



Operations and Maintenance Agreement

Dated:

July 21, 2025

City of Clewiston, Florida

And

Woodard & Curran, Inc.

Contract Operations and Maintenance Agreement

This Operations and Maintenance Agreement is hereby entered on the date set forth below between Woodard & Curran, Inc. ("W&C"), a Maine corporation, whose Principal Place of Business is based at 12 Mount Fort Street, Portland, ME 04102, Tax I.D. No. 01-0363222, and the City of Clewiston, FL, (the "Client"), whose address is 141 Central Avenue, Clewiston, FL. 33440 and its successors and assigns.

RECITALS

WHEREAS, the Client is the owner of a wastewater treatment system (referred to herein as the "Facility" or "Facilities") that is described in Exhibit A to this Agreement.

WHEREAS, the Client desires to engage W&C to operate and maintain the Facility on behalf of the Client and W&C desires to accept such engagement, all upon the terms and conditions hereafter set forth.

WHEREAS, the Client is authorized by law to enter into this Agreement.

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained, the parties agree as follows:

ARTICLE I - RESPONSIBILITIES OF WOODARD & CURRAN

1.01 Commencing on September 1, 2025 or such other mutually acceptable date agreed to in writing between W&C and the Client (the "Effective Date"), W&C will provide all routine operation and maintenance of the Client's Facility (as described in Exhibit B of the Agreement) on a seven day per week basis within the design capabilities of the Facility (hereinafter "Scope of Services"). Basic Design Data is provided in Exhibit A to this Agreement, entitled, "Design Capabilities for Treatment Facility."

1.02 W&C shall communicate with the designated Client liaison, as described in Article 2.01(g) of this Agreement, regarding decisions and other matters related to the operation of the Facility. In addition, W&C shall assist the Client with respect to Client's reporting obligations to regulatory agencies in matters related to the operation of the Facility.

1.03 W&C shall offer existing full-time employees currently assigned to the facility employment with W&C, conditioned upon passing a background check and screening as required by all W&C personnel. This offer shall be communicated to employees at least thirty (30) days prior to the Agreement start date. Upon employee confirming their willingness to accept this offer they will receive an employment package. Upon full compliance with said package, employee will be issued an employment letter for their review and signature.

1.04 Additional operation and maintenance services not considered routine (as listed in Exhibit B of the Agreement), or which are required as a result of an "Act of God" or force majeure, including but not limited to flood, abnormal weather conditions, natural catastrophes, fire, civil disturbance, pandemics, terrorism, interruption of electric or other utility service, supply chain disruption, equipment failure or equipment deficiency due to design defect or failure of Client to make necessary investments in the equipment, or any other reason beyond W&C's control ("Force Majeure"), are not covered within the scope of this Agreement and W&C shall be excused from any performance due to Force Majeure. If requested and practicable, W&C

will assist the Client in obtaining or providing the operation and maintenance so required within a reasonable time limit and W&C will be paid for such additional assistance under an equitable adjustment that is calculated in accordance with Article III, Compensation. W&C shall make reasonable efforts to secure the Facility at appropriate times, within the limits of the security devices provided by the Client, to protect against vandalism and intrusion. To the extent possible, W&C shall keep buildings and gates locked and will have on-site staff coordinate with public safety officials on behalf of Client with respect to security for buildings and property, in so doing making reasonable efforts to prevent break-ins and vandalism. W&C shall rely on Client's security and public safety staff for ultimate control and responsibility for the security of property and equipment. As long as W&C takes such measures, it shall not be held responsible for any claims, damages, injuries, losses, or costs due to or resulting from a security incident caused by the Client or any third parties.

ARTICLE II - RESPONSIBILITIES OF THE CLIENT

2.01 As part of this Agreement, the Client agrees to assume the following responsibilities:

- (a) Client shall maintain in full force and effect, in accordance with its respective terms, all guarantees, warranties, easements, permits, licenses, and other similar approvals and consents received or granted to the Client as Owner of the Facility and component parts thereof.
- (b) The Client will be responsible for payment of capital costs as described in this Agreement and in Exhibit B. Client shall also be responsible for expenditures for any capital repairs or replacement required as the result of W&C health & safety and cyber-security inspections/audits. W&C will provide justification and review of the related factors for such expenditure. Client shall also be responsible for the removal of any lead or lead service lines present in the distribution system and, until such removal, for any liabilities, non-compliance events or penalties resulting from the presence of any lead service lines or fixtures.
- (c) Client shall also be responsible for any and all claims, costs, losses and damages associated with sewer line or water line leaks in the system. Upon receipt of a notice of a back-up, leak or the like, the Client will handle all responses to its residents' complaints, including, if applicable, advising the resident to contact its insurance carrier. If requested by the Client, W&C's only role will be to respond to the Client's request to remove an obstruction, document the approximate date and time of the obstruction. W&C shall have no other responsibility for back-ups, leaks or the like, including for personal injury or property damage;
- (d) Client shall at all times provide access to the Facility for W&C, its agents and employees and shall assure that security and public safety officials responsible for the community and area coordinate their activities and patrols to protect personnel and property on-site.
- (e) The Client shall provide W&C with the use of all existing equipment and associated parts owned by the Client, necessary for the operation and maintenance of the Facility. Client shall provide for W&C's exclusive use of all vehicles and provide all registrations and licenses for the Client's vehicles used in connection with the Facility.

