



CITY OF COCOA
SERVICE LEVEL AGREEMENT
(Contract No. 21-22-COC)

This Agreement made and entered into on the ____ day of _____ by and between **Nils Humberg Enterprises, LLC – dba: Ace Flow Control** authorized and duly licensed to do business in the State of Florida, hereinafter called the CONTRACTOR, with an address of **845 Waterway Place, Suite 101, Longwood, FL 32750**, and the City of Cocoa, a municipal corporation organized and existing under the Laws of the State of Florida, and located in Brevard County, Florida, hereinafter called the CITY or OWNER, with an address of 65 Stone Street, Cocoa, Florida 32922.

Witnessed that the Contractor and the City, for the Consideration herein-after named, agree as follows:

1. **DESCRIPTION OF SERVICES** - CONTRACTOR shall provide, testing, surveying and/or repair as needed of a minimum of ten thousand (10,000) Cross Connection Control (CCC) devices per year, including CCC devices associated with fire suppression water lines. The Contractor shall be prepared to expand their services to meet or exceed any future regulatory requirements or growth should expansion of services be required.

Contractor (Niles Humberg Enterprises, LLC referred to as registered dba “Ace Flow Control”) must comply with the following specifications:

Contractor shall provide technical services on their CCC Program as regulated by the FDEP and as described in the City of Cocoa’s Cross Connection Control Manual meeting or exceeding the CCC regulations as established by FDEP. The Contractor shall provide installation services within a two (2) week period of notice.

CCC devices in the City of Cocoa potable water distribution system are associated with and, typically, located adjacent to the customer’s water meter. Typical residential water meters are ¾-inch diameter. Commercial water meters can range in size from ¾-inch to 10-inch diameter. An estimate of the breakdown by diameter of commercial water meters is as shown in Exhibit 1 below.

Exhibit 1. Commercial Potable Water Meter Sizes

Commercial Meter Size	Estimated % of Total Commercial Meters
¾"	62%
1"	15%
1.5"	10%
2"	10%
3"	0.8%
4"	1%
6"	1%
8"	0.2%
10"	0.1%

CITY OF COCOA
SERVICE LEVEL AGREEMENT
(Contract No. 21-22-COC)

DEFINITIONS:

The following words and expressions used in this agreement shall be construed as follows, except when it is clear from the context that another meaning is intended:

1. The word "City" to mean the City of Cocoa, a political subdivision of the State of Florida.
2. The words "WFO Project Manager" to mean the City of Cocoa Water Field Operations (WFO) Manager or designee who is responsible for ensuring that the Cross-Connection Control Program is meeting the City's expectations and who possesses the ability to determine/assign the areas of operation.
3. The word "Contractor" to mean the vendor contracted from the City of Cocoa as a result of this award, also to be known as "the prime Contractor."
4. The word "Subcontractor" to mean any person, firm, entity, or organization, other than the employees of the Contractor, who contracts with the Contractor to furnish labor and/or materials, in connection with the Services to the City, whether directly or indirectly, on behalf of the Contractor.
5. The words "Scope of Services" to mean the details of the work to be performed by the Contractor.
6. The words "Work", "Services", "Program", or "Project" to mean all matters and things that will be required to be done by the Contractor in accordance with the Scope of Services and the terms and conditions of this agreement and the resulting Contract.
7. The acronym "ITB" is an abbreviation for Invitation To Bid.
8. The acronym "WFO" is an abbreviation for the City of Cocoa Utilities Department Water Field Operations.
9. The acronym "ASSE" is an abbreviation for the American Society of Sanitary Engineers.
10. The acronym "FDEP" is an abbreviation for the Florida Department of Environmental Protection.
11. The acronym "CCC" is an abbreviation for Cross Connection Control.
12. The acronym "AWWA" is an abbreviation for American Water Works Association

The following is a description of the services discussed herein:

1. CCC site survey shall include, but not be limited to, identification of meter number and address, the hazard assessment level (as defined in the City of Cocoa's Cross Connection Control Manual and AWWA Manual M14) and any recommended CCC device upgrades. The contractor is responsible for notifying and scheduling site inspections to ascertain the hazard level when necessary.
2. CCC device testing shall include, but not be limited to, the following services: on-site testing customer notification, device testing by certified staff and certified Fire Inspector (when required), identification of meter number and address, submission of executed test report, and documentation of all testing data. All testing shall meet the requirements of FDEP, AWWA, ASSE, City of Cocoa and device manufacturer's recommendations.
3. CCC device repair shall include, but not be limited to, the following items: repair notification, on-site repair of device, documentation of all repair data, and a successful

CITY OF COCOA
SERVICE LEVEL AGREEMENT
(Contract No. 21-22-COC)

testing of the device once the repair is complete. Any repair of CCC devices, 2 ½" and larger, shall include all rubber parts, unless repairs kits are required by City. Repair kits or replacement devices shall be previously approved by City. All replaced parts of CCC devices, 2 ½" and larger, shall be bagged and tagged in the field and returned to WFO. All repairs shall include a one-year warranty on parts and labor.

