

**Exhibit A**

AGREEMENT

AMONG THE

CITY OF WESTON, FLORIDA

INDIAN TRACE DEVELOPMENT DISTRICT

BONAVENTURE DEVELOPMENT DISTRICT

AND

A&A DRAINAGE & VAC SERVICES, INC.

FOR

STORMWATER AND WASTEWATER MAINTENANCE SERVICES  
RFP NO. 2022-17

This Agreement is made and entered into the 24<sup>th</sup> day of May, 2023 among the City of Weston, a Florida municipal corporation, Indian Trace Development District and Bonaventure Development District (collectively "CITY"), and A&A Drainage & Vac Services, Inc. ("CONTRACTOR") for Stormwater and Wastewater Maintenance Services. References in this Agreement to "City Manager" shall be meant to include his designee.

The following exhibits are incorporated herein and made a part of this Agreement:

- Exhibit A: Certificate of Insurance
- Exhibit B: Fee Schedule
- Exhibit C: CONTRACTOR's Sub-Contractors List
- Exhibit D: Transition Plan (**Not Applicable**)
- Exhibit E: Performance & Payment Security

WITNESSETH:

WHEREAS, CITY solicited proposals from PROPOSERS for Stormwater and Wastewater Maintenance Services; and

WHEREAS, proposals were evaluated and ranked by a Selection Committee and a recommendation was made to the City Manager; and

WHEREAS, on April 3, 2023, CITY adopted Resolution No. 2023-37, which ratified or altered the ranking of proposals for the Stormwater and Wastewater Maintenance Services and authorized the appropriate CITY officials to execute an Agreement with the number one ranked PROPOSER A&A Drainage & Vac Services, Inc.; and

WHEREAS, CITY Commission has selected CONTRACTOR for Stormwater and Wastewater Maintenance Services, at the sole discretion of CITY; and

WHEREAS, CITY and CONTRACTOR desire to enter into an Agreement whereby the duties and obligations each to the other are set forth.

IN CONSIDERATION OF THE MUTUAL COVENANTS AND CONDITIONS HEREIN EXPRESSED AND THE FAITHFUL PERFORMANCE OF ALL SUCH COVENANTS AND CONDITIONS, THE PARTIES AGREE AS FOLLOWS:

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## SECTION 1

### TERM AND TERMINATION

#### 1.1 Term

The term of this Agreement shall begin on the date that it is fully executed and shall extend until May 31, 2026, with two (2) optional three (3) year renewals by mutual consent, in writing, prior to the expiration of the current term. This provision in no way limits either party's right to terminate this Agreement at any time during the initial term or any extension thereof, pursuant to Section 1.2 of this Agreement.

#### 1.2 Termination

1. This Agreement may be terminated for cause by action of the City Commission if CONTRACTOR is in breach and has not corrected the breach within 30 days after written notice from CITY identifying the breach, or for convenience by action of the CITY Commission upon not less than 30 days written notice by the CITY Manager. This Agreement may also be terminated by the CITY Manager upon such notice as the CITY Manager deems appropriate under the circumstances in the event the CITY Manager determines that termination is necessary to protect the public health, safety, or welfare.
2. This Agreement may be terminated for cause by CONTRACTOR if CITY is in breach and has not corrected the breach within 10 days after written notice from CONTRACTOR identifying the breach.
3. Termination of this Agreement for cause shall include but not be limited to, failure to suitably perform the services, failure to continuously perform the services in a manner calculated to meet or accomplish the objectives of CITY as set forth in this Agreement or multiple breaches of the provisions of this Agreement notwithstanding whether any such breach was previously waived or cured.
4. Notice of termination shall be provided in accordance with Section 8.14(G.) NOTICES of this Agreement except that notice of termination by the CITY Manager which the City Manager deems necessary to protect the public health, safety or welfare may be verbal notice which shall be promptly confirmed in writing in accordance with Section 8.14(G.) NOTICES of this Agreement.
5. In the event this Agreement is terminated for convenience, upon being notified of CITY'S election to terminate, CONTRACTOR shall refrain from performing further services or incurring additional expenses under the terms of this Agreement. CONTRACTOR acknowledges and agrees that Ten Dollars (\$10.00) of the compensation to be paid by CITY, the adequacy of which is hereby acknowledged by CONTRACTOR, is given as specific consideration to CONTRACTOR for CITY'S right to terminate this Agreement for convenience.

6. In the event this Agreement is terminated, any compensation payable by CITY shall be withheld until all documents are provided to CITY pursuant to the Agreement. The CITY shall be liable only for payment pursuant to the Compensation provisions of this Agreement for services rendered before the effective date of termination that were performed in accordance with the manner of performance set forth in the Agreement.
7. This Agreement may be terminated by the CITY if the CONTRACTOR is found to have submitted a false certification, Form 9, Scrutinized Companies, has been placed on the Scrutinized Companies that Boycott Israel List, or is engaged in a boycott of Israel, has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or has been engaged in business operations in Cuba or Syria.

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SECTION 2  
SCOPE OF WORK

2.1 Scope of Work

The scope of work shall include, but is not limited to, providing continuing services for vacuum cleaning/jetting and inspection of, and emergency response to, CITY owned utility infrastructure (stormwater, water, and wastewater). The infrastructure requiring maintenance services shall include, but not limited to, stormwater catch basins, inlets, manholes, pipe outfall, and pollution control devices; wastewater manholes and gravity mains; and wastewater lift stations, along with emergency response during water and forcemain breaks and/or sewer spills or overflow.

The CONTRACTOR shall comply with all federal, state and local laws, rules, practices and regulations including but not limited to dewatering, turbidity and sediment control, and regulatory permitting, as needed.

The CONTRACTOR must self-perform all services unless otherwise indicated. No Sub-contracting of the maintenance services will be allowed, unless approved by the CITY in writing.

No guarantee is expressed or implied as to the quantity of services, if any, to be procured under this Agreement by the CITY.

The City reserves the right to conduct investigations as it deems necessary, to determine the ability of the CONTRACTOR to perform the work or services. Information the City deems necessary in order to make a determination shall be provided by CONTRACTOR upon request.

2.2 Background

The CITY is responsible for the management and maintenance of the CITY's wastewater and stormwater infrastructure. The CONTRACTOR shall be responsible for providing maintenance services to stormwater systems consisting of a complex network of over 2,081 catch basins and drainage structures; 182 culverts of various sizes and lengths; 1,992 acres of lakes and canals; multiple outfalls and weir control structures of varying sizes; and pumping stations. The water and wastewater system includes approximately 214 miles of water, 58 miles of force main, and 139 miles of wastewater gravity pipes; over 3600 manholes; and 70 wastewater lift stations.

A. CONTRACTOR Services: The CONTRACTOR shall furnish all labor, materials, equipment, supplies, tools, safety measures, maintenance of traffic (MOT), and services required to accomplish the regular maintenance of the CITY's stormwater management system, water, and wastewater facilities which include, but is not limited to, the cleaning of the following:

1. Catch basins.
2. Stormwater manholes.
3. Stormwater pipes.
4. Stormwater pollution control structures, weirs & other appurtenances.
5. Wastewater gravity pipes and manholes.
6. Wastewater forcemain scheduled repairs
7. Wastewater lift stations.
8. Watermain scheduled repairs
9. Closed Circuit Televising of pipe (CCTV) – (can be performed by a subcontractor).

10. Stormwater pipe and culvert investigations and miscellaneous repairs
11. Grate and lid replacements.
12. Unforeseen emergency repair work involving the systems stated above and specified herein.

The CONTRACTOR shall respond to and provide services for routine preventative work orders as specified by the CITY. Additionally, CONTRACTOR shall also provide services requiring immediate and initial response to emergency situations such as, but not limited to, water line breaks/repair, wastewater line blockages, wastewater overflows (sanitary sewer overflows SS), soft digs, street wash downs, and cleanup of sewage spills/overflows.

B. Cleaning/Maintenance: The CONTRACTOR shall be responsible for performing the cleaning of the entire wastewater system and stormwater infrastructure.

1. Stormwater Management System Inspection/Cleaning – Scope includes annual inspection and cleaning of catch basins, storm manholes, weirs, and other stormwater structures along with all the downstream pipe segments connected to each of the structures. As part of the inspections, CONTRACTOR shall record the sediment depth in each structure; identify any defects, both structural and aesthetic; remove debris and clear any weeds on or around the structures; and verify grate decals.
2. Wastewater Manhole/Gravity Pipeline Cleaning - The intent of sewer line cleaning is to remove all sludge, dirt, sand, rocks, grease, and other solids or semisolid material from the pipe. Pipe cleaning shall be performed with a hydraulically propelled high-velocity jet. The equipment shall be capable of removing tree roots, dirt, grease, rocks, sand and other materials and obstructions from the sewer lines and manholes. As a minimum, jetting of lines must be performed by pulling the high velocity spray nozzle in the direction opposite to the force created by the water pressure. The CONTRACTOR shall employ a debris trapping system or implement vacuuming in the outlet of the downstream manhole prior to cleaning any sewer line to contain all foreign materials in the manhole. The CONTRACTOR will remove all trapped materials from the manhole prior to removal from the system.

All Materials resulting from the sewer line cleaning shall be removed from the sewer lines and associated structures prior to moving to the next sewer line segment.

The CONTRACTOR shall use precautions to ensure that the water pressure created by the cleaning operations does not damage or cause flooding of public or private property. Also, CONTRACTOR shall take precautions in the use of cleaning equipment, to prevent damage to the existing pipe and manholes. The CONTRACTOR shall be responsible for all costs involved in damage to public or private property through its cleaning/maintenance operation. Any damage to the pipe shall be repaired by the CONTRACTOR immediately at no cost to the CITY.

The CONTRACTOR shall not dispose of or allow any liquid or solid waste from the wastewater cleaning operation to enter the CITY's stormwater system. All debris removed from the wastewater system needs to be properly disposed.

The designated wastewater sections shall be cleaned using hydraulically propelled,

high-velocity jet equipment. Selection of the equipment used shall be based on the condition of the pipelines at the time the work commences. The equipment and methods selected shall be in accordance with industry and the CITY's best management practices. The equipment shall be capable of removing tree roots, dirt, grease, rocks, sand, and other materials and obstructions in the sewer lines and manholes. If cleaning of the entire section cannot be successfully performed from one manhole, then the equipment shall be set up at the upstream manhole and cleaning attempted again.

3. Wastewater Gravity Pipeline Cleaning with Closed Circuit Television (CCTV) Inspection-CCTV shall be defined as the digital recording of the internal condition of the Pipe and structures. Some examples of types of pipe found in the system are Ductile Iron, Corrugated Metal, Corrugated HDPE, Concrete, and PVC. CONTRACTOR shall record actual sizes, condition, number of inlets and outlets, and materials used in construction for all structures and appurtenances. All photo and Video will be in color and a minimum of 2 megapixel resolution. Video data will be indexed to allow accurate length and diameters to be recorded. All information shall be able to migrate to a GIS database. The Contractor is responsible for the safety of the site up to and including the completion of the work. Work orders for wastewater gravity main line cleaning with CCTV inspection shall follow the cleaning requirements noted in section 2.2.B.2., above, prior to deploying the camera for CCTV inspection. Inspections and reporting shall conform to National Association of Sewer Service Companies (NASSCO) Pipeline Assessment Certification Program (PACP) standards.
4. Wastewater Lift Station Cleaning – CONTRACTOR shall utilize a vacuum truck to pump down and remove all the liquids, floating grease and debris, and sediment at the bottom of the wet well. Pressure wash and scrape inside walls of wet well and all other surfaces to remove any remaining grease and debris. Lubricate with WD 40 all locks, hinges, and mechanical joints in the wet well and the valve vault. Check all push button lights inside lift station control panel to ensure operational condition. Remove transducer from wet well, clean, and reinstall. Refresh green paint lines indicating pumps 1 & 2 at station (on concrete platform). Upload pictures of work order system and update the work order status.
5. Miscellaneous Repairs – CONTRACTOR shall provide labor and material to perform miscellaneous repairs such as catch basin mud work, replacement of decals, pipeline connectivity investigations, etc. Payment shall be per the fee schedule established for labor and material in Exhibit B. The CONTRACTOR shall perform additional work not specifically defined herein but may be ordered in writing by the CITY. The payment for additional work shall be based on unit rates in the fee schedule for the work of a similar nature and character.
6. Use of CITY Provided Mobile/Computer Applications – CONTRACTOR shall utilize CITY provided computer and/or mobile applications to record and/or report inspections and work completed.
7. Regulatory Compliance – CONTRACTOR shall comply with all Federal, State, and Local regulatory requirements for work in active wastewater and stormwater facilities that entail working in confined space and hazardous conditions. CONTRACTOR shall conform to Occupational Safety and Health Administration (OSHA)

requirements, latest version, including Confined Space Entry requirements (29 CFR CH. XVII, Section 1910.146).