- (f) Client shall be responsible for damage and liability to the Facility or components thereof and public health caused by flood, fire, Acts of God or other Force Majeure, civil disturbance, pandemics, terrorism, or misuse of property.
- (g) Client shall be responsible for all fines imposed for process upsets and violations of water or wastewater quality standards attributable to the operation and maintenance of the Facility to the extent outside W&C 's responsibility as set forth in Section 8.03.
- (h) Client shall designate an individual to function as authorized representative overseeing W&C in connection with the performance of services by W&C under this Agreement.
- (i) Client shall provide all criteria and full information as to the Client's requirements for W&C's services, including without limitation, objectives, constraints, standards, or budgets including any limitations thereof.
- (j) Client shall give prompt written notice to W&C whenever the Client observes or otherwise becomes aware of any development that affects the scope or timing of W&C's services or any failure of W&C to perform in accordance with the terms and conditions of the Agreement; and
- (k) Client shall be responsible for all fines imposed by OSHA for any capital repairs or replacements related to health & safety not made in accordance with subsection (b) of this Article 2.01.
- (l) Client agrees there are periods at night when influent flows increase significantly, and facility design parameters are exceeded. During these times, W&C shall not be responsible for meeting the NPDES parameters. Client shall indemnify, defend, and hold harmless W&C from any claims, fines, causes of action, or damages arising out of any influent flow increases during these times.
- (m) Client shall provide complete information relating to the surface and subsurface conditions or utility locations of the facility or site. W&C will not be responsible for any damage, injury of interference with any subterranean structures, pipe, tank, cable or any other element or concealed or unknown condition, if not called to W&C's attention in writing prior to commencement of services or which is not shown, or accurately located, on plans furnished to W&C by Client or by any other party. Should W&C encounter any such latent or subsurface condition on the site or facility, it shall be entitled to a reasonable adjustment to contract price or time of performance.

2.02 Client will purchase and maintain at its sole expense commercial general liability, property and structure liability, and flood and fire insurance policies, including premises and extended coverage, including coverage for vandalism and malicious mischief for the full and insurable value of the Facilities and for bodily injury or death to the Client's or W&C's employees, or Client's agents or invitees; and cyber risk insurance. In addition, the Client will name W&C as additionally insured on the above policies and the Client's policies shall be primary and noncontributory. Client waives all of its' and its' carriers' rights against W&C for bodily injury, death, or property damages to the extent covered by the insurance maintained by the Client pursuant to this Article or other applicable insurance. This waiver of subrogation shall be effective

as to a person or entity even though that person or entity did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest.

2.03 Client agrees to compensate W&C in a timely way as provided in Article III, Compensation.

ARTICLE III - COMPENSATION

3.01 Compensation to W&C for services performed shall be the Cost-Plus-Fixed Fee Method as defined and indicated herein.

3.02 Compensation for services performed under the Cost-Plus-Fixed Fee Method shall be based on, and W&C shall be paid, reimbursement of actual undisputed costs incurred by W&C in its performance of the work and services pursuant thereto, (hereinafter referred to as "Reimbursable Costs"), plus a Fixed Fee of eight (8) percent as defined herein. Client shall provide W&C with notice of any invoiced costs that it disputes within fifteen (15) days of receipt of an invoice; otherwise, the costs shall be deemed accepted by the Client and subject to payment under the terms set forth herein.

3.02.1 Reimbursable Costs shall be Direct Salary & Benefits, Overhead Costs, Electricity, Chemical Costs, Maintenance and Repair Costs, Equipment Costs, Materials and Supplies Costs, and Miscellaneous Operating Costs as are defined in the table in Exhibit C – Woodard & Curran Pricing Approach. Sludge disposal shall be paid for directly by the Client.

3.02.2 As compensation for the Reimbursable Costs for the first year of the standard services rendered by W&C pursuant to this Agreement, the Client shall pay W&C the sum as shown in Exhibit C "Annual Budget" commencing with the Effective Date as set forth in Article I Section 1.01 above for total Reimbursable Costs related to the Facility. The budgetary breakdown associated with the Reimbursable Costs is found in the table in Exhibit C "Annual Budget".

