

CONTRACT

for

SEWER EASEMENT MACHINE

THIS CONTRACT entered into this 1st day of April 2025, by and between the CITY OF BEL AIRE, KANSAS, a municipal corporation, hereinafter called "CITY", and KEY EQUIPMENT & SUPPLY CO., whose principal office is at 6716 Berger Avenue, Kansas City, KS 66111, Telephone Number (800) 262-0149, hereinafter called "CONTRACTOR".

WHEREAS, the CITY has solicited bids for a Sewer Easement Machine, and

WHEREAS, CONTRACTOR has submitted the bid most beneficial to the CITY and is ready, willing, and able to provide the commodities and/or services required by the CITY.

NOW, THEREFORE, the parties hereto agree as follows:

1. Scope of Services. CONTRACTOR shall provide to the CITY all those commodities and/or services specified in the Proposal dated 03/07/25 as described in Exhibit C (2 pages). The CONTRACTOR warrants those commodities and/or services as described in Exhibit D (1 page), beginning on the date that the equipment is delivered to the CITY and accepted as conforming goods by City staff. Exhibit C and D shall be considered a part of this contract.

All equipment shall be delivered at CONTRACTOR's expense to the requested City job site within 3 months from the time of ordering. Any extension of the delivery date is within the City's sole discretion. Failure of CONTRACTOR to timely deliver the equipment shall allow CITY to cancel the contract without payment or penalty.

The parties further agree that all provisions of Exhibit A and B, are effective between them and govern this Contract.

2. Compensation. CITY agrees to pay to CONTRACTOR the following contract price for a New Sewer Easement Machine, Trade In of Bel Aire's 1998 Sewer Easement Machine, and New Custom Built Trailer, for the Public Works Department. This contract price is pu, and CONTRACTOR's Proposal dated March 7, 2025, and as approved by the City Council on April 1, 2025.

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<u>Description</u>	<u>Total Cost</u>
(1) New 2025 PipeHunter SideKick & Side-Trac Easement Machine with Honda 25hp engine, all other specifications per Exhibit C, and all warranty terms per Exhibit D.	\$64,350.00
(1) Trade in of 1998 Bel Aire Wheeled Easement Machine	- \$2,000.00
(1) New Custom Built 12'L Tilt Trailer, all other specifications per Exhibit C, and all warranty terms per Exhibit D.	<u>\$ 6,500.00</u>
Total Amount:	\$68,850.00

3. Indemnification and Insurance. **VENDOR** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons, property or other liability loss arising from or caused by errors, omissions or negligent acts of **VENDOR**, its officers, agents, servants, or employees, occurring in the performance of its services under this Contract, or arising from any defect in the materials or workmanship of any product provided in the performance of this Contract.

4. Incorporation of Documents. Exhibit A (Bel Aire's Mandatory Terms and Conditions Attachment) and Exhibit B (Bel Aire's Mandatory Independent Contactor Addendum) are attached hereto and are incorporated into this Contract as essential terms.

5. Warranties and Representation. Goods or equipment delivered and/or services rendered hereunder must be made according to the terms of this Agreement both as to time and quantities, with City reserving the right to cancel, reject or refuse any delivery made and/or service rendered prior to or subsequent to the times specified. In the event no quality is specified on the face hereof, the goods or equipment delivered and/or services rendered hereunder must be of the best quality. If delivery of goods or equipment and/or rendering of services cannot be maintained, Contractor must notify City immediately. Upon Contractor's failure to maintain delivery or otherwise perform hereunder, City reserves the right to procure such goods or equipment and/or services elsewhere, in whole or in part, and assess Contractor with any additional costs incurred, unless Contractor's default arises from causes beyond its control and without fault or negligence. This remedy is in addition to any other remedy which City may have pursuant to this Agreement or otherwise and/or any warranty that may be implied or imposed by operation of law.

6. Safety Recall Notices. Throughout the term of this contract and at all times thereafter, Contractor must immediately notify City of any and all safety recall notices of products, goods and services

Contractor has provided to City. In addition, Contractor shall remedy the recalled defect(s), at no cost to City, by: (1) providing products, goods or services reasonably equal to or better than the quality of the products, goods or services without accounting for the recalled defect(s); or (2) providing compensation to City in an amount not less than the original cost of the products, goods or services less a reasonable amount for depreciation. This Section survives expiration or termination of the Agreement.

