

**CONTRACT FOR MINOR CONSTRUCTION
(Master Pump Station Day Tank Replacement)**

THIS CONTRACT FOR MINOR CONSTRUCTION (“Contract”) is entered on this day of _____, by and between the **City of Lake Worth Beach**, Florida, a municipal corporation (“City”) with its office located at 7 North Dixie Highway, Lake Worth Beach, Florida 33460, and **Don Wood Inc**, a Florida Corporation located at 6501 Old Winter Garden Rd., Orlando, FL 32835 (“Contractor”).

WHEREAS, the City is a municipal corporation organized and existing pursuant to the Charter and the Constitution of the State of Florida; and

WHEREAS, the City issued Invitation for Bid #26-107 for a Master Pump Station Day Tank Replacement (“IFB”), which IFB (inclusive of all specifications, exhibits, and addendum attached thereto or referenced therein) is incorporated by the reference into this Contract; and

WHEREAS, the City received two (2) timely bids in response to the IFB; and

WHEREAS, the City determined that the Contractor’s bid was responsive and the Contractor to be qualified and responsible and recommended the Contractor for the award; and

WHEREAS, the Contractor further warrants that it is experienced and capable of performing the tasks hereunder in a professional and competent manner; and

WHEREAS, the City finds entering this Contract to the Contractor as described herein serves a valid public purpose.

NOW THEREFORE, the City hereby engages the Contractor, and in consideration of the mutual promises herein contained, the sufficiency of which is hereby acknowledged by both parties, the parties agree as follows:

Article 1. DEFINITIONS.

1.1 Contract Documents. The Contract Documents are incorporated herein by reference as if originally set forth in this Contract, and comprise the entire agreement between the City and Contractor. The Contract Documents consist of this Contract, IFB, the Contractor’s bid (which is incorporated herein by reference); and any duly executed and issued Change Orders, Work Directive Changes, Field Orders, and amendments relating thereto. If, during the performance of the work, the Contractor finds an ambiguity, error or discrepancy in the Contract Documents, the Contractor shall so notify the City, in writing, within five (5) business days and before proceeding shall obtain a written interpretation or clarification. Failure to obtain a written interpretation or clarification will be deemed a waiver of the ambiguity, error or discrepancy by the Contractor. The City will not be responsible for any oral instructions, clarifications, or other communications except those provided in writing in response to Contractor's request for clarification of an ambiguity, discrepancy or error.

In resolving conflicts in any of the Contract Documents, the order of precedence shall be as follows:

First Priority:	Duly executed Change Orders
Second Priority:	This Contract
Third Priority:	IFB

Fourth Priority: Contractor's bid

- 1.2 Contract Administrator. Whenever the term Contract Administrator is used herein, it is intended to mean **the Director of Water Utilities or designee**. In the administration of this Contract, all parties may rely upon instructions or determinations made by the Contract Administrator except that all determinations that result in an increase in Contract Time and/or an increase in the Contract Price, shall require a formal Change Order executed by the City Manager or the City Commission (depending on the authority set forth in the City's Procurement Code).
- 1.3 Contract Price. The total Contract Price is **Sixty-Seven Thousand Three Hundred Dollars (\$67,300.00)**. The City shall not reimburse the Contractor for any additional costs incurred as a direct or indirect result of the Contractor performing the work under this Contract unless the Contractor receives prior written approval from the City's Contract Administrator. The Contract price shall be payable in accordance with paragraph 3 of this Contract.
- 1.4 Work. The Work under the Contract Documents shall consist of all goods and services set forth in the IFB and the Contractor's bid.

Article 2. CONTRACT TIME; PUNCH-LIST; LIQUIDATED DAMAGES.

- 2.1 Time is of the essence in the performance of the parties' duties and obligations as set forth herein. Substantial completion of the Work and final completion of all Work and all punch-list items (if any) shall be within the timeframe set forth in the IFB from the date of the City's issuance of a notice to proceed or purchase order (with only the date of issuance being applicable).
- 2.2 At least ten (10) days prior to reaching substantial completion, the Contractor shall create a proposed punch-list of items that must be completed by the Contractor prior to submitting its final payment request. The Contractor's proposed punch-list must include all items of Work which remain to be completed and the estimated cost to complete each Work item on the list. Upon receipt of the Contractor's proposed punch-list, the City will have ten (10) days to review, make modifications, or agree to the proposed punch-list. If the City does not make any modifications to the Contractor's proposed punch-list within ten (10) days of receipt, the proposed punch-list will be deemed accepted by the City. The City's Contract Administrator or designee will resolve any disputes in the punch-list and determine the final punch-list for the parties no later than 30-days from the date the Contractor is determined to have reached substantial completion. Once the punch-list is accepted by the City and finalized by the City's Contract Administrator or designee, the final punch-list will be delivered to the Contractor. Thereafter, the Contractor will have thirty (30) days to complete all items on the finalized punch-list and all Work (unless additional time is provided in accordance with the Contract Documents for final completion). The failure of either party to include any corrective work or pending items on the finalized punch-list does not alter the responsibility of the Contractor to complete all construction services in accordance with the Contract Documents (or applicable work order). The Contractor's proposed punch-list and responses by the City may be by informal written notice by: (1) email (with delivery receipt requested and received); (2) hand-delivery (with proof of hand-delivery); (3) by certified mail (RRR); or, (4) by national overnight courier utilizing the contact information set forth above in this Contract. Proof of delivery shall be kept by the party providing the informal written notice to the other party.
- 2.3 **Liquidated Damages. The City and Contractor recognize that time is of the essence of this Contract and that the City will suffer financial loss if the Work described in the**

Contract Documents is not completed within the times specified in paragraph 2.1 above. The City and Contractor recognize, agree and acknowledge that it would be impractical and extremely difficult to ascertain and fix the actual damages that the City would suffer in the event Contractor neglects, refuses, or otherwise fails to complete the Work within the time specified. Accordingly, instead of requiring any such proof, the City and Contractor agree that as liquidated damages for delay (but not as a penalty) Contractor shall pay the City Five Hundred Dollars (\$500.00) for each day that expires after the times specified in paragraph 2.1 above.