- C. National Pollution and Discharge Elimination System (NPDES): The CITY is a co-permittee of the Broward County Municipal Separate Storm Sewer System (MS4) NPDES permittee FLS000016-003, as a result, and as directed by the CITY, the CONTRACTOR shall support the requirements of the (MS4) NPDES Permit and the implementation of appropriate Best Management Practices (BMPs) for preventing or reducing stormwater pollution. CONTRACTOR shall only assign staff trained in BMPs to work in the CITY.
- D. Emergency Callouts: The CONTRACTOR shall be available for emergency callouts. Emergency response and deployment of staff shall be in accordance with Section 2.2.K. The CONTRACTOR shall supply the CITY with the primary and secondary backup contact name(s), and telephone number(s) of responsible person(s) representing the CONTRACTOR for twenty-four (24) hour, seven (7) days a week emergency response. This information shall always remain current. Any changes shall be forwarded to the CITY in writing. The CITY shall compensate CONTRACTOR for a two (2) hour minimum regardless of less time spent resolving the emergency (Pay Item #6).
- E. Equipment: CONTRACTOR equipment shall be in good state of repair and maintained in good working condition while in use for all work assignments. No worn or obsolete equipment shall be used, and in no case shall the manufacturer's service rating capacity or service life for any equipment be exceeded. The following requirements shall be met:
  - 1. CONTRACTOR shall own or lease High-Velocity Hydraulic (Hydro-Cleaning) Equipment (Vacuum and Jetting Truck). All High-Velocity Sewer Cleaning Equipment shall be constructed for ease and safety of operation. The equipment shall be operated at the industry standard for proper cleaning of the CITY's wastewater and stormwater infrastructure. All equipment manufactures recommendations for pressure (PSI rating) and gallons per minute shall be adhered to. The nozzles shall be capable of producing a scouring action, in the lines designated to be cleaned, to remove debris and sand from the flow line. Equipment shall also include a high-velocity jetter for washing and scouring manhole walls and floors. The jetter shall be capable of producing flows from a fine spray to a solid stream.
  - 2. CONTRACTOR shall have a minimum of two (2) permitted Vacuum/jetting trucks available for the CITY at all times. Trucks and equipment used for wastewater operations shall not be used on stormwater or water main break related operations.
  - 3. Root Removal Equipment: Hydraulic or mechanical driven cutters may be used as necessary to remove root intrusion as dictated by pipe material.
  - 4. CONTRACTOR must provide CITY with a list of equipment to be used for wastewater and storm water infrastructure cleaning.
  - 5. In the instance that the CONTRACTOR's equipment becomes lodged in the pipeline, the CONTRACTOR will notify the CITY as soon as possible, and take all necessary steps for removal. The CONTRACTOR shall take precautions when removal occurs not to damage the pipelines or cause an overflow. If the equipment must be removed by excavation, the CONTRACTOR will be responsible for all cost incurring for the retrieval of the equipment.



- F. Subcontracting: The CONTRACTOR shall own or lease all equipment and employees shall work directly for CONTRACTOR. The CITY will not accept any form of subcontracting for the main scope of work, with the exception of CCTV work. Any other type of subcontracting for any miscellaneous services requests shall be subject to approval by the CITY.
- G. Work Order Completion Data Input: The CONTRACTOR shall enter/input information for completed work order into CITY's Asset Management Software and/or update CITY's GIS software. The typical information required includes actual start date, actual finished date, work status (completed, in progress, on hold, etc.), comments, completed check sheets, and photographs. CITY may also provide CONTRACTOR with access to data collection app for asset data to be updated on mobile device. Work Order Completion data input shall be entered no later than 7 days after the actual performance of the work order or service request. If electronic work order system is down, the information should be provided in an electronic format agreed to by CITY and CONTRACTOR. Written reports to the CITY will only be accepted when requested by the CITY.
- H. Disposal of Waste Debris: The CONTRACTOR is responsible for the safe removal and disposal of all debris in accordance with all Federal, State, and local codes, regulations, and statutes, including those specific to hazardous materials.

CONTRACTOR shall not mix hazardous and non-hazardous wastes. The CONTRACTOR shall assume all liability and all applicable costs. Additionally, the CONTRACTOR shall not mix wastes from other entities being serviced by the CONTRACTOR with CITY wastes, except when disposing at an approved disposal facility. CONTRACTOR is responsible for the cost of required permits and the disposal of the waste debris. Disposal fees (user fees) including testing fees for disposal are the responsibility of the CONTRACTOR. CONTRACTOR shall accurately record transport activity via shipping manifests.

- I. Wastewater Overflows/Spillage: THE CONTRACTOR is solely responsible if the CONTRACTOR's cleaning activities cause a wastewater overflow (Sanitary Sewer Overflow -SSO)/spillage. The CONTRACTOR shall immediately mitigate the situation and contact the CITY. The CONTRACTOR shall implement the CITY's overflow emergency response plan. CONTRACTOR shall within 24 hours from the occurrence, submit to the CITY representative a written report describing the following and any other documentation required by the Florida Department of Environmental Protection (FDEP) for the CITY to report and submit the required SSO/spill report. Any monetary penalties imposed by FDEP for the SSO/Spill event, shall be the responsibility of the CONTRACTOR.

1. Location of Spill
2. Type of remedial/ clean up measures
3. Duration
4. Cause
5. Corrective/ Preventative actions
6. Impacted water bodies

J. Travel: The cost of travel shall be included in the proposal prices. Payment of services that requires hourly billing shall be based on actual time spent performing the services. Travel time is non-billable.

K. Response Time:

1. 24/7 Contact Number. The CONTRACTOR shall maintain a telephone number which is monitored 24 hrs. per day 7 days per week.
2. The CONTRACTOR shall maintain an active e-mail to receive work orders 24 hrs. per day 7 days per week.
3. For emergency callouts, the CONTRACTOR shall respond within one half hour (30 minutes) of the first call made to the 24/7 Contact Number and commence work within One (1) hour of notification.

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SECTION 3  
STANDARDS OF WORK

3.1 Standards.

A. Supervision and Responsibility

The CONTRACTOR shall enforce strict discipline and good order among his employees and shall not employ unfit or unskilled personnel for Work assignments. Unsatisfactory work by personnel who are considered by the CITY's representative as careless, incompetent, unskilled or disorderly or who use threatening or abusive language to any person shall be dismissed from work upon notice from the CITY and shall not be employed to perform the Work thereafter. No liquor, alcoholic beverages or drugs shall be allowed on the site of the Work. The CONTRACTOR shall operate a drug free workplace.

B. Uniforms

CONTRACTOR shall provide all employees with color coordinated uniforms that shall meet the CITY's public image requirements and be maintained by CONTRACTOR so that all personnel are neat, clean and professional in appearance at all times. Non-uniform clothing will not be permitted, including for new employees.

A. Vehicles

CONTRACTOR shall keep all vehicles in good repair, free from leaking fluids, properly registered, of uniform color and shall bear the company name on each side in not less than 1½" letters.

D. Equipment Safety

CONTRACTOR shall keep all equipment in an efficient and safe operating condition while performing work under the contract. Equipment shall have proper safety devices maintained while in use. If equipment does not contain proper safety devices and/or is being operated in an unsafe manner, the CITY may direct the CONTRACTOR to remove such equipment and/or the operator until the deficiency is corrected to the satisfaction of the CITY. The CONTRACTOR shall be responsible and liable for injury to persons and property caused by the operation of the equipment.

E. Discovery and Notification

If the CONTRACTOR discovers damages, vandalism or theft, the CONTRACTOR shall immediately notify the CITY of same, and shall file a police report of the occurrence.

## F. Damages

The CONTRACTOR will perform all work in a manner that minimizes road hazards for the motoring public. All reasonable precautions will be taken to protect public and private property, such as sidewalks, pavement, lawns, fences, bushes, trees, shrubs, buildings, and other property from undue damage. If the CITY determines that CONTRACTOR has unnecessarily damaged or destroyed property, it shall be repaired or replaced to the satisfaction of the CITY at the CONTRACTOR'S expense.

- G. All accidents occurring on the job which damage public or private property, or result in injuries to workers or other persons, or damage to utilities shall be promptly reported to the CITY.

## 3.2 Products

CONTRACTOR shall specify the products and materials for use and shall be in accordance with the specifications noted in Section 2.

## 3.3 Level of Service

- A. The CONTRACTOR shall be responsible for all aspects of the work. CONTRACTOR shall commit the necessary resources and estimated time to complete each job to the satisfaction of the CITY. The amount and scheduling of work will fluctuate, and the CITY does not guarantee any certain amount of work during a given time. The CONTRACTOR understands that staffing may have to be adjusted; accordingly. However, it is anticipated that the CONTRACTOR will have work to perform within the CITY during normal business hours.
- B. Work Orders for Scheduled Maintenance Work (Preventative Maintenance): The CITY reserves the right to authorize single or multiple work orders at any time based on the need identified by CITY staff throughout the contract period. Work orders are tasks that may contain one or more locations. Work orders may be issued at different times during the overall contract period. Payment shall be made based upon the bid item unit rates for each task. Each work order will identify duration to complete the task. If CONTRACTOR requires additional time to complete the scope identified in the work order, based on field conditions, the CONTRACTOR shall identify the additional time needs and request approval from the CITY.
- C. Emergency Callouts: See section 2.2.B for emergency callout requirements. The CONTRACTOR will supply staffing, equipment, and needed resources to assist CITY staff address the emergency and will not demobilize or remove resources until the emergency conditions are abated and on-site CITY staff approves demobilization. Invoicing and payment for emergency work shall be made based upon the bid item unit rates for each task assigned.
- D. Access: The CONTRACTOR shall visit job site and become familiar with all current field conditions affecting access to work location and make provisions as to the cost thereof. The CONTRACTOR shall take photographs or videos of the jobsite prior to start of assigned

work. Existing field conditions for accessing the required work areas shall be verified by the CONTRACTOR prior to submitting their bid. If any unusual conditions or discrepancies are found, CONTRACTOR shall immediately notify the CITY.