7. Entire Agreement. This Agreement and the documents incorporated herein contain all the terms and conditions agreed upon by both parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto. Any agreement not contained herein shall not be binding on either party, nor shall it be of any force or effect.

8. Severability Clause. In the event that any provision of this Agreement is held to be unenforceable, the remaining provisions shall continue in full force and effect.

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IN WITNESS WHEREOF, the parties have set their hands the day and year first above written.

ATTEST:

CITY OF BEL AIRE, KANSAS

Melissa Krehbiel, City Clerk

Jim Benage, Mayor

APPROVED AS TO FORM ONLY

MASTER TECH TRUCK & EQUIPMENT

Maria A. Schrock, City Attorney

Signature

Printed Name

Title

EXHIBIT A
CITY OF BEL AIRE, KANSAS
MANDATORY TERMS AND CONDITIONS

The attached Purchase Order/Quotation, along with these Terms and Conditions shall together serve as the Contract between the City of Bel Aire, Kansas, a municipal corporation, and the Vendor named on the Purchase Order/Quotation.

1. The delivery of equipment, material, supplies and/or services listed on the Purchase Order/Quotation shall be FOB the City's project site or other location affirmed in writing by an authorized City official.
2. After the items listed on the Purchase Order/Quotation have been delivered and accepted as conforming goods or services by an authorized City official, the City will approve payment to the Vendor of the amount due made according to the City's standard accounting practices.
3. No additional terms or conditions, other than those stated herein, and no agreement or understanding in any way modifying the terms and conditions herein stated, shall be binding upon the City unless in writing and signed by the City Attorney. In case of conflict among terms with this Contract, those stated in this Exhibit A shall control.
4. The goods, equipment and services specified in this Contract are for the City's exclusive use. Therefore, it is understood the Federal Excise Tax or State of Kansas Sales Tax shall not be imposed, and Vendor will refund the same if included in the price paid. The City's exemption certificate will be furnished where required or upon request.
5. All orders are priced F.O.B approved destination and must be shipped "PREPAID" unless otherwise specified. No freight or express charges will be allowed on the invoice unless previously agreed upon and provided for on the original purchase order and separately approved by an authorized City official.
6. This order must not be filled at a higher price than quoted without specific authorization granted by the City's Governing Body.
7. When the items shown on this order have been delivered, the Vendor is to mail an invoice for the same to the department address shown on these contract documents, with a copy separately to the City Treasurer. Partial payments will be made only when agreed upon prior to issuance of the Purchase Order/Quotation and approved by the City's Governing Body.
8. The City and vendor agree that this Contract shall be interpreted under the laws of the State of Kansas without regard to its choice of law provisions, and that venue of any dispute requiring litigation shall be in any court of appropriate jurisdiction in Sedgwick County, Kansas.
9. No party shall be required to submit any dispute to arbitration, but a good faith mediation attempt shall be a condition precedent to litigation as a resolution process. The parties waive trial by jury.

