

RESOLUTION 65-10-21

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE AN AGREEMENT WITH HINTERLAND GROUP, INC., FOR THE PROVISION OF STORMWATER PIPE AND INFRASTRUCTURE VIDEO INSPECTION AND REPAIR SERVICES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Lake Park, Florida (“Town”) is a municipal corporation of the State of Florida with such power and authority as has been conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, the Town is empowered to enter into contracts with public agencies, private corporations or other persons, pursuant to Florida Statutes; and

WHEREAS, the Town is responsible for the repair and maintenance of its stormwater infrastructure system and requires a contractor to provide pipe and infrastructure video inspection and repair services; and

WHEREAS, the City of Palm Beach Gardens competitively bid and awarded a five-year contract to the successful bidder, Hinterland Group, Inc., (“Contractor”) whereby it will be providing the City with pipe and infrastructure video inspection and repair services; and

WHEREAS, the Contractor is providing these services to the City of Palm Beach Gardens per contract number ITB2021-127CS, effective from April 1, 2021 through March 31, 2026; and

WHEREAS, pursuant to the City of Palm Beach Gardens’ solicitation of services the Contractor was permitted and agreed to provide the same services to other governmental units based upon the same terms, conditions, and pricing; and

WHEREAS, pursuant to the Town’s Procurement Policies, the Town may enter into contracts for services with contractors when another public agency has already followed proper formal bid procedures to solicit services from contractors; and

WHEREAS, as permitted by the Town’s Procurement Policies, the Town would like to “piggy back” the contract that was awarded to the Contractor by the City of Palm Beach Gardens and contract with the Contractor for the same services; and

WHEREAS, the Contractor has agreed to provide the necessary services and resources to the Town using the same pricing, terms and conditions as set forth in the contract it entered into with the City of Palm Beach Gardens, contract number ITB2021-127CS; and

WHEREAS, Town Manager has recommended to the Town Commission that it is in the best interest of the Town to enter into a contract with the Contractor.

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AS FOLLOWS:

Section 1. The foregoing recitals are incorporated herein.

Section 2. The Mayor is hereby authorized and directed to execute a contract with the Contractor for services associated with the repair and maintenance of the Town's Stormwater pipe and video inspection and repair services. A copy of the proposed contract is attached hereto and incorporated herein as Exhibit A

Section 3. This Resolution shall take effect immediately upon its execution.

The foregoing Resolution was offered by Commissioner Michaud who moved its adoption. The motion was seconded by Commissioner Linden and upon being put to a roll call vote, the vote was as follows:

	AYE	NAY
MAYOR MICHAEL O'ROURKE	<u>Absent</u>	_____
VICE-MAYOR KIMBERLY GLAS-CASTRO	<u>/</u>	_____
COMMISSIONER ERIN FLAHERTY	<u>/</u>	_____
COMMISSIONER JOHN LINDEN	<u>/</u>	_____
COMMISSIONER ROGER MICHAUD	<u>/</u>	_____

The Town Commission thereupon declared the foregoing Resolution No. 65-10-21 duly passed and adopted this 20 day of October, 2021.

TOWN OF LAKE PARK, FLORIDA

BY: [Signature]
MICHAEL O'ROURKE
MAYOR

ATTEST:

[Signature]
VIVIAN MENDEZ
TOWN CLERK

Approved as to form and legal sufficiency:

BY: [Signature]
THOMAS J. BAIRD
TOWN ATTORNEY



AGREEMENT FOR STORMWATER PIPE AND INFRASTRUCTURE
VIDEO INSPECTION AND REPAIR SERVICES

THIS AGREEMENT FOR STORMWATER PIPE AND INFRASTRUCTURE VIDEO INSPECTION AND REPAIR SERVICES (the Agreement) is made and entered into this 20 day of October, 2021, by and between the Town of Lake Park, a municipal corporation of the State of Florida, 535 Park Avenue, Lake Park, Florida, 33403 ("Town") and **Hinterland Group, Inc.**, 2051 West Blue Heron Boulevard, Riviera Beach, FL 33404 ("Contractor") (collectively referred to as the parties).

