

**AGREEMENT FOR GOODS AND SERVICES
(Steel Products for Electrical Substations)**

THIS AGREEMENT (hereinafter "Agreement") is made this _____ day, between the **City of Lake Worth Beach**, Florida, a municipal corporation (hereinafter the "CITY"), with its office located at 7 North Dixie Highway, Lake Worth Beach, Florida 33460, **Dis-Tran Steel, LLC** a company registered to do business in the State of Florida (hereinafter the "CONTRACTOR"), with its principal office located at 4725 HWY 28 E Pineville, LA 71360.

RECITALS

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 Request for Proposal #20-209 for Steel Products for Electrical Substations (hereinafter "RFP"); and

WHEREAS, the CONTRACTOR submitted a proposal in response to the RFP; and

WHEREAS, the City desires to accept CONTRACTOR's proposal in order for CONTRACTOR to provide the goods and services to the CITY pursuant to the terms and conditions of the Agreement; and

WHEREAS, the CONTRACTOR further warrants that it is experienced and capable of providing the goods and services hereunder in a professional and competent manner; and

WHEREAS, the CITY finds entering this Agreement with the CONTRACTOR as described herein serves a valid public purpose.

NOW THEREFORE, the CITY hereby engages the services of 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:

1. TERM

1.1 The term of this Agreement shall commence upon the approval of this Agreement by the City Commission and the CITY's issuance of a Purchase Order. The CONTRACTOR agrees to provide all goods and services required under this Agreement for the period of up to five (5) years, which may be extended by mutual, written agreement between the CITY and CONTRACTOR. The CITY is initially purchasing goods and services for one (1) substation (the "Initial Substation" hereinafter); but anticipates up to five (5) additional substation projects. Each substation should be similar in design as provided in the RFP, but may vary in quantity based on utility design and needs. The City reserves the right to increase the number of locations as demand requires it and dependent on the CITY's funding availability.

2. SCOPE OF WORK

2.1 The goods and services to be provided by the CONTRACTOR to the CITY under this Agreement are generally described as the fabrication, galvanizing, and delivery requirements of

steel products for electrical substations, and as further detailed in the RFP (hereinafter the "Scope of Work").

2.2 The CONTRACTOR represents to the CITY that all goods and services provided under this Agreement shall be in accordance with the Scope of Work and accepted and established trade practices and procedures recognized in the CONTRACTOR's trade in general and that the goods and services shall conform to the standards generally accepted in the CONTRACTOR's industry and in accordance with this Agreement.

2.3 The CONTRACTOR represents that it is licensed to do business in the State of Florida and holds and will maintain all applicable licenses required for the goods and services to be provided under this Agreement. The CONTRACTOR further warrants its capability and experience to provide the goods and services herein in a professional and competent manner.

2.4 The goods and services provided by the CONTRACTOR or under its supervision and all personnel engaged in providing the goods and services shall be fully qualified and, if required, authorized or permitted under the state and local law to provide such goods and services. All of the CONTRACTOR's personnel (and all subcontractors), while on CITY premises, shall comply with all CITY requirements governing safety, conduct and security.

2.5 The goods and services shall be provided to the CITY in accordance with the Scope of Work and all terms and conditions of this Agreement and all applicable laws.

3. INDEPENDENT CONTRACTOR; USE OF AGENTS OR ASSISTANTS

3.1 The CONTRACTOR is and shall be, in the provision of goods and services under this Agreement, an independent contractor, and not an employee, agent, or servant of the CITY. All persons providing the goods and services pursuant to this Agreement shall at all times, and in all places, be subject to the CONTRACTOR's sole direction, supervision, and control. The CONTRACTOR shall exercise control over the means and manner in which it and its employees provide the goods and services to the CITY.

3.2 To the extent reasonably necessary to enable the CONTRACTOR to perform the Scope of Work hereunder, the CONTRACTOR shall be authorized to engage the services of any agents or assistants which it may deem proper, and may further employ, engage, or retain the services of such other persons or corporations to aid or assist in the proper performance of its duties. All costs of the services of, or expenses incurred by, such agents or assistants shall be paid by the CONTRACTOR.

4. MATERIALS

4.1 The CONTRACTOR shall provide all goods as more specifically set forth in the Scope of Work or as reasonably necessary to provide the goods and services required herein unless otherwise specified in writing by the CITY.

