

AGREEMENT FOR LITTER CONTROL SERVICES

THIS AGREEMENT FOR LITTER CONTROL SERVICES ("Agreement") is entered into by and between the **CITY OF OCALA**, a Florida municipal corporation ("City") and **WEAR GLOVES, INC.**, a not-for-profit corporation duly organized and authorized to do business in the state of Florida (EIN: 27-3644705) ("Litter Control Provider").

WHEREAS, on September 6, 2019, City and Wear Gloves, Inc. entered into an Agreement for the provision of city-wide litter control services, City of Ocala Contract Number: CMO/190357, which is set to expire on July 31, 2022; and

WHEREAS, on March 7, 2022, the City's Public Works Department sought a procurement exemption which would allow the City to continue to use Wear Gloves, Inc. for the provision of litter control services through July 31, 2025 without issuing a competitive solicitation on the grounds that Wear Gloves, Inc. has provided efficient, cost-effective specialty services to the City for over three years; and

WHEREAS, after considering the limited number of entities providing litter control services, and that the City has benefitted from the provision of such services, the City Contracting Officer granted said exception; and

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

1. **RECITALS.** City and Litter Control Provider 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 Litter Control Provider 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.
3. **SCOPE OF SERVICES.** Litter Control Provider shall provide all materials, labor, supervision, tools, accessories, equipment necessary for Litter Control Provider to perform its obligations under this Agreement as set forth herein. The Scope of Work and/or pricing under this Agreement may only be adjusted by written amendment executed by both parties.
 - A. Litter control services shall be provided daily in areas defined by the City. A list of locations shall be provided to Litter Control Provider by the City Project Manager. This list may be

- revised and updated periodically over the term of this Agreement as agreed upon by Litter Control Provider and City.
- B. City shall provide bags, gloves and grabbers for Litter Control Provider to use.
 - C. Landscape maintenance and miscellaneous services may also be required, and will be coordinated with the City Project Manager in lieu of litter control efforts.
 - D. Labor hours shall be verified, via e-mail, on Mondays for any work completed during the previous week.
 - E. Services utilized through this Agreement may be terminated at will. The City shall notify the Litter Control Provider in writing when a litter control worker is no longer needed or desired.
 - F. Litter Control Provider shall have a drug-free workplace program in place. Litter Control Provider's employees shall not consume alcohol during working hours, nor shall they work while under the influence of alcohol or illegal substances, and will not smoke while in City vehicles or buildings.
 - G. Litter control workers shall not work for any period over **EIGHT (8) HOURS PER DAY** for a maximum of **FORTY (40) HOURS PER WEEK** without prior written authorization from the City.
 - H. Litter Control Provider shall not assign/subcontract any work without the prior written approval of the City. The City reserves the right to decline any assignments/subcontracting
 - I. Litter Control Provider's employees and personnel assigned to provide temporary labor services under this Agreement shall present a neat and clean appearance suitable for duties as directed. Litter Control Provider shall provide yellow safety vests to workers, and ensure they have appropriate footwear.
4. **COMPENSATION.** City shall pay Litter Control Provider a maximum limiting amount not to exceed **ONE HUNDRED SEVENTY-FOUR THOUSAND, FOUR HUNDRED SIXTY AND NO/100 DOLLARS PER YEAR (\$174,460/Year)** (the "Contract Sum") annually as full and complete compensation for the timely and satisfactory performance of services. The compensation due to Litter Control Provider under this Agreement may only be adjusted by written amendment executed by both parties.
- A. **Hourly Rate and Anticipated Number of Hours Per Week.** The maximum limiting amount set forth above is based upon a negotiated hourly rate for services of **ELEVEN AND NO/100 DOLLARS PER HOUR (\$11.00/Hour)** and the anticipated delivery of **THREE HUNDRED FIVE (305) COLLECTIVE SERVICE HOURS PER WEEK** by Litter Control Provider personnel each year.