Article 3. PAYMENT PROCEDURES

- 3.1 Generally. The Contractor shall submit invoices on a monthly basis detailing all Work completed and in place in the prior month and all materials installed for the Project. The invoices shall be consistent with the IFB and Contractor's bid. The Contractor's invoices shall be submitted to the City as follows:

City of Lake Worth Beach
Attn: Finance Department
7 N. Dixie Highway
Lake Worth Beach, FL 33460

The City's Contract Administrator or designee will review each invoice submitted by the Contractor. If approved by the City's Contract Administrator or designee, the City will make payment in accordance with Florida's Prompt Payment Act (for construction services), section 218.735, Florida Statutes (2025). If not approved, the City will notify the Contractor within twenty (20) business days of the City's receipt and identify the action necessary to correct the invoice or a deficiency.

- 3.2 The City shall retain **ten percent (10%)** of Contractor's invoice until final completion of the Project. All goods and materials paid for in whole or in part by the City shall become property of the City and the Contractor shall have no security interest or other possessory interest in any goods or materials paid for in whole or in part by the City.

3.3 **CHANGE ORDER FOR CHANGE IN CONTRACT PRICE (REQUESTED BY THE CITY).**

3.3.1 Pursuant to section 218.755, Florida Statutes (2025), for any Change Order(s) where there is an addition and/or revision in the Work that increases the Contract Price and said addition and/or revision is requested by the City, the Contractor shall complete the Change Order form (attached as **Exhibit "A"** hereto and incorporated by reference), execute the form, and submit the form to the City's Contract Administrator with all supporting documentation attached. The supporting documentation shall include any price quote(s) or other documentation establishing the increase in the Contract Price (and any related extension of the Contract Time), the cost of the additional Work and/or revised Work, the Contractor's Fee (if applicable), and all necessary documents for permitting including, but not limited to, engineered drawings, specifications, and product approvals.

3.3.2 Upon receipt of the completed and executed Change Order form from the Contractor with the supporting documentation, the City's Contract Administrator or designee will review the same and either deny the Change Order or process the Change Order for approval. **The City will send a written notice to the Contractor within thirty-five (35) days after receipt**

of the properly completed and executed Change Order form as to whether the same has been approved or denied.

3.3.3 If the Change Order is denied, the City will specify in the written notice to the Contractor any alleged deficiencies in the Change Order and the actions necessary for the Contractor to remedy the same. If the City timely notifies the Contractor that a Change Order is denied (or the Change Order form submitted by the Contractor otherwise fails to conform to all statutory requirements or the requirements set forth herein), the Contractor may resubmit the completed and executed Change Order form after all deficiencies have been corrected and the timeframe set forth herein for the City's written notice of approval or denial will start anew.

3.3.4 If the Change Order is approved, the Contractor shall include the additional and/or revised Work covered by the Change Order in the appropriate pay application for payment consistent with this Contract.

3.3.5 If the City fails to provide a timely written notice to the Contractor as set forth in this paragraph and the Change Order form is properly submitted, completed, and executed by the Contractor as required by this Contract, the Change Order will be deemed approved and the Contractor shall be paid for the additional and/or revised Work covered by the Change Order once the additional and/or revised Work is completed.

3.3.6 The Contractor shall submit the completed and executed Change Order form to the City's Contract Administrator or designee by: (1) email (with delivery receipt requested and received); (2) hand-delivery (with proof of hand-delivery); (3) by certified mail (RRR); or, (4) by national overnight courier utilizing the contact information set forth above in this Contract.

3.3.7 The City shall send the City's written notice required in this paragraph to the Contractor by: (1) email (with delivery receipt requested and receipt received); (2) by hand-delivery (with proof of hand-delivery); (3) by certified mail (RRR); or, (4) by national overnight courier utilizing the contact information set forth above in this Contract.

3.3.8 All Contractor proposed Change Orders or Change Orders for only an increase in the Contract Time shall be handled as agreed upon between the City's Contract Administrator or designee and the Contractor. However, all Change Orders shall include the following language:

The Contractor and the City agree that this CHANGE ORDER represents the complete agreement of the parties with respect to the Work as modified herein as of the date of this CHANGE ORDER.

By approving this Change Order, the Contractor releases any and all claims that it may have against the City under the subject Contract Documents including, but not limited to claims for equitable adjustments, which occurred or accrued prior to the effective date of this CHANGE ORDER except those claims made in writing to the City prior to the effective date of this CHANGE ORDER.