- E. Fee Schedule: The proposed amount for each unit item in the Fee Schedule (Exhibit B) shall be inclusive of all the costs to complete the work within the proposed completion time.
- F. The CONTRACTOR shall not store any equipment overnight on CITY property unless authorized by the CITY.
- G. The CONTRACTOR shall ensure all equipment safety devices recommended by the manufacturer are installed and properly maintained.
- H. The CONTRACTOR shall ensure to park vehicles and equipment on the right-of-way, as close as possible to the right-of-way line and always outside of the applicable clear zone. Conduct service and supply operations as close to the right-of-way line as possible. Do not park equipment in the median, regardless of the width of the median, unless movement from the work area is determined by the CITY to be prohibitive.
- I. All landscaping is designated to remain. All landscaping within 5 feet of construction activities shall be protected as per City Landscaping Standard. CONTRACTOR shall not stage or operate equipment within the dripline of trees.
- J. The CONTRACTOR is responsible for any damage or interrupted service to existing structures, utilities, services, roads, surrounding property, real estate, vehicles, sidewalks, trees, shrubbery, traffic signals equipment and street name signs during performance of required work and shall repair such damage to the satisfaction of the CITY, at no expense to the CITY. It is recommended to install plywood or matting in swale areas to prevent damage of sod from equipment tires.
- K. All accidents occurring on the job which damage public or private property, or result in injuries to workers or other persons, or damage to utilities shall be promptly reported to the CITY.
- L. Any incidental item of material, labor or detail required for the proper completion of the work omitted from these specifications but obviously required by governing laws, local regulations, trade practices or good workmanship shall be provided without extra charge even though not specifically detailed or mentioned.
- M. The CONTRACTOR shall maintain a clean and safe work environment.
- N. The CONTRACTOR shall keep the premises free from accumulation of waste materials, rubbish and other debris resulting from the work. After completion of the work the CONTRACTOR shall remove all waste materials and debris from the worksite.
- O. At all times CONTRACTOR shall take precautionary measures to prevent fire hazards and spontaneous combustion.

### 3.4 Liquidated Damages

If, in the opinion of the City Manager there has been a breach of Agreement, the City Manager shall notify the CONTRACTOR, in writing, specifying the basis and reason in which there has been a breach of Agreement. In the event of a breach by CONTRACTOR, CONTRACTOR shall be liable for liquidated damages as provided below in this Section. Unless otherwise provided in this Section 3.4, there shall be no cure period to avoid the consequences of a breach.

Liquidated damages not a penalty. CONTRACTOR agrees that the amount of liquidated damages assessed pursuant to this Section 3.4 is reasonable and does not constitute a penalty. The parties recognize the difficulty of proving the loss or damage suffered by the CITY due to CONTRACTOR's breach. CONTRACTOR acknowledges and agrees that the amount of liquidated damages approximate the loss anticipated at the time of execution of this Agreement.

#### A. Delays

Routine Maintenance: Failure to complete scope of work tasked within the time limits indicated in the Work Order shall result in liquidated damages in the amount of One Hundred Dollars (\$100.00) for each day of delay.

Emergency Callouts: Failure to commence emergency repairs within one (1) hour of notification shall result in liquidated damages in the amount of Two Hundred Fifty Dollars (\$250.00) for each additional hour of delay.

#### B. Failure to Respond

Failure to respond to emergency phone calls from CITY staff within 30 minutes of the first call made to the contact number listed for emergency response shall result in liquidated damages due to the CITY in the amount of Five Hundred Dollars (\$500.00) per each instance.

Consistent failure by CONTRACTOR to respond to Emergency repairs and scheduled maintenance within the required response times may, place the CONTRACTOR in breach of the Agreement. Consistent failure to respond is defined as not responding within the required response time on two out of four consecutive occurrences.

### 3.5 Work Order Completion Information Input

CONTRACTOR shall be responsible to provide information on completed work for a report to the CITY's Work Order and Asset Management Software. The typical information required include but is not limited to: description of service, date serviced, CITY contract#, location, CITY asset serviced and hours or cost for service. Work Order Completion data input shall be entered no later than 5 working days after the actual performance of the work order or service request. All work orders entered by the CONTRACTOR shall be reviewed by the CITY and the work order closed by the CITY only after completion of the service is verified. Services or work performed by the CONTRACTOR shall not be considered completed and eligible for payment by the CITY until the Work Order Completion Information is entered into the CITY's Work Order System.

## SECTION 4

### STANDARDS OF CONTRACTOR

#### 4.1 Intent

CONTRACTOR is an independent CONTRACTOR and the individuals assigned to work for CITY by CONTRACTOR are subject to the approval of CITY and shall not be CITY employees. CONTRACTOR must be fully licensed with all required State and/or local government licenses and permits and shall comply with all Federal, State, and local laws, rules, practices and regulations.

#### 4.2 Facilities

CITY reserves the right to inspect CONTRACTOR'S facilities at any reasonable time, during normal work hours, without prior notice to determine that CONTRACTOR has a bona fide place of business and is a responsible CONTRACTOR.

#### 4.3 Identification

CONTRACTOR will not use or create any badge containing CITY'S name, seal, logo, or any other reference thereof for identification. CONTRACTOR shall use only a CITY issued identification badge.

#### 4.4 Relationship Contact (Point of Contact)

CONTRACTOR shall maintain at a minimum one relationship contact for this contract who will respond to specific CITY requests, twenty-four hours a day, seven days a week, including all public holidays. The relationship contact shall be available by cellular telephone and shall be expected to visit the work site as requested by CITY. The relationship contact shall be able to manage all facets of the contract. The relationship contact must be fluent in English and have excellent communication skills and be capable of directing all regular maintenance and additional services and coordinating these with CITY. The relationship contacts shall use his/her experience and training to prevent, detect and control adverse conditions by physically inspecting the work area regularly.

#### 4.5 Experience

- A. CONTRACTOR shall have a minimum of five (5) years of experience from the date that this RFP is issued, in providing vacuum cleaning and jetting services for stormwater and wastewater infrastructure for government agencies with infrastructure similar in scope, size and complexity as those owned and managed by the CITY. CONTRACTOR shall have a primary or branch office in Miami- Dade, Broward or Palm Beach County, Florida.
- B. Licenses: CONTRACTOR shall be certified underground utility and excavation contractors licensed by the State of Florida OR State of Florida registered contractor with certificate of competency issued by Broward County in Pipeline Rehabilitation - Class "1A-D".

#### 4.6 Safety Precautions And Programs

- A. The CONTRACTOR shall be responsible for initiating, maintaining and supervision all safety

precautions and programs in connection with the performance of the Contract.

- B. In the event the CONTRACTOR encounters on the Project site material reasonably believed to be asbestos or polychlorinated biphenyl (PCB) that has not been rendered harmless, the CONTRACTOR shall immediately stop Work in the area affected and report the condition to the CITY in writing. The Work in the affected area shall not thereafter be resumed except by written agreement of the CITY and CONTRACTOR if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless. The Work in the affected area shall be resumed in the absence of asbestos or polychlorinated biphenyl (PCB), or when it has been rendered harmless, by written agreement of the CITY and CONTRACTOR.
- C. The CONTRACTOR shall not be required to Work in an area on the Project site that contains asbestos or polychlorinated biphenyl (PCB).

#### 4.5 Safety of Persons And Property

- A. The CONTRACTOR shall take responsible precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to:
  - 1. employees at the Project site and other persons who may be affected thereby;
  - 2. the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the CONTRACTOR or the CONTRACTOR's Subcontractors or Sub-subcontractors; and
  - 3. other property at the Project site or adjacent thereto, such as trees, shrubs, lawns, walks, relocation or replacement in the course of construction.
- B. The CONTRACTOR shall give notices and comply with applicable laws, ordinances, rules, regulations and lawful orders of public authorities bearing on safety of persons or property for their protection from damage, injury or loss.
- C. The CONTRACTOR shall erect and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent sites and utilities.
- D. When use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for execution of the Work, the CONTRACTOR shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.
- E. The CONTRACTOR shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in this Section caused in whole or in part by the CONTRACTOR, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the CONTRACTOR is responsible except damage or loss attributable to acts or omissions of the CITY or CONTRACTOR or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the CONTRACTOR. The foregoing obligations of the CONTRACTOR are in addition to the CONTRACTOR's obligations .



- F. The CONTRACTOR shall designate a responsible member of the CONTRACTOR's organization at the Project site whose duty shall be the prevention of accidents. This person shall be the CONTRACTOR's Superintendent unless otherwise designated by the CONTRACTOR in writing to the CITY and CONTRACTOR.

#### 4.7 Performance Evaluation

CITY shall meet with CONTRACTOR every six months to review CONTRACTOR'S performance. Any instances of poor performance shall be documented in writing to CONTRACTOR followed by a written commitment from CONTRACTOR to resolve the issues in a timeframe agreed to by CITY and CONTRACTOR.

#### 4.8 Subcontracting Work

- A. Award of Subcontracts and Other Contracts for Portions of Work. CONTRACTOR shall furnish in writing to CITY the names of persons or entities proposed for each principal portion of the work. In addition, CONTRACTOR shall not change subcontractors performing any portion of the work required by this Agreement without prior written approval by CITY.

CONTRACTOR shall be responsible and liable to CITY for all work performed by the Subcontractors or their employees, agents or CONTRACTORS, pursuant to this Agreement.

- B. Sub-contractual Relations. By listing the names of each as set forth in Exhibit "C", attached hereto and made a part hereof, CONTRACTOR shall require each subcontractor, to the extent the work to be performed by the subcontractor, to be bound to CONTRACTOR by terms of the Agreement, and to assume toward CONTRACTOR all the obligations and responsibilities which CONTRACTOR, by this Agreement, assumes toward CITY. Each sub-contract agreement, between CONTRACTOR and a subcontractor, shall preserve and protect the rights of CITY under the Agreement with respect to the work to be performed by the subcontractor so that subcontracting thereof shall not prejudice the rights, and shall allow the subcontractor, unless specifically provided otherwise in the sub-contract agreement, the benefit of all rights, remedies and redress against CONTRACTOR that CONTRACTOR, by the Agreement, has against CITY.
- C. Where appropriate, CONTRACTOR shall require each subcontractor to enter into similar agreements with the subcontractors. CONTRACTOR shall make available to each proposed subcontractor, prior to the execution of the sub-contract agreement, copies of the Agreement to which the subcontractor shall be bound, and upon written request of the subcontractor, identify to the subcontractor terms and conditions of the proposed sub-contract agreement which may be at variance with the Agreement. Subcontractors shall similarly make copies of applicable portions of such documents available to their respective proposed subcontractors.

#### 4.9 Drug-Free Workplace

CONTRACTOR continues to implement and maintain a drug-free workplace program, in accordance with Section 287.087, Florida Statutes.

#### 4.10 Exclusivity

CITY reserves the right to have required work performed by others. This action will not waive or void any of the terms and conditions in this Agreement.

#### 4.11 Contingency Allowance

CONTRACTOR agrees that a contingency allowance, if any, is for the sole use of the CITY to cover unanticipated costs.

#### 4.12 Compliance With Code Of Federal Regulations And Federal Standards

All services purchased under this agreement shall be in accordance with the 2 Code of Federal Regulations (CFR), Part 200 for Uniform Administrative Requirements, Cost Principle and Audit Requirements for Federal Awards. In addition, CONTRACTOR shall adhere to all applicable governmental standards, including, but not limited to those issued by the Occupation Safety and Health Administration (OSHA), the National Institute of Safety Hazards (NIOSH), and the National Fire Protection Association (NFPA). It shall be the responsibility of the CONTRACTOR to be regularly informed to conform to any changes in standards issued by any regulatory agencies that govern the commodities or services applicable to this agreement.

