

AGREEMENT FOR TANK WAGON FUEL SERVICES

THIS AGREEMENT FOR TANK WAGON FUEL SERVICES ("Agreement") is entered into by and between the **CITY OF OCALA**, a Florida municipal corporation ("City") and **FLEETWING CORPORATION**, a for profit corporation duly organized and authorized to do business in the State of Florida (EIN: 59-0775191) ("Vendor").

WHEREAS, on September 12, 2024, City issued an Invitation to Bid ("ITB") for the provision of Tank Wagon Fuel Services, ITB No.: FLT/240997 (the "Solicitation"); and

WHEREAS, two (2) firms responded to the Solicitation and, after consideration of price and other evaluation factors set forth in the Solicitation, the bid submitted by Fleetwing Corporation was found to be the lowest; and

WHEREAS, Vendor was chosen as the intended awardee to provide Tank Wagon Fuel Services (the "Services"); and

WHEREAS, Vendor certifies that Vendor is qualified and possesses the required experience and licensure.

NOW THEREFORE, in consideration of the foregoing recitals, the following mutual covenants and conditions, and other good and valuable consideration, City and Vendor agree as follows:

1. **RECITALS.** City and Vendor hereby represent, warrant, and agree that the Recitals set forth above are true and correct and are incorporated herein by reference.
2. **CONTRACT DOCUMENTS.** The Contract Documents which comprise the entire understanding between City and Vendor shall only include this Agreement and those documents listed in this section as Exhibits to this Agreement. Each of these documents are incorporated herein by reference for all purposes. If there is a conflict between the terms of this Agreement and the Contract Documents, then the terms of this Agreement shall control, amend, and supersede any conflicting terms contained in the remaining Contract Documents.
 - A. **Exhibits to Agreement:** The Exhibits to this Agreement are as follows:
 - Exhibit A: Scope of Work (A-1 through A-3)
 - Exhibit B: Price Proposal (B-1)If there is a conflict between the individual Exhibits regarding the scope of work to be performed, then any identified inconsistency shall be resolved by giving precedence in the following order: (1) Exhibit A, then (2) Exhibit B.
3. **SCOPE OF SERVICES.** Vendor shall provide all materials, labor, supervision, tools, accessories, and equipment necessary for Vendor to perform its obligations under this Agreement as set forth in the attached **Exhibit A - Scope of Work**. The Scope of Work and/or pricing under this Agreement may only be adjusted by written amendment executed by both parties.
4. **COMPENSATION.** City shall pay Vendor a price not to exceed the maximum limiting amount of **TWO HUNDRED SIXTY-THREE THOUSAND, FOUR HUNDRED FORTY-ONE AND 25/100 DOLLARS (\$263,441.25)** (the "Contract Sum") over the contract term as full and complete compensation for the timely and satisfactory performance of services in accordance with the pricing and frequency detailed in **Exhibit A – Scope of Work** and **Exhibit B – Price Proposal**.
 - A. **Price Adjustments.** Prices offered shall remain firm for the initial contract term. Requests for price adjustments may be submitted, in writing, **no later than NINETY (90) DAYS** prior to the expiration of the prior term and shall include proper CPI justification or other documentation supporting the adjustment. The City shall review the submitted request for price adjustment and render a decision, in its sole discretion, as to whether it is in the best

interest of the City to adjust the pricing on the awarded goods or services or reject the adjusted pricing and issue a competitive solicitation. In any event, price increases for renewal terms shall be subject to a maximum negotiated increase of **no more than THREE PERCENT (3%)** annually unless there are mitigating market conditions. Price increases shall be based on the CPI-U and Vendor must submit their request for an increase with CPI justification at least 90 days prior to the end of the current term. The City is under no obligation to renew the contract for an additional term or to accept Vendor's proposed price increases. Vendor must receive written notification from the City confirming that the City has accepted the new prices prior to processing any orders at the new cost. Any orders issued by the City prior to formal approval of a price increase shall not be modified. Any payment of the adjusted price by City does not constitute acceptance of new pricing. Vendors are expected to pass along to the City any and all decreases in pricing on products and services or to keep pricing constant when market conditions warrant no such increases.

- B. **Invoice Submission.** Vendor shall invoice at least once a month. All invoices submitted by Vendor shall include the City Contract Number, an assigned Invoice Number, and an Invoice Date. Vendor shall submit the original invoice through the responsible City Project Manager at: **City of Ocala Fleet Management Department, Attn: John King, Address: 1805 NE 30th Avenue, Building 200, Ocala, Florida 34470, E-Mail: arothchild@ocalafl.gov.**
- C. **Payment of Invoices by City.** The City Project Manager must review and approve all invoices prior to payment. City Project Manager's approval shall not be unreasonably withheld, conditioned, or delayed. Payments by City shall be made no later than the time periods established in section 218.735, Florida Statutes.
- D. **Withholding of Payment.** City reserves the right to withhold, in whole or in part, payment for any and all work that: (i) has not been completed by Vendor; (ii) is inadequate or defective and has not been remedied or resolved in a manner satisfactory to the City Project Manager; or (iii) which fails to comply with any term, condition, or other requirement under this Agreement. Any payment withheld shall be released and remitted to Vendor within **THIRTY (30)** calendar days of the Vendor's remedy or resolution of the inadequacy or defect.
- E. **Excess Funds.** If due to mistake or any other reason Vendor receives payment under this Agreement in excess of what is provided for by the Agreement, Vendor shall promptly notify City upon discovery of the receipt of the overpayment. Any overpayment shall be refunded to City within **THIRTY (30)** days of Vendor's receipt of the overpayment or must also include interest calculated from the date of the overpayment at the interest rate for judgments at the highest rate as allowed by law.
- F. **Amounts Due to the City.** Vendor must be current and remain current in all obligations due to the City during the performance of services under this Agreement. Payments to Vendor may be offset by any delinquent amounts due to the City or fees and/or charges owed to the City.
- G. **Tax Exemption.** City is exempt from all federal excise and state sales taxes (State of Florida Consumer's Certification of Exemption 85-8012621655C-9). The City's Employer Identification Number is 59-60000392. Vendor shall not be exempted from paying sales tax to its suppliers for materials to fulfill contractual obligations with the City, nor will Vendor be authorized to use City's Tax Exemption Number for securing materials listed herein.