4. Replacement/ Installation of CCC devices shall include, but not be limited to, the following items: replacement/ installation notification to City and customer, on-site replacement/ installation of CCC device, coordination with WFO regarding new CCC device, flushing through newly installed device, delivery of removed CCC device to WFO, documentation of all replacement/ installation data, and submission of device test report as defined above. All replacement shall include a one-year warranty on parts and labor.
5. Replacement/ Installation of water meters shall include, but not be limited to, the following items: replacement/ installation notification to City and customer, on-site replacement/ installation of device, coordination with WFO to obtain new water meter or metering appurtenances, flushing through newly installed meter, delivery of removed water meter to WFO, documentation of meter readings (new and replaced), meter number (new and replaced), meter labels (new and replaced) and submission of certification of proper installation. All replacement shall include a one-year warranty on parts and labor.

2. **SCOPE OF SERVICES**

Contractor shall comply with all current applicable requirements established by the City's Cross Connection Control Manual, AWWA, FDEP, Florida Building Code, and Federal, State and Local laws, rules, regulations, permits, codes, ordinances, and statutes which govern this type of service. In case of conflict between authorities having jurisdiction, the most stringent requirement shall govern.

The Contractor shall provide the City with the following service components as required:

- a. Participate in monthly project review meetings with the City of Cocoa WFO Cross Connection Control/Backflow Prevention Project Staff. Provide required documentation to City and City's representative to be included as part of the meeting agenda.
- b. Provide electronic reports every month to select WFO staff that include, at a minimum, the following information:
 1. Number of tests, surveys, and repairs of City CCC devices conducted both during the previous month and cumulatively.
 2. Results of all surveys and tests conducted over the past month including any suggested cross connection control improvements.
 3. A minimum of two digital photograph of each inspection and/or repair of a cross control connection device will be submitted with the results of all surveys and tests conducted. Photographs shall be geocoded with longitude, latitude, and elevation included in the properties of each photo. The photos will be delivered in jpg form at minimal file size to be specified by the City. The photos will clearly show the meter serial number and validate the reports.

CITY OF COCOA
SERVICE LEVEL AGREEMENT
(Contract No. 21-22-COC)

4. List of sub-contractors employed by the Contractor during the past month.
 5. List of outstanding Contractor invoices.
 6. List of outstanding Contractor issues awaiting WFO resolution.
 7. Three-week look ahead on anticipated work, including CCC device assessments, database transfers, and software coordination activities.
 8. A minimum of two digital photograph of each meter replacement/ installation, before and after the job was performed. Photographs must be dated and geo-tagged to a minimum precision of 30 meters and must referenced on the work orders using a universal unique identifier (UUID) 128-bit format. The photos will be delivered in jpg form at minimal file size to be specified by the City. The photos will clearly show the meter serial number and validate the reports.
- c. Contractor's software system shall allow the transfer of data from their system to the City's Flat File Exchange (FFX) file data transfer format and as a tab delimited text file that can be appended directly to the water meter records contained in the City's existing GIS database. Contractor shall facilitate a weekly transmittal of data as determined by the WFO Project Manager. See appendix A for data transfer formatting for site survey files, testing files, repair or replace files, and water meter replace and installation.
- d. Contractor shall be able to report the data through a web browser interface from the site of CCC field services, including transfer of geocoded photographs.
- e. Contractor shall provide data on all surveys including the following minimum information: location ID, Device Serial Number, survey date, water meter number, business name (commercial surveys only), address of customer, location of meter on site, hazard level with associated explanation, equipment model number, make, equipment type, equipment size, recommended backflow device for site, and any recommended cross connection control improvements.
- f. Contractor shall provide data on all testing including the following minimum information: location ID, Device Serial Number, testing date, water meter number, business name (commercial surveys only), address of customer, location of meter on site, equipment model number, make, equipment type, equipment size, special flags, test results, certified technician name and certification number and any cross-connection control repairs performed at the site.
- g. Contractor shall provide data on all field repairs including the following minimum information: location ID, repair date, Device Serial Number, water meter number, business name (commercial testing only), address of customer, location of meter on site, equipment model number, make, equipment type, equipment size, test results, certified technician name and certification number and type of repairs performed at the site. All repaired devices shall be retested at time of repair. Repairs shall be schedule within 90 days of being placed on a "Fail" status. All replaced parts on CCC devices, 2 ½" or larger, shall be tagged and bagged in the field and returned to WFO prior to invoicing for these repairs.
- h. Contractor shall provide data on all CCC device replacements including the following minimum information: location ID, replacement date, device serial number, unique identifier, water meter number, business name (commercial testing only), address of customer, location of meter on site, type of CCC

CITY OF COCOA
SERVICE LEVEL AGREEMENT
(Contract No. 21-22-COC)

device installed, equipment model number, make, equipment size, certified technician name and certification number, and certified test results. Contractor shall return replaced device to WFO. Contractor shall coordinate replacement needs with WFO Project Manager. WFO may provide or request that the Contractor purchase replacement devices. The Contractor shall be reimbursed for these devices at cost.

