not to exceed \$17,263.00 for the services designated in the RFP.

4.2 All payments for services shall be in accordance with the cost as designated in the Compensation Schedule, attached hereto and incorporated herein as Exhibit "1", and invoiced by CONTRACTOR upon completion of each service.

4.3 VILLAGE will make its best efforts to pay CONTRACTOR within thirty (30) days of receipt of proper invoice the total shown to be due on such invoice.

4.4 Payment will be made to CONTRACTOR at:

Ballpark Maintenance, Inc.
8836 SW 131st Street
Miami, Florida 33176

ARTICLE 5
CHANGES TO SCOPE OF WORK AND ADDITIONAL WORK

VILLAGE or CONTRACTOR may request changes that would increase, decrease or otherwise modify the Scope of Services to be provided under this Agreement. Such changes or additional services must be in

accordance with the provisions of the Code of Ordinances of the VILLAGE and must be contained in a written amendment, executed by the parties hereto, with the same formality and with equality and dignity prior to any deviation from the terms of this Agreement, including the initiation of any additional or extra work. In no event will the CONTRACTOR be compensated for any work which has not been described in this Agreement or in a separate written agreement executed by the parties hereto.

ARTICLE 6
TERM AND TERMINATION

6.1 This Agreement shall take effect as of the date of execution as shown herein below and continue for such time as is contemplated by the VILLAGE project.

6.2 This Agreement may be terminated by the VILLAGE if the CONTRACTOR:

- a. disregards laws, ordinances, or rules, regulations or orders of a public authority having jurisdiction; or
- b. fails to perform satisfactorily in all areas of service, availability, delivery, quality or any other area covered by this Agreement.
- c. otherwise is guilty of substantial breach of a provision of this Agreement.

6.3 Upon seven (7) calendar days written notice delivered by certified mail, return receipt requested, to the CONTRACTOR, VILLAGE may, without cause and without prejudice to any other right or remedy, terminate the Agreement for the VILLAGE'S convenience whenever the VILLAGE determines that such termination is in the best interest of the VILLAGE. Where the Agreement is terminated for the convenience of the VILLAGE the notice of termination to the CONTRACTOR must state that the Agreement is being terminated for the convenience of the VILLAGE under the termination clause and the extent of termination. Upon receipt of the Notice of Termination for convenience, the VILLAGE shall promptly discontinue all work at the time and to the extent indicated on the Notice of Termination, terminate all outstanding subcontractors and purchase orders to the extent that they relate to the terminated portion of the Agreement and refrain from placing further orders and subcontracts except as they may be necessary, to complete any continued portions of the work.

6.4 In the event CONTRACTOR shall default in or violate any of the terms, obligations, restrictions or conditions of this Agreement, the VILLAGE shall give the CONTRACTOR written notice by certified mail of the default and that such default shall be corrected or actions taken to correct such default shall be commenced within ten (10) calendar days thereof. In the event the CONTRACTOR has failed to correct the condition(s) of the default or the default is not remedied to the satisfaction and approval of the VILLAGE, the VILLAGE shall have all legal remedies available to it, including, but not limited to, termination of this Agreement in which case the CONTRACTOR shall be liable for all re-procurement costs and any and all damages permitted by law arising from the default and breach of this Agreement.

ARTICLE 7
PUBLIC RECORDS AND AUDIT

7.1 CONTRACTOR shall keep books and records and require any and all subcontractors to keep books and records as may be necessary in order to record complete and correct entries as to personnel hours charged to this engagement, and any expenses for which CONTRACTOR expects to be reimbursed. Such books and records will be available at all reasonable times for examination and audit by VILLAGE and shall be kept for a period of five (5) years after the completion of all work to be performed pursuant to this Agreement. Incomplete or incorrect entries in such books and records will be grounds for disallowance by VILLAGE of any fees or expenses based upon such entries.

7.2 CONTRACTOR shall keep and maintain financial, invoice and employment records pertaining to the contractual obligations between the parties for pre-audit and post-audit purposes for a period of five (5) years following the completion of all project work or until all claims and audit findings involving these records have been received, whichever is later. VILLAGE or any of their duly authorized representatives shall have access to any books, documents, papers and records of the CONTRACTOR which are directly pertinent to this Agreement, for the purpose of making audit, examination, excerpts and transcription.