3.4 Final Payment. Upon final completion and acceptance of all of the Work in accordance with the Contract Documents (including all punch-list items) and final inspection by the City, the Contractor shall submit a "final invoice" to the City. In order for both parties to close their books and records, the Contractor will clearly state "FINAL" on the Contractor's final invoice. This

certifies that all Work and the Project have been properly completed and all charges have been invoiced to the City. The FINAL invoice shall include a request for payment of all retainage. Since this account will thereupon be closed, any and other further charges if not properly included in this final invoice are waived by the Contractor. If the Contractor's Final Invoice is approved as set forth above, the City shall pay the remainder of the Contract Price including any amount held as retainage.

- 3.5 Notwithstanding the foregoing, the City shall not be required to pay the Contractor or release any amount of retainage to the Contractor that is subject of a good faith dispute, the subject of any claim by the Contractor or anyone employed by or utilized by the Contractor for the Project, or otherwise the subject of a claim or demand by the City.
- 3.6 Acceptance of final payment by the Contractor shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final invoice.

Article 4. SUBCONTRACTS AND INDEPENDENT CONTRACTOR.

There are no identified subcontractors for the Project. The Contractor represents that it has, or will secure at its own expense, all necessary personnel required to perform the work under this Contract. Such personnel shall not be employees of or have any contractual relationship with the City. All of the work required hereunder shall be performed by the Contractor or under its supervision, and all personnel engaged in performing the work shall be fully qualified and authorized or permitted under federal, state and local law to perform such work.

Article 5. CONTRACTOR'S REPRESENTATIONS

In order to induce the City to enter into this Contract, the Contractor makes the following representations:

- 5.1 Contractor has familiarized itself with the nature and extent of the Contract Documents, Work, site, locality, and all local conditions and Laws and Regulations that in any manner may affect cost, progress, performance or furnishing of the work.
- 5.2 Contractor has obtained at his/her own expense and carefully studied, or assumes responsibility for obtaining and carefully studying, soil investigations, explorations, and test reports which pertain to the subsurface conditions at or contiguous to the site or otherwise may affect the cost, progress, performance or furnishing of the work as Contractor considers necessary for the performance or furnishing of the work at the Contract Price, within the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents; and no additional examinations, investigations, explorations, tests, reports, studies or similar information or data are or is deemed necessary by Contractor for such purposes.
- 5.3 Contractor has reviewed and checked all information and data shown or indicated on the Contract Documents with respect to existing Underground Facilities at or contiguous to the site and assumes responsibility for the accurate location of said Underground Facilities. No additional examinations, investigations, explorations, tests, reports, studies or similar information or data in respect of said Underground Facilities are or is deemed necessary by the Contractor in order to perform and furnish the work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract

Documents.

- 5.4 Contractor has correlated the results of all such observations, examinations, investigations, explorations, tests, reports and studies with the terms and conditions of the Contract Documents.
- 5.5 If applicable, the Contractor has given the City Contract Administrator written notice of all conflicts, errors or discrepancies that the Contractor has discovered in the Contract Documents and the written resolution thereof (if any) by the City is acceptable to the Contractor.

Article 6. INDEMNITY, INSURANCE AND WARRANTY.

- 6.1 Notwithstanding any provision in the Contractor's bid, the Contractor agrees to assume liability for and indemnify, hold harmless, and defend the City, its commissioners, mayor, officers, employees, agents, and attorneys of, from, and against all liability and expense, including reasonable attorney's fees, in connection with any and all claims, demands, damages, actions, causes of action, and suits in equity of whatever kind or nature, including claims for personal injury, property damage, equitable relief, or loss of use, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the Contractor, its agents, officers, Contractors, subcontractors, employees, or anyone else utilized by the Contractor in the performance of this Contract. The Contractor's liability hereunder shall include all attorney's fees and costs incurred by the City in the enforcement of this indemnification provision. This includes claims made by the employees of the Contractor against the City and the Contractor hereby waives its entitlement, if any, to immunity under Section 440.11, Florida Statutes. The obligations contained in this provision shall survive termination of this Contract and shall not be limited by the amount of any insurance required to be obtained or maintained under this Contract.

Subject to the limitations set forth in this Section, Contractor shall assume control of the defense of any claim asserted by a third party against the City and, in connection with such defense, shall appoint lead counsel, in each case at the Contractor's expense. The City shall have the right, at its option, to participate in the defense of any third party claim, without relieving Contractor of any of its obligations hereunder. If the Contractor assumes control of the defense of any third party claim in accordance with this paragraph, the Contractor shall obtain the prior written consent of the City before entering into any settlement of such claim. Notwithstanding anything to the contrary in this Section, the Contractor shall not assume or maintain control of the defense of any third party claim, but shall pay the fees of counsel retained by the City and all expenses, including experts' fees, if (i) an adverse determination with respect to the third party claim would, in the good faith judgment of the City, be detrimental in any material respect to the City's reputation; (ii) the third party claim seeks an injunction or equitable relief against the City; or (iii) the Contractor has failed or is failing to prosecute or defend vigorously the third party claim. Each party shall cooperate, and cause its agents to cooperate, in the defense or prosecution of any third party claim and shall furnish or cause to be furnished such records and information, and attend such conferences, discovery proceedings, hearings, trials, or appeals, as may be reasonably requested in connection therewith.

