

## AGREEMENT

THIS AGREEMENT is hereby made and entered into this 16<sup>th</sup> day of November, 2021, (the "effective date") by and between the City of Delray Beach, a Florida municipal corporation ("City"), whose address is 100 N.W. 1<sup>st</sup> Avenue, Delray Beach, Florida 33444, and E & M Equipment Corp., a Florida corporation, (hereafter referred to as "Contractor"), whose address is 3450 West 84<sup>th</sup> Street, Suite 202 A/B, Hialeah, Florida 33018.

WHEREAS, the City desires to retain the services of the Contractor to provide construction services for Lowson Blvd. From Dover Road To Us-1/Federal Highway in accordance with the City's Invitation to Bid Construction No. 2020-040 and the Contractor's response thereto, both of which are incorporated herein by reference.

NOW, THEREFORE, in consideration of the mutual covenants and promises hereafter set forth, the Contractor and the City agree as follows:

### ARTICLE 1. INCORPORATION OF INVITATION TO BID CONSTRUCTION

The terms and conditions of this Agreement shall include and incorporate the terms, conditions, and specifications set forth in the City's Invitation to Bid Construction No. 2020-040, and the Contractor's response to the Invitation to Bid Construction, including all documentation required thereunder.

### ARTICLE 2. DESCRIPTION OF GOODS OR SCOPE OF SERVICES

The Contractor shall provide construction services for Lowson Blvd. From Dover Road To Us-1/Federal Highway identified in the specifications accompanying the City's Invitation to Bid Construction, which are incorporated herein by reference.

### ARTICLE 3. COMPENSATION

The City shall pay to the Contractor, in compliance with the Pricing Schedule attached hereto and incorporated herein, according to the terms and specifications of the referenced Invitation to Bid Construction.

### ARTICLE 4. MISCELLANEOUS PROVISIONS

a. Notice Format. All notices or other written communications required, contemplated, or permitted under this Agreement shall be in writing and shall be hand delivered, telecommunicated, or mailed by registered or certified mail (postage prepaid), return receipt requested, to the following addresses:

- i. As to the City: City of Delray Beach  
100 N.W. 1<sup>st</sup> Avenue  
Delray Beach, Florida 33444  
Attn: City Manager

- ii. with a copy to: City of Delray Beach  
100 N.W. 1<sup>st</sup> Avenue  
Delray Beach, Florida 33444  
Attn: City Attorney
- iii. As to the Contractor: E & M Equipment Corp.  
3450 West 84<sup>th</sup> Street  
Suite 202 A/B  
Hialeah, Florida 33018  
Attn.: Edrey Rodriquez, President  
e-mail: eli@eandmcorp.com

b. Headings. The headings contained in this Agreement are for convenience of reference only and shall not limit or otherwise affect in any way the meaning or interpretation of this Agreement.

c. Effective Date. The effective date of this Agreement shall be as of the date it has been executed by both the parties hereto.

#### ARTICLE 5. CONTRACT TERM

The term of this Agreement shall be from the effective date through the completion of work and full acceptance by the City, unless terminated earlier in accordance with terms set forth in the Invitation to Bid Construction.

#### ARTICLE 6. E-VERIFY REQUIREMENTS


By entering into this Agreement Contractor acknowledges its obligation to comply with the provisions of Section 448.095, Fla. Stat., "Employment Eligibility." Contractor affirms and represents it is registered with the E-Verify system, utilizing same, and will continue to utilize same as required by law. Compliance with this section includes, but is not limited to, utilization of the E-Verify System to verify the work authorization status of all newly hired employees and requiring all subcontractors to provide an affidavit attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. Failure to comply with this section will result in the termination of this Agreement, or if your 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 20 calendar days after the date of termination. If terminated for a violation of the statute by Contractor, the Contractor may be prohibited from conducting future business with the City or awarded a solicitation or contract for a period of 1 year after the date of termination. All costs incurred to initiate and sustain the aforementioned programs shall be the responsibility of the Contractor.

(Remainder of this page is intentionally left blank.)

**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 for legal sufficiency:

  
Lynn Gelin, City Attorney

[SEAL]

**E & M EQUIPMENT CORP.**

By: 

Edrey Rodriguez

Printed Name

President

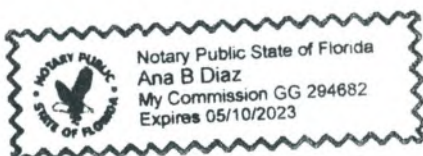
Title

STATE OF Florida  
COUNTY OF Miami-Dade

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 22 day of October, 2021, by Edrey Rodriguez (name of person), as President (type of authority) for E&M Equipment Corp (name of party on behalf of whom instrument was executed).