WITNESSETH THAT

WHEREAS, the Town is a municipality and given those powers and responsibilities enumerated by Chapter 166 Florida Statutes and the Florida Constitution; and

WHEREAS, the Town is responsible for maintaining a stormwater infrastructure system and requires a contractor to perform pipe and infrastructure video inspection and repairs; and

WHEREAS, pursuant to Florida law, and the Town's procurement policies, the Town has the legal authority to "piggyback" onto a contract procured by another governmental entity when it requires substantially the same services; and

WHEREAS, on December 3, 2020, the Contractor entered into that certain Agreement Number ITB2021-127CS with the City of Palm Beach Gardens, to provide for stormwater pipe and infrastructure video inspection and repair services (the Palm Beach Gardens Agreement, a copy of which is attached hereto as Exhibit 'A' and incorporated herein by reference only; and

WHEREAS, the Town desires to "piggyback" onto the Palm Beach Gardens Agreement for the same or similar services and pricing for stormwater pipe and infrastructure video inspection and repair services, and

WHEREAS, pursuant to the City of Palm Beach Gardens Agreement, the Contractor has consented to offer the same services at the same pricing to other governmental entities.

NOW THEREFORE, the Town and the Contractor in consideration of the benefits flowing from each to the other do hereby agree as follows:

1. The above stated recitals are true and correct.
2. The Contractor shall comply with Florida's Public Records Law. Specifically, the Contractor shall:
 - a. Keep and maintain public records required by the Town to perform the services which are the subject of this Agreement.

- b. Upon the request of the Town, provide any such public records.
 - c. Ensure that any public records that are exempt or confidential from public records disclosure are not disclosed except as authorized by law for the duration of the term of this Agreement, and following completion of this Agreement if the Contractor does not transfer the records which are part of this Agreement to the Town.
 - d. Upon the completion of the term of the Agreement, transfer, at no cost, to the Town all public records in possession of the Contractor; or keep and maintain the public records associated with the services provided for in the Agreement. If the Contractor transfers all public records to the Town upon completion of the term of the Agreement, the Contractor shall destroy any duplicate public records that are exempt or confidential from public records disclosure. If the Contractor keeps and maintains public records upon completion of the term of the Agreement, the Contractor shall meet all applicable requirements pertaining to the retention of public records. All records stored electronically shall be provided to the Town, upon request, in a format that is compatible with the information technology systems of the Town.
 - e. If the Contractor has questions regarding the application of Chapter 119, Florida Statutes, including its duty to provide public records relating to this Agreement, the Contractor shall contact the custodian of public records at: Town Clerk, 535 Park Avenue, Lake Park, Florida 33403, 561-881-3311, townclerk@lakeparkflorida.gov.
- 3. Contractor hereby affirms and ratifies the terms, pricing, and conditions of the Palm Beach Gardens Agreement and agrees to provide to the Town the same services based upon these same terms, conditions and pricing for stormwater pipe and infrastructure video inspection and repair services as are set forth therein, a copy of which is attached hereto and incorporated herein.
 - 4. The Town agrees to pay for the services of the Contractor based upon the same terms and conditions as set forth in the Palm Beach Gardens Agreement.
 - 5. Except as otherwise stated herein below, the terms and conditions of the Palm Beach Gardens Agreement shall be the terms agreed to by the parties.
 - 6. The terms and conditions of the agreement with the Palm Beach Gardens Agreement are hereby supplemented and incorporated into this Agreement, as follows:

The Contractor's mobilization costs shall be mutually agreed to by the parties and proportional to the individual scope of work for which the mobilization of the Town's project is purposed. The mobilization costs shall be reflected in a written supplement to this Agreement which is to be attached hereto prior to its execution.

7. This Agreement shall be governed by the laws of the state of Florida. Venue for any cause of action arising out of this Agreement shall lie in the 15th Judicial District in and for Palm Beach County, Florida, or the United States District Court for the Southern District of Florida.
8. Notices to the Contractor shall remain as reflected in the Palm Beach Gardens Agreement. Notices to the Town shall be given to the Town at: Town of Lake Park, Attn: Town Clerk. 535 Park Avenue, Lake Park, Florida, 33403.
9. If either party is required to initiate a legal action, including appeals to enforce this Agreement, the prevailing party shall be entitled to recover its reasonable attorney's fees and costs.

IN WITNESS WHEREOF, the parties hereto have made and execute this Agreement as of the day and year last execute below.

