



City of Pembroke Pines

**SECOND AMENDMENT TO AGREEMENT
BETWEEN THE CITY OF PEMBROKE PINES AND
FERGUSON ENTERPRISES, LLC.**

THIS AMENDMENT (“Second Amendment”), dated _____, is entered into by and between:

THE CITY OF PEMBROKE PINES, a municipal corporation organized and operating under the laws of the State of Florida, with an address of **601 City Center Way, Pembroke Pines, FL 33025**, hereinafter referred to as "CITY",

and

FERGUSON ENTERPRISES, LLC., a Limited Liability Company (LLC) as listed with the Florida Division of Corporations, with a business address of **751 Lakefront Commons, Newport News, VA 23606**, hereinafter referred to as "CONTRACTOR". "CITY" and "CONTRACTOR" may hereinafter be referred to collectively as the "Parties" and individually as a "Party".

WHEREAS, on **April 7, 2021**, the CITY entered into an Agreement with Sunstate Meter and Supply, Inc. ("Original Agreement") for the provision of Neptune water meters, accessories and related system software and system maintenance services for the CITY's Utilities Department for an initial **three (3) year** period, which expired on **April 6, 2024**; and,

WHEREAS, the Original Agreement authorized the renewal thereof at the expiration of the initial term for **two (2) additional one (1) year** terms pursuant to written amendments to the Original Agreement extending the term thereof; and,

WHEREAS, on **January 12, 2022**, the CITY entered into an Assignment, Assumption, and Consent Agreement, in which Sunstate Meter and Supply, Inc., assigned and transferred all obligations, duties and liabilities to CONTRACTOR; and,

WHEREAS, on **March 18, 2024**, the Parties executed the First Amendment to the Original Agreement to increase the total annual amount to one million, three hundred fourteen thousand, seven hundred nine dollars and 40/100 cents (\$1,314,709.40) and to renew the term for an additional **one (1) year** period, which expires on **April 6, 2025**; and,

WHEREAS, the Parties desire to decrease the total annual amount to seven hundred thousand dollars and 00/100 cents (\$700,000.00), and to renew the term for an additional **one (1) year** period, which shall commence on **April 7, 2025**, and expire on **April 6, 2026**, as set forth in this Second Amendment.



City of Pembroke Pines

WITNESSETH

NOW, THEREFORE, for and in consideration of the sum of the mutual covenants and other good and valuable consideration, the receipt of which are hereby acknowledged, the Parties hereto agree as set forth below:

SECTION 1. The recitations set forth in the above "WHEREAS" clauses are true and correct and incorporated herein by this reference.

SECTION 2. The Original Agreement, as amended, is hereby renewed for a **one (1) year** renewal period, commencing on **April 7, 2025**, and naturally expiring on **April 6, 2026**.

SECTION 3. Section 4.2 of the Original Agreement, as amended, is hereby revised and amended as set forth below:

4.2 The total annual amount paid to CONTRACTOR for the commodities and services herein required for the period commencing on **April 7, 2025**, and expiring on **April 6, 2026**, shall not exceed **SEVEN HUNDRED THOUSAND DOLLARS AND 00/100 CENTS (\$700,000.00)**, in accordance with the unit pricing listed in **Exhibit "A-2"** attached hereto and by this reference made a part hereof.

SECTION 4. Scrutinized Companies. CONTRACTOR, its principals or owners, certify that they are not listed on the Scrutinized Companies that Boycott Israel List, Scrutinized Companies with Activities in Sudan List, Scrutinized Companies with Activities in Iran Terrorism Sectors List, or is engaged in business operations with Syria. In accordance with Section 287.135, Florida Statutes, as amended, a company is ineligible to, and may not, bid on, submit a proposal for, or enter into or renew a contract with any agency or local governmental entity for goods or services of:

4.1 Any amount if, at the time bidding on, submitting a proposal for, or entering into or renewing such contract, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, Florida Statutes, or is engaged in a boycott of Israel; or

4.2 One million dollars or more if, at the time of bidding on, submitting a proposal for, or entering into or renewing such contract, the company:

4.2.1 Is on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in Iran Terrorism Sectors List, created pursuant to Section 215.473, Florida Statutes; or

4.2.2 Is engaged in business operations in Syria.

SECTION 5. Employment Eligibility. CONTRACTOR certifies that it is aware of and complies with the requirements of Section 448.095, Florida Statutes, as may be amended from time to time and briefly described herein below.



5.1 **Definitions for this Section.**

5.1.1 “Contractor” means a person or entity that has entered or is attempting to enter into a contract with a public employer to provide labor, supplies, or services to such employer in exchange for salary, wages, or other remuneration. “Contractor” includes, but is not limited to, a vendor or consultant.

5.1.2 “Contractor” includes, but is not limited to, a vendor or consultant.

5.1.3 “Subcontractor” means a person or entity that provides labor, supplies, or services to or for a contractor or another subcontractor in exchange for salary, wages, or other remuneration.

5.1.4 “E-Verify system” means an Internet-based system operated by the United States Department of Homeland Security that allows participating employers to electronically verify the employment eligibility of newly hired employees.

5.2 **Registration Requirement; Termination.** Pursuant to Section 448.095, Florida Statutes, effective January 1, 2021, Contractors, shall register with and use the E-verify system in order to verify the work authorization status of all newly hired employees. Contractor shall register for and utilize the U.S. Department of Homeland Security’s E-Verify System to verify the employment eligibility of:

5.2.1 All persons employed by a Contractor to perform employment duties within Florida during the term of the contract; and

5.2.2 All persons (including subvendors/subconsultants/subcontractors) assigned by Contractor to perform work pursuant to the contract with the City of Pembroke Pines. The Contractor acknowledges and agrees that registration and use of the U.S. Department of Homeland Security’s E-Verify System during the term of the contract is a condition of the contract with the City of Pembroke Pines; and

5.2.3 The Contractor shall comply with the provisions of Section 448.095, Fla. Stat., "Employment Eligibility," as amended from time to time. This includes, but is not limited to registration and utilization of the E-Verify System to verify the work authorization status of all newly hired employees. Contractor shall also require all subcontractors to provide an affidavit attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. The Contractor shall maintain a copy of such affidavit for the duration of the contract. Failure to comply will lead to termination of this Contract, or if a subcontractor knowingly violates the statute, the subcontract must be terminated immediately. Any challenge to termination under this provision must be filed in the Circuit Court no later than twenty (20) calendar days after the date of termination. Termination of this Contract under this Section is not a breach of contract and may not be considered as such. If this contract is terminated for a violation of the statute by the Contractor, the Contractor may not be awarded a public contract for a period of one (1) year after the date of termination.



SECTION 6. Public Entity Crimes. Pursuant to Section 287.133(2)(a), Fla. Stat., a person or affiliate, as defined in Section 287.1 33(1), Fla. Stat., 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, subcontractor or consultant under a contract with any public entity; and may not transact business with any public entity in excess of thirty-five thousand dollars (\$35,000.00) for a period of thirty-six (36) months following the date of being placed on the convicted vendor list. By executing this Second Amendment, the CONTRACTOR represents and warrants that neither it nor any of its affiliates is currently on the convicted vendor list.

SECTION 7. Discriminatory Vendor List. Pursuant to Section 287.134(2)(a), Fla. Stat., an entity or affiliate, as defined in Section 287.134(1), who has been placed on the discriminatory vendor list 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, subcontractor or consultant under a contract with any public entity; and may not transact business with any public entity. By executing this Second Amendment, the CONTRACTOR represents and warrants that neither it nor any of its affiliates is currently on the discriminatory vendor list.

SECTION 8. Anti Human Trafficking. Pursuant to Section 787.06(13), Fla. Stat., nongovernmental agencies contracting with CITY are required to provide an affidavit attesting that the nongovernmental agency does not use coercion for labor or services as defined within Section 787.06, Fla. Stat. By executing this Second Amendment and submitting the executed required affidavit, the CONTRACTOR represents and warrants that it does not use coercion for labor or services as provided by state law.

SECTION 9. Antitrust Violations. Pursuant to Section 287.137, Florida Statutes, as may be amended, a person or an affiliate who has been placed on the antitrust violator vendor list (electronically published and updated quarterly by the State of Florida) following a conviction or being held civilly liable for an antitrust violation may not submit a bid, proposal, or reply for any new contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply for a new contract with a public entity for the construction or repair of a public building or public work; may not submit a bid, proposal, or reply on new leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a new contract with a public entity; and may not transact new business with a public entity. By entering into this Second Amendment, CONTRACTOR certifies neither it nor its affiliate(s) are on the antitrust violator vendor list at the time of entering this Second Amendment. False certification under this paragraph or being subsequently added to that list will result in termination of the Original Agreement, as amended, at the option of the CITY consistent with Section 287.137, Florida Statutes, as amended.



City of Pembroke Pines

SECTION 10. Compliance with Foreign Entity Laws. CONTRACTOR (“Entity”) hereby attests under penalty of perjury the following:

- a. Entity is not owned by the government of a foreign country of concern as defined in Section 287.138, Florida Statutes. (Source: § 287.138(2)(a), Florida Statutes);
- b. The government of a foreign country of concern does not have a controlling interest in Entity. (Source: § 287.138(2)(b), Florida Statutes);
- c. Entity is not owned or controlled by the government of a foreign country of concern, as defined in Section 692.201, Florida Statutes. (Source: § 288.007(2), Florida Statutes);
- d. Entity is not a partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country of concern, as defined in Section 692.201, Florida Statutes, or a subsidiary of such entity. (Source: § 288.007(2), Florida Statutes);
- e. Entity is not a foreign principal, as defined in Section 692.201, Florida Statutes. (Source: § 692.202(5)(a)(1), Florida Statutes); and,
- f. Entity is in compliance with all applicable requirements of Sections 692.202, 692.203, and 692.204, Florida Statutes.

SECTION 11. In the event of any conflict or ambiguity by and between the terms and provisions of this Second Amendment and the Original Agreement, as amended, the terms and provisions of this Second Amendment shall control to the extent of any such conflict or ambiguity.

SECTION 12. The Parties agree that in all other respects the Original Agreement, as amended, shall remain in full force and effect, except as specifically modified herein.

SECTION 13. Each exhibit referred to in the Original Agreement, as amended, except as repealed herein, forms an essential part of this Second Amendment. The exhibits, if not physically attached, should be treated as part of this Second Amendment and are incorporated herein by reference.

SECTION 14. Each person signing this Second Amendment on behalf of either Party individually warrants that he or she has full legal power to execute this Second Amendment on behalf of the Party for whom he or she is signing, and to bind and obligate such Party with respect to all provisions contained in this Second Amendment.

SECTION 15. This Second Amendment may be executed by hand or electronically in multiple originals or counterparts, each of which shall be deemed to be an original and together shall constitute one and the same agreement. Execution and delivery of this Second Amendment by the Parties shall be legally binding, valid and effective upon delivery of the executed documents to the other Party through facsimile transmission, email, or other electronic delivery.

SIGNATURE PAGE AND AFFIDAVIT FOLLOW



City of Pembroke Pines

IN WITNESS OF THE FOREGOING, the Parties have set their hands and seals the day and year first written above.

CITY:

CITY OF PEMBROKE PINES, FLORIDA

APPROVED AS TO FORM:



Print Name: Jacob Hernandez
OFFICE OF THE CITY ATTORNEY

BY: _____

MAYOR ANGELO CASTILLO

ATTEST:

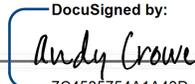
DEBRA E. ROGERS, CITY CLERK

BY: _____

CHARLES F. DODGE, CITY MANAGER

CONTRACTOR:

FERGUSON ENTERPRISES, LLC.

Signed By:  _____

Printed Name: Andy Crowe

Title: Sr. General Manager



City of Pembroke Pines

AFFIDAVIT OF COMPLIANCE WITH HUMAN TRAFFICKING LAWS

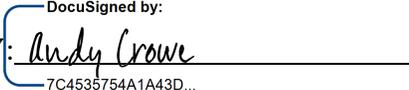
In accordance with section 787.06 (13), Florida Statutes, the undersigned, on behalf of the entity listed below (“Entity”), hereby attests under penalty of perjury that:

1. The Affiant is an officer or representative of the Entity entering into an agreement with the City of Pembroke Pines.
2. The Entity does not use coercion for labor or services as defined in Section 787.06, Florida Statutes, entitled “Human Trafficking”.
3. The Affiant is authorized to execute this Affidavit on behalf of the Entity.
4. I understand that I am swearing or affirming under oath to the truthfulness of the claims made in this affidavit and that the punishment for knowingly making a false statement includes fines and/or imprisonment.
5. Pursuant to Sec. 92.525(2), Fla. Stat., under penalties of perjury, I declare that I have read the foregoing affidavit of compliance with Human Trafficking Laws and that the facts stated in it are true.

FURTHER AFFIANT SAYETH NAUGHT.

DATE: January 30, 2025

ENTITY: FERGUSON ENTERPRISES, LLC.

SIGNED BY: 

NAME: Andy Crowe

TITLE: Sr. General Manager



City of Pembroke Pines

**FIRST AMENDMENT TO AGREEMENT
BETWEEN THE CITY OF PEMBROKE PINES AND
FERGUSON ENTERPRISES, LLC.**

THIS AMENDMENT (“First Amendment”), dated March 18, 2024, is entered into by and between:

THE CITY OF PEMBROKE PINES, a municipal corporation organized and operating under the laws of the State of Florida, with an address of **601 City Center Way, Pembroke Pines, FL 33025**, hereinafter referred to as "CITY",

and

FERGUSON ENTERPRISES, LLC., a Limited Liability Company as listed with the Virginia Division of Corporations, authorized to do business in the State of Florida, and with a business address of **751 Lakefront Commons, Newport News, VA 23606**, hereinafter referred to as "CONTRACTOR". "CITY" and "CONTRACTOR" may hereinafter be referred to collectively as the "Parties" and individually as a "Party".

WHEREAS, on **April 7, 2021**, the CITY entered into an Agreement with Sunstate Meter and Supply, Inc. ("Original Agreement") for the provision of Neptune water meters, accessories and related system software and system maintenance services for the CITY's Utilities Department for an initial **three (3) year** period, which expires on **April 6, 2024**; and,

WHEREAS, the Original Agreement authorized the renewal thereof at the expiration of the initial term for **two (2) additional one (1) year** terms pursuant to written amendments to the Original Agreement extending the term thereof; and,

WHEREAS, on **January 12, 2022**, the CITY entered into an Assignment, Assumption, and Consent Agreement, in which Sunstate Meter and Supply, Inc., assigned and transferred all obligations, duties and liabilities to CONTRACTOR; and,

WHEREAS, the Parties desire to increase the current annual amount by one hundred thirty-five thousand, one hundred ninety-one dollars and 15/100 cents (\$135,191.15) for a total annual amount of eight hundred seventy-nine thousand, six hundred fifty-one dollars and 15/100 cents (\$879,651.15) for the term expiring on **April 6, 2024**; and,

WHEREAS, the Parties further desire to increase the total annual amount to one million, three hundred fourteen thousand, seven hundred nine dollars and 40/100 cents (\$1,314,709.40) and to renew the term for an additional **one (1) year** period, which shall commence on **April 7, 2024**, and naturally expire on **April 6, 2025**, as set forth in this First Amendment.



City of Pembroke Pines

WITNESSETH

NOW, THEREFORE, for and in consideration of the sum of the mutual covenants and other good and valuable consideration, the receipt of which are hereby acknowledged, the Parties hereto agree as set forth below:

SECTION 1. The recitations set forth in the above "WHEREAS" clauses are true and correct and incorporated herein by this reference.

SECTION 2. The Original Agreement is hereby renewed for an additional **one (1) year** period, which shall commence on **April 7, 2024**, and naturally expire on **April 6, 2025**.

SECTION 3. Section 4.2 of the Original Agreement is hereby revised and amended as set forth below:

4.2 The total annual amount paid to CONTRACTOR for the Commodities and services herein required for the period expiring on **April 6, 2024** shall not exceed **EIGHT HUNDRED SEVENTY-NINE THOUSAND, SIX HUNDRED FIFTY-ONE DOLLARS AND 15/100 CENTS (\$879,651.15)**. Additionally, the total annual amount paid to CONTRACTOR for the Commodities and services herein required for the period commencing on **April 7, 2024**, and expiring on **April 6, 2025** shall not exceed **ONE MILLION, THREE HUNDRED FOURTEEN THOUSAND, SEVEN HUNDRED NINE DOLLARS AND 40/100 CENTS (\$1,314,709.40)** in accordance with the unit pricing listed in **Exhibit "A-1"** attached hereto and by this reference made a part hereof.

SECTION 4. Section 4.9 of the Original Agreement is hereby deleted in its entirety as set forth below:

~~4.9 **Consumer Price Index.** The negotiated rates set forth in **Exhibit "A"** shall continue until the expiration of the original term of Agreement. Should the Parties renew the term of this Agreement pursuant to Section 3.2 herein, CONSULTANT shall receive an annual adjustment in the rates and fees set forth in **Exhibit "A"**, the negotiated rates may be adjusted no more than an amount equal to the increase in the "Consumer Price Index" or "CPI", for *Consumer Price Index—All Urban Consumers for the area of Miami-Fort Lauderdale-West Palm Beach* designated for the month of August for the current year, in no event shall the increase be greater than three percent (3%) for each year subsequent to the initial term. The contract price shall be subject to an annual CPI increase for each year of any renewal term. The CPI for Miami-Fort Lauderdale-West Palm Beach can be accessed here: <https://www.bls.gov/regions/southeast/news-release/consumerpriceindex-miami.html>~~

SECTION 5. Scrutinized Companies. CONTRACTOR, its principals or owners, certify that they are not listed on the Scrutinized Companies that Boycott Israel List, Scrutinized Companies with Activities in Sudan List, Scrutinized Companies with Activities in Iran Terrorism Sectors List, or is engaged in business operations with Syria. In accordance with Section 287.135, Florida Statutes, as amended, a company is ineligible to, and may not, bid on, submit a proposal



City of Pembroke Pines

for, or enter into or renew a contract with any agency or local governmental entity for goods or services of:

5.1 Any amount if, at the time bidding on, submitting a proposal for, or entering into or renewing such contract, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, Florida Statutes, or is engaged in a boycott of Israel; or

5.2 One million dollars or more if, at the time of bidding on, submitting a proposal for, or entering into or renewing such contract, the company:

5.2.1 Is on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in Iran Terrorism Sectors List, created pursuant to Section 215.473, Florida Statutes; or

5.2.2 Is engaged in business operations in Syria.

SECTION 6. Employment Eligibility. CONTRACTOR certifies that it is aware of and complies with the requirements of Section 448.095, Florida Statutes, as may be amended from time to time and briefly described herein below.

6.1 **Definitions for this Section.**

6.1.1 “Contractor” means a person or entity that has entered or is attempting to enter into a contract with a public employer to provide labor, supplies, or services to such employer in exchange for salary, wages, or other remuneration. “Contractor” includes, but is not limited to, a vendor or consultant.

6.1.2 “Contractor” includes, but is not limited to, a vendor or consultant.

6.1.3 “Subcontractor” means a person or entity that provides labor, supplies, or services to or for a contractor or another subcontractor in exchange for salary, wages, or other remuneration.

6.1.4 “E-Verify system” means an Internet-based system operated by the United States Department of Homeland Security that allows participating employers to electronically verify the employment eligibility of newly hired employees.

6.2 **Registration Requirement; Termination.** Pursuant to Section 448.095, Florida Statutes, effective January 1, 2021, Contractors, shall register with and use the E-verify system in order to verify the work authorization status of all newly hired employees. Contractor shall register for and utilize the U.S. Department of Homeland Security’s E-Verify System to verify the employment eligibility of:

6.2.1 All persons employed by a Contractor to perform employment duties within Florida during the term of the contract; and

6.2.2 All persons (including subvendors/subconsultants/subcontractors) assigned by Contractor to perform work pursuant to the contract with the City of Pembroke



City of Pembroke Pines

Pines. The Contractor acknowledges and agrees that registration and use of the U.S. Department of Homeland Security's E-Verify System during the term of the contract is a condition of the contract with the City of Pembroke Pines; and

6.2.3 The Contractor shall comply with the provisions of Section 448.095, Fla. Stat., "Employment Eligibility," as amended from time to time. This includes, but is not limited to registration and utilization of the E-Verify System to verify the work authorization status of all newly hired employees. Contractor shall also require all subcontractors to provide an affidavit attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. The Contractor shall maintain a copy of such affidavit for the duration of the contract. Failure to comply will lead to termination of this Contract, or if a subcontractor knowingly violates the statute, the subcontract must be terminated immediately. Any challenge to termination under this provision must be filed in the Circuit Court no later than twenty (20) calendar days after the date of termination. Termination of this Contract under this Section is not a breach of contract and may not be considered as such. If this contract is terminated for a violation of the statute by the Contractor, the Contractor may not be awarded a public contract for a period of one (1) year after the date of termination.

SECTION 7. In the event of any conflict or ambiguity by and between the terms and provisions of this First Amendment, and the Original Agreement, the terms and provisions of this First Amendment shall control to the extent of any such conflict or ambiguity.

SECTION 8. The Parties agree that in all other respects the Original Agreement shall remain in full force and effect, except as specifically modified herein.

SECTION 9. Each exhibit referred to in the Original Agreement, except as repealed herein, forms an essential part of this First Amendment. The exhibits, if not physically attached, should be treated as part of this First Amendment and are incorporated herein by reference.

SECTION 10. Each person signing this First Amendment on behalf of either Party individually warrants that he or she has full legal power to execute this First Amendment on behalf of the Party for whom he or she is signing, and to bind and obligate such Party with respect to all provisions contained in this First Amendment.

SECTION 11. This First Amendment may be executed by hand or electronically in multiple originals or counterparts, each of which shall be deemed to be an original and together shall constitute one and the same agreement. Execution and delivery of this First Amendment by the Parties shall be legally binding, valid and effective upon delivery of the executed documents to the other Party through facsimile transmission, email, or other electronic delivery.

SIGNATURE PAGE FOLLOWS



City of Pembroke Pines

IN WITNESS OF THE FOREGOING, the Parties have set their hands and seals the day and year first written above.

CITY:

CITY OF PEMBROKE PINES, FLORIDA

BY: _____

MAYOR FRANK C. ORTIS

DocuSigned by:

BY: _____

Charles F. Dodge

March 18, 2024

47B966ECFDAD4AC...