A complete copy of the CRF may be obtained by visiting the following website:

[https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200\\_main\\_02.tpl](https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl)

##### A. Requirements for CONTRACTOR Compliance

1. CONTRACTOR shall assist in ensuring that the CITY is in compliance with Federal Emergency Management Agency's (FEMA) reimbursement requirements, as set forth in the CFR, §200.318, General Procurement Standards.
2. If subcontractors are utilized, the CONTRACTOR shall take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. Affirmative steps must include:
  - a. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
  - b. II. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
  - c. III. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
  - d. IV. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
  - e. V. Using the services and assistance, as appropriate, of such organizations as the

Small Business Administration and the Minority Business Development Agency of the Department of Commerce or similar State and County agencies.

CONTRACTOR may use the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce. Websites and contact information can be found at <https://www.sba.gov/> and <https://www.mbda.gov/>.

- 4.13 Section 4.12 through 4.26 details the federally required and FEMA recommended provisions applicable to Public Assistance (PA), that CONTRACTOR shall comply with as the CITY (Applicant/Non-Federal Entity) plans to use Federal financial assistance awarded by FEMA to pay or reimburse equipment expenses or services under this agreement (contract). This agreement (contract) must contain the applicable clauses described in Appendix II to Part 200 - Contract Provisions for Non-Federal Entity Contracts Under Federal Awards under 2 C.F.R. § 200.326. (Search "Appendix II to Part 200" at <https://www.ecfr.gov/>)

Appendix K: Contract Provisions of the Public Assistance Program and Policy Guide (PAPPG), outlines the federally required contract provisions in addition to FEMA recommended provisions applicable to PA Applicant contracts such as this Agreement.

In the event that a conflict arises between the Federal requirements set forth in Section 4.13 through Section 4.26 and any other provisions of this Agreement, the Federal requirements shall control and prevail.

#### 4.14 Equal Employment Opportunity

During the performance of this contract, the CONTRACTOR agrees as follows:

- A. The CONTRACTOR will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The CONTRACTOR will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

- B. The CONTRACTOR will, in all solicitations or advertisements for employees placed by or on behalf of the CONTRACTOR, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

- C. The CONTRACTOR will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee

who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the CONTRACTOR's legal duty to furnish information.

- D. The CONTRACTOR will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the CONTRACTOR's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- E. The CONTRACTOR will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- F. The CONTRACTOR will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- G. In the event of the CONTRACTOR's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the CONTRACTOR may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- H. The CONTRACTOR will include the portion of the sentence immediately preceding paragraph (A) and the provisions of paragraphs (A) through (H) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The CONTRACTOR will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a CONTRACTOR becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the CONTRACTOR may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, that if the applicant so participating is a State, Territorial, or

local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a CONTRACTOR debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon CONTRACTORS and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

#### 4.15 Compliance with the Contract Work Hours and Safety Standards Act

This requirement applies to all FEMA contracts awarded by the non-federal entity exceeding \$100,000 under grant and cooperative agreement programs that involve the employment of mechanics or laborers. It is applicable to construction work. These requirements do not apply to the purchase of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

29 C.F.R. § 5.5(b) provides contract clause language concerning compliance with the Contract Work Hours and Safety Standards Act.

- A. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- B. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph 4.15(A) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such

territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph 4.15(A) of this section, in the sum of \$26 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph 4.15(A) of this section.

- C. Withholding for unpaid wages and liquidated damages. The CITY shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph 4.15(B) of this section.
- D. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs 4.15(A) through (D) of this section.

#### 4.16 Clean Air Act

This requirement applies to contracts awarded by a non-Federal entity of amounts exceeding \$150,000 under a federal grant.

- A. The CONTRACTOR agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
- B. The CONTRACTOR agrees to report each violation to the (name of applicant entering into the contract) and understands and agrees that the (name of the applicant entering into the contract) will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- C. The CONTRACTOR agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

#### 4.17 Federal Water Pollution Control Act

This requirement applies to contracts awarded by a non-Federal entity of amounts exceeding \$150,000 under a federal grant.

- A. The CONTRACTOR agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
- B. The CONTRACTOR agrees to report each violation to the (name of the applicant entering into the contract) and understands and agrees that the (name of the applicant entering into

the contract) will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

- C. The CONTRACTOR agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

#### 4.18 Suspension and Debarment

The following provides a debarment and suspension clause. It incorporates an optional method of verifying that contractors are not excluded or disqualified.

- A. This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the contractor is required to verify that none of the contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- B. The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- C. This certification is a material representation of fact relied upon by the CITY. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the CITY, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- D. The CONTRACTOR (PROPOSER) agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The CONTRACTOR (PROPOSER) further agrees to include a provision requiring such compliance in its lower tier covered transactions.

#### 4.19 Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended)

This requirement applies to all FEMA grant and cooperative agreement programs. CONTRACTORS that apply or bid for a contract of \$100,000 or more under a federal grant must file the required certification. See 2 C.F.R. Part 200, Appendix II, I; 31 U.S.C. § 1352; and 44 C.F.R. Part 18.

CONTRACTORS who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier-to-tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

Required Certification: If applicable, CONTRACTOR must sign and submit with this Agreement the following certification, APPENDIX A, 44 C.F.R. PART 18 – Certification Regarding Lobbying.

#### 4.20 Procurement of Recovered Materials

This requirement applies to all contracts awarded by a non-federal entity under FEMA grant and cooperative agreement programs.

Requirements: The requirements of Section 6002 include procuring only items designated in guidelines of the EPA at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

- A. In the performance of this contract, the CONTRACTOR shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired.
  - 1. Competitively within a timeframe providing for compliance with the contract performance schedule;
  - 2. Meeting contract performance requirements; or
  - 3. At a reasonable price.
- B. Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
- C. The CONTRACTOR also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

#### 4.21 Access to Records

The following access to records requirements applies to this contract:

- A. The CONTRACTOR agrees to provide State of Florida, the CITY, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the CONTRACTOR which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.
- B. The CONTRACTOR agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- C. The CONTRACTOR agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.
- D. In compliance with the Disaster Recovery Act of 2018, the CITY and the CONTRACTOR



acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

4.22 Changes Clause

To be eligible for FEMA assistance under the non-Federal entity's FEMA grant or cooperative agreement, the cost of the change, modification, change order, or constructive change must be allowable, allocable, within the scope of its grant or cooperative agreement, and reasonable for the completion of project scope.

4.23 DHS Seal, Logo, And Flags

The contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

4.24 Compliance with Federal Law, Regulations, And Executive Orders

The CITY acknowledges that FEMA financial assistance will be used to fund all or a portion of the contract. The contractor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.

4.25 No Obligation by Federal Government

The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.

4.26 Program Fraud and False or Fraudulent Statements or Related Acts

The CONTRACTOR acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the CONTRACTOR's actions pertaining to this contract.

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## SECTION 5

### STANDARDS OF LABOR AND EQUIPMENT

#### 5.1 General

The CONTRACTOR shall furnish all labor, supervision, materials, equipment, supplies, tools, safety measures, maintenance of traffic and services required to perform vacuum cleaning and jetting services for stormwater and wastewater services throughout the City of Weston.

For all Items listed in Exhibit B, Fee Schedule, the unit price shall include materials, labor, supervision, equipment, mobilization cost, and Maintenance of Traffic (MOT).

#### 5.2 Personnel

CONTRACTOR shall provide a sufficient number of supervised staff to complete the duties stated within the Agreement.

Prior to working in CITY, all managers and employees of CONTRACTOR, any independent CONTRACTORS, and any subcontractors shall be required to undergo background checks. A thorough State and national background check that identifies an individual's entire criminal history shall be conducted in accordance with Section 943.0438, Florida Statutes and all other applicable law.

A Level 1 background check shall be conducted on new employees prior to employment and on each employee at least once every three years. All background check related costs shall be the sole responsibility and expense of CONTRACTOR. Prior to the beginning of the contract term and at the beginning of each CITY fiscal year (beginning October 1<sup>st</sup>) CONTRACTOR shall submit written certification to CITY that CONTRACTOR has complied with CITY'S requirement regarding background checks on all employees. The certifying document shall be signed by the authorized officer of the corporation. Should an employee begin service with CONTRACTOR after the commencement of the Agreement, during a CITY fiscal year, CONTRACTOR shall, as soon as reasonably possible, submit a supplemental certifying document regarding a background check on the new employee. Maintenance, ownership, and control of all background check records and information generated, received, possessed and stored shall be the sole responsibility of CONTRACTOR, and shall be retained for a period of not less than three years. Failure to perform a state and national criminal background check in accordance with the rules above shall be cause for termination of the Agreement.

CONTRACTOR shall at all times enforce strict discipline and good order among CONTRACTOR'S employees/independent contractors, and shall not employ on the work site an unfit person or anyone not skilled in the work assigned to him. Subcontractors, employees or independent contractors of CONTRACTOR whose work is unsatisfactory to CITY or who are considered by CITY'S representative as careless, incompetent, unskilled or disorderly or who use threatening or abusive language to any person shall be dismissed from work upon notice from CITY and shall not be employed to perform the work under this Agreement

### 5.3 Emergencies

In an emergency affecting safety of persons or property, the CONTRACTOR shall act, at the CONTRACTOR's discretion, to prevent threatened damage, injury or loss. Additional compensation or extension of time claimed by the CONTRACTOR on account of an emergency shall be determined as provided herein.

### 5.4 Equipment

CONTRACTORS shall provide a comprehensive list of all equipment currently owned or leased.

- A. Vehicles: CONTRACTOR shall keep all vehicles in good repair, free from leaking fluids, properly registered, of uniform color and shall bear the company name on each side in not less than 1 ½" letters.
- B. Equipment Safety: CONTRACTOR shall keep all equipment in an efficient and safe operating condition while performing work under this Agreement. Equipment shall have proper safety devices maintained at all times while in use. If equipment does not contain proper safety devices and/or is being operated in an unsafe manner, CITY may direct CONTRACTOR to remove such equipment and/or the operator until the deficiency is corrected to the satisfaction of CITY. CONTRACTOR shall use any safety equipment and measures including, but not limited to, caution tape, snow fence, cones, rebar with caps, stakes, plywood, arrow boards, message boards, and signs, as directed by CITY to provide a safe environment in working areas. CONTRACTOR shall be responsible and liable for injury to persons and property caused by the operation of the equipment.
- C. Storage: CITY shall not provide facilities at which CONTRACTOR may store equipment unless authorized by CITY. CONTRACTOR shall be responsible for mobilization and setup, and demobilization and breakdown, each day.

### 5.5 Supervision and Responsibility of CONTRACTOR

The CONTRACTOR shall at all times enforce strict discipline and good order among CONTRACTOR'S employees/independent contractors, and shall not employ on the work site an unfit person or anyone not skilled in the work assigned to him.

The CONTRACTOR is responsible for any damage or interrupted service to existing structures, utilities, services, roads, surrounding property, real estate, vehicles, sidewalks, trees, sod and shrubbery resulting from performing this work and shall repair such damage to the satisfaction of the CITY, at no expense to the CITY.

CONTRACTOR is responsible for all cost of disposal and any cleanup costs incurred due to improper use, handling, or disposal of parts, materials and fluids.

- A. CONTRACTOR must take all precautions not to damage the surrounding landscaping area. Any damages to the landscape caused by use of equipment or cleaning chemical will be the responsibility of the CONTRACTOR to replace to existing or better conditions.

Subcontractors, employees or independent contractors of the CONTRACTOR whose work is unsatisfactory to the CITY or who are considered by the CITY'S representative as careless,

incompetent, unskilled or disorderly or who use threatening or abusive language to any person shall be dismissed from work upon notice from the CITY and shall not be employed to perform the work thereafter. No liquor, alcoholic beverages or drugs shall be allowed on the site of the work. The CONTRACTOR shall operate a drug free workplace.