- B. **Invoice Submission.** All invoices submitted by Litter Control Provider shall include the City Contract Number, an assigned Invoice Number, and an Invoice Date. Litter Control Provider shall submit the original invoice through the responsible City Project Manager at: **Public Works Department, Sanitation Division**, Attn: **Dwayne Drake, 1805 NE 30th Avenue, Bldg. 300, Ocala, Florida 34470**, E-Mail: ddrake@ocalafl.org.
 - 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 Litter Control Provider; (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 Litter Control Provider within **THIRTY (30)** calendar days of the Litter Control Provider's remedy or resolution of the inadequacy or defect.
 - E. **Excess Funds.** If due to mistake or any other reason Litter Control Provider receives payment under this Agreement in excess of what is provided for by the Agreement, Litter Control Provider shall promptly notify City upon discovery of the receipt of the overpayment. Any overpayment shall be refunded to City within **THIRTY (30)** days of Litter Control Provider'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. **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. Litter Control Provider shall not be exempted from paying sales tax to its suppliers for materials to fulfill contractual obligations with the City, nor will Litter Control Provider 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 **AUGUST 1, 2022** and continue in effect for a term of **THREE (3) YEARS**, through and including **JULY 31, 2025** (the "Term"). This Agreement may be renewed for **TWO (2)** additional **ONE (1) YEAR** periods by written consent between City and Litter Control Provider.
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. Litter Control Provider performance shall be extended for a number of days equal to the duration of the force majeure. Litter Control Provider shall be entitled to an extension of time only and, in no event, shall Litter Control Provider 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.** Litter Control Provider shall report its progress to the City Project Manager as set forth herein. All services, work, and materials provided by Litter Control Provider under this Agreement shall be provided to the satisfaction and approval of the Project Manager.
- A. The 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 Litter Control Provider in its Proposal. The authority vested in the 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 Project Manager's review of Litter Control Provider's work nor recommendations made by Project Manager pursuant to this Agreement will impose on Project Manager any responsibility to supervise, direct, or control Litter Control Provider's work in progress or for the means, methods, techniques, sequences, or procedures, or safety precautions or programs incident Litter Control Provider'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 Litter Control Provider 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 Litter Control Provider written notice of termination in the manner specified for the giving of notices herein. Any notice of termination given to Litter Control Provider by City shall be effective immediately, unless otherwise provided therein, upon the occurrence of any one or more of the following events:

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

B. **Litter Control Provider's Opportunity to Cure Default.** City may, in its sole discretion, provide Litter Control Provider with an opportunity to cure the violations set forth in City's notice of default to Litter Control Provider. Litter Control Provider 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 Litter Control Provider 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 Litter Control Provider Default.** In the event that Litter Control Provider 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 provide the required services in accordance with the needs of City;
 - (3) City shall be entitled to recover from Litter Control Provider all damages, costs, and attorney's fees arising from Litter Control Provider's default prior to termination; and
 - (4) City shall be entitled to recovery from Litter Control Provider any actual excess costs by: (i) deduction from any unpaid balances owed to Litter Control Provider; 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 Litter Control Provider 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 Project Manager shall provide written notice of the termination. Upon receipt of the notice, Litter Control Provider 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. Litter Control Provider 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 Litter Control Provider as permitted under this Agreement and approved by City.
9. **DELAYS AND DAMAGES.** The Litter Control Provider 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 Litter Control Provider 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 Litter Control Provider's performance. Any such evaluation will become public record.
11. **NOTICE REGARDING FAILURE TO FULFILL AGREEMENT.** Any Litter Control Provider 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. **LITTER CONTROL PROVIDER REPRESENTATIONS.** Litter Control Provider expressly represents that:

- A. Litter Control Provider 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 Litter Control Provider under this Agreement.
- B. Litter Control Provider has disclosed, in writing, all known conflicts, errors, inconsistencies, discrepancies, or omissions discovered by Litter Control Provider in the Contract Documents, and that the City's written resolution of same is acceptable to Litter Control Provider.
- C. Litter Control Provider 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 Litter Control Provider, 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 Litter Control Provider list following a conviction of a public entity crime. Litter Control Provider 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..." Litter Control Provider further understands that any person or affiliate who has been placed on the convicted Litter Control Provider 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 Litter Control Provider list.