5. **TERM OF AGREEMENT.** This Agreement shall become effective and commence on **NOVEMBER 6, 2024**, and continue in effect for an initial term of **TWO (2) YEARS**, through and including **NOVEMBER 5, 2026** (the "Term"). This Agreement may be renewed for up to **TWO (2)** additional **ONE (1) YEAR** periods by written consent between City and Vendor.
6. **FORCE MAJEURE.** Neither party shall be liable for delay, damage, or failure in the performance of any obligation under this Agreement if such delay, damage, or failure is due to causes beyond its reasonable control, including without limitation: fire, flood, strikes and labor disputes, acts of war, acts of nature, terrorism, civil unrest, pandemics, acts or delays in acting of the government of the United States or the several states, judicial orders, decrees or restrictions, or any other like reason which is beyond the control of the respective party ("Force Majeure"). The party affected by any event of force majeure shall use reasonable efforts to remedy, remove, or mitigate such event and the effects thereof with all reasonable dispatch.
 - A. The party affected by force majeure shall provide the other party with full particulars thereof including, but not limited to, the nature, details, and expected duration thereof, as soon as it becomes aware.
 - B. When force majeure circumstances arise, the parties shall negotiate in good faith any modifications of the terms of this Agreement that may be necessary or appropriate in order to arrive at an equitable solution. Vendor performance shall be extended for a number of days equal to the duration of the force majeure. Vendor shall be entitled to an extension of time only and, in no event, shall Vendor be entitled to any increased costs, additional compensation, or damages of any type resulting from such force majeure delays.
7. **INSPECTION AND ACCEPTANCE OF THE WORK.** Vendor shall report its progress to the City Project Manager as set forth herein. All services, work, and materials provided by Vendor under this Agreement shall be provided to the satisfaction and approval of the City Project Manager.
 - A. The City Project Manager shall decide all questions regarding the quality, acceptability, and/or fitness of materials furnished, or workmanship performed, the rate of progress of the work, the interpretation of the plans and specifications, and the acceptable fulfillment of the Agreement, in his or her sole discretion, based upon both the requirements set forth by City and the information provided by Vendor in its Bid. The authority vested in the City Project Manager pursuant to this paragraph shall be confined to the direction or specification of what is to be performed under this Agreement and shall not extend to the actual execution of the work.
 - B. Neither the City Project Manager's review of Vendor's work nor recommendations made by City Project Manager pursuant to this Agreement will impose on City Project Manager any responsibility to supervise, direct, or control Vendor's work in progress or for the means, methods, techniques, sequences, or procedures of construction or safety precautions or programs incident Vendor's furnishing and performing the work.
8. **TERMINATION AND DEFAULT.** Either party, upon determination that the other party has failed or refused to perform or is otherwise in breach of any obligation or provision under this Agreement or the Contract Document, may give written notice of default to the defaulting party in the manner specified for the giving of notices herein. Termination of this Agreement by either party for any reason shall have no effect upon the rights or duties accruing to the parties prior to termination.
 - A. **Termination by City for Cause.** City shall have the right to terminate this Agreement immediately, in whole or in part, upon the failure of Vendor to carry out any obligation, term, or condition of this Agreement. City's election to terminate the Agreement for default shall

be communicated by providing Vendor written notice of termination in the manner specified for the giving of notices herein. Any notice of termination given to Vendor by City shall be effective immediately, unless otherwise provided therein, upon the occurrence of any one or more of the following events:

- (1) Vendor fails to timely and properly perform any of the services set forth in the specifications of the Agreement;
- (2) Vendor provides material that does not meet the specifications of the Agreement;
- (3) Vendor fails to complete the work required within the time stipulated in the Agreement;
or
- (4) Vendor fails to make progress in the performance of the Agreement and/or gives City reason to believe that Vendor cannot or will not perform to the requirements of the Agreement.

B. **Vendor's Opportunity to Cure Default.** City may, in its sole discretion, provide Vendor with an opportunity to cure the violations set forth in City's notice of default to Vendor. Vendor shall commence to cure the violations immediately and shall diligently and continuously prosecute such cure to completion within a reasonable time as determined by City. If the violations are not corrected within the time determined to be reasonable by City or to the reasonable satisfaction of City, City may, without further notice, declare Vendor to be in breach of this Agreement and pursue all remedies available at law or equity, to include termination of this Agreement without further notice.

C. **City's Remedies Upon Vendor Default.** In the event that Vendor fails to cure any default under this Agreement within the time period specified in this section, City may pursue any remedies available at law or equity, including, without limitation, the following:

- (1) City shall be entitled to terminate this Agreement without further notice;
- (2) City shall be entitled to hire another Vendor to complete the required work in accordance with the needs of City;
- (3) City shall be entitled to recover from Vendor all damages, costs, and attorney's fees arising from Vendor's default prior to termination; and
- (4) City shall be entitled to recovery from Vendor any actual excess costs by: (i) deduction from any unpaid balances owed to Vendor; or (ii) any other remedy as provided by law.

