

**AGREEMENT FOR THE PROVISION OF WATER TREATMENT AND IRRIGATION SERVICES FOR TOWN PROPERTIES**

**THIS AGREEMENT FOR WATER TREATMENT AND IRRIGATION SERVICES FOR TOWN PROPERTIES (“the Agreement”)** is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2023, by and between the Town of Lake Park, a municipal corporation of the State of Florida, having an address of 535 Park Avenue, Lake Park, Florida, 33403 (“Town”) and Rust Tech Services, LLC, having an address of P.O. Box 2288, Jupiter, Florida 33468.

**WITNESSETH THAT:**

**WHEREAS**, the Town is a municipality with such powers and authority as is enumerated by Chapter 166 Florida Statutes and the Florida Constitution; and

**WHEREAS**, the Town previously determined a need for the provision of water treatment and irrigation services (the Services) at the following Town properties: The Lake Park Community Redevelopment Agency’s parking lot, Ilex Park, Blakely Park, Lake Shore Park, and Kelsey Park; and

**WHEREAS**, the Town staff solicited proposals from companies to provide water treatment and irrigation services via Request for Proposal No. 103-2023 (RFP); and

**WHEREAS**, in its response to the RFP, Rust Tech Services, LLC (the Contractor) represented that it is qualified, able, and willing to satisfactorily provide the Services solicited in the RFP; and

**WHEREAS**, the Contractor’s response to the RFP was determined by the Town Manager to be responsive and responsible to all requirements included in the RFP; and

**WHEREAS**, the Town Manager has recommended to the Town Commission that the Town enter into the Agreement with the Contractor, for the Services.

**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, and are incorporated herein.

**2. TERM AND OPTIONS**

This term of the Agreement shall begin as of the date of execution and shall continue for a term of two years seven months. The first term shall not be an entire calendar year, but shall begin upon the execution of the Agreement and continue thru September 30, 2023. The terms for years, two and three will run thru Fiscal Years 2024 and 2025 ending September 30, 2025.

**3. COST OF SERVICES**

The cost of the Services for the first term shall be \$6,084.75. The cost of the Services for years two and three shall be \$21,735.

The Town acknowledges the fluctuating nature of prices. Therefore, on the annual anniversary date of the Agreement, the parties hereto agree that the unit prices may be adjusted upward based on the Consumer Price Indices. The exact value of the adjustment shall be determined by the Town.

#### **4. LAWS AND REGULATIONS**

The Contractor shall comply with all federal, state, and town laws and regulations in the performance of this Agreement.

#### **5. LICENSES, PERMITS AND FEES**

The Contractor shall hold all licenses and/or certifications necessary to perform the Services, and shall obtain and pay for all permits and/or inspections. Damages, penalties, and/or fines incurred by or imposed on the Town or Contractor for failure to obtain and maintain any required licenses, certifications, permits, and/or inspections shall be the responsibility of the Contractor.

#### **6. SUBCONTRACTING**

The Contractor shall not subcontract any portion of the Services required by this Agreement without the prior written consent of the Town. Subcontracting without the prior consent of the Town shall constitute a material breach of the Agreement and may result in termination of the Agreement.

#### **7. ASSIGNMENT**

The Contractor shall not assign or transfer the Agreement, including any rights, title, or interest therein, or its power to perform the Services to any person, company, or corporation without the prior written consent of the Town. Assignment without the prior consent of the Town shall constitute a material breach of the Agreement and may result in termination of the Agreement.

#### **8. RESPONSIBILITIES AS EMPLOYER**

The employees of the Contractor shall be considered to be at all times its employees, and shall not be considered to be employees or agents of the Town. The Contractor shall provide physically competent employees capable of performing the work and licensed or certified as may be necessary to perform the Services. The Town may require the Contractor to remove any employee the Town deems in its sole discretion to be unacceptable. All employees of the Contractor shall wear proper identification at all times while on Town properties.

It is the Contractor's responsibility to ensure that all its employees and any approved subcontractors comply with the employment regulations required by the United States

Department of Homeland Security. The Town shall have no responsibility to check or verify the legal immigration status of any employee of the Contractor.

## **9. INDEMNIFICATION AND INSURANCE**

The Contractor shall indemnify and hold harmless the Town and its elected and appointed officers, employees, and agents from any and all liability, losses, or damages, including attorney's fees and costs of defense, which the Town or its elected or appointed officers, employees, or agents may incur as a result of any claims, fees, demands suits, causes of actions, or proceedings of any kind or nature arising out of, relating to, or resulting from the performance of the Agreement by the Contractor or its employees, agents, servants, partners, principals, or subcontractors. The Contractor shall be responsible for paying all claims and losses, or fees in connection therewith, and shall investigate and defend all claims, suits, or actions of any kind or nature against the Town, for its negligence, act or omission, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may be incurred thereon. The Contractor expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the Contractor shall in no way limit its responsibility to indemnify, keep and save harmless, and defend the Town or its elected and appointed officers, employees, and agents.

The Contractor shall have and maintain during the term insurance coverage is to be issued by an insurance company authorized, licensed, and registered to do business in the state of Florida, with a minimum rating of B+ or better, in accordance with the latest edition of A.M. Best's Insurance Guide. This insurance shall be documented in certificates of insurance which provides that the Town shall be notified at least 30 days in advance of cancellation, non-renewal, or adverse change. The receipt of certificates of insurance, including if requested by the Town policies or copies of policies by the Town or by any of its representatives, which indicate less coverage than is required, does not constitute a waiver of the selected Contractor's obligation to fulfill the insurance requirements herein. Deductibles must be acceptable to the Town.

The selected Contractor must submit a current Certificate of Insurance, naming the Town as an additional insured and listed as such on the insurance certificate. New certificates of insurance are to be provided to the Town upon expiration.

The selected Contractor shall provide insurance coverage as follows:

- a. WORKERS' COMPENSATION INSURANCE in accordance with statutory requirements and Employer's Liability Insurance with limits of not less than (\$100,000 for each accident, not less than \$100,000 for each disease, and not less than \$500,000 aggregate.

## **10. AMENDMENTS TO THE AGREEMENT**

The Agreement may only be amended by the mutual consent of the parties hereto, as evidenced by a written amendment to the Agreement.

## **11. TERMINATION FOR CONVENIENCE**

The Town reserves the right to terminate this Agreement for convenience and without cause upon providing the Contractor with 60 days advance written notice. Upon receipt of such notice, the Contractor shall not continue to provide the Services unless the Town shall have provided written authorization.

## **12. TERMINATION BY CONTRACTOR**

The Contractor may terminate the Agreement before the expiration of the Term provided it gives 90 days written notice of its intention to do so. In the event of termination by Contractor, the Town may procure the required goods and/or services from any source and use any method deemed in its best interest to provide the Services for the balance of the Term. All re-procurement costs shall be borne by the Contractor.

## **13. ACCESS AND AUDIT OF RECORDS**

The Town reserves the right to require the Contractor to submit to an audit by an auditor of the Town's choosing at the Contractor's expense of its records, which relate directly or indirectly to this Agreement, at its place of business during regular business hours, or at such other places as mutually agreed to by the Town and Contractor.

The Contractor shall retain all records pertaining to this Agreement, and upon request, make them available to the Town for three (3) years following expiration of the Agreement. The Contractor agrees to provide such assistance as may be necessary to facilitate the review or audit by the Town to ensure compliance with applicable accounting and financial standards.

## **14. OFFICE OF THE INSPECTOR GENERAL**

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

## **15. 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 authorized assigns.

## **16. 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.

## **17. GOVERNING LAW AND VENUE**

The enforcement of this Agreement shall be governed by and enforced in accordance with the laws of the state of Florida without regard to any contrary conflicts of law principle. Venue of all proceedings in connection herewith shall lie exclusively in Palm Beach County, Florida.

## **18. ATTORNEY'S FEES**

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.

## **19. EQUAL OPPORTUNITY AND ANTI-DISCRIMINATION**

The Town complies with all laws of prohibiting discrimination on the basis of age, race, gender, religion, creed, political affiliation, sexual orientation, physical or mental disability, color or national origin, and therefore is committed to assuring equal opportunity in the award of contracts and encourages small, local, minority and female-owned businesses to participate.

During the performance of this Agreement, Contractor shall not discriminate or permit discrimination in its hiring practices or in its performance of the Agreement. The Contractor shall strictly adhere to the equal employment opportunity requirements and any applicable requirements established by the state of Florida, Palm Beach County and the federal government.

The Contractor further acknowledges and agrees to provide the Town with all information and documentation that may be requested by the Town from time to time regarding the solicitation, selection, treatment, and payment of approved subcontractors, suppliers, and vendors in connection with this Agreement.

## **20. MINIMUM WAGE REQUIREMENTS**

The Contractor shall comply with all minimum wage requirements, such as Living Wage requirements, minimum wages based on Federal Law, minimum wages based on the Davis-Bacon Act, and the provisions of any other employment laws, as may be applicable to this Agreement.

## **21. PUBLIC RECORDS**

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 service.
- b. Upon the request of the Town's custodian of public records, provided the Town with such public records within a reasonable time at a cost that does not exceed the costs provided for in Chapter 119, Florida Statutes.
- 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 Contactor/Vendor 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 Contactor/Vendor; or keep and maintain the public records associated with the services provided for in the Agreement. If the Contactor/Vendor transfers all public records to the Town upon completion of the term of the Agreement, the Consultant/Vendor shall destroy any duplicate public records that are exempt of confidential from public records disclosure. If the Contractor/Vendor keeps and maintains public records upon completion of the term of the Agreement, the Contractor/Vendor shall meet all applicable requirements pertaining to the retention of public records. All records stored electronically shall be provided to the Town, upon request from the Towns custodian of public records, in a format that is compatible with the information technology systems of the Town.
- e. IF THE CONTRACTOR/VENDOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, ITS DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, THE CONTACTOR/VENDOR SHOULD CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT: TOWN CLERK, 535 Park Avenue, Lake Park, Florida 33403, 561-881-3311, [Townclerk@lakeparkflorida.gov](mailto:Townclerk@lakeparkflorida.gov).

**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: \_\_\_\_\_  
Kimberly Glas-Castro, Vice-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 \_\_\_\_ day of \_\_\_\_\_ 2023 by Kimberly Glas-Castro, Chairman of the Town of Lake Park TOWN, and who is personally known to me.

(NOTARY SEAL)

\_\_\_\_\_  
Notary Public, State of Florida

Rust Tech Services, LLC:

By: Rick Haines

Its: President