It is the specific intent of the parties hereto that the foregoing indemnification complies with Section 725.06, Florida Statutes, as amended. Contractor expressly agrees that it will not claim, and waives any claim, that this indemnification violates Section 725.06, Florida Statutes. Nothing contained in the foregoing indemnification shall be construed as a waiver of any

immunity or limitation of liability the City may have under the doctrine of sovereign immunity or Section 768.28, Florida Statutes.

- 6.2 In addition, the Contractor will indemnify, defend, and hold harmless the City and settle at its expense any claim or suit brought by a third party against the City arising out of a claim asserting that the work, services, software, repair, materials or other deliverables (“deliverables” hereafter) provided by the Contractor under the Contract Documents infringes any U.S. copyright or any U.S. patent or misappropriates a trade secret. The Contractor will indemnify and hold harmless the City against and from damages, costs, and reasonable attorneys’ fees, if any and at all levels of trial and appeal or mediation or arbitration, finally awarded in such suit or the amount of the settlement thereof; provided that (i) the Contractor is promptly notified in writing of such claim or suit after the City receives written notice of the same, (ii) the Contractor will have the sole control of the defense and settlement thereof, and (iii) the City furnishes the Contractor, on reasonable request, information available to the City for such defense. The City will not admit any such claim without prior consent of the Contractor.

6.2.1 In the event of a claim of infringement, the Contractor shall, at its option:

- (a) procure for the City the right to continue using the deliverables provided under this Contract and Contract Documents; or
- (b) replace or modify the deliverables so that the same becomes non-infringing but substantially equivalent in functionality and performance.

If neither of the above actions is reasonably feasible, the Contractor will refund to the City the fee actually paid by City under the Contract and Contract Documents (as amortized on a straight-line basis over the time in which the City was able to use the deliverables).

6.2.2 The Contractor will have no obligation under this section for infringement if and to the extent that such claim arises from:

- (a) modification of the deliverables other than by the Contractor or by its recommendation; or
- (b) combination of the deliverables with products other than those supplied by the Contractor;
- (c) the alleged infringement or misappropriation relates to such modification or combination; and/or the specifications or written direction of the City directs the Contractor to construct, fabricate or otherwise provide the infringing deliverables, design, apparatus or, article, with Contractor’s products, services, or work product.

6.2.3 The Contractor will also not have any indemnification obligation with respect to a claim:

- (i) if it has provided the City with reasonable changes that would have avoided the problem and the reasonable changes are not fully implemented by the City within a reasonable time or
- (ii) arising out use of the deliverables not in accordance with this Contract or the Contract Documents.

- 6.3 The Contractor’s obligation to indemnify, defend, and hold harmless as set forth herein shall remain in effect and shall be binding upon the Contractor whether such injury or damage shall accrue, or may be discovered, before or after termination or expiration of this Contract or the Contract Documents.

- 6.4 Prior to commencing any work, the Contractor shall provide proof of insurance coverage as required in the IFB. Such insurance policy(s) shall be issued by the United States Treasury or insurance carriers approved and authorized to do business in the State of Florida, and who must have a rating of no less than "excellent" by A.M. Best or as mutually agreed upon by the City and the Contractor. All such insurance policies may not be modified or terminated without the express written authorization of the City. Failure to comply with the foregoing requirements shall not relieve Contractor of its liability and obligations under this Contract.
- 6.5 Contractor hereby waives any and all rights to subrogation against the City, its officers, employees and agents for each required policy. When required by the insurer, or should a policy condition not permit an insured to enter into a pre-loss agreement to waive subrogation without an endorsement, then Contractor shall agree to notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy, which a condition to the policy specifically prohibits such an endorsement, or voids coverage should Contractor enter into such an agreement on a pre-loss basis.
- 6.6 Unless the Contractor's bid or the applicable manufacturer provides a longer warranty period, the Contractor warrants and guarantees to the City that all Work provided under the Contract Documents and all materials and parts supplied under the Contract Documents shall be free from all defects for one (1) year from the final completion of the Work. The Contractor shall provide the City any and all manufacturers' warranties for the goods and services being provided under the Contract Documents. The Contractor agrees to pay for all transportation and handling costs of returned materials, if required, for repair or replacement.

Article 7. INDEPENDENT CONTRACTOR.

No relationship of employer or employee is created by this Contract, it being understood that Contractor will act hereunder as an independent contractor and none of the Contractor's, officers, directors, employees, independent contractors, representatives or agents performing services for Contractor shall have any claim under the Contract Documents or otherwise against the City for compensation of any kind. The relationship between the City and Contractor is that of independent contractors, and neither shall be considered a joint venturer, partner, employee, agent, representative or other relationship of the other for any purpose expressly or by implication.

Article 8. FORCE MAJEURE.

Neither party hereto shall be liable for its failure to perform hereunder due to any circumstances beyond its reasonable control, such as acts of God, wars, riots, national emergencies, sabotage, epidemics, strikes, labor disputes, accidents, and governmental laws, ordinances, rules, or regulations. The Contractor or the City may suspend its performance under this Contract as a result of a force majeure without being in default of this Contract, but upon the removal of such force majeure, the Contractor or City shall resume its performance as soon as is reasonably possible. Upon the Contractor's request, the City shall consider the facts and extent of any failure to perform the work and, if the Contractor's failure to perform was without its fault or negligence, the schedule may be revised accordingly, subject to the City's rights to change, terminate, or stop any or all of the work at any time. No extension shall be made for delay occurring more than five (5) days before a notice of delay or claim therefore is made in writing to the City. In the case of continuing cause of delay, only one (1) notice of delay or claim is necessary. Failure to timely provide notice of any delay shall waive the delay until notice is properly provided in accordance with this provision and the Contract.