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

  
Notary Public - State of Florida



RESOLUTION NO. 148-21

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA APPROVING AN AGREEMENT WITH E&M EQUIPMENT CORP. FOR CONSTRUCTION SERVICES OF LOWSON BLVD. FROM DOVER ROAD TO US1/FEDERAL HIGHWAY; AUTHORIZING THE CITY MANAGER TO EXECUTE ANY AMENDMENTS AND/OR RENEWALS THERETO AND TO TAKE ANY AND ALL ACTIONS NECESSARY TO EFFECTUATE THIS AGREEMENT; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the City of Delray Beach (City) is authorized to enter into agreements to provide services, programming and products in accordance with its Charter; and

WHEREAS, the City requires construction services; and

WHEREAS, the City desires to enter into an agreement with E&M Equipment Corp., for construction services; and

WHEREAS, the City Commission deems approval of this resolution to be in the best interest of the health, safety, and welfare of the residents and citizens of the City of Delray Beach and the public at large.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. The foregoing recitals are hereby affirmed and ratified.

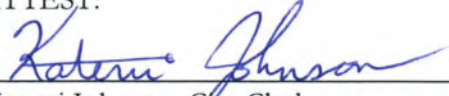
Section 2. The City Commission of the City of Delray Beach has reviewed and hereby approves this Agreement between the City and E&M Equipment Corp., which is attached to this Resolution as Exhibit "A".

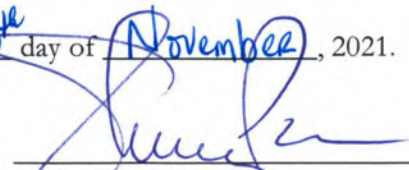
Section 3. The City Commission authorizes the City Manager to execute any amendments and take any other actions necessary to effectuate this Agreement.

Section 4. This resolution shall become effective immediately upon adoption.

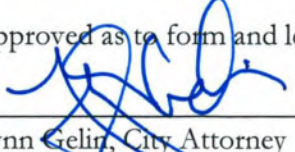
PASSED AND ADOPTED in regular session on the 10<sup>th</sup> day of November, 2021.

ATTEST:

  
Katerri Johnson, City Clerk

  
Shelly Petrolia, Mayor

Approved as to form and legal sufficiency:

  
Lynn Gelin, City Attorney

## CITY ATTORNEY OFFICE - LEGAL REVIEW CHECKLIST

Name of Agreement: Agreement for Construction Services for Lowson Blvd to Dover Road with E & M Equipment Corp

Department: Public Works

Contact person: Ilyse Triestman

City Manager approval ☐

City Commission approval ☒

Reviewed by Purchasing ☒

Agenda item #:

Agenda meeting date:

Resolution #: 148-21

Agreement Action:

New <input checked="" type="radio"/>	Renewal* <input type="radio"/>	Amendment* <input type="radio"/>	*Renewal: Only change is the agreement term *Amendment: For changes other than/in addition to term
--------------------------------------	--------------------------------	----------------------------------	---

Does the Contractor require the City to sign first?: No

For City Attorney Use only:

**Agreement Terms:**

**Comments/Specific Provision in Agreement**

Term (Duration of Agreement)	Art. 5: effective date through the completion of work and full acceptance by the City
Termination Clause	ITBC 28- for convenience, 29- for default, 30- fraud and misrep
Renewal Clause	n/a
Insurance	City standard
Indemnification	City standard
Assignment	ITBC 22: not without prior consent
Fiscal Funding Requirement	ITBC 65
FL. Public Records Provision (2016)	ITBC 48
Inspector General Provision	ITBC 32
Governing Law	Florida
Venue	Palm Beach County
Attorney's fees	ITBC 42: each party to bear own
E-verify	Art. 6

**Business Principles:**

**Comments**

Fees: Total Value	\$6,146,437.00
Fees: Per Fiscal Year	

**Other Issues:**

**Comments**

Non-Negotiable Issues/ Miscellaneous Issues/ Special Considerations	Agreement for Construction Services for Lowson Blvd to Dover Road in accordance with City's ITBC.  Construction Services will be partially reimbursed on this project with Federal Grant Funding administered by FDOT up to \$4,463,000.00.
---	---

Consistent with applicable policies including, but not limited to, Procurement policies. Yes ☒

Attorney: Kelly Brandon, Esq.

Reviewed and approved as to form and legal sufficiency only