D. **Termination for Non-Funding.** In the event that budgeted funds to finance this Agreement are reduced, terminated, or otherwise become unavailable, City may terminate this Agreement upon written notice to Vendor without penalty or expense to City. City shall be the final authority as to the availability of budgeted funds.

E. **Termination for Convenience.** City reserves the right to terminate this Agreement in whole or in part at any time for the convenience of City without penalty or recourse. The City Project Manager shall provide written notice of the termination. Upon receipt of the notice, Vendor shall immediately discontinue all work as directed in the notice, notify all subcontractors of the effective date of the termination, and minimize all further costs to City including, but not limited to, the placing of any and all orders for materials, facilities, or supplies, in connection with its performance under this Agreement. Vendor shall be entitled to receive compensation solely for: (1) the actual cost of the work completed in conformity with this Agreement; and/or (2) such other costs incurred by Vendor as permitted under this Agreement and approved by City.

9. **DELAYS AND DAMAGES.** The Vendor agrees to make no claim for extra or additional costs attributable to any delays, inefficiencies, or interference in the performance of this contract

occasioned by any act or omission to act by the City except as provided in the Agreement. The Vendor also agrees that any such delay, inefficiency, or interference shall be compensated for solely by an extension of time to complete the performance of the work in accordance with the provision in the standard specification.

10. **PERFORMANCE EVALUATION.** At the end of the contract, City may evaluate Vendor's performance. Any such evaluation will become public record.
11. **NOTICE REGARDING FAILURE TO FULFILL AGREEMENT.** Any Vendor who enters into an Agreement with the City of Ocala and fails to complete the contract term, for any reason, shall be subject to future bidding suspension for a period of **ONE (1)** year and bid debarment for a period of up to **THREE (3)** years for serious contract failures.
12. **VENDOR REPRESENTATIONS.** Vendor expressly represents that:
 - A. Vendor has read and is fully familiar with all of the terms and conditions of this Agreement, the Contract Documents, and other related data and acknowledges that they are sufficient in scope and detail to indicate and convey understanding of all terms and conditions of the work to be performed by Vendor under this Agreement.
 - B. Vendor has disclosed, in writing, all known conflicts, errors, inconsistencies, discrepancies, or omissions discovered by Vendor in the Contract Documents, and that the City's written resolution of same is acceptable to Vendor.
 - C. Vendor is familiar with all local, state, and Federal laws, regulations, and ordinances which may affect cost, progress, or its performance under this Agreement whatsoever.
 - D. **Public Entity Crimes.** Neither Vendor, its parent corporations, subsidiaries, members, shareholders, partners, officers, directors or executives, nor any of its affiliates, contractors, suppliers, subcontractors, or consultants under this Agreement have been placed on the convicted vendor list following a conviction of a public entity crime. Vendor understands that a "public entity crime" as defined in section 287.133(1)(g), Florida Statutes, is "a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or with the United States..." Vendor further understands that any person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime: (1) may not submit a bid, proposal, or reply on a contract: (a) to provide any goods or services to a public entity; (b) for the construction or repair of a public building or public work; or (c) for leases of real property to a public entity; (2) may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and (3) may not transact business with any public entity in excess of the threshold amount provided in section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.
13. **VENDOR RESPONSIBILITIES.** Except as otherwise specifically provided for in this Agreement, the following provisions are the responsibility of the Vendor:
 - A. Vendor shall competently and efficiently supervise, inspect, and direct all work to be performed under this Agreement, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the work in accordance with the Contract Documents.
 - B. Vendor shall be solely responsible for the means, methods, techniques, sequences, or procedures and safety precautions or programs incident thereto.
 - C. Vendor shall be responsible to see that the finished work complies accurately with the contract and the intent thereof.

- D. Vendor shall comply with all local, state, and Federal laws, regulations, and ordinances which may affect cost, progress, or its performance under this Agreement, and be responsible for all costs associated with same.
 - E. Vendor shall continue its performance under this Agreement during the pendency of any dispute or disagreement arising out of or relating to this Agreement, except as Vendor and City may otherwise agree in writing.
14. **NO EXCLUSIVITY.** It is expressly understood and agreed by the parties that this is not an exclusive agreement. Nothing in this Agreement shall be construed as creating any exclusive arrangement with Vendor or as prohibit City from either acquiring similar, equal, or like goods and/or services or from executing additional contracts with other entities or sources.
15. **RESPONSIBILITIES OF CITY.** City or its Representative shall issue all communications to Vendor. City has the authority to request changes in the work in accordance with the terms of this Agreement and with the terms in **Exhibit A**. City has the authority to stop work or to suspend any work.
16. **COMMERCIAL AUTO LIABILITY INSURANCE.** Vendor shall procure, maintain, and keep in full force, effect, and good standing for the life of this Agreement a policy of commercial auto liability insurance with a minimum combined single limit of One Million Dollars (\$1,000,000) per occurrence for bodily injury and property damage arising out of Vendor's operations and covering all owned, hired, scheduled, and non-owned automobiles utilized in said operations. If Vendor does not own vehicles, Vendor shall maintain coverage for hired and non-owned automobile liability, which may be satisfied by way of endorsement to Vendor's Commercial General Liability policy or separate Commercial Automobile Liability policy.
17. **GENERAL LIABILITY INSURANCE.** Vendor shall procure and maintain, for the life of this Agreement, commercial general liability insurance with minimum coverage limits not less than:
- A. One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) aggregate limit for bodily injury, property damage, and personal and advertising injury; and
 - B. One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) aggregate limit for products and completed operations.
 - C. Policy must include coverage for contractual liability and independent contractors.
 - D. Policy must include Additional Insured coverage in favor of the City that is no less restrictive than that afforded under the CG 20 26 04 13 Additional Insured Form.
18. **WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY.** Worker's Compensation insurance shall be provided by Vendor as required by Chapter 440, Florida Statutes, or any other applicable state or federal law, including the U.S. Longshoremens' and Harbor Workers Compensation Act and the Jones Act.
- A. Vendor shall similarly require any and all subcontractors to afford such coverage for all of its employees as required by applicable law.
 - B. Vendor shall waive and shall ensure that Vendor's insurance carrier waives, all subrogation rights against the City of Ocala and its officers, employees, and volunteers for all losses or damages. Vendor's policy shall be endorsed with WC 00 03 13 Waiver of our Right to Recover from Others or its equivalent.
 - C. Exceptions and exemptions to this Section may be allowed at the discretion of the City's Risk Manager on a case-by-case basis in accordance with Florida Statutes and shall be evidenced by a separate waiver.