10. The City shall not hold harmless or indemnify the Vendor beyond the liability that may be incurred under the Kansas Tort Claims Act (KSA 75-6101 et seq.).
11. The City shall not be required to purchase insurance against any liability loss or damage to which this Contract relates. The Vendor shall bear the risk of loss to any person or property over which it has authority or control, however exercised.
12. This Contract shall be interpreted and implemented so that the City remains in compliance with the Cash Basis Law (KSA 10-1112 and 10-1113), the Budget Law (KSA 79-2935) and all other laws of the State of Kansas. The City retains the right to unilaterally modify or terminate this Contract at any time if, in the opinion of its legal counsel, the Contract may be deemed to violate the terms of such laws.
13. The obligation to supply goods or services under this Contract is personal to this Vendor, and cannot be assigned, subcontracted or transferred to another without the written consent of the City.
14. This Contract is intended solely for the benefit of the City and the Vendor. The parties do not intend that it benefit, either directly or indirectly, any third party. No third party may sue for damages based on the terms or performance of this Contract.
15. Vendor shall be in default of this Contract in the event that Vendor (i) applies for or consents to the appointment of a receiver, trustee or liquidator of itself or any of its property, (ii) is unable to pay its debts as they mature or admits in writing its inability to pay its debt, (iii) makes a general assignment for the benefit of creditors, (iv) is adjudicated as bankrupt or insolvent, or (v) files a voluntary petition in bankruptcy or a petition or an answer seeking reorganization or an arrangement with creditors, or taking advantage of any bankruptcy, reorganization, insolvency, readjustment of debt, dissolution or liquidation law or statute or admits the material allegation of a petition filed against it in any legal proceedings, or if an action shall be taken by vendor for the purpose of accomplishing any of the above actions.
16. Goods or equipment delivered and/or services rendered hereunder must be made according to the terms of this Contract both as to time and quantities, with City reserving the right to cancel, reject or refuse any delivery made and/or service rendered prior to or subsequent to the times specified. If no schedule for delivery appears otherwise in the Contract, delivery shall be completed in a reasonable time, judged by the continuing utility to and viability of the City's related project or service.
17. In the event no quality is specified on the face of the Purchase Order/Quotation, the goods or equipment delivered and/or services rendered hereunder must be of the best quality. If Vendor cannot maintain delivery of goods or equipment and/or rendering of services according to the agreed schedule, Vendor must notify City immediately. Upon Vendor's failure to maintain delivery or otherwise perform hereunder, City reserves the right to procure such goods or equipment and/or services elsewhere, in whole or in part, and assess Contractor with any additional costs incurred, unless Contractor's default arises from causes beyond its control and without fault or negligence. This remedy is in addition to any other remedy which City may have pursuant to this Agreement or otherwise and/or any warranty that may be implied or imposed by operation of law.

18. Vendor must immediately notify City of any safety recall notices of products, goods and services Vendor has provided to City. In addition, Vendor shall remedy the recalled defect(s), at no cost to City, by: (1) providing products, goods or services reasonably equal to or better than the quality of the products, goods or services without accounting for the recalled defect(s); or (2) providing compensation to City in an amount not less than the original cost of the products, goods or services less a reasonable amount for depreciation. This Section survives expiration or termination of the Agreement.
19. The Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq., as amended) requires every person who enters into a contract with the City for construction, alteration or repair of any public building or public work or for the acquisition of materials, equipment, supplies or service to:
- a. Observe the provisions of the Kansas Act Against Discrimination and not to discriminate against any person in the performance of work under the present Contract because of race, religion, color, sex, disability, national origin or ancestry, or age unrelated to such person's ability to engage in the particular work.
 - b. In all solicitations or advertisement for employees, the vendor shall include the phrase "Equal Opportunity Employer" or a similar phrase to be approved by the Kansas Human Rights Commission.
 - c. Upon request, inform the Kansas Human Rights Commission and/or the City of Bel Aire Finance Department in writing the manner in which such person will recruit and screen personnel to be used in performing the Contract.
 - d. Vendor shall include the provisions of sub-paragraphs (a), (b), (c), and (d) of this paragraph in each of its subcontract or purchase order and/or contract so that such provisions will be binding upon such subcontractor or vendor.
 - e. Exempted from these requirements are:
 - (1) Any vendor who has already complied with the provisions set forth in these sections by reason of holding a contract with the Federal Government or a contract involving Federal funds (proof of compliance required).
 - (2) Any vendor who employs fewer than four (4) employees during the term of this Contract.
 - (3) Vendors who hold contracts with the City of Bel Aire with a cumulative total of five thousand dollars (\$5,000.00) or less during the City's Fiscal Year.
 - f. Reports requested by the Kansas Human Rights Commission shall be made on forms prepared by the Commission, copies of which are available from the Kansas Human Rights Commission, Contract Auditor, 900 S.W. Jackson Street, Suite 851 S., Topeka, Kansas, 66612. During the performance of any City contract or agreement the vendor shall comply with all the provisions of the Civil Rights Act of 1964, as amended; the Equal Employment Opportunity Act of 1972; Executive Orders 11246, 11375, 11141, Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967, the Rehabilitation Act of 1973; the Americans with Disabilities Act and/or any laws, regulations or amendments as may be promulgated thereunder. Any finding adverse to the vendor under K.S.A. 1976 Supp. 44-1031, as amended or other State statutes, Federal statutes or regulations pertaining to discrimination, which finding or decision or order has become

final, shall be a breach of this Contract and any such contract may be cancelled, terminated or suspended in whole or in part by the City or its contracting agency.