- i. Contractor shall provide data on all water meter replacements including the following minimum information: water meter number and meter reading of meter being replaced, water meter number and meter reading of meter being installed, business name (commercial replacements only), address of customer, location of meter on site, and verification of proper installation, certified technician name and certification number. WFO will provide water meters for replacement. Contractor shall return replaced meter to WFO.
 - j. Contractor shall coordinate water meter and/or CCC replacement needs with WFO Project Manager.
 - k. Contractor shall maintain oversight, quality assurance, insurance, and security for all employees and sub-contractors.
 - l. Contractor employees and sub-contractors shall have identification badges, or other source of identification, when performing any services to the City.
 - m. Contractor shall coordinate with WFO to determine which CCC assemblies will be surveyed and/or tested.
 - n. Contractor shall be prepared to provide services outside of regularly scheduled work hours when requested by the Customer or by the WFO Project Manager at no additional costs. These requests shall not exceed 2% of total CCC devices to be surveyed, tested, and/or repaired.
 - o. Contractor may choose to provide services outside of regularly scheduled work hours at no additional cost to the Owner. Contractor shall provide written notification to Owner two (2) weeks prior to modifying work hours. Regularly scheduled work hours are defined as Monday through Friday, 7:00 a.m. to 3:30 p.m., excluding City Holidays.
 - p. Contractor shall provide public relations assistance to WFO through customer on-site communications
 - q. Contractor shall provide a draft monthly invoice for review by the WFO Project Manager. This draft invoice shall be supported by data that has been approved and accepted by the WFO Project Manager.
 - r. This draft invoice shall be supported by data that has been approved and accepted by the WFO Project Manager.
 - s. Contractor shall provide warranty services on all repaired CCC devices for one year following the date of repair.
3. **CONTRACT DOCUMENTS** - The Contract Documents consist of this Agreement; the service requirements prepared by City of Cocoa, Utilities Department – Water Field Operations (WFO), dated March 25, 2021 ; Bid Documents (ITB# B-21-22-COC) issued by the City, dated March 25, 2021; Contractor's Bid Submittal, dated June 24, 2021, General Conditions, if any; Supplemental Terms and Conditions by the City. The CONTRACTOR represents and agrees that it has carefully examined and understands this Agreement and has investigated the nature,

CITY OF COCOA
SERVICE LEVEL AGREEMENT
(Contract No. 21-22-COC)

locality, and site of delivery under which it is to be performed and that it enters into this Agreement on the basis of its own examination, investigation and evaluation of all such matters and not in reliance upon any opinions or representations of the OWNER, or of any of their respective officers, agents, servants, or employees.

4. **ORDER OF PRECEDENCE** - In case of any inconsistency in any of the documents bearing on the Agreement between the OWNER and the CONTRACTOR, the inconsistency shall be resolved by giving precedence in the following order:

- a. Change Orders
- b. Agreement, Exhibits and Addenda
- c. Supplemental Terms and Conditions
- d. General Terms and Conditions
- e. Issued Bid Documents
- f. Contractor's Bid Proposal
- g. [OTHER] N/A

Any inconsistency in services to be provided shall be clarified by the OWNER and performed by the CONTRACTOR.

5. **AGREEMENT INTERPRETATION** - At its discretion, during the course of the work, should any errors, ambiguities, or discrepancies be found in the Contract Documents, the OWNER at its sole discretion will interpret the intent of the Contract Documents and the CONTRACTOR hereby agrees to abide by the OWNER's interpretation and agrees to carry out the work in accordance with the decision of the OWNER.

6. **BRAND NAME MATERIALS** – Whenever materials are specified or described in the scope of work or any exhibits by using the name of a proprietary item or the name of a particular Supplier, the naming of the item is intended to establish the type, function and quality required. The CONTRACTOR will be responsible for all coordination necessary to accommodate the materials being provided without additional cost to the OWNER. Unless the name is followed by words indicating that no substitution is permitted, a substitute material is allowed if it is reasonably equivalent to the brand name specified and CONTRACTOR certifies in writing that the proposed substitute will perform adequately the functions called for and of equal substance to that specified and be suited to the same use and capable of performing the same function as that specified. The OWNER has full discretion to decide whether a substitute is reasonably equivalent. CONTRACTOR must notify the OWNER in writing prior to use of the substitute

CITY OF COCOA
SERVICE LEVEL AGREEMENT
(Contract No. 21-22-COC)

for a specified brand name and allow the OWNER to make a determination before CONTRACTOR uses the substitute.

7. **CONTRACT TIME -**

a. All provisions regarding Contract Time are essential to the delivery of services specified upon receipt of approved purchase order.

b. The CONTRACTOR will be required to provide installation services within a two (2) week period of notice. All provisions regarding quality of supply and delivery of aid products are essential to the performance of this Contract.

8. **CONTRACT PRICE, UNIT PRICE CONTRACT** - The OWNER will pay the CONTRACTOR in current funds for the services and materials rendered in accordance with the Contract Documents, subject to additions and deductions approved by Change Order. The Total contract award of **Nine-Hundred Eighty-Three Thousand Six-Hundred Forty Thousand dollars (\$983,640.00) for a term of three (3) years with two (2) option years to renew and two (2) additional years should it be in the best interest of the City not to exceed a total of seven (7) years.** CONTRACTOR agrees to accept the Contract Price as full compensation for the agreed upon services, terms and conditions embraced in the Contract Documents.

The CONTRACTOR acknowledges that CONTRACTOR studied, considered, and included in CONTRACTOR's Total Bid all costs of any nature relating to: (1) Required products specified within the scope of work; (2) applicable law; (3) the terms and conditions of the Contract Documents, including, but not limited to the indemnification provisions of the Contract Documents.

(1) In addition to the acknowledgments previously made, the CONTRACTOR acknowledges that the CONTRACTOR's Total Bid (original Contract Price) specifically considered and relied upon CONTRACTOR's own study of the required services and any conflicts relating to providing such.

(2) The CONTRACTOR acknowledges that CONTRACTOR's Total Bid (original Contract Price) considered and included all of CONTRACTOR's costs relating to CONTRACTOR's responsibilities to coordinate and sequence of required services with the OWNER, if any, with its own forces, the work of other contractors, if any, and the delivery at the City's Utilities - Water Field Operations sites.

(3) Payments will be made to the CONTRACTOR for actual services rendered on the basis of the Schedule of Unit Prices included as a part of the Bid, which shall be as fully a part of the Contract as if attached or repeated herein. Where the Contract Documents provide for Unit Price, the Contract Price stated in the Agreement will include for all Unit Price an amount equal to the sum of the Unit Prices for each item of Unit Price times the estimated quantity of product delivered as indicated in the Contract

CITY OF COCOA
SERVICE LEVEL AGREEMENT
(Contract No. 21-22-COC)

Documents. Each Unit Price will be deemed to include an amount considered by CONTRACTOR to be adequate to cover all costs, including supplemental and administrative costs, and profit.

9. **TERMINATION; DEFAULT BY CONTRACTOR AND OWNER'S REMEDIES** - The OWNER reserves the right to revoke and terminate this Agreement and rescind all rights and privileges associated with this Agreement, without penalty, for convenience. Further, the OWNER reserves the right to revoke and terminate this Agreement in the following circumstances, each of which shall represent a default and breach of this Agreement:

- a. CONTRACTOR defaults in the performance of any material covenant or condition of this Agreement and does not cure such other default within seven (7) calendar days after written notice from the OWNER specifying the default complained of, unless, however, the nature of the default is such that it cannot, in the exercise of reasonable diligence, be remedied within seven (7) calendar days, in which case the CONTRACTOR shall have such time as is reasonably necessary to remedy the default, provided the CONTRACTOR promptly takes and diligently pursues such actions as are necessary.

In addition, CONTRACTOR may terminate this Agreement if OWNER fails to perform any material covenant or condition of this Agreement and does not cure such breach within seven (7) calendar days after written notice from the CONTRACTOR specifying breach.

- b. CONTRACTOR is adjudicated bankrupt or makes any assignment for the benefit of creditors or CONTRACTOR becomes insolvent, or is unable or unwilling to pay its debts; or
- c. CONTRACTOR has acted negligently, as defined by general and applicable law, in performing the Work hereunder; or
- d. CONTRACTOR has committed any act of fraud upon the OWNER; or
- e. CONTRACTOR has made a material misrepresentation of fact to the OWNER while performing its obligations under this Agreement; or
- f. CONTRACTOR is experiencing a labor dispute, which threatens to have a substantial, adverse impact upon performance of this Agreement without prejudice to any other right, or remedy OWNER may have under this Agreement.

Notwithstanding the aforementioned, in the event of a default by CONTRACTOR, the OWNER shall have the right to exercise any other remedy the OWNER may have by operation of law, without limitation, and without any further demand or notice. In the event of such termination, OWNER shall be liable only for the payment of all unpaid charges, determined in accordance with the provisions of this Agreement, for Work properly performed prior to the effective date of termination.