19. **POLLUTION LIABILITY.** Vendor shall provide, for a period of Three (3) Years after final completion of the work, pollution liability insurance coverage for claims arising from the discharge, dispersal, release, or escape of any irritant or contaminant into or upon land, any structure, the atmosphere, watercourse, or body of water, including groundwater, in an amount not less than One Million Dollars (\$1,000,000) per claim, and Two Million Dollars (\$2,000,000) aggregate limit. This shall also include coverage for claims of: (a) clean up, either on-site or off-site; (b) third party liability, including bodily injury, property damage, natural resource damage, third party property loss of use/revenue, and clean up; and/or (c) costs incurred for the investigation, defense, or settlement of claims, fines, or penalties.
20. **ADDITIONAL INSURANCE REQUIREMENTS.**
- A. Vendor's insurance coverage shall be primary insurance for all applicable policies. The limits of coverage under each policy maintained by Vendor shall not be interpreted as limiting Vendor's liability or obligations under this Agreement. City does not in any way represent that these types or amounts of insurance are sufficient or adequate enough to protect Vendor's interests or liabilities or to protect Vendor from claims that may arise out of or result from the negligent acts, errors, or omissions of Vendor, any of its agents or subcontractors, or for anyone whose negligent act(s) Vendor may be liable.
 - B. No insurance shall be provided by the City for Vendor under this Agreement and Vendor shall be fully and solely responsible for any costs or expenses incurred as a result of a coverage deductible, co-insurance penalty, or self-insured retention to include any loss not covered because of the operation of such deductible, co-insurance penalty, self-insured retention, or coverage exclusion or limitation.
 - C. **Certificates of Insurance.** No work shall be commenced by Vendor under this Agreement until the required Certificate of Insurance and endorsements have been provided nor shall Vendor allow any subcontractor to commence work until all similarly required certificates and endorsements of the subcontractor have also been provided. Work shall not continue after expiration (or cancellation) of the Certificate of Insurance and work shall not resume until a new Certificate of Insurance has been provided. **Vendor shall provide evidence of insurance in the form of a valid Certificate of Insurance (binders are unacceptable) prior to the start of work contemplated under this Agreement to: City of Ocala. Attention: Procurement & Contracting Department, Address: 110 SE Watula Avenue, Third Floor, Ocala Florida 34471, E-Mail: vendors@ocalafl.gov.** Vendor's Certificate of Insurance and required endorsements shall be issued by an agency authorized to do business in the State of Florida with an A.M. Best Rating of A or better. The Certificate of Insurance shall indicate whether coverage is being provided under a claims-made or occurrence form. If any coverage is provided on a claims-made form, the Certificate of Insurance must show a retroactive date, which shall be the effective date of the initial contract or prior.
 - D. **City as Additional Insured.** The City of Ocala shall be named as an Additional Insured and Certificate Holder on all liability policies identified in this Section with the exception of Workers' Compensation, Auto Liability (except when required by Risk Management) and Professional Liability policies. **Workers Compensation policy must contain a Waiver of Subrogation in favor of the City.**
 - E. **Notice of Cancellation of Insurance.** Vendor's Certificate of Insurance shall provide **THIRTY (30) DAY** notice of cancellation, **TEN (10) DAY** notice if cancellation is for non-payment of premium. In the event that Vendor's insurer is unable to accommodate the cancellation notice requirement, it shall be the responsibility of Vendor to provide the proper notice. Such

notification shall be in writing by registered mail, return receipt requested, and addressed to the certificate holder. Additional copies may be sent to the City of Ocala at vendors@ocalafl.gov.

- F. **Failure to Maintain Coverage.** The insurance policies and coverages set forth above are required and providing proof of and maintaining insurance of the types and with such terms and limits set forth above is a material obligation of Vendor. Vendor's failure to obtain or maintain in full force and effect any insurance coverage required under this Agreement shall constitute material breach of this Agreement.
- G. **Severability of Interests.** Vendor shall arrange for its liability insurance to include or be endorsed to include a severability of interests/cross-liability provision so that the "City of Ocala" (where named as an additional insured) will be treated as if a separate policy were in existence, but without increasing the policy limits.
21. **SAFETY/ENVIRONMENTAL.** Vendor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. Vendor shall make an effort to detect hazardous conditions and shall take prompt action where necessary to avoid accident, injury or property damage. EPA, DEP, OSHA and all other applicable safety laws and ordinances shall be followed as well as American National Standards Institute Safety Standards. Vendor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:
- A. All employees on the work and other persons that may be affected thereby;
 - B. All work, materials and equipment to be incorporated therein, whether in storage on or off the site; and
 - C. Other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.
- All, injury, or loss to any property caused, directly or indirectly, in whole or in part, by Vendor, any subcontractor, or anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, shall be remedied by Vendor. Vendor's duties and responsibilities for the safety and protection of the work shall continue until such time as the work is completed and accepted by City.
22. **NON-DISCRIMINATORY EMPLOYMENT PRACTICES.** During the performance of the contract, the Vendor shall not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, sexual orientation, gender identity, marital or domestic partner status, familial status, or veteran status and shall take affirmative action to ensure that an employee or applicant is afforded equal employment opportunities without discrimination. Such action shall be taken with reference to, but not limited to: recruitment, employment, termination, rates of pay or other forms of compensation and selection for training or retraining, including apprenticeship and on-the-job training.
23. **SUBCONTRACTORS.** Nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by City or its representatives to any subcontractor of Vendor or any other persons or organizations having a direct contract with Vendor, nor shall it create any obligation on the part of City or its representatives to pay or seek payment of any monies to any subcontractor of Vendor or any other persons or organizations having a direct contract with Vendor, except as may otherwise be required by law. City shall not be responsible for the acts or omissions of any Vendor, subcontractor, or of any of their agents or employees. nor shall it create any obligation on the part of City or its representatives to pay or to seek the payment of any

monies to any subcontractor or other person or organization, except as may otherwise be required by law.

24. **EMERGENCIES.** In an emergency affecting the welfare and safety of life or property, Vendor, without special instruction or authorization from the City Project Manager, is hereby permitted, authorized and directed to act at its own discretion to prevent threatened loss or injury. Except in the case of an emergency requiring immediate remedial work, any work performed after regular working hours, on Saturdays, Sundays or legal holidays, shall be performed without additional expense to the City unless such work has been specifically requested and approved by the City Project Manager. Vendor shall be required to provide to the City Project Manager with the names, addresses and telephone numbers of those representatives who can be contacted at any time in case of emergency. Vendor's emergency representatives must be fully authorized and equipped to correct unsafe or excessively inconvenient conditions on short notice by City or public inspectors.
25. **INDEPENDENT CONTRACTOR STATUS.** Vendor acknowledges and agrees that under this Agreement, Vendor and any agent or employee of Vendor shall be deemed at all times to be an independent contractor and shall be wholly responsible for the manner in which it performs the services and work required under this Agreement. Neither Vendor nor its agents or employees shall represent or hold themselves out to be employees of City at any time. Neither Vendor nor its agents or employees shall have employee status with City. Nothing in this Agreement shall constitute or be construed to create any intent on the part of either party to create an agency relationship, partnership, employer-employee relationship, joint venture relationship, or any other relationship which would allow City to exercise control or discretion over the manner or methods employed by Vendor in its performance of its obligations under this Agreement.
26. **ACCESS TO FACILITIES.** City shall provide Vendor with access to all City facilities as is reasonably necessary for Vendor to perform its obligations under this Agreement.
27. **ASSIGNMENT.** Neither party may assign its rights or obligations under this Agreement to any third party without the prior express approval of the other party, which shall not be unreasonably withheld.
28. **RIGHT OF CITY TO TAKE OVER CONTRACT.** Should the work to be performed by Vendor under this Agreement be abandoned, or should Vendor become insolvent, or if Vendor shall assign or sublet the work to be performed hereunder without the written consent of City, the City Project Manager shall have the power and right to hire and acquire additional men and equipment, supply additional material, and perform such work as deemed necessary for the completion of this Agreement. Under these circumstances, all expenses and costs actually incurred by City to accomplish such completion shall be credited to City along with amounts attributable to any other elements of damage and certified by the City Project Manager. The City Project Manager's certification as to the amount of such liability shall be final and conclusive.
29. **PUBLIC RECORDS.** Vendor shall comply with all applicable provisions of the Florida Public Records Act, Chapter 119, Florida Statutes. Specifically, Vendor shall:
 - A. Keep and maintain public records required by the public agency to perform the service.
 - B. Upon request from the public agency's custodian of public records, provide the public agency 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.

- C. 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 contract term and following completion of the contract if Vendor does not transfer the records to the public agency.
- D. Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of Vendor or keep and maintain public records required by the public agency to perform the service. If Vendor transfers all public records to the public agency upon completion of the contract, Vendor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Vendor keeps and maintains public records upon completion of the contract, Vendor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.

IF VENDOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO VENDOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT: CITY OF OCALA, OFFICE OF THE CITY CLERK; 352-629-8266; E-mail: clerk@ocalafl.gov; City Hall, 110 SE Watula Avenue, Ocala, FL 34471.

- 30. **AUDIT.** Vendor shall comply and cooperate immediately with any inspections, reviews, investigations, or audits relating to this Agreement as deemed necessary by the Florida Office of the Inspector General, the City's Internal or External auditors or by any other Florida official with proper authority.
- 31. **PUBLICITY.** Vendor shall not use City's name, logo, seal or other likeness in any press release, marketing materials, or other public announcement without City's prior written approval.
- 32. **E-VERIFY.** Pursuant to section 448.095, Vendor shall register with and use the U.S. Department of Homeland Security's ("DHS") E-Verify System, accessible at <https://e-verify.uscis.gov/emp>, to verify the work authorization status of all newly hired employees. Vendor shall obtain affidavits from any and all subcontractors in accordance with paragraph 2(b) of section 448.095, Florida Statutes, and maintain copies of such affidavits for the duration of this Agreement. By entering into this Agreement, Vendor certifies and ensures that it utilizes and will continue to utilize the DHS E-Verify System for the duration of this Agreement and any subsequent renewals of same. Vendor understands that failure to comply with the requirements of this section shall result in the termination of this Agreement and Vendor may lose the ability to be awarded a public contract for a minimum of one (1) year after the date on which the Agreement was terminated. Vendor shall provide a copy of its DHS Memorandum of Understanding upon City's request. Please visit www.e-verify.gov for more information regarding the E-Verify System.
- 33. **CONFLICT OF INTEREST.** Vendor is required to have disclosed, with the submission of their bid, the name of any officer, director, or agent who may be employed by the City. Vendor shall further disclose the name of any City employee who owns, directly or indirectly, any interest in Vendor's business or any affiliated business entity. Any additional conflicts of interest that may occur during the contract term must be disclosed to the City of Ocala Procurement Department.
- 34. **WAIVER.** The failure or delay of any party at any time to require performance by another party of any provision of this Agreement, even if known, shall not affect the right of such party to

require performance of that provision or to exercise any right, power or remedy hereunder. Any waiver by any party of any breach of any provision of this Agreement should not be construed as a waiver of any continuing or succeeding breach of such provision, a waiver of the provision itself, or a waiver of any right, power or remedy under this Agreement. No notice to or demand on any party in any circumstance shall, of itself, entitle such party to any other or further notice or demand in similar or other circumstances.

- 35. **SEVERABILITY OF ILLEGAL PROVISIONS.** Wherever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under the applicable law. Should any portion of this Agreement be declared invalid for any reason, such declaration shall have no effect upon the remaining portions of this Agreement.
- 36. **INDEMNITY.** Vendor shall indemnify and hold harmless City and its elected officials, employees and volunteers against and from all damages, claims, losses, costs, and expenses, including reasonable attorneys' fees, which City or its elected officials, employees or volunteers may sustain, or which may be asserted against City or its elected officials, employees or volunteers, arising out of the activities contemplated by this Agreement including, without limitation, harm or personal injury to third persons during the term of this Agreement to the extent attributable to the actions of Vendor, its agents, and employees.
- 37. **NO WAIVER OF SOVEREIGN IMMUNITY.** Nothing herein is intended to waive sovereign immunity by the City to which sovereign immunity may be applicable, or of any rights or limits of liability existing under Florida Statute § 768.28. This term shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until any proceeding brought under this Agreement is barred by any applicable statute of limitations.
- 38. **NOTICES.** All notices, certifications or communications required by this Agreement shall be given in writing and shall be deemed delivered when personally served, or when received if by facsimile transmission with a confirming copy mailed by registered or certified mail, postage prepaid, return receipt requested. Notices can be concurrently delivered by e-mail. All notices shall be addressed to the respective parties as follows:

If to Vendor:

Fleetwing Corporation
Attention: Renee Verhelle
742 South Combee
Lakeland, Florida 33801
Phone: 863-340-9093
E-mail: rverhelle@fleetwingoil.com

If to City of Ocala:

Daphne M. Robinson, Esq., Contracting Officer
City of Ocala
110 SE Watula Avenue, 3rd Floor
Ocala, Florida 34471
Phone: 352-629-8343
E-mail: notices@ocalafl.gov

Copy to:

William E. Sexton, Esq., City Attorney
City of Ocala
110 SE Watula Avenue, 3rd Floor
Ocala, Florida 34471
Phone: 352-401-3972
E-mail: cityattorney@ocalafl.gov

39. **ATTORNEYS' FEES.** If any civil action, arbitration or other legal proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any provision of this Agreement, the successful or prevailing party shall be entitled to recover reasonable attorneys' fees, sales and use taxes, court costs and all expenses reasonably incurred even if not taxable as court costs (including, without limitation, all such fees, taxes, costs and expenses incident to arbitration, appellate, bankruptcy and post-judgment proceedings), incurred in that civil action, arbitration or legal proceeding, in addition to any other relief to which such party or parties may be entitled. Attorneys' fees shall include, without limitation, paralegal fees, investigative fees, administrative costs, sales and use taxes and all other charges reasonably billed by the attorney to the prevailing party.
40. **JURY WAIVER.** IN ANY CIVIL ACTION, COUNTERCLAIM, OR PROCEEDING, WHETHER AT LAW OR IN EQUITY, WHICH ARISES OUT OF, CONCERNS, OR RELATES TO THIS AGREEMENT, ANY AND ALL TRANSACTIONS CONTEMPLATED HEREUNDER, THE PERFORMANCE HEREOF, OR THE RELATIONSHIP CREATED HEREBY, WHETHER SOUNDING IN CONTRACT, TORT, STRICT LIABILITY, OR OTHERWISE, TRIAL SHALL BE TO A COURT OF COMPETENT JURISDICTION AND NOT TO A JURY. EACH PARTY HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY. NEITHER PARTY HAS MADE OR RELIED UPON ANY ORAL REPRESENTATIONS TO OR BY ANY OTHER PARTY REGARDING THE ENFORCEABILITY OF THIS PROVISION. EACH PARTY HAS READ AND UNDERSTANDS THE EFFECT OF THIS JURY WAIVER PROVISION.
41. **GOVERNING LAW.** This Agreement is and shall be deemed to be a contract entered and made pursuant to the laws of the State of Florida and shall in all respects be governed, construed, applied and enforced in accordance with the laws of the State of Florida.
42. **JURISDICTION AND VENUE.** The parties acknowledge that a majority of the negotiations, anticipated performance and execution of this Agreement occurred or shall occur in Marion County, Florida. Any civil action or legal proceeding arising out of or relating to this Agreement shall be brought only in the courts of record of the State of Florida in Marion County or the United States District Court, Middle District of Florida, Ocala Division. Each party consents to the exclusive jurisdiction of such court in any such civil action or legal proceeding and waives any objection to the laying of venue of any such civil action or legal proceeding in such court and/or the right to bring an action or proceeding in any other court. Service of any court paper may be effected on such party by mail, as provided in this Agreement, or in such other manner as may be provided under applicable laws, rules of procedures or local rules.
43. **REFERENCE TO PARTIES.** Each reference herein to the parties shall be deemed to include their successors, assigns, heirs, administrators, and legal representatives, all whom shall be bound by the provisions hereof.

44. **MUTUALITY OF NEGOTIATION.** Vendor and City acknowledge that this Agreement is a result of negotiations between Vendor and City, and the Agreement shall not be construed in favor of, or against, either party because of that party having been more involved in the drafting of the Agreement.
45. **SECTION HEADINGS.** The section headings herein are included for convenience only and shall not be deemed to be a part of this Agreement.
46. **RIGHTS OF THIRD PARTIES.** Nothing in this Agreement, whether express or implied, is intended to confer any rights or remedies under or because of this Agreement on any persons other than the parties hereto and their respective legal representatives, successors and permitted assigns. Nothing in this Agreement is intended to relieve or discharge the obligation or liability of any third persons to any party to this Agreement, nor shall any provision give any third persons any right of subrogation or action over or against any party to this Agreement.
47. **AMENDMENT.** No amendment to this Agreement shall be effective except those agreed to in writing and signed by both parties to this Agreement.
48. **COUNTERPARTS.** This Agreement may be executed in counterparts, each of which shall be an original and all of which shall constitute the same instrument.
49. **ELECTRONIC SIGNATURE(S).** Vendor, if and by offering an electronic signature in any form whatsoever, will accept and agree to be bound by said electronic signature to all terms and conditions of this Agreement. Further, a duplicate or copy of the Agreement that contains a duplicated or non-original signature will be treated the same as an original, signed copy of this original Agreement for all purposes.
50. **ENTIRE AGREEMENT.** This Agreement, including exhibits, (if any) constitutes the entire Agreement between the parties hereto with respect to the subject matter hereof. There are no other representations, warranties, promises, agreements or understandings, oral, written or implied, among the Parties, except to the extent reference is made thereto in this Agreement. No course of prior dealings between the parties and no usage of trade shall be relevant or admissible to supplement, explain, or vary any of the terms of this Agreement. No representations, understandings, or agreements have been made or relied upon in the making of this Agreement other than those specifically set forth herein.
51. **LEGAL 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.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK. SIGNATURE PAGE TO FOLLOW.]



IN WITNESS WHEREOF, the parties have executed this Agreement on _____.

ATTEST:

CITY OF OCALA

Angel B. Jacobs
City Clerk

Barry Mansfield
City Council President

Approved as to form and legality:

FLEETWING CORPORATION

William E. Sexton, Esq.
City Attorney

By: _____
(Printed Name)

Title: _____
(Title)

BACKGROUND

1. Vendor shall provide tank wagon (less than 5,000) delivery service of bulk gasoline, dyed diesel, and REC-90 fuel on an as-needed basis to specific City locations.

DELIVERY

1. Supplies shall be delivered to the specific sites detailed in the project summary.
2. The maximum acceptable lead time of supplies is two (2) weeks.
3. Scheduling of all deliveries shall be coordinated with the City Project Manager.
4. The Vendor will calculate the price per gallon based on the daily OPIS average contract price, plus all applicable taxes, fees, delivery charges, and additional costs.
5. The City will pay the Vendor only for the actual units that the Vendor provides.

PROJECT SUMMARY, DELIVERABLES AND HOURS

1. **Project Summary:** Vendor shall provide bulk delivery of fuels by tank wagon based on the prior day Oil Price Information Service (OPIS) daily average of the product, plus fuel markup margin per gallon, average common carrier freight, and applicable taxes. Fuel products delivered by tank wagon shall be invoiced at gross gallons, as evidenced by the tank wagon delivery meter. Invoice shall show all applicable taxes and fees as separate line items.
2. **Vendor shall provide the following fuel:**
 - Regular Unleaded Gasoline E-10, 87 Octane
 - #2 Dyed Diesel, 15 ppm Ultra Low Sulfur
 - Rec-90
3. **Locations:**

Location Name	Address	Fuel Type	Tank Capacity
Ocala Golf Club	3130 E Silver Springs Blvd. Ocala FL 34470	Gasoline	280/500
Ocala Golf Club	3130 E Silver Springs Blvd. Ocala FL 34470	#2 Dyed Diesel	500
Ocala International Airport	750 SW 60th Ave. Ocala, FL 34474	Gasoline	275
Ocala International Airport	750 SW 60th Ave. Ocala, FL 34474	#2 Dyed Diesel	275
Ocala City Complex	2100 NE 30th Ave. Ocala, FL 34470	REC-90	500

4. **Working Hours:** The normal/standard working hours for this service are 7:00 AM – 5:00 PM Monday through Friday, excluding holidays. Vendor shall provide 48-hour advance notice to City Project Manager for work outside normal shift hours. The City may decline the request.

VENDOR EMPLOYEES AND EQUIPMENT

1. Vendor shall utilize competent employees in performing the work. Employees performing the work shall be properly licensed or qualified as required by the scope/project.
2. Vendor shall provide an assigned Project Manager, who will be the primary point of contact. Vendor shall provide a valid telephone number and address at all times to the City Project Manager. The telephone shall be answered during normal working hours or voicemail must be available to take a message.
3. At the request of the City, Vendor shall replace any incompetent, unfaithful, abusive, or disorderly person in their employment. The City and the Vendor shall each be promptly notified by the other of any complaints received.
4. Employees of the Vendor shall wear suitable work clothes and personal protective equipment as defined by OSHA. Employees shall be clean and in as good appearance as the job conditions permit.
5. Vendor shall operate as an independent contractor and not as an agent, representative, partner or employee of the City of Ocala, and shall control their operations at the work site, and be solely responsible for the acts or omissions of their employees.
6. No smoking is allowed on City property or projects.
7. Vendor shall possess/obtain all required equipment to perform the work. A list of equipment shall be provided to the City upon request.
8. All company trucks shall have a visible company name/logo on the outside of the vehicle.

CITY OF OCALA RESPONSIBILITIES

1. The City of Ocala shall furnish the following services/data to the Vendor for the performance of services:
 - A. Access to City buildings and facilities to perform the work.
 - B. Provide access to drawings, specifications, schedules, reports, and other information prepared by/for the City of Ocala pertinent to the Vendor's responsibilities.
 - C. Provide office facilities for the Vendor, if needed.
2. City reserves the right to purchase any materials for the Vendor to use. Vendor shall not charge a mark-up fee for material furnished by the City.

VENDOR RESPONSIBILITIES

1. Vendor shall complete all work performed under this solicitation in accordance with policies and procedures of the City of Ocala and all applicable State and Federal laws, policies, procedures, and guidelines.
2. Vendor shall obtain and pay for any and licenses, additional equipment, dumping and/or disposal fees, etc., required to fulfill this contract.
3. Installation shall be in compliance with all requirements and instructions of applicable manufacturers.
4. Vendor is responsible for any and all damages including but not limited to buildings, curbing, pavement, landscaping, or irrigation systems caused by their activity. Should any public or private property be damaged or destroyed, the Vendor at their expense, shall repair or make restoration as acceptable to the City of destroyed or damaged property no later than one (1) month from the date damage occurred.

5. If the Vendor is advised to leave a property by the property owner or their representative, Vendor shall leave at once without altercation. Vendor shall then contact the City Project Manager within 24 hours and advise of the reason for not completing the assigned project.
6. Data collected by Vendor shall be in a format compatible with, or easily converted to City's databases. A sequential naming convention should be applied to the files and documentation provided to the City.
7. Vendor shall ensure that all documents prepared under this contract have been prepared on a Windows-based operating system computer using the most current version of Microsoft Office, which includes: Word, Excel, Power Point, Access, or any other software as specified and approved by City staff.

SUB-CONTRACTORS

1. Vendor shall perform a minimum of 30% of the work with their own forces.
2. Services assigned to sub-contractors shall be approved in advance by the City Project Manager.


SITE HOUSEKEEPING AND CLEANUP

1. **Cleanup:** Vendor shall keep the premises free at all times from accumulation of waste materials and rubbish caused by operations and employees. Such responsibilities shall include but not limited to:
 - A. Periodic cleanup to avoid hazards or interference with operations at the site, and to leave the site in a reasonable neat condition.
 - B. Work site shall be completely cleaned after each day of work.
 - C. Vendor shall dispose of debris in a legal manner.
2. **Final Cleaning:** Upon completion of work, clean entire work area as applicable.
 - A. All furnishings and equipment shall be placed back in the original locations.
 - B. All work areas shall be returned to original condition.
 - C. The Vendor shall clean and remove from the premises, all surplus and discarded materials, rubbish, and temporary structures, and shall restore in an acceptable manner all property, both public and private, which has been damaged during the prosecution of the work and shall have the work in a neat and presentable condition. *Note: Any and all debris shall be removed from the premises. New construction debris, trash, etc., shall not be left or buried on site.*

SAFETY

1. Vendor shall be fully responsible for the provision of adequate and proper safety precautions meeting all OSHA, local, state, and national codes concerning safety provisions for their employees, sub-contractors, all building and site occupants, staff, public, and all persons in or around the work area.
2. In no event shall the City be responsible for any damages to any of the Vendor's equipment, materials, property, or clothing lost, damaged, destroyed or stolen.
3. Prior to completion, storage and adequate protection of all material and equipment shall be Vendor's responsibility.

Exhibit B - PRICE PROPOSAL

	Vendor Name	Vendor Location
	Fleetwing Corporation	Lakeland and Cocoa, FL

INITIAL CONTRACT TERM PRICING - BASED ON OPIS PRICE FOR TAMPA, FL AS OF JULY 15, 2024

ITEM	LOCATION NAME	ADDRESS	FUEL TYPE	TANK CAPACITY	FULLY LOADED DELIVERED COST PER GALLON
1	Ocala Golf Club	3130 E Silver Springs Blvd. Ocala, FL 34470	Gasoline	280 / 500	\$ 3.25
2	Ocala Golf Club	3131 E Silver Springs Blvd. Ocala, FL 34470	#2 Dyed Diesel	500	\$ 2.93
3	Ocala International Airport	750 SW 60th Ave. Ocala, FL 34474	Gasoline	275	\$ 3.25
4	Ocala International Airport	750 SW 60th Ave. Ocala, FL 34474	#2 Dyed Diesel	275	\$ 2.93
5	Ocala City Complex	2100 NE 30th Ave. Ocala, FL 34470	REC-90	500	\$ 3.92