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EXHIBIT B
CITY OF BEL AIRE, KANSAS
MANDATORY INDEPENDENT CONTRACTOR ADDENDUM

1. The parties agree Contractor shall satisfy all tax and other governmentally imposed responsibilities including, but not limited to payment of state, federal, and social security taxes; unemployment taxes; workers' compensation and self-employment taxes. No federal, state, or local taxes of any kind shall be withheld or paid by City and Contractor shall indemnify City for its failure to comply with Contractor's responsibilities under this paragraph.
2. The parties agree that as an independent contractor, Contractor is not entitled to any benefits from City, including but not limited to: (a) unemployment insurance benefits; (b) workers' compensation coverage; or (c) health insurance coverage. Contractor may only receive such coverages if provided by Contractor or an entity other than City. Subject to the foregoing, Contractor hereby waives and discharges any claim, demand, or action against City's workers' compensation insurance and/or health insurance and further agrees to indemnify City for any such claims related to Contractor's operations or the performance of services by Contractor hereunder.
3. The parties hereby acknowledge and agree that City will not: (a) require Contractor to work exclusively for City; (b) establish means or methods of work for Contractor, except that City may provide plans and specifications regarding the work but will not oversee the actual work. City may establish performance standards for the contracted outcomes. (c) pay to Contractor a salary or hourly rate, but rather will pay to Contractor a fixed or contract rate; (d) provide training for Contractor on performance of the services to be done; City may provide informational briefing on known conditions. (e) provide tools or benefits to Contractor (materials and equipment may be supplied if negotiated); (f) dictate the time of Contractor's performance; and (g) pay Contractor personally; instead, City will make all checks payable to the trade or business name under which Contractor does business.
4. Contractor does not have the authority to act for City, to bind City in any respect whatsoever, or to incur debts or liabilities in the name of or on behalf of City.
5. Unless given express written consent by City, Contractor agrees not to bring any other party (including but not limited to employees, agents, subcontractors, sub-subcontractors, and vendors) onto the project site.
6. If Contractor is given written permission to have other parties on the site, and Contractor engages any other party which may be deemed to be an employee of Contractor, Contractor will be required to provide the appropriate workers' compensation insurance coverage as required by this Agreement.
7. Contractor has and hereby retains control of and supervision over the performance of Contractor's obligations hereunder. Contractor agrees to retain control over any allowed parties employed or contracted by Contractor for performing the services hereunder and take full and complete responsibility for any liability created by or from any actions or individuals brought to the project by Contractor.

8. Contractor represents that it is engaged in providing similar services to the public and not required to work exclusively for City.
9. All services are to be performed solely at the risk of Contractor and Contractor shall take all precautions necessary for the safety of its and the City's employees, agents, subcontractors, sub-subcontractors, vendors, along with members of the public it encounters while performing the work.
10. Contractor will not combine its business operations in any way with City's business operations and each party shall maintain their operations as separate and distinct.

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3/7/2025

City of Bel Aire
Attn: Marty McGee
7651 E Central Park Ave
Bel Aire, KS 67226

Re: PipeHunter Side-Trac Easement Machine



Marty,

Key Equipment & Supply Co. and I greatly appreciate the opportunity to work with you for your sewer cleaning equipment. It is a pleasure to supply you with a HGACBuy proposal for a new PipeHunter SideKick Side-Trac Easement machine. **We proudly offer mobile service to Bel Aire and offer 3 local employees to help provide additional service and parts support.**

PipeHunter SideKick Side-Trac easement units are versatile pieces of equipment. These are great for solving the problem of inaccessible manholes and keep operators from dragging hose, tearing up residential property, and risking injury. The PipeHunter SideKick is built rugged and is powered by a reliable Honda 25hp engine. Please see below for a complete list of specifications.