5. FEE AND ORDERING MECHANISM

5.1 For the provision of all goods and services as detailed in the Scope of Work for the Initial Substation, the CONTRACTOR shall be paid an amount not to exceed **One Hundred Thirty Thousand Dollars (\$130,000)**.

5.2 Should the CITY require additional goods and services for the Initial Substation (or future substations that may be ordered by the CITY), which additional goods and services are not included in the Scope of Work, the CITY and CONTRACTOR will prepare and execute a written amendment to this Agreement setting forth the additional goods and services and the total cost for the same prior to any such additional goods and services being provided by the CONTRACTOR.

5.3 The CITY's ordering mechanism for the Initial Substation Unit will be by a City issued Purchase Order. If the CITY decides to order any additional substations, such additional substations will be by a fully executed written amendment to this Agreement by the parties or by a CITY issued Purchase Order. For all CITY issued Purchase Order(s), the terms and conditions stated in this Agreement and any amendment thereto will apply. The CONTRACTOR shall not exceed the amount expressed herein or in any CITY issued Purchase Order or amendment hereto. The CITY's Fiscal Year ends on September 30th of each calendar year. Except for purchases authorized in a prior fiscal year and fully appropriated and funded, the CITY cannot authorize the purchase of additional goods or services beyond September 30th of each calendar year, prior to the annual budget being approved by the CITY's City Commission.

6. MAXIMUM COSTS

6.1 The CONTRACTOR expressly acknowledges and agrees that the total cost to complete the work for the Initial Substation is as set forth above for the Initial Substation. However, it is anticipated that the CITY may spend up to no more than \$500,000.00 annually under this Agreement for additional substations. The CITY does not guarantee that the CITY will purchase any other substations from the CONTRACTOR except the Initial Substation.

7. INVOICE

7.1 The CONTRACTOR shall submit an itemized invoice to the CITY for the Initial Substation upon delivery, complete installation, and final acceptance of the Initial Substation by the CITY. Final acceptance occurs when all services under the Scope of Work (including punch-list items) have been completed by the CONTRACTOR and the completed goods and other deliverables for the Initial Substation (or any additionally purchased substations) have been delivered to the CITY and accepted by the CITY. The CITY's acceptance shall not be unreasonably withheld, conditioned, or delayed.

7.2 The CONTRACTOR shall be paid by the CITY within thirty (30) days of receipt of an approved invoice for all goods and services under the Scope of Work for the Initial Substation. Any changes to this invoicing process for additional substation(s) shall be addressed for each additional substation in the amendment to this Agreement or the CITY's issued Purchase Order.

7.3 If the CITY disputes any invoice or part of an invoice, CITY shall notify the CONTRACTOR within a reasonable time after receipt of the invoice. CITY reserves the right to off-set, reduce or withhold any payment to the CONTRACTOR until the dispute is resolved.

8. AUDIT BY CITY

8.1 The CONTRACTOR shall permit the CITY, or any authorized representatives of the CITY, at all reasonable times, access to and the right to examine all records, books, papers or documents related to the CONTRACTOR's performance of any time and material Work under this Agreement including, but not limited to, expenses for sub-contractors, agents or assistants, direct

and indirect charges for work performed and detailed documentation for all such work performed or to be performed under this Agreement.

9. COPIES OF DATA/DOCUMENTS

9.1 Copies or original documents prepared by the CONTRACTOR in relation to the Scope of Work associated with this Agreement shall be provided to the CITY. Data collected, stored, and/or provided shall be in a form acceptable to the CITY and agreed upon by the CITY.

10. OWNERSHIP

10.1 Each and every report, draft, work product, map, record, and other document reproduced, prepared, or caused to be prepared by the CONTRACTOR specifically for the CITY pursuant to or in connection with this Agreement shall be the exclusive property of the CITY. CONTRACTOR shall retain all intellectual property developed by CONTRACTOR prior to or independently of the Scope of Work, even if incorporated into the Scope of Work, as well as all know-how acquired in the course of performing the Scope of Work. To the extent that any such CONTRACTOR intellectual property is incorporated into the Scope of Work and necessary for the CITY to fully utilize the Scope of Work, CONTRACTOR grants the CITY a non-exclusive, full-paid, royalty-free, non-transferable, non-assignable license to use such intellectual property for the limited purposes of installing, operating, maintaining, repairing or replacing the Scope of Work.