CITY OF COCOA
SERVICE LEVEL AGREEMENT
(Contract No. 21-22-COC)

10. **FORCE MAJEURE** - Any delay or failure of either party in the performance of its required obligations hereunder shall be excused if and to the extent caused by acts of God; fire; flood; windstorm; explosion; riot; war; sabotage; strikes (except involving CONTRACTOR's labor force); extraordinary breakdown of or damage to OWNER 's affiliates' generating plants, their equipment, or facilities; court injunction or order; federal and/or state law or regulation; order by any regulatory agency; or cause or causes beyond the reasonable control of the party affected; provided that prompt notice of such delay is given by such party to the other and each of the parties hereunto shall be diligent in attempting to remove such cause or causes. If any circumstance of Force Majeure remains in effect for sixty days, either party may terminate this Agreement.
11. **SEVERABILITY** - In the event any portion or part thereof of this Agreement is deemed invalid, against public policy, void, or otherwise unenforceable by a court of law, the parties, at the sole discretion and option of the OWNER, shall negotiate an equitable adjustment in the affected provision of this Agreement. The validity and enforceability of the remaining parts of this Agreement shall otherwise be fully enforceable
12. **INVOICING -**
- OWNER hereby identifies the City of Cocoa, Finance Department – Accounts Payable (accountspayable@cocoafl.org) as the agent or office to which the CONTRACTOR must submit payment requests or invoices.
13. **DESIGNATION OF PROJECT REPRESENTATIVE** - The duties and authority of the OWNER are as follows:
- a. **General Administration of Contract.** The primary function of the OWNER is to provide the general administration of the contract. In performance of these duties, Water Field Operations Representative or an authorized representative is the OWNER's Project Manager during the entire period of required services.. The OWNER (CITY) may change the Project Manager during the term of this contract.
 - b. **Inspections, Opinions, and Progress Reports.** The OWNER shall be kept familiar with the progress and quality of services rendered by CONTRACTOR and may conduct periodic reviews. The OWNER will not be responsible for the means of the services provided, or for the sequences, methods, and procedures used therein, or for the CONTRACTOR's failure to perform the services in accordance with the Contract Documents.
 - c. **Interpretation of Contract Documents: Decisions on Disputes.** The OWNER will be the initial interpreter of the contract document requirements and make decisions on claims and disputes between Contractor and Owner.

CITY OF COCOA
SERVICE LEVEL AGREEMENT
(Contract No. 21-22-COC)

d. **Rejection and Stoppage of Services.** The OWNER shall have authority to reject services which in its opinion does not conform to the Contract Documents, and in this connection may stop the services or a portion thereof, when necessary.

e. **Payment Certificates.** The OWNER will determine the amounts owing to CONTRACTOR as the services progress, based on CONTRACTOR's approved invoice and OWNER's inspections and observations of satisfactory services, and will issue certificates for payments in accordance with the terms of the Contract Documents.

14. **RESPONSIBILITIES OF CONTRACTOR** - CONTRACTOR's duties and rights in connection with the project herein are as follows:

a. **Responsibility for Supervision.** CONTRACTOR shall be solely responsible for all services rendered under this contract, including the techniques, sequences, procedures and means, for the coordination of all delivery and any such repairs under warranty as required. CONTRACTOR shall supervise and direct the services and give it all attention necessary for such proper supervision and direction.

b. **Furnishing of Labor, Materials, etc.** CONTRACTOR shall provide and pay for all labor, materials and testing equipment, including any additional materials required for the required services necessary to meet the requirements in accordance with the Contract Documents.

c. **Guarantee.** The CONTRACTOR hereby guarantees the services to the full extent provided in the Specifications, General Conditions, Special Conditions, and other Contract Documents. Without limiting the generality of the foregoing, the CONTRACTOR warrants to the OWNER, that all services delivered under this Agreement will be of first-class quality and new, unless otherwise required or permitted by the other Contract Documents, that the services performed pursuant to this Agreement will be free from defects and that the services strictly conform with the requirements of the Contract Documents. Products or Services not conforming to such requirements, including substitutions not properly approved and authorized, shall be considered unacceptable.

15. **ASSIGNMENT** - CONTRACTOR shall not assign or subcontract this Agreement, or any rights or any monies due or to become due hereunder without the prior, written consent of the OWNER.

a. If upon receiving written approval from OWNER, any part of this Agreement is subcontracted by CONTRACTOR, CONTRACTOR shall be fully responsible to OWNER for all acts and/or omissions performed by the subcontractor as if no subcontract had been made.

CITY OF COCOA
SERVICE LEVEL AGREEMENT
(Contract No. 21-22-COC)

- b. If OWNER determines that any subcontractor is not performing in accordance with this Agreement, OWNER shall so notify CONTRACTOR who shall take immediate steps to remedy the situation.
- c. If CONTRACTOR, prior to the commencement of any services, subcontracts any part of this Agreement by the subcontractor, CONTRACTOR shall require the subcontractor to provide OWNER and its affiliates with insurance coverage as set forth by the OWNER.
- d. If upon receiving written approval from OWNER, any part of this Agreement is subcontracted by CONTRACTOR, CONTRACTOR and subcontractors shall make prompt payments to subcontractors in accordance with s. 218.735, Florida Statutes.
16. **THIRD PARTY RIGHTS** - Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than OWNER and CONTRACTOR.
17. **PROHIBITION AGAINST CONTINGENT FEES** - CONTRACTOR warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONTRACTOR, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the CONTRACTOR, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement.
18. **NO JOINT VENTURE** - Nothing herein shall be deemed to create a joint venture or principal-agent relationship between the parties and neither party is authorized to, nor shall either party act toward third persons or the public in any manner which would indicate any such relationship with the other party.
19. **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

CITY OF COCOA
SERVICE LEVEL AGREEMENT
(Contract No. 21-22-COC)

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.

20. **SAFETY** - CONTRACTOR shall be solely and absolutely responsible and assume all liability for the safety and supervision of its principals, employees, contractors, and agents while performing any services on City property.
21. **CORPORATE REPRESENTATIONS BY CONTRACTOR** - CONTRACTOR hereby represents and warrants to the OWNER the following:
 - a. CONTRACTOR is duly registered and licensed to do business in the State of Florida and is in good standing under the laws of Florida and is duly qualified and authorized to carry on the functions and operations set forth in this Agreement.
 - b. The undersigned signatory for CONTRACTOR has the power, authority, and the legal right to enter into and perform the obligations set forth in this Agreement and all applicable exhibits thereto, and the execution, delivery, and performance hereof by CONTRACTOR has been duly authorized by the board of directors and/or president of CONTRACTOR. In support of said representation, CONTRACTOR agrees to provide a copy to the OWNER of a corporate certificate of good standing provided by the State of Florida prior to the execution of this Agreement.
 - c. CONTRACTOR is duly licensed under all local, state and federal laws to provide the work stated in paragraph 1.0 herein. In support of said representation, CONTRACTOR agrees to provide a copy of all said licenses to the OWNER prior to the execution of this Agreement.
22. **INSURANCE** - During the term of this Agreement, CONTRACTOR shall be responsible for providing the types of insurance and limits of liability as applicable and set forth under this Paragraph. Additionally, all independent contractors or agents employed by CONTRACTOR to perform any services hereunder shall fully comply with the insurance provisions contained in these Contract Documents.

CITY OF COCOA
SERVICE LEVEL AGREEMENT
(Contract No. 21-22-COC)

a. The CONTRACTOR shall maintain comprehensive general liability insurance in the minimum amount of \$2,000,000 as the combined single limit for each occurrence with a deductible not less than \$5,000 unless otherwise approved in writing by the City Manager to protect the CONTRACTOR from claims of property damages which may arise from any Work performed under this Agreement whether such Work are performed by the CONTRACTOR or by anyone directly employed by or contracting with the CONTRACTOR.

b. 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.

c. The CONTRACTOR shall maintain, during the life of this Agreement, adequate Workers' Compensation Insurance in at least such amounts as are required by law and Employer's Liability Insurance in the minimum amount of \$2,000,000 for all of its employees performing Work for the OWNER pursuant to this Agreement. 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 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.

d. Current, valid insurance policies meeting the requirements herein identified shall be maintained during the term of this Agreement. A copy of a current Certificate of Insurance shall be provided to the OWNER by CONTRACTOR upon the Effective Date of this Agreement which satisfied the insurance requirements of this Paragraph 25. Renewal certificates shall be sent to the OWNER 30 days prior to any expiration date. There shall also be a 30-day advance written notification to the OWNER in the event of cancellation or modification of any stipulated insurance coverage. **The OWNER shall be an additional named insured on all stipulated insurance policies as its interest may appear, from time to time, excluding worker's compensation and professional liability policies.**

23. **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.

CITY OF COCOA
SERVICE LEVEL AGREEMENT
(Contract No. 21-22-COC)

24. **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.
25. **ATTORNEY'S FEES** - Should either party bring an action to enforce any of the terms of this Agreement, each party shall bear its own costs and expenses of such action including, but not limited to, reasonable attorney's fees, whether at settlement, trial or on appeal.
26. **NOTICES** - Any notice or approval under this Contract shall be sent, postage prepaid, to the applicable party at the address shown on the first page of this Contract.
27. **WORK IS A PRIVATE UNDERTAKING** - With regard to any and all Work performed hereunder, it is specifically understood and agreed to by and between the parties hereto that the contractual relationship between the OWNER and CONTRACTOR is such that the CONTRACTOR is an independent contractor and not an agent of the OWNER. The CONTRACTOR, its contractors, partners, agents, and their employees are independent contractors and not employees of the OWNER. Nothing in this Agreement shall be interpreted to establish any relationship other than that of an independent contractor, between the OWNER, on one hand, and the CONTRACTOR, its contractors, partners, employees, or agents, during or after the performance of the Work under this Agreement.
28. **DOCUMENTS - 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 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

CITY OF COCOA
SERVICE LEVEL AGREEMENT
(Contract No. 21-22-COC)

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.

29. **SOVEREIGN IMMUNITY** - The OWNER intends to avail itself of the benefits of Section 768.28, Florida Statutes and any other statutes and common law fully governing sovereign immunity possible. Neither this provision nor any other provision of this Agreement shall be construed as a waiver of the OWNER's right to sovereign immunity under Section 768.28, Florida Statutes, or other limitations imposed on the OWNER's potential liability under state or federal law. CONTRACTOR agrees that OWNER shall not be liable under this Agreement for punitive damages or interest for the period before judgment. Further, OWNER shall not be liable for any claim or judgment, or portion thereof, to any one person for over two hundred thousand dollars (\$200,000.00), or any claim or judgment, or portion thereof, which, when totaled with all other claims or judgments paid by the State or its agencies and subdivisions arising out of the same incident or occurrence, exceeds three hundred thousand dollars (\$300,000.00). Nothing in this Agreement is intended to inure to the benefit of any third party for the purpose of allowing any claim which would otherwise be barred under the doctrine of sovereign immunity or by operation of law. This paragraph shall survive termination of this Agreement.
30. **HEADINGS** - Paragraph headings are for the convenience of the parties only and are not to be construed as part of this Agreement.
31. **INTEGRATION; MODIFICATION** - The drafting, execution, and delivery of this Agreement by the Parties has been induced by no representations, statements, warranties, or agreements other than those expressed herein. This Agreement embodies the entire understanding of the parties, and there are no further or other agreements or understandings, written or oral, in effect between the parties relating to the subject matter hereof unless expressly referred to herein. Modifications of this Agreement shall only be made in writing signed by both parties.
32. **WAIVER AND ELECTION OF REMEDIES** - Waiver by either party of any terms, or provision of this Agreement shall not be considered a waiver of that term, condition, or provision in the future. No waiver, consent, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of each party hereto. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be considered an original agreement; but such counterparts shall together constitute but one and the same instrument.

CITY OF COCOA
SERVICE LEVEL AGREEMENT
(Contract No. 21-22-COC)

33. **NOTICE** - Any notices required to be given by the terms of this Agreement shall be delivered by hand or mailed, certified mail, return receipt requested, postage prepaid to:

For CONTRACTOR:

Nils Humberg Enterprises, LLC dba Ace Flow Control
Attn: Niles Humberg / President
845 Waterway Pl., Suite 101, Longwood, Florida 32751
P: 407-574-7208/ E: nhumberge@aceflowcontrol.com

For OWNER:

City of Cocoa
Attn: City Manager and Utilities - Water Field Operations Manager
65 Stone Street, Cocoa, FL 32922

Either party may change the notice address by providing the other party written notice of the change. Any Notice given as provided herein shall be deemed received as follows: if delivered by personal service, on the date so delivered; if delivered to an overnight courier service, on the business day immediately following delivery to such service; and if mailed, on the third business day after mailing.

34. **CONFLICT OF INTEREST.**

a. The CONTRACTOR agrees that it will not engage in any action that would create a conflict of interest in the performance of its obligations pursuant to this Contract with the OWNER or which would violate or cause others to violate the provisions of Part III, Chapter 112, Florida Statutes, relating to ethics in government and the OWNER's Personnel Policies.

b. The CONTRACTOR hereby certifies that no officer, agent or employee of the OWNER has any material interest (as defined in Section 112.312 (15), Florida Statutes, as over five percent (5%) either directly or indirectly, in the business of the CONTRACTOR to be conducted here, and that no such person shall have any such interest at any time during the term of this CONTRACT.

c. Pursuant to Section 216.347, Florida Statutes, the CONTRACTOR hereby agrees that monies received from the OWNER pursuant to this Agreement will not be used for the purpose of lobbying the Legislature or any other State or Federal Agency.

35. **ADDITIONAL ASSURANCES.**

a. No principal (which includes officers, directors, or executive) or individual holding a professional license and performing Work under this Agreement is presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from

CITY OF COCOA
SERVICE LEVEL AGREEMENT
(Contract No. 21-22-COC)

participation in any Work required by this Agreement by any Federal, State, or local governmental commission, department, corporation, subdivision, or agency;

b. No principal (which includes officers, directors, or executive), individual holding a professional license and performing Work under this Agreement, employee, or agent has employed or otherwise provided compensation to, any employee or officer of the OWNER; and

c. No principal (which includes officers, directors, or executive), individual holding a professional license and performing Work under this Agreement, employee or agent has willfully offered an employee or officer of the OWNER any pecuniary or other benefit with the intent to influence the employee or officer's official action or judgment.

36. **FEDERALLY FUNDED PROJECTS (As Applicable)** – For Work that will be funded in whole or in part by federal funds, the following provisions shall apply, as required by Section 200.326, Code of Federal Regulations:

a. *Equal Employment Opportunity.* During the performance of this contract, the Contractor agrees as follows:

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.

(3) The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to

CITY OF COCOA
SERVICE LEVEL AGREEMENT
(Contract No. 21-22-COC)

such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

b. *Compliance with the Davis-Bacon Act*

CITY OF COCOA
SERVICE LEVEL AGREEMENT
(Contract No. 21-22-COC)

(1) The Contractor will comply with the David-Bacon Act (40 U.S.C. 3141 – 3144 and 3146 – 3148) as supplemented by the Department of Labor Regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”), which are incorporated herein by reference.

(2) In accordance with the statute, the Contractor shall pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. The Contractor shall pay wages not less than once a week.

(3) Subcontracts. The Contractor agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance.

(4) The Contractor agrees to report each suspected or reported violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to the State of Florida, the federal awarding agency, and as otherwise appropriate.

c. *Compliance with the Copeland “Anti-Kickback” Act*

(1) The Contractor will comply with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145) as supplemented by the Department of Labor Regulations (29 CFR Part 3, “Contractors or Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”), which are incorporated herein by reference.

(2) The Contractor and each subcontractor shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

(3) Subcontracts. The Contractor agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance.

(4) The Contractor agrees to report each suspected or reported violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to the State of Florida, the federal awarding agency, and as otherwise appropriate.

d. *Compliance with the Contract Work Hours and Safety Standards Act*

(1) Overtime requirements. No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

CITY OF COCOA
SERVICE LEVEL AGREEMENT
(Contract No. 21-22-COC)

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The City shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

(4) Subcontracts. The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

e. *Rights to Inventions Made Under a Contract or Agreement.*

If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2(a) and the City or Contractor wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the City or Contractor must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the federal awarding agency.

f. *Clean Air Act*

(1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.

CITY OF COCOA
SERVICE LEVEL AGREEMENT
(Contract No. 21-22-COC)

(2) The Contractor agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to the State of Florida, the federal awarding agency, and as otherwise appropriate.

(3) The Contractor agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance.

g. *Federal Water Pollution Control Act*

(1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.

(2) The Contractor agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to the State of Florida, the federal awarding agency, and as otherwise appropriate.

(3) The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance.

h. *Suspension and Debarment*

(1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the contractor is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

(2) The Contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

(3) This certification is a material representation of fact relied upon by the City. If it is later determined that the Contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the State of Florida, and the City, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

(4) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

i. *Byrd Anti-Lobbying Amendment*

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to

CITY OF COCOA
SERVICE LEVEL AGREEMENT
(Contract No. 21-22-COC)

influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

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CITY OF COCOA
SERVICE LEVEL AGREEMENT
(Contract No. 21-22-COC)

APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING

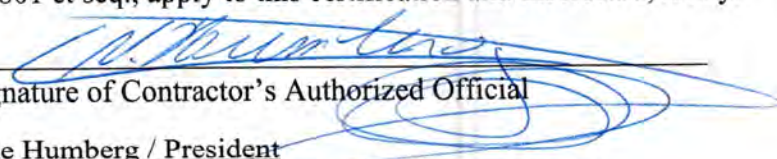
Certification for Contracts, Grants, Loans, and Cooperative Agreements *(If applicable)*

(To be submitted with each bid or offer exceeding \$100,000)

The undersigned [Contractor] certifies, to the best of his or her knowledge, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure. The Contractor, **ACE FLOW CONTROL**, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.


Signature of Contractor's Authorized Official

Nile Humberg / President

Name and Title of Contractor's Authorized Official

07-06-21
Date

CITY OF COCOA
SERVICE LEVEL AGREEMENT
(Contract No. 21-22-COC)

j. *Procurement of Recovered Materials*

(1) In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—

(i) Competitively within a timeframe providing for compliance with the contract performance schedule;

(ii) Meeting contract performance requirements; or

(iii) At a reasonable price.

(2) Information about this requirement, along with the list of EPA-designate items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensiveprocurement-guