

Meeting Date: June 9, 2015

Agenda Item 1

REQUESTED COMMISSION ACTION:

Consent       Ordinance       Resolution       Consideration       Workshop

SHORT TITLE OR MOTION:

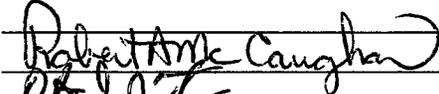
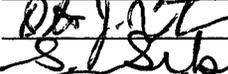
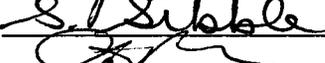
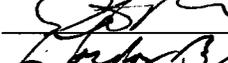
A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE A SERVICE CONTRACT BETWEEN THE CITY OF POMPANO BEACH AND A-EXCELLENT SERVICE, INC. TO PROVIDE HEATING, VENTILATION AND AIR CONDITIONING SERVICE; PROVIDING AN EFFECTIVE DATE (COST TBD).

SUMMARY OF PURPOSE AND WHY:

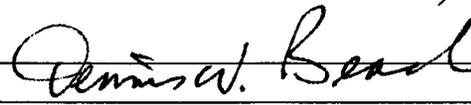
At the March 24, 2015 meeting, the City Commission approved ranking order for RFP E-14-15 HVAC Maintenance and Repair Services, and authorized staff to negotiate a contract with the highest ranked firm, A-Excellent Service Inc. Scope of the contract includes routine service calls, emergencies, preventative maintenance, scheduled maintenance, and repairs as required. Funding for this contract will be provided by budgeted funds in Public Works operational maintenance account and CIP project reserved for replacing air conditioning systems. Attached is a contract that Staff has negotiated for review and approval.

QUESTIONS TO BE ANSWERED BY ORIGINATING DEPARTMENT:

- (1) Origin of request for this action: Staff
- (2) Primary staff contact: Robert A. McCaughan, Public Works Director Ext 4097
- (3) Expiration of contract, if applicable: June 9, 2016 with three additional periods of 1-year
- (4) Fiscal impact and source of funding: CIP #07-924(302-7302-530.65-12) and 001-3060-530-46-10

DEPARTMENTAL COORDINATION	DATE	DEPARTMENTAL RECOMMENDATION	DEPARTMENTAL HEAD SIGNATURE
Public Works	6/2/15	APPROVE	
General Services	6/2/15	APPROVE	
Finance	6/3/15	APPROVE	
Budget	6-3-15	APPROVE	
City Attorney	6/3/15	APPROVE	

Development Services Director  
 City Manager 



ACTION TAKEN BY COMMISSION:

<u>Ordinance</u>	<u>Resolution</u>	<u>Consideration</u>	<u>Workshop</u>
1st Reading	1st Reading	Results:	Results:
_____	_____	_____	_____
2nd Reading	_____	_____	_____
_____	_____	_____	_____



**City Attorney's Communication #2015-1013**

June 1, 2015

**TO:** Robert A. McCaughan, Public Works Director  
**FROM:** Jill R. Mesojedec, FRP, Paralegal  
**VIA:** Tracy A. Lyons, Assistant City Attorney *TAL*  
**RE:** Resolution – A-Excellent Service, Inc.

As requested, I have revised and attached the following captioned resolution:

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE A SERVICE CONTRACT BETWEEN THE CITY OF POMPANO BEACH AND A-EXCELLENT SERVICE, INC. TO PROVIDE HEATING, VENTILATION AND AIR CONDITIONING SERVICES; PROVIDING AN EFFECTIVE DATE.**

Under cover of this memorandum, I am returning to you the originally executed contract.

*Jill R. Mesojedec*  
\_\_\_\_\_  
JILL R. MESOJEDEC

/jrm  
l:cor/pw/2015-1013

Attachments

**CITY OF POMPANO BEACH**  
**Broward County, Florida**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE A SERVICE CONTRACT BETWEEN THE CITY OF POMPANO BEACH AND A-EXCELLENT SERVICE, INC. TO PROVIDE HEATING, VENTILATION AND AIR CONDITIONING SERVICES; PROVIDING AN EFFECTIVE DATE.**

**BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA:**

**SECTION 1.** That a Contract between the City of Pompano Beach and A-Excellent Service, Inc. to provide heating, ventilation and air conditioning services, a copy of which Contract is attached hereto and incorporated by reference as if set forth in full, is hereby approved.