7.3 CONTRACTOR understands, acknowledges and agrees that it shall, pursuant to Section 119.0701, Florida Statutes, as amended from time to time, do the following:

7.3.1 Keep and maintain public records that ordinarily and necessarily would be required by VILLAGE in order to perform the same service being rendered within this Agreement;

7.3.2 Provide the public with access to public records and at a cost that does not exceed the cost provided within Chapter 119, Florida Statutes, as amended from time to time, or as otherwise provided for by law;

7.3.3 Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and

7.3.4 Meet all requirements for retaining public records and transfer, at no cost, to VILLAGE all public records in possession of CONTRACTOR upon termination of this Agreement. Further, CONTRACTOR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to VILLAGE in a format that is compatible with the then current VILLAGE computer systems.

7.4 CONTRACTOR understands, acknowledges and agrees that VILLAGE is required, pursuant to Section 119.0701, Florida Statutes, as amended from time to time, to ensure compliance with this section by enforcing the terms of this Agreement. As a result of the foregoing, any violation of this section shall be a material breach and this Agreement may be terminated by VILLAGE without any penalty.

7.5 Prior to termination, VILLAGE shall give written notice to CONTRACTOR that it is in violation of this section. CONTRACTOR shall have five (5) business days to cure a violation of this section.

7.6 Notwithstanding any other provisions in this Agreement to the contrary, CONTRACTOR shall be liable for any and all damages, including but not limited to, consequential and incidental damages, that may arise out of breach of this section of the Agreement.

ARTICLE 8 INDEMNIFICATION

8.1 CONTRACTOR shall indemnify and save harmless and defend the VILLAGE, its trustees, elected and appointed officials, agents, servants and employees from and against any and all claims, demands, or causes of action of whatsoever kind or nature sustained by the VILLAGE or any third party arising out of, or by reason of, or resulting from acts, error, omission, or negligent act of CONTRACTOR, its agents, servants or employees in the performance under this Agreement, for all costs, losses and expenses, including but not limited to, damages to persons or third party property, judgments and attorneys' fees arising out of or in connection with the performance by CONTRACTOR pursuant to this Agreement.

8.2 CONTRACTOR shall indemnify VILLAGE for all loss, damage, expense or liability including, without limitation, court costs and attorneys' fees that may result by reason of any infringement or claim of infringement of any patent, trademark, copyright, trade secret or other proprietary right due to services furnished pursuant to this Agreement. CONTRACTOR will defend and/or settle at its own expense any action brought against the VILLAGE to the extent that it is based on a claim that products or services furnished to VILLAGE by CONTRACTOR pursuant to this Agreement, or if any portion of the services or goods furnished in the performance of the service becomes unusable as a result of any such infringement or claim.

ARTICLE 9 INSURANCE

9.1 The CONTRACTOR shall not commence work under this Agreement until it has obtained all insurance required under this paragraph and such insurance has been approved by the Village Manager of the VILLAGE nor shall the CONTRACTOR allow any subcontractor to commence work on his subcontract until all similar such insurance required of the subcontractor has been obtained and approved.

9.2 Certificates of insurance, reflecting evidence of the required insurance, shall be filed with the VILLAGE Manager prior to the commencement of the work. These Certificates shall contain a provision that coverage afforded under these policies will not be canceled until at least thirty days (30) prior written notice has been given to the VILLAGE. Policies shall be issued by companies authorized to do business under the laws of the State of Florida.

9.3 Policyholders and Financial Ratings must be no less than "A" and Class X respectively in the latest edition of "Best's Key Rating Guide", published by A.M. Best Guide.

9.4 Insurance shall be in force until all work required to be performed under the terms of this Agreement is satisfactorily completed as evidenced by the formal acceptance by the VILLAGE. In the event the insurance certificate provided indicates that the insurance shall terminate and lapse during the period of this Agreement, then in that event, the CONTRACTOR shall furnish, at least thirty (30) days prior to the expiration of the date of such insurance, a renewed certificate of insurance as proof that equal and like

coverage for the balance of the period of this Agreement and extension thereunder is in effect. The CONTRACTOR shall not continue to work pursuant to this Agreement unless all required insurance remains in full force and effect.

9.5 REQUIRED INSURANCE

9.5.1 COMPREHENSIVE GENERAL LIABILITY insurance to cover liability bodily injury and property damage. Exposures to be covered are: premises, operations, products/completed operations, and certain contracts. Coverage must be written on an occurrence basis, with the following limits of liability:

- A. Comprehensive General Liability
 - 1. Each Occurrence \$1,000,000
 - 2. Annual Aggregate 1,000,000

9.5.2 WORKERS COMPENSATION insurance shall be maintained during the life of this Agreement to comply with statutory limits for all employees, and in the case any work is sublet, the CONTRACTOR shall require the Subcontractors similarly to provide Workers Compensation Insurance for all the latter's employees unless such employees are covered by the protection afforded by the CONTRACTOR. The CONTRACTOR and his subcontractors shall maintain during the life of this policy Employers Liability Insurance. The following limits must be maintained:

- A. Workers Compensation Statutory
- B. Employer's Liability \$500,000 per occurrence

9.5.3 The CONTRACTOR shall hold the VILLAGE, their agents, and employees, harmless on account of claims for damages to persons, property or premises arising out of the operations to complete this Agreement and name the VILLAGE as an additional insured under their policy.

9.5.4 The VILLAGE reserves the right to require any other insurance coverage it deems necessary depending upon the exposures.

9.5.5 PROFESSIONAL LIABILITY insurance in the amount of \$500,000.00

ARTICLE 10

NOTICE

10.1 Whenever any party desires to give notice unto any other party, it must be given by written notice, sent by registered United States mail, with return receipt requested, addressed to the party for whom it is intended at the places last specified, and the places for giving of notice shall remain such until they shall have been changed by written notice in compliance with the provisions of this section. For the present, the CONTRACTOR and the VILLAGE designate the following as the respective places for giving of notice:

VILLAGE: Sharon P. Ragoonan, Village Manager
Village of Biscayne Park
640 NE 114 Street
Biscayne Park, FL 33161

Copy To: John J. Hearn, Village Attorney
1001 NW 119th Avenue
Coral Springs, Florida 33071

CONTRACTOR: Ballpark Maintenance, Inc.
8836 SW 131st Street
Miami, Florida 33176

ARTICLE 11
MISCELLANEOUS

11.1 Independent Contractor. This Agreement does not create an employee/employer relationship between the parties. It is the intent of the parties that the CONTRACTOR is an independent contractor under this Agreement and not the VILLAGE's employee for all purposes, including but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, the State Workers Compensation Act, and the State unemployment insurance law. The CONTRACTOR shall retain sole and absolute discretion in the judgment of the manner and means of carrying out CONTRACTOR's activities and responsibilities hereunder provided, further that administrative procedures applicable to services rendered under this Agreement shall be those of CONTRACTOR, which policies of CONTRACTOR shall not conflict with VILLAGE, H.U.D., or United States policies, rules or regulations relating to the use of CONTRACTOR's funds provided for herein. The CONTRACTOR agrees that it is a separate and independent enterprise from the VILLAGE, that it has full opportunity to find other business, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the work. This Agreement shall not be construed as creating any joint employment relationship between the CONTRACTOR and the VILLAGE and the VILLAGE will not be liable for any obligation incurred by CONTRACTOR, including but not limited to unpaid minimum wages and/or overtime premiums.

11.2 Assignments. This Agreement, or any interest herein, shall not be assigned, transferred or otherwise encumbered, under any circumstances, by CONTRACTOR without the prior written consent of VILLAGE. For purposes of this Agreement, any change of ownership of CONTRACTOR shall constitute an assignment which requires VILLAGE approval. However, this Agreement shall run to the VILLAGE and its successors and assigns.

11.3 Amendments. It is further agreed that no modification, amendment or alteration in the terms or conditions contained here shall be effective unless contained herein a written document executed with the same formality and of equal dignity herewith.

11.4 No Contingent Fees. CONTRACTOR warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONTRACTOR to solicit or secure this Agreement, and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for CONTRACTOR any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of this provision, the VILLAGE shall have the right to terminate the Agreement without

liability at its discretion, to deduct from the contract price, or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

11.5 Binding Authority. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

11.6 Legal Remedies. In the event CONTRACTOR is in violation of or in breach of the terms of this Agreement, penalties in the form of the withholding of payments or the suspension of the CONTRACTOR's authority may be enforced by the VILLAGE until such time as corrective action taken by the CONTRACTOR is satisfactory to the VILLAGE.

11.7 Equal Employment Opportunity Compliance. CONTRACTOR shall comply with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and Title I of the Americans with Disabilities Act as amended is that: no person in the United States shall on the grounds of race, creed, color, national origin, sex, age, political affiliation, beliefs, or disability be subject to discrimination under any program or activity which the CONTRACTOR has agreed to undertake by and through the covenants and provisions set forth in this Agreement.

11.8 Legal Representation. It is acknowledged that each party has had the opportunity to seek representation by counsel in the preparation of and contributed equally to the terms and conditions of this Agreement and, accordingly, the rule that a contract shall be interpreted strictly against the party preparing same shall not apply herein due to the joint contributions of both parties.

11.9 Headings. Headings herein are for convenience of reference only and shall not be considered in any interpretation of this Agreement.

11.10 Exhibits. Each Exhibit referred to in this Agreement forms an essential part of this Agreement. The exhibits if not physically attached should be treated as part of this Agreement and are incorporated herein by reference.

11.11 Severability. If any provision of this Agreement or application thereof to any person or situation shall to any extent, be held invalid or unenforceable, the remainder of this Agreement, and the application of such provisions to persons or situations other than those as to which it shall have been held invalid or unenforceable shall not be affected thereby, and shall continue in full force and effect, and be enforced to the fullest extent permitted by law.

11.12 Governing Law. This Agreement shall be governed by the laws of the State of Florida with venue lying in Miami-Dade County, Florida.

11.13 Extent of Agreement. This Agreement represents the entire and integrated agreement between the VILLAGE and the CONTRACTOR and supersedes all prior negotiations, representations or agreements, either written or oral.

IN WITNESS OF THE FOREGOING, the parties have set their hands and seals the day and year first written above.

VILLAGE

ATTEST:

BY: _____

MARIA C. CAMARA
VILLAGE CLERK

BY: _____

SHARON P. RAGOONAN
VILLAGE MANAGER

APPROVED AS TO FORM.

JOHN J. HEARN
VILLAGE ATTORNEY

CONTRACTOR

ATTEST:

BALLPARK MAINTENANCE, INC.

BY: _____

BY: _____

(Print Name)

(Print Name)

STATE OF FLORIDA)
)S.S.
COUNTY OF BROWARD)

BEFORE ME, an officer duly authorized by law to administer oaths and take acknowledgments, personally appeared _____ and acknowledged they executed the foregoing Agreement as the proper official of CONTRACTOR, for the use and purposes mentioned in it and that the instrument is the act and deed of CONTRACTOR.

IN WITNESS OF THE FOREGOING, I have set my hand and official seal at in the State and County aforesaid on this _____ day of _____, 2017.

My Commission Expires:

NOTARY PUBLIC

Exhibit 3 – Projected Maintenance Cost

Ed Burke Park Bermuda Grass Playing Field

Description

Fertilization: 6 annually	\$ 5,489.00
Aerification: 2 times annually	\$ 1,000.00
Weed Control: 5 to 7 applications as needed	\$ 5,807.00
Pre-emergent: 3 times annually (Included in Fertilization)	\$ 0.00
Topdressing: Onetime annually	\$ 1,150.00
Topdress Sand: 69 tons #220 Coarse Silica Sand	\$ 2,082.00
Insect Control: Four Applications annually	\$ 1,735.00

- Mowing Services By Biscayne Park Are Not Included In This Proposal

TOTAL ----- \$ 17,263.00