The PipeHunter SideKick Side-Trac Easement Machine includes:

- 600' x 1" Capacity Jet Hose Reel
- 500' x 1" x 3,000 PSI Sewer Cleaning Hose
- Articulating Reel Option Hydraulic Powered Articulation Worm Gear
- Hydraulic Reel In/Out
- Reel Speed Control
- Double Roller Level-wind 45 Degrees
- Footage counter manual
- 10' Leader Hose
- Tiger Tail
- Water Pressure Gauge
- Hose Connection for Transport with Water Feed Connection
- Dump Hose and Pipe (Water ON/OFF @ Easement)
- Honda Gas 24 HP Electric Start Hour Meter
- Hydraulic Drive Tracks (Rubber) 36" Wide
- Hydraulic Pressure Gauge
- Remote Pendant LEFT/RIGHT Forward/Reverse
- Outriggers (4 Total)

EXHIBIT C

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- Trac Hydraulic Extend 36" to 48"
- Trailer – Custom Built 12'L Tilt – Treadplate decking Single Axle 3500lb
- Aluminum Storage Box
- DOT Lighting Package
- Electric Brakes
- PipeHunter Speed Liner Frame & Reel

HGACBuy Contract Pricing as follows:

One (1) New PipeHunter Side-Trac:	\$ 64,350.00
Trade In 1998 Bel Aire Wheeled Easement Machine	\$ -2,000.00
<u>Optional Custom Trailer (specs included above)</u>	<u>\$ 6,500.00</u>

Total Invoice Amount: **\$ 68,850.00**

This proposal becomes a contract for delivery and payment of the merchandise listed above when signed by the customer or one of its officers. * Subject to availability.

Customer Name _____

By _____ Date _____

All Quotes are valid for 30 Days

Thank you for your consideration of Key Equipment & Supply Co. and PipeHunter. We greatly appreciate your business. If you have any questions, or would like additional information, please don't hesitate to contact me directly at 913-915-7801 or nmiller@keyequipment.com

Respectfully,



Nate Miller
Territory Manager
Key Equipment & Supply Co



New 2025 PipeHunter Sidekick & Side-Trac Warranty Items:

- Pipehunter Honda Engines – 2 YR
- All other Components- 1 YR Manufacture Defects

WARRANTY

Underground Inc., as Manufacturer of PipeHunter Equipment, warrants that all equipment produced by it and bearing the PipeHunter name shall be free from defects in material and workmanship, under normal use and service as determined by Underground, Inc. for a period of twelve (12) months from the date of delivery to the first retail purchaser. If the unit is first placed into service as a demonstrator, the warranty period shall begin on the date the unit is first placed in such service.

Should any equipment or part of such equipment sold hereunder prove to be defective in material or workmanship within said period, and be returned to Manufacturing facility no later than 15 days after the expiration date of the warranty, transportation charges prepaid by the Buyer, and upon examination be found to be defective, such part will be replaced at the factory by the Manufacturer free of charge. Duly the Manufacturer shall be under no further liability in respect to such warranty. It is expressly understood that Manufacturer's liability is limited to furnishing of such replacement parts within a reasonable length of time and that Manufacturer will not be liable for any damages, losses or expenses arising in connection with the use of or inability to use the unit(s) whatsoever. The Buyer shall be responsible for the payment of duties or taxes on warranty parts, if applicable. The Manufacturer shall be under no liability because of normal wear and tear or operation or maintenance contrary to the manufacturer's official Operator's manual. The Buyer accepts any liability for damage or injury resulting from the removal or alteration of safety guards and safety precautions provided on the unit at the delivery time. This warranty shall not apply and Underground shall have no liability under it or otherwise if the unit shall have been injured by accident, careless handling or improper applications or if any repairs have been made to the unit by other than UNDERGROUND, its agents or employees.

Warranties covering major components not of Pipehunter manufacture (power plants, hydraulics, trucks, transmissions, electrical components, batteries, tires, etc.) are warranted by their respective manufacturers.

THIS WARRANTY IS NOT TRANSFERABLE

Tommy Stoneman
President