CHARLES F. DODGE, CITY MANAGER

APPROVED AS TO FORM:

Frank C. Ortis Jan. 1/21/24

Print Name: Sandra G. Ginet
OFFICE OF THE CITY ATTORNEY

ATTEST:

DocuSigned by:

Marlene D. Graham

E858EEF04EEF4F3
MARLENE D. GRAHAM, CITY CLERK
March 18, 2024

CONTRACTOR:

FERGUSON ENTERPRISES, LLC.

Signed By: _____

Printed Name: _____

Title: _____



Exhibit "A-1"



City of Pembroke Pines- 4/7/2024 through 4/6/2025

Ferguson Waterworks - Neptune Water Meters and Meter Reading Equipment Unit Prices

Pembroke Pines- Ferguson Neptune Price Agreement 2024 Term 4-7-24 Thru 4-6-25	Unit Prices
Neptune, R900i Pit Gallon Register (Any Size/Model) - NRPW2G11,G31,G41, & G51	\$201.40
Neptune, ProCoder Pit Gallon Register (Any Size/Model) - NRPH2G11, G31, G41, & G51	\$93.00
Neptune, Black Register Seal Pin - N9106001	\$0.30
Neptune, R900 Cellular Wall Endpoint - N13967220	\$155.40
Neptune, R900 Cellular Pit Endpoint W/Internal Antenna - N13966400	\$165.00
Optional, R900i Pit Lid Antenna, 6' Cable Length - N13749200	\$32.00
Optional, First Net Pit Lid Antenna, 6' Cable Length - N13984100	\$45.40
Neptune, 5/8"x3/4" T10 PB R900i Meter Complete - NED2B31RPWG11S2337	\$240.30
Neptune, 5/8"x3/4" T10 PB ProCoder Wired Meter Complete - NED2B31RPHG21	\$140.00
Neptune, 1" T10 BB R900i Meter Complete - NED2F21RPWG11S2337	\$374.50
Neptune, 1" T10 BB ProCoder Wired Meter Complete - NED2F21RPHG21	\$289.80
Neptune, 1 1/2" T10 R900i Meter Complete - NED2H11RPWG11S2337	\$727.90
Neptune, 1 1/2" T10 ProCoder Wired Meter Complete - NED2H11RPHG21	\$614.80
Neptune, 2" T10 R900i Meter Complete - NED2J11RPWG11S2337	\$869.20
Neptune, 2" T10 ProCoder Wired Meter Complete - NED2J11RPHG21	\$798.60
Neptune, 2" Bronze Meter Strainer - N53120000	\$578.80
Neptune, 3" Bronze Meter Strainer - N53107000	\$1,024.00
Neptune, 4" Bronze Meter Strainer - N53107100	\$1,780.80
Neptune, 6" Bronze Meter Strainer - N52000201	\$2,686.00
Neptune, 8" Bronze Meter Strainer - N52000304	\$4,511.40
Neptune, 10" Bronze Meter Strainer - N52000402	\$7,049.00
Neptune, 4" Stainless Steel UL-FM Basket Strainer - N53142100	\$3,993.40
Neptune, 6" Stainless Steel UL-FM Basket Strainer - N53142200	\$6,393.40
Neptune, 8" Stainless Steel UL-FM Basket Strainer - N53142300	\$10,660.00
Neptune, 10" Stainless Steel UL-FM Basket Strainer - N53142400	\$13,060.00
Neptune, 2" Strainer Acc. Kit - N9605001	\$25.40

Neptune, 3" Strainer Acc. Kit - N9605002	\$30.40
Neptune, 4" Strainer Acc. Kit - N9605003	\$47.70
Neptune, 6" Strainer Acc. Kit - N9605004	\$113.10
Neptune, 8" Strainer Acc. Kit - N9605005	\$118.30
Neptune, 10" Strainer Acc. Kit - N9605006	\$185.40
Neptune, 3" Fire Hydrant Meter - NET2BR8G1	\$2,123.00
Neptune, 1" Mach 10 R900i Meter - NEU1F2G1S2337	\$392.20
Neptune, 1" Mach 10 Stand Alone Meter - NEU1F1G1	\$279.20
Neptune, 1 1/2" Mach 10 R900i Meter - 10" LL (NEU2B2G1S2337) and (NEU2A2G1S2337) 13" LL	\$840.90
Neptune, 1 1/2" Mach 10 Stand Alone Meter - NEU2B1G1 and NEU2A1G1	\$699.60
Neptune, 2" Mach 10 R900i Meter - 10" LL (NEU2F2G1S2337) and (NEU2E2G1S2337) 17" LL	\$982.30
Neptune, 2" Mach 10 Stand Alone Meter - NEU2F1G1 AND NEU2E1G1	\$841.00
Neptune, 3" Mach 10 R900i Meter – 12" Lay Length - NEU3A2G1S2337	\$3,160.40
Neptune, 3" Mach 10 Stand Alone Meter – 12" Lay Length - NEU3A1G1	\$2,957.40
Neptune, 3" Mach 10 R900i Meter – 17" Lay Length - NEU3B2G1S2337	\$3,239.80
Neptune, 3" Mach 10 Stand Alone Meter – 17" Lay Length - NEU3B1G1	\$3,036.90
Neptune, 4" Mach 10 R900i Meter – 14" Lay Length - NEU3C2G1S2337	\$4,003.00
Neptune, 4" Mach 10 Stand Alone Meter – 14" Lay Length - NEU3C1G1	\$3,800.10
Neptune, 4" Mach 10 R900i Meter – 20" Lay Length - NEU3D2G1S2337	\$4,103.00
Neptune, 4" Mach 10 Stand Alone Meter – 20" Lay Length - NEU3D1G1	\$3,903.80
Neptune, 6" Mach 10 R900i Meter – 18" Lay Length - NEU3E2G1S2237	\$6,695.41
Neptune, 6" Mach 10 Stand Alone Meter – 18" Lay Length - NEU3E1G1	\$6,492.50
Neptune, 6" Mach 10 R900i Meter – 24" Lay Length - NEU3F2G1S2337	\$6,855.93
Neptune, 6" Mach 10 Stand Alone Meter – 24" Lay Length - NEU3F1G1	\$6,653.00
Neptune, 8" Mach 10 R900i Meter – 20" Lay Length - NEU4A2G1S2337	\$10,578.00
Neptune, 8" Mach 10 Stand Alone Meter – 20" Lay Length - NEU4A1G1	\$10,375.10
Neptune, 10" Mach 10 R900i Meter – 26" Lay Length - NEU4B2G1S2337	\$13,164.40
Neptune, 10" Mach 10 Stand Alone Meter – 26" Lay Length - NEU4B1G1	\$12,961.50
Neptune, 12" Mach 10 R900i Meter – 19.7" Lay Length - NEU4C2G1S2337	\$15,307.10
Neptune, 12" Mach 10 Stand Alone Meter – 19.7" Lay Length - NEU4C1G1	\$15,104.30
Neptune, Belt Clip RF Transceiver - N13302100	\$5,866.70
Neptune, MRX920e Version 4 Mobile Date Collector (Less Laptop) - N13655005	\$10,053.40
Neptune, TMRX920v3 Base and Antenna - TMRX920v3	\$198.60

Neptune, V4 R900 Gateway Collector (Cellular Backhaul) - N13458000	\$10,600.00
Neptune, R900 Gateway RF Antenna kit - N13146100	\$426.00
Neptune, Outdoor UPS System Assembly - N13070100	\$2,700.00
<u>Neptune 360 SaaS Platform (AMR) Annual Subscription</u>	
20,001-50,000 Connected Endpoints – (Per Meter/Per Year) - N13812210	\$0.82
<u>Neptune 360 SaaS Platform (AMI) Annual Subscription</u>	
20,001-50,000 Connected Endpoints - (Per Meter/Per Year) - N13980207	\$2.14
<u>Neptune 360 SaaS Platform + Firstnet Cellular Data Plan Annual Subscription</u>	
20,001-50,000 Connected Endpoints – (Per Meter/Per Year) - N13980307	\$7.84
Annual Belt Clip Transceiver Hardware Maintenance Fee - N13721008	\$46.80
Annual MRX920 Mobile Collector Hardware Maintenance Fee - N13721005	\$198.50
Neptune 360 AMI One-Time Setup Fee - N13980002	\$3,615.00
Neptune 360 Additional Remote Training (4-hour window) - N13980003	\$900.00
Neptune 360 On-Site Training (8 hours) - N13980004	\$1,700.00
Site Survey RF Site Inspection - N13699102	\$650.00
Project Management PM Services - N13699103	\$6,500.00
System Analysis: Neptune analysis of installed system performance (Per Study) - N13699104	\$2,000.00
RF Analysis: Neptune analysis of RF environment (per study) - N13699105	\$6,000.00
Network Auditing: Neptune audit and inspection collector installation (Per Collector) - N13699202	\$650.00
MIU Auditing: Neptune audit and report of endpoint installation quality (Per Trip) - N13699201	\$2,500.00
Neptune 360 Professional Services (per hour fee) - N13980011	\$500.00

Price Agreement Term: 4/7/24 - 4/6/25

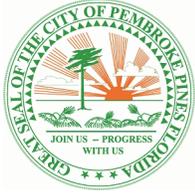
Benjamin Jacobs

AMR/AMI Specialists – Meter & Automation Group

Ferguson Waterworks

Phone: 561-386-8541

Email: Benjamin.Jacobs@ferguson.com



City of Pembroke Pines, FL

601 City Center Way
Pembroke Pines, FL
33025
www.ppines.com

Agenda Request Form

Agenda Number: 9.

File ID: 24-0176

Type: Agreements/Contracts

Status: Passed

Version: 1

**Agenda
Section:**

In Control: City Commission

File Created: 02/21/2024

Short Title: Contracts Database Report - March 6, 2024

Final Action: 03/06/2024

Title: MOTION TO APPROVE THE DEPARTMENT RECOMMENDATIONS FOR THE FOLLOWING ITEMS LISTED ON THE CONTRACTS DATABASE REPORT:

(A) PFM Asset Management, LLC - Investment Management - Renewal

(B) R.J. Behar & Company, Inc. - Civil Engineering, Development Review Committee (DRC) Engineering Permit Review and Inspection Related Services - Renewal

(C) Miller Legg & Associates, Inc. - Land Surveying Services - Renewal

(D) Airgas Specialty Products, Inc. - Anhydrous Ammonia (NH3) - Renewal

(E) Ferguson Enterprises, LLC. - Neptune Commodities and System Maintenance - Renewal

(F) Airgas USA, LLC - Liquid Carbon Dioxide - Renewal

***Agenda Date:** 03/06/2024

Agenda Number: 9.

Internal Notes:

Attachments: 1. Contract Database Report - March 6, 2024, 2. A. PFM Asset Management LLC - Investment Management (AB), 3. B. R.J. Behar & Company - CEI Agreement (all-backup), 4. C. Miller Legg & Associates, Inc. - Land Surveying Services (AB), 5. D. Airgas Specialty-Ammonia (NH3) (Orig-1 AB), 6. E. Ferguson Enterprises - Commodities and System Maintenance (AB), 7. Airgas USA-Liquid CO2 (AB)

Related Files:

1 City Commission 03/06/2024 approve Pass

Action Text: A motion was made to approve on the Consent Agenda

Aye: - 5 Mayor Ortis, Vice Mayor Siple, Commissioner Schwartz, Commissioner Castillo, and Commissioner Good Jr.

Nay: - 0

MOTION TO APPROVE THE DEPARTMENT RECOMMENDATIONS FOR THE FOLLOWING ITEMS LISTED ON THE CONTRACTS DATABASE REPORT:

- (A) PFM Asset Management, LLC - Investment Management - Renewal
- (B) R.J. Behar & Company, Inc. - Civil Engineering, Development Review Committee (DRC) Engineering Permit Review and Inspection Related Services - Renewal
- (C) Miller Legg & Associates, Inc. - Land Surveying Services - Renewal
- (D) Airgas Specialty Products, Inc. - Anhydrous Ammonia (NH3) - Renewal
- (E) Ferguson Enterprises, LLC. - Neptune Commodities and System Maintenance - Renewal
- (F) Airgas USA, LLC - Liquid Carbon Dioxide - Renewal

SUMMARY EXPLANATION AND BACKGROUND:

1. Pursuant to Section 35.29(F) "City Commission notification" of the City's Code of Ordinances, "The City Manager, or his or her designee, shall notify the Commission, in writing, at least three months in advance of the expiration, renewal, automatic renewal or extension date, and shall provide a copy of the contract or agreement and a vendor performance report card for the contract or agreement to the City Commission."
2. On May 17, 2017, Commission approved the motion to place all contracts from the Contract Database Reports on consent agendas as they come up for contractual term renewal so that City Commission affirms directions to administration whether to renew or to go out to bid.
3. The Agreements shown below are listed on the Contracts Database Reports for renewal.

(A) PFM Asset Management, LLC - Investment Management - Renewal

1. On May 16th, 2019, the City entered into an Investment Management Agreement with PFM Asset Management LLC for an initial five (5) year period, commencing on June 1st, 2019, and expiring on May 31st, 2024.
2. PFM Asset Management LLC, provides the City with Investment Management Services.
3. On December 3rd, 2021, the Parties entered into the First Amendment to formalize the City Commission's approval of assignment of the agreement to PFM Asset Management LLC, a wholly-owned subsidiary of U.S. Bancorp Asset Management, Inc., in turn a subsidiary of U.S. Bancorp, continuing to operate as a separate entity and registered investment advisor.

Agenda Request Form Continued (24-0176)

4. Section 3.2 of the Original Agreement authorizes the renewal of the Original Agreement for two (2) additional five (5) year terms upon mutual, written consent, evidenced by a written Amendment, and the Agreement provides for a 30-day notice for the City to terminate for convenience.

5. The Finance Department recommends that the City Commission approve this Second Amendment for the first, two (2) year renewal term commencing on June 1st, 2024, and expiring on May 31st, 2029, as allowed by the Agreement.

FINANCIAL IMPACT DETAIL:

a) Renewal Cost: Investment management fees are based on tiers based on the investment balance. The current fees are approximately \$98,600 annually. However, fees are dependent on the amount of funds under management and therefore subject to change.

b) Amount budgeted for this item in Account No: Investment management fees are netted against investment income, which is budgeted in account 361300 - Net increase or decrease on investments.

c) Source of funding for difference, if not fully budgeted: Not Applicable

d) 5-year projection of the operational cost of the project: The City estimates the following fees for the term of the contract.

	CY 2023-24	2024-25	2025-26	2026-27	2027-28	2028-29	
Revenues	\$.00	\$.00	\$.00	\$.00	\$.00	\$.00	
Expenditures		\$32,900.00	\$100,900.00	\$103,300.00	\$105,800.00	\$108,400.00	\$74,000.00
Net Cost	\$32,900.00	\$100,900.00	\$103,300.00	\$105,800.00	\$108,400.00	\$74,000.00	

e) Detail of additional staff requirements: Not Applicable

FEASIBILITY REVIEW:

A feasibility review is required for the award, renewal and/or expiration of all function sourcing contracts. This analysis is to determine the financial effectiveness of function sourcing services.

a) Was a Feasibility Review/Cost Analysis of Out-Sourcing vs. In-House Labor Conducted for this service? Not Applicable.

b) If Yes, what is the total cost or total savings of utilizing Out-Sourcing vs. In-House Labor for this service? Not Applicable.

(B) R.J. Behar & Company, Inc. - Civil Engineering, Development Review Committee (DRC) Engineering Permit Review and Inspection Related Services - Renewal

1. On August 13th, 2020, the City entered into an Agreement with R.J. Behar & Company, Inc. for an initial three (3) year period which expired on August 12th, 2023.

2. The City contracts R.J. Behar & Company, Inc. to provide Civil Engineering, Development Review (DRC), engineering permit review and inspection related services.

3. Section 3.2 of the Original Agreement authorizes the renewal of the Original Agreement,

Agenda Request Form Continued (24-0176)

in writing by the parties, for two (2) additional, one (1) year renewal terms.

4. On June 14th, 2023, the Parties entered into the First Amendment for the first, one (1) year renewal term, extending the term to August 12th, 2024.
5. The City is currently performing a large number of street resurfacing projects, anticipated to continue for the next few years, consequently requiring an increase in annual funding for this agreement from an annual amount not to exceed of \$85,000 to an annual amount not to exceed of \$170,000.
6. The Engineering Department recommends that the City Commission approve this Second Amendment to increase the compensation and to enter into the second, and final, one (1) year renewal term commencing on August 13th, 2024, and expiring on August 12th, 2025, as allowed by the Agreement.

FINANCIAL IMPACT DETAIL:

- a) **Amendment and Renewal Cost:** \$255,000 (additional \$85,000 for current period for an amount not to exceed of \$170,000 plus \$170,000 for the renewal period).
- b) **Amount budgeted for this item in Account No:**
100-514-6002-531100-0000-000-0000 (Professional Svc - Engineering)
- c) **Source of funding for difference, if not fully budgeted:** Not Applicable
- d) **2-year projection of the operational cost of the project:**

	Current Period (8/2023-8/2024)	Renewal Period (8/2024-8/2025)
Revenues	\$0.00	\$0.00
Expenditures	add'l \$85,000.00	\$170,000.00
Net Cost	add'l \$85,000.00	\$170,000.00

- e) **Detail of additional staff requirements:** Not Applicable

FEASIBILITY REVIEW:

A feasibility review is required for the award, renewal and/or expiration of all function sourcing contracts. This analysis is to determine the financial effectiveness of function sourcing services.

- a) **Was a Feasibility Review/Cost Analysis of Out-Sourcing vs. In-House Labor Conducted for this service?** Not Applicable
- b) **If Yes, what is the total cost or total savings of utilizing Out-Sourcing vs. In-House Labor for this service?** Not Applicable

(C) Miller Legg & Associates, Inc. - Land Surveying Services - Renewal

1. On August 5, 2020, the City entered into an Agreement with Miller Legg & Associates, Inc. for the provision of land surveying services, for an initial three (3) year period, which expired on August 4, 2023.

Agenda Request Form Continued (24-0176)

2. Section 3.2 of the Original Agreement authorizes the renewal of the Original Agreement for two (2) additional one (1) year renewal terms upon mutual consent, evidenced by written Amendments extending the term thereof.

3. On June 26, 2023, the City executed the First Amendment to the Original Agreement to increase the annual compensation from \$40,000.00 to \$80,000.00 and to renew the term for an additional one (1) year period, which expires on August 4, 2024.

4. The Engineering Department recommends that the City Commission approve this Second Amendment to renew the term for an additional one (1) year period, which shall commence on August 5, 2024, and naturally expire on August 4, 2025, as allowed by the agreement.

FINANCIAL IMPACT DETAIL:

a) **Renewal Cost:** \$80,000 Per Year

b) **Amount budgeted for this item in Account No:**
100-541-6002-531100-0000-000-0000

c) **Source of funding for difference, if not fully budgeted:** Not Applicable

d) **2-year contract projection of the operational cost of the consultant services:**

	Yr. 1	Year 2
Revenues	\$0.00	\$0.00
Expenditures	\$13,333.33	\$66,666.66
Net Cost	\$13,333.33	\$66,666.66

e) **Detail of additional staff requirements:** Not Applicable

FEASIBILITY REVIEW:

A feasibility review is required for the award, renewal and/or expiration of all function sourcing contracts. This analysis is to determine the financial effectiveness of function sourcing services.

a) **Was a Feasibility Review/Cost Analysis of Out-Sourcing vs. In-House Labor Conducted for this service?** Not Applicable

b) **If Yes, what is the total cost or total savings of utilizing Out-Sourcing vs. In-House Labor for this service?** Not Applicable

(D) Airgas Specialty Products, Inc.-Anhydrous Ammonia (NH3)-Renewal

1. On April 28, 2023, the City entered into an Agreement with Airgas Specialty Products, Inc. for an initial one (1) year period, which will naturally expire on April 27, 2024.

2. Airgas Specialty Products, Inc. provides Anhydrous Ammonia (NH3) with bulk tank equipment and tank maintenance to the CITY's Water Treatment Plant on an as-needed basis.

Agenda Request Form Continued (24-0176)

3. Section 3.1 of the Original Agreement authorizes the renewal of the Original Agreement for three (3) additional one (1) year renewal terms upon mutual consent, evidenced by a written Amendment.

4. The Utilities Department is satisfied with the performance and execution of the Original Agreement and recommends that the City Commission approve this First Amendment for the first one (1) year renewal term commencing April 28, 2024 and expiring April 27, 2025, as allowed by the agreement.

FINANCIAL IMPACT DETAIL:

a) Initial Cost: \$52,100.00 (30,000 estimated gallons * \$1.38 + \$75/month rental fees + \$9,800.00 for equipment removal if the contract expires or is cancelled)

b) Amount budgeted for this item in Account No:

\$41,400 is available in Account no. 471-533-6031-552430-0000-000-0000- (Operating chemicals)

\$10,700 is available in Account no. 471-533-6031-544200-0000-000-0000- (Rental)

c) Source of funding for difference, if not fully budgeted: Not Applicable.

d) 5 year projection of the operational cost of the project

	Current FY	Year 2
Revenues	\$.00	\$.00
Expenditures	\$17,625.00	\$34,475.00
Net Cost	\$17,625.00	\$34,475.00

e) Detail of additional staff requirements: Not Applicable.

FEASIBILITY REVIEW:

A feasibility review is required for the award, renewal and/or expiration of all function sourcing contracts. This analysis is to determine the financial effectiveness of function sourcing services.

a) Was a Feasibility Review/Cost Analysis of Out-Sourcing vs. In-House Labor Conducted for this service? Not Applicable.

b) If Yes, what is the total cost or total savings of utilizing Out-Sourcing vs. In-House Labor for this service? Not Applicable

(E) Ferguson Enterprises, LLC. - Neptune Commodities and System Maintenance - Renewal

1. On April 7, 2021, the City entered into an Agreement with Sunstate Meter and Supply, Inc. for the provision of Neptune water meters, accessories and related system software and system maintenance services for an initial three (3) year period, which expires on April 6, 2024.

2. On January 12, 2022, the City entered into an Assignment, Assumption, and Consent Agreement, in which Sunstate Meter and Supply, Inc., assigned and transferred all obligations, duties and liabilities to Ferguson Enterprises, LLC.

Agenda Request Form Continued (24-0176)

3. Section 3.2 of the Original Agreement authorizes the renewal of the Original Agreement for two (2) additional one (1) year renewal terms upon mutual consent, evidenced by written Amendments extending the term thereof.

4. As part of the City's function sourcing contractor agreement, Jacobs personnel replaces at least 2,000 water meters every year.

5. Neptune ship dates range from five to ten months out from the order date. Various orders placed in the last term were not received until this term. Water meter replacement and installation throughout the City continues daily as needed. Additional water meters are needed outside of the orders already made and received this year.

6. An increase in the total compensation for Year 3 (4/7/2023-4/6/2024) is needed of \$135,191.15 due to a final order made to satisfy the need for water meter replacements and to utilize the meter rates expiring soon.

7. The contractual balance remaining is \$40,753.75. Below is a breakdown of the items needed prior to the expiration of the current term:

	Qty	Unit Price	Total
5/8 x 3/4 R900 Water Meters	582	\$ 180.00	\$ 104,760.00
6 Ft. Antenna Assembly	582	\$ 16.75	\$ 9,748.50
Neptune 360 Software Maintenance	45000	\$ 0.82	\$ 36,900.00
Belt Clip Annual Entitlement Fee	14	\$ 561.60	\$ 7,862.40
MRX Annual Entitlement Fee	7	\$ 2,382.00	\$ 16,674.00
			\$ 175,944.90
Contractual Balance Remaining			\$ 40,753.75
Additional Amount Not to Exceed			\$ 135,191.15

8. The current agreement allows for a CPI increase of up to 3%; however, the Utilities Department recommends that the City accepts the manufacturer's rate increase based on Ferguson Enterprises being the Sole Source provider of Neptune water meters and parts. In addition, it should be noted that the original price remained fixed for the initial 3 year period.

9. The Utilities Department recommends that the City Commission approve this First Amendment to increase the annual amount by \$135,191.15 for a total annual amount of \$879,651.15 for the current term which shall expire on April 6, 2024. Furthermore, the Utilities Department recommends for the City Commission to approve the renewal of the Agreement for an additional one (1) year period, which shall commence on April 7, 2024, and naturally expire on April 6, 2025, and the increase of the annual amount to \$1,314,709.40 for the aforementioned renewal period.

FINANCIAL IMPACT DETAIL:

a) Amendment and Renewal Cost: \$1,449,900.55 (Additional \$135,191.15 for the

Agenda Request Form Continued (24-0176)

current period which will expire on April 6, 2024, for an amount not to exceed \$879,651.15, plus \$1,314,709.40 for the new period which shall commence on April 7, 2024, and expiring on April 6, 2025.)

b) Amount budgeted for this item in Account No:

471-533-6032-552651-0000-000-0000- (Non-capital Meters)

c) Source of funding for difference, if not fully budgeted:**d) 2-year projection of the operational cost of the project:**

	Current Year (expiring 04/06/24)	Year 2 (04/07/24-04/07/25)
Revenues	\$.00	\$.00
Expenditures	\$135,191.15	\$1,314,709.40
Net Cost	\$135,191.15	\$1,314,709.40

e) Detail of additional staff requirements: Not Applicable**FEASIBILITY REVIEW:**

A feasibility review is required for the award, renewal and/or expiration of all function sourcing contracts. This analysis is to determine the financial effectiveness of function sourcing services.

a) Was a Feasibility Review/Cost Analysis of Out-Sourcing vs. In-House Labor Conducted for this service? Not Applicable.**b) If Yes, what is the total cost or total savings of utilizing Out-Sourcing vs. In-House Labor for this service?** Not Applicable.**(F) Airgas USA, LLC-Liquid Carbon Dioxide-Renewal**

1. On April 4, 2023, the City Commission approved the Agreement with Airgas USA, LLC. retroactive to March 15, 2023 (effective date of the CO-OP contract) for an initial one (1) year period, which shall naturally expire on March 14, 2024.

2. Airgas USA, LLC. provides carbon dioxide on an as-needed basis utilizing the pricing established by the Southeast Florida Governmental Cooperative Purchasing Group (CO-OP) ITB# T-11-23.

3. The City of Pompano Beach, as lead agency for the Southeast Florida Governmental Purchasing Cooperative (Co-Op), issued Invitation for Bid (IFB) #T-11-23 for Carbon Dioxide and, on February 28, 2023, awarded a one (1) year contract with Airgas USA, LLC., who was the sole bidder. The contract provides for two (2) one (1) year renewal options.

4. The City of Pompano Beach and Airgas USA, LLC. renewed their agreement for an additional one (1) year period, which shall expire on February 28, 2025.

5. Utilities Department recommends City Commission to approve the rate increase from \$0.225/lb. or \$450/tn. to \$0.265/lb or \$530/tn. and the continued purchase of carbon dioxide for an additional one (1) year period, which shall naturally expire on February 28, 2025.

Agenda Request Form Continued (24-0176)

FINANCIAL IMPACT DETAIL:

- a) Renewal Cost:** \$387,680 (\$530 x 730 Tons)+(\$65 x 12 months)
- b) Amount budgeted for this item in Account No:** \$65,000 in Account No. 471-533-6031-552430-0000-000-0000- (Operating Chemicals) and \$65,411.32 is encumbered on PO# 20240276
\$780 in Account No. 471-533-6031-544200-0000-000-0000- (Rental)
- c) Source of funding for difference, if not fully budgeted:** \$78,802 is available in Account no. 471-535-6022-552430-0000-000-0000- (Operating Chemicals). A budget adjustment will be requested if the funds are needed.
- d) 2 year projection of the operational cost of the project**

	Current FY	Year 2
Revenues	\$.00	\$.00
Expenditures	\$209,993.32	\$177,686.65
Net Cost	\$209,993.32	\$177,686.65

- e) Detail of additional staff requirements:** Not Applicable.

FEASIBILITY REVIEW:

A feasibility review is required for the award, renewal and/or expiration of all function sourcing contracts. This analysis is to determine the financial effectiveness of function sourcing services.

- a) Was a Feasibility Review/Cost Analysis of Out-Sourcing vs. In-House Labor Conducted for this service?** Not Applicable.
- b) If Yes, what is the total cost or total savings of utilizing Out-Sourcing vs. In-House Labor for this service?** Not Applicable.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
04/17/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Willis Towers Watson Northeast, Inc. c/o 26 Century Blvd P.O. Box 305191 Nashville, TN 372305191 USA	CONTACT NAME: Willis Towers Watson Certificate Center PHONE (A/C, No, Ext): 1-877-945-7378 FAX (A/C, No): 1-888-467-2378 E-MAIL ADDRESS: certificates@willis.com														
INSURED Ferguson Enterprises, LLC and Subsidiaries (See Attached Named Insured Schedule) 751 Lakefront Commons Newport News, VA 23606	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center;">INSURER(S) AFFORDING COVERAGE</th> <th style="text-align: center;">NAIC #</th> </tr> </thead> <tbody> <tr> <td>INSURER A: ACE American Insurance Company</td> <td style="text-align: center;">22667</td> </tr> <tr> <td>INSURER B: Indemnity Insurance Company of North Ameri</td> <td style="text-align: center;">43575</td> </tr> <tr> <td>INSURER C: ACE Fire Underwriters Insurance Company</td> <td style="text-align: center;">20702</td> </tr> <tr> <td>INSURER D:</td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> </tr> </tbody> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: ACE American Insurance Company	22667	INSURER B: Indemnity Insurance Company of North Ameri	43575	INSURER C: ACE Fire Underwriters Insurance Company	20702	INSURER D:		INSURER E:		INSURER F:	
INSURER(S) AFFORDING COVERAGE	NAIC #														
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INSURER D:															
INSURER E:															
INSURER F:															

COVERAGES

CERTIFICATE NUMBER: W28711149

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR VVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS														
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC OTHER:	Y		HDO G47312097	05/01/2023	05/01/2024	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td>EACH OCCURRENCE</td><td style="text-align: right;">\$ 5,000,000</td></tr> <tr><td>DAMAGE TO RENTED PREMISES (Ea occurrence)</td><td style="text-align: right;">\$ 5,000,000</td></tr> <tr><td>MED EXP (Any one person)</td><td style="text-align: right;">\$ 5,000</td></tr> <tr><td>PERSONAL & ADV INJURY</td><td style="text-align: right;">\$ 5,000,000</td></tr> <tr><td>GENERAL AGGREGATE</td><td style="text-align: right;">\$ 10,000,000</td></tr> <tr><td>PRODUCTS - COMP/OP AGG</td><td style="text-align: right;">\$ 10,000,000</td></tr> <tr><td></td><td style="text-align: right;">\$</td></tr> </table>	EACH OCCURRENCE	\$ 5,000,000	DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 5,000,000	MED EXP (Any one person)	\$ 5,000	PERSONAL & ADV INJURY	\$ 5,000,000	GENERAL AGGREGATE	\$ 10,000,000	PRODUCTS - COMP/OP AGG	\$ 10,000,000		\$
EACH OCCURRENCE	\$ 5,000,000																				
DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 5,000,000																				
MED EXP (Any one person)	\$ 5,000																				
PERSONAL & ADV INJURY	\$ 5,000,000																				
GENERAL AGGREGATE	\$ 10,000,000																				
PRODUCTS - COMP/OP AGG	\$ 10,000,000																				
	\$																				
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY <input checked="" type="checkbox"/> self-insured <input checked="" type="checkbox"/> Physical Damage			ISA H10707377	05/01/2023	05/01/2024	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td>COMBINED SINGLE LIMIT (Ea accident)</td><td style="text-align: right;">\$ 5,000,000</td></tr> <tr><td>BODILY INJURY (Per person)</td><td style="text-align: right;">\$</td></tr> <tr><td>BODILY INJURY (Per accident)</td><td style="text-align: right;">\$</td></tr> <tr><td>PROPERTY DAMAGE (Per accident)</td><td style="text-align: right;">\$</td></tr> <tr><td></td><td style="text-align: right;">\$</td></tr> </table>	COMBINED SINGLE LIMIT (Ea accident)	\$ 5,000,000	BODILY INJURY (Per person)	\$	BODILY INJURY (Per accident)	\$	PROPERTY DAMAGE (Per accident)	\$		\$				
COMBINED SINGLE LIMIT (Ea accident)	\$ 5,000,000																				
BODILY INJURY (Per person)	\$																				
BODILY INJURY (Per accident)	\$																				
PROPERTY DAMAGE (Per accident)	\$																				
	\$																				
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$						<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td>EACH OCCURRENCE</td><td style="text-align: right;">\$</td></tr> <tr><td>AGGREGATE</td><td style="text-align: right;">\$</td></tr> <tr><td></td><td style="text-align: right;">\$</td></tr> </table>	EACH OCCURRENCE	\$	AGGREGATE	\$		\$								
EACH OCCURRENCE	\$																				
AGGREGATE	\$																				
	\$																				
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N No	N/A	WLR C70312165	05/01/2023	05/01/2024	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td><input checked="" type="checkbox"/> PER STATUTE</td> <td><input type="checkbox"/> OTHER</td> <td></td> </tr> <tr><td>E.L. EACH ACCIDENT</td><td style="text-align: right;">\$ 2,000,000</td><td></td></tr> <tr><td>E.L. DISEASE - EA EMPLOYEE</td><td style="text-align: right;">\$ 2,000,000</td><td></td></tr> <tr><td>E.L. DISEASE - POLICY LIMIT</td><td style="text-align: right;">\$ 2,000,000</td><td></td></tr> </table>	<input checked="" type="checkbox"/> PER STATUTE	<input type="checkbox"/> OTHER		E.L. EACH ACCIDENT	\$ 2,000,000		E.L. DISEASE - EA EMPLOYEE	\$ 2,000,000		E.L. DISEASE - POLICY LIMIT	\$ 2,000,000			
<input checked="" type="checkbox"/> PER STATUTE	<input type="checkbox"/> OTHER																				
E.L. EACH ACCIDENT	\$ 2,000,000																				
E.L. DISEASE - EA EMPLOYEE	\$ 2,000,000																				
E.L. DISEASE - POLICY LIMIT	\$ 2,000,000																				
A	Workers' Compensation & Employers Liability- AZ/CA/MA/OR, Per Statute			WLR C70312128	05/01/2023	05/01/2024	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td>E.L. Each Accident</td><td style="text-align: right;">\$2,000,000</td></tr> <tr><td>E.L. Disease - Pol Lmt</td><td style="text-align: right;">\$2,000,000</td></tr> <tr><td>E.L. Disease-Each Emp</td><td style="text-align: right;">\$2,000,000</td></tr> </table>	E.L. Each Accident	\$2,000,000	E.L. Disease - Pol Lmt	\$2,000,000	E.L. Disease-Each Emp	\$2,000,000								
E.L. Each Accident	\$2,000,000																				
E.L. Disease - Pol Lmt	\$2,000,000																				
E.L. Disease-Each Emp	\$2,000,000																				

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
 Workers Compensation Policy WLR C70312165 provides coverage for AK, AL, AR, CO, CT, DC, DE, FL, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MI, MN, MO, MS, MT, NC, NE, NH, NJ, NM, NV, NY, OK, PA, RI, SC, SD, TN, TX, UT, VA, VT, WV
SEE ATTACHED

CERTIFICATE HOLDER

CANCELLATION

City of Pembroke Pines 601 City Center Way Pembroke Pines, FL 33025	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
---	---

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AGENCY CUSTOMER ID: _____

LOC #: _____



ADDITIONAL REMARKS SCHEDULE

Page 2 of 2

AGENCY Willis Towers Watson Northeast, Inc.	NAMED INSURED Ferguson Enterprises, LLC and Subsidiaries (See Attached Named Insured Schedule) 751 Lakefront Commons Newport News, VA 23606
POLICY NUMBER See Page 1	NAIC CODE See Page 1
CARRIER See Page 1	EFFECTIVE DATE: See Page 1

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
FORM NUMBER: 25 **FORM TITLE:** Certificate of Liability Insurance

Re: (f/k/a Sunstate Meter & Supply) Purchase Agreement for Commodities & Services.

City of Pembroke Pines is included as an Additional Insured under General Liability as required by written contract but only with respect to liability caused by the Named Insured's operations.

INSURER AFFORDING COVERAGE: ACE Fire Underwriters Insurance Company **NAIC#:** 20702
POLICY NUMBER: RWC C70312244 **EFF DATE:** 05/01/2023 **EXP DATE:** 05/01/2024

TYPE OF INSURANCE:	LIMIT DESCRIPTION:	LIMIT AMOUNT:
Workers' Compensation &	E.L. Each Accident	\$2,000,000
Employers Liability - WI	E.L. Disease -Pol Lmt	\$2,000,000
Per Statute	E.L. Disease-Each Emp	\$2,000,000

FERGUSON ENTERPRISES, LLC
ACTIVE DBA SUBSIDIARY LIST

Entity Name	Entity Name
Aaron and Company, Inc. (effective 5/23/2022)	Ferguson Enterprises LLC dba Plumbers Supply Company of St. Louis (eff 2/16/2022)
AC Wholesalers	Ferguson Enterprises of Virginia, LLC
ACF Environmental (effective 11/16/2020)	Ferguson Facilities Supply (FEI)
Action Automation, a Wolesey Industrial Group company (eff 8/20/2018)	Ferguson Facilities Supply (for Matera Paper -TX only)
Action Plumbing Supply (effective 7/15/2019)	Ferguson Facilities Supply, Dogwood Building Supply Division (eff 10/22/18)
Adirondack Piping Solutions (effective 2/7/2022)	Ferguson Fire & Fabrication, Inc.
ADL (effective 7/16/2018)	Ferguson Fire & Fabrication International
Airefco (effective 11/16/2022)	Ferguson Fire Design, LLC (effective 10/7/2022)
Alaska Pipe & Supply	Ferguson Heating & Cooling
Amerock, LLC (effective 1/11/2021)	Ferguson Hospitality Sales
Amerock Holdings, Inc. (effective 1/11/2021)	Ferguson HVAC – Air Cold
AMS Steam Products (effective 12/13/2021)	Ferguson HVAC – EastWest Air
Andrews Lighting & Hardware Gallery	Ferguson HVAC – Lyon Conklin
The Ar-Jay Center	Ferguson Industrial (effective 3/15/2022)
Atlantic American Fire Equipment Company	Ferguson Integrated Services
Avallon Global	Ferguson International
BAC Appliance Center	Ferguson Panama, S.A.
Bath + Beyond	Ferguson Parts & Packaging
Bayport Partners, LLC	Ferguson Valve & Automation
Blackman Plumbing Supply, LLC (effective 12/11/2018)	Ferguson Waterworks
Brock-McVey (effective 7/30/2018)	Ferguson Waterworks - Municipal Pipe
Bruce-Rogers Company	Ferguson Waterworks - Red Hed
Build.com, Inc. (fka Improvement Direct, Inc.)	Ferguson Waterworks EPPCO
Cal-Steam	Ferguson Waterworks International
Canyon Pipe & Supply (effective 7/26/2021)	Founders Kitchen & Bath, Inc. (effective 4/25/2022)
Capital Distributing (effective 10/29/2018)	Galleria Bath & Kitchen Showplace
City Lights Design Showroom	Grand Junction Pipe (effective 9/24/2018)
CFP	HM Wallace, Inc.
Clawfoot Supply, LLC	Hot Water Products (effective 12/13/2021)
Cline Contract Sales	Hot Water Sales and Associates (effective 12/13/2021)
Columbia Pipe & Supply LLC (eff 3/13/2020)	H.P. Products Corporation
Custom Lighting & Hardware	HP Logistic, Inc.
D2 Land & Water Resource (effective 7/18/2022)	Improvement Brands Holdings, Inc.
Davies Water	Industrial Hub of the Carolinas
DBS Holdings, Inc.	Innovative Soil Solutions LLC (effective 7/29/2019)
Dealernet	James Martin Signature Vanities, LLC (effective 1/28/2019)
Duhig Stainless (effective 3/12/2018)	J&G Products
Energy & Process Corporation	Jones Stephens Corp. (effective 8/13/2018)
Equarius Waterworks, Meter & Automation Group	Jones Stephens Global Sourcing (Wuxi) Ltd. (effective 8/13/2018)
Factory Direct Appliance	J.D. Daddario Company
Ferguson Bath & Kitchen Gallery	Joseph G. Pollard Co.
Ferguson Bath, Kitchen & Lighting Gallery	JWIT Hydrotherapy Bath Solutions (effective 3/16/2020)
Ferguson.com	Karl's Appliances
Ferguson CESCO, Inc.	Kitchen Art (effective 2/4/2019)
Ferguson Direct	Lakeland Plumbing Supply, LLC
Ferguson CeSCO, Inc.	Lighting Design Center
Ferguson Enterprises, Inc.	Lighting Unlimited
Ferguson Enterprises, LLC	Lincoln Products
Ferguson Enterprises LLC dba Henry Plumbing Kitchen & Bath Galleries (eff 2/9/2022)	Linwood Pipe and Supply
Ferguson Enterprises LLC dba Henry Plumbing Supply (effective 2/9/2022)	Living Direct, Inc.
Ferguson Enterprises LLC dba Henry Kitchen & Bath (effective 2/16/2022)	Louisiana Utilities Supply Company

FERGUSON ENTERPRISES, LLC
ACTIVE DBA SUBSIDIARY LIST

PAGE 2 - DBA & SUBSIDIARY LIST	
Entity Name	Entity Name
LUSCO	Rybak Engineering (effective 7/26/2022)
Mahwah Realty, LLC	S.W. Anderson Sales Corporation (effective 11/11/2019)
Maskir Properties Inc.	Safe Step Walk in Tub (effective 11/1/2021)
Matera Paper Company, Inc.	Safe Step Walk in Tub, LLC (effective 7/31/2018)
Max Industries, Ltd. (effective 1/28/2019)	SG Supply Co.
McFarland Supply	Ship-Pac
Meyer Appliance (effective 9/20/2021)	Signature Hardware
MFP Design (effective 3/25/2020)	SimplyPlumbing, LLC
Michigan Meter	SOS Sales
Millennium Lighting, Inc. (effective 8/27/2018)	Southampton Realty Corp.
Minka Lighting, LLC (effective 7/25/2022)	Stock Loan Services, LLC
Mission Valley Pipe (effective 6/3/2019)	Sunstate Meter & Supply, Inc. (effective 10/25/2021)
Mississippi Utility Supply Co. (MUSCO)	Supply.com
Moore Industrial Supply (effective 7/12/2021)	Tarpon Wholesale Supplies
Myers HVAC Supply	The Davidson Group
National Fire Products	The Kitchen Showcase (effective 6/21/2021)
New Jersey Plumbing Group, LLC	The Plumbing Source
New York Plumbing Designs, LLC	The Stock Market
North Point Plumbing Supply, LLC	Tinkar Realty, LLC
Old Dominion Supply, Inc. (effective 10/26/2020)	TotalFab, LLC
Orange County Plumbing Group, LLC	TPW Kitchen & Bath
Palm Designs LLC	Triton Environmental (effective 6/27/2022)
PCS Industries	Uncle Sam Piping Solutions (effective 2/7/2022)
PL Sourcing	Wallwork (effective 12/10/2018)
Plumb Source	Wanlyn Realty Corp.
Plumbers Supply Company (effective 1/24/2022)	Waterworks Industries
Plumbing Décor	Webb Distributors
Plumbing Holdings Corp.	Western Air Supply
Pollardwater	Westfield Lighting
Powell Pipe & Supply Co.	Wholesale Group
Power Equipment Direct Inc.	Wholesale Group Operations, Inc.
Power Process Equipment (effective 12/5/2022)	Wolseley (Barbados) Ltd
Process Instruments & Controls, LLC (effective 9/9/2019)	Wolseley de Puerto Rico, Inc.
Professional's Bath Source	Wolseley Financial Services
PV Sullivan Supply	Wolseley Industrial Group
Ramapo Wholesalers	Wolseley Integrated de Mexico S.A. de C.V.
RB Huntington Realty, LLC	Wolseley Investments North America, Inc.
Rencor Controls (effective 3/16/2020)	Wolseley Investments, Inc.
Robertson Supply (effective 11/19/2018)	Wolseley NA Construction Services, LLC
Rocky Hollow Realty, LLC	Wolseley NA Finance, Inc.
Renwes Sales	Wolseley Staffing de Mexico S.A. de C.V.
Redlon & Johnson	WPCC Forwarding
Reese Kitchen, Bath & Lighting Gallery	Wright Plumbing Supply

ASSIGNMENT, ASSUMPTION, AND CONSENT AGREEMENT

THIS ASSIGNMENT, ASSUMPTION, AND CONSENT AGREEMENT (the "Assignment") is made this 12 day of January, ~~2021~~²⁰²² ("Effective Date"), by and between the **City of Pembroke Pines**, with offices located at 601 City Center Way, Pembroke Pines, FL 33025 (hereinafter "City"), **Sunstate Meter & Supply, Inc.**, with a business address of 14001 West Newberry Road, Newberry, FL 32669 (hereinafter "Assignor"), and **Ferguson Enterprises, LLC**, with a principal address of 12500 Jefferson Ave., Newport News, VA 23602 (hereinafter "Assignee").

WHEREAS, City and Assignor entered into the **Agreement between the City of Pembroke Pines and Sunstate Meter and Supply, Inc.** on **April 7, 2021** ("Original Agreement"); and,

WHEREAS, Assignor wishes to assign and transfer to Assignee all obligations, duties and liabilities set forth in the Original Agreement to Assignee; and

WHEREAS, Assignee is willing to assume all obligations, duties, and liabilities of Assignor under the Original Agreement; and

WHEREAS, City is willing to authorize the assumption of the Original Agreement by Assignee in accordance with the terms of this Assignment.

NOW, THEREFORE, in consideration of the foregoing recitals which by this reference are incorporated herein, City, Assignor and Assignee agree and represent as follows:

1. **ASSIGNMENT BY ASSIGNOR.** Assignor hereby assigns and transfers to Assignee all of Assignor's right, title and interest in and to the Original Agreement as of the effective date of this Assignment.
2. **ASSUMPTION BY ASSIGNEE.** Assignee accepts the foregoing Assignment from Assignor, and hereby assumes all obligations, covenants, duties, and liabilities of Assignor pursuant to the Original Agreement. Assignee further agrees that it shall assume and perform all of the Assignor's obligations as set forth in the Original Agreement.
3. **ENFORCEMENT BY CITY.** Assignor, Assignee, and City hereby acknowledge and agree that there may be obligations, duties, and liabilities contained in the Original Agreement that are for the benefit of the City, and the City shall be entitled to enforce such duties, obligations, and liabilities contained in the Original Agreement against Assignee to the same extent and in the same manner as if Assignee had entered into the Original Agreement with the City on the effective date of the Original Agreement.

4. **AUTHORIZED SIGNATURE.** The Assignor, Assignee, and City that each represents that, he or she has full legal power to execute this Assignment on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Assignment.
5. **FULL FORCE AND EFFECT.** The Assignor, Assignee, and City agree that the Original Agreement shall remain in full force and effect, except Assignee shall assume all of Assignor's obligations and duties set forth therein.
6. **ELECTRONIC SIGNATURE.** This Assignment may be executed by hand or electronically in multiple originals or counterparts, each of which shall be deemed to be an original and together shall constitute one and the same agreement. Execution and delivery of Assignment by the Parties shall be legally binding, valid and effective upon delivery of the executed documents to the other Party through facsimile transmission, email, or other electronic delivery.
7. Assignee may perform in accordance with this Assignment under the assumed business name "Sunstate Meter & Supply."

IN WITNESS OF THE FOREGOING, City, Assignor and Assignee have executed this Assignment as of the first date stated above.

City:

CITY OF PEMBROKE PINES, FLORIDA

ATTEST:


 MARLENE D. GRAHAM, CITY CLERK

By: 
 CHARLES F. DODGE, CITY MANAGER

1/26/2022

APPROVED AS TO FORM:


 Name: Heather Needelman
 OFFICE OF THE CITY ATTORNEY

Assignor:

SUNSTATE METER & SUPPLY, INC.

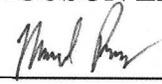
By: 

Name & Title: Keith Ellenburg / President

Date: 12-21-2021

Assignee:

FERGUSON ENTERPRISES, LLC

By: 

Name & Title: Director, Meter and Automation

Date: 12/21/2021



BILL OF SALE, ASSIGNMENT & ASSUMPTION AGREEMENT

THIS **BILL OF SALE, ASSIGNMENT & ASSUMPTION AGREEMENT** is dated as of October 25, 2021 (this "Agreement") and entered into by and between Sunstate Meter & Supply, Inc., a Florida corporation (the "Seller"), and Ferguson Enterprises, LLC, a Virginia limited liability company (the "Purchaser"). Capitalized terms used but not defined herein shall have the meaning ascribed to such terms in the Asset Purchase Agreement (as defined hereafter).

Recitals

WHEREAS, pursuant to the terms of that certain Asset Purchase Agreement, dated as of the date hereof (the "Asset Purchase Agreement"), by and among the Seller, the Purchaser, Keith Ellenburg, Sonya Ellenburg Smith, and Karen Ellenburg Whittle, the Seller is selling, assigning, transferring, conveying and delivering to the Purchaser, and the Purchaser is acquiring and accepting from the Seller, all of the right, title and interest of the Seller in, to and under the Purchased Assets upon the terms and subject to the conditions of the Asset Purchase Agreement (the "Transfer");

WHEREAS, the Purchased Assets conveyed to the Purchaser include, without limitation, the following: (i) all inventory; (ii) all Accounts Receivable, together with the Seller's interest in all collateral and security agreements, if any, securing such Accounts Receivable and all guarantees, credit applications and indemnities, if any, associated with such Accounts Receivable; (iii) all Fixed Assets, excluding real property and computer equipment (except to the extent necessary to maintain and/or access computer files and electronic data that are Purchased Assets); (iv) all Assigned Contracts; (v) all prepaid items and security deposits; (vi) all Licenses used in or related to the Business; (vii) all Intellectual Property Rights; (viii) all office and warehouse supplies, displays, catalogs, packaging materials, customer lists, supplier lists, vendor files, personnel records, telephone numbers, facsimile numbers, cell phone numbers, credit files, forms, trade names (including the name "Sunstate Meter & Supply"), computer files and electronic data, electronic library, and proprietary information used in or related to the Business; (ix) all records relating to the Purchased Assets and the Business, including the Seller's records relating to purchases and sales of inventory, goods and services, customers and vendors, and all records relating to Liabilities assumed by the Purchaser, if any, pursuant to the Asset Purchase Agreement; (x) all vehicles and rolling stock identified on Exhibit A attached hereto; and (xi) all other intangible rights and properties related to or used in connection with the Business, including goodwill of the Business as a going concern;

WHEREAS, in connection with the Transfer, the Seller is assigning to Purchaser all rights and entitlements of the Seller pursuant to the Assigned Contracts, and Purchaser is assuming the Seller's Liabilities under the Assigned Contracts that are required to be performed on or after the Closing Date and are incurred in the ordinary course of business (other than Liabilities that relate to or arise from any failure to perform, improper performance, warranty or other breach, default or violation by Seller) (together with the Assigned Contracts, the "Assigned Rights and Liabilities");

WHEREAS, the Seller desires to deliver to the Purchaser such instruments of sale, assignment, transfer, conveyance and delivery as are required to vest in the Purchaser all of the Seller's right, title and interest in, to and under the Purchased Assets; and

WHEREAS, with respect to the Assigned Contracts, each of the parties hereto desires to consummate the assignment and assumption of the Assigned Rights and Liabilities, in each case, to the extent contemplated in the Asset Purchase Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and pursuant to the Asset Purchase Agreement, the parties hereto hereby agree as follows:

Agreement

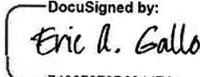
1. The Seller hereby sells, assigns, transfers, conveys and delivers to the Purchaser, free and clear of all Liens, all of the right, title and interest of the Seller in, to and under all of the Purchased Assets, including, without limitation, the Assigned Rights and Liabilities.
2. The Purchaser hereby assumes and agrees to discharge and pay when due in accordance with their terms the Assigned Rights and Liabilities.
3. Nothing in this Agreement shall be deemed to supersede, enlarge or modify any of the provisions of the Asset Purchase Agreement, all of which survive the execution and delivery of this Agreement as provided, and subject to the limitations set forth, in the Asset Purchase Agreement. If any conflict exists between the terms of this Agreement and the terms of the Asset Purchase Agreement, the terms of the Asset Purchase Agreement shall govern and control.
4. This Agreement shall be effective as of the Closing.
5. Nothing expressed or implied herein shall be construed to give any other Person any legal or equitable rights hereunder.
6. This Agreement may not be assigned by any party hereto without the prior written consent of the other parties; provided that, without such consent, the Purchaser may transfer or assign this Agreement, in whole or in part or from time to time, to one or more of its Affiliates, but no such transfer or assignment will relieve the Purchaser of its obligations hereunder. Subject to the foregoing, all of the terms and provisions of this Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective executors, heirs, personal representatives, successors and assigns.
7. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Florida without regard to the choice of law principles of any jurisdiction.
8. This Agreement may be executed in multiple original, facsimile or electronic counterparts (including via PDF), each of which will be deemed an original, but all of which when taken together shall constitute one and the same agreement.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be duly executed as of the date first written above.

PURCHASER:

FERGUSON ENTERPRISES, LLC

By: 
740979708634474
Name: Eric A. Gallo
Title: Authorized Signatory

SELLER:

SUNSTATE METER & SUPPLY, INC.

By: _____
Name: Keith Ellenburg
Title: President

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be duly executed as of the date first written above.

PURCHASER:

FERGUSON ENTERPRISES, LLC

By: _____

Name: Eric A. Gallo

Title: Authorized Signatory

SELLER:

SUNSTATE METER & SUPPLY, INC.

By:  _____

Name: Keith Ellenburg

Title: President

EXHIBIT A

Vehicles and Rolling Stock

Year	Make	Model	VIN/S/N
2007	Yale	NR040DANS24TE091	A295N02570E
	Yale	GLP050VXEVS086	B875B11812E

FERGUSON ENTERPRISES, LLC

SECRETARIAL CERTIFICATE

The undersigned Assistant Secretary of Ferguson Enterprises, LLC, a Virginia limited liability company (the "Company") with its principal place of business in Newport News, Virginia, hereby certifies that:

1. Pursuant to the terms of that certain Asset Purchase Agreement, dated as of October 25, 2021, by and among the Company, Sunstate Meter & Supply, Inc., a Florida corporation (the "Seller"), and certain other parties thereto, the Company purchased substantially all of the assets of the Seller effective as of October 25, 2021 (see attached Bill of Sale, Assignment & Assumption Agreement);
2. The Company will transact business from the Seller's former location in Florida under the assumed business name "Sunstate Meter & Supply"; and
3. The Company's Federal Employer Identification Number is 54-1211771.

Dated: October 25, 2021

FERGUSON ENTERPRISES, LLC

By: _____

Eric A. Gallo, Assistant Secretary

COMMONWEALTH OF VIRGINIA
CITY OF NEWPORT NEWS

Sworn to and subscribed before me, the undersigned Notary Public, this 25th day of October, 2021.

Casey Mehlhoff, Notary Public



My commission expires: July 31, 2022
Va. Notary ID: 7510825



City of Pembroke Pines, FL

601 City Center Way
Pembroke Pines, FL
33025
www.ppines.com

Agenda Request Form

Agenda Number: 11.

File ID: 22-0002

Type: Agreements/Contracts

Status: Passed

Version: 1

**Agenda
Section:**

In Control: City Commission

File Created: 12/21/2021

Short Title: Assignment, Assumption and Consent Agreement
with Sunstate Meter & Supply and Ferguson
Enterprises

Final Action: 01/12/2022

Title: MOTION TO APPROVE THE ASSIGNMENT, ASSUMPTION, AND
CONSENT AGREEMENT BETWEEN THE CITY OF PEMBROKE PINES,
SUNSTATE METER & SUPPLY, INC., AND FERGUSON ENTERPRISES,
LLC.

***Agenda Date:** 01/12/2022

Agenda Number: 11.

Internal Notes:

Attachments: 1. Assignment and Assumption Agreement (VENDOR EXECUTED)

1 City Commission 01/12/2022 approve Pass

Action Text: A motion was made to approve on the Consent Agenda

Aye: - 5 Mayor Ortis, Vice Mayor Good Jr., Commissioner Castillo,
Commissioner Siple, and Commissioner Schwartz

Nay: - 0

MOTION TO APPROVE THE ASSIGNMENT, ASSUMPTION, AND CONSENT AGREEMENT BETWEEN THE CITY OF PEMBROKE PINES, SUNSTATE METER & SUPPLY, INC., AND FERGUSON ENTERPRISES, LLC.

SUMMARY EXPLANATION AND BACKGROUND:

1. On April 7, 2021, the City Commission approved the negotiated agreement between the City of Pembroke Pines and the Sole Provider, Sunstate Meter & Supply, Inc. for the purchase of Neptune Water Meters, Parts and Components.
2. Currently, the Utilities Division utilizes this agreement to purchase water meters for IFB # PSUT-21-03 "Water Meter Installation Project," as well as the ongoing yearly meter change out program for the damaged or defected water meters throughout the City.
3. On December 13, 2021, the Utilities Division received a letter from Sunstate Meter & Supply, Inc. stating, "Starting October 25, 2021, Ferguson Enterprises, LLC. purchased substantially all of the assets of Sunstate Meter & Supply, Inc."
4. Pursuant to Section 19.4 of the Agreement between the City and Sunstate Meter and Supply, Inc., "This Agreement, and any interest herein, shall not be assigned, transferred or otherwise encumbered, under any circumstances, by CONTRACTOR without the prior written consent of the City. For purposes of this Agreement, any change of ownership of CONTRACTOR shall constitute an assignment which requires CITY approval."
5. Request City Commission to approve the Assignment, Assumption and Consent Agreement between the City of Pembroke Pines, Sunstate Meter & Supply, Inc. and Ferguson Enterprises, LLC.

FINANCIAL IMPACT DETAIL:

- a) **Initial Cost:** Not Applicable
- b) **Amount budgeted for this item in Account No:** Not Applicable
- c) **Source of funding for difference, if not fully budgeted:** Not Applicable
- d) **5 year projection of the operational cost of the project:** Not Applicable
- e) **Detail of additional staff requirements:** Not Applicable



**AGREEMENT BETWEEN THE
CITY OF PEMBROKE PINES AND
SUNSTATE METER AND SUPPLY, INC.**

THIS IS AN AGREEMENT (“Agreement”), dated the 7 day of April, 2021 by and between:

THE CITY OF PEMBROKE PINES, a municipal corporation of the State of Florida with a business address of **601 City Center Way, Pembroke Pines, Florida 33025** (hereinafter referred to as the "CITY"),

and

SUNSTATE METER AND SUPPLY, INC., a Florida Corporation authorized to do business in the State of Florida, with an address of **14001 West Newberry Road, Newberry, FL 32669**, hereinafter referred to as “CONTRACTOR.” CITY and CONTRACTOR may hereinafter be referred to collectively as the "Parties."

WITNESSETH:

In consideration of the mutual terms and conditions, promises, covenants and payments hereinafter set forth, CITY and CONTRACTOR agree as follows:

**ARTICLE 1
PREAMBLE**

In order to establish the background, context and form of reference for this Agreement, and to generally express the objectives and intentions of the respective Parties herein, the following statements, representations, and explanations shall be accepted as predicates for the undertakings and commitments included within the provisions which follow, and may be relied upon by the Parties as essential elements of the mutual considerations upon which this Agreement is based.

1.1 The CITY is in need of Neptune water meters, accessories, related system software (herein “Commodities”) and system maintenance services for CITY’s current and future Utility needs. CONTRACTOR is the sole supplier and servicer of Neptune water meters in the applicable geographic area.

1.2 The CITY desires to annually purchase Commodities and system maintenance services pursuant to the terms and conditions set forth herein for CITY’s future Utility needs.

1.3 CITY is also in need of Commodities and system maintenance services for CITY’s existing Utility customers. CITY has identified water meters throughout the CITY which are in need of repair, or that are twenty (20) years or older that need to be replaced pursuant to the CITY’s Meter



Replacement Project (the installation of such replacement Commodities shall be procured separately from the Commodities and system maintenance services herein required).

1.4 CITY Code of Ordinances Section 35.18(c)(3), entitled "City standard, single-source and sole-source commodities or services", provides certain sole-source commodities or services are exempt from competitive bidding.

1.5 CITY desires to procure the Commodities and system maintenance services herein required from CONTRACTOR pursuant to CITY Code of Ordinances Section 35.18(c)(3). CONTRACTOR has agreed to provide the Commodities and perform the system maintenance services herein required in accordance with the terms and conditions set forth in this Agreement.

1.6 Negotiations pertaining to the required Commodities and services were undertaken and this Agreement incorporates the results of such negotiation.

1.7 On April 7, 2021, the CITY authorized the proper CITY officials to negotiate and enter into an agreement with CONTRACTOR to render the Commodities more particularly described herein below.

ARTICLE 2

COMMODITIES AND SERVICES REQUIRED

2.1 CITY agrees to purchase and CONTRACTOR agrees to provide the **Commodities and system maintenance** services herein required on an as-needed basis. CONTRACTOR shall provide the Commodities and services in accordance with the price units more particularly described in **Exhibit "A"**, attached hereto and by this reference made a part hereof.

2.2 CONTRACTOR further agrees to provide CITY with and related system software and system maintenance services for the Commodities herein required as may be determined necessary by CITY during the term of Agreement.

2.3 The Parties acknowledge that this Agreement is a term contract and that CITY shall purchase and CONTRACTOR shall provide the Commodities and services on an as-needed basis upon the written request of the CITY. Nothing contained herein nor in any exhibit or amendment hereto, shall require the CITY to purchase any set quantity of Commodities or services.

2.4 As needed, the CITY shall submit a purchase order to the CONTRACTOR for a specified amount of Commodities and services. CONTRACTOR shall then provide the specified amount of Commodities and services in accordance with the purchase order and submit to the CITY an invoice for such Commodities and services.

2.5 CONTRACTOR acknowledges that it has the capacity, ability and/or inventory to provide the Commodities and services herein required to the CITY on an as-needed basis and in accordance with the terms set forth herein and in **Exhibit "A"** attached hereto.



2.7 CONTRACTOR agrees that the CITY shall be able to purchase the Commodities at the price identified in **Exhibit "A"** for a period of three (3) years. Following the expiration of the three (3) year period the unit price for Commodities and services may be adjusted as set forth in Article 4 herein below.

2.8 CONTRACTOR hereby represents to CITY, with full knowledge that CITY is relying upon these representations when entering into this Agreement with CONTRACTOR, that CONTRACTOR has the professional expertise, experience and manpower to perform the services to be provided by CONTRACTOR pursuant to the terms of this Agreement.

2.10 CONTRACTOR shall comply with any and all Federal, State, and local laws and regulations now in effect, or hereinafter enacted during the term of this Agreement, which are applicable to CONTRACTOR, its employees, agents or subcontractors, if any, with respect to the work and services described herein. A violation of any federal, state, or local law or regulation may be cause for breach, allowing the CITY to terminate this Agreement.

ARTICLE 3 **TERM AND TERMINATION**

3.1 CONTRACTOR shall provide the required Commodities and services as set forth herein and in accordance with **Exhibit "A"** attached hereto and by this reference made a part hereof, on an as-needed basis, for an initial **three (3) year** period commencing on the effective date of Agreement and ending three (3) years thereafter.

3.2 This Agreement may be renewed for two (2) additional one (1) year renewal periods upon the mutual written consent of the Parties hereto, evidenced by a written amendment to this Agreement extending the term thereof.

3.3 This Agreement may be terminated by CITY for convenience, upon providing seven (7) days written notice to CONTRACTOR for such termination in which event CONTRACTOR shall be paid its compensation for services and Commodities rendered till the termination date, including services reasonably related to termination. In the event that CONTRACTOR abandons this Agreement or causes it to be terminated, CONTRACTOR shall indemnify CITY against loss pertaining to this termination.

3.4 This Agreement may also be terminated by CITY for cause. For purposes of this Agreement, termination by CITY for cause includes, but is not limited to, any of the following circumstances:

3.4.1 CONTRACTOR's failure to keep, perform and observe each provision of this Agreement and such failure continues for a period of more than **seven (7) days** after CITY's delivery of a written notice to CONTRACTOR of such breach or default;

3.4.2 CONTRACTOR becomes insolvent;

3.4.3 CONTRACTOR takes the benefit of any present or future insolvency statute;



- 3.4.4 CONTRACTOR makes a general assignment for the benefit of creditors,
- 3.4.5 CONTRACTOR files a voluntary petition in bankruptcy or a petition or answer seeking an arrangement of its reorganization or the readjustment of its indebtedness under the Federal Bankruptcy laws or under any other law or statute of the United States or any state thereof;
- 3.4.6 CONTRACTOR consents to the appointment of a receiver, trustee or liquidator of all or substantially all of its property;
- 3.4.7 A petition under any present or future insolvency laws or statute is filed against CONTRACTOR and such petition is not dismissed within **seven (7) days** after its filing; and
- 3.4.8 Any assignment of this Agreement in whole or in part, or any of CONTRACTOR's rights and obligations hereunder.

ARTICLE 4
COMPENSATION AND METHOD OF PAYMENT

4.1 CONTRACTOR shall be entitled to invoice CITY based on CITY's purchase order(s) and in accordance with the unit pricing listed in the attached **Exhibit "A"**. Any invoices shall include information such as but not be limited to, date of service, description of the Commodities and services, and any other information reasonably required by CITY.

4.2 The annual compensation pursuant this Agreement shall be as follows:

4.2.1 The total annual amount paid to CONTRACTOR for the Commodities and services herein required for the first year of Agreement shall not exceed **THREE MILLION SEVEN HUNDRED SEVENTY-TWO THOUSAND EIGHT HUNDRED SEVENTY-FIVE DOLLARS AND 00/100 (\$3,772,875.00)**, which includes an owner's contingency for CITY's Meter Replacement Project in an amount equal to **ONE HUNDRED FORTY-SIX THOUSAND FOUR HUNDRED FORTY-EIGHT DOLLARS AND 00/100 (\$146,448.00)**, and an amount equal to **SIX HUNDRED SEVENTY-SIX THOUSAND DOLLARS AND 00/100 (\$676,000.00)** for CITY's annual purchase of Commodities and services for CITY's new Utility customers.

4.2.2 The total annual amount paid to CONTRACTOR for the Commodities and services herein required for year two (2) of Agreement shall not exceed **SEVEN HUNDRED TWENTY THOUSAND ONE HUNDRED THIRTY DOLLARS AND 00/100 (\$720,130.00)**, which is the estimated dollar amount for CITY's annual purchase of Commodities and services for CITY's new Utility customers.

4.2.3 The total annual amount paid to CONTRACTOR for the Commodities and services herein required for year three (3) of Agreement shall not exceed **SEVEN HUNDRED**



FORTY-FOUR THOUSAND FOUR HUNDRED SIXTY DOLLARS AND 00/100 (\$744,460.00), which is the estimated dollar amount for CITY's annual purchase of Commodities and services for CITY's new Utility customers.

4.3 Upon delivery, the CITY shall make final inspection of the Commodities. If this inspection shows that the Commodities have been delivered in a satisfactory manner and in accordance with the specifications of this Agreement or purchase order submitted by the CITY, the CITY shall receive the same. Final payment due the CONTRACTOR shall be withheld until inspection is made by the CITY and merits of performance evaluated. This total acceptance will be done in a reasonable and timely manner. Upon acceptance, CONTRACTOR shall submit to CITY an invoice for the Commodities provided.

4.4 If any of the Commodities has to be rejected for any reason, the CONTRACTOR shall be required to repair or replace the Commodities to the satisfaction of the CITY. Warranty repairs may be accomplished on CITY property if space is available, at the discretion of the CITY. Title to or risk of loss or damage to all Commodities shall be the responsibility of the CONTRACTOR until acceptance of the Commodities by the CITY, unless such loss or damages have been proven to be the result of negligence by the CITY.

4.5 **Contingency.** The contingency herein described authorizes the CITY to execute change orders up to the amount of the contingency without the need to obtain additional CITY Commission approval. It is hereby understood and agreed that the CONTRACTOR shall not expend any dollars in connection with the owner's contingency without the expressed prior written approval of the CITY's authorized representative. Any owner's contingency funds that have not been utilized at the end of the project will remain with the CITY, the CONTRACTOR shall only be paid in accordance with the terms of this Agreement and **Exhibit "A"**, along with any owner contingency expenses approved by the CITY's authorized representative.

4.6 CITY, upon approval of an invoice, will make its best efforts to pay CONTRACTOR within thirty (30) days of receipt of proper invoice the total shown to be due on such invoice.

4.7 All payments shall be governed by the Local Government Prompt Payment Act, as set forth in Part VII, Chapter 218, Florida Statutes.

4.8 Payment will be made to CONTRACTOR at:

**SUNSTATE METER AND SUPPLY, INC.,
14001 West Newberry Road,
Newberry, FL 32669**

4.9 **Consumer Price Index.** The negotiated rates set forth in **Exhibit "A"** shall continue until the expiration of the original term of Agreement. Should the Parties renew the term of this Agreement pursuant to Section 3.2 herein, CONSULTANT shall receive an annual adjustment in the rates and fees set forth in **Exhibit "A"**, the negotiated rates may be adjusted no more than an amount equal to the increase in the "Consumer Price Index" or "CPI", for *Consumer Price Index – All Urban*



Consumers for the area of Miami-Fort Lauderdale-West Palm Beach designated for the month of August for the current year, in no event shall the increase be greater than three percent (3%) for each year subsequent to the initial term. The contract price shall be subject to an annual CPI increase for each year of any renewal term. The CPI for Miami-Fort Lauderdale-West Palm Beach can be accessed here: https://www.bls.gov/regions/southeast/news-release/consumerpriceindex_miami.htm

ARTICLE 5
WARRANTY OF COMMODITIES

The warranty period for Commodities is more particularly described in **Exhibit "B"** attached hereto and by this reference made a part hereof. The warranty period shall start at the time of acceptance by the CITY. Any subsequent warranties related to Commodities shall only take force if such terms favor the CITY.

ARTICLE 6
CHANGES TO SCOPE OF WORK

6.1 The Parties may request changes that would increase, decrease, or otherwise modify the Commodities and services to be provided under this Agreement. These changes may affect the compensation accordingly. Such changes or additional commodities must be in accordance with the provisions of the CITY's Code of Ordinances, and must be contained in a written amendment, executed by the Parties hereto.

6.2 In no event will the CONTRACTOR be compensated for any Commodities which have not been described either herein, in a purchase order, or in a separate written agreement executed by the Parties hereto.

6.3 CONTRACTOR shall continue performance when seeking change order unless work has not been authorized herein, or by written amendment or change order, executed by the parties hereto, with the same formality, equality, and dignity herewith.

ARTICLE 7
INDEMNIFICATION

7.1 The CONTRACTOR shall indemnify and hold harmless the CITY and its officers, employees, agents and instrumentalities from liability, losses or damages, including attorneys' fees and costs of defense, which the CITY or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from Commodities and/or the negligence, recklessness, or intentional wrongful misconduct of CONTRACTOR, its employees, agents, partners, principals or subcontractors. The CONTRACTOR shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the CITY, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorneys' fees which may issue thereon. The CONTRACTOR expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the



CONTRACTOR shall in no way limit the responsibility to indemnify, keep and save harmless and defend the CITY or its officers, employees, agents and instrumentalities as herein provided.

7.2 CITY reserves the right to select its own legal counsel to conduct any defense in any such proceeding and all costs and fees associated therewith shall be the responsibility of CONTRACTOR.

7.3 Upon acceptance of all Commodities and completion of all services, obligations and duties provided for in this Agreement, or in the event of termination of this Agreement for any reason, the terms and conditions of this Article shall survive indefinitely.

7.4 Nothing contained herein is intended nor shall be construed to waive CITY's rights and immunities under the common law or Section 768.28, Florida Statutes, as may be amended from time to time.

ARTICLE 8 **INSURANCE**

8.1 CONTRACTOR shall indemnify and hold harmless the CITY, its trustees, elected and appointed officers, agents, servants, assigns, employees, consultants, separate contractors, any of their subcontractors, sub-subcontractors, agents and employees from and against claims, demands, or causes of action whatsoever, and the resulting losses, damages, costs and expenses, including but not limited to attorneys' fees, including paralegal expenses, liabilities, damages, orders, judgments, or decrees, sustained by the CITY arising out of or resulting from performance of the work or the failure of the CONTRACTOR to take out and maintain insurance as required under this Agreement.

8.2 CONTRACTOR shall not perform under this Agreement until it has obtained all insurance required under this paragraph and such insurance has been approved by the Risk Manager of the CITY nor shall the CONTRACTOR allow any subcontractor to perform on any subcontract until all similar such insurance required of the subcontractor has been obtained and similarly approved.

8.3 Certificates of Insurance, reflecting evidence of the required insurance, shall be filed with the CITY's Risk Manager prior to the commencement of this Agreement. Policies shall be issued by companies authorized to do business under the laws of the State of Florida. The insurance company shall be rated no less than "A" as to management, and no less than "Class VI" as to financial strength according to the latest edition of Best's Insurance Guide published by A.M. Best Company.

8.4 Certificates of Insurance shall provide for thirty (30) days' prior written notice to the CITY in case of cancellation or material changes in the policy limits or coverage states. If the carrier cannot provide thirty (30) days' notice of cancellation, either the CONTRACTOR or their insurance broker must agree to provide notice.

8.5 Insurance shall be in force until all obligations required to be fulfilled under the terms of the Agreement are satisfactorily completed as evidenced by the formal acceptance by the CITY. In the



event the insurance certificate provided indicates that the insurance shall terminate and lapse during the period of this Agreement, the CONTRACTOR shall furnish, at least forty-five (45) days prior to the expiration of the date of such insurance, a renewed certificate of insurance as proof that equal and like coverage for the balance of the period of the Agreement and extension thereunder is in effect. The CONTRACTOR shall neither commence nor continue to provide any services pursuant to this Agreement unless all required insurance remains in full force and effect. CONTRACTOR shall be liable to CITY for any lapses in service resulting from a gap in insurance coverage.

8.6 REQUIRED INSURANCE. CONTRACTOR shall be required to obtain all applicable insurance coverage, as indicated below, prior to performing its obligation under this Agreement:

Yes No

10.6.1 Comprehensive General Liability Insurance written on an occurrence basis including, but not limited to: coverage for bodily injury and property damage, personal & advertising injury, products & completed operations, and contractual liability. Coverage must be written on an occurrence basis, with limits of liability no less than:

1. Each Occurrence Limit - \$1,000,000
2. Fire Damage Limit (Damage to rented premises) - \$100,000
3. Personal & Advertising Injury Limit - \$1,000,000
4. General Aggregate Limit - \$2,000,000
5. Products & Completed Operations Aggregate Limit - \$2,000,000

Products & Completed Operations Coverage shall be maintained for the later of three (3) years after the delivery of goods/services or final payment under the Agreement. **The City of Pembroke Pines must be shown as an additional insured with respect to this coverage. The CITY's additional insured status shall extend to any coverage beyond the minimum limits of liability found herein.**

Yes No

8.6.2 Workers' Compensation and Employers' Liability Insurance covering all employees, and/or volunteers of the CONTRACTOR engaged in the performance of the scope of work associated with this Agreement. In the case any work is sublet, the CONTRACTOR shall require the subcontractors similarly to provide Workers' Compensation Insurance for all the latter's employees unless such employees are covered by the protection afforded by the CONTRACTOR. Coverage for the CONTRACTOR and all subcontractors shall be in accordance with applicable state and/or federal laws that may apply to Workers' Compensation Insurance with limits of liability no less than:

1. Workers' Compensation: Coverage A – Statutory
2. Employers Liability: Coverage B \$500,000 Each Accident
\$500,000 Disease – Policy Limit
\$500,000 Disease – Each Employee

If CONTRACTOR claims to be exempt from this requirement, CONTRACTOR shall provide CITY proof of such exemption along with a written request for CITY to exempt CONTRACTOR, written on CONTRACTOR letterhead.

Yes No



8.6.3 Comprehensive Auto Liability Insurance covering all owned, non-owned and hired vehicles used in connection with the performance of work under this Agreement, with a combined single limit of liability for bodily injury and property damage no less than:

- 1. Any Auto (Symbol 1)
Combined Single Limit (Each Accident) - \$1,000,000
- 2. Hired Autos (Symbol 8)
Combined Single Limit (Each Accident) - \$1,000,000
- 3. Non-Owned Autos (Symbol 9)
Combined Single Limit (Each Accident) - \$1,000,000

If work under this Agreement includes transportation of hazardous materials, policy shall include pollution liability coverage equivalent to that provided by the latest version of the ISO pollution liability broadened endorsement for auto and the latest version of the ISO Motor Carrier Act endorsement, equivalents or broader language.

Yes No

8.6.3.1 If CONTRACTOR requests reduced limits under a Personal Auto Liability Policy and it is agreed to by the CITY, coverage shall include Bodily Injury limits of \$100,000 per person/\$300,000 per occurrence and Property Damage limits of \$300,000 per occurrence

Yes No

8.6.4 Umbrella/Excess Liability Insurance in the amount of \$_____ as determined appropriate by the CITY depending on the type of job and exposures contemplated. Coverage must be follow form of the General Liability, Auto Liability and Employer's Liability. This coverage shall be maintained for a period of no less than the later of three (3) years after the delivery of goods/services or final payment pursuant to this Agreement. **The City of Pembroke Pines must be shown as an additional insured with respect to this coverage. The CITY's additional insured status shall extend to any coverage beyond the minimum limits of liability found herein.**

Yes No

8.6.5 Professional Liability/Errors & Omissions Insurance with a limit of liability no less than \$1,000,000 per wrongful or negligent act. This coverage shall be maintained for a period of no less than three (3) years after the delivery of goods/services final payment pursuant to this Agreement. Retroactive date, if any, to be no later than the first day of service to the CITY.

Yes No

8.6.6 Environmental/Pollution Liability insurance shall be required with a limit of no less than \$1,000,000 per wrongful act. Coverage shall include: CONTRACTOR's completed operations, sudden, accidental and gradual pollution conditions. This coverage shall be maintained for a period of no less than the later of three (3) years after the delivery of goods/services or final payment pursuant to this Agreement. Retroactive date, if any, to be no later than the first day of service to the CITY. **The City of Pembroke Pines must be shown as an additional insured with respect to this coverage. The CITY's additional insured status shall extend to any coverage beyond the minimum limits of liability found herein.**

Yes No

8.6.7 Cyber Liability including Network Security and Privacy Liability with a limit of



liability no less than \$1,000,000 per loss. Coverage shall include liability arising from: theft, dissemination and/or use of confidential information stored or transmitted in electronic form, unauthorized access to, use of, or tampering with computer systems, including hacker attacks or inability of an authorized third party to gain access to your services, including denial of service, and the introduction of a computer virus into, or otherwise causing damage to, a customer's or third person's computer, computer system, network, or similar computer-related property and the data, software and programs thereon. If vendor is collecting credit card information, it shall cover all PCI breach expenses. Coverage is to include the various state monitoring and state required remediation as well as meet the various state notification requirements. This coverage shall be maintained for a period of no less than the later of three (3) years after delivery of goods/services or final payment of the Agreement. Retroactive date, if any, to be no later than the first day of service to the CITY. **The City of Pembroke Pines must be shown as an additional insured with respect to this coverage. The CITY's additional insured status shall extend to any coverage beyond the minimum limits of liability found herein.**

Yes No

8.6.8 Crime Coverage shall include employee dishonesty, forgery or alteration, and computer fraud in an amount of no less than \$1,000,000 per loss. If CONTRACTOR is physically located on CITY's premises, a third-party fidelity coverage extension shall apply.

Yes No

8.6.9 Garage Liability & Garage-keepers Legal Liability for those that manage parking lots for the CITY or service CITY vehicles. Coverage must be written on an occurrence basis, with limits of liability no less than \$1,000,000 per Occurrence, including products & completed operations. This coverage shall be maintained for a period of no less than the later of three (3) years after the delivery of goods/services or final payment of this Agreement. **The City of Pembroke Pines must be shown as an additional insured with respect to this coverage. The CITY's additional insured status shall extend to any coverage beyond the minimum limits of liability found herein.**

Yes No

8.6.10 Liquor Liability for those in the business of selling, serving or furnishing of any alcoholic beverages, whether licensed or not, shall carry a limit of liability of no less than \$1,000,000 per occurrence. Coverage shall be maintained for the later of three (3) years after the delivery of goods/services or final payment under the Agreement. **The City of Pembroke Pines must be shown as an additional insured with respect to this coverage. The CITY's additional insured status shall extend to any coverage beyond the minimum limits of liability found herein.**

Yes No

8.6.11 Sexual Abuse & Molestation for any agreement involving a vulnerable population. Limits shall be no less than \$500,000 per occurrence. This coverage shall be maintained for a period of no less than the later of three (3) years after the delivery of goods/services or final payment of this Agreement. Retroactive date, if any, to be no later than the first day of service to the CITY. **The City of Pembroke Pines must be shown as an additional insured with respect to this coverage. The CITY's additional insured status shall extend to any coverage beyond the minimum limits of liability found herein.**

Yes No

8.6.12 Builder's Risk Insurance shall be "All Risk" for one hundred percent (100%) of the



completed value of the project that is the subject of this Agreement with a deductible of not more than five percent (5%) for Named Windstorm and \$20,000 per claim for all other perils. The Builder's Risk Insurance shall include interests of the CITY, the CONTRACTOR and subcontractors of the project. The CONTRACTOR shall include a separate line item for all costs associated with the Builder's Risk Insurance Coverage for the project. The CITY reserves the right at its sole discretion to utilize the CONTRACTOR's Builder's Risk Insurance or for the CITY to purchase its own Builder's Risk Insurance for the Project. Prior to the CONTRACTOR purchasing the Builder's Risk insurance for the project, the CONTRACTOR shall allow the CITY the opportunity to analyze the CONTRACTOR's coverage and determine who shall purchase the coverage. Should the CITY utilize the CONTRACTOR's Builder's Risk Insurance, the CONTRACTOR shall be responsible for all deductibles. If the CITY chooses to purchase the Builder's Risk Coverage on the project, the CONTRACTOR shall provide the CITY with a change order deduct for all premiums and costs associated with the Builder's Risk insurance in their schedule. Should the CITY choose to utilize the CITY's Builder's Risk Program, the CITY shall be responsible for the Named Windstorm Deductible and the CONTRACTOR shall be responsible for the All Other Perils Deductible. If and when 100% is not available or reasonable, the CITY Risk Manager is to make the determination as to what limits are appropriate for the given project.

Yes No

x 8.6.13 Other Insurance

10.7 REQUIRED ENDORSEMENTS

- 8.7.1 The City of Pembroke Pines shall be named as an Additional Insured on each of the Liability Policies required herein.
- 8.7.2 Waiver of all Rights of Subrogation against the CITY.
- 8.7.3 Thirty (30) Day Notice of Cancellation or Non-Renewal to the CITY.
- 8.7.4 CONTRACTOR's policies shall be Primary & Non-Contributory.
- 8.7.5 All policies shall contain a "severability of interest" or "cross liability" clause without obligation for premium payment of the CITY.
- 8.7.6 The City of Pembroke Pines shall be named as a Loss Payee on all Property and/or Inland Marine Policies as their interest may appear.

8.8 Any and all insurance required of the CONTRACTOR pursuant to this Agreement must also be required by any subcontractor in the same limits and with all requirements as provided herein, including naming the CITY as an additional insured, in any work that is subcontracted unless such subcontractor is covered by the protection afforded by the CONTRACTOR and provided proof of such coverage is provided to CITY. The CONTRACTOR and any subcontractors shall maintain such policies during the term of this Agreement.

8.9 The CITY reserves the right to require any other additional types of insurance coverage and/or higher limits of liability it deems necessary based on the nature of work being performed under this Agreement.



8.10 The insurance requirements specified in this Agreement are minimum requirements and in no way reduce any liability the CONTRACTOR has assumed in the indemnification/hold harmless section(s) of this Agreement.

ARTICLE 9

NON-DISCRIMINATION AND EQUAL OPPORTUNITY EMPLOYMENT

During the performance of the Agreement, neither the CONTRACTOR nor any subcontractors shall discriminate against any employee or applicant for employment because of race, religion, color, gender, national origin, sex, age, marital status, political affiliation, familial status, sexual orientation, or disability if qualified. CONTRACTOR will take affirmative action to ensure that employees are treated during employment, without regard to their race, religion, color, gender, national origin, sex, age, marital status, political affiliation, familial status, sexual orientation, or disability if qualified. Such actions must include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. CONTRACTOR shall agree to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause. CONTRACTOR further agrees that CONTRACTOR will ensure that subcontractors, if any, will be made aware of and will comply with this nondiscrimination clause.

ARTICLE 10

INDEPENDENT CONTRACTOR

This Agreement does not create an employee/employer relationship between the Parties. It is the intent of the parties that the CONTRACTOR is an independent contractor under this Agreement and not the CITY's employee for all purposes, including but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, the State Workers' Compensation Act, and the State unemployment insurance law. The CONTRACTOR shall retain sole and absolute discretion in the judgment of the manner and means of carrying out CONTRACTOR's activities and responsibilities hereunder provided, further that administrative procedures applicable to services rendered under this Agreement shall be those of CONTRACTOR, which policies of CONTRACTOR shall not conflict with CITY, State, Federal, or United States policies, rules or regulations relating to the use of CONTRACTOR's funds provided for herein. The CONTRACTOR agrees that it is a separate and independent enterprise from the CITY, that it has full opportunity to find other business, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the work. This Agreement shall not be construed as creating any joint employment relationship between the CONTRACTOR and the CITY and the CITY will not be liable for any obligation incurred by CONTRACTOR, including but not limited to unpaid minimum wages and/or overtime premiums.

ARTICLE 11

AGREEMENT SUBJECT TO FUNDING



This Agreement shall remain in full force and effect only as long as the expenditures provided for in the Agreement have been appropriated by the City Commission of the City of Pembroke Pines in the annual budget for each fiscal year of this Agreement, and is subject to termination based on lack of funding.

ARTICLE 12
UNCONTROLLABLE FORCES

Neither CITY nor CONTRACTOR shall be considered to be in default of this Agreement if delays in or failure of performance shall be due to Uncontrollable Forces, the effect of which, by the exercise of reasonable diligence, the non-performing party could not avoid. The term "Uncontrollable Forces" shall mean any event which results in the prevention or delay of performance by a party of its obligations under this Agreement and which is beyond the reasonable control of the nonperforming party. It includes, but is not limited to fire, flood, earthquakes, storms, lightning, epidemic, pandemic, acts of God, war, riot, civil disturbance, sabotage, and governmental actions. Neither party shall, however, be excused from performance if nonperformance is due to forces, which are preventable, removable, or remediable, and which the nonperforming party could have, with the exercise of reasonable diligence, prevented, removed, or remedied with reasonable dispatch. The nonperforming party shall, within a reasonable time of being prevented or delayed from performance by an uncontrollable force, give written notice to the other party describing the circumstances and uncontrollable forces preventing continued performance of the obligations of this Agreement.

ARTICLE 13
GOVERNING LAW AND VENUE

This Agreement shall be governed by and construed in accordance with the laws of the State of Florida as now and hereafter in force. The venue for any and all actions or claims arising out of or related to this Agreement shall be in Broward County, Florida.

ARTICLE 14
SIGNATORY AUTHORITY

CONTRACTOR shall provide CITY with copies of requisite documentation evidencing that the signatory for CONTRACTOR has the authority to enter into this Agreement.

ARTICLE 15
BANKRUPTCY

It is agreed that if CONTRACTOR is adjudged bankrupt, either voluntarily or involuntarily, then this Agreement shall terminate effective on the date and at the time the bankruptcy petition is filed.



ARTICLE 16
MERGER; AMENDMENT

This Agreement constitutes the entire Agreement between CONTRACTOR and CITY, and all negotiations and oral understandings between the Parties are merged herein. This Agreement can be supplemented or amended only by a written document executed by both CONTRACTOR and CITY with the same formality and equal dignity herewith.

ARTICLE 17
DISPUTE RESOLUTION

17.1 Operations During Dispute.

17.2.1 In the event that a dispute, if any, arises between CITY and CONTRACTOR relating to this Agreement, performance or compensation hereunder, CONTRACTOR shall continue to render service in full compliance with all terms and conditions of this Agreement as interpreted by CITY regardless of such dispute.

17.2.2 CONTRACTOR expressly recognizes the paramount right and duty of CITY to provide adequate maintenance of CITY's property, and further agrees, in consideration for the execution of this Agreement, that in the event of such a dispute, if any, it will not seek injunctive relief in any court, but will negotiate with CITY for an adjustment on the matter or matters in dispute and, upon failure of said negotiations to resolve the dispute, may present the matter to a court of competent jurisdiction in an appropriate suit therefore instituted by it or by CITY.

17.2.3 Notwithstanding the other provisions in this Article, CITY reserves the right to terminate this Agreement at any time, whenever the Commodities provided by CONTRACTOR fail to meet reasonable standards of the trade after CITY gives written notice to the CONTRACTOR of the deficiencies as set forth in the written notice within fourteen (14) calendar days of the receipt by CONTRACTOR of such notice from CITY.

17.3 **Damages.** CITY reserves the right to recover any ascertainable actual damages incurred as a result of the failure of CONTRACTOR to perform in accordance with the requirements of this Agreement, or for losses sustained by CITY resultant from CONTRACTOR's failure to perform in accordance with the requirements of this Agreement.

ARTICLE 18
PUBLIC RECORDS

18.1 The City of Pembroke Pines is a public agency subject to Chapter 119, Florida Statutes. The CONTRACTOR shall comply with Florida's Public Records Law. Specifically, the CONTRACTOR shall:



18.1.1 Keep and maintain public records required by the CITY to perform the service;

18.1.2 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 Chapter 119, Florida Statutes, or as otherwise provided by law;

18.1.3 Ensure that public records that are exempt or that are confidential and exempt from public record disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and, following completion of the Agreement, CONTRACTOR shall destroy all copies of such confidential and exempt records remaining in its possession after the CONTRACTOR transfers the records in its possession to the CITY; and

18.1.4 Upon completion of the Agreement, CONTRACTOR shall transfer to the CITY, at no cost to the CITY, all public records in CONTRACTOR's possession. All records stored electronically by the CONTRACTOR 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.

18.2 The failure of CONTRACTOR to comply with the provisions set forth in this Article shall constitute a Default and Breach of this Agreement, for which, the CITY may terminate the Agreement in accordance with the terms herein.

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:

**CITY CLERK
601 CITY CENTER WAY, 4th FLOOR
PEMBROKE PINES, FL 33025
(954) 450-1050
mgraham@ppines.com**

**ARTICLE 19
MISCELLANEOUS**

19.1 **Ownership of Documents.** Reports, surveys, plans, studies and other data provided in connection with this Agreement are and shall remain the property of CITY whether or not the project for which they are made is completed. CITY hereby agrees to use CONTRACTOR's work product



for its intended purposes.

19.2 **Legal Representation.** It is acknowledged that each party to this Agreement had the opportunity to be represented by counsel in the preparation of this Agreement, and accordingly, the rule that a contract shall be interpreted strictly against the party preparing same shall not apply herein due to the joint contributions of both Parties.

19.3 **Records.** CONTRACTOR shall keep such records and accounts and require any and all subcontractors to keep records and accounts as may be necessary in order to record complete and correct entries as to personnel hours charged to this engagement, and any expenses for which CONTRACTOR expects to be reimbursed. Such books and records will be available at all reasonable times for examination and audit by CITY and shall be kept for a period of ten (10) years after the completion of all work to be performed pursuant to this Agreement. Incomplete or incorrect entries in such books and records will be grounds for disallowance by CITY of any fees or expenses based upon such entries. All records shall be maintained and available for disclosure, as appropriate, in accordance with Chapter 119, Florida Statutes.

19.4 **Assignments; Amendments.** This Agreement, and any interests herein, shall not be assigned, transferred or otherwise encumbered, under any circumstances, by CONTRACTOR without the prior written consent of CITY. For purposes of this Agreement, any change of ownership of CONTRACTOR shall constitute an assignment which requires CITY approval. However, this Agreement shall run to the benefit of CITY and its successors and assigns. It is further agreed that no modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

19.5 **No Contingent Fees.** CONTRACTOR warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for CONTRACTOR to solicit or secure this Agreement, and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for CONTRACTOR any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of this provision, CITY shall have the right to terminate the Agreement without liability at its discretion, to deduct from the contract price, or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

19.6 **Notice.** Whenever any party desires to give notice unto any other party, it must be given by written notice, sent by certified United States mail, with return receipt requested, addressed to the party for whom it is intended and the remaining party, at the places last specified, and the places for giving of notice shall remain such until they shall have been changed by written notice in compliance with the provisions of this section. For the present, CONTRACTOR and CITY designate the following as the respective places for giving of notice:

CITY: Charles F. Dodge, City Manager
City of Pembroke Pines
601 City Center Way
Pembroke Pines, Florida 33025



Telephone No. (954) 450-1040

Copy To: Samuel S. Goren, City Attorney
Goren, Cherof, Doody & Ezrol, P.A.
3099 East Commercial Boulevard, Suite 200
Fort Lauderdale, Florida 33308
Telephone No. (954) 771-4500
Facsimile No. (954) 771-4923

CONTRACTOR: **SUNSTATE METER AND SUPPLY, INC.,
14001 West Newberry Road,
Newberry, FL 32669**

19.7 **Binding Authority.** Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

19.8 **Headings.** Headings herein are for convenience of reference only and shall not be considered on any interpretation of this Agreement.

19.9 **Exhibits.** Each exhibit referred to in this Agreement forms an essential part of this Agreement. The exhibits if not physically attached should be treated as part of this Agreement and are incorporated herein by reference.

19.10 **Severability.** If any provision of this Agreement or application thereof to any person or situation shall to any extent, be held invalid or unenforceable, the remainder of this Agreement, and the application of such provisions to persons or situations other than those as to which it shall have been held invalid or unenforceable shall not be affected thereby, and shall continue in full force and effect, and be enforced to the fullest extent permitted by law.

19.11 **Extent of Agreement.** This Agreement represents the entire and integrated agreement between the CITY and the CONTRACTOR and supersedes all prior negotiations, representations or agreements, either written or oral.

19.12 **Waiver.** Failure of CITY to insist upon strict performance of any provision or condition of this Agreement, or to execute any right therein contained, shall not be construed as a waiver or relinquishment for the future of any such provision, condition, or right, but the same shall remain in full force and effect.

19.13 **Attorney's Fees.** In the event that either party brings suit for enforcement of this Agreement, each party shall bear its own attorney's fees and court costs, except as otherwise provided under the indemnification provisions set forth herein above.



19.14 **Protection of CITY Property.** At all times during the performance of this Agreement, CONTRACTOR shall protect CITY's property from all damage whatsoever on account of the work being carried on under this Agreement.

19.15 **Counterparts and Execution.** This Agreement may be executed in multiple originals or counterparts, each of which shall be deemed to be an original and together shall constitute one and the same agreement. Execution and delivery of this Agreement by the Parties shall be legally binding, valid and effective upon delivery of the executed documents to the other party through facsimile transmission, email, or other electronic delivery.

19.16 **Compliance with Statutes:** It shall be the CONTRACTOR's responsibility to be aware of and comply with all statutes, ordinances, rules, orders, regulations and requirements of all local, CITY, state, and federal agencies as applicable.

19.17 **Scrutinized Companies.** CONTRACTOR, its principals or owners, certify that they are not listed on the Scrutinized Companies that Boycott Israel List, Scrutinized Companies with Activities in Sudan List, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or is engaged in business operations with Syria. In accordance with Section 287.135, Florida Statutes, as amended, a company is ineligible to, and may not, bid on, submit a proposal for, or enter into or renew a contract with any agency or local governmental entity for goods or services of:

19.17.1 Any amount of, at the time bidding on, submitting a proposal for, or entering into or renewing such contract, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, Florida Statutes, or is engaged in a boycott of Israel; or

19.17.2 One million dollars or more if, at the time of bidding on, submitting a proposal for, or entering into or renewing such contract, the company:

19.17.2.1 Is on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to Section 215.473, Florida Statutes; or

19.17.2.2 Is engaged in business operations in Syria.

19.18 **No Third Party Beneficiaries.** The services to be performed by the CONTRACTOR are intended solely for the benefit of the CITY. No person or entity not a signatory to this Agreement shall be entitled to rely on the CONTRACTOR's performance of its services hereunder, and no right to assert a claim against the CONTRACTOR by assignment of indemnity rights or otherwise shall accrue to a third party as a result of this Agreement or the performance of the CONTRACTOR's services hereunder.

19.19 **E-Verify.** CONTRACTOR certifies that it is aware of and complies with the requirements of Section 448.095, Florida Statutes, as may be amended from time to time and briefly described herein below.



19.19.1 **Definitions for this Section.**

19.19.1.1 “Contractor” means a person or entity that has entered or is attempting to enter into a contract with a public employer to provide labor, supplies, or services to such employer in exchange for salary, wages, or other remuneration. “Contractor” includes, but is not limited to, a vendor or consultant.

19.19.1.2 “Subcontractor” means a person or entity that provides labor, supplies, or services to or for a contractor or another subcontractor in exchange for salary, wages, or other remuneration.

19.19.1.3 “E-Verify system” means an Internet-based system operated by the United States Department of Homeland Security that allows participating employers to electronically verify the employment eligibility of newly hired employees.

19.19.2 **Registration Requirement; Termination.** Pursuant to Section 448.095, Florida Statutes, effective January 1, 2021, Contractors, shall register with and use the E-verify system in order to verify the work authorization status of all newly hired employees. Contractor shall register for and utilize the U.S. Department of Homeland Security’s E-Verify System to verify the employment eligibility of:

19.19.2.1 All persons employed by a Contractor to perform employment duties within Florida during the term of the contract; and

19.19.2.2 All persons (including subvendors/ subconsultants/ subcontractors) assigned by Contractor to perform work pursuant to the contract with the City of Pembroke Pines. The Contractor acknowledges and agrees that registration and use of the U.S. Department of Homeland Security’s E-Verify System during the term of the contract is a condition of the contract with the City of Pembroke Pines; and

19.19.2.3 The Contractor shall comply with the provisions of Section 448.095, Fla. Stat., "Employment Eligibility," as amended from time to time. This includes, but is not limited to registration and utilization of the E-Verify System to verify the work authorization status of all newly hired employees. Contractor shall also require all subcontractors to provide an affidavit attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. The Contractor shall maintain a copy of such affidavit for the duration of the contract. Failure to comply will lead to termination of this Contract, or if a subcontractor knowingly violates the statute, the subcontract must be terminated immediately. Any challenge to termination under this provision must be filed in the Circuit Court no later than twenty (20) calendar days after the date of termination. Termination of this Contract under this Section is not a breach of contract



and may not be considered as such. If this contract is terminated for a violation of the statute by the Contractor, the Contractor may not be awarded a public contract for a period of one (1) year after the date of termination.

IN WITNESS OF THE FOREGOING, the Parties have set their hands and seals the day and year first written above.

CITY:

CITY OF PEMBROKE PINES, FLORIDA

ATTEST:

MDG
4/21/2006
MARLENE D. GRAHAM, CITY CLERK

By: *Charles F. Dodge*
CHARLES F. DODGE, CITY MANAGER

By: *Frank C. Ortis*
MAYOR FRANK C. ORTIS

APPROVED AS TO FORM:

[Signature]
Name: *Bruce Stern*
OFFICE OF THE CITY ATTORNEY

CONTRACTOR:

SUNSTATE METER & SUPPLY, INC.

By: *Keith Ellenburg*
Name: Keith Ellenburg
Title: President





SUNSTATE METER
& SUPPLY, INC.

Sunstate Meter & Supply, Inc.
14001 W. Newberry Road
Newberry FL 32669-2710
Phone: 352 332-7106

EXHIBIT "A"

PROPOSAL #74618

ACCOUNT NO.	SALESMAN NO.
100357	1

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CITY OF PEMBROKE PINES
8300 SOUTH PALM DRIVE
ATTN: YVONNE BUELL
PEMBROKE PINES, FL 33025
754-260-4506 754-260-4516

**S
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CITY OF PEMBROKE PINES
13975 PEMBROKE ROAD
PEMBROKE PINES, FL 33027

USER	ORDER DATE	CUSTOMER P.O. NO.	SALES ORDER NO.	SHIPPING INSTRUCTIONS
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JAYM	03/04/21		74618	Allow
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Quantity	U.M.	EA	Part# / Description	Price	Amount
1	1	EA	ED2B31RPWG11S2337 5/8X3/4 T10 USG PCRI XXXX D PROCODER R900i PIT GAL METER "PEMBROKE PINES SPECIAL" S/N	\$180.00	\$180.00
2	1	EA	ED2F21RPWG11S2337 1" T10 USG PCRI XXXX D PROCODER R900i PIT GAL METER "PEMBROKE PINE SPECIAL" S/N	\$268.24	\$268.24
3	1	EA	ED2B31R8G1SA48 5/8X3/4 T-10 USG DR XXXX YR DIRECT READ GALLON METER PLS BTM PLS COVER S/N	\$41.44	\$41.44
4	1	EA	ED2F21R8G1SA48 1" T-10 USG DR XXXX YR DIRECT READ GALLON METER W/BRZ BTM S/N	\$131.74	\$131.74
5	1	EA	ED2J11R8G2 2" T10 USG DR XXXX OF DIRECT READ GALLON FLANGED METER S/N	\$395.93	\$395.93
6	1	EA	RPW2G11 REG-PROCODER 5/8 T10 R900i V4 PIT GAL	\$165.00	\$165.00
7	1	EA	RPW2G31 REG-PROCODER 1 T10 R900i V4 PI T GAL	\$165.00	\$165.00

REMIT PAYMENT TO: TERMS: Net 30 days

Sunstate Meter & Supply, Inc.
14001 W. Newberry Road
Newberry FL 32669-2710

SALE AMOUNT
DISCOUNT
TAX
FREIGHT
SUBTOTAL
DEPOSIT
TOTAL DUE

ALL FUNDS PAYABLE IN U.S. DOLLARS



SUNSTATE METER
& SUPPLY, INC.

PROPOSAL #74618

Sunstate Meter & Supply, Inc.
14001 W. Newberry Road
Newberry FL 32669-2710
Phone: 352 332-7106

ACCOUNT NO.	SALESMAN NO.
100357	1

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CITY OF PEMBROKE PINES
8300 SOUTH PALM DRIVE
ATTN: YVONNE BUELL
PEMBROKE PINES, FL 33025
754-260-4506 754-260-4516

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CITY OF PEMBROKE PINES
13975 PEMBROKE ROAD
PEMBROKE PINES, FL 33027

USER	ORDER DATE	CUSTOMER P.O. NO.	SALES ORDER NO.	SHIPPING INSTRUCTIONS
JAYM	03/04/21		74618	Allow
Quantity	U M	Part# /Description	Price	Amount
8	1 EA	RPW2G41 REG-PROCODER 1 1/2 T10 R900i V 4 PIT GAL	\$165.00	\$165.00
9	1 EA	RPW2G51 REG-PROCODER 2 T10 R900i V4 PI T GAL	\$165.00	\$165.00
10	1 EA	13749-200 ANTENNA ASSY 6' CABLE R900 LID MOUNT SLIP-ON	\$16.75	\$16.75
11	1 EA	9106-001 REGISTER SEAL PIN L/P BLACK	\$0.22	\$0.22
12	144 EA	13721-008 ONE MONTH SUPPORT - BELT CLIP TRANSCEIVER	\$27.08	\$3,899.52
13	1 EA	13302-100 R900 BLUETOOTH BELT CLIP TRANS CEIVER 3.0 SYSTEM	\$2,500.00	\$2,500.00
14	48 EA	13721-005 ONE MONTH SUPPORT - MRX920 MOBILE COLLECTOR	\$114.83	\$5,511.84
15	1 EA	13655-005 NEPTUNE, MRX920 VERSION 4 MOBILE DATA COLLECTOR	\$9,542.40	\$9,542.40
16	45,000 EA	13812-210 NEPTUNE 360 AMR ADV SUB >20K - 50K SERVICES	\$0.53	\$23,850.00
17	45,000 EA	13812-210 NEPTUNE 360 AMR ADV SUB >20K - 50K SERVICES	\$0.62	\$27,900.00
18		Year Two Pricing N360 Software		
REMIT PAYMENT TO: Sunstate Meter & Supply, Inc. 14001 W. Newberry Road Newberry FL 32669-2710			TERMS: Net 30 days	
			SALE AMOUNT	
			DISCOUNT	
			TAX	
			FREIGHT	
			SUBTOTAL	
			DEPOSIT	
			TOTAL DUE	
ALL FUNDS PAYABLE IN U.S. DOLLARS				



SUNSTATE METER
& SUPPLY, INC.

PROPOSAL #74618

Sunstate Meter & Supply, Inc.
14001 W. Newberry Road
Newberry FL 32669-2710
Phone: 352 332-7106

ACCOUNT NO.	SALESMAN NO.
100357	1

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CITY OF PEMBROKE PINES
8300 SOUTH PALM DRIVE
ATTN: YVONNE BUELL
PEMBROKE PINES, FL 33025

754-260-4506 754-260-4516

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CITY OF PEMBROKE PINES
13975 PEMBROKE ROAD
PEMBROKE PINES, FL 33027

USER	ORDER DATE	CUSTOMER P.O. NO.	SALES ORDER NO.	SHIPPING INSTRUCTIONS
JAYM	03/04/21		74618	Allow
Quantity	U/M	Part#/Description	Price	Amount
19	1 EA	EU1F2G1 1" M10 USG R9I XXXX MACH 10 R900I GAL ULTRASONIC METER S/N	\$337.16	\$337.16
20	1 EA	EU2A2G1 1 1/2" M10 USG R9I XXXX OF MACH 10 R900I GAL ULTRASONIC METER, 13" LL S/N	\$698.25	\$698.25
21	1 EA	EU2B2G1 1 1/2" M10 USG R9I XXXX OF MACH 10 R900I GAL ULTRASONIC METER, 10" LL S/N	\$698.25	\$698.25
22	1 EA	EU2E2G1S2337 2" MACH 10 FLANGED GALLON R900I ULTRASONIC METER 17" LL / "PEMBROKE PINES" S/N	\$791.77	\$791.77
23	1 EA	EU2F2G1 2" M10 USG R9I XXXX OF MACH 10 R900I GAL ULTRASONIC METER, 10" LL S/N	\$791.77	\$791.77
24	1 EA	EU3A2G1 3" M10 USG R9I XXXX MACH 10 R900I GAL ULTRASONIC METER, 12" LL S/N	\$2,560.25	\$2,560.25
REMIT PAYMENT TO: Sunstate Meter & Supply, Inc. 14001 W. Newberry Road Newberry FL 32669-2710			TERMS: Net 30 days	SALE AMOUNT DISCOUNT TAX FREIGHT SUBTOTAL DEPOSIT TOTAL DUE
ALL FUNDS PAYABLE IN U.S. DOLLARS				



SUNSTATE METER
& SUPPLY, INC

PROPOSAL #74618

Sunstate Meter & Supply, Inc.
14001 W. Newberry Road
Newberry FL 32669-2710
Phone: 352 332-7106

ACCOUNT NO.	SALESMAN NO.
100357	1

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O** CITY OF PEMBROKE PINES
8300 SOUTH PALM DRIVE
ATTN: YVONNE BUELL
PEMBROKE PINES, FL 33025

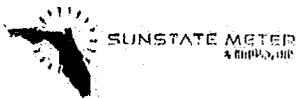
754-260-4506 754-260-4516

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13975 PEMBROKE ROAD
PEMBROKE PINES, FL 33027

USER	ORDER DATE	CUSTOMER P.O. NO.	SALES ORDER NO.	SHIPPING INSTRUCTIONS
JAYM	03/04/21		74618	Allow
Quantity	U M	Part# /Description	Price	Amount
25	1 EA	EU3B2G1 3" M10 USG R9I XXXX MACH 10 R900i GAL ULTRASONIC METER 17" LL S/N	\$2,619.15	\$2,619.15
26	1 EA	EU3C2G1 4" M10 USG R9I XXXX MACH 10 R900i GAL ULTRASONIC METER, 14" LL S/N	\$3,215.75	\$3,215.75
27	1 EA	EU3D2G1 4" M10 USG R9I XXXX MACH 10 R900i GAL ULTRASONIC METER 20" LL S/N	\$3,297.45	\$3,297.45
28	1 EA	EU3E2G1 6" M10 USG R9I XXXX MACH 10 R900i GAL ULTRASONIC METER 18" LL S/N	\$5,279.15	\$5,279.15
29	1 EA	EU3F2G1 6" M10 USG R9I XXXX MACH 10 R900i GAL ULTRASONIC METER 24" LL S/N	\$5,400.75	\$5,400.75
30	1 EA	EP7E1RPWG11 8X2 HPP3 USG PCR9I XXXX PROTECTUS III PROCODER R900I GALLON METER S/N	\$15,267.86	\$15,267.86
31	Good Through 09/30/2023			
REMIT PAYMENT TO: Sunstate Meter & Supply, Inc. 14001 W. Newberry Road Newberry FL 32669-2710			TERMS: Net 30 days	
			SALE AMOUNT	\$115,855.64
			DISCOUNT	\$0.00
			TAX	\$0.00
			FREIGHT	\$0.00
			SUBTOTAL	\$115,855.64
			DEPOSIT	\$0.00
			TOTAL DUE	\$115,855.64

ALL FUNDS PAYABLE IN U.S. DOLLARS



Sunstate Meter & Supply, Inc.
 14001 W. Newberry Road
 Newberry FL 32669-2710
 Phone: 352 332-7106

PROPOSAL #70514

ACCOUNT NO.	SALESMAN NO.
100357	1

**B
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 CITY OF PEMBROKE PINES
 8300 SOUTH PALM DRIVE
 ATTN: YVONNE BUELL
 PEMBROKE PINES, FL 33025
 754-260-4506 754-260-4516

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 CITY OF PEMBROKE PINES
 13975 PEMBROKE ROAD
 PEMBROKE PINES, FL 33027

USER	ORDER DATE	CUSTOMER P.O. NO.	SALES ORDER NO.	SHIPPING INSTRUCTIONS
JAYM	05/28/20		70514	Drop Shlp Neptune
Quantity	UM	Part#/Description	Price	Amount
1	45,000 EA	13812-210 NEPTUNE 360 AMR ADV SUB >20K - 50K SERVICES	\$0.44	\$19,800.00
2	1 EA	13812-002 NEPTUNE 360 ADVANCED SET UP FE E.(SaaS PF)	\$0.00	\$0.00
3	1 EA	13812-005 NEPTUNE 360 ON SITE TRAINING 8 HOUR WINDOW	\$1,666.67	\$1,666.67
4		Year One 30% Discount Waive Set up Fee		
5	45,000 EA	13812-210 NEPTUNE 360 AMR ADV SUB >20K - 50K SERVICES	\$0.53	\$23,850.00
6		Year Two 15% Discount		
7	45,000 EA	13812-210 NEPTUNE 360 AMR ADV SUB >20K - 50K SERVICES	\$0.62	\$27,900.00
REMIT PAYMENT TO: Sunstate Meter & Supply, Inc. 14001 W. Newberry Road Newberry FL 32669-2710			TERMS: Net 30 days	
			SALE AMOUNT	\$73,216.67
			DISCOUNT	\$0.00
			TAX	\$0.00
			FREIGHT	\$0.00
			SUBTOTAL	\$73,216.67
			DEPOSIT	\$0.00
			TOTAL DUE	\$73,216.67
ALL FUNDS PAYABLE IN U.S. DOLLARS				

MACH 10® Ultrasonic Meter

1. TERMS OF LIMITED WARRANTY

With respect to its Neptune® MACH 10® water meter ("MACH 10"), Neptune Technology Group Inc. ("Neptune") warrants that for meters sold after 02/01/2019 for potable water or combined potable water and residential fire service applications the MACH 10 meter will be warranted to be free from manufacturing defects in workmanship and material as follows:

The MACH 10 will be, at the later of (i) the date of original purchase from Neptune or (ii) the date of original shipment from a Neptune-authorized distributor of water meters (that later date is referred to as "the Date of Shipment"), and will remain for a period of 18 months from the Date of Shipment, or 12 months from date of installation, whichever comes first, free from manufacturing defects in workmanship and material. Neptune makes the following additional warranties with respect to certain MACH 10 components, dependent upon the size of meter:

a) Lead Free Bronze Maincase

i) 5/8" - 1" MACH 10

Neptune warrants that the MACH 10 lead free bronze maincase will be free from manufacturing defects in workmanship and material for twenty (20) years from the Date of Shipment.

ii) 1½" - 2" MACH 10

Neptune warrants that the MACH 10 lead free bronze maincase will be free from manufacturing defects in workmanship and material for ten (10) years from the Date of Shipment.

b) Electronics (Battery, PCB, Transducers, LCD)

i) 5/8" - 1" MACH 10

Neptune warrants that the electronics of the MACH 10 will be free from manufacturing defects in workmanship and material for a period of twenty (20) years from the Date of Shipment. Neptune will repair or replace a non-performing MACH 10 free of charge for the first ten (10) years and at a discount of the then-current contract price, or the then-current list price, whichever is less, during the following ten (10) years per the following table. The MACH 10 warranty does not include the external housing that encapsulates the electronics.

ii) 1½" - 2" MACH 10

Neptune warrants the electronics of the MACH 10 will be free from manufacturing defects in workmanship and material for a period of ten (10) years from the Date of Shipment. Neptune will repair or replace a non-performing MACH 10 free of charge during the ten (10) year Warranty Period. The MACH 10 warranty does not include the external housing that encapsulates the electronics.

Year of Failure	MACH 10®
	Replacement Price Discount*
1-10	Full replacement 100%
11	50%
12	50%
13	40%
14	40%
15	30%
16	30%
17	20%
18	20%
19	10%
20	10%

EXHIBIT "B"

With respect to Section 1 and subparts a) and b), the period from the Date of Shipment to the expiration of the specified time period is the "Warranty Period" with respect to each specified component. Neptune shall not be responsible for any defects in the MACH 10 or any specified component (whether due to design, materials, manufacture, or otherwise) that manifest themselves after the expiration of the specified Warranty Period.

2. MACH 10 METER ACCURACY

Provided that the MACH 10 meter and the components specified in Section 1 and subparts a) and b) are functioning properly (regardless of whether the MACH 10 meter and specified components are within or outside an applicable Warranty Period), Neptune makes the following warranties with respect to meter accuracy, dependent upon the size of meter:

i) 5/8" – 1" MACH 10

Neptune MACH 10 meters are warranted to meet or exceed meter accuracy of $\pm 1.5\%$ for the published ranges set forth in Neptune's current product sheet in existence at the time of the Date of Shipment of the MACH 10 meter for twenty (20) years from Date of Shipment. Neptune further warrants the MACH 10 to meet or exceed extended low flow accuracy of $\pm 3\%$ for the published ranges set forth in Neptune's current product sheet in existence at the time of the Date of Shipment of the MACH 10 meter for twenty (20) years from Date of Shipment.

ii) 1 1/2" – 2" MACH 10

Neptune MACH 10 meters are warranted to meet or exceed meter accuracy of $\pm 1.5\%$ for the published ranges set forth in Neptune's current product sheet in existence at the time of the Date of Shipment of the MACH 10 meter for ten (10) years from date of shipment. Neptune further warrants the MACH 10 to meet or exceed extended low flow accuracy of $\pm 3\%$ for the published ranges set forth in Neptune's current product sheet in existence at the time of the Date of Shipment of the MACH 10 meter for ten (10) years from Date of Shipment.

3. WARRANTY RETURNS

If a Neptune MACH 10 meter fails an accuracy test during an applicable Warranty Period, it may be returned to Neptune for evaluation. Any MACH 10 meter proved to the satisfaction of Neptune to have failed the warranties set forth in this Certificate of Warranty will, at the option of Neptune, be repaired or replaced at no cost to the customer. An accuracy test shall be conducted by the customer according to then-current AWWA testing standards. Any meter being returned for repair to Neptune under this performance warranty must be returned with a copy of the customer's test results. If the meter is returned to Neptune without a copy of the test results or if Neptune's factory test shows the meter to meet Neptune's published accuracy specifications, then the customer will be charged a nominal testing fee by Neptune in such cases. If after the meter has been tested by Neptune, Neptune determines that the meter has failed the warranties set forth in this Certificate of Warranty, then Neptune will repair or replace the meter at Neptune's option. Repaired or replacement MACH 10 meters are warranted for one (1) year after Date of Shipment of the repaired or replacement MACH 10 meter or the balance of the original MACH 10 meter warranty, whichever is greater.

4. RESPONSIBILITY LIMITED TO COSTS OF REPLACEMENT AND REPAIR

If the MACH 10 fails to meet the warranties set forth in Sections 1 and 2 of this Certificate of Warranty, then Neptune, at its option shall repair or replace the MACH 10 or part thereof, provided that (a) the MACH 10 is delivered to a Neptune representative, (b) the MACH 10 is accompanied by a Return Material Authorization (RMA), and (c) all costs of delivery to Neptune are assumed by the purchaser of the MACH 10. Neptune's liability is limited to its

costs of replacement and repair of the non-performing MACH 10, and without limitation, this warranty does not include field replacement, labor, or materials costs, which are the responsibility of the customer. Damages resulting from miscalculation of water usage or lost revenue or profit are not recoverable from Neptune. It is the responsibility of the customer to periodically verify the operation and accuracy of its meters.

5. WARRANTIES ARE INAPPLICABLE UNDER CERTAIN CONDITIONS

The warranties set forth in this Certificate of Warranty do not apply to any MACH 10 meter that has been damaged by, or subjected to, conditions which, in the opinion of Neptune, have affected the ability of the MACH 10 to perform, including but not limited to: misuse; improper handling, application or installation; excessive operating conditions; foreign materials in the water; aggressive water conditions; tampering or unauthorized repairs or modifications; accidental or intentional damage; or acts of God. This Certificate of Warranty shall not apply if the product is placed in a non-recommended installation, is connected or altered by other than Neptune recommended procedures or is read by equipment not approved or licensed by Neptune. Neptune makes no claims concerning operability and/or compatibility or third-party reading systems. In addition, this Certificate of Warranty shall not apply if third-party reading equipment is believed to have caused damage to the MACH 10. In order to determine its liability, if any, under this Certificate of Warranty, Neptune shall have the right to inspect any MACH 10 meter or part thereof that is claimed to be defective at Neptune or other location designated by Neptune.

THE ABOVE WARRANTY FOR THE MACH 10 WATER METER IS THE SOLE AND EXCLUSIVE WARRANTY GIVEN BY NEPTUNE WITH RESPECT TO THE MACH 10. **ALL OTHER WARRANTIES, CONDITIONS, TERMS, REPRESENTATIONS, OR OTHER LEGALLY OPERATIVE PROVISIONS CONCERNING THE MACH 10 ARE HEREBY EXPRESSLY EXCLUDED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY, CONDITION, TERM, AND REPRESENTATION OR OTHER LEGALLY OPERATIVE PROVISION AS TO MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.** THIS PARAGRAPH IS EXPRESSLY INTENDED TO EXCLUDE FROM THIS CONTRACT ALL STATUTORY AND COMMON LAW WARRANTIES TO THE MAXIMUM EXTENT PERMITTED BY LAW. TO AVOID ANY AMBIGUITY OR MISUNDERSTANDING, ALL PROBLEMS ARISING WITH A MACH 10 WATER METER AFTER THIS POINT SHALL BE BUYER'S RESPONSIBILITY. NEPTUNE'S LIABILITY SHALL IN NO EVENT EXCEED THE PURCHASE PRICE OF THE MACH 10 WATER METER. NEPTUNE SHALL NOT BE SUBJECT TO AND DISCLAIMS THE FOLLOWING: (1) ANY OTHER OBLIGATIONS OR LIABILITIES ARISING OUT OF BREACH OF CONTRACT OR OF WARRANTY, (2) ANY OBLIGATIONS WHATSOEVER ARISING FROM TORT CLAIMS (INCLUDING NEGLIGENCE AND STRICT LIABILITY) OR ARISING UNDER OTHER THEORIES OF LAW WITH RESPECT TO PRODUCTS SOLD OR SERVICES RENDERED BY NEPTUNE, OR ANY UNDERTAKINGS, ACTS, OR OMISSIONS RELATING THERETO, AND (3) ALL CONSEQUENTIAL, INCIDENTAL, SPECIAL, MULTIPLE, EXEMPLARY, AND PUNITIVE DAMAGES WHATSOEVER.

ProCoder™)R900i™

1. WARRANTY EFFECTIVE DATE

This warranty will be effective for any ProCoder™)R900i™ that has shipped since product introduction.

2. PROCODER)R900i

Neptune Technology Group Inc. warrants that the ProCoder)R900i (which includes a Neptune-supplied battery that is not intended to be removable or replaceable) shall be free from defects in manufacture and design for a period of twenty (20) years from the "date of shipment" (such period being the "Warranty Period"). Neptune shall not be responsible for any defects in the ProCoder)R900i (whether due to design, materials, manufacture, or otherwise) which manifest themselves after the expiration of the Warranty Period. Neptune will repair or replace a non-performing ProCoder)R900i free of charge for the first ten (10) years and at a discount off of the then-current contract price or the then-current list price, whichever is less, during the remaining ten (10) years according to the discount schedule at the right.

3. WARRANTIES ARE INAPPLICABLE UNDER CERTAIN CONDITIONS.

This warranty does not include field replacement labor or materials costs, which are the responsibility of the utility. This warranty does not apply if product is placed in non-recommended installations; may have been repaired with parts not recommended by Neptune; converted, altered, or connected by other than Neptune recommended procedures; is used with other than genuine Neptune meter registers and components or read by equipment not approved or licensed by Neptune; or damaged due to improper care or maintenance, or improper periodic testing (please refer to ProCoder™)R900i™ Installation and Maintenance Guide). This warranty does not apply to any ProCoder)R900i that has been damaged by, or subjected to, conditions which, in the opinion of Neptune, have affected the ProCoder)R900i register's ability of performance, including but not limited to: misuse; improper handling; application or installation; excessive operating conditions; tampering or unauthorized repairs and modifications; accidental or intentional damage; or acts of God. In no event shall Neptune be liable for special, incidental, indirect, or consequential damages, including, without limitation, lost revenue.

Year of Failure	ProCoder)R900i Replacement Price Discount*
1-10	Full replacement: 100%
11	50%
12	50%
13	40%
14	40%
15	30%
16	30%
17	20%
18	20%
19	10%
20	10%

*Replacement price discount percentages will be applied towards then-current contract prices or then-current list prices, whichever is less, in effect for the year product is accepted by Neptune under warranty conditions. Replacement ProCoder)R900i registers are warranted for one (1) year after date of shipment or balance of original ProCoder)R900i warranty, whichever is greater.

THE ABOVE WARRANTY FOR THE PROCODER)R900i IS THE SOLE AND EXCLUSIVE WARRANTY GIVEN BY NEPTUNE WITH RESPECT TO THE PROCODER)R900i. ALL OTHER WARRANTIES, CONDITIONS, TERMS, REPRESENTATIONS, OR OTHER LEGALLY OPERATIVE PROVISIONS CONCERNING THE PROCODER)R900i ARE HEREBY EXPRESSLY EXCLUDED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY, CONDITION, TERM, AND REPRESENTATION OR OTHER LEGALLY OPERATIVE PROVISION AS TO MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THIS PARAGRAPH IS EXPRESSLY INTENDED TO EXCLUDE FROM

THIS CONTRACT ALL STATUTORY AND COMMON LAW WARRANTIES TO THE MAXIMUM EXTENT PERMITTED BY LAW. TO AVOID ANY AMBIGUITY OR MISUNDERSTANDING, ALL PROBLEMS ARISING WITH AN PROCODER)R900i AFTER THIS POINT ARE BUYER'S RESPONSIBILITY. NEPTUNE'S LIABILITY SHALL IN NO EVENT EXCEED THE PURCHASE PRICE OF THE PROCODER)R900i. NEPTUNE SHALL NOT BE SUBJECT TO AND DISCLAIMS THE FOLLOWING: (1) ANY OTHER OBLIGATIONS OR LIABILITIES ARISING OUT OF BREACH OF CONTRACT OR OF WARRANTY, (2) ANY OBLIGATIONS WHATSOEVER ARISING FROM TORT CLAIMS (INCLUDING NEGLIGENCE AND STRICT LIABILITY) OR ARISING UNDER OTHER THEORIES OF LAW WITH RESPECT TO PRODUCTS SOLD OR SERVICES RENDERED BY NEPTUNE, OR ANY UNDERTAKINGS, ACTS, OR OMISSIONS RELATING THERETO, AND (3) ALL CONSEQUENTIAL, INCIDENTAL, SPECIAL, MULTIPLE, EXEMPLARY, AND PUNITIVE DAMAGES WHATSOEVER.

E-CODER®)R900i™

1. WARRANTY EFFECTIVE DATE

This warranty will be effective for any E-CODER®)R900i™ that has shipped since product introduction.

2. E-CODER)R900i

Neptune Technology Group Inc. warrants that the E-CODER)R900i (which includes a Neptune®-supplied battery that is not intended to be removable or replaceable) shall be free from defects in manufacture and design for a period of twenty (20) years from the "Date of Shipment" (such period being the "Warranty Period"). Neptune shall not be responsible for any defects in the E-CODER)R900i (whether due to design, materials, manufacture, or otherwise) which manifest themselves after the expiration of the Warranty Period. Neptune will repair or replace a non-performing E-CODER)R900i free of charge for the first ten (10) years and at a discount off of the then-current contract price or the then-current list price, whichever is less, during the remaining ten (10) years according to the discount schedule at the right.

Year of Failure	E-CODER)R900i Replacement Price Discount*
1-10	Full replacement: 100%
11	50%
12	50%
13	40%
14	40%
15	30%
16	30%
17	20%
18	20%
19	10%
20	10%

* Replacement price discount percentages will be applied towards then-current contract prices or then-current list prices, whichever is less, in effect for the year product is accepted by Neptune under warranty conditions. Replacement E-CODER)R900i registers are warranted for one (1) year after date of shipment or balance of original E-CODER)R900i warranty, whichever is greater.

3. WARRANTIES ARE INAPPLICABLE UNDER CERTAIN CONDITIONS.

This warranty does not include field replacement labor or materials costs, which are the responsibility of the utility.

This warranty does not apply if product is placed in non-recommended installations; may have been repaired with parts not recommended by Neptune; converted, altered, or connected by other than Neptune recommended procedures; is used with other than genuine Neptune meter registers and components or read by equipment not approved or licensed by Neptune; or damaged due to improper care or maintenance, or improper periodic testing (please refer to E-CODER)R900i Installation and Maintenance Guide). This warranty does not apply to any

E-CODER)R900i that has been damaged by, or subjected to, conditions which, in the opinion of Neptune, have affected

the E-CODER)R900i register's ability of performance, including but not limited to: misuse; improper handling; application or installation; excessive operating conditions; tampering or unauthorized repairs and modifications; accidental or intentional damage; or acts of God. In no event shall Neptune be liable for special, incidental, indirect, or consequential damages, including, without limitation, lost revenue.

THE ABOVE WARRANTY FOR THE E-CODER)R900i IS THE SOLE AND EXCLUSIVE WARRANTY GIVEN BY NEPTUNE WITH RESPECT TO THE E-CODER)R900i. ALL OTHER WARRANTIES, CONDITIONS, TERMS, REPRESENTATIONS, OR OTHER LEGALLY OPERATIVE PROVISIONS CONCERNING THE E-CODER)R900i ARE HEREBY EXPRESSLY EXCLUDED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY, CONDITION, TERM, AND REPRESENTATION OR OTHER LEGALLY OPERATIVE PROVISION AS TO MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THIS PARAGRAPH IS EXPRESSLY INTENDED TO EXCLUDE FROM THIS CONTRACT ALL STATUTORY AND COMMON LAW WARRANTIES TO THE MAXIMUM EXTENT PERMITTED BY LAW. TO AVOID ANY AMBIGUITY OR MISUNDERSTANDING, ALL PROBLEMS ARISING WITH AN E-CODER)R900i AFTER THIS POINT ARE BUYER'S RESPONSIBILITY. NEPTUNE'S LIABILITY SHALL IN NO EVENT EXCEED THE PURCHASE PRICE OF THE E-CODER)R900i. NEPTUNE SHALL NOT BE SUBJECT TO AND DISCLAIMS THE FOLLOWING: (1) ANY OTHER OBLIGATIONS OR LIABILITIES ARISING OUT OF BREACH OF CONTRACT OR OF WARRANTY, (2) ANY OBLIGATIONS WHATSOEVER ARISING FROM TORT CLAIMS (INCLUDING NEGLIGENCE AND STRICT LIABILITY) OR ARISING UNDER OTHER THEORIES OF LAW WITH RESPECT TO PRODUCTS SOLD OR SERVICES RENDERED BY NEPTUNE, OR ANY UNDERTAKINGS, ACTS, OR OMISSIONS RELATING THERETO, AND (3) ALL CONSEQUENTIAL, INCIDENTAL, SPECIAL, MULTIPLE, EXEMPLARY, AND PUNITIVE DAMAGES WHATSOEVER.

Neptune T-10®, HP Turbine, TRU/FLO® Compound Cold Water Meters

1. TERMS OF LIMITED WARRANTY

With respect to its Neptune T-10®, HP TURBINE, TRU/FLO® Compound Water Meters (collectively the "Water Meters"), Neptune Technology Group Inc. ("Neptune") warrants the following on meters sold on or after 11/1/92:

The Water Meters will be, at the later of (i) the date of original purchase from Neptune or (ii) the date of original shipment from Neptune-authorized distributor of Water Meters (that later date is referred to as "the Date of Shipment") and will remain for a period of eighteen (18) months from the Date of Shipment, or twelve (12) months from date of installation, whichever comes first, free from manufacturing defects in workmanship and material.

(a) **Maincase.** The no-lead high copper alloy or Brass maincase of the Water Meters will be at the Date of Shipment free from manufacturing defects in workmanship and material for the life of the Water Meter.

(b) **Frost Protection.** All Neptune T-10 Cold Water Meters shipped with a synthetic polymer or cast-iron bottom cap will, commencing upon the Date of Shipment, be warranted against chamber damage for a period of ten (10) years.

(c) **Registers.** Standard, roll sealed registers of the Water Meters will be at the Date of Shipment, and shall remain for the following periods, free from manufacturing defects in workmanship and material for a period of ten (10) years. The ARB®, ProRead™ (ARB VI), E-CODER® (ARB VII), and ProCoder™ system registers are warranted for ten (10) years from Date of Shipment. All ProRead encoder receptacles shipped after January 1, 2001, shall be warranted for five years from the Date of Shipment. All other components and parts are covered under Neptune's standard one-year material and workmanship guarantee.

(d) Meter Accuracy for Neptune T-10.

Neptune T-10 Meters and Neptune T-10 nutating disc chambers in TRU/FLO Compound Water Meters are warranted to meet or exceed, as listed herein, accuracy standards of the AWWA Standard C700-95 for a period of: (i) five (5) years from Date of Shipment for 5/8", 3/4" and 1" meters; (ii) for a period of two (2) years from the Date of Shipment for 1 1/2" and 2" meters; or (iii) the applicable registration shown below, whichever occurs first. Neptune further guarantees that the Neptune T-10 and Neptune T-10 nutating disc chambers in TRU/FLO Compound Water Meters will perform to at least Repaired Meter Accuracy Standards, according to AWWA Manual M-6 Chapter 5 (1999) Table 5.3 for an additional ten (10) years or the registration shown below, whichever occurs first.

SIZE	EXTENDED LOW FLOW ACCURACY	NEW METER ACCURACY	REPAIRED METER ACCURACY
5/8" & 3/4" x 3/4"	1/4 US gpm @ 95% 5 years or 500,000 gallons	500,000 gallons	1,500,000 gallons
3/4"	1/4 US gpm @ 95% 5 years or 750,000 gallons	750,000 gallons	2,250,000 gallons
1"	3/8 US gpm @ 95% 5 years or 1,000,000 gallons	1,000,000 gallons	3,000,000 gallons
1 1/2"	3/4 US gpm @ 95% 2 years or 1,600,000 gallons	1,600,000 gallons	5,000,000 gallons
2"	1 US gpm @ 95% 2 years or 2,700,000 gallons	2,700,000 gallons	8,000,000 gallons

(e) **Meter Accuracy for HP Turbine and TRU/FLO.** The HP Turbine and TRU/FLO Compound Cold Water Meters will perform, for a period of one (1) year from the Date of Shipment, to American Water Works Association ("AWWA") accuracy standards for new water meters.

2. WARRANTY RETURN

If a Neptune Water Meter fails an accuracy test during an applicable warranty period, it may be returned to Neptune for repair or replacement at Neptune's option. An accuracy test shall be conducted by the customer according to AWWA standards. Any meter being returned for repair to Neptune under this performance guarantee must be returned with a copy of the customer's test results. If the meter is returned to Neptune without a copy of the test results or if Neptune's factory test shows the meter to meet current AWWA standards, the customer will be charged a nominal testing fee by Neptune in such cases. Neptune will repair or replace the meter at Neptune's option after the meter has been tested by Neptune. Meters repaired or replaced under the performance guarantee will be guaranteed to perform to AWWA repaired meter accuracy standards.

3. WARRANTIES ARE EXCLUSIVE

The warranties set forth in this certificate of warranty are in lieu of any other warranty, guarantee, or representation, whether expressed or implied, including without limitation, the warranty of merchantability and the warranty of fitness for a particular purpose.

4. DAMAGES LIMITED TO COSTS OF REPLACEMENT AND REPAIR

If the Water Meter fails to meet the warranties set forth in Paragraph 1 of this Certificate of Warranty, Neptune, at its option shall, without charge of labor or materials, repair or replace the Water Meter or part thereof, provided that (a) the Water Meter is delivered to a Neptune representative, (b) the Water Meter is accompanied by a Return Material Authorization (RMA), and (c) all costs of delivery to Neptune are assumed by the purchaser of the Water Meter. Neptune's liability is limited to its costs of replacement and repair of the defective water meter. Damages resulting from miscalculation of water usage or lost revenue or profit are not recoverable from Neptune. It is the responsibility of the customer to periodically verify the operation and accuracy of its meters.

5. WARRANTIES ARE INAPPLICABLE UNDER CERTAIN CONDITIONS

The warranties set forth in this Certificate of Warranty do not apply to any Water Meter that has been damaged by, or subjected to, conditions which, in the opinion of Neptune, have affected the Water Meter's ability of performance, including but not limited to: misuse; improper handling, application or installation; excessive operating conditions; foreign materials in the water; aggressive water conditions; tampering or unauthorized repairs or modifications; accidental or intentional damage; acts of God. This Certificate of Warranty shall not apply if product is placed in non-recommended installation, is connected or altered by other than Neptune recommended procedures, is used with other than genuine Neptune meter registers and components, or read by equipment not approved or licensed by Neptune. Neptune makes no claims concerning operability and/or compatibility or third party reading systems. In addition, this Certificate of Warranty shall not apply if third party reading equipment is believed to have caused damage to the meter or register. In order to determine its liability, if any, under this Certificate of Warranty, Neptune shall have the right to inspect any Water Meter or part thereof that is claimed to be defective at Neptune or other location designated by Neptune.

NEPTUNE'S LIABILITY WITH RESPECT TO BREACHES OF THE FOREGOING LIMITED WARRANTY SHALL BE LIMITED AS STATED HEREIN. NEPTUNE'S LIABILITY SHALL IN NO EVENT EXCEED THE PURCHASE PRICE. NEPTUNE SHALL NOT BE SUBJECT TO AND DISCLAIMS THE FOLLOWING: (1) ANY OTHER OBLIGATIONS OR LIABILITIES ARISING OUT OF BREACH OF CONTRACT OR OF WARRANTY (2) ANY OBLIGATIONS WHATSOEVER ARISING FROM TORT CLAIMS (INCLUDING NEGLIGENCE AND STRICT LIABILITY) OR ARISING UNDER OTHER THEORIES OF LAW WITH RESPECT TO PRODUCTS SOLD OR SERVICES RENDERED BY NEPTUNE, OR ANY UNDERTAKINGS, ACT OR OMISSIONS RELATING THERETO, AND (3) ALL CONSEQUENTIAL, INCIDENTAL, SPECIAL, MULTIPLE, EXEMPLARY, AND PUNITIVE DAMAGES WHATSOEVER.

3" to 6" MACH 10® Ultrasonic Meter

1. TERMS OF LIMITED WARRANTY

With respect to its Commercial and Industrial Neptune® MACH 10® water meter ("MACH 10"), Neptune Technology Group Inc. ("Neptune") warrants that MACH 10 meters sold after 02/01/2020 for potable water or combined potable water and fire service applications will be warranted to be free from manufacturing defects in workmanship and material as follows:

The MACH 10 will be, at the later of (i) the date of original purchase from Neptune or (ii) the date of original shipment from a Neptune-authorized distributor of water meters (that later date is referred to as "the Date of Shipment"), and will remain for a period of 18 months from the Date of Shipment, or 12 months from date of installation, whichever comes first, free from manufacturing defects in workmanship and material. Neptune makes the following additional warranties with respect to certain MACH 10 components.

a) Lead Free Bronze Maincase

Neptune warrants at the Date of Shipment that the lead free, high copper bronze maincase of the MACH 10 will be free from manufacturing defects in workmanship and material for the life of the meter.

b) Electronics (Battery, PCB, Transducers, LCD)

Neptune warrants that the electronics of the MACH 10 will be free from manufacturing defects in workmanship and material for a period of ten (10) years from the Date of Shipment. Neptune will repair or replace a non-performing MACH 10 free of charge for the first five (5) years and at a discount of the then-current contract price, or the then-current list price, whichever is less, during the following five (5) years per the following table. The MACH 10 warranty does not include the external housing that encapsulates the electronics.

With respect to Section 1 and subparts a) and b), the period from the Date of Shipment to the expiration of the specified time period is the "Warranty Period" with respect to each specified component. Neptune shall not be responsible for any defects in the MACH 10 or any specified component (whether due to design, materials, manufacture, or otherwise) that manifest themselves after the expiration of the specified Warranty Period.

Year of Failure	MACH 10® Replacement Price Discount
1-5	Full replacement 100%
6	50%
7	40%
8	30%
9	20%
10	10%

2. MACH 10 METER ACCURACY WARRANTY

Provided that the MACH 10 meter and the components specified in Section 1 and subparts a) and b) are functioning properly (regardless of whether the MACH 10 meter and specified components are within or outside an applicable Warranty Period detailed above), Neptune makes the following warranties with respect to meter accuracy:

Neptune MACH 10 meters are warranted to meet or exceed new meter accuracy per AWWA specifications of $\pm 1.5\%$ for the published ranges set forth in Neptune's current product sheet in existence at the time of the Date of Shipment of the MACH 10 meter for ten (10) years from Date of Shipment. Neptune further warrants the MACH 10 to meet or exceed extended low flow accuracy of $\pm 3\%$ for the published ranges set forth in Neptune's current product sheet in existence at the time of the Date of Shipment of the MACH 10 meter for ten (10) years from Date of Shipment (that period being the "Accuracy Warranty Period").

3. WARRANTY RETURNS

If a Neptune MACH 10 meter fails an accuracy test during the Accuracy Warranty Period, it may be returned to Neptune for evaluation. An accuracy test shall be conducted by the customer according to then-current AWWA testing standards. Any meter being returned for repair to Neptune under the accuracy warranty must be returned with a copy of the customer's test results. If the meter is returned to Neptune without a copy of the test results or if Neptune's factory test shows the meter to meet Neptune's published accuracy specifications, then the customer will be charged a nominal testing fee by Neptune in such cases. If after the meter has been tested by Neptune, Neptune determines that the meter has failed the accuracy warranty set forth in this Certificate of Warranty, then Neptune will repair or replace the meter at Neptune's option. Repaired or replacement MACH 10 meters are warranted for one (1) year after Date of Shipment of the repaired or replacement MACH 10 meter or the balance of the applicable original MACH 10 meter warranty (maincase, electronics, or accuracy), whichever is greater.

4. RESPONSIBILITY LIMITED TO COSTS OF REPLACEMENT AND REPAIR

If the MACH 10 fails to meet the warranties set forth in Sections 1 and 2 of this Certificate of Warranty, then Neptune, at its option shall repair or replace the MACH 10 or part thereof, provided that (a) the MACH 10 is delivered to a Neptune representative, (b) the MACH 10 is accompanied by a Return Material Authorization (RMA), and (c) all costs of delivery to Neptune are assumed by the purchaser of the MACH 10. Neptune's liability is limited to its costs of replacement and repair of the non-performing MACH 10, and without limitation, this warranty does not include field replacement, labor, or materials costs, which are the responsibility of the customer. Damages resulting from miscalculation of water usage or lost revenue or profit are not recoverable from Neptune. It is the responsibility of the customer to periodically verify the operation and accuracy of its meters.

5. WARRANTIES ARE INAPPLICABLE UNDER CERTAIN CONDITIONS

⁶⁰The warranties set forth in this Certificate of Warranty do not apply to any MACH 10 meter that has been damaged by, or subjected to, conditions which, in the opinion of Neptune, have affected the ability of the MACH 10 to perform, including but not limited to: misuse; improper handling, application or installation; excessive operating conditions; foreign materials in the water; aggressive water conditions; tampering or unauthorized repairs or modifications; accidental or intentional damage; or acts of God. This Certificate of Warranty shall not apply if the product is placed in a non-recommended installation, is connected or altered by other than Neptune recommended procedures or is read by equipment not approved or licensed by Neptune. Neptune makes no claims concerning operability and/or compatibility or third-party reading systems. In addition, this Certificate of Warranty shall not apply if third-party reading equipment is believed to have caused damage to the MACH 10. In order to determine its liability, if any, under this Certificate of Warranty, Neptune shall have the right to inspect any MACH 10 meter or part thereof that is claimed to be defective at Neptune or other location designated by Neptune.

THE ABOVE WARRANTY FOR THE MACH 10 WATER METER IS THE SOLE AND EXCLUSIVE WARRANTY GIVEN BY NEPTUNE WITH RESPECT TO THE MACH 10. **ALL OTHER WARRANTIES, CONDITIONS, TERMS, REPRESENTATIONS, OR OTHER LEGALLY OPERATIVE PROVISIONS CONCERNING THE MACH 10 ARE HEREBY EXPRESSLY EXCLUDED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY, CONDITION, TERM, AND REPRESENTATION OR OTHER LEGALLY OPERATIVE PROVISION AS TO MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.** THIS PARAGRAPH IS EXPRESSLY INTENDED TO EXCLUDE FROM THIS CONTRACT ALL STATUTORY AND COMMON LAW WARRANTIES TO THE MAXIMUM EXTENT PERMITTED BY LAW. TO AVOID ANY AMBIGUITY OR MISUNDERSTANDING, ALL PROBLEMS ARISING WITH A MACH 10 WATER METER AFTER THIS POINT SHALL BE BUYER'S RESPONSIBILITY. NEPTUNE'S LIABILITY SHALL IN NO EVENT EXCEED THE PURCHASE PRICE OF THE MACH 10 WATER METER. NEPTUNE SHALL NOT BE SUBJECT TO AND DISCLAIMS THE FOLLOWING: (1) ANY OTHER OBLIGATIONS OR LIABILITIES ARISING OUT OF BREACH OF CONTRACT OR OF WARRANTY, (2) ANY OBLIGATIONS WHATSOEVER ARISING FROM TORT CLAIMS (INCLUDING NEGLIGENCE AND STRICT LIABILITY) OR ARISING UNDER OTHER THEORIES OF LAW WITH RESPECT TO PRODUCTS SOLD OR SERVICES RENDERED BY NEPTUNE, OR ANY UNDERTAKINGS, ACTS, OR OMISSIONS RELATING THERETO, AND (3) ALL CONSEQUENTIAL, INCIDENTAL, SPECIAL, MULTIPLE, EXEMPLARY, AND PUNITIVE DAMAGES WHATSOEVER.



NEPTUNE
TECHNOLOGY GROUP

March 15, 2021

Mr. Tyler Harrel
City of Pembroke Pines

Dear Mr. Harrel,

Please note that Sunstate Meter and Supply, Inc., is the sole authorized Neptune Distributor with a resell supply agreement in the State of Florida.

The geographical area of responsibility assigned to them includes all Counties within the State of Florida.

Types: Classes of customers exclusively assigned are: Municipalities, private water companies, contractors, and plumbers.

Hence, our Distributor(s) are required to maintain a sufficient inventory of Neptune Water Metering Products to provide customer field servicing.

Thank you in advance for your cooperation.

Sincerely,

Terry D. Gullett

Terry D. Gullett
Senior Territory Manager
Neptune Technology Group, Inc.



City of Pembroke Pines, FL

601 City Center Way
Pembroke Pines, FL
33025
www.ppines.com

Agenda Request Form

Agenda Number: 6.

File ID: 21-0175

Type: Agreements/Contracts

Status: Passed

Version: 1

**Agenda
Section:**

In Control: City Commission

File Created: 03/16/2021

Short Title: Purchase of Neptune Water Meters

Final Action:

Title: MOTION TO APPROVE, IN THE BEST INTEREST OF THE CITY, THE NEGOTIATED AGREEMENT BETWEEN THE CITY OF PEMBROKE PINES AND THE SOLE PROVIDER, SUNSTATE METER & SUPPLY, INC. FOR THE PURCHASE OF NEPTUNE WATER METERS, PARTS AND COMPONENTS, ON AN AS NEEDED BASIS FOR AN AMOUNT NOT TO EXCEED \$3,772,875 IN YEAR ONE (1), WHICH INCLUDES AN OWNERS CONTINGENCY AMOUNT OF \$146,448, FOR THE PURCHASE OF METERS 20-YEARS OLD OR OLDER AND ANNUAL METER REPLACEMENTS, \$720,130 IN YEAR TWO (2), FOR ANNUAL METER REPLACEMENTS, AND \$744,460 IN YEAR THREE (3) FOR ANNUAL METER REPLACEMENTS, PURSUANT TO SECTION 35.18(C)(8) OF THE CITY'S CODE OF ORDINANCES, AND TO APPROVE NEPTUNE WATER METERS AS A CITY STANDARD PURSUANT TO SECTION 35.18(C)(3) OF THE CITY'S CODE OF ORDINANCES.

Internal Notes:

Attachments: 1. Continuing Purchase Agreement - Sunstate (Includes Sole Source Letter)

1 City Commission 04/07/2021 amend Pass

Action Text: A motion was made by Vice Mayor Good Jr., seconded by Commissioner Siple, to amend the motion by striking the language "the best interests of the city" from the documentation. The motion carried by the following vote:

Aye: - 5 Mayor Ortis, Vice Mayor Good Jr., Commissioner Schwartz,
Commissioner Castillo, and Commissioner Siple

Nay: - 0

MOTION TO APPROVE, IN THE BEST INTEREST OF THE CITY, THE NEGOTIATED AGREEMENT BETWEEN THE CITY OF PEMBROKE PINES AND THE SOLE PROVIDER, SUNSTATE METER & SUPPLY, INC. FOR THE PURCHASE OF NEPTUNE WATER METERS, PARTS AND COMPONENTS, ON AN AS NEEDED BASIS FOR AN AMOUNT NOT TO EXCEED \$3,772,875 IN YEAR ONE (1), WHICH INCLUDES AN OWNERS CONTINGENCY AMOUNT OF \$146,448, FOR THE PURCHASE OF METERS 20-YEARS OLD OR OLDER AND ANNUAL METER REPLACEMENTS, \$720,130 IN YEAR TWO (2), FOR ANNUAL METER REPLACEMENTS, AND \$744,460 IN YEAR THREE (3) FOR ANNUAL METER REPLACEMENTS, PURSUANT TO SECTION 35.18(C)(8) OF THE CITY'S CODE OF ORDINANCES, AND TO APPROVE NEPTUNE WATER METERS AS A CITY STANDARD PURSUANT TO SECTION 35.18(C)(3) OF THE CITY'S CODE OF ORDINANCES.

PROCUREMENT PROCESS TAKEN:

- ***Chapter 35 of the City's Code of Ordinance is titled "PROCUREMENT PROCEDURES, PUBLIC FUNDS."***
- ***Section 35.18 of the City's Code of Ordinances is regarding "COMPETITIVE BIDDING OR COMPETITIVE PROPOSALS REQUIRED; EXCEPTIONS."***
- ***Section 35.18(C) states that "Only the following situations are exempt from the competitive bid and competitive proposal requirements of this section:"***
- ***Section 35.18(C)(3) states, "City Standard, single-source and sole-source commodities or services. City standard, single-source and sole-source commodities or services are exempt from competitive bidding."***
- ***Section 35.18(C)(8) states that "Purchases of and contracts for commodities or services are exempt from this section when the City Commission declares by a simple majority affirmative vote that the process of competitive bidding and competitive proposals is not in the best interest of the City. The City Commission shall make specific factual findings that support its determination, and such contracts may be placed on the City Commission consent agenda.***
- ***Section 35.21 of the City's Code of Ordinances is titled "AWARD OF CONTRACT."***
- ***Section 35.21(A) of the City's Code of Ordinances is titled "City Commission Approval."***
- ***Section 35.21(A)(1) of the City's Code of Ordinance states, "An initial purchase of, or contract for, commodities or services, in excess of \$25,000, shall require the approval of the City Commission, regardless of whether the competitive bidding or competitive proposal procedures were followed."***

SUMMARY EXPLANATION AND BACKGROUND:

1. The City of Pembroke Pines Utilities Division has been using residential water meters manufactured by Neptune Technology Group, Inc, which are AMR meters, AMI ready, for the past 3 years in it's annual meter replacement program through the Florida Neptune water meter sole provider, Sunstate Meter and Supply, Inc.
2. At this point in time, the City water meter inventory has approximately 20% Neptune AMR/AMI meters installed throughout the City through it's annual meter replacement program.
3. During the 2020-21 Budget Cycle, the City Commission approved the budget required to purchase enough water meters to replace those which are 20-years old and older. At the conclusion of this project, the City water meter inventory will be approximately 45% Neptune AMR/AMI meters.
4. The City Utilities Division has negotiated a meter pricing schedule with Sunstate Meter and Supply, Inc. which it determines to be fair, competitive, reasonable, and will not increase for the initial three (3) year period.
5. The City Utilities Division is recommending Neptune AMR/AMI water meters become the City Standard to provide for consistency, parts interchangeability and software compatibility reasons.
6. The Utilities Division believes it is in the Best Interest of the City to enter into a negotiated agreement with Sunstate Meter & Supply, Inc. for the purchase of Neptune Water Meters, Parts and Components on an as needed basis.
7. Below are the factual findings:
 - The Utilities Division has been using residential water meters manufactured by Neptune Technology Group, Inc, for the past 3 years in it's annual meter replacement program.
 - Utilizing the same meter provides for consistency, parts interchangeability and software compatibility reasons.
 - Neptune Technology Group, Inc., the manufacturer, has supplied a letter stating Sunstate Meter & Supply, Inc. is the only authorized Neptune distributor for resell in the State of Florida.
 - Sunstate Meter & Supply, Inc. will not increase for the initial three (3) year period.
 - The meters are AMR meters, but are also AMI ready.
8. The negotiated agreement is for an initial three (3) year period with the option for two (2) one (1) year renewal periods. Prices may only increase after the initial three (3) year period by the appropriate Consumer Price Index (CPI).
9. The year one (1) contract amount of \$3,772,875 consists of \$3,096,875 for the purchase of 16,272 water meters pertaining to the Advertisement of PSUT-21-03 "20-Years Old or Older Water Meter Replacement Project" which is on a separate agenda item on tonight's April 7, 2021 Commission Meeting, and \$676,000 for the 2021 Meter Maintenance and Repair Annual Program. Additionally, the contract amount of \$720,130 in year two (2) is for the 2022 Meter

Maintenance and Repair Annual Program, and the contract amount of \$744,460 in year three (3) is for the 2023 Meter Maintenance and Repair Annual Program.

10. Recommend City Commission to approve, in the Best Interest of the City, the negotiated agreement between the City of Pembroke Pines and the sole provider, Sunstate Meter & Supply, Inc. for the purchase of Neptune Water Meters, Parts and Components, on an as needed basis for an amount not to exceed \$3,772,875 in year one (1), which includes an owner's contingency amount of \$146,448, for the purchase of Meters 20-years old or older and annual meter replacements, \$720,130 in year two (2), for annual meter replacements and \$744,460 in year three (3) for annual meter replacements, pursuant to Section 35.18(C)(8) of the City's Code of Ordinances and to approve Neptune Water Meters as a City Standard pursuant to Section 35.18(C)(3) of the City's Code of Ordinances.

FINANCIAL IMPACT DETAIL:

a) Initial Cost: \$3,772,875

b) Amount budgeted for this item in Account No: Funding for the annual meter replacements is Available in Account No. 471-533-6032-552651-0000-000-0000 (Meters < than \$1,000) and funding for the purchase of Meters for the 20 Years Old or Older Meter Replacement Project is Available in Account No. 471-533-6032-664400-0000-000-0000 (Other Equipment).

c) Source of funding for difference, if not fully budgeted: Not Applicable

d) 5 year projection of the operational cost of the project:

	Year 1	Year 2	Year 3	Year 4	Year 5
Revenues	\$0	\$0	\$0	N/A	N/A
Expenditures	\$3,772,875	\$720,130	\$744,460	NA	NA
Net Cost	\$3,772,875	\$720,130	\$744,460	NA	NA

e) Detail of additional staff requirements: None



SUNSMET-01

TELEPHART

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

3/22/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Hub International Florida 2811 NW 41st Street Gainesville, FL 32606	CONTACT NAME: PHONE (A/C, No, Ext): (352) 377-2002	FAX (A/C, No): (352) 376-8393
	E-MAIL ADDRESS:	
INSURED Sunstate Meter & Supply Co, Inc. 14001 W Newberry Rd Newberry, FL 32669	INSURER(S) AFFORDING COVERAGE	
	INSURER A: United Fire & Casualty	
	INSURER B: Transportation Insurance Company	
	INSURER C:	
	INSURER D:	
	INSURER E:	

NAIC #

13021

20494

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	X	X	85324108	1/1/2021	1/1/2022	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			85324108	1/1/2021	1/1/2022	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> EXCESS LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$			85324108	1/1/2021	1/1/2022	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	WC679369320	9/21/2020	9/21/2021	<input checked="" type="checkbox"/> PER STATUTE <input checked="" type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 500,000 E.L. DISEASE - EA EMPLOYEE \$ 500,000 E.L. DISEASE - POLICY LIMIT \$ 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Certificate Holder is listed as an Additional Insured including a Waiver of Subrogation with regard to the General Liability policy, 45 day notice of cancellation amended to 10 days for nonpayment of premium.

CERTIFICATE HOLDER

CANCELLATION

City of Pembroke Pines 8300 S Palm DR Pembroke Pines, FL 33025-4534	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
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