Article 9. TERMINATION.

9.1 **TERMINATION BY CITY:** The City may terminate the Contract and the Contract Documents if the Contractor:

- (a) refuses or fails to supply enough properly skilled workers or proper materials;
- (b) fails to timely prosecute the work or any portion thereof;
- (c) disregards or takes action contrary to any laws, ordinances, or rules, regulations or orders of a public authority having jurisdiction;
- (d) takes action, short of declaring bankruptcy, evidencing insolvency;
- (e) fails or refuses to provide and/or maintain insurance or proof of insurance as required by the Contract Documents; or,
- (f) otherwise is in breach of a provision of the Contract Documents.

If any of the above exist, the City, may without prejudice to any other rights or remedies of the City and after giving the Contractor three (3) days' written notice, and five (5) days to cure, terminate the Contract and Contract Documents and may:

- (a) take possession of the site and of all materials, equipment, tools, and construction equipment and machinery thereon owned by or paid for by the City; and,
- (b) finish the Work by whatever reasonable method the City may deem expedient.

The Contractor shall be liable for any damage to the City, including additional attorney and engineering/architectural fees, resulting from the Contractor's termination under this provision by the City, including but not limited to, and any increased costs incurred by the City in completing the work.

When the City terminates the Contract for one of the reasons stated above, the Contractor shall not be entitled to receive further payment, if any, until the work is finished.

Should it be determined by a mediator or a court of competent jurisdiction that the City wrongfully terminated the Contract, then the Contractor agrees to treat such termination as a termination for convenience.

9.2 **TERMINATION BY THE CITY FOR CONVENIENCE**

The City may, at any time, terminate the Contract and Contract Documents for the City's convenience and without cause. Upon receipt of written notice from the City of such termination for the City's convenience, the Contractor shall:

- (a) cease operations as directed by the City in the notice;
- (b) take actions necessary, or that the City may direct, for the protection and preservation of the Work; and
- (c) except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing orders and enter into no further orders.

In case of such termination for the City's convenience, the Contractor shall be entitled to receive payment for all Work executed and materials in place and reasonable demobilization costs (if any). The City shall not be liable to the Contractor for any loss of profit, liquidated damages, penalties, or any other indirect or consequential costs or damages.

- 9.3 EXCEPT AS SPECIFICALLY PROVIDED IN SECTION 9.2, IN NO EVENT SHALL THE CITY BE LIABLE TO THE CONTRACTOR FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, LIQUIDATED, OR PUNITIVE DAMAGES, NOR FOR LOST REVENUES, SALES, OR PROFITS, OR DAMAGES FOR BUSINESS INTERRUPTION REGARDLESS OF THE CONTRACTOR'S THEORY OF LIABILITY.

Article 10. MISCELLANEOUS.

- 10.1 The City and Contractor each binds itself, its partners, its successors, assigns and legal representatives to the other party hereto, its partners, successors, assigns and legal representatives in respect of all covenants, agreements and obligations contained in the Contract Documents.
- 10.2 Additional work, changes to the Contract Price, or Contract Time, is subject to the City's prior written approval. The Contractor has no authority to approve such changes and has no authority to waive the requirement of prior written authorization for extra work, changes in the Contract Time, Contract Time, or change orders
- 10.3 Headings and References & Exhibits: The headings contained in this Contract are inserted for convenience of reference only and shall not be a part or control or affect the meaning hereof. All references herein to Articles are to the Articles of this Contract. All references herein to Exhibits are to the exhibits hereto, each of which shall be incorporated into and deemed to be a part of this Contract.
- 10.4 Counterparts: This Contract may be executed in two or more counterparts, each of which shall be deemed to be an original, but all of which shall be deemed to be an original, but each of which together shall constitute one and the same instrument.
- 10.5 Entire Contract; Amendment and Waiver: This Contract (together with the other Contract Documents) supersedes any and all prior negotiations and oral or written agreements heretofore made relating to the subject matter hereof and, except for written agreements, if any, executed and delivered simultaneously with or subsequent to the date of this Contract, constitutes the entire agreement of the parties relating to the subject matter hereof. This Contract may not be altered or amended except by a writing signed by the parties hereto. No waiver of any of the terms or conditions of this Contract shall be effective unless in writing and executed by the party to be changed therewith. No waiver of any condition or of the breach of any term, covenant, representation, warranty or other provision hereof shall be deemed to be construed as a further or continuing waiver of any such condition or breach or a waiver of any other condition or of any breach of any other term, covenant, representation, warranty or other provision contained in this Contract.
- 10.6 Successors and Assigns: This Contract shall be binding upon, and shall inure to the benefit of the parties hereto and their respective successors and assigns.
- 10.7 Governing Law; Consent to Jurisdiction: This Contract shall be governed by and construed

and interpreted in accordance with the laws of the State of Florida. Each of the parties hereto (a) irrevocably submit itself to the exclusive jurisdiction of the Fifteenth Judicial Circuit Court in and for Palm Beach County, Florida for state actions and jurisdiction of the United States District Court for the Southern District of Florida, Palm Beach Division, for the purposes of any suit, action or other proceeding arising out of, or relating to, this Contract; (b) waives and agrees not to assert against any party hereto, by way of motion, as a defense of otherwise, in any suit, action or other proceeding, any claim that it is not personally subject to the jurisdiction of the above-named courts for any reason whatsoever; and (ii) to the extent permitted by applicable law, any claim that such suit, action or proceeding by any part hereto is brought in an inconvenient forum or that the venue of such suit, action or proceeding is improper or that this Contract or the subject matter hereof may not be enforced in or by such courts.

- 10.8 Third Party Beneficiary rights: This Contract shall create no rights or claims whatsoever in any person other than a party herein.
- 10.9 Severability: If any one or more of the provisions of the Contract shall be held to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.
- 10.10 Effective date: The effective date of this Contract is the date the Contract is approved by the City Commission.
- 10.11 Public Records: The Contractor shall comply with Florida's Public Records Act, Chapter 119, Florida Statutes, and, if determined to be acting on behalf of the City as provided under section 119.011(2), Florida Statutes, specifically agrees to:
- (a) Keep and maintain public records required by the City to perform the service.
 - (b) Upon request from the City's custodian of public records or designee, 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.
 - (c) 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 Contract and following completion of this Contract if the Contractor does not transfer the records to the City.
 - (d) Upon completion of this Contract, 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 to perform the service. If the Contractor transfers all public records to the City upon completion of the Contract, 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 the Contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records or designee, in a format that is compatible with the information technology systems of the City.

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 THE CUSTODIAN OF PUBLIC RECORDS AT (561) 586-1662, CITYCLERK@LAKEWORTHBEACHFL.GOV OR 7 NORTH DIXIE HIGHWAY, LAKE WORTH BEACH, FLORIDA 33460.

- 10.12 Preparation & Remedies: This Contract shall not be construed more strongly against either party regardless of who was more responsible for its preparation. No remedy herein conferred upon any party or 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. Each party reserves to itself all remedies available under applicable law and there shall be no limitation on actions except as provided under Florida law.
- 10.13 PALM BEACH COUNTY IG: In accordance with Palm Beach County ordinance number 2011-009, the Contractor acknowledges that this Contract may be subject to investigation and/or audit by the Palm Beach County Inspector General. The Contractor has reviewed Palm Beach County ordinance number 2011-009 and is aware of its rights and/or obligations under such ordinance.
- 10.14 Except where specifically provided for in the Contract Documents, the Contractor shall not be entitled to an increase in the Contract Price or payment or compensation of any kind from the City for direct, indirect, consequential, impact or other costs, expenses or damages, including, but not limited to, costs of acceleration or inefficiency, arising because of delay, disruption, interference or hindrance from any cause whatsoever. Provided, however, and subject to sovereign immunity under section 768.28, Florida Statutes, that this provision shall not preclude recovery or damages by the Contractor for hindrances or delays due solely to fraud, bad faith or active interference on the part of the City. Otherwise, the Contractor shall be entitled only to extensions of the Contract Times as the sole and exclusive remedy for such resulting delay, in accordance with and to the extent specifically provided above.
- 10.15 If any legal action or other proceeding is brought for the enforcement of this Contract or the Contract Documents, or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions of this Contract or the Contract Documents, each party shall be responsible for their own attorney's fees at all levels. **EACH PARTY ALSO AGREES AND VOLUNTARILY WAIVES ANY RIGHT TO A JURY TRIAL ARISING OUT OF ALLEGED DISPUTE, BREACH, DEFAULT, MISREPRESENTATION OR ANY OTHER CLAIM IN CONNECTION WITH OR ARISING FROM ANY PROVISION OF THIS CONTRACT OR THE CONTRACT DOCUMENTS INCLUDING BUT NOT LIMITED TO ANY COUNTERCLAIMS.**
- 10.16 Each of the parties agrees to perform its obligations under the Contract Documents in conformance with all laws, regulations and administrative instructions that relate to the parties' performance of the Work and under the Contract Documents.
- 10.17 All documents, including but not limited to drawings, specifications, plans, reports, other items and data or programs stored in hard-copy, electronically or otherwise (collectively referred to as "Documents" hereafter), prepared by the Contractor under this Contract shall be considered a "Work for Hire" and the exclusive property of the City. To the extent such Documents may not be deemed a "Work for Hire" under applicable law, Contractor will assign to the City all right, title and interest in and to Contractor's copyright(s) for such Documents. Contractor shall

execute and deliver to City such instruments of transfer and take such other action that City may request, including, without limitation, executing and filing, at City's expense, copyright applications, assignments and other documents required for the protection of City's right to such Documents. The Contractor shall retain copies of the Documents for a period of three (3) years from the date of completion of the Project. The City grants to the Contractor the right and/or limited license to use a portion of the Documents prepared by the Contractor in future projects of the Contractor with said right and/or limited license to use a portion at Contractor's own risk and without any liability to City. Any modifications made by the City to any of the Contractor's Documents, or any use, partial use or reuse of the Documents without written authorization or adaptation by the Contractor will be at the City's sole risk and without liability to the Contractor.

