

CONTRACT

This Contract is made as of this _____ day of _____, 2024, by and between the TOWN OF JUNO BEACH, 340 Ocean Drive, Juno Beach, Florida 33408, a Florida municipal corporation (hereinafter "TOWN"), and J.W. CHEATHAM LLC, a Florida limited liability company (hereinafter "CONTRACTOR"), 7396 Westport Place, West Palm Beach, Florida 33413.

RECITALS

WHEREAS, the TOWN solicited written proposals for improvements to Atlantic Boulevard, as set forth in the "Roadway Improvement Plans – Atlantic Boulevard" prepared by Simmons & White dated October 11, 2024 consisting of five pages ("Work"); and

WHEREAS, the TOWN wishes to accept the proposal submitted by CONTRACTOR, and CONTRACTOR has agreed to perform the Work in accordance with the terms and conditions of this Contract.

NOW THEREFORE, in consideration of the mutual promises set forth herein, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Recitals.

The parties agree that the recitals set forth above are true and correct and are fully incorporated herein by reference.

2. CONTRACTOR's Services and Time of Completion.

- A. CONTRACTOR shall perform the Work in accordance with its Proposal dated December 4, 2024, which is incorporated herein by reference.
- B. This Contract shall remain in effect until such time as the Work is completed, inspected, and accepted by the TOWN, provided, however, that any obligations of a continuing nature shall survive the expiration or termination of this Contract.
- C. The total cost of the Work shall not exceed **Fifty-six Thousand Two Hundred and Seventeen Dollars and Twenty Cents (\$56,217.20)**, subject to any price adjustments based on the actual quantity of material utilized.
- D. The services to be provided by CONTRACTOR shall be commenced subsequent to the execution and approval of this Contract by the TOWN and upon written notice from the TOWN to CONTRACTOR to proceed and shall be completed within **ninety (90) calendar days**.

3. Compensation to CONTRACTOR.

Payments by the TOWN to CONTRACTOR under this Contract shall not exceed the amount of compensation stated in Section 3(C) above without prior written consent of the TOWN. CONTRACTOR shall be compensated in the manner set forth in the Estimate and shall

submit invoices to the TOWN for review and approval by the TOWN's representative, indicating that goods and services have been provided and rendered in conformity with this Contract, and they then will be sent to the Finance Department for payment. Invoices will normally be paid within thirty (30) days following the TOWN representative's approval. CONTRACTOR waives consequential or incidental damages for claims, disputes or other matters in question arising out of or relating to this Contract. In order for both parties herein to close their books and records, CONTRACTOR will clearly state "final invoice" on CONTRACTOR's final/last billing to the TOWN. This certifies that all goods and services have been properly performed and all charges have been invoiced to the TOWN. Since this account will thereupon be closed, any and other further charges if not properly included in this final invoice are waived by CONTRACTOR. The TOWN will not be liable for any invoice from CONTRACTOR submitted thirty (30) days after the provision of all goods and services.

4. Insurance.

During the term of this Contract, CONTRACTOR shall maintain the following minimum insurance coverages and provide certificates evidencing such coverage to the Town (all insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida):

- A. CONTRACTOR shall maintain, during the life of this Contract, commercial general liability, including contractual liability insurance in the amount of \$1,000,000 per occurrence to protect CONTRACTOR from claims for damages for bodily and personal injury, including wrongful death, as well as from claims of property damages which may arise from any operations under this Contract.
- B. CONTRACTOR shall maintain, during the life of this Contract, comprehensive automobile liability insurance in the minimum amount of \$500,000 combined single limit for bodily injury and property damages liability to protect CONTRACTOR from claims for damages for bodily and personal injury, including death, as well as from claims for property damage, which may arise from the ownership, use, or maintenance of owned and non-owned automobiles, including rented automobiles.
- C. CONTRACTOR shall carry Workers' Compensation Insurance and Employer's Liability Insurance for all employees as required by Florida Statutes.
- D. All insurance, other than Worker's Compensation, Automobile and Professional Liability Insurance, to be maintained by CONTRACTOR shall specifically include the TOWN as an "Additional Insured."

5. Indemnification.

- A. To the fullest extent permitted by applicable laws and regulations, CONTRACTOR shall indemnify and save harmless and defend the TOWN, its officials, agents, servants, and employees from and against any and all claims, liability, losses, and/or causes of action arising out of or in any way related to the services furnished by CONTRACTOR pursuant to this Contract, including, but not limited to, those caused

by or arising out of any act, omission, negligence or default of CONTRACTOR and/or its subcontractors, agents, servants or employees.

- B. CONTRACTOR shall not be required to indemnify the TOWN, its officials, agents, servants, and employees when the occurrence results solely from the wrongful acts or omissions of the TOWN, its officials, agents, servants, and employees. The terms of this Section shall survive completion of all services, obligations and duties provided for in this Contract as well as the termination of this Contract for any reason.
- C. Nothing contained in this Contract shall create a contractual relationship with or a cause of action in favor of a third party against either the TOWN or CONTRACTOR, nor shall this Contract be construed a waiver of sovereign immunity beyond the limited waiver provided in Section 768.28, Florida Statutes.

6. Compliance with all Laws, Regulations and Ordinances.

In performing the services contemplated by this Contract, CONTRACTOR shall obtain all required permits and comply with all applicable federal, state, and local laws, regulations, and ordinances, including, but by no means limited to, all requirements of the Town Code and the Florida Building Code. The TOWN shall be responsible for the cost of any permits.

7. Warranty/Guaranty.

CONTRACTOR warrants that all Work, including goods and services, provided under this Contract will be free of defects in material and workmanship for a period of one (1) year following completion of the Work and successful final inspection or as otherwise set forth in the Estimate. Should any Work fail to comply with this warranty during the warranty period, upon written notification from the TOWN, CONTRACTOR shall immediately repair or replace said defective materials and/or workmanship at CONTRACTOR's sole expense. The CONTRACTOR shall provide the TOWN with copies of all manufacturer warranties and certify that the Work complies with the conditions set forth in such warranties, if any.

8. Access/Audits.

CONTRACTOR shall maintain adequate records to justify all charges, expenses, and costs incurred in estimating and performing services pursuant to this Contract for at least five (5) years after termination of this Contract. The TOWN shall have access to such books, records, and documents as required in this section for the purpose of inspection or audit during normal business hours, at CONTRACTOR's place of business. Under no circumstances will CONTRACTOR be required to disclose any confidential or proprietary information regarding its products and service costs.

9. Protection of Work and Property.

- A. CONTRACTOR shall continuously maintain adequate protection of all Work from damage, and shall protect the TOWN's property and adjacent private and public property from injury or loss arising in connection with the Contract. Except for any

such damage, injury, or loss, except that which may be directly due to errors caused by the TOWN or employees of the TOWN, CONTRACTOR shall provide any necessary materials to maintain such protection.

- B. Until acceptance of the Work by the TOWN, the TOWN's property shall be under the charge and care of CONTRACTOR and CONTRACTOR shall take every necessary precaution against injury or damage to the work by the action of elements or from any other cause whatsoever, and CONTRACTOR shall repair, restore, and make good, without additional Work occasioned by any of the above causes before its completion and acceptance.
- C. CONTRACTOR will also take every necessary precaution to ensure the safety of the TOWN, public and other guests, and invitees thereof at or near the areas where work is being accomplished during and throughout the completion of all work.

10. Miscellaneous Provisions.

- A. Failure of a party to enforce or exercise any of its right(s) under this Contract shall not be deemed a waiver of that parties' right to enforce or exercise said right(s) at any time thereafter.
- B. CONTRACTOR is, and shall be, in the performance of all Work under this Contract, an Independent Contractor, and not an employee, agent, or servant of the TOWN. All persons engaged in any of the Work performed pursuant to this Contract shall at all times, and in all places, be subject to CONTRACTOR's sole direction, supervision, and control. CONTRACTOR shall exercise control over the means and manner in which it and its employees perform the Work.
- C. This Contract shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Contract will be held in Palm Beach County. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof. **The parties knowingly, voluntarily and intentionally waiver any right they may have to trial by jury** with respect to any litigation arising out of this Contract.
- D. If any legal action or other proceeding is brought for the enforcement of this Contract, or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions of this Contract, the successful or prevailing party or parties shall be entitled to recover reasonable attorney's fees, court costs and all expenses (including taxes) even if not taxable as court awarded costs (including, without limitation, all such fees, costs and expenses incident to appeals), incurred in that action or proceeding, in addition to any other relief to which such party or parties may be entitled.
- E. If any term or provision of this Contract, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, to remainder of

this Contract, or the application of such terms or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Contract shall be deemed valid and enforceable to the extent permitted by law.

- F. All notices required in this Contract shall be sent by certified mail, return receipt requested, and sent to the addresses appearing on the first page of this Contract.
- G. The TOWN and CONTRACTOR agree that this Contract sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Contract may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto. Any provision of this Contract which is of a continuing nature or imposes an obligation which extends beyond the term of this Contract shall survive its expiration or earlier termination. In the event of a conflict between this Contract and CONTRACTOR's Estimate, the terms of this Contract shall control.
- H. CONTRACTOR warrants and represents that CONTRACTOR and all subcontractors are in compliance with Section 448.095, Florida Statutes, as may be amended. CONTRACTOR has registered to use, and shall continue to use, the E-Verify System (E-Verify.gov) to electronically verify the employment eligibility of newly hired employees and has received an affidavit from each subcontractor stating that the subcontractor does not employ, contract with or subcontract with an unauthorized alien. If the TOWN has a good faith belief that CONTRACTOR has knowingly violated Section 448.09(1), Florida Statutes, the TOWN shall terminate this Contract pursuant to Section 448.095(2), Florida Statutes, as may be amended. If the TOWN has a good faith believe that a subcontractor has knowingly violated Section 448.09(1), Florida Statutes, but CONTRACTOR has otherwise complained, it shall notify CONTRACTOR, and CONTRACTOR shall immediately terminate its contract with the subcontractor.
- I. IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT CAITLIN COPELAND-RODRIGUEZ, THE CUSTODIAN OF PUBLIC RECORDS AT: (561) 656-0312; CCOPELAND@JUNO-BEACH.FL.US; OR 340 OCEAN DRIVE, JUNO BEACH, FL 33408.

In performing services pursuant to this Contract, CONTRACTOR shall comply with all relevant provisions of Chapter 119, Florida Statutes. As required by Section 119.0701, Florida Statutes, CONTRACTOR shall:

- (1) Keep and maintain public records required by the TOWN to perform the service.

- (2) Upon request from the TOWN's custodian of public records, provide the TOWN with a copy 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 Contract term and following completion of the Contract if the CONTRACTOR does not transfer the records to the TOWN.
 - (4) Upon completion of the Contract, transfer, at no cost, to the TOWN all public records in possession of CONTRACTOR or keep and maintain public records required by the TOWN to perform the services. If CONTRACTOR transfers all public records to the TOWN upon completion of the Contract, CONTRACTOR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If CONTRACTOR keeps and maintains public records upon completion of the Contract, CONTRACTOR shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the TOWN, upon request from the TOWN's custodian of public records, in a format that is compatible with the information technology systems of the TOWN.
- J. CONTRACTOR is aware that the Inspector General of Palm Beach County has the authority to investigate and audit matters relating to the negotiation and performance of this Contract, and in furtherance thereof, may demand and obtain records and testimony from CONTRACTOR and its subcontractors. CONTRACTOR understands and agrees that in addition to all other remedies and consequences provided by law, the failure of CONTRACTOR or its subcontractors to fully cooperate with the Inspector General when requested may be deemed by the TOWN to be a material breach of the Contract justifying termination.
- K. CONTRACTOR acknowledges and agrees that a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, or subcontractor with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of thirty-six (36) months following the date of being placed on the convicted vendor list. CONTRACTOR will advise the TOWN immediately if it becomes aware of any violation of this statute.
- L. CONTRACTOR certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List and are not engaged in the boycott of Israel. Pursuant to Section 287.135, Florida Statutes, the TOWN may immediately terminate this Contract at its sole option if CONTRACTOR or any of its subcontractors are placed

on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of this Contract.

IN WITNESS WHEREOF, the TOWN and CONTRACTOR hereto have made and executed this Contract as of the day and year first above written.

J.W. CHEATHAM LLC

By: Thomas P. Uhrig

Print Name: Thomas P. Uhrig

Position: President

TOWN OF JUNO BEACH

BY: _____
PEGGY WHEELER, MAYOR

ATTEST:

BY: _____
CAITLIN COPELAND-RODRIGUEZ
TOWN CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

BY: _____
TOWN ATTORNEY