ATTEST:

TOWN OF LAKE PARK

By: 

Vivian Mendez, Town Clerk

By: 

Michael O'Rourke, Mayor



APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

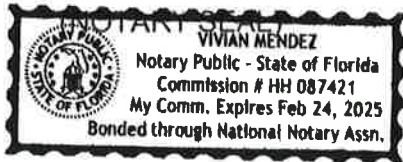
By: 

Thomas J. Baird, Town Attorney

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument has been acknowledged before me this 20 day of October 2021 by Michael O'Rourke, Mayor of the Town of Lake Park, and who is personally known to me. Kimberly Glas-Castro, Vice Mayor



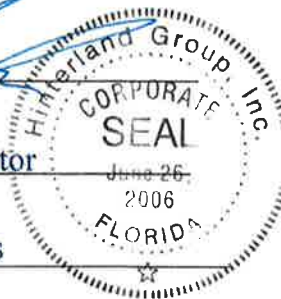
Vivian Mendez
Notary Public, State of Florida

WITNESSES:

By: [Signature]
Jay Breig
Printed Name
[Signature]
Daniel Duke III
Printed Name

Contractor:

By: [Signature]
Its: Project Director
Chase Rogers
Printed Name



STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument has been acknowledged before me this 4th day of October 2021 by Chase Rogers, as Project Director of Hinterland Group Inc, and who is personally known to me or has produced _____ as identification.



[Signature]
Notary Public, State of Florida
Montisha Soto



City of Palm Beach Gardens
10500 North Military Trail
Palm Beach Gardens, Florida 33410

**AGREEMENT
FOR
STORMWATER INFRASTRUCTURE MAINTENANCE
AND REPAIR SERVICES**

AGREEMENT NO. ITB2021-127CS

THIS AGREEMENT is made and entered into this 3rd day of December, 2020 (the "effective date") by and between the **City of Palm Beach Gardens**, a Florida municipal corporation (the "City"), located at 10500 North Military Trail, Palm Beach Gardens, Florida 33410, and **Hinterland Group, Inc.**, a Florida corporation (the "Contractor"), located at 2051 West Blue Heron Boulevard, Riviera Beach, Florida 33404.

WHEREAS, the City desires to retain the services of the Contractor to perform Stormwater Infrastructure Maintenance and Repair Services in accordance with the City's Invitation to Bid No. ITB2021-127CS and the Contractor's response thereto, all of which are incorporated herein by reference.

NOW, THEREFORE, in consideration of the mutual covenants and promises hereafter set forth, the Contractor and the City agree as follows:

ARTICLE 1. INCORPORATION OF INVITATION TO BID

The terms and conditions of this Agreement shall include and incorporate the terms, conditions, and specifications set forth in the City's Invitation to Bid No. ITB2021-127CS and the Contractor's response to the Invitation to Bid, including all documentation required thereunder.

ARTICLE 2. SCOPE OF WORK

The Contractor shall perform cleaning, de-watering, videoing, inspection, minor repairs, maintenance, and repair services for the City's stormwater infrastructure and related systems. This Agreement shall cover certain identified and specific services and work, as described in the Invitation to Bid, the performance of such services and work shall be undertaken on a project-by-project basis.

City of Palm Beach Gardens
Agreement No. ITB2021-127CS
Stormwater Infrastructure Maintenance and Repair Services

ARTICLE 3. PAYMENTS AND CONTRACT VALUE

The City shall pay the Contractor for work that has been completed, reviewed, inspected, and accepted by the City, according to the terms and conditions of the Invitation to Bid.

The City shall pay the Contractor based on the rates established in this Agreement and as described on the subsequent City purchase order. The Contractor shall not commence any work under this Agreement until a City purchase order has been issued for the work, and the Contractor has received written notice from the City to proceed with the work.

The estimated value for all work contemplated under this Agreement during the five- (5) year term shall be Eight Hundred Eighty-Nine Thousand Six Hundred Seventy-Five Dollars (\$889,675). All work shall be based on the rates and prices submitted by the Contractor under the Invitation to Bid.

All payments shall be made in accordance with the Florida Prompt Payment Act, Section 218.74, *Florida Statutes*, on the presentation of a proper invoice by the Contractor.

ARTICLE 4. MISCELLANEOUS PROVISIONS

- a. Notice Format. All notices or other written communications required, contemplated, or permitted under this Agreement shall be in writing and shall be hand delivered, telecommunicated, or sent by overnight delivery service to the following addresses:

As to the City:

City of Palm Beach Gardens
10500 North Military Trail
Palm Beach Gardens, Florida 33410
Attn: City Manager
Email: rferris@pbgfl.com

With a copy to:

City of Palm Beach Gardens
10500 North Military Trail
Palm Beach Gardens, Florida 33410
Attn: City Attorney
Email: mlohman@pbgfl.com

As to the Contractor:

Hinterland Group, Inc.
2051 West Blue Heron Boulevard
Riviera Beach, Florida 33404
Attn: Chase Rogers
Email: crogers@hinterlandgroup.com

- b. Entire Agreement. This Agreement constitutes the entire understanding and agreement between the parties with respect to the subject matter hereof.

- c. Binding Effect. All of the terms and provisions of this Agreement, whether so expressed or not, shall be binding upon, inure to the benefit of, and be enforceable by the parties and their respective legal representatives, successors, and permitted assigns.
- d. Assignability. This Agreement may not be assigned without the prior written consent of all parties to this Agreement.
- e. Severability. If any part of this Agreement is contrary to, prohibited by, or deemed invalid under applicable law or regulation, such provision shall be inapplicable and deemed omitted to the extent so contrary, prohibited, or invalid, but the remainder hereof shall not be invalidated thereby and shall be given full force and effect so far as possible.
- f. Governing Law and Venue. This Agreement and all transactions contemplated by this Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Florida without regard to any contrary conflicts of law principle. Venue for all proceedings in connection herewith shall lie exclusively in Palm Beach County, Florida, and each party hereby waives whatever its respective rights may have been in the selection of venue. This Agreement shall not be construed against the party who drafted the same as all parties to this Agreement have had legal and business experts review the adequacy of the same.
- g. Headings. The headings contained in this Agreement are for convenience of reference only and shall not limit or otherwise affect in any way the meaning or interpretation of this Agreement.
- h. Construction. The parties acknowledge that each has shared equally in the drafting and preparation of this Agreement, and accordingly, no Court or Administrative Hearing Officer construing this Agreement shall construe it more strictly against one party than the other, and every covenant, term, and provision of this Agreement shall be construed simply according to its fair meaning.
- i. Attorney's Fees and Costs. It is hereby understood and agreed that in the event any lawsuit in the judicial system, federal or state, is brought to enforce the terms, conditions, and/or obligations set forth in this Agreement or interpret same, or if any administrative proceeding is brought for the same purposes, each party shall be responsible for its own attorney's fees and costs, including fees and costs on appeal.
- j. Equal Opportunity. The City and the Contractor agree that no person shall be discriminated against in the performance of this Agreement on the grounds of race, color, gender, national origin, ancestry, marital status, disability, religion, creed, or age.

ARTICLE 5. TERM

The term of this Agreement shall be from April 1, 2021 through March 31, 2026, or until the Contractor has completed all maintenance and/or repair work that was commenced prior to March 31, 2026, and the work has been reviewed, inspected, and accepted by City, inclusive of all warranty periods, whichever is later. Notwithstanding the foregoing, this Agreement may be terminated earlier as set forth in Article 6.

ARTICLE 6. TERMINATION

This Agreement may be terminated by the City, with or without cause, upon providing thirty (30) days' prior written notice to the Contractor. This Agreement may be terminated by the Contractor upon thirty (30) days' prior written notice to the City. Upon any such termination, the Contractor waives any claims for damages from such termination, including, but not limited to, loss of anticipated profits.

Unless the Contractor is in breach of this Agreement, the City shall pay the Contractor for work performed and accepted through the date of termination in accordance with the terms of this Agreement.

ARTICLE 7. ACCESS AND AUDIT OF RECORDS

The City reserves the right to require the Contractor to submit to an audit by an auditor of the City's choosing. Subject to reasonable advance notice, the Contractor shall provide, at its place of business during regular business hours, access to all of its records that relate directly or indirectly to this Agreement. The Contractor shall retain all records pertaining to this Agreement and upon request make them available to the City for five (5) years following expiration of this Agreement. The Contractor agrees to provide such assistance as may be necessary to facilitate the review or audit by the City to ensure compliance with applicable accounting and financial standards.

ARTICLE 8. OFFICE OF THE INSPECTOR GENERAL

Palm Beach County has established the Office of the Inspector General that is authorized and empowered to review past, present, and proposed City programs, contracts, transactions, accounts, and records. The Inspector General (IG) has the power to subpoena witnesses, administer oaths, require the production of records, and monitor existing projects and programs. The IG may, on a random basis, perform audits on all City agreements.

ARTICLE 9. PUBLIC RECORDS

Pursuant to Chapter 119, *Florida Statutes*, the Contractor shall comply with the public records law by keeping and maintaining public records required by the City of Palm Beach Gardens in order to perform the service. Upon request from the City's custodian of public records, the Contractor shall 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. The Contractor shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Agreement term and following completion of this Agreement. Upon completion of this Agreement, the Contractor shall transfer, at no cost, to the City all public records in possession of the Contractor or keep and maintain public records required by the City of Palm Beach Gardens in order to perform the service. If the Contractor transfers all public records to the City upon completion of this Agreement, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of this Agreement, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City of Palm Beach Gardens, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City of Palm Beach Gardens.

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 AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT THE OFFICE OF THE CITY CLERK LOCATED AT 10500 NORTH MILITARY TRAIL, PALM BEACH GARDENS, FLORIDA 33410, PHONE NUMBER: (561) 799-4122, EMAIL ADDRESS: PSNIDER@PBGFL.COM.

ARTICLE 10. SUPERIORITY OF OTHER FORMS OR DOCUMENTS

If the City is required by the Contractor to complete and execute any other forms or documents in relation to this Agreement, the terms, conditions, and requirements in this Agreement shall take precedence to any and all conflicting or modifying terms, conditions, or requirements of the Contractor's forms or documents. Additionally, in the event of a conflict between the terms and conditions set forth in this Agreement and any attachments or exhibits hereto, the terms and conditions set forth herein shall prevail.

ARTICLE 11. LICENSES, PERMITS, AND FEES

The Contractor shall hold all licenses and/or certifications, obtain and pay for all permits and/or inspections, and comply with all laws, ordinances, regulations, and building code requirements applicable to the work to be performed. Damages, penalties, and/or fines imposed on the City or the Contractor for failure to obtain and maintain required licenses, certifications, permits, and/or inspections shall be borne by the Contractor.

ARTICLE 12. FORCE MAJEURE

The City and the Contractor are excused from the performance of their respective obligations under this Agreement when and to the extent that their performance is delayed or prevented by any circumstances beyond their control, including fire, flood, explosion, strike or other labor dispute, pandemic, natural disaster, public emergency, war, riot, civil commotion, malicious damage, act or omission of any governmental authority, delay or failure or shortage of any type of transportation, equipment, or service from a public utility needed for their performance, provided that:

The non-performing party gives the other party prompt written notice describing the particulars of the force majeure, including, but not limited to, the nature of the occurrence and its expected duration, and continues to furnish timely reports with respect thereto during the period of the force majeure.

The excuse of performance is of no greater scope and of no longer duration than is required by the force majeure.

No obligations of either party that arose before the force majeure causing the excuse of performance are excused as a result of the force majeure.

The non-performing party uses its best efforts to remedy its inability to perform.

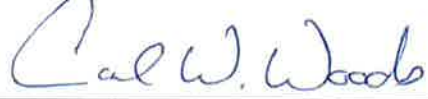
Notwithstanding the above, performance shall not be excused for a period in excess of two (2) months, provided that in extenuating circumstances the City may excuse performance for a longer term. Economic hardship of the Contractor shall not constitute a force majeure. The term of this Agreement shall be extended by a period equal to that during which either party's performance is suspended under this Article.

(The remainder of this page intentionally left blank.)

City of Palm Beach Gardens
Agreement No. ITB2021-127CS
Stormwater Infrastructure Maintenance and Repair Services

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date hereinabove first written.

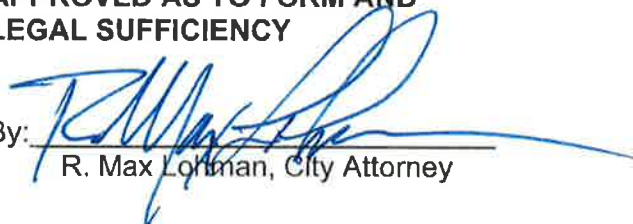
CITY OF PALM BEACH GARDENS, FLORIDA

By: 
Carl W. Woods, Mayor


ATTEST:

By: 
Patricia Snider, CMC, City Clerk

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY**

By: 
R. Max Lohman, City Attorney

HINTERLAND GROUP, INC.

By: 
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Daniel A. Duke III, President