- 10.18 COMPLIANCE WITH SECTION 787.06. By executing this Contract before a notary public and taking an oath under the penalty of perjury, the Contractor attests and warrants that the Contractor does not use coercion for labor or services as defined in section 787.06, Florida Statutes (2025).
- 10.19 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.
- 10.20 As provided in Sections 287.132-133, Florida Statutes, as amended from time to time, by entering into the Contract Documents, the Contractor certifies that it and its affiliates who will perform hereunder have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the thirty-six (36) months immediately preceding the date hereof.
- 10.21 As provided in Section 287.135, Florida Statutes, as amended from time to time, by entering into the Contract Documents, the Contractor certifies that it is not participating in a boycott of Israel. City and Contractor agree that the City will have the right to terminate the Contract Documents if Contractor is found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel.
- 10.22 Pursuant to Section 448.095(2), Florida Statutes, the Contractor shall register with and use the E-Verify system to verify the work authorization status of all newly hired employees and require all subcontractors (receiving funding under this Contract) to register with and use the E-Verify system to verify the work authorization status of all the subcontractors' newly hired employees.
- 10.23 Except as otherwise provided herein, any formal notice required to be given under the Contract Documents shall be sent by certified mail (return receipt requested) or by nationally recognized overnight courier as to the parties' primary office location provided at the outset of this Contract. Either party may amend this notice provision by written notice to the other party.
- 10.24 By executing this Contract, on behalf of the Contractor, the undersigned hereby warrants and represents to the City that he or she has the authority and full legal power to execute this Contract and any and all documents necessary to effectuate and implement the terms of this Contract on behalf of the Contractor for whom he or she is signing and to bind and obligate such party with respect to all provisions contained in this Contract.
- 10.25 DATA PROTECTION. The Contractor acknowledges that under this Contract and the Contract Documents that the City is authorizing the Contractor to access and/or receive certain City systems and/or networks which may contain data that is personal, private, and/or confidential

("City Data") to perform the Work required under the Contract Documents. In order to ensure that the City Data is protected, the Contractor agrees on behalf of itself, its employees and agents, who may have access to the City Data and/or receive the City Data, that the City Data will not be stored, copied, analyzed, monitored, or otherwise used except for the sole purposes of performing the Works required under the Contract Documents. The Contractor agrees that it will and all of its employees and agents will fully comply with all applicable laws, regulations, and government orders relating to the City Data, including without limitation all personally identifiable information ("PII") and data privacy with respect to any such City Data. The Contractor will protect all City Data, including but not limited to PII, and will not use, disclose, or transfer such City Data except as necessary to perform the Work under the Contract Documents or as specifically authorized by applicable law. To the extent that Contractor receives or has access to any City Data with PII related to or arising from the performance of the Work, the Contractor will protect the privacy and legal rights of City's personnel, clients, customers, and agents.

- 10.26 INFORMATION SECURITY BREACH NOTIFICATION. The Contractor agrees to notify the City within two (2) business days in writing of any discovery by the Contractor of any breach or suspected breach of the provisions of this Contract with regards to City Data or any loss or unauthorized use, disclosure, acquisition of, or access to any City Data which the Contractor becomes aware of (any such breach or suspected breach being referred to herein as a "Data Breach"). Such notice shall summarize in reasonable detail the effect and potential effect on the City and any of its personnel, clients, customers, and agents, if known, of the Data Breach, and the corrective action taken or to be taken by the Contractor to safeguard the City Data and to prevent any further Data Breaches. The Contractor shall promptly take all appropriate and legally required corrective actions, and shall cooperate fully with the City in all reasonable and lawful efforts to prevent, mitigate, or rectify such Data Breach. The Contractor agrees to be fully responsible for and liable for any costs, expenses (including reasonable attorney's fees) and penalties assessed against the City due to any Data Breach.
- 10.27 CONFIDENTIAL AND PROPRIETARY INFORMATION. Each party (the "Receiving Party") will keep confidential and not disclose to any other person or entity or use (except as expressly and unambiguously authorized by this Contract) information, technology or software ("Confidential Information") obtained from the other party ("Disclosing Party"); provided, however, that the Receiving Party will not be prohibited from disclosing or using information (i) that at the time of disclosure is publicly available or becomes publicly available through no act or omission of the Receiving Party, (ii) that is or has been disclosed to the Receiving Party by a third party who is not under, and to whom the Receiving Party does not owe, an obligation of confidentiality with respect thereto, (iii) that is or has been independently acquired or developed by the Receiving Party without access to the Disclosing Party's Confidential Information, (iv) that is already in the Receiving Party's possession at the time of disclosure, or (v) that is required to be released by law.
- 10.28 EXPORT ADMINISTRATION. Each party agrees to comply with all export laws and regulations of the United States ("Export Laws") to assure that no software deliverable, item, service, technical data or any direct product thereof arising out of or related to this Contract is exported directly or indirectly (as a physical export or a deemed export) in violation of Export Laws.
- 10.29 COMPLIANCE WITH OCCUPATIONAL SAFETY AND HEALTH. The Contractor certifies that all material, equipment, etc., contained in this bid meets all OSHA requirements. Contractor further certifies that, if the material, equipment, etc., delivered is subsequently found to be deficient in any OSHA requirements in effect on date of delivery, all costs necessary to bring

the material, equipment, etc. into compliance with the aforementioned requirements shall be borne by the Contractor.