13. **LITTER CONTROL PROVIDER RESPONSIBILITIES.** Except as otherwise specifically provided for in this Agreement, the following provisions are the responsibility of the Litter Control Provider:

- A. Litter Control Provider 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. Litter Control Provider shall be solely responsible for the means, methods, techniques, sequences, or procedures, and safety precautions or programs incident thereto.
 - C. Litter Control Provider shall be responsible to see that the finished work complies accurately with the contract and the intent thereof.
 - D. Litter Control Provider shall comply with all laws, rules or regulations governing the performance of this Agreement including, without limitation, those involving compensation to its employees or agents such as the Fair Labor Standards Act and that Florida Minimum Wage Act, and shall, upon request by City, provide City with such proof of such compliance including, without limitation, all records required to be maintained thereunder.
 - E. Litter Control Provider 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 Litter Control Provider 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 Litter Control Provider 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 Litter Control Provider. City has the authority to request changes in the work in accordance with the terms of this Agreement. City has the authority to stop work or to suspend any work.
16. **COMMERCIAL AUTO LIABILITY INSURANCE.** Litter Control Provider shall procure and maintain, for the life of this Agreement, commercial auto liability insurance covering all automobiles owned, non-owned, hired, and scheduled by Litter Control Provider with a combined limit of not less than One Million Dollars (\$1,000,000) for bodily injury and property damage for each accident. Litter Control Provider shall name City as an additional insured under the insurance policy.
17. **GENERAL LIABILITY INSURANCE.** Litter Control Provider 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. Coverage for contractual liability is also required.
- D. City, a political subdivision of the State of Florida, and its officials, employees, and volunteers shall be covered as an additional insured with a CG 20 26 04 13 Additional Insured – Designated Person or Organization Endorsement or similar endorsement providing equal or broader Additional Insured Coverage regarding liability arising out of activities performed by or on behalf of Litter Control Provider. The coverage shall contain no special limitation on the scope of protection afforded to City, its officials, employees, or volunteers.

18. **WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY.** Litter Control Provider shall procure and maintain, for the life of this Agreement, Workers' Compensation insurance and employer's liability coverage in amounts required by Florida law. If Litter Control Provider claims an exemption from workers' compensation coverage, Litter Control Provider must provide a copy of the Certificate of Exemption from the Florida Division of Workers' Compensation for all officers or members of an LLC claiming exemption who will be participating in the Work. In case any class of employees engaged in hazardous work under this Agreement is not protected under Worker's Compensation statutes, the Litter Control Provider shall provide and cause each subcontractor to provide adequate insurance satisfactory to the City for the protection of its employees not otherwise protected.

19. **MISCELLANEOUS INSURANCE PROVISIONS.**

- A. Insurance Requirements. These insurance requirements shall not relieve or limit the liability of Litter Control Provider. City does not in any way represent that these types or amounts of insurance are sufficient or adequate to protect Litter Control Provider's interests or liabilities, but are merely minimums. No insurance is provided by the City under this contract to cover Litter Control Provider. **No work shall be commenced under this contract until the required Certificate(s) of Insurance have been provided.** Work shall not continue after expiration (or cancellation) of the Certificates of Insurance and shall not resume until new Certificate(s) of Insurance have been provided. Insurance written on a "Claims Made" form is not acceptable without consultation with City of Ocala Risk Management.

- B. Deductibles. Litter Control Provider's deductibles/self-insured retentions shall be disclosed to the City and may be disapproved by City. Litter Control Provider is responsible for the amount of any deductible or self-insured retention.
- C. Certificates of Insurance. Litter Control Provider shall provide Certificates of Insurance, accompanied by copies of all endorsements required by this section, that are issued by an agency authorized to do business in the State of Florida and with an A.M. Best rating* of A-V or greater. Renewal certificates must be forwarded to the **City of Ocala Contracting Department, Third Floor, 110 SE Watula Avenue, Ocala, FL 34471, E-Mail: vendors@ocalafl.org** prior to the policy expiration.

*Non-rated insurers must be pre-approved by the City Risk Manager.

- D. Failure to Maintain Coverage. In the event Litter Control Provider fails to disclose each applicable deductible/self-insured retention or obtain or maintain in full force and effect any insurance coverage required to be obtained by Litter Control Provider under this Agreement, Litter Control Provider shall be considered to be in default of this Agreement.
 - E. Severability of Interests. Litter Control Provider shall arrange for its liability insurance to include General Liability, Business Automobile Liability, and Excess/Umbrella Insurance, 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.
 - F. Mandatory Endorsements for All Required Policies. All required policies shall include: (i) endorsement that waives any right of subrogation against the City of Ocala for any policy of insurance provided under this Agreement or under any state or federal worker's compensation or employer's liability act; and (ii) endorsement to give the City of Ocala no less than **THIRTY (30)** days written notice (with the exception of non-payment of premium which requires a **TEN (10)** calendar day notice) in the event of cancellation or material change.
20. **SAFETY/ENVIRONMENTAL**. Litter Control Provider shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. Litter Control Provider 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. Litter Control Provider 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 work.

All, injury, or loss to any property caused, directly or indirectly, in whole or in part, by Litter Control Provider, 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 Litter Control Provider. Litter Control Provider'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.

- 21. **NON-DISCRIMINATORY EMPLOYMENT PRACTICES.** During the performance of the contract, the Litter Control Provider 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.
- 22. **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 Litter Control Provider or any other persons or organizations having a direct contract with Litter Control Provider, 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 Litter Control Provider or any other persons or organizations having a direct contract with Litter Control Provider, except as may otherwise be required by law. City shall not be responsible for the acts or omissions of any Litter Control Provider, 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.
- 23. **EMERGENCIES.** In an emergency affecting the welfare and safety of life or property, Litter Control Provider, 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. Litter Control Provider 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. Litter Control Provider's emergency representatives must be fully authorized and equipped to correct unsafe or excessively inconvenient conditions on short notice by City or public inspectors.

24. **INDEPENDENT CONTRACTOR STATUS.** Litter Control Provider acknowledges and agrees that under this Agreement, Litter Control Provider and any agent or employee of Litter Control Provider 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 Litter Control Provider nor its agents or employees shall represent or hold themselves out to be employees of City at any time. Neither Litter Control Provider 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 Litter Control Provider in its performance of its obligations under this Agreement.
25. **ACCESS TO FACILITIES.** City shall provide Litter Control Provider with access to all City facilities as is reasonably necessary for Litter Control Provider to perform its obligations under this Agreement.
26. **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.
27. **RIGHT OF CITY TO TAKE OVER CONTRACT.** Should the work to be performed by Litter Control Provider under this Agreement be abandoned, or should Litter Control Provider become insolvent, or if Litter Control Provider 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 Project Manager. The City Project Manager's certification as to the amount of such liability shall be final and conclusive.

28. **PUBLIC RECORDS.** Litter Control Provider shall comply with all applicable provisions of the Florida Public Records Act, Chapter 119, Florida Statutes. Specifically, Litter Control Provider 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 Litter Control Provider 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 Litter Control Provider or keep and maintain public records required by the public agency to perform the service. If Litter Control Provider transfers all public records to the public agency upon completion of the contract, Litter Control Provider shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Litter Control Provider keeps and maintains public records upon completion of the contract, Litter Control Provider 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 LITTER CONTROL PROVIDER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO LITTER CONTROL PROVIDER'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.org; City Hall, 110 SE Watula Avenue, Ocala, FL 34471.

29. **AUDIT.** Litter Control Provider 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.

30. **PUBLICITY.** Litter Control Provider 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.
31. **E-VERIFY.** In accordance with Executive Order 11-116, Litter Control Provider shall utilize the U.S. Agency of Homeland Security's E-Verify system, <https://e-verify.uscis.gov/emp>, to verify the employment eligibility of all employees hired during the term of this Agreement. Litter Control Provider shall also require all subcontractors performing work under this Agreement to utilize the E-Verify system for any employees they may hire during the term of this Agreement.
32. **CONFLICT OF INTEREST.** Litter Control Provider is required to have disclosed, prior to execution of this Agreement, the name of any officer, director, or agent who may be employed by the City. Litter Control Provider shall further disclose the name of any City employee who owns, directly or indirectly, any interest in Litter Control Provider'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.
33. **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.
34. **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.
35. **INDEMNITY.** Litter Control Provider 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 Litter Control Provider, its agents, and employees.

36. **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.
37. **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 Litter Control Provider: Wear Gloves, Inc.
Attention: Ken Kebrdle, President
1469 N. Magnolia Avenue, Unit B
Ocala, Florida 34474
Phone: 352-727-0239
E-mail: ken@weargloves.org

If to City of Ocala: Procurement & Contracting Department
Attn: Daphne M. Robinson, Contracting Officer
City of Ocala, City Hall
110 SE Watula Avenue, 3rd Floor
Ocala, Florida 34471
PH: 352-629-8343 FAX: 352-690-2025
Email: Notices@ocalafl.org

Copy to: Robert W. Batsel, Jr.
Gooding & Batsel, PLLC
1531 SE 36th Avenue
Ocala, Florida 34471
Phone: 352-579-6536
E-mail: rbatsel@lawyersocala.com

38. **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.

39. 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.

40. 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.

41. 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.

42. **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.
43. **MUTUALITY OF NEGOTIATION.** Litter Control Provider and City acknowledge that this Agreement is a result of negotiations between Litter Control Provider 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.
44. **SECTION HEADINGS.** The section headings herein are included for convenience only and shall not be deemed to be a part of this Agreement.
45. **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.
46. **AMENDMENT.** No amendment to this Agreement shall be effective except those agreed to in writing and signed by both parties to this Agreement.
47. **COUNTERPARTS.** This Agreement may be executed in counterparts, each of which shall be an original and all of which shall constitute the same instrument.
48. **ELECTRONIC SIGNATURE(S).** Litter Control Provider, 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.
49. **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.

50. **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.

IN WITNESS WHEREOF, the parties have executed this Agreement on
06 / 22 / 2022.

ATTEST:

CITY OF OCALA

Angel B. Jacobs

Angel B. Jacobs
City Clerk

Ire Bethea Sr.

Ire Bethea, Sr.
City Council President

Approved as to form and legality:

WEAR GLOVES, INC.

Robert W. Batsel, Jr.

Robert W. Batsel, Jr.
City Attorney

Ken Kebrdle

By: Ken Kebrdle
(Printed Name)

Title: Chairman
(Title)

TITLE	For Signature: Agreement for Litter Control Services...
FILE NAME	FOR SIGNATURE - A... (PWD 220178).pdf
DOCUMENT ID	9c8d8b8ff6f0073f13e26bba8ca33885c90df0df
AUDIT TRAIL DATE FORMAT	MM / DD / YYYY
STATUS	● Signed

Document History



SENT

06 / 08 / 2022

15:43:43 UTC-4

Sent for signature to Robert W. Batsel, Jr. (rbatsel@lawyersocala.com), Ire Bethea, Sr. (ibethea@ocalafl.org), Angel Jacobs (ajacobs@ocalafl.org) and Ken Kebrdle (ken@weargloves.org) from plewis@ocalafl.org
IP: 216.255.240.104



VIEWED

06 / 09 / 2022

20:51:43 UTC-4

Viewed by Robert W. Batsel, Jr. (rbatsel@lawyersocala.com)
IP: 162.212.250.197



SIGNED

06 / 09 / 2022

20:54:08 UTC-4

Signed by Robert W. Batsel, Jr. (rbatsel@lawyersocala.com)
IP: 162.212.250.197



VIEWED

06 / 13 / 2022

09:25:49 UTC-4

Viewed by Ire Bethea, Sr. (ibethea@ocalafl.org)
IP: 24.250.133.62



SIGNED

06 / 13 / 2022

09:26:53 UTC-4

Signed by Ire Bethea, Sr. (ibethea@ocalafl.org)
IP: 24.250.133.62

TITLE	For Signature: Agreement for Litter Control Services...
FILE NAME	FOR SIGNATURE - A... (PWD 220178).pdf
DOCUMENT ID	9c8d8b8ff6f0073f13e26bba8ca33885c90df0df
AUDIT TRAIL DATE FORMAT	MM / DD / YYYY
STATUS	● Signed

Document History



06 / 13 / 2022
09:38:34 UTC-4

Viewed by Angel Jacobs (ajacobs@ocalafl.org)
IP: 216.255.240.104



06 / 13 / 2022
09:38:43 UTC-4

Signed by Angel Jacobs (ajacobs@ocalafl.org)
IP: 216.255.240.104



06 / 13 / 2022
09:46:14 UTC-4

Viewed by Ken Kebrdle (ken@weargloves.org)
IP: 216.255.254.135



06 / 22 / 2022
08:08:03 UTC-4

Signed by Ken Kebrdle (ken@weargloves.org)
IP: 216.255.254.135



06 / 22 / 2022
08:08:03 UTC-4

The document has been completed.