- B. Supervisor – The CONTRACTOR shall maintain a Supervisor for this project, and such supervisor shall be available by cellular telephone at all times. The Supervisor shall be able to manage all facets of the project for the CONTRACTOR. The Supervisor must be fluent in English, have excellent communication skills and be capable of directing all regular services and additional services (if required) and coordinating these with the designated CITY representative.
- C. Employee/Independent Contractor's Performance - The CONTRACTOR shall employ (or contract with) personnel competent to perform the work specified herein. The CITY reserves the right to request the removal of a CONTRACTOR'S employee/independent contractor from performing maintenance on the CITY'S grounds where such employee's/independent contractor's performance or actions are obviously detrimental to the program.
- D. Uniforms - CONTRACTOR shall provide all employees with color coordinated uniforms that shall meet the CITY'S public image requirements and be maintained by CONTRACTOR so that all personnel are neat, clean and professional in appearance at all times. Non-uniform clothing will not be permitted, including for new employees. Safety vests must be worn at all times.
- E. Vehicles - CONTRACTOR shall keep all vehicles and equipment in good repair, free from leaking fluids, properly registered, of uniform color and shall bear the company name on each side in not less than 1 ½" letters.
- F. Maintenance of Traffic – CONTRACTOR shall be responsible for proper maintenance of traffic (M.O.T.) at all times. Cones and proper signage must be used to stage vehicles and equipment and to protect works on or near roadways.
- G. Equipment Safety - CONTRACTOR shall keep all equipment in an efficient and safe operating condition while performing work under the contract. Equipment shall have proper safety devices maintained at all times while in use. If equipment does not contain proper safety devices and/or is being operated in an unsafe manner, the CITY may direct the CONTRACTOR to remove such equipment and/or the operator until the deficiency is corrected to the satisfaction of the CITY. The CONTRACTOR shall be responsible and liable for injury to persons and property caused by the operation of the equipment.
- H. Storage - The CONTRACTOR shall be responsible for the safe storage of all materials and equipment at CONTRACTOR'S sole expense.

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## SECTION 6

### STANDARDS OF INSURANCE

#### 6.1 Insurance

- A. The policies of insurance shall be placed with insurance carriers authorized to do business by the Insurance Department of the State of Florida, and meet a minimum financial rating by AM Best Company of no less than "A- Excellent: FSC VII"; and,
- B. CITY shall be named as additional insured on all policies except worker's compensation and professional liability; and,
- C. The additional insured status for CITY for general liability and for completed operations shall be maintained for this Agreement for five years following the completion of all services, pursuant to this Agreement or no more restrictive than the Insurance Services office (ISO) form CG 2037 (07 04).
- D. Any person, organization, vehicle, equipment, or other person or property fulfilling this Agreement is bound by these insurance requirements.
- E. Any changes to these specifications shall be at the sole and exclusive discretion of CITY.
- F. CITY retains the right to review, at any time, policies, coverage, applicable forms/endorsements, and amounts of insurance.
- G. CONTRACTOR is responsible for repairing or replacing any damage to structures unless otherwise addressed within this Agreement.
- H. Insurance shall not be suspended, voided or canceled except after 30 calendar days prior written notice by certified mail, return receipt requested, has been given to CITY, except the cancellation notice period for non-payment of premiums shall be 10 days.
- I. Certificates of Insurance evidencing conditions to this Agreement are to be furnished to City of Weston, 17200 Royal Palm Boulevard, Weston, FL 33326.
- J. Notices of Accidents (occurrences) and Notices of Claims associated with work being performed under this Agreement shall be provided to CONTRACTOR's insurance company and CITY as soon as practicable after notice to the insured.
- K. CONTRACTOR agrees by entering into this written Agreement that the insurance policies provided will include a Waiver of Subrogation in favor of CITY. CONTRACTOR'S insurance shall be Primary and non-contributory.
- L. CONTRACTOR is responsible for any costs or expenses below deductibles, self-insured retentions, coverage exclusions or limitations, or coinsurance penalties.

## 6.2 Specific Coverage

- A. **Workers Compensation:** CONTRACTOR shall provide statutory workers' compensation, and employer's liability insurance with limits of not less than \$1,000,000 per employee per accident, \$1,000,000 disease aggregate and \$1,000,000 per employee per disease for all personnel on the worksite. If applicable, coverage for the Jones Act and United States Longshoremen and Harborworkers exposures must also be included. Elective exemptions shall NOT satisfy this requirement. Certificates evidencing an employee leasing company as employer shall not be accepted). In the event CONTRACTOR has "leased" employees, CONTRACTOR must provide a workers' compensation policy for all personnel on the worksite. All documentation must be provided for review and approval by CITY.

CONTRACTOR is responsible for the Workers' Compensation of any and all subcontractors, including leased employees, used by CONTRACTOR. Evidence of workers' compensation insurance coverage for all subcontractors, including leased employees, must be submitted prior to any work being performed.

- B. **Commercial General Liability:** CONTRACTOR shall provide evidence of commercial general liability on an occurrence Form no more restrictive than ISO form CG 2010, and including but not limited to bodily injury, property damage, contractual liability, products and completed operations (without limitation), and personal and advertising injury liability with limits of not less than \$2,000,000 each occurrence, and \$5,000,000 in aggregate, covering all work performed under this Agreement.
- C. **Business Automobile Liability:** CONTRACTOR shall provide evidence of business automobile liability on a standard ISO form, and including per occurrence limits of not less than \$1,000,000 covering all work performed under this Agreement. Coverage shall include liability for owned, non-owned & hired automobiles. If private passenger automobiles are used in the business, they shall be commercially insured.
- D. **Umbrella or Excess Liability:** Umbrella policies are acceptable to provide the total required general liability, automobile liability, and employers' liability limits. Umbrella policies shall also name CITY as additional insured and coverage shall be provided on a "Follow Form" basis.
- E. **Subcontractors:** Insurance requirements itemized in this contract and required of CONTRACTOR shall be provided on behalf of all subcontractors to cover their operations performed under this Agreement. CONTRACTOR shall be held responsible for any modifications, deviations, or omissions in these insurance requirements as they apply to subcontractors.
- F. **Hazardous Materials Insurance:** For the purpose of this section, the term "hazardous materials" includes all materials and substances that are now designated or defined as hazardous by Florida or Federal law or by the rules or regulations of Florida or any Federal Agency. If work being performed involves hazardous materials, the need to procure and maintain any or all of the following coverage will be specifically addressed upon review of exposure. However, if hazardous materials are identified while carrying out this Agreement, the CITY shall be notified immediately, and no further work shall be performed in the area of the hazardous material until the CONTRACTOR provides the following coverage(s) as determined solely by the CITY.

1. CONTRACTORs Pollution Liability: For sudden and gradual occurrences and in an amount no less than \$1,000,000 per claim and \$3,000,000 in the aggregate arising out of work performed under this Agreement, including but not limited to, all hazardous materials identified under the Agreement.
2. Asbestos Liability: For sudden and gradual occurrences and in an amount no less than \$1,000,000 per claim and \$1,000,000 in the aggregate arising out of work performed under this contract.
3. Disposal: When applicable, the CONTRACTOR shall designate the disposal site and furnish a Certificate of Insurance from the disposal facility for Environmental Impairment Liability Insurance, covering liability for sudden and accidental occurrences in an amount not less than \$3,000,000 per claim and \$3,000,000 in the aggregate and shall include liability for non-sudden occurrences in an amount not less than \$6,000,000 per claim and \$6,000,000 in the aggregate.
4. Hazardous Waste/Materials Transportation: When applicable, the CONTRACTOR shall designate the hauler and furnish a Certificate of Insurance from the hauler for Automobile Liability insurance with Endorsement MCS90 for liability arising out of the transportation of hazardous materials with an amount not less than \$3,000,000 annual aggregate and provide a valid EPA identification number.

Certificates of insurance shall clearly state the hazardous material exposure work being performed under the Agreement.

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## SECTION 7

### STANDARDS OF PERFORMANCE & PAYMENT SECURITY

#### 7.1 Security Requirements

- A. Within fourteen days of the Notice of Award by City Commission, CONTRACTOR shall furnish to CITY performance & payment security in an amount equal to \$100,000.00, as security for the faithful performance of Agreement and for the payment of all persons performing labor and/or furnishing materials in connection with the Agreement. Bond shall be submitted on Exhibit E provided in the Agreement. The condition of this obligation is such that, if CONTRACTOR shall promptly and faithfully perform the Agreement, make payments to all claimants for all labor and material used or reasonably required for use in the performance of the Agreement, and shall fully indemnify and save harmless CITY and its agents and/or service provider for all costs and damages that may be suffered by reason of failure to do so, then this obligation shall be null and void; otherwise it shall remain in full force and effect.
- B. The performance & payment security shall be in the form of a cashier's check payable to "City of Weston" and drawn on a bank, authorized to do business in the State of Florida, or a surety bond issued by a surety company meeting the qualifications stated in this Section. A copy of the cashier's check or surety bond shall be attached as Exhibit E.
- C. The surety company issuing the surety bond shall fulfill each of the following provisions, and CONTRACTOR shall provide evidence to document such fulfillment:
  1. The surety company is licensed to do business in the State of Florida.
  2. The surety company holds a valid certificate of authority, authorizing it to write surety bonds in the State of Florida.
  3. The surety company has twice the minimum surplus and capital required by the Florida Insurance Code at the time the Agreement is executed.
  4. The surety company is otherwise in compliance with the provisions of the Florida Insurance Code.
  5. The surety company holds a valid certificate of authority issued by the United States Department of the Treasury under 31 U.S.C. § 9304-9308.
  6. The bond shall contain all provisions required by § 255.05, Florida Statutes, as may be amended from time to time.
  7. The bond shall be issued by a Florida resident agent.
  8. A surety bond shall be executed by a surety company of recognized standing having been in business with a record of successful continuous operation for at least five years.



9. The surety company shall meet a minimum financial rating by AM Best Company of no less than "A- Excellent: FSC VII" and shall have at least a minimum policyholders rating of A- Class VII or higher. In the event that the surety company's rating shall drop, the surety company shall immediately notify CITY.
  10. All surety companies are subject to review and approval by CITY and may be rejected without cause. All bonds signed by an agency shall be accompanied by a certificate of authority to act.
- D. Duration of Security: Performance & payment security shall remain in force until expiration. If the Agreement is terminated, they shall remain in force for one year from the date of termination of this Agreement as protection to CITY against losses resulting from improper performance of work under the Agreement that may appear or be discovered during that period.

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SECTION 8  
GENERAL CONDITIONS

8.1 Notice to Commence

No work shall commence until the Notice of Commencement is issued by CITY.

8.2 Exemption Prohibition

CONTRACTOR agrees and acknowledges that CONTRACTOR is prohibited from exempting any provisions of this Agreement.

8.3 Failure to Comply with Provisions

CONTRACTOR agrees and acknowledges that CONTRACTOR'S failure to comply with any provisions in this Agreement, including but not limited to failing to accurately complete any or all attached forms and exhibits, may constitute a breach of this Agreement, and may result in termination of this Agreement.

8.4 Additional Services

If it should become necessary for CITY to request CONTRACTOR to render any additional services to either supplement the services described in the Agreement or to perform additional work, such additional work shall be performed only if set forth in an amendment to this Agreement. Any such additional work shall be by mutual agreement of both parties, negotiated as to price, and approved by action of City Commission.

8.5 Compensation

- A. The amount of compensation payable by CITY to CONTRACTOR shall be based upon the prices as set forth in Exhibit B, attached hereto and made a part hereof, which amount shall be accepted by CONTRACTOR as full compensation for all such work performed under this Agreement. It is acknowledged and agreed by CONTRACTOR that these amounts are the maximum payable and constitute a limitation upon CITY'S obligation to compensate CONTRACTOR for its services related to this Agreement. This maximum amount, however, does not constitute a limitation of any sort, upon CONTRACTOR'S obligation to perform all items of work required by or which can be reasonably inferred from the Agreement.
- B. CONTRACTOR may submit an invoice for compensation, developed and agreed upon by City Manager and CONTRACTOR, no more often than on a monthly basis, but only after the services for which the invoices are submitted have been completed. Invoices shall designate the nature of the services performed and shall also show a summary of fees with accrual of the total and credits for portions paid previously. Each statement shall show the proportion of the guaranteed maximum payment that has been expended through previous billings.
- C. Notwithstanding any provision of this Agreement to the contrary, the City Manager may withhold, in whole or in part, payment to the extent necessary to protect CITY from loss

on account of inadequate or defective work which has not been remedied or resolved in a manner satisfactory to the City Manager. The amount withheld shall not be subject to payment of interest by CITY.

- D. Payment shall be made to CONTRACTOR in accordance with the local government prompt payment act as stipulated in part VII of Chapter 218, Florida Statutes, by check, electronic funds transfer (EFT), e-pay or p-card, or other method as determined by CITY in its sole discretion.
- E. Beginning on October 1, 2024 and each October 1st thereafter, CONTRACTOR shall receive an annual adjustment in the rates established in the Rate Structure provided in Exhibit B. The annual adjustments to costs in Exhibit B shall be based on the annual change in the February Consumer Price Index - All Urban Consumers, Not Seasonally Adjusted, All Items, Miami-Fort Lauderdale-West Palm Beach Area, 1982-84=100, Series ID: CUURS35BSA0, CUUSS35BSA0 (the "CPI"), except that the annual adjustment to the costs shall not exceed 5% (increase or decrease). The CPI is available from the United States Department of Labor, Bureau of Labor Statistics. The parties acknowledge that fuel costs are reflected in the above referenced CPI, and therefore there shall be no additional fuel costs adjustments.

#### 8.6 Taxes

CONTRACTOR shall not be entitled to CITY'S tax-exempt benefits.

#### 8.7 Verbal Agreements

- A. No verbal agreement or conversation with any officer, agent, or employee of the CITY, either before or after execution of the Agreement, shall affect or modify any of the terms or obligations contained in the Agreement. Any such verbal agreement or conversation shall be considered as unofficial information and in no way binding upon CITY or CONTRACTOR.
- B. The terms, conditions, and pricing of the Agreement can only be altered with an amendment to the Agreement by action of City Commission.

#### 8.8 No Contingency Fees

CONTRACTOR warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for 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.

#### 8.9 Assignment; Non-transferability of Agreement

- A. The Agreement shall not be assigned or transferred. If CONTRACTOR is, or may be, purchased by or merged with any other corporate entity during the Agreement, the Agreement may be terminated as a result of such transaction. The City Manager shall determine whether an Agreement is to be terminated in such instances.

- B. If, at any time during the Agreement, filings, notices or like documents are submitted to any regulatory agency concerning the potential acquisition of CONTRACTOR, or the sale of a controlling interest in CONTRACTOR, or any similar transaction, CONTRACTOR shall immediately disclose such information to CITY. Failure to do so may result in the Agreement being terminated, at CITY'S sole discretion.

#### 8.10 Compliance with Applicable Laws

CONTRACTORS are required to comply with all provisions of federal, state, county and local laws, ordinances, rules and regulations that are applicable to the services being provided in this Agreement. Lack of knowledge of CONTRACTOR shall in no way be a cause for relief from responsibility or constitute a cognizable defense against the legal effects thereof.

#### 8.11 Familiarity with Laws and Ordinances

CONTRACTOR is familiar with all federal, state and local laws, ordinances, rules and regulations which affect those engaged or employed in the provision of such services, or equipment used in the provision of such services, or which in any way affects the conduct of the provision of such services; and no plea of misunderstanding will be considered on account of ignorance thereof. If CONTRACTOR discovers any provisions in the Agreement that are contrary to or inconsistent with any law, ordinance, or regulation, it shall report the issue to CITY in writing without delay.

#### 8.12 Advertising

CONTRACTOR agrees not to use this Agreement as a part of any advertising or CONTRACTOR sponsored publicity without the express written approval of City Manager or designee.

#### 8.13 Indemnification

- A. CONTRACTOR shall indemnify, hold harmless and, at CITY's option, pay for an attorney selected by CITY, to defend CITY and any of its officers, agents, servants and employees from and against any and all liability, suits, actions, damages, costs, losses and expenses, including attorneys' fees, demands and claims for personal injury, bodily injury, sickness, diseases or death or damage or destruction of tangible property, arising out of any errors, omissions, misconduct or negligent acts, errors or omissions of CONTRACTOR, its officials, agents, employees or subcontractors in the performance of the services of CONTRACTOR under this Agreement, whether direct or indirect and from and against any orders, judgments, or decrees which may be entered thereon and from and against all costs, damages of every kind and nature, attorneys' fees, expenses and liabilities incurred in and about the defense of any such claim and investigation thereof.
- B. CONTRACTOR shall indemnify, hold harmless and, at CITY's option, pay for an attorney selected by CITY, to defend CITY and any of its officers, agents, servants and employees from and against any and all liability, suits, actions, damages, costs, losses and expenses, including attorneys' fees, demands and claims sought by third parties related to any alleged breach of any non-competition of similar provisions.
- C. CONTRACTOR shall indemnify CITY and any of its officers, agents, servants and employees, 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 by CONTRACTOR of any patent, trademark, copyright, trade secret or other proprietary right relating to services furnished pursuant to this Agreement. CONTRACTOR shall defend and/or settle at its own expense any action brought against CITY, any of its officers, agents, servants and employees, to the extent that it is based on a claim that products or services furnished to CITY by CONTRACTOR pursuant to this Agreement, or if any portion of the services or goods related to the performance of the service become unusable as a result of any such infringement or claim.

- D. CONTRACTOR acknowledges that specific consideration has been paid or shall be paid under this Agreement for this hold harmless and indemnification provision, and further agrees with the foregoing provisions of indemnity and with the collateral obligation of insuring said indemnity.
- E. The provisions of this section shall survive the expiration or earlier termination of this Agreement. To the extent considered necessary by City Manager and City Attorney, any sums due to CONTRACTOR under this Agreement may be retained by CITY until all of CITY's claims for indemnification pursuant to this Agreement have been settled or otherwise resolved; and any amount withheld shall not be subject to payment of interest by CITY.

#### 8.14 Miscellaneous

- A. Ownership of Documents: Unless otherwise provided by law, any and all reports, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of CITY. Any compensation due to CONTRACTOR shall be withheld until all documents are received as provided herein.
- B. Audit and Inspection Rights, Retention of Records:
  - 1. CITY shall have the right to audit the books, records and accounts of CONTRACTOR that are related to this Agreement. CONTRACTOR shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement.
  - 2. CONTRACTOR agrees to keep such records and accounts as may be necessary in order to record complete and correct entries as to personnel hours charged for which CONTRACTOR receives reimbursement. Such records and accounts shall be kept after completion of the work provided for in this Agreement, for at a minimum, the retention period required by the Florida Public Records Act (Chapter 119, Florida Statutes) and by item 340, Disbursement Records: Detail, of the State of Florida General Records Schedule G51-SL for State and Local Government Agencies, as may be promulgated from time to time. Such books and records shall be available at all reasonable times for examination and audit by CITY.
  - 3. Such retention of such records and documents shall be at CONTRACTOR'S expense.
  - 4. If any audit has been initiated and audit findings have not been resolved at the end of the retention period, the books, records, and accounts shall be retained until

resolution of the audit findings. If the Florida Public Records Act is determined by CITY to be applicable to CONTRACTOR'S records, CONTRACTOR shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by CONTRACTOR. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for CITY'S disallowance and recovery of any payment upon such entry.

5. CONTRACTOR shall respond to the reasonable inquiries of successor CONTRACTORS and allow successor CONTRACTORS to receive working papers relating to matters of continuing significance.
6. CONTRACTOR shall provide a complete copy of all working papers to CITY, prior to final payment by CITY, in accordance with the Agreement for CONTRACTOR'S services.

C. Public Records: CONTRACTOR shall comply with The Florida Public Records Act as follows:

1. Keep and maintain public records that ordinarily and necessarily would be required by the CITY in order to perform the service.
2. Upon request by the City's records custodian, provide the CITY with a copy of the 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 the Agreement term.
4. Upon completion of the Agreement or in the event of termination of the Agreement by either party, any and all public records relating to the Agreement in the possession of CONTRACTOR shall be delivered by CONTRACTOR to CITY, at no cost to CITY, within seven (7) days. All records stored electronically by CONTRACTOR shall be delivered to the CITY in a format that is compatible with the City's information technology systems. Once the public records have been delivered to the 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 954-385-2000, [pbates@westonfl.org](mailto:pbates@westonfl.org) OR BY MAIL: City of Weston – Office of City Clerk, 17200 Royal Palm Boulevard, Weston, FL 33326.**

- D. Policy of Non-Discrimination: CONTRACTOR shall not discriminate against any person in its operations, activities or delivery of services under this Agreement. CONTRACTOR shall affirmatively comply with all applicable provisions of federal, state and local equal employment laws and shall not engage in or commit any discriminatory practice against any person based on race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation or any other factor which cannot be lawfully used as a basis for service delivery.
- E. Public Entity Crime Act: CONTRACTOR represents that the execution of this Agreement will not violate the Public Entity Crime Act (Section 287.133, Florida Statutes), which essentially provides that a person or affiliate who is a CONTRACTOR, CONTRACTOR or other provider and who has been placed on the convicted vendor list following a conviction for a Public Entity Crime may not submit a bid on a contract to provide any goods or services to CITY, may not submit a bid on a contract with CITY for the construction or repair of a public building or public work, may not submit bids on leases of real property to CITY, may not be awarded or perform work as a CONTRACTOR, supplier, subcontractor, or consultant under a contract with CITY, and may not transact any business with CITY in excess of the threshold amount provided in Section 287.017, Florida Statutes, for category two purchases for a period of thirty six (36) months from the date of being placed on the convicted vendor list. Violation of this section shall result in termination of this Agreement and recovery of all monies paid hereto and may result in debarment from CITY'S competitive procurement activities. In addition to the foregoing, CONTRACTOR further represents that there has been no determination, based on an audit, that it committed an act defined by Section 287.133, Florida Statutes, as a "public entity crime" and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether CONTRACTOR has been placed on the convicted vendor list.
- F. Third Party Beneficiaries: Neither CONTRACTOR nor CITY intends to directly or substantially benefit a third party by this Agreement. Therefore, the parties agree that there are no third-party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them. Based upon this Agreement the parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement.
- G. Notices: Whenever either party desires to give notice to the other, such notice shall be in writing, sent by certified United States mail postage, prepaid return receipt requested or by hand delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the parties designate the following:

CITY: Donald P. Decker, City Manager/CEO  
City of Weston  
17200 Royal Palm Boulevard  
Weston, FL 33326

With a copy to:

Jamie Alan Cole, Esq.  
City Attorney  
Weiss Serota Helfman Cole & Bierman, P.L.  
200 East Broward Boulevard, Suite 1900  
Fort Lauderdale, FL 33301

CONTRACTOR: James Scrima, President/CFO  
A&A Drainage & Vac Services, Inc.  
3555 Meadowbrook Way  
Davie, FL 33328

H. Conflicts: Neither CONTRACTOR nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with CONTRACTOR'S loyal and conscientious exercise of judgment related to its performance under this Agreement.

1. CONTRACTOR agrees that none of its officers or employees shall, during the term of this Agreement, serve as an expert witness against CITY in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process. Further, CONTRACTOR agrees that such persons shall not give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of CITY in connection with any such pending or threatened legal or administrative proceeding. The limitations of this section shall not preclude CONTRACTOR or any other persons from representing themselves in any action or in any administrative or legal proceeding.
2. In the event CONTRACTOR is permitted to utilize subcontractors to perform any services required by this Agreement, CONTRACTOR agrees to prohibit such subcontractors, by written Agreement, from having any conflicts within the meaning of this section.

I. Materiality and Waiver of Breach: CITY and CONTRACTOR agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. CITY'S failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.



- J. Severance: In the event a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless CITY or CONTRACTOR elects to terminate this Agreement. An election to terminate this Agreement based upon this provision shall be made within seven days after the finding by the court becomes final.
- K. Joint Preparation: The parties acknowledge that they have sought and received whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to express their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.
- L. Priority of Provisions: If there is a conflict or inconsistency between any term, statement, requirement, or provision of any form and exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference and a term, statement, requirement, or provision of this Agreement, the term, statement, requirement, or provision contained in Sections 1 through 8 of this Agreement shall prevail and be given effect.
- M. Applicable Law and Venue: Attorney's Fees and Costs: This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. The parties submit to the jurisdiction of any Florida state or federal court in any action or proceeding arising out of, or relating to, this Agreement. Venue of any action to enforce this Agreement shall be in Broward County, Florida. The parties expressly waive all rights to trial by jury, including advisory juries, for any disputes arising from or in any way connected with this Agreement. The parties understand and agree that this waiver is a material Agreement term. This Agreement is not subject to arbitration. If any party is required to enforce the terms of this Agreement by court proceedings or otherwise, whether or not formal legal action is required, each party shall pay its own attorney's fees and costs.
- N. Amendments: No modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement.
- O. Prior Agreements: This Agreement and its attachments constitute the entire agreement between CONTRACTOR and CITY, and this document incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that no modification, amendment or alteration in the terms or conditions contained here shall be effective unless set forth in writing in accordance with Section 7.17 (N.) Amendments above.

- P. Incorporation by Reference: The truth and accuracy of each "Whereas" clause set forth above is acknowledged by the parties. The attached Forms and Exhibits are incorporated hereto and made a part of this Agreement.
- Q. Multiple Originals: This Agreement may be fully executed in four (4) copies by all parties each of which, bearing original signatures, shall have the force and effect of an original document.
- R. Headings: Headings are for convenience of reference only and shall not be considered in any interpretation of this Agreement.
- S. 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.
- T. Survival of Provisions: Any terms or conditions of this Agreement that require acts beyond the date of its termination shall survive the termination of this Agreement, shall remain in full force and effect unless and until the terms of conditions are completed, and shall be fully enforceable by either party.
- U. Truth-in-Negotiation Certificate: Signature of this Agreement by CONTRACTOR shall act as the execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of contracting.
- V. Non-Appropriation of Funds: In the event no funds or insufficient funds are appropriated and budgeted or are otherwise unavailable in any fiscal year for payments due under this Agreement, then CITY, upon written notice to CONTRACTOR of such occurrence, shall have the unqualified right to terminate this Agreement without any penalty or expense to CITY.
- W. Default: In the event of a default by CONTRACTOR, CONTRACTOR shall be liable for all damages resulting from the default. CITY may take advantage of each and every remedy specifically existing at law or in equity. Each and every remedy shall be in addition to every other remedy specifically given or otherwise existing and may be exercised from time to time as often and in such order as may be deemed expedient by CITY. The exercise or the beginning of the exercise of one remedy shall not be deemed to be a waiver of the right to exercise any other remedy. CITY's rights and remedies as set forth in this Agreement are not exclusive and are in addition to any other rights and remedies available to CITY in law or in equity.
- X. CITY and CONTRACTOR agree that this Agreement and any other documents to be delivered in connection herewith may be electronically signed, and that any electronic signatures appearing on this Agreement or such other documents are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility.

SECTION 9  
SPECIAL CONDITIONS

None.

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AGREEMENT AMONG THE CITY OF WESTON, FLORIDA, INDIAN TRACE DEVELOPMENT DISTRICT, BONAVENTURE DEVELOPMENT DISTRICT (COLLECTIVELY "CITY") AND A&A DRAINAGE & VAC SERVICES, INC. FOR RFP NO. 2022-17 FOR STORMWATER AND WASTEWATER MAINTENANCE SERVICES.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature: City of Weston through its City Commission, signing by and through its Mayor, authorized to execute same by Commission action on the 3<sup>rd</sup> day of April, 2023 and \_\_\_\_\_ authorized to execute same.

CITY OF WESTON, through its City Commission

By: Margaret Brown  
Margaret Brown, Mayor

ATTEST:

24<sup>th</sup> day of May, 2023

Patricia A. Bates  
Patricia A. Bates, MMC, City Clerk

By: Don Decker  
Donald P. Decker, City Manager /CEO

Date: May 18, 2023

Approved as to form and legality for the use of and reliance by the City of Weston only:

(CITY SEAL)

By: Jamie Cole  
Jamie Cole (May 17, 2023 14:13 EDT)  
Jamie Alan Cole, City Attorney

Date: May 17, 2023

AGREEMENT AMONG THE CITY OF WESTON, FLORIDA, INDIAN TRACE DEVELOPMENT DISTRICT, BONAVENTURE DEVELOPMENT DISTRICT (COLLECTIVELY "CITY") AND A&A DRAINAGE & VAC SERVICES, INC. FOR RFP NO. 2022-17 FOR STORMWATER AND WASTEWATER MAINTENANCE SERVICES.

INDIAN TRACE DEVELOPMENT DISTRICT

By: Margaret Brown  
Margaret Brown, Chair

24<sup>th</sup> day of May, 2023

ATTEST:

Patricia A. Bates  
Patricia A. Bates, MMC, District Clerk

Don Decker  
By: \_\_\_\_\_  
Donald P. Decker, District Manager /CEO

Date: May 18, 2023

Approved as to form and legality  
for the use of and reliance by the  
City of Weston only:

Jamie Cole  
By: Jamie Cole (May 17, 2023 14:13 EDT)  
Jamie Alan Cole, District Attorney

Date: May 17, 2023

(DISTRICT SEAL)

AGREEMENT AMONG THE CITY OF WESTON, FLORIDA, INDIAN TRACE DEVELOPMENT DISTRICT, BONAVENTURE DEVELOPMENT DISTRICT (COLLECTIVELY "CITY") AND A&A DRAINAGE & VAC SERVICES, INC. FOR RFP NO. 2022-17 FOR STORMWATER AND WASTEWATER MAINTENANCE SERVICES.

BONAVENTURE DEVELOPMENT DISTRICT

By: Margaret Brown  
Margaret Brown, Chair

24<sup>th</sup> day of May, 2023

ATTEST:

Patricia A. Bates  
Patricia A. Bates, MMC, District Clerk

By: Don Decker  
Donald P. Decker, District Manager /CEO

Date: May 18, 2023

Approved as to form and legality  
for the use of and reliance by the  
City of Weston only:

By: Jamie Cole  
Jamie Cole (May 17, 2023 14:13 EDT)  
Jamie Alan Cole, District Attorney


Date: May 17, 2023

(DISTRICT SEAL)



AGREEMENT AMONG THE CITY OF WESTON, FLORIDA, INDIAN TRACE DEVELOPMENT DISTRICT, BONAVENTURE DEVELOPMENT DISTRICT (COLLECTIVELY "CITY") AND A&A DRAINAGE & VAC SERVICES, INC. FOR RFP NO. 2022-17 FOR STORMWATER AND WASTEWATER MAINTENANCE SERVICES.

CONTRACTOR: A&A DRAINAGE AND VAC SERVICES, INC.

By:   
James Scrima (May 17, 2023 12:11 EDT)  
James Scrima, President/CFO

Date: May 17, 2023

SECTION 10

EXHIBITS FORMS

With exception to Exhibit B, Fee Schedule (which is to be submitted as part of proposal) the Exhibits located in this section of the Agreement shall be submitted by the successful PROPOSER/CONTRACTOR after the award of the Agreement, at the time specified herein.

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EXHIBIT A  
CERTIFICATE OF INSURANCE

ATTACH CERTIFICATE OF INSURANCE

REVISED EXHIBIT B  
FEE SCHEDULE

The quantities listed are estimates only and the total expenditures will be based on the City's need and the budgetary limits for each fiscal year. The CONTRACTOR offers the following for providing all labor, materials, equipment, travel, NPDES requirements, Maintenance of Traffic (MOT), and safety requirements, and any other requirements outlined in the contract documents to perform the scope of services. Quantities listed are annual estimates.

Item No.	Description	Est. Qty.	Unit	Unit Price	Total Price
1	Inspection of stormwater catch basins, inlets, weirs, and manholes	1,000	Each	\$ 20.00	\$ 20,000.00
2	Cleaning of stormwater catch basins, inlets, manholes, and associated pipe to downstream structure	1,000	Each	\$ 100.00	\$ 100,000.00
3	Cleaning of wastewater manhole and associated pipe to downstream structure (< 10" Gravity Main)	1600	Each	\$ 105.00	\$ 168,000.00
4	CCTV (<10" Gravity Main)	20,000	L.F.	\$ 1.00	\$ 20,000.00
5	Vacuum Truck service, with two operators, (M-F, 7am to 5pm)	500	Hr.	\$ 135.00.	\$ 67,500.00 <del>\$ 82,500.00</del>
6	Vacuum Truck service, with two operators (all other hours)	100	Hr.	\$ 145.00	\$ 14,500.00
7	Cleaning of Lift Station Wet Well	70	Each	\$ 450.00.	\$ 31,500.00
8	Maintenance Foreman	100	Hr.	\$ 0.00	\$ 0.00
9	Maintenance Tech	200	Hr.	\$ 20.00.	\$ 4,000.00
10	Pump Truck service w/ operator, (M-F, 7am to 5pm), Tank Size: 4,000 to 5,000 gallons	100	Hr.	\$ 135.00.	\$ 13,500.00
11	Pump Truck service w/ operator, (all other hours), Tank Size: 4,000 to 5,000 gallons	50	Hr.	\$ 145.00.	\$ 7,250.00
<b>Item No.</b>	<b>Description</b>	<b>Est. Cost</b>	<b>Max Allowable Markup is 10%</b>		<b>Total Price</b>
12	Estimated Annual Cost of Materials (purchase of catch basin grates, manhole lids, Decals, etc.)	\$10,000	10 %		\$ 11,000.00 (Est. Cost + Markup)
<b>GRAND TOTAL (Items 1 thru 12):</b>					\$ 457,250.00 <del>\$ 472,250.00</del>

**Pay Item Notes:**

1. Pay Items #1 and 2 – See section 2.2.B.1 for scope of work. Unit price is per structure inspected or cleaned (includes cleaning of downstream pipeline, varying length and diameter)
2. Pay Item #3 – See section 2.2.B.2 for scope of work. Unit price is per manhole structure cleaned including cleaning of downstream pipeline (avg. length 300 l.f.).
3. Pay Item #4 - See section 2.2.B.3 for scope of work. Unit price is per linear feet.
4. Pay Item #5, 6, 10, and 11 - See section 2.2.D for emergency callout scope of work. Unit price is per hour and includes actual time spent on-site. Travel time costs shall be included in the unit rates. 2-hour minimum will apply for callouts.
5. Pay Item #7 – See section 2.2.B.4 for scope of work. Unit price is per each wet well cleaned.
6. Pay Items #8, 9, and 12 – See section 2.2.B.5 for scope of work.

EXHIBIT C

CONTRACTOR'S SUB-CONTRACTORS LIST

CONTRACTOR shall provide a comprehensive list of all sub-contractors (if any) and the work to be performed.

Item#	Sub-Contractor Company Name and Employer Identification Number	Work to be Performed
1	<i>none.</i>	
2		
3		
4		
5		
6		
7		
8		
9		

[THIS SPACE INTENTIONALLY LEFT BLANK]

EXHIBIT D  
TRANSITION PLAN  
**(Not Applicable)**

EXHIBIT E

PERFORMANCE & PAYMENT SECURITY

Any singular reference to CONTRACTOR, Surety, CITY or other party shall be considered plural where applicable.

CONTRACTOR (name and address)  
A&A Drainage & Vac Services Inc.  
11528 W State Rd 84  
Davie, FL 33325

SURETY (name & principal address):  
Travelers Casualty and Surety Company of America  
One Tower Square  
Hartford, CT 06183

CITY:

City of Weston  
17200 Royal Palm Blvd.  
Weston, Florida 33326

AGREEMENT

Date: April 3, 2023

Amount: Services as needed. Not for a fixed amount.

Description: Stormwater and Wastewater Maintenance Services  
Location: Citywide  
City of Weston RFP NO. 2022-17

BOND

Date (not earlier than Agreement Date): April 13, 2023

Amount: \$100,000.00

Modifications to this Bond: None X See Page(s) \_\_\_\_\_

EXHIBIT E  
PERFORMANCE & PAYMENT SECURITY  
(CONTINUED)

CONTRACTOR AS PRINCIPAL

SURETY

  
Signature

  
Signature

**James Scrima**

**Krystle Grilli**

Name

Name

**President**

**Attorney-In-Fact**

Title

Title

(Any additional signatures please include at the end of this form)

FLORIDA RESIDENT AGENT

**5900 Hiatus Road, Tamarac, FL 33321**

Address

**(954) 724-7000**

Phone

**(954) 724-7024**

Fax

EXHIBIT E

PERFORMANCE & PAYMENT SECURITY

(CONTINUED)

1. CONTRACTOR and the Surety, jointly and severally bind themselves, their heirs, executors, administrators, successors and assigns to CITY for the performance of the Agreement, which is incorporated herein by reference.
2. If CONTRACTOR performs the Agreement, the Surety and CONTRACTOR shall have no obligation under this Bond, except to participate in conferences.
3. If there is no CITY Default, the Surety's obligation under this Bond shall arise after:
  - A. CITY has notified CONTRACTOR and the Surety at its address described in paragraph 10 below that CITY is considering declaring a CONTRACTOR Default and has requested and attempted to arrange a conference with CONTRACTOR and the Surety to be held not later than 15 days after receipt of such notice to discuss methods of performing the Agreement. If CITY, CONTRACTOR and the Surety agree, CONTRACTOR shall be allowed a reasonable time to perform the Agreement, but such an agreement shall not waive CITY'S right, if any, subsequently to declare a CONTRACTOR Default; and
  - B. CITY has declared a CONTRACTOR Default and formally terminated CONTRACTOR'S right to complete the Agreement. Such CONTRACTOR Default shall not be declared earlier than 20 days after CONTRACTOR and the Surety have received notice of such termination; and
  - C. CITY has agreed to pay the Balance of the Agreement Price to the Surety in accordance with the terms of the Agreement or to a CONTRACTOR selected to perform the Agreement in accordance with the terms of the Agreement with CITY.
4. When CITY has satisfied the conditions of paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:
  - A. Arrange for CONTRACTOR, with consent of CITY, to perform and complete the Agreement; or
  - B. Undertake to perform and complete the Agreement itself, through its agents or through independent CONTRACTORS; or

EXHIBIT E

PERFORMANCE & PAYMENT SECURITY

(CONTINUED)

- C. Obtain bids or negotiated proposals from qualified CONTRACTORS acceptable to CITY for an Agreement for performance and completion of the Agreement, arrange for an Agreement to be prepared for execution by CITY and CONTRACTOR selected with CITY'S concurrence, to be secured with performance & payment bonds executed by a qualified Surety equivalent to the bonds issued on the Agreement, and the Balance of the Agreement Price incurred by CITY resulting from CONTRACTOR'S default; or
- D. Waive its right to perform and complete, arrange for completion, or obtain a new CONTRACTOR acceptable to CITY and with reasonable promptness under the circumstances:
  - i. After investigation, determine the amount for which it may be liable to CITY and, as soon as practicable after the amount is determined, tender payment therefore to CITY; or
  - ii. Deny liability in whole or in part and notify CITY citing reasons therefore.
- 5. If the Surety does not proceed as provided in paragraph 4 with reasonable promptness, the Surety shall be deemed to be in default on this Bond, 15 days after receipt of an additional written notice from CITY to the Surety demanding that the Surety perform its obligations under this Bond, and CITY shall be entitled to enforce any remedy available to CITY. If the Surety proceeds, without proper notice to CITY, CITY shall be entitled to enforce any remedy available to CITY.
- 6. After CITY has terminated CONTRACTOR'S right to complete the Agreement, and if the Surety elects to act, then the responsibilities of the Surety to CITY shall not be greater than those of CONTRACTOR under the Agreement, and the responsibilities of CITY to the Surety shall not be greater than those of CITY under the Agreement. To the limit of the amount of this Bond, but subject to commitment by CITY of the Balance of the Agreement Price to mitigation of costs and damages on the Agreement, the Surety is obligated without duplication for:
  - A. The responsibilities of CONTRACTOR for correction of defective work and completion of the Agreement;
  - B. Additional legal, design professional and delay costs resulting from CONTRACTOR'S Default, and resulting from the actions or failure to act of the Surety under paragraph 4; and



EXHIBIT E

PERFORMANCE & PAYMENT SECURITY

(CONTINUED)

- C. Liquidated damages, or if no liquidated damages are specified in the Agreement, actual damages caused by delayed performance or non-performance of CONTRACTOR.
7. The Surety shall not be liable to CITY or others for obligations of CONTRACTOR that are unrelated to the Agreement, and the Balance of the Agreement Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than CITY or its heirs, executors, administrators or successors.
  8. The Surety hereby waives notice of any change, including changes of time, to the Agreement or to related subcontracts, purchase orders and other obligations.
  9. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after CONTRACTOR Default or within two years after CONTRACTOR ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.
  10. Notice to the Surety, CITY or CONTRACTOR shall be mailed or delivered to the address shown on the signature page.
  11. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the work was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted here from and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

EXHIBIT E

PERFORMANCE & PAYMENT SECURITY

(CONTINUED)

DEFINITIONS

- A. Balance of the Agreement Price: The total amount payable by CITY to CONTRACTOR under the Agreement after all proper adjustments have been made including allowance to CONTRACTOR of any amounts received or to be received by CITY in settlement of insurance or other claims for damages to which CONTRACTOR is entitled, reduced by all valid and proper payments made to or on behalf of CONTRACTOR under the Agreement.
- B. Agreement: The agreement between CITY and CONTRACTOR identified on the signature page, including all Contract Documents and changes thereto.
- C. CONTRACTOR Default: Failure of CONTRACTOR, which has neither been remedied nor waived, to perform or otherwise to comply with the terms of the Agreement.
- D. CITY Default: Failure of CITY, which has neither been remedied nor waived, to pay CONTRACTOR as required by the Contract or to perform and complete or comply with the other terms thereof.

MODIFICATIONS TO THIS BOND ARE AS FOLLOWS:

(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)

CONTRACTOR AS PRINCIPAL

SURETY

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title



**Travelers Casualty and Surety Company of America  
Travelers Casualty and Surety Company  
St. Paul Fire and Marine Insurance Company**

**POWER OF ATTORNEY**

**KNOW ALL MEN BY THESE PRESENTS:** That Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company are corporations duly organized under the laws of the State of Connecticut (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint **KRYSTLE GRILLI** of **TAMARAC, Florida**, their true and lawful Attorney(s)-in-Fact to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

**IN WITNESS WHEREOF**, the Companies have caused this instrument to be signed, and their corporate seals to be hereto affixed, this **21st** day of **April**, 2021.

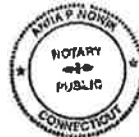


State of Connecticut  
City of Hartford ss.

By:   
Robert L. Raney, Senior Vice President

On this the **21st** day of **April**, 2021, before me personally appeared **Robert L. Raney**, who acknowledged himself to be the Senior Vice President of each of the Companies, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of said Companies by himself as a duly authorized officer.

**IN WITNESS WHEREOF**, I hereunto set my hand and official seal.  
My Commission expires the **30th** day of **June**, 2026



  
Anna P. Nowik, Notary Public

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of each of the Companies, which resolutions are now in full force and effect, reading as follows:

**RESOLVED**, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her; and it is

**FURTHER RESOLVED**, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

**FURTHER RESOLVED**, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

**FURTHER RESOLVED**, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any Power of Attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

I, **Kevin E. Hughes**, the undersigned, Assistant Secretary of each of the Companies, do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which remains in full force and effect.

Dated this **13th** day of **April**, 2021



  
Kevin E. Hughes, Assistant Secretary

**To verify the authenticity of this Power of Attorney, please call us at 1-800-421-3880.  
Please refer to the above-named Attorney(s)-in-Fact and the details of the bond to which this Power of Attorney is attached.**











# RFP No. 2022-17-Agreement with A&A Drainage & Vac Svcs.

Final Audit Report

2023-05-18

Created:	2023-05-15
By:	Martha Perez-Garviso (mperezgarviso@westonfl.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAA2dAAZjzJhnNrbX3K17_PZOxzs0-XLQ2k

## "RFP No. 2022-17-Agreement with A&A Drainage & Vac Svcs." History

-  Document created by Martha Perez-Garviso (mperezgarviso@westonfl.org)  
2023-05-15 - 3:52:42 PM GMT- IP address: 164.51.202.66
-  Document emailed to jim@aadrainage.com for signature  
2023-05-15 - 3:59:06 PM GMT
-  Email viewed by jim@aadrainage.com  
2023-05-16 - 5:42:28 AM GMT- IP address: 104.28.57.240
-  Signer jim@aadrainage.com entered name at signing as James Scrima  
2023-05-17 - 4:11:03 PM GMT- IP address: 174.211.108.130
-  Document e-signed by James Scrima (jim@aadrainage.com)  
Signature Date: 2023-05-17 - 4:11:05 PM GMT - Time Source: server- IP address: 174.211.108.130
-  Document emailed to jcole@wsh-law.com for signature  
2023-05-17 - 4:11:07 PM GMT
-  Email viewed by jcole@wsh-law.com  
2023-05-17 - 5:47:22 PM GMT- IP address: 45.73.146.126
-  Signer jcole@wsh-law.com entered name at signing as Jamie Cole  
2023-05-17 - 6:13:17 PM GMT- IP address: 73.179.56.151
-  Document e-signed by Jamie Cole (jcole@wsh-law.com)  
Signature Date: 2023-05-17 - 6:13:19 PM GMT - Time Source: server- IP address: 73.179.56.151
-  Document emailed to Don Decker (ddecker@westonfl.org) for signature  
2023-05-17 - 6:13:21 PM GMT

 Email viewed by Don Decker (ddecker@westonfl.org)

2023-05-18 - 1:09:11 PM GMT- IP address: 164.51.202.66

 Document e-signed by Don Decker (ddecker@westonfl.org)

Signature Date: 2023-05-18 - 1:09:35 PM GMT - Time Source: server- IP address: 164.51.202.66

 Agreement completed.

2023-05-18 - 1:09:35 PM GMT