- 10.30 PROTECTION OF PROPERTY. The Contractor shall at all times guard against damage or loss to the property of the City or of other vendors or contractors and shall be held responsible for replacing or repairing any such loss or damage. The City may withhold payment or make such deductions as deemed necessary to insure reimbursement or replacement for loss or damage to property through negligence of the successful Contractor or its agents. The Contractor shall be responsible to safeguard all of their property such as tools and equipment while on site. The City will not be held responsible for any loss of Contractor property due to theft or vandalism.
- 10.31 DAMAGE TO PERSONS OR PROPERTY. The responsibility for all damage to person or property arising out of or on account of Work done under this Contract shall rest upon the Contractor, and he/she shall save the City harmless from all claims made on account of such damages.

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SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, the City and Contractor have made and executed this Contract for Minor Construction (Master Pump Station Day Tank Replacement) on the day and year shown above.

CITY OF LAKE WORTH BEACH, FLORIDA

ATTEST:

By: _____
Betty Resch, Mayor

By: _____
Melissa Ann Coyne, MMC, City Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

APPROVED FOR FINANCIAL
SUFFICIENCY:

By: _____
Glen J. Torcivia, City Attorney

By: _____
Yannick Ngendahayo, Financial Services Director

CONTRACTOR:

Don Wood, Inc

By: _____

Print Name: LUIS A DIAZ

[Corporate Seal]

STATE OF Florida)

COUNTY OF Orange)

THE FOREGOING instrument was acknowledged before me by means of **physical presence** or **online notarization** on this 1 day of April 2026, by Luis A. Diaz, as the President [title] of **Don Wood, Inc**, a corporation authorized to do business in the State of Florida, **who is** **personally known to me** or **who has produced** _____ as identification, and who did take an oath under penalty of perjury that the facts stated with regard to section 787.06, Florida Statutes, are true and correct, and that he or she is duly authorized to execute the foregoing instrument and bind **Don Wood, Inc** to the same.

Notary Public Signature

Notary Seal:

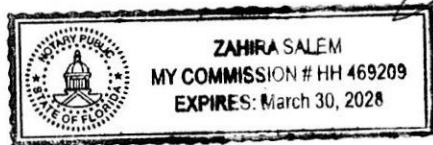


EXHIBIT "A"

CHANGE ORDER FORM

(Addition or Revision to Work Requested by City that increases Contract Price)

Project Number: _____ Contractor: _____

Contractor's Project Representative's E-Mail: _____

Contractor's Project Representative's Phone Number: _____

Project Name: _____

Contract Effective Date: _____

Change Order Number: _____

Change Order Effective Date: _____ [TO BE COMPLETED BY CITY]

Change Order Type: **INCREASE IN CONTRACT PRICE**

Associated Change in Contract Time: _____ (work days)

Existing Purchase Order / Work Order Number: _____ (if applicable)

Description of Change as requested by Owner:

Price of Original Contract: \$ _____

Current Price of Contract (including prior Change Orders): \$ _____

Price of Current Change Order: \$ _____

New Contract Price: \$ _____

Basis of Price Change: ___ Unit Price ___ Time & Material ___ Lump Sum

Contract Time Change: ___ No Change ___ Extended ___ Decreased by ___ work days

*** Contractor shall attach all supporting documentation, which will be incorporated herein by reference.**

(Increases in Unit Prices should be identified in the table below).

1	2	3	4	5	6
Item No.	Description	Qty	Unit	Unit Price	Increase In Contract Price
1					
2					
3					
4					
5					

The Contractor and the City agree that this CHANGE ORDER represents the complete agreement of the parties with respect to the Work as modified herein as of the date of this CHANGE ORDER.

By approving this Change Order, the Contractor releases any and all claims that it may have against the City under the subject Contract Documents including, but not limited to claims for equitable adjustments, which occurred or accrued prior to the effective date of this CHANGE ORDER except those claims made in writing to the City prior to the effective date of this CHANGE ORDER.

This Change Order may be executed in counterparts and is not effective until approved by either the City Manager or City Commission (as designated on the last page of this Change Order).

Reviewed and Accepted by Contractor : _____
(Contractor Name)

 Contractor Representative (Signature) Title Date

CITY: Based on the foregoing and the attached supporting documentation, the Owner's Contract Administrator recommends the proposed Change Order for submission to the City Commission or City Manager.

Recommended for approval by: _____
 _____, Director Date

Attachments: (Contractor shall attach all supporting documentation)

IN WITNESS WHEREOF, the City of Lake Worth Beach has approved this Change Order No. _____ to the _____ Project on _____.

CITY OF LAKE WORTH BEACH, FLORIDA

ATTEST:

By: _____
Betty Resch*, Mayor

By: _____
Melissa Ann Coyne, MMC, City Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

APPROVED FOR FINANCIAL
SUFFICIENCY:

By: _____
Glen J. Torcivia, City Attorney

By: _____
Yannick Ngendahayo, Financial Services Director

** Mayor or City Manager signature required depending on dollar value.*

CONTRACTOR: **Don Wood, Inc**

By: _____

Print Name: _____

[Corporate Seal]

STATE OF _____)

COUNTY OF _____)

THE FOREGOING instrument was acknowledged before me by means of **physical presence** or **online notarization** on this ____ day of _____ 2026, by _____, as the _____ [title] of **Don Wood, Inc**, a corporation authorized to do business in the State of Florida, **who is** **personally known to me** or **who has produced** _____ as identification, and who did take an oath under penalty of perjury that the facts stated with regard to section 787.06, Florida Statutes, are true and correct, and that he or she is duly authorized to execute the foregoing instrument and bind **Don Wood, Inc** to the same.

Notary Public Signature

Notary Seal: