



## ELEVATOR MAINTENANCE AGREEMENT

### Choice Service (CS) Service Agreement

Owner: City Of Cocoa

Location(s):

Dyal Water Treatment Plant, 28400 S.R. 520, Christmas FL  
Police Station, 1226 West King Street, Cocoa FL  
William H. Stephenson Building (WFO Building) 351 Shearer Blvd., Cocoa FL  
City Hall, 65 Stone St. Cocoa FL  
Porcher House, 434 Delannoy Avenue, Cocoa FL  
Cocoa Village Playhouse, 300 Brevard Ave. Cocoa FL

By: Sapphire Elevator, LLC  
7073 N. Atlantic Ave Unit 2  
Cape Canaveral, FL32920  
Telephone: (321)613-3300  
Email: paul@sapphireelevator.com  
Internet: Sapphireelevator.com

## Choice Service (CS) Service Agreement

Sapphire Elevator, LLC, agrees to maintain Owner's elevator equipment as outlined below.

### Equipment To Be Maintained

Property Name	Property Address	Elevator Number	Unit Type	State Serial Number	Manufacturer	Number of Floors
Dyal Water Treatment Plant	28400 S.R. 520, Christmas FL	1	Hydro		Dover Relay	2
Police Station	1226 West King Street, Cocoa FL	1	Hydro	55244	Dover DMC	2
William H. Stephenson Building (WFO Building)	351 Shearer Blvd., Cocoa FL	1	Hydro	97780	Schindler 330a	2
City Hall	65 Stone St. Cocoa FL	1	Hydro	33293	Schindler 330a	2
Porcher House	434 Delannoy Avenue, Cocoa FL	1	Hydro	41156	Dover DMC	2
Cocoa Village Playhouse	300 Brevard Ave. Cocoa FL	1	Hydro	94116	TKE Tac 20	3

### PREVENTATIVE SERVICE MAINTENANCE PROGRAM

Examine signal Fixtures	Examine machines, drives, motors, governors, sheaves, ropes
Examine car and hoistway door operating devices and door protection equipment	Examine safety mechanisms

## **SAPPHIRE ELEVATOR, LLC**

<b>Adjust elevator parts and components</b>	<b>Document all work performed on Maintenance Control Program logs for each elevator</b>
<b>Examine loadweighters, car frames and counterweights</b>	<b>Examine power units, pumps, valves and mufflers</b>
<b>Lubricate equipment for smooth and efficient performance</b>	<b>Examine control and landing position systems</b>

### **PREVENTIVE MAINTENANCE**

CONTRACTOR will schedule with the CITY, monthly visits to perform the following services; EXAMINE, LUBRICATE, ADJUST, AND REPAIR/REPLACE COVERED COMPONENTS: Contractor will periodically examine, lubricate, adjust, and as needed or if usage mandates, repair, or replace the Covered Components listed below. If more frequent visits are required for aging or higher maintenance units, visits will be scheduled with no additional cost to the City. It is preferred that these monthly visits be scheduled for the last Tuesday of each month.  
Choice Service

The choice service program includes cleaning, lubricating, and Sapphire will furnish all equipment and cleaning material necessary for the performance of lubricating and cleaning.

Sapphire Elevator shall periodically properly lubricate and clean all hoistway and door equipment, guide lubricators and motor bearings as needed. All elevator components and material provided during a scheduled maintenance visit.

### **Replacement of Parts**

#### **HYDRAULIC ELEVATORS**

Basic components: Controller components resistors, timers, fuses, overloads, minor contacts, wiring, coils; packing, drive belts, strainers, functional components of car and corridor operating stations, hangers and tracks, door operating devices, door gibbs, guide shoes, rollers, traveling cables, signal lamps (replacement during regular visits only), interlocks, door closers, buffers, switches, door protection devices, and alarm bells.

### **Annual Safety Testing**

Equipment must be tested as outlined in the American National Safety Code for Elevators and Escalators, ANSI A17.1, current edition as of the effective date of this agreement. We will perform relief pressure tests for hydraulic elevators and safety tests and governor tests on traction elevators once each year. Owner agrees to pay for any third party inspector costs or inspector fees. Sapphire Elevator will provide 5 year load test, at owner's request. Standard billing rates will apply (including travel). Owner is also responsible for all inspector cost and fees.