**SECTION 2.** That the proper City officials are hereby authorized to execute said Contract between the City of Pompano Beach and A-Excellent Service, Inc.

**SECTION 3.** This Resolution shall become effective upon passage.

**PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
**LAMAR FISHER, MAYOR**

**ATTEST:**

\_\_\_\_\_  
**ASCELETA HAMMOND, CITY CLERK**

# SERVICE CONTRACT

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**THIS AGREEMENT** is made and entered into this \_\_\_\_\_ day of May, 2015, by the **CITY OF POMPANO BEACH**, hereinafter referred to as "City" and **A-EXCELLENT SERVICE INC.**, hereinafter referred to as "Contractor."

**WHEREAS**, City requires services which Contractor is capable of providing, under the terms and conditions hereinafter described or referenced; and

**WHEREAS**, Contractor is able and prepared to provide such services as City does hereinafter require, under those terms and conditions set forth.

**NOW, THEREFORE**, in consideration of those mutual promises and the terms and conditions set forth hereafter, the parties agree as follows:

1. **Entirety of Agreement/Contract Documents.** the entire and integrated agreement between the City and Contractor related to the services provided shall consists of (1) This Agreement (items 1-38 herein) Certificate of Liability Insurance included as **Attachment "A" herein**, the City's Request for Proposals, E-14-15 HVAC Maintenance and Repair Services (the "RFP") included as **Attachment "B"**, and all written change orders and modifications issued after execution of this Agreement. These form the Contract and all are as fully a part of the Contract as if attached to this Agreement or repeated herein.

2. **Purpose.** City hereby contracts with Contractor to provide Heating, Ventilation, and Air Conditioning services upon the terms and conditions herein set forth.

3. **Scope of Work.** Contractor will provide the services to be rendered as set forth herein:

**A. General**

The HVAC Maintenance and Repair Services shall pertain to all, but not limited to, routine service calls, emergencies, preventative maintenance, scheduled maintenance and repairs as required by the City. Contractor shall furnish all labor, supervision, materials, and test equipment to facilitate all major and minor repairs as well as installations regularly found in the HVAC field including but not limited to:

- a. Cooling Towers Chilled Water Systems
- b. Exhaust Systems Duct Work
- c. Water Pumps Window/through wall A/C Systems

**B. City's Responsibilities**

1. The City shall be responsible for providing access to the City facilities in order for the Contractor to perform the required services.

2. The City shall be responsible to provide parking for unloading tools and equipment at the job site to perform the required services.

3. The City shall allow access to restroom facilities for use by Contractor's employees.

4. The City's Facilities Manager or his designee will inspect and accept work performed by Contractor before payment of services is made.

**C. Contractor's Responsibilities**

1. The Contractor shall provide all labor, parts and/or materials, equipment, tools, travel, licenses, insurances, permits and incidentals to repair, install, remove, maintain and perform HVAC Maintenance and Repair Services for various City facilities in accordance with the scope of services, terms and conditions of this Agreement.

2. The Contractor shall provide maintenance, repairs and replacements of any HVAC, refrigeration and ice machine equipment including but not limited to, control and starter panels, low voltage controls, motors, compressors, trouble shooting and repairs, refrigerant conversion retrofits, re-tubing of evaporator and/or condenser vessels, air handlers and water chilled towers.

3. Contractor shall ensure all work is installed straight, level, plumb and in a skillful manner.

4. Contractor shall have an English-speaking supervisor/representative on the worksite at all times, who shall be thoroughly knowledgeable of all plans, specifications, and other contract documents and has the authority to act in the contractors behalf.

5. Contractor shall be responsible for correction/replacement, according to local codes and Cities satisfaction, of all water lines, sanitary lines, electrical lines, curbs, sidewalks, streets, parking lots, grassed areas, etc. broken or damaged as the result of the contractor's operations.

6. Design and install HVAC systems for commercial and residential structures as required by the City.

7. Provide other typical HVAC Maintenance and Repair Services as required by the City.

8. Establish monthly, quarterly or annual preventive inspection services as required by the City.

9. The Contractor shall maintain a minimum of two (2) licensed HVAC Technicians with universal refrigerant handling certification on staff at all times.

10. Call-Out Procedures:

i. The Contractor shall be available 24 hours/7 days a week. The Contractor shall provide contact information for main office phone numbers, cellular numbers and e-mails for service calls.

ii. The Contractor shall be responsible to dispatch the proper level of HVAC Technicians (Master, Journeyman and Apprentice) for each service call. Example: Minor repairs such as replacing belts or filters would not require a Master Technician. If a Master Technician is dispatched for any minor repairs, the City shall not be charged for the hourly rate of the Master Technician.

iii. The Contractor shall provide the City with a firm written estimate for projects other than basic or emergency repairs of the total price to complete each job based on the hourly rates and parts and/or materials mark-up set forth prior to beginning any work. The City's Facilities Manager or his designee shall be notified immediately should any project estimate change prior to work being performed.

iv. The Contractor shall be responsible to respond to multiple service calls as required by the City.

11. Response Time:

**Non-Emergency Request for Services**

Contractor must be on site within one (1) working day (Monday through Friday, 8:00 a.m. to 5:00 p.m., excluding holidays).

**Emergency Request for Services 24 hours/7 days a week**

Contractor must be on site within two (2) hours of request regardless of time or day, including holidays.

**Notification of Arrival Time for Services**

Contractor must notify of estimated arrival time to the City's Facilities Manager or his designee within one (1) hour of the initial service request by the City.

12. All work required to correct any problems diagnosed by the Contractor shall be approved by the City's Facilities Manager or his designee prior to work being performed.

13. If any job cannot be completed in one (1) working day, then the work area must be cleaned and secured at the end of the work day. No tools, equipment or materials are to be left unsecured without the Contractor's personnel being present.

14. All work performed shall be completed in accordance with all Federal, State and Local codes and regulations.

15. Following the completion of any new installations or upon the City's request, "as-built drawings" shall be submitted if any electrical changes are made.

16. The Contractor shall not use the restroom facilities to wash tools and/or equipment.

17. Written invoices shall be submitted for all jobs as follows:

- A copy of the service tickets.
- Documentation for the Contractor's cost of parts and/or materials, such as copies of the Contractor's invoices or other valid documentation.
- Within seven (7) days following the close of the next immediate business day.

18. The Contractor shall provide service tickets with the following information:

- Description of problem
- Description of service performed
- Location where service was performed
- Parts and/or material used, if any
- Name of Electrician(s) who performed the service
- Date of service (start and completion time)
- Signature of an authorized City employee

#### **4. Required Equipment**

4.1. The Contractor shall provide the following equipment for maintenance and repairs to HVAC equipment as required by the City:

- Boom Truck (35 – 40 Ton)
- Crane (55 – 60 Ton)

4.2. The Contractor's hourly cost for the above equipment shall be \$95.00 for the rental of the Boom Truck and \$110.00 for rental of the crane.

#### **5. Parts and/or Materials**

5.1. In addition to the hourly rate for service, the Contractor shall charge the City the actual cost-plus mark-up proposed for parts and/or materials used in each service request. The cost-plus mark-up for parts and/or materials shall not exceed twenty percent (20%).

5.2. The City reserves the right to order parts and/or materials from other sources in its best interests.

**6. Quality Assurance**

Contractor shall have maintained continual work experience in the installation/repairs/services of air conditioning/heating/ventilation systems for a minimum of five (5) years. The following documentation shall be included and made part of this Service Agreement:

**6.1. A-Excellent's** Occupation license issued in Broward County;

**6.2.** A current State Unlimited Class A Air Conditioning Contractor (CA) or Mechanical Contractor (CM) license.

All of the Contractor's employees shall be competent and highly skilled in their particular job requirements in order to properly perform the work assigned to them. The Contractor shall be responsible for maintaining the quality of the workmanship on the job throughout the duration of their responsibilities.

**7. Personnel**

**7.1.** Contractor's personnel used on City service calls shall be in uniforms with the company's name, clean, courteous, sober and competent in performing the work. Contractor's personnel dealing with the public under this contract shall be identified by name through the use of a nametag or embroidered name on his/her uniform. The Contractor's personnel shall be required to speak, read and write in English so that the City can communicate in an efficient manner.

**7.2.** Contractor agrees to be held fully responsible, except as otherwise prohibited by law, for acts of their employees while on duty.

**8. Vehicles**

Contractor's vehicles used on City service calls shall be identified with the name of the company and proper licensing.

**9. Protection of Property**

**9.1.** The Contractor shall at all times guard against damage or loss to the City property or of other vendors or contractors, and shall be responsible for replacing or repairing any such damage or loss. The Contractor will be required to report any such damages immediately to the Facilities Manager or his designee. Replacement or repairs shall begin within five (5) days of the incident that caused the damage.

**9.2.** The Contractor and its subcontractor(s) shall clean, repair or replace any item damaged during the performance of the service to the satisfaction of City at no additional cost.

**9.3.** The City reserves the right at its sole and absolute discretion, to repair any damages created by the Contractor and deduct the actual cost of repairs from their payment.

**10. Maintenance of Pedestrian and Vehicle Traffic**

**10.1.** The Contractor shall be responsible for protection from pedestrian and vehicle traffic while performing the required services. The Contractor shall provide warning signs and/or barricades as needed.

**10.2.** The Contractor shall perform all services using an MOT plan and with the least amount of impact on traffic, residential activities and City operations.

**10.3.** The Contractor shall abide by all Florida Department of Transportation (FDOT) and Occupational Safety and Health Association (OSHA) regulations for any roadside work required by the City.

**11. Term of Contract.** This Contract shall be for a term of one (1) year or less beginning from the date this Contract is fully executed by both parties.

**12. Renewal.** In the event City determines the Contractor to be in full compliance with this contract and Contractor's performance to be satisfactory, then City shall have the option to renew this contract for up to three (3) additional periods of one (1) year each, provided that City will provide notification within thirty (30) days of termination date of its intention.

**13. Maximum Obligation.** City agrees to pay Contractor in consideration for its services described herein. It is the intention of the parties hereby to insure that unless otherwise directed by the City in writing, Contractor will continue to provide services as specified in Section 3 of this Agreement entitled "Scope of Services", for the term of the contract.

**14. Price Formula.** City agrees to pay Contractor for performance of the services set forth in this Agreement on an **As Need Basis** at the following rates:

**a. During Normal Business Hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, Excluding Holidays:**

1. Master Air Conditioning Technician - \$50.00 per hour
2. Journeyman Air Conditioning Technician - \$35.00 per hour
3. Apprentice Air Conditioning Technician - \$20.00 per hour

**b. After Normal Business Hours, 5:01 p.m. to 7:59 a.m., Monday through Friday, Excluding Holidays:**

1. Master Air Conditioning Technician - \$50.00 per hour
2. Journeyman Air Conditioning Technician - \$35.00 per hour
3. Apprentice Air Conditioning Technician - \$20.00 per hour

**c. Weekends, Saturday and Sunday regardless of time:**

1. Master Air Conditioning technician - \$50.00 per hour

2. Journeyman Air Conditioning Technician - \$35.00 per hour
3. Apprentice Air Conditioning Technician - \$20.00 per hour

**d. Holidays, regardless of time:**

1. Master Air Conditioning Technician - \$50.00 per hour
2. Journeyman Air Conditioning Technician - \$35.00 per hour
3. Apprentice Air Conditioning Technician - \$20.00 per hour

**15. Invoices.** Contractor shall submit the invoices to City, if requested by City, as follows:

- a. Invoices shall be submitted on a weekly basis.

**16. Payment.** All payments by the City shall be made after the service has been provided. All invoices shall be submitted to the City for approval and payment will be issued within forty-five (45) days of submittal.

**17. Disputes.**

A. Any factual disputes between City and the Contractor in regard to this Agreement shall be directed to the City Manager for the City, and such decision shall be final.

B. Any action brought against either party to enforce this Agreement will be brought in Broward County, Florida.

**18. Communications.** All notices hereunder and communications with respect to this Agreement shall be effective upon the mailing thereof to the persons named below.

**If to Contractor:** A-Excellent Service, Inc.  
Attn: Walter Weiss, Jr.  
P.O. Box 11214  
Pompano Beach, Florida 33061

**If to City:** City of Pompano Beach  
City Manager  
P. O. Box 1300  
Pompano Beach, Florida 33060

**19. Information and Documents.** All information, data, reports, as are existing, if any, and necessary for carrying out the work as outlined in Section 3, "Scope of Services" hereof, shall be furnished to Contractor without charge by City, and City shall cooperate in the carrying out of the work without undue delay.

**20. Termination.** This Agreement may be terminated without cause by either party upon thirty (30) days written notice to the other party. Payment for Services rendered shall be made in accordance with this Agreement. Upon termination, this Agreement shall have no further force

or effect and the parties shall be relieved of all further liability hereunder, except that the provisions of this Section and the provisions regarding the right to audit, insurance, indemnification, governing law and litigation shall survive termination of this Agreement and remain in full force and effect.

**21. Force Majeure.** Contractor shall not be held responsible for losses, delays, failure to perform or excess costs caused by events beyond the control of the Contractor. Such events may include, but are not restricted to the following: Acts of God; fire, epidemics, earthquake, flood or other natural disaster; acts of the government; riots, strikes, war or civil disorder; unavailability of fuel.

**22. Insurance.** Throughout the term of this Agreement, Contractor shall procure and maintain liability insurance in the type and amounts set forth below. Such insurance shall specify that it is issued on an “occurrence” basis. Contractor shall name City as additional insured on said policies and shall provide evidence of such insurance.

The insurance described herein reflects the insurance requirements deemed necessary for this contract by the City. It is not necessary to have this level of insurance in effect at the time of submittal, but certificates indicating that the insurance is currently carried or a letter from the Carrier indicating upgrade ability will speed the review process to determine the most qualified Proposer.

The following insurance coverage shall be required.

- a. Worker’s Compensation Insurance covering all employees and providing benefits as required by Florida Statute, Chapter 440, regardless of the size of the company (number of employees). The Contractor further agrees to be responsible for employment, control and conduct of its employees and for any injury sustained by such employees in the course of their employment.
- b. Liability Insurance
  - 1) Naming the City of Pompano Beach as an additional insured, on General Liability Insurance only, in connection with work being done under this contract.
  - 2) Such Liability insurance shall include the following checked types of insurance and indicated minimum policy limits.

**LIMITS OF LIABILITY**

Type of Insurance	each occurrence	aggregate
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GENERAL LIABILITY: MINIMUM \$1,000,000 per OCCURRENCE / \$1,000,000

AGGREGATE

\* Policy to be written on a claims incurred basis

XX	comprehensive form		
XX	premises - operations	bodily injury	
—	explosion & collapse		
	hazard	property damage	
—	underground hazard		
XX	products/completed		
	operations hazard	bodily injury and	
XX	contractual insurance	property damage	
XX	broad form property	combined	
	damage		
XX	independent contractors		
XX	personal injury	personal injury	

**AUTOMOBILE LIABILITY: MINIMUM \$1,000,000 per OCCURRENCE / \$1,000,000 AGGREGATE**

		bodily injury	
		(each person)	
		bodily injury	
XX	comprehensive form	(each accident)	_____
XX	owned	property damage	_____
XX	hired	bodily injury and	
XX	non-owned	property damage	
		combined	

**REAL & PERSONAL PROPERTY**

— comprehensive form                      Consultant must show proof they have this coverage.

**EXCESS LIABILITY**

—	umbrella form	bodily injury and		
—	other than umbrella	property damage		
		combined	\$2,000,000.	\$2,000,000.

XX PROFESSIONAL LIABILITY                      \$1,000,000.              \$1,000,000.  
 \* Policy to be written on a claims made basis

The certification or proof of insurance must contain a provision for notification to the City thirty (30) days in advance of any material change in coverage or cancellation.

Contractor shall furnish to the City the certification or proof of insurance required by the provisions set forth above, within ten (10) days after notification of award of contract.

**23. Hold Harmless and Indemnity.** The Contractor shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the sole negligence of the City. The parties agree that one percent (1%) of the total compensation paid to Contractor for the work of the contract shall constitute specific consideration to Contractor for the indemnification to be provided under the contract.

**24. Assignment.** Contractor shall not assign all or any portion of this Agreement without the prior written consent of the City, and it is agreed that said consent must be sought in writing by Contractor not less than fifteen (15) days prior to the date of any proposed assignment.

**25. Performance Under Law.** The Contractor, in the performance of duties under the Agreement, agrees to comply with all applicable local, state and/or federal laws and ordinances including, but not limited to, standards of licensing, conduct of business and those relating to criminal activity.

**26. Audit and Inspection Records.** The Contractor shall permit the authorized representatives of the City to inspect and audit all data and records of the Contractor, if any, relating to performance under the contract until the expiration of three years after final payment under this contract.

The Contractor further agrees to include in all his subcontracts hereunder a provision to the effect that the subcontractor agrees that City or any of their duly authorized representatives shall, until the expiration of three years after final payment under the subcontractor, have access to and the right to examine any directly pertinent books, documents, papers and records of such subcontractor, involving transactions related to the subcontractor.

**27. Adherence to Law.** Both parties shall adhere to all applicable laws governing their relationship with their employees including, but not limited to, laws, rules, regulations and policies concerning worker's compensation, unemployment compensation and minimum wage requirements.

**28. Independent Contractor.** The Contractor shall be deemed an independent Contractor for all purposes, and the employees of the Contractor or any of its contractors, subcontractors and the employees thereof, shall not in any manner be deemed to be employees of City. As such, the employees of the Contractor, its Contractors or subcontractors, shall not be subject to any withholding for tax, social security or other purposes by City, nor shall such Contractor, subcontractor or employee be entitled to sick leave, pension benefits, vacation, medical benefits, life insurance, workers or unemployment compensation or the like from City.

**29. Mutual Cooperation.** The Contractor recognizes that the performance of this contract is essential to the provision of vital public services and the accomplishment of the stated goals and mission of City. Therefore, the Contractor shall be responsible to maintain a cooperative and good faith attitude in all relations with City and shall actively foster a public image of mutual benefit to both parties. The Contractor shall not make any statements or take any actions detrimental to this effort.

**30. Public Records.**

A. The City of Pompano Beach is a public agency subject to Chapter 119, Florida Statutes. The Contractor shall comply with Florida's Public Records Law. Specifically, the Contractor shall:

1. Keep and maintain public records that ordinarily and necessarily would be required by the city in order to perform the service;

2. Provide the public with access to such public records on the same terms and conditions that the City would provide the records and at a cost that does not exceed that provided in Chapter 199, Fla. Stat., or as otherwise provided by law;

3. Ensure that public records that are exempt or that are confidential and exempt from public record requirements are not disclosed except as authorized by law; and

4. Meet all requirements for retaining public records and transfer to the City, at no cost, all public records in possession of the Contractor upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt. All records stored electronically must be provided to the city in a format that is compatible with the information technology systems of the City.

B. The failure of Contractor to comply with the provisions set forth in this section shall constitute a Default and Breach of this Agreement and the city shall enforce the Default in accordance with the provisions set forth in this Agreement or as provided by law.

**31. Governing Law.** This Agreement has been and shall be construed as having been made and delivered within the State of Florida, and it is agreed by each party hereto that this Agreement shall be governed by the laws of the State of Florida, both as to interpretation and performance. Any action at law, or in equity, shall be instituted and maintained only in courts of competent jurisdiction in Broward County, Florida.

**32. Waiver.** Any waiver of any breach of the covenants herein contained to be performed by Contractor shall not be deemed or considered as a continuing waiver and shall not operate to bar or prevent the City from declaring a forfeiture for any succeeding breach either of the same condition or covenant or otherwise.

**33. Non-Discrimination.** In performing under this Agreement, the Contractor shall not discriminate against any person because of race, color, religion, sex, gender identity or

expression, genetic information, national origin, age, disability, familiar status, marital status or sexual orientation.

**34. Entire Agreement.** This document incorporates and includes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained herein, and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

**35. Headings.** The headings or titles to sections of this Agreement are provided for convenience only and not part of the Agreement and shall have no effect upon the construction or interpretation of any part of this Agreement.

**36. Severability.** Should any provision of this Agreement or the applications of such provisions be rendered or declared invalid by a court action or by reason of any existing or subsequently enacted legislation, the remaining parts of provisions of this Agreement shall remain in full force and effect.

**37. Mutual Cooperation.** The City hereby promises and agrees with the Contractor to employ and does employ the Contractor to provide the materials, if any, and to do and cause to do and be done the above-described work and to complete and finish the same according to the attached plans and specifications and the terms and conditions herein contained and hereby contracts to pay for the same according to the attached specifications and the schedule of unit or itemized prices hereto attached, at the time and in the manner and upon the conditions provided for in this contract.

The Contractor for himself and for his heirs, executors, administrators, successors and assigns, does hereby agree to the full performance of all the covenants herein contained upon the part of the Contractor.

It is further provided that no liability shall be attached to the City by reason of entering into this contract, except as expressly provided herein.

**38. Controlling Provisions.** Except as otherwise specifically provided herein, in the event of any conflict between the specific provisions of this Agreement and the requirements or provisions of the RFP, the provisions shall be given precedence in the following order: (1) this Agreement Items 1-38 herein); (2) the RFP.

**IN WITNESS WHEREOF,** the parties hereto have caused this Agreement to be executed the day and year hereinabove written.

THIS SPACE LEFT INTENTIONALLY BLANK

Witnesses:

**CITY OF POMPANO BEACH**

\_\_\_\_\_

By: \_\_\_\_\_  
LAMAR FISHER, MAYOR

\_\_\_\_\_

By: \_\_\_\_\_  
DENNIS W. BEACH, CITY MANAGER

Attest:

\_\_\_\_\_  
ASCELETA HAMMOND, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

\_\_\_\_\_  
GORDON B. LINN, CITY ATTORNEY

STATE OF FLORIDA  
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by **LAMAR FISHER** as Mayor, **DENNIS W. BEACH** as City Manager, and **ASCELETA HAMMOND** as City Clerk of the City of Pompano Beach, Florida, a municipal corporation, on behalf of the municipal corporation, who is personally known to me.

NOTARY'S SEAL:

\_\_\_\_\_  
NOTARY PUBLIC, STATE OF FLORIDA

\_\_\_\_\_  
(Name of Acknowledger Typed, Printed or Stamped)

Commission Number:

**"CONTRACTOR"**

A-Excellent Service, Inc.  
(Print or type name of company here)

Witnesses:

[Signature]

Rogger Palermo

(Print or Type Name)

Mark Ritacco

MARK RITACCO

(Print or Type Name)

By:

[Signature]

Print Name: WALTER WEISS JR

Title: PRES.

Business License No. CAC024382

STATE OF FLORIDA

COUNTY OF Broward

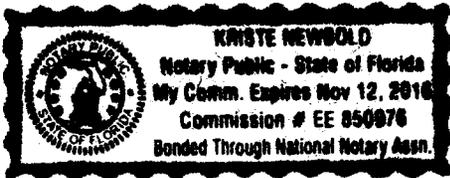
The foregoing instrument was acknowledged before me this 28th day of MAY, 2015, by Walter Weiss Jr. as President of A-Excellent Service, Inc., a Florida corporation on behalf of the corporation. He/she is personally known to me or who has produced DL - W2000-900-61-162-D (type of identification) as identification.

NOTARY'S SEAL:

[Signature]  
NOTARY PUBLIC, STATE OF FLORIDA

KRISTE NEWBOLD  
(Name of Acknowledger Typed, Printed or Stamped)

EE 850976  
Commission Number



I:agr/PW/A-Excellent Contract