11. WRITTEN AUTHORIZATION REQUIRED

11.1 The CONTRACTOR shall not make changes in the Scope of Work or work or perform any additional work or provide any additional goods and services this Agreement without first obtaining written authorization from the CITY for such additional materials, work, or goods and services. Additional materials, work or goods and services provided without written authorization shall be done at the CONTRACTOR's sole risk and without payment from the CITY.

12. DEFAULTS, TERMINATION OF AGREEMENT

12.1 If the CONTRACTOR fails to timely provide the goods and services under the Scope of Work or has failed in any other respect to satisfactorily perform in accordance with this Agreement, or, is in material breach of a term or condition of this Agreement, the City Manager or designee may give written notice to the CONTRACTOR specifying the default(s) to be remedied. Such notice shall set forth a reasonable timeframe for correcting the default(s) and any suggested corrective measures. If the CONTRACTOR does not remedy the default(s) within the timeframe provided in the CITY's notice or commence good faith steps to remedy the default to the reasonable satisfaction of the CITY, the CITY may take such action to remedy the default and all expenses related thereto shall be borne by the CONTRACTOR including, without limitation, utilization of another contractor to provide for such work and all of the CITY's legal fees; and/or, the CITY may withhold any money due or which may become due to the CONTRACTOR for such expense and/or work related to the claimed default. Alternatively, or in addition to the foregoing, if after five (5) business days the CONTRACTOR has not remedied defaults or commenced good faith steps to remedy defaults to the satisfaction of the CITY, the CITY may elect to terminate this Agreement. No cancellation fee or other compensation shall be paid by the CITY for demobilization, take-down, disengagement, wind-down, lost profits, or other costs incurred due to termination of this Agreement under this paragraph.

12.2 Notwithstanding paragraph 12.1, the CITY reserves the right and may elect to terminate this Agreement at any time, with or without cause. At such time, the CONTRACTOR would be compensated only for that work which has been satisfactorily performed to the date of termination as well as reasonable and documented demobilization costs and actual and documented costs to cancel supply agreements and subcontracts. No compensation shall be paid for lost profits, or other costs incurred due to termination of this Agreement under this paragraph.

12.3 If the CITY fails to timely perform in accordance with this Agreement; or, is in material breach of a term or condition of this Agreement, the CONTRACTOR may give written notice to the CITY specifying the default(s) to be remedied. Such notice shall set forth a reasonable timeframe for correcting the default(s) and any suggested corrective measures. If the CITY does not remedy the default(s) within the timeframe provided in the CONTRACTOR's notice or commence good faith steps to remedy the default to the reasonable satisfaction of the CONTRACTOR, the CONTRACTOR may take such action to remedy the default and all expenses related thereto shall be borne by the CITY; and/or, the CONTRACTOR may withhold any work. Alternatively, or in addition to the foregoing, if after three (3) business days the CITY has not remedied defaults or commenced good faith steps to remedy defaults to the satisfaction of the CONTRACTOR, the CONTRACTOR may elect to terminate this Agreement.

13. INSURANCE

13.1. Prior to commencing any work, the CONTRACTOR shall provide certificates evidencing insurance coverage as required hereunder. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida. The Certificates shall clearly indicate that the CONTRACTOR has obtained insurance of the type, amount, and classification as required for strict compliance with this Section and that no cancellation of the insurance by the insurer shall be effective without thirty (30) days' prior written notice to the CITY. Failure to comply with the foregoing requirements shall not relieve the CONTRACTOR of its liability and obligations under this Agreement. All insurance, other than Workers' Compensation, required hereunder shall specifically include the "City of Lake Worth Beach" as an "Additional Insured" on a primary, non-contributing basis, and the CONTRACTOR shall provide additional insured endorsements section of Certificates of Insurance.

13.2. The CONTRACTOR shall maintain, during the life of this Agreement, commercial general liability, including contractual liability insurance in the amount of \$1,000,000 per occurrence (\$2,000,000 aggregate) to protect the CONTRACTOR from claims for damages for bodily and personal injury, including wrongful death, as well as from claims of property damages which may arise from any operations under this Agreement, whether such operations be by the CONTRACTOR or by anyone directly employed by or contracting with the CONTRACTOR, subject to policy terms, limitations and exclusions.

13.3. The CONTRACTOR shall maintain, during the life of this Agreement, comprehensive automobile liability insurance in the minimum amount of \$1,000,000 combined single limit for bodily injury and property damages liability to protect the CONTRACTOR from claims for damages for bodily and personal injury, including death, as well as from claims for property damage, which may arise from the ownership, use, or maintenance of owned and non-owned automobiles, including rented automobiles whether such operations be by the CONTRACTOR or by anyone directly or indirectly employed by the CONTRACTOR.

13.4. The CONTRACTOR shall maintain, during the life of this Contract, Workers' Compensation Insurance and Employer's Liability Insurance for all employees as required by Florida Statutes.

14. WAIVER OF BREACH

14.1 The waiver by either party of any breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach of that same or any other provision.

15. INDEMNITY

15.1 The CONTRACTOR shall indemnify, defend and hold harmless, to the maximum extent permitted by law, the CITY and its officers, agents, employees and representatives, from and against any and all liability, suit, actions, proceedings, judgments, claims, losses, liens, damages, injuries (whether in contractor or in tort, including for personal injury, accidental death, or property damage), including all reasonable costs, expenses and attorney's fees for litigation, arbitration, mediation and appeals, to the extent arising out of or related to the negligent or willful acts, omissions or neglect of the CONTRACTOR or any of its agents, employees, subcontractors or by anyone the CONTRACTOR directly or indirectly employed, as well as any and all liability, suit, actions, proceedings, judgments, claims, losses, liens, reasonably attorney's fees, and damages for patent infringement.

15.2 The CONTRACTOR's obligation to indemnify, defend and hold harmless 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 of this Agreement.

15.3 Compliance with any insurance requirements required elsewhere in this Agreement shall not relieve CONTRACTOR of its liability and obligation to defend, hold harmless and indemnify the CITY as set forth in this section.

15.4 Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the CITY or CONTRACTOR. Further, nothing contained in this Agreement shall be construed or interpreted as consent by the CITY to be sued, nor as a waiver of the CITY's right to sovereign immunity beyond the waiver provided in section 768.28, Florida Statutes, as amended from time to time.

15.5 The CONTRACTOR's failure to comply with this section's provisions shall constitute a material breach upon which the CITY may immediately terminate or suspend this Agreement.

16. ENTIRE AGREEMENT AND ORDER OF PRECEDENCE

16.1 This Agreement consists of the terms and conditions provided herein; the RFP (including all specifications, exhibits and addenda attached thereto or referenced therein); and, the CONTRACTOR's quote. To the extent that there exists a conflict between this Agreement and the remaining documents, the terms, conditions, covenants, and/or provisions of this Agreement shall prevail with the RFP (including all specifications, exhibits and addenda attached thereto) next taking precedence. Wherever possible, the provisions of such documents shall be construed in such a manner as to avoid conflicts between provisions of the various documents.

16.2 This Agreement supersedes any and all other Agreements, either oral or in writing, between the parties hereto with respect to the subject matter hereof, and no other Agreement, statement, or promise relating to the subject matter of this Agreement which is not contained herein shall be valid or binding. This Agreement may be executed electronically.

17. ASSIGNMENT

17.1 Nothing under this Agreement shall be construed to give any rights or benefits to any party other than the CITY and the CONTRACTOR. All duties and responsibilities under this Agreement shall be for the sole and exclusive benefit of the CITY and the CONTRACTOR and not for the benefit or any other party. The CONTRACTOR shall not assign any right or interest in this Agreement, and shall not delegate any duty owned, without the CITY's prior written consent. Any attempted assignment or delegation shall be void and totally ineffective for all purposes, and shall constitute a material breach upon which the CITY may immediately terminate or suspend this Agreement.

17.2 In the event the CITY consents to an assignment or delegation, the assignee, delegate, or its legal representative shall agree in writing to personally assume, perform, and be bound by this Agreement's covenants, conditions, obligations and provisions.

18. SUCCESSORS AND ASSIGNS

18.1 Subject to the provision regarding assignment, this Agreement shall be binding on the heirs, executors, administrators, successors, and assigns of the respective parties.

19. WAIVER OF TRIAL BY JURY

19.1 TO ENCOURAGE PROMPT AND EQUITABLE RESOLUTION OF ANY LITIGATION, EACH PARTY HEREBY WAIVES ITS RIGHTS TO A TRIAL BY JURY IN ANY LITIGATION RELATED TO THIS AGREEMENT.

20. GOVERNING LAW AND REMEDIES

20.1 The validity of this Agreement and of any of its terms or provisions, as well as the rights and duties of the parties hereunder, shall be governed by the laws of the State of Florida and venue shall be in Palm Beach County, Florida.

20.2 No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

21. TIME IS OF THE ESSENCE

21.1 Time is of the essence in the completion of the goods and services as specified herein.

22. NOTICES

22.1 All notices hereunder must be in writing and, unless otherwise provided herein, shall be deemed validly given on the date when personally delivered to the address indicated below; or on the third (3rd) business day following deposit, postage prepaid, using certified mail, return receipt requested, in any U.S. postal mailbox or at any U.S. Post Office; or when sent via nationally recognized overnight courier to the address indicated below. Should the CITY or the CONTRACTOR have a change of address, the other party shall immediately be notified in writing

of such change, provided, however, that each address for notice must include a street address and not merely a post office box. All notices, demands or requests from the CONTRACTOR to the CITY shall be given to the CITY address as follows:

Michael Bornstein, City Manager
City of Lake Worth Beach
7 North Dixie Highway
Lake Worth Beach, Florida 33460

All notices, demands or requests from the CITY to the CONTRACTOR shall be given to the CONTRACTOR address as follows:

Dis-Tran Steel, LLC
4725 HWY 28 E
Pineville, LA 71360

23. SEVERABILITY

23.1 Should any part, term or provision of this Agreement or any document required herein to be executed be declared invalid, void or unenforceable, all remaining parts, terms and provisions hereof shall remain in full force and effect and shall in no way be invalidated, impaired or affected thereby.

24. DELAYS AND FORCES OF NATURE

24.1 The CONTRACTOR shall not be considered in default by reason of a delay in timely performance if such delay and failure arises out of causes reasonably beyond the control of the CONTRACTOR or its subcontractors and without their fault or negligence. Upon the CONTRACTOR'S request, the CITY shall consider the facts and extent of any such delay and failure to timely perform the work for reason beyond the control of the CONTRACTOR and, if the CONTRACTOR'S delay and failure to timely perform was without it or its subcontractors' fault or negligence, as determined by the CITY in its discretion, the time of completion and/or the reasonable fee for the Scope of Work shall be equitably adjusted; subject to the CITY'S rights to change, terminate, or stop any or all of the work at any time. If the CONTRACTOR is delayed at any time in the progress of the work by any act or neglect of the CITY or its employees, or by any other contractor employed by the CITY, or by changes ordered by the CITY or in an unusual delay in transportation, unavoidable casualties, or any causes beyond the CONTRACTOR'S control, or by delay authorized by the CITY pending negotiation or by any cause which the CITY, in its discretion, shall decide justifies the delay, then the time of completion shall be extended for any reasonable time the CITY, in its discretion, may decide. No extension of time or equitable adjustment shall be made for any delay occurring more than ten (10) days before a claim therefore is made in writing to the CITY unless the impacts of the delay were not known to CONTRACTOR, in which case CONTRACTOR shall make such claim within 10 days of when it knew or should have reasonably known of the impacts of the delay. In the case of continuing cause of delay, only one (1) claim is necessary. The CONTRACTOR specifically waives any right to seek any indirect monetary damages or losses for a delay in completion of the work, including, but not limited to, waiving any right to seek monetary amounts for lost profits, additional overhead, salaries, lost productivity, efficiency losses, or any other alleged indirect monetary losses which may be allegedly suffered by CONTRACTOR due to a delay in completion of the work.

25. COUNTERPARTS

25.1 This Agreement may be executed in counterparts, each of which shall be an original, but all of which shall constitute one and the same document. The parties may sign this Agreement electronically and fax or e-mail the electronically signed version to the other party. The electronically signed versions of this Agreement shall be treated as originals.

26. LIMITATIONS OF LIABILITY

26.1 Under no circumstances shall either party be liable to the other for any consequential, incidental, special, punitive, or any other form of indirect or non-compensatory damages. There shall be no other limitation of liability under this Agreement.

27. PUBLIC ENTITY CRIMES

27.1 CONTRACTOR acknowledges and agrees that a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier or sub-contractor under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list. CONTRACTOR will advise the CITY immediately if it becomes aware of any violation of this statute.

28. PREPARATION

28.1 This Agreement shall not be construed more strongly against either party regardless of who was more responsible for its preparation.

29. PALM BEACH COUNTY INSPECTOR GENERAL

29.1 In accordance with Palm Beach County ordinance number 2011-009, the CONTRACTOR acknowledges that this Agreement 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.

30. ENFORCEMENT COSTS

30.1 All parties shall be responsible for their own attorneys' fees, court costs and expenses if any legal action or other proceeding is brought for any dispute, disagreement, or issue of construction or interpretation arising hereunder whether relating to the Agreement's execution, validity, the obligations provided therein, or performance of this Agreement, or because of an alleged breach, default or misrepresentation in connection with any provisions of this Agreement.

31. PUBLIC RECORDS

CONTRACTOR shall comply with Florida's Public Records Laws, Chapter 119, Florida Statutes, and, if it is acting on behalf of the CITY as provided under section 119.011(2), the CONTRACTOR specifically agrees to:

- (a) Keep and maintain public records required by the CITY to perform the services under this Agreement.
- (b) Upon request from the CITY's custodian of public records, 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 this Chapter 119, Florida Statutes, or as otherwise provided by law.
- (c) Ensure that said public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement, if the CONTRACTOR does not transfer the records to the CITY.
- (d) Upon the completion of the Agreement, 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 services. If the CONTRACTOR transfers all public records to the CITY upon completion of the 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 the Agreement, 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, 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 AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (561) 586-1660, DANDREA@LAKEWORTHBEACHFL.GOV, OR 7 NORTH DIXIE HIGHWAY, LAKE WORTH BEACH, FLORIDA 33460.

32. COPYRIGHTS AND/OR PATENT RIGHTS

32.1 CONTRACTOR warrants that there has been no violation of copyrights and/or patent rights in the manufacturing, producing or selling of the goods, shipped or ordered, as a result of this Agreement and the CONTRACTOR agrees to indemnify and hold the City harmless from any and all liability, loss, or expense occasioned by any such violation.

33. COMPLIANCE WITH OCCUPATIONAL SAFETY AND HEALTH

33.1 CONTRACTOR certifies that all goods provided under this Agreement shall meet all OSHA requirements. CONTRACTOR further certifies that, if the goods are subsequently found to be deficient in any OSHA requirements in effect on date of delivery, all costs necessary to bring the goods into compliance with the aforementioned requirements shall be borne by the CONTRACTOR.

34. FEDERAL AND STATE TAX

34.1 The CITY is exempt from Federal Tax and State Tax for Tangible Personal Property. The Procurement Official will provide the CONTRACTOR with a signed exemption certificate. Upon prompt written notice to the CITY of any claim or other applicable notice arising from or related to this Agreement, the CITY shall defend, indemnify and hold harmless CONTRACTOR from any Federal Tax and State Tax for Tangible Personal Property as well as associated interest and penalties assessed against CONTRACTOR as a result of its reliance on the CITY's signed exemption certificate. CONTRACTOR shall not be exempted from paying sales tax to their suppliers for materials to fulfill contractual obligations with the CITY, nor shall CONTRACTOR be authorized to use the CITY's Tax Exemption Number in securing such materials.

35. PROTECTION OF PROPERTY

35.1 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 caused by CONTRACTOR or any of its agents, employees, subcontractors or by anyone the CONTRACTOR directly or indirectly employed. 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.

36. WARRANTY

36.1 CONTRACTOR warrants and guarantees to the CITY that the provision of all goods and services under this Agreement shall be in accordance with the Agreement and the other documents specifically included in this Agreement. CONTRACTOR warrants and guarantees that all goods, materials and parts supplied under this Agreement shall be free from defects for a minimum of 24 months from the CITY's acceptance of the goods and performance of the services to be provided under this Agreement. The CITY's acceptance shall not be unreasonably withheld, conditioned, or delayed. CONTRACTOR shall provide to the CITY any and all third party manufacturers' warranties for the goods and services being provided under this Agreement. CONTRACTOR agrees to pay for all transportation and handling costs of returning any goods, if required, for repair or replacement pursuant to the foregoing warranty. This warranty shall be extended for that period of time that any goods are removed for repair by the CONTRACTOR and replacement goods are not provided to the CITY during the duration of the CONTRACTOR's repairs.

37. SCRUTINIZED COMPANIES

37.1 CONTRACTOR certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List and are not engaged in the boycott of Israel. Pursuant to section 287.135, Florida Statutes, the CITY may immediately terminate this Agreement at its sole option if the CONTRACTOR or any of its subcontractors are found to have submitted a false certification; or if the CONTRACTOR or any of its subcontractors, are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of this Agreement.

37.2 If this Agreement is for one million dollars or more, the CONTRACTOR certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan List, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged in

business operations in Cuba or Syria as identified in Section 287.135, Florida Statutes. Pursuant to Section 287.135, the CITY may immediately terminate this Agreement at its sole option if the CONTRACTOR, or any of its subcontractors are found to have submitted a false certification; or if the CONTRACTOR or any of its subcontractors are placed on the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or are or have been engaged with business operations in Cuba or Syria during the term of this Agreement.

37.3 The CONTRACTOR agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Agreement.

37.4 The CONTRACTOR agrees that the certifications in this section shall be effective and relied upon by the City for the term of this Agreement, including any and all renewals.

37.5 The CONTRACTOR agrees that if it or any of its subcontractors' status changes in regards to any certification herein, the CONTRACTOR shall immediately notify the CITY of the same.

37.6 As provided in subsection 287.135(8), Florida Statutes, if federal law ceases to authorize the above-stated contracting prohibitions then they shall become inoperative.

38. SURVIVABILITY

38.1 Any provision of this Agreement which is of a continuing nature or imposes an obligation which extends beyond the term of this Agreement shall survive its expiration or earlier termination.

39. E-VERIFY

39.1 Pursuant to Section 448.095(2), Florida Statutes, beginning on January 1, 2021, the CONTRACTOR shall:

1. Register with and use the E-Verify system to verify the work authorization status of all newly hired employees and require all subcontractors (providing services or receiving funding under this Agreement) to register with and use the E-Verify system to verify the work authorization status of all the subcontractors' newly hired employees;
2. Secure an affidavit from all subcontractors (providing services or receiving funding under this Agreement) stating that the subcontractor does not employ, contract with, or subcontract with an "unauthorized alien" as defined in Section 448.095(1)(k), Florida Statutes;
3. Maintain copies of all subcontractor affidavits for the duration of this Agreement and provide the same to the CITY upon request;
4. Comply fully, and ensure all of its subcontractors comply fully, with Section 448.095, Florida Statutes;
5. Be aware that a violation of Section 448.09, Florida Statutes (Unauthorized aliens; employment prohibited) shall be grounds for termination of this Agreement; and,
6. Be aware that if the CITY terminates this Agreement under Section 448.095(2)(c), Florida Statutes, the CONTRACTOR may not be awarded a contract for at least one (1) year after the date on which the Agreement is terminated and will be liable for any additional costs incurred by the CITY as a result of the termination of the Agreement.

REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK
SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF the parties hereto have made and executed this Agreement for Goods and Services (**Steel Products for Electrical Substations**) on the day and year first above written.

CITY OF LAKE WORTH BEACH, FLORIDA

By: _____
Pam Triolo, Mayor

ATTEST:

By: _____
Deborah M. Andrea, City Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

APPROVED FOR FINANCIAL
SUFFICIENCY

By: _____
Glen J. Torcivia, City Attorney

By: _____
Bruce T. Miller, Financial Services Director

CONTRACTOR: **Dis-Tran Steel, LLC**

By: _____
[Signature]

[Corporate Seal]

Print Name: JARROD GEMAR

Title: VP OF BUSINESS OPERATIONS

STATE OF Louisiana)
COUNTY OF Rapides Parish)

The foregoing instrument was acknowledged before me this 30th day of November, 2020, by, who was physically present, as VP of Business Ops (title), of Dis-Tran Steel, LLC, A corporation registered to do business in the State of Florida, and who is personally known to me or who has produced the following driver license as identification.

Notary Public

Kimberly K. Long
Print Name: Kimberly K. Long
My commission expires: At My Death

KIMBERLY K. LONG
NOTARY ID# 149469
RAPIDES PARISH
My Commission Expires at Death