### **TESTING OF SAFETY DEVICES**

Equipment Frequency Hydraulic Pressure/Relief Valve Annually

Testing responsibilities do not include fees or changes imposed by local authorities in conjunction with witnessing, witnessing costs, inspecting, assisting inspection authorities, licensing or testing the Equipment including observation of testing by 3rd parties; changes in the testing requirements after the initial start date of this Agreement.

## **SAPPHIRE ELEVATOR, LLC**

**CLEANING/PAINTING** Contractor will periodically clean the machine room, car top, and pit of debris related to our work in these areas; and will periodically paint the machine room floor if needed.

### **In a Timely and Responsive Manner**

Monthly, during normal business hours, Monday through Friday, 8:00am to 4:30pm (except for scheduled holidays), we will visit your property and maintain your elevator as aforementioned. We will respond to service calls during these hours at no charge to owner. Service calls are defined as emergency entrapments or minor adjustments that can be completed in no more than two hours (not including travel time). For all service calls, please call our office at 321-613-3300 and we will handle your call quickly and professionally.

**CALLBACK RESPONSE TIME** Contractor will respond to callbacks during regular working hours within an average of 4 hours of notification, and during overtime hours within an average of 12 hours of notification.

### **HOURS OF SERVICE**

Contractor will perform the services during regular working hours of regular working days, excluding holidays, with the exception of City Hall Elevator Maintenance. City Hall maintenance is to begin between 7:00 a.m. and 7:30 a.m.

### **After Hours Service Calls**

In an effort to assure that your needs are met, the services of Sapphire Elevator will be available on a 24 hour basis, seven days a week for emergencies. If any of these services are required outside of our normal business hours, the billing rate will be at the time and half billing rate. The rates listed below are our current regular time and time and a half rates, and are subject to change.

Mechanic: \$170.00 per regular time worked, \$255.00 for time and a half.  
Team: \$ 270.00 per regular time worked, \$405.00 for time and a half.

## **TERMS OF SERVICE**

### **Product Information.**

Owner agrees to:

Provide Sapphire Elevator with the current wiring diagrams that reflect all changes, parts catalogs, and maintenance instructions for the equipment covered by this agreement. Authorize us to produce single copies of any programmable device(s) used in the equipment for the purpose of archival back-up of the software embodied therein.

### **TERM**

Upon award, this Contract begins October 1, 2022 and will remain in effect until September 30, 2025. The agreement is renewable for two (2), twelve (12) month periods (October 1, 2025 to September 30, 2027), at the same rates, with the approval of both parties and contingent on funds and approval by the Cocoa City Council. Agreement may be terminated at any time by either party upon written notice received by the other party at least 30 days prior to the termination. Upon award, the selected vendor will be required to provide a Certificate of Insurance naming the City as an additional insured, (see attachment).

## **SAPPHIRE ELEVATOR, LLC**

### **Safety.**

#### **Owner agrees to:**

Instruct or warn passengers in the proper use of the equipment and to keep the equipment under continued surveillance by competent personnel to detect irregularities between elevator examinations.

Report immediately any condition that may indicate the need for correction before the next regular examination.

Shutdown the equipment immediately upon manifestation of any irregularities in operation or appearances of equipment, notify us at once, and keep the equipment shutdown until the completion of any repairs.

Provide our personnel a safe place in which to work. We reserve the right to discontinue work in the building whenever, in our sole opinion, our personnel do not have a safe place to work.

Provide a suitable machine room including secured doors, waterproofing, lighting, ventilation and heat to maintain the room temperature between 50 degrees F minimum and 90 degrees F maximum.

Maintain the elevator pit in a dry condition at all time. Should water or other liquids become present, you will contract with others for removal and proper handling of such liquids.

### **Other.**

#### **Owner agrees to:**

Not permit others to make alterations, adjustments, or repairs or replace any component or part of the equipment during the term of this Agreement.

Accept our judgment as to means and methods to be employed for any corrective work under this Agreement, when Sapphire Elevator inspection of a piece of equipment serviced under this Agreement reveals an operational problem which jeopardizes the safety of the riding public, Sapphire Elevator may shutdown the equipment until such time as the operational problem is resolved. Sapphire Elevator will immediately advise you in writing of such action, the reason for such action, and whether the proposed solution is covered by the terms of the Agreement.

In the event of sale, lease or other transfer of the elevator(s) or equipment described herein, or the premises in which they are located, Purchase will see that any successor is made aware of this Agreement and assumes and agrees to be bound by the terms hereof for the balance of the agreement and be responsible for the full unpaid balance due for the full unexpired term of the agreement.

Owner agrees to indemnify, defend, save harmless, discharge, release and forever acquit Sapphire Elevator, our officers, agents and employees from and against any and all claims, demands, suits, and proceedings brought against Sapphire Elevator or our employees, including but not limited to loss, damage, injury or death that are alleged to have arisen from negligence of Owner or any others in connection with the presence, use, misuse, maintenance, installation, removal, manufacturer, design, operation or condition of the equipment covered by this agreement, or the associated areas surrounding such equipment. Your duty to indemnify does not apply to claims or losses determined to be caused by or resulting from the negligence of Sapphire Elevator or our employees. You recognize that your obligation to Sapphire Elevator under this clause includes payment of all attorney's fees, court costs, judgments, settlements, interest and any other expenses of litigation arising out of such claims or lawsuits.

**Items not Covered.** We do not cover cosmetic, construction, or ancillary components of the elevator system, including the finishing, repairing, or replacement of cab enclosure, ceiling frames, panels, and or other fixtures, buried piping, motors, pumps, motor generators, controller boards, hoistway door panels, door frames, sills, car flooring, subflooring, floor covering, lighting fixtures, ceiling light bulbs or tubes, main line power switches, alignment of elevator guide rails, smoke and fire sensors, fire service reports, communication devices, breaker(s), feeders to controller, hydraulic elevator jack outer casing, selector tape or cables, or any other component of selector system, door operating equipment, door motors, security systems not installed by us,

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batteries for emergency lighting and lowering, air conditioners, heaters, ventilation fans and all other items as set forth and excluded in this agreement.

**Other Conditions.** With the passage of time, equipment technology and designs will change. We will not be required to make any changes or recommendations to the existing design or function of the equipment. We shall not be obligated to service, make renewals or repairs upon the equipment by reason of obsolescence, misuse of equipment, another's negligence, loss of power, blown fuse(s), tripped stop switch(es), theft, vandalism, explosion, fire, power failure, water damage, storm, lightning, nuisance calls, acts of civil or military authorities, strikes, lockouts, acts of God or nature, or any other reason or cause beyond our control. In the event any component of the elevator becomes obsolete or outmoded, or is no longer manufactured by the original manufacturer, it shall be your obligation to replace the obsolete or outmoded component at your expense. We will not be obligated to install new attachments or parts upon the equipment as recommended or directed by insurance companies, any governmental agency or authority, or any third party. It is the owner's responsibility to supply any proprietary software or hardware that may be needed.

Should your equipment require any safety tests on the commencement date of this agreement, Sapphire Elevator assumes no responsibility for the operation of the governor or safeties on traction elevators, or the hydraulic system on hydraulic elevators until the test has been made. We shall not be liable for damage to the building structure resulting from the performance of safety tests. Should the equipment fail any of the required tests, it shall be your sole responsibility to make necessary repairs and to place the equipment in a condition that will be acceptable for coverage under the terms of this agreement.

Sapphire Elevator shall not be liable for any loss, damage or delay caused by acts of government, labor, troubles, strikes, lockouts, fire, explosions, theft, riot, civil commotion, war, malicious mischief, acts of God or nature, or any cause beyond its control, and in no event shall Sapphire Elevator be liable for any damages, consequential, special, or indirect damages.

In the event a third party is retained to enforce this agreement or to collect any monies due hereunder, either with or without litigation, the prevailing party shall be entitled to recover all costs and reasonable attorney's fees. You hereby waive trial by jury in any action against us and do further hereby consent that venue of any proceeding or lawsuit under this agreement shall be in Brevard County, Florida. In the event any portion of this agreement is deemed invalid or unenforceable by a court of law, public policy or statute, such finding shall not affect the validity or enforceability of any other portion of this agreement. Our rights under this agreement shall be cumulative and our failure to exercise any rights shall not operate to forfeit or waive any rights under this agreement.

**Price.** The price for the services shall be Six Hundred Sixty Dollars AND 00/100 (\$660.00 monthly price for all six elevators) monthly, excluding taxes, payable monthly in advance.

**Term.** Upon award, this Contract begins October 1, 2022 and will remain in effect until September 30, 2025. The agreement is renewable for two (2), twelve (12) month periods (October 1, 2025 to September 30, 2027), at the same rates, with the approval of both parties and contingent on funds and approval by the Cocoa City Council. Agreement may be terminated at any time by either party upon written notice received by the other party at least 30 days prior to the termination.

**Early Payment Discount.** If you pay in advance for twelve (12) months of service on the equipment covered in this agreement, you may take a 3% discount from the annual price.

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**Annual Price Adjustment.** As the cost we incur for providing elevator service may increase, we will adjust the price of your service accordingly, annually effective on the anniversary date of this agreement. We will adjust your monthly price based on the percentage change of costs of operation.

**Overdue Invoices.** A service charge of 1 ½ % per month, or the highest legal rate, whichever is less, shall apply to overdue accounts. If you do not pay any sum within sixty (60) days from the billing date, we may also choose to do the following: 1.) suspend all service until all the amount that is due has been paid in full, or 2.) declare all sums for the unexpired term of this entire contractual agreement due immediately and also terminate this agreement. If Sapphire Elevator elects to suspend service, we shall not be responsible for any damages or injuries of persons or property arising from the lack of service. Should Sapphire Elevator incur any costs as a result of suspension of service, Owner will be responsible for paying all costs upon resuming service.

**Acceptance.** Your acceptance of this agreement and its approval by an authorized manager of Sapphire Elevator will constitute exclusively and entirely the agreement for the goods and services herein described. All prior representations or agreements whether written or verbal not incorporated herein are superseded. Should your acceptance be in the form of a purchase order or similar document, the provisions of this agreement will govern in the event of a conflict between this agreement a purchase order or similar document used as acceptance of this agreement.

No agent or employee shall have the authority to waive or modify any terms of this agreement without the written approval of an authorized representative of Sapphire Elevator.

If applicable, your existing contract shall remain in full force and effect until this contract has been fully and properly executed by both parties.

**For Sapphire Elevator:**

By:   
Signature of Authorized Representative

Print: Paul Friedl  
Print Name of Authorized Representative

Title: 9/6/2022  
Title of Authorized Representative

Date: Operations Manager  
Date of Execution

**For Owner:**

By: \_\_\_\_\_  
Signature of Authorized Representative

Print: \_\_\_\_\_  
Print Name of Authorized Representative

Title: \_\_\_\_\_  
Title of Authorized Representative

Date: \_\_\_\_\_  
Date of Execution

**Sapphire Elevator Approval:**

By: \_\_\_\_\_  
Signature of Authorized Representative

Title: \_\_\_\_\_  
Title of Authorized Representative

Date: \_\_\_\_\_  
Date of Execution

**SAPPHIRE ELEVATOR, LLC**

**Please complete the following information:**

\_\_\_\_\_  
Contact Name

\_\_\_\_\_  
EIN

\_\_\_\_\_  
Property Tax Folio Number

(\_\_\_\_)\_\_\_\_\_  
Contact Phone Number

\_\_\_\_\_  
Billing Name (Building Legal Name)

\_\_\_\_\_  
Billing Address

\_\_\_\_\_  
City, State, Zip Code



**ADDITIONAL TERMS**

**Exhibit A**

**Additional Terms and Conditions for City of Cocoa Agreements**

**1. INDEMNIFICATION**

CONTRACTOR shall indemnify and hold harmless the OWNER, its officers, employees, agents, and city attorneys (individually and in their official capacity, from liability, losses, damages, and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentional wrongful misconduct of CONTRACTOR and persons employed or utilized by CONTRACTOR in the performance of this Agreement.

CONTRACTOR specifically assumes potential liability for actions brought by CONTRACTOR'S own employees against the OWNER and, solely for the purpose of this indemnification and defense, CONTRACTOR specifically waives its entitlement, if any, to immunity under Section 440.11, Florida Statutes. This waiver has been specifically and mutually negotiated by the parties.

The indemnification provided above shall obligate the CONTRACTOR to defend at its own expense or to provide for such defense, at the option of the OWNER, as the case may be, of any and all claims of liability and all suits and actions of every name and description that may be brought against the OWNER or its officers, employees, and city attorneys which may covered by this indemnification. In all events the OWNER and its officers, employees, and city attorneys shall be permitted to choose legal counsel of its sole choice, the fees for which shall be reasonable and subject to and included with this indemnification provided herein.

In consideration of the CONTRACTOR's indemnity obligations, OWNER specifically agrees to pay the CONTRACTOR the sum of TWO HUNDRED FIFTY AND NO/100 DOLLARS (\$250.00) or ONE PERCENT (1%) OF THE CONTRACT SUM WHICHEVER IS GREATER. The CONTRACTOR acknowledges receipt of the specific consideration for CONTRACTOR's indemnification of OWNER and that the specific consideration is included in the original Contract Price allocated by CONTRACTOR among all pay items - receipt of which is acknowledged.

The indemnity provisions set forth in this Paragraph shall survive termination of this Agreement.

**2. Public Records**

It is hereby specifically agreed that any record, document, computerized information and program, audio or video tape, photograph, or other writing of the CONTRACTOR and its independent contractors and associates related, directly or indirectly, to this Agreement, may be deemed to be a Public Record whether in the possession or control of the OWNER or the CONTRACTOR. Said record, document, computerized information and program, audio or video tape, photograph, or other writing of the CONTRACTOR is subject to the provisions of Chapter 119, Florida Statutes, and may not be destroyed without the specific

## **SAPPHIRE ELEVATOR, LLC**

written approval of the OWNER's City Manager. Upon request by the OWNER, the CONTRACTOR shall promptly supply copies of said public records to the OWNER. All books, cards, registers, receipts, documents, and other papers in connection with this Agreement shall at any and all reasonable times during the normal working hours of the CONTRACTOR be open and freely exhibited to the OWNER for the purpose of examination and/or audit. Failure by CONTRACTOR to grant such access and comply with public records laws and/or requests shall be grounds for immediate unilateral cancellation of this Agreement by the OWNER upon delivery of a written notice of cancellation. If CONTRACTOR fails to comply with this Section, and the OWNER must enforce this Section, or the OWNER suffers a third party award of attorney's fees and/or damages for violating Chapter 119, Florida Statutes, due to CONTRACTOR's failure to comply with this Section, the OWNER shall collect from CONTRACTOR prevailing party attorney's fees and costs, and any damages incurred by the City, for enforcing this Section against CONTRACTOR. And, if applicable, the OWNER shall also be entitled to reimbursement of all attorneys' fees and damages which the OWNER had to pay a third party because of the CONTRACTOR's failure to comply with this Section. The terms and conditions set forth in this Section shall survive the termination of this Agreement.

The CONTRACTOR acknowledges that the OWNER is a Florida municipal corporation and subject to the Florida Public Records Law. CONTRACTOR agrees that to the extent any document produced by CONTRACTOR under this Agreement constitutes a Public Record; CONTRACTOR shall comply with the Florida Public Records Law.

### **3. Venue**

- 3.1. MEDIATION/VENUE - The parties agree that should any dispute arise between them regarding the terms or performance of this Agreement, both parties will participate in mediation. The parties agree to equally share the cost of the mediator. Should the parties fail to resolve their differences through mediation, then any cause of action filed hereunder shall be filed in the Circuit or County Court for Brevard County, Florida.
- 3.2. GOVERNING LAW & VENUE - This Agreement is made and shall be interpreted, construed, governed, and enforced in accordance with the laws of the State of Florida. Venue for any state action or litigation shall be Brevard County, Florida. Venue for any federal action or litigation shall be Orlando, Florida.

### **4. INSURANCE REQUIREMENTS (ONLY IF CONTRACTOR MUST APPEAR PHYSICALLY ON OWNER PROPERTY)**

**4.1. COMMERCIAL GENERAL LIABILITY INSURANCE MINIMUM REQUIREMENTS FOR CONTRACTS VALUED AT LESS THAN \$15,000:**

It is required that individuals and firms contracting with the City of Cocoa, where the total contract or job value is LESS than \$15,000, maintain Commercial General Liability insurance with a minimum per occurrence limit of not less than \$200,000 per person and \$300,000 each occurrence, and property damage insurance of at least \$200,000 each occurrence and with a deductible amount not greater than \$1,000. It is further required that the City of Cocoa be named as an additional insured to the contractor's CGL policy, and that proof of same in the form of a certificate of insurance be submitted before work is begun.

**4.2. COMMERCIAL GENERAL LIABILITY INSURANCE MINIMUM REQUIREMENTS FOR CONTRACTS VALUED AT \$15,000 OR MORE:**

It is required that individuals and firms contracting with the City of Cocoa, where the total contract or job value is \$15,000 or MORE, maintain Commercial General Liability insurance with a minimum per occurrence limit of not less than \$2,000,000 as the combined single limit for each occurrence and with a deductible not greater than \$5,000 or as otherwise approved in writing by the City Manager. It is further required that the City of Cocoa and FDOT, be named as an additional insured to the Contractor's CGL policy, and that proof of same in the form of a certificate of insurance be submitted before work is begun.

**4.3. AUTOMOBILE LIABILITY INSURANCE MINIMUM REQUIREMENTS FOR ALL CONTRACTS:**

The Contractor shall maintain comprehensive automobile liability insurance in the minimum amount of \$1,000,000 combined single limit bodily injury and minimum \$1,000,000 property damage as the combined single limit for each occurrence to protect the Contractor from claims for damages for bodily injury, including wrongful death, as well as from claims from property damage, which may arise from the ownership, use, or maintenance of owned and non-owned automobiles, including rented automobiles whether such operations be by the Contractor or by anyone directly or indirectly employed by the Contractor.

**4.4. PROFESSIONAL LIABILITY INSURANCE MINIMUM REQUIREMENTS FOR ALL PROFESSIONALS AS DEFINED BY FLORIDA STATUTE:**

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Professionals and professional corporations, associations, and firms who contract with the City of Cocoa to provide professional services are required to maintain Professional Liability Insurance and submit proof of same in the form of a certificate of insurance before work is begun.

### **4.5. WORKERS' COMPENSATION INSURANCE MINIMUM REQUIREMENTS:**

It is required that firms employing four or more people who contract with the City of Cocoa maintain Workers' Compensation Insurance at the statutory limits and employer liability insurance and submit proof of same in the form of a certificate of insurance before work is begun.

It is required that firms employing less than four people who contract with the City of Cocoa comply with the exemption and notice provisions of F.S. 440 and maintain employer liability insurance and submit proof of same in the form of a certificate of insurance before work is begun.

However, if you are a corporate officer of a corporation that is actively engaged in the construction industry, or a sole proprietor or partner who is actively engaged in the construction industry, then your exemption will not apply to any work performed at a commercial building project valued at \$250,000 or greater and you must secure workers' compensation coverage in accordance with F.S. 440.38 and these general conditions and submit proof of same in the form of a certificate of insurance before work is begun.

5. **E-VERIFY** - Pursuant to section 448.095, Florida Statutes, beginning January 1, 2021, any City contractors shall register with and use the U.S. Department of Homeland Security's E-Verify system, <https://e-verify.uscis.gov/emp>, to verify the work authorization status of all employees hired on and after January 1, 2021. City Contractors must provide evidence of compliance with section 448.095, Florida Statutes. Evidence shall consist of an affidavit from the Contractor stating all employees hired on and after January 1, 2021 have had their work authorization status verified through the E-Verify system and a copy of their proof of registration in the E-Verify system. Failure to comply with this provision will be a material breach of the contract, and shall result in the immediate termination of the contract without penalty to the City. The City Contractor shall be liable for all costs incurred by the City securing a replacement contract, including but not limited to, any increased costs for the same services, any costs due to delay, and rebidding costs, if applicable. If the City Contractor utilizes Subcontractors the following shall apply:

***SAPPHIRE ELEVATOR, LLC***

- 5.1. Contractor shall also require all subcontractors performing work under the Agreement to use the E-Verify system for any employees they may hire during the term of the Agreement.
- 5.2. Contractor shall obtain from all such subcontractors an affidavit stating the subcontractor does not employ, contract with, or subcontract with an unauthorized alien, as defined in section 448.095, Florida Statutes.
- 5.3. Contractor shall provide a copy of all subcontractor affidavits to the City upon receipt and shall maintain a copy for the duration of the Agreement.