3.03 The Client shall also pay W&C a Fixed Fee, as set forth in the approved Annual Budget related to the Facility. The Fixed Fee shall be eight percent (8%) of the sum of the Reimbursable Costs plus any additional cost's payable to W&C hereunder ("Fixed Fee") commencing with the Effective Date as set forth in in this agreement. The Fixed Fee budget is presented in Exhibit C "Annual Budget" and is subject to review or modification as otherwise provided in this Agreement. As compensation for the Fixed Fee for the first year of the standard services rendered by W&C pursuant to this Agreement, the Client shall pay to W&C in equal monthly payments as shown in Exhibit C, commencing with the Effective Date for the total Fixed Fee related to the Facility.

3.03.1 The monthly compensation for Reimbursable Costs and Fixed Fee will be billed at the beginning of the month for which it is due. The Client will have thirty (30) days from the date of the invoice in which to pay W&C. Late payments shall accrue interest at the then current prime rate plus two (2%) percent per annum on the unpaid balance. In the event that W&C is compelled to take action to collect past due payments, the Client will reimburse W&C for all costs and expenses of collection including, without limitation, all court costs and reasonable attorneys' fees and costs.

3.04 At the end of each annual period, W&C shall reconcile with the Client costs versus budget. In the event there is a cost savings, the Client shall retain 100% of the savings to include the assigned fixed fee. In the event costs exceed budget, the Client shall reimburse W&C 100% of the overage to include the assigned fixed fee. This budget reconciliation shall occur within 90 days of the end of each annual period.

3.05 Annual Adjustments. By the Effective Date of this Agreement and by each year thereafter, an estimated annual budget, including all costs will be negotiated ("Annual Budget"). Negotiations shall begin and an initial budget shall be submitted by W&C 2 months prior of the new budget year and finalized by 1 month prior of each budget year of the contract. This method will enable Client and W&C to evaluate any deficiencies and/or changes in the Scope of Services to establish the new Annual Budget in each successive year of the Agreement. If negotiations have not been completed prior to a contract year, the Annual Budget should be set at one hundred percent (100%) of the previous Annual Budget on a preliminary basis until negotiations are completed and the Annual Budget is adjusted. Credits shall be made for any differences between the one-hundred percent (100%) amount and the new Annual Cost Budget and agreed upon within thirty (30) days after the Annual Budget is approved.

3.06 Adjustments Based on Increased or Decreased Operating Costs. In the event that any changes in the scope of the operations for regulations applicable to the Facility shall occur from and after the Effective Date, including, but not limited to, changes in governmental regulations or reporting requirements, effluent quality standards, monitoring requirements, level of treatment, personnel qualifications, staffing rules or changes in the Scope of Services (as set forth in Exhibit B) which increase or decrease the cost of operating the Facility, then, in that event, the Client shall provide for an increase or decrease in W&C's compensation, as reasonably determined by W&C and agreed to by the Client, retroactive to the date of such notification by W&C or the Client (which shall include a reasonably detailed explanation for the increase to W&C's compensation).

3.07 Maintenance and Repair Costs.

a. Costs up to \$2,500. W&C shall pay the costs of all individual repair parts, maintenance materials, supplies, and outside routine maintenance service items (hereinafter, "M&R Item" or "M&R Items") under \$2,500 per event, excluding W&C labor costs, during the term of this Agreement. The annual budget for such M&R Items costing less than \$2,500 is included in the annual fees to be paid to W&C and is initially established at \$49,000. This annual M&R Item budget will be negotiated and agreed to annually and W&C's fixed fee shall be adjusted accordingly. The Client shall approve in advance and pay for M&R Items that exceed the annual budget. Such approval and payment shall not be unreasonably withheld.

b. Costs \$2,500 and above. Any M&R Item which costs in excess of \$2,500 per event, excluding W&C labor costs, shall be approved by the Client, and paid for in its entirety directly by the Client. Notwithstanding anything to the contrary in this Section, W&C shall have the right, in emergency situations, to authorize the expenditure of monies for M&R Items where the failure to do so would have an adverse effect, as determined by W&C, on safety, the Facility or the Client's equipment.

3.08 Transition Fee Component. The Client shall pay W&C, as Compensation for the transition fee, a total amount of \$107,734 (the "Transition Fee Component"). The Transition Fee Component amount shall be amortized over five (5) of the Client's budget years or 60 months, (i.e. the base term of the contract), beginning with the Client's current budget year. The annual budget amount is outlined in Exhibit C "Annual Budget" and payable to W&C commencing with the Effective Date for the Transition Fee Component related to the Facility. The parties agree that the Transition Fee Component will not be adjusted annually. If the Client should terminate this Agreement prior to repayment of the full Transition Fee Component, then the Client will be responsible for the prorated remaining balance (as described in Exhibit C-1). W&C will begin on-site transition management services 45 days prior to the Commencement date of this Agreement.

3.09 Additional Capital Investments. The Client and W&C will work together to develop, agree on, and execute more substantive capital upgrade projects in an effort to further reduce the Facility's operating and maintenance costs, and/or improve operations control, productivity, and compliance. Projects identified and brought forward by W&C will be presented to and approved by the Client on a case-by-case basis. Funding approaches will be discussed prior to project approvals. In the event the Client and W&C agree that W&C will supply any of the capital necessary to implement the upgrade project, W&C and the Client will, following appropriate internal approvals, structure a separate capital recovery and security agreement for W&C to recover its capital cost and risk, and which will include provisions satisfactory to both parties. W&C will provide appropriate conditions, including a termination provision, conforming to Generally Accepted Accounting Principles ("GAAP") standards, to allow the Client to exercise its rights under the provisions of the agreements while protecting W&C's right to recover and secure its capital investments. Cost, quality, and/or productivity savings generated by these projects, net of any payments or other capital recovery mechanisms employed, will be shared by the Parties on a negotiated basis.

3.10 Contingency or Out-Of-Scope Services includes funds for projects and services that have not been included elsewhere in the Annual Budget and are not clearly defined. This may include emergency services or services from W&C's consulting and engineering business units, which shall be clearly set forth in a separate statement of work. In the event of an emergency, W&C may act without advanced written approval and W&C shall be compensated by the Client for the emergency work; provided, nothing contained in this Agreement or Section shall require W&C to provide any emergency services and failure of W&C to perform any such emergency services shall not impose upon W&C any liability. Expenditures under this category will require advanced written approval by the Client. A Fixed Fee rate of eight percent (3%) will be added to all contingency or out-of-scope services' expenses. Contingency or out-of-scope services' expenses will be billed on a monthly basis.

3.11 W&C shall provide a narrative statement, in a Monthly Operating Report ("MOR"), to the Client on a monthly basis. The MOR shall describe the work accomplished, any problems encountered, and their resolution by W&C during the period by reference to the tasks described in the Scope of Services.

3.12 Invoices are to be forwarded directly to the following:

Client Address:
City Manager
141 Central Avenue
Clewiston, FL. 33440

3.13 In the event that this Agreement is terminated or canceled, or W&C's services are suspended in this Agreement, prior to completion, payment shall be made in accordance with the provisions of Article V, Termination.

ARTICLE IV - TERM OF AGREEMENT

4.01 This Agreement shall remain in full force and effect for five (5) years from the Effective Date.

4.02 The term of this Agreement may be extended for consecutive terms as mutually agreed by the Client and W&C as provided in Article 5.

ARTICLE V - TERMINATION

5.01 Termination for Cause. Either party may terminate this Agreement upon thirty (30) days' prior written notice to the other party of a default by the other party (the "Defaulting Party"), and the Defaulting Party's failure to cure the default within an additional thirty (30) days; provided, however, if the default can be cured but the cure cannot reasonably be completed within thirty (30) days, termination may not occur until the cure can reasonably be completed as long as the Defaulting Party has commenced steps to cure and diligently continues to pursue such cure.

5.02 Termination for Convenience. Either party may terminate this Agreement upon 180 days' prior written notice to the other party; in the event the Client exercises this provision prior to execution of the full term of this Agreement, the Client will pay W&C all invoiced fees through the date of termination; (ii) any amounts expended by W&C in making investments in the Facility; (iii) the balance of the Transition Fee Component; and (iv) one year of the fixed fee based on the average amount of the prior six months of invoices. These amounts will be paid within thirty (30) days of the date of the invoice.

5.03 Suspension for Nonpayment. This Agreement may be suspended by W&C after forty-five (45) days of non-payment of any invoices by Client. Failure of the Client to provide payment for sixty (60) days shall constitute a material default.

5.04 Automatic Renewal. This Agreement shall be automatically renewed for additional five (5) year terms unless either party notifies the other party in writing of its decision not to renew the Agreement no less than 120 days before the expiration of the then current term.

5.05 Transition Costs. The Client shall pay the balance of the Transition Fee Component within thirty (30) days of any termination of this Agreement.

ARTICLE VI - STANDARDS OF PERFORMANCE

6.01 W&C's objective is to provide its clients with quality operational services consistent with industry standards. To that end, W&C seeks an operational collaboration and dialogue with the Client to achieve a level of performance consistent with industry standards. If the Client has any concerns with the services, the Client shall immediately inform W&C in writing, and the parties shall meet to discuss the concerns. It is understood that the relationship of W&C and the Client is that of an independent contractor. No warranty, express or implied, is made or intended by W&C's undertaking herein or its performance of services. For any professional services rendered under this Agreement, W&C will perform all work in a professional manner that is consistent with other professionals performing similar work in the geographic area at the time services are rendered.

ARTICLE VII - CHANGES

7.01 W&C or the Client may request, respectively, changes in the Scope of Services authorized under this Agreement which are within the general scope of this Agreement, including without limitation, additional operational and maintenance services not considered "routine" (for example: construction and installation of capital projects and repairs caused by events outside W&C's control if these cannot be

accommodated within normal operational hours and normal expense budgets), changes required by new or revised laws, rules, regulations or code requirements, or new or amended orders of any public authority or court, the happening of Force Majeure including without limitation, flood, fire, act of God, civil disobedience, pandemics, terrorist acts, or other causes beyond W&C's reasonable control or which result from W&C encountering conditions or circumstances during performance of its services under this Agreement which are materially different from those described or represented by the Client regarding the operational or maintenance characteristics or circumstances of the Facility. These changes may be made only by written work change orders, executed by the Client and W&C, unless accomplished under emergency conditions with verbal authorization, all subject to an equitable adjustment in compensation to W&C.

7.02 In the event changes in the work result in increased work, the Client will pay W&C for hours worked, equipment used, and materials expended in accordance with Article III, Compensation.

7.03 In an emergency affecting the safety of persons or property, W&C may act, at its discretion, to prevent threatened damage, injury, or loss. Any increase in the monthly fee or extension of time claimed by W&C on account of acts taken in connection with such an emergency shall be paid to W&C in accordance with Article 7.02 above.

ARTICLE VIII – INSURANCE AND LIMITATIONS

8.01 W&C will provide and maintain at all times during the term of this Agreement the following insurance coverage:

- (a) Workers' compensation insurance in compliance with the statutes of the state where the Facility is located.
- (b) Commercial general liability insurance with a limit of One Million Dollars (\$1,000,000) per occurrence and in the aggregate.
- (c) Automobile liability insurance (owned, non-owned, or hired) with a combined single limit of One Million Dollars (\$1,000,000); and
- (d) Professional liability insurance with a limit of One Million Dollars (\$1,000,000) per claim and in the aggregate where professional or design services are provided.

W&C will furnish the Client with Certificates of Insurance as evidence that policies providing the required coverages and limits are in full force and effect.

8.02 Unless covered by insurance carried by W&C pursuant to article 8.01 of this Agreement, in which case the coverage and limits specified to be maintained shall only apply to and hereby expressly limit such covered liabilities, the aggregate liability of W&C for any and all uninsured claims, damages, costs, or expenses, including attorneys' fees under this agreement, whether based in breach of contract, breach of warranty, tort including negligence, strict liability or otherwise, shall not exceed the total annual compensation paid for the services out of which the claim or damage, costs, or expense arose, but in no event shall W&C be liable for any consequential, indirect, special or punitive damages such as, for example, loss of profits or revenue, or the loss of use of client's facilities or property.

8.03 W&C will assist the Client with regulatory compliance pertaining to the day-to-day operation of the Facility. Subject to the limitations of this Agreement and Article, W&C shall operate the Facility in compliance with state and federal regulatory requirements. W&C will pay fines imposed for process upsets and violations of wastewater discharge standards unless the process upsets or violations are attributable to:

- (a) Influent flows and loads that are not within the design capabilities of the Facilities, including but not limited to soluble oil, heavy metals, other toxic substances, excessive suspended solids, and excessive organic loadings (see Exhibit A for design flows),
- (b) The malfunction or failure of equipment giving rise to the violation which is not due to the sole negligence of W&C, or
- (c) Failure by the Client to fulfill its obligations under this Agreement or other agreements with regulatory agencies.

ARTICLE IX - INDEMNIFICATION

9.01 W&C agrees to indemnify and hold the Client harmless from any liability, claim, or cause of action resulting from bodily injury to or illness or death of any third party or destruction of or damage to any property of any third party to the extent caused by the negligence of W&C or its employees in the performance of the services of this Agreement.

9.02 Client agrees to indemnify and hold W&C harmless from any liability, claim, or cause of action resulting from bodily injury to or illness or death of any third party or destruction of or damage to any property of any third party to the extent caused by the negligence of the Client or its employees.

9.03 In the event that both W&C and the Client are found by a finder of fact to be negligent, and the negligence of both is the proximate cause of the liability, claim, damage, cost or expense, then in such event, each party shall be responsible for the proportionate amount of the liability equal to its comparative share of fault.

9.04 Client acknowledges that W&C has neither created nor contributed to the creation of any hazardous waste, hazardous substance, radioactive material, toxic pollutant, asbestos, or otherwise dangerous substance (collectively referred to as "hazardous substance"), or dangerous condition at the Project site. Consequently, Client agrees it is the generator of any such hazardous substance under applicable law. Client acknowledges that, in seeking services of W&C in this Agreement, the Client is requesting W&C to undertake services that present potential uninsurable environmental and other operational risks for the Client's benefit. Therefore, the Client agrees that, except to the extent such liability may arise out of the sole negligence of W&C or its employees in the performance of services under this Agreement, the Client shall defend, indemnify and hold harmless W&C, its officers and employees from and against any and all claims, losses, damages and liabilities, including but not limited to costs of defense and reasonable attorneys' fees, arising under local, state, or federal laws or regulations including but not limited to, the Clean Air Act, the Clean Water Act, CERCLA, RCRA, or analogous state or local laws directly or indirectly connected with the alleged, threatened or actual discharge, dispersal, release, migration of pollutants, contaminants, or chemicals which may be present at or beneath the Facility's premises.

9.05 Client acknowledges that inherent with the operations and maintenance of: W&C will be responsible for performing its services in accordance with commercially reasonable and accepted practices to prevent such Third-Party Damage Claims. Client acknowledges that Third Party Damage Claims cannot be avoided entirely because of capacity limitations and flaws inherent in the systems, limitations on the ability to accurately assess and predict the condition of underground systems and other reasons that make it unfeasible and impossible as a practical matter to eliminate such damages. Therefore, W&C shall not be responsible for the costs associated with such Third-Party Damage Claims unless it is finally determined, either by W&C in good faith after its investigation, or by a court of law, that the predominant cause of the damage was the failure of W&C to perform its services in accordance with commercially reasonable and generally accepted standards. Otherwise, and until such determination is made, the Client shall be responsible to defend and handle such claims in accordance with whatever practices it chooses to employ, and neither the Client nor its insurance company shall make any claims against W&C or its insurance company for any costs associated with such Third-Party Damage Claims.

ARTICLE X - MISCELLANEOUS

10.01 During the term of this Agreement and for a period of twelve months after the termination thereof for any reason, the Client shall not directly or indirectly solicit for employment or employ any employee of W&C that has provided services to the Client under this Agreement. The client agrees that if it violates this provision, irreparable harm will occur, and money damages alone will be insufficient to compensate W&C. Therefore, in addition to any and all remedies at law, W&C will be entitled to seek injunctive relief, specific performance, or other equitable relief.

10.02 This Agreement represents the entire Agreement of the parties and may only be modified or amended in writing, signed by both parties.

10.03 Written notices required to be given under this Agreement shall be deemed given when mailed by first class mail to;

Woodard & Curran
Attention: Legal Department
12 Mountfort St.
Portland, ME 04101

and to the Client, Attention: Lynne Mila, Compliance Manager, at the addresses set forth for each in the opening paragraph of this Agreement.

10.04 No waiver, discharge, or renunciation of any claim or right of W&C arising out of breach of this Agreement by the Client shall be effective unless signed in writing by W&C and supported by separate consideration.

10.05 This Agreement shall be deemed to have been made in the state where the Facility is located and shall be governed by and construed in accordance with the laws of the state where the Facility is located.

10.06 If a dispute arises pursuant to this Agreement and is not resolved by mutual agreement within sixty (60) calendar days from written notice of the Dispute, a mutually acceptable third-party mediator having expertise in the subject matter of the Dispute will be engaged to mediate the Dispute. The expense of the mediator would be shared equally by the parties. All mediation documents and discussions pursuant to this

clause are confidential and shall be treated as compromise and settlement negotiations for the purposes of the Federal Rules of Evidence and applicable State Rules of Evidence.

10.07 Notwithstanding any other provision to the contrary, for any professional services performed under this Agreement, W&C will retain all right, title and interest, including without limitation all intellectual property rights in and to (a) W&C's designs, tools, methodologies, programs, proprietary software, software frameworks, source code, specifications; and (b) third-party works or products that W&C has acquired the rights to use or derivative works or modifications to the same.

IN WITNESS THEREOF, W&C, by its duly authorized officer, and the Client, by its duly authorized administrator, have executed this Agreement as of the date and year first above written.

[SIGNATURES ON NEXT PAGE]

DRAFT

City of Clewiston

Attest _____

By: _____

(Print Name)

(Title)

(Date)

Woodard & Curran, Inc.

Attest _____

By: _____

(Print Name)

(Title)

(Date)

EXHIBIT A

DESIGN CAPABILITIES FOR TREATMENT FACILITY

The Facility and design capabilities of the Facility are as set forth in the original engineering plans and specifications for the Facility as provided by the Client to W&C upon the Effective Date as follows:

1. Treatment Facility Design Capabilities:
 1. Design Flow: 1.5 MGD
 2. Design Loadings: 2,752#BOD/DAY
2,225#SS/DAY
2. Treatment Facility Average Daily
 1. Avg. Daily Flow: 1.28 MGD
 2. Avg. Daily Loadings: 2,239#BOD/DAY
1,751#SS/DAY
3. NPDES Permit No: __FL0040665__

DRAFT

EXHIBIT B

WOODARD & CURRAN SCOPE OF SERVICES

The W&C Services to be provided by Woodard & Curran during the term of this Agreement shall include and be limited to the following:

1. Facilities Operation. W&C shall operate and manage the Facility per requirements established by the governmental authorities having jurisdiction over the Facility and in accordance with the applicable industry standard of care. W&C shall comply with all applicable local, state and federal laws and regulations as they pertain to the Facilities to provide that the treated wastewater meets the discharge standards established by the FLDEP issued to the Client by such authority as long as the incoming wastewater does not exceed the design limitations set forth in Exhibit A and as otherwise set forth in Article 8.03 of the Agreement.

2. Project Management and Staffing. W&C shall staff the Facility with a Facility Manager with a C license, and operations staff experienced in the areas of wastewater treatment, process control, laboratory analysis and maintenance procedures for wastewater treatment. Current acceptable staffing levels consist of two full time personnel.

3. Project Support. W&C shall, as required and determined by W&C, provide on-call, backup expertise in operations, management, and maintenance applications to ensure compliance with this Agreement.

4. Repair and Maintenance. W&C shall pay the costs of M&R Items under \$2,500 per event, excluding W&C labor costs, during the term of this Agreement.

5. Information Systems. W&C shall maintain computer software effective in the management of scheduled, preventive maintenance, capital repairs, emergency repairs, predictive maintenance, process control and compliance reporting. In so doing, W&C will use processes and tools that are readily available in the marketplace, which are not necessarily native to its system. There are constant advancements and rapidly changing risks inherent with the security of such systems, beyond the control of W&C; accordingly, the Client accepts these risks and W&C shall not be responsible for any damages, claims, interferences, incidents, breaches, or other security vulnerabilities with respect to these information systems. The Client further acknowledges and agrees that it has been and shall continue to maintain responsibility for the security of its information systems and that in providing the Services hereunder, W&C does not make any guarantees or represent that its services will result in the security of these systems.

6. Operational Costs and Expenses. W&C shall provide and pay all costs of W&C employees, electricity, chemicals, laboratory, spare parts, materials, maintenance, repairs and expendable supplies required in the normal operation and maintenance of the Facility while it is responsible for the operation of the management of the Facility, except sludge disposal and to the extent otherwise provided in the Agreement.

7. Hazardous Substances or Biological Toxic Substances. In the event that any Hazardous Substance (as defined below) or Biological Toxic Substance (as defined below) is received at the

Facility, W&C shall notify the Client and assist the Client in the removal and/or reduction of such Hazardous Substance or Biological Toxic Substance. In the event that any Hazardous Substance or Biological Toxic Substance cannot be treated or removed using the processes and equipment provided, W&C shall not be responsible for additional operational costs and expenses until the Hazardous Substance or Biological Toxic Substance is removed from the Facility and the Facility has completely recovered. For all purposes of this Exhibit B and the Agreement to which it is attached, "Hazardous Substance" shall mean (a) any petroleum, petroleum products, by-products or breakdown products, radioactive materials, asbestos-containing materials or polychlorinated biphenyls; or (b) any chemical, material or substance defined or regulated as hazardous or as a pollutant, contaminant or waste under any statute, law, ordinance, by-law, decree, regulation, code, order, rule or judgment of any governmental authority having the force of law. For all purposes of this Exhibit B and the Agreement to which it is attached, "Biological Toxic Substance" shall mean any substance or combination of substances contained in the Facility's influent in sufficiently high concentrations so as to interfere with the biological processes necessary for the removal of the organic and chemical constituents of the wastewater. The Parties agree that the presumption shall be that any Biological Toxic Substance present in the Facility entered with the influent unless it can be demonstrated otherwise. Biological Toxic Substances include, but are not limited to, heavy metals, phenols, cyanides, pesticides, herbicides, acids, caustics, chlorine, quaternary ammonia, and other cleaning or sanitizing compounds. W&C shall not be deemed the owner of sludge residuals but acting as an agent of the Client.

8. Other Issues Outside the Control of the Operator. In the event that any influences outside the control of W&C cause operational issues W&C shall not be responsible for additional operational costs and expenses until such time as those influences are stopped and the Facility has had ample time to recover.

9. Testing and Laboratory Analysis. W&C shall perform the sampling and analysis as required for the proper operation of the Facility for process control and compliance standards to include the WWTP. W&C shall prepare all permit monitoring and operations reports and submit them to the Client for final review and sign-off prior to submission to the appropriate regulatory agency having jurisdiction over the Facility.

10. Reporting. W&C shall submit internal reports relating to the operations of the Facility to the Client and assist the Client in the Client's reporting requirements to local, state, and federal regulatory agencies, all in accordance with mutually agreed upon procedures. W&C shall be responsible for representing the Client with the relevant regulatory agencies and advise the Client of all meetings, hearings, and relevant related information for the Facility. The Client shall participate in such meetings of regulatory or governmental agencies as the Client or W&C deems necessary.

11. Records of Operation. Records maintained by W&C shall be in compliance with all applicable laws and regulations. These records, capable of providing historical data and trend, shall be the property of the Client. W&C shall maintain these records at the Facility site, available during the term of this Agreement for use by authorized Client personnel. W&C agrees to provide the Client's officials with access to the Facility at any time, upon reasonable prior notice.

12. Safety. W&C shall administer a site-specific safety program to include training, record keeping and safety meetings, all in conformance with applicable law and regulations. W&C has built into the budget \$16,000 for necessary OSHA compliance.

13. Training. W&C shall implement an on-going training program, with classroom and hands-on training for all Facility and designated city personnel. Training shall include Facility operations and maintenance, laboratory operations and maintenance, supervisory skills, and energy management.

14. Capital Budget Submission. On an annual basis, W&C shall provide a formal report to the Client on W&C's projection of capital needs and assist the Client with the preparation of the Client's Annual Budget. W&C shall annually submit its recommendations regarding additions to or deletions from the Client's scheduled program. W&C shall submit a detailed rationale for any changes or additions, along with related preliminary cost estimates. Implementation of these recommendations by the Client, however, is not a condition of W&C's performance of the services. Review and approval of these capital expenditures shall remain the responsibility of the Client.

15. Emergency Response Plan. W&C, in cooperation with the Client, shall maintain and implement an emergency response plan for the Facility that shall be in compliance with all applicable regulations. The emergency response plan shall be reviewed and updated annually.

16. Facility Inventory. The Client shall provide W&C with a complete inventory of the equipment and other physical assets at the Facility within one month of the Effective Date. W&C will provide the Client with a complete inventory of W&C's equipment brought onto the Facility within one month of the Effective Date. Any temporary or portable equipment which is provided by W&C during the term of this Agreement shall remain the property of W&C upon termination of this Agreement. Each party shall be responsible for the insurable risk and maintain ownership of their respective inventoried equipment and physical assets.

Exhibit C

Annual Budget

The table below reflects the first year's estimated budget. Each subsequent Annual Budget shall reflect 12 months' worth of expenses for the period January 1st through December 31st

The budget shall be negotiated and agreed to by both parties annually as described in Article III and the line-item budget provided below shall be based upon the parameters outlined in Article III.

Year 1 Fee Schedule – 12 Months

Direct Salary & Benefits	\$295,057
Overhead Costs	\$78,682
Chemicals Costs	\$45,000
Maintenance and Repair Costs	\$49,000
Utility Costs	\$109,399
Sludge Disposal Costs	\$0
Lab Supplies & Equipment Costs	\$50,980
Office Supplies	\$3,000
Miscellaneous Costs	\$33,442
Other Operating Costs	\$43,701
Total Operating Costs	\$708,262
Fixed Fee for First Twelve (12) Months	\$56,661
Transition Fee Component (\$107,734 / Amortized over 5 years / 60 months)	\$21,547
Total Budgeted Costs for First Twelve (12) Months	\$786,470
Monthly Invoice	\$65,539

**Miscellaneous Costs = Vehicle Costs, Support Travel Expenses, Employee Health & Safety and Training

**Other Operating Costs = Sub-Maintenance Agreements, Trash Disposal, Technology HW & SW and Fuel

Exhibit C-1

Transition Cost Termination Schedule

Termination Year	Amount Owed
End of Contract Year One	\$86,187
End of Contract Year Two	\$64,640
End of Contract Year Three	\$43,093
End of Contract Year Four	\$21,547
End of Contract Year Five	\$0
