

## **MASTER CONTRACTOR/SERVICES AGREEMENT**

**THIS AGREEMENT** is made by and between the City of Delray Beach, a Florida municipal corporation (hereinafter referred to as "City"), whose address is 100 NW 1<sup>st</sup> Avenue, Delray Beach, FL 33444 and EJ Ward, Inc., a Texas Corporation, (hereinafter referred to as "Contractor"), authorized to do business in Florida, whose address is 1200 South Pine Island Road, Plantation, Florida 33324, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**WHEREAS**, the City desires to purchase Fleet Telematics, GPS Tracking & Fuel Management; and

**WHEREAS**, the City desires to procure these services from Contractor, utilizing existing contract prices provided to National Joint Powers Alliance (NJPA), pursuant to its contract number 022217-EJW, for chemicals for fleet telematics, GPS tracking & fuel management; and

**WHEREAS**, in accordance with solicitation number contract number 022217-EJW, National Joint Powers Alliance (NJPA), entered into a four-year agreement with Contractor for services effective June 1, 2017 through June 1, 2021, with an additional one (1) one-year renewal option; and

**WHEREAS**, the City desires to purchase services from Contractor on the same terms, conditions, and pricing provided under contract number 022217-EJW, subject to the terms and conditions of this Agreement, the City's Purchasing ordinance, and Florida law; and

**WHEREAS**, the Contractor agrees to extend the terms, conditions, and pricing of contract number 022217-EJW to the City, subject to the terms and conditions of this Agreement.

**NOW, THEREFORE**, in consideration of the mutual promises contained herein and other good and valuable consideration of which the parties hereto acknowledge, the parties agree as follows:

1 The above recitals are true and correct and are incorporated herein by reference.

2 The Contractor shall provide to the City fleet telematics, GPS tracking & fuel management, in accordance with and pursuant to the same terms, conditions, and pricing of contract number 022217-EJW procured by National Joint Powers Alliance (NJPA).

3 This Agreement shall terminate on June 1, 2021, unless contract number 022217-EJW is renewed by National Joint Powers Alliance (NJPA), in which case this Agreement will automatically renew.

4 The City, at its sole discretion, reserves the right to terminate this Agreement with or without cause immediately upon providing written notice to Contractor. Upon receipt of such notice, the Contractor shall not incur any additional costs under the Agreement. The City shall be liable only for reasonable costs incurred by Contractor prior to the date of the notice of termination. The City shall be the sole judge of "reasonable costs."

5 The Contractor shall indemnify and hold harmless the City and its officers, employees, agents, and instrumentalities from any and all liability, losses or damages, including attorney's 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 the performance of the agreement by the Contractor or its employees, agents, servants, 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 attorney's fees which may be incurred thereon. The Contractor expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the Contractor shall in no way limit the responsibility to indemnify, keep and save harmless, and defend the City or its officers, employees, agents, and instrumentalities as herein provided the obligations of this section shall survive the term of this Agreement.

6 Whenever either Party desires to give notice to the other, such notice must be in writing, sent by certified United States Mail, postage prepaid, return receipt requested, or sent by commercial express carrier with acknowledgement of delivery, or by hand delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the Parties designate the following:

For CITY:

City of Delray Beach  
100 N.W. 1st Avenue  
Delray Beach, Florida 33444  
Attn: City Manager

For CONTRACTOR:

E.J. Ward, Inc.  
8620 N New Braunfels  
Ste 200N  
San Antonio, TX 78217  
Attn: Markey Ward – CEO / President

7 Neither this Agreement nor any right or interest herein shall be assigned, transferred, or encumbered without the written consent of the other Party.

8 This Agreement shall be construed in accordance with the City of Delray Beach's Code of Ordinances and the laws of the State of Florida. Any dispute relating to this Agreement shall only be filed in a court of competent jurisdiction in Palm Beach County, Florida, and each of the parties to this Agreement submits itself to the jurisdiction of such court.

**9 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 OF DELRAY BEACH, CITY CLERK, 100 N.W. 1<sup>ST</sup> AVE., DELRAY BEACH FLORIDA. THE CITY CLERK'S OFFICE MAY BE CONTACTED BY PHONE AT 561-243-7050 OR VIA EMAIL AT [CITYCLERK@MYDELRAYBEACH.COM](mailto:CITYCLERK@MYDELRAYBEACH.COM).**

- a. Contractor shall comply with public records laws, specifically to:
  - i. Keep and maintain public records required by the City to perform the service.
  - ii. 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 Florida Statute or as otherwise provided by law.
  - iii. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement if the Contractor does not transfer the records to the City.
  - iv. Upon completion of the Agreement, transfer, at no cost, to the City all public records in possession of the Contractor or keep and maintain public records required by the City to perform the service. If the Contractor transfers all public records to the City upon completion of the Agreement, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Agreement, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.
  - v. If the Contractor does not comply with this section, the City shall enforce the contract provisions in accordance with the contract and may unilaterally cancel this contract in accordance with state law.



IN WITNESS WHEREOF, the City and the Contractor executed this Agreement as of the day and year first above written:

ATTEST:

CITY OF DELRAY BEACH

\_\_\_\_\_  
Katerri Johnson, City Clerk

By: \_\_\_\_\_  
Shelly Petrolia, Mayor

Approved as to form and legal sufficiency:

\_\_\_\_\_  
Lynn Gelin, City Attorney

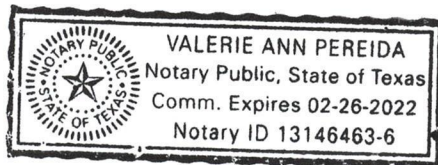
CONTRACTOR

By: \_\_\_\_\_  
*Robert E. Kettyle*

Print Name: Robert E. Kettyle

Title: Chief Operating Officer

(SEAL)



STATE OF TEXAS  
COUNTY OF BEXAR

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 16<sup>th</sup> day of April, 2020, by Robert E. Kettyle (name of person), as Chief Operating Officer (COO) (type of authority) for E.J. Ward Inc. (name of party on behalf of whom instrument was executed).

Personally known ☒ OR Produced Identification Type  
of Identification Produced \_\_\_\_\_

\_\_\_\_\_  
*Valerie Ann Pereida*

Notary Public – State of Texas