

Contract No. ITB 25-017
Water Meter Fitting, Water Line Accessories, and Fire Hydrants
and Accessories

THIS IS AN AGREEMENT ("Agreement"), dated the ____ day of _____ 20__, by
and between:

CITY OF COOPER CITY, a municipal corporation organized and existing under the laws of the State of Florida and whose address is 9090 SW 50th Place, Cooper City, Florida 33328 (hereinafter referred to as the "CITY"),

and,

Ferguson US Holding, Inc. d/b/a Ferguson Enterprises, LLC., a Foreign Corporation, located at 1950 NW 18th Street, Pompano Beach, FL 33069, who is authorized to do business in the State of Florida. (hereinafter referred to as the "CONTRACTOR")

CITY and CONTRACTOR may each be referred to herein as "party" or collectively as "parties".

WHEREAS, the CITY desires to enter into an agreement with the CONTRACTOR for the CONTRACTOR to provide **Water Meter Fittings, Water Line and Fire Hydrant Accessories**; and,

WHEREAS, the CITY Code provides authority for the CITY to select and contract through the use of the competitive bid process of another government entity as an exception to the otherwise required formal bidding process, pursuant to Sec 2-258; and

WHEREAS, the parties wish to incorporate the terms and conditions of the **City of Deerfield Beach Contract No. ITB 25-017** between the **City of Deerfield Beach, Florida**, a municipal corporation of the State of Florida and **Ferguson US Holdings, Inc d/b/a Ferguson Enterprises, LLC.** . The CONTRACTOR is the local authorized vendor in which the CITY must use to procure services to include but not be limited to purchase **Water Meter Fittings, Water Line and Fire Hydrant Accessories**, under **City of Deerfield Beach, Florida contract No. ITB 25-017** ("City of Deerfield Beach Agreement"). The **City of Deerfield Beach Agreement** is attached hereto as **Appendix "A"** and incorporated herein; and

WHEREAS, the Parties agree to add the provisions of this agreement to the **City of Deerfield Beach Agreement** as set forth herein; and

WHEREAS, CONTRACTOR has agreed to honor the prices and terms and conditions of the **City of Deerfield Beach Agreement**; and

WHEREAS, CITY desires to retain the services of CONTRACTOR by "accessing/piggybacking" the **City of Deerfield Beach Agreement**; and

WHEREAS, the CITY has reviewed the scope of services of the competitively bid **City of Deerfield Beach** Agreement, and has determined that it is an agreement that can be used by the CITY; and,

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt and adequacy of which are acknowledged, the parties agree as follows:

Section 1. Preamble

The foregoing recitals are true and correct and are hereby incorporated into this Agreement.

Section 2. Order Of Precedence

The prices, terms and conditions of the **City of Deerfield Beach** Agreement shall govern the relationship between the CITY and CONTRACTOR, except as amended below:

- A. The Scope of Services for the Work ("Work") to be performed under this Agreement shall be as set forth in the **City of Deerfield Beach** Agreement, except said Work shall be performed in and for the CITY. The proposal for the Work is attached hereto in **Appendix "B"**.
- B. The CONTRACTOR has agreed to honor the prices and terms and conditions of the **City of Deerfield Beach** Agreement and incorporated herein. The **City of Deerfield Beach** pricing sheet is attached hereto as **Appendix "C"**.
- C. The CONTRACTOR agrees at all times to indemnify, hold the CITY harmless and, at the CITY's option, defend or pay for any attorney selected by the CITY to defend the CITY, its trustees, elected and appointed officers, agents, servants and employees, from and against any and all claims, demands, losses, liabilities, expenditures or causes of action of whatsoever kind or nature, and the resulting losses, costs, expenses, reasonable attorneys' fees, liabilities, damages, orders, judgments, or decrees, sustained by the CITY or any third party arising out of, or by reason of, or resulting from the CONTRACTOR's negligent acts, errors, or omissions.
- D. CONTRACTOR shall provide the CITY with proof of insurance as required by the **City of Deerfield Beach** Agreement. CONTRACTOR hereby confirms that the CITY is named as an additional insured under the provisions of CONTRACTOR'S insurance.
- E. CONTRACTOR shall not commence the Work unless and until the requirements for insurance have been fully met by CONTRACTOR and appropriate evidence thereof, in the CITY's sole discretion, has been provided to and approved by the CITY.
- F. All payments shall be governed by the Local Government prompt Payment Act as provided under §§218.70-.80, Florida Statutes.
- G. The term of this agreement shall be effective upon execution of this agreement by both

parties and shall terminate on the same date as the **City of Deerfield Beach** Agreement; **June 08, 2028**. Subject to any renewal or extensions as provided in the **City of Deerfield Beach** Agreement, it is expressly stipulated and agreed that this agreement shall run concurrently and in conjunction with the **City of Deerfield Beach** Agreement throughout the specified term.

Section 3. Nature Of the Agreement

In all other respects, the terms and conditions of the **City of Deerfield Beach** Agreement, are hereby ratified and shall remain in full force and effect under this “access/piggybacking” arrangement, as provided by the terms of this Agreement. All recitals, representations, and warranties of CONTRACTOR made in those documents are restated as if set forth fully herein, made for the benefit of the CITY, and incorporated herein

Section 4. Public Records.

A. Public Records: CONTRACTOR shall comply with the Florida Public Records Act as follows:

1. Keep and maintain public records in the CONTRACTOR's possession or control in connection with the CONTRACTOR's performance under this Agreement that ordinarily and necessarily would be required by the CITY in order to perform the service.
2. Upon request by CITY's records custodian, provide CITY with a copy of requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
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 for the duration of this Agreement.
4. Upon completion of this Agreement or in the event of termination of this Agreement by either party, any and all public records relating to this Agreement in the possession of CONTRACTOR shall be delivered by CONTRACTOR to CITY, at no cost to CITY, within seven days. All records stored electronically by CONTRACTOR shall be delivered to CITY in a format that is compatible with CITY's information technology systems. Once the public records have been delivered to CITY upon completion or termination of this Agreement, CONTRACTOR shall destroy any and all duplicate public records that are exempt or confidential and exempt from public record disclosure requirements.
5. CONTRACTOR'S failure or refusal to comply with the provisions of this Section shall result in the immediate termination of this Agreement by the CITY.

IF CONTRACTOR HAS QUESTIONS REGARDING THE

APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (954) 434-4300, PRR@COOPERCITY.GOV, OR BY MAIL: CITY OF COOPER CITY – CITY CLERK'S OFFICE, 9090 SW 50TH PLACE, COOPER CITY, FL 33328.

Section 5. **Scrutinized Companies.**

- A. CONTRACTOR certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List. Pursuant to Section 287.135, F.S., the CITY may immediately terminate this Agreement at its sole option if the CONTRACTOR or its subcontractors are found to have submitted a false certification; or if the CONTRACTOR, or its subcontractors are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Agreement.
- B. If this Agreement is for more than one million dollars, the CONTRACTOR certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in Section 287.135, F.S. Pursuant to Section 287.135, F.S., the CITY may immediately terminate this Agreement at its sole option if the CONTRACTOR , its affiliates, or its subcontractors are found to have submitted a false certification; or if the CONTRACTOR, its affiliates, or its subcontractors are placed on the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of the Agreement.
- C. The CONTRACTOR agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Agreement.
- D. As provided in Subsection 287.135(8), F.S., if federal law ceases to authorize the above-stated contracting prohibitions then they shall become inoperative.

Section 6. **Assignment.** Neither party may assign its rights or obligations under this Agreement without the written consent of the other.

Section 7. Notice. Notice hereunder shall be provided in writing by certified mail, return receipt requested, or customarily used overnight transmission with proof of delivery, to the following parties, with mandatory copies, as provided below:

CITY:

a) to the Project Manager

City of Cooper City, Utilities Department
Attention: Michael Stanton
9090 SW 50th Place
Cooper City, Florida, 33328-4227
Telephone No. (954) 434-4300 X115
mstanton@coopercity.gov

and,

b) to the Contract Manager

City of Cooper City, Procurement
Attention: Tyrone White
9090 SW 50th Place
Cooper City, Florida 33328-4227
Telephone No. (954) 434-4300 X 268
Purchasing@CooperCity.gov

Copy To:

Jacob G. Horowitz, City Attorney
Goren, Cherof, Doody & Ezrol, P.A.
3099 East Commercial Boulevard, Suite 200
Fort Lauderdale, Florida 33308
Telephone No. (954) 771-4500
JHorowitz@gorencherof.com

For CONTRACTOR:

Ferguson US Holding, Inc d/b/a Ferguson Enterprises, LLC.
Attention: Rob Pinkston
1950 NW 18th Street,
Pompano Beach, FL 33069
Telephone No. (954)973-8100
Rob.pinkston@ferguson.com
Matthew.gracie@ferguson.com

Section 8. Severability. This Agreement sets forth the entire agreement between CONTRACTOR and CITY with respect to the subject matter of this Agreement. This Agreement supersedes all prior and contemporaneous negotiations, understandings and agreements, written or oral, between the parties. This Agreement may not be modified except by the parties' mutual agreement set forth in writing and signed by the parties.

Section 9. Governing Law/Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. Venue for any dispute under this Agreement shall be an appropriate court of competent jurisdiction in Broward County, Florida.

Section 10. E-verify. Pursuant to Section 448.095, Florida Statutes, effective January 1, 2021, Contractors, shall register with and use the E-verify system in order to verify the work authorization status of all newly hired employees. CONTRACTOR shall register for and utilize the U.S. Department of Homeland Security's E-Verify System to verify the employment eligibility of:

- A. All persons employed by a Contractor to perform employment duties within Florida during the term of the contract; and
- B. All persons (including subvendors/subconsultants/subcontractors) assigned by Contractor to perform work pursuant to the contract with the City of Cooper City. The CONTRACTOR acknowledges and agrees that registration and use of the U.S. Department of Homeland Security's E-Verify System during the term of the contract is a condition of the contract with the City of Cooper City; and
- C. The CONTRACTOR shall comply with the provisions of Section 448.095, Fla. Stat., "Employment Eligibility," as amended from time to time. This includes, but is not limited to registration and utilization of the E-Verify System to verify the work authorization status of all newly hired employees. CONTRACTOR shall also require all subcontractors to provide an affidavit attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. The CONTRACTOR shall maintain a copy of such affidavit for the duration of the contract. Failure to comply will lead to termination of this Contract, or if a subcontractor knowingly violates the statute, the subcontract must be terminated immediately. Any challenge to termination under this provision must be filed in the Circuit Court no later than twenty (20) calendar days after the date of termination. Termination of this Contract under this Section is not a breach of contract and may not be considered as such. If this contract is terminated for a violation of the statute by the CONTRACTOR, the CONTRACTOR may not be awarded a public contract for a period of one (1) year after the date of termination.

Section 11. Contributions Prohibited. Pursuant to Section 2-26 of Cooper City Code, no lobbyist, or vendor shall give a campaign contribution, directly or indirectly, to a candidate for the office of Mayor or Commissioner. No candidate for Mayor or Commissioner, or member of the CITY Commission shall, directly or indirectly, solicit, accept or deposit into such candidate's campaign account any campaign contribution from a lobbyist, or vendor.

(REMAINDER INTENTIONALLY LEFT BLANK)

SIGNATURE PAGE

IN WITNESS OF THE FOREGOING, the parties have hereunto set their hands and seals on the dates written below.

CITY OF COOPER CITY

Ferguson US Holding, Inc. d/b/a Ferguson Enterprises LLC

Date: _____

Date: _____

CITY MAYOR

By (signature):

CITY MANAGER

NAME

Approved as to Legal Form
And Sufficiency by:

CITY ATTORNEY

TITLE

CITY CLERK

WITNESSED BY:
ADDRESS:

STATE OF _____
COUNTY OF _____

BEFORE ME, an officer duly authorized by law to administer oaths and take acknowledgments, personally appeared _____, as _____ of **Ferguson US Holding, Inc. d/b/a Ferguson Enterprises, LLC.**, and acknowledged that he has executed the foregoing instrument for the use and purposes mentioned in it and that the instrument is the act and deed of _____, as _____ of **Ferguson US Holding, Inc. d/b/a Ferguson Enterprises, LLC.**, and who is personally known to me or has produced _____ as identification.

IN WITNESS WHEREOF, I have set my hand and seal in the State and County aforesaid this _____ day of _____, 20____.

NOTARY PUBLIC

Print or Type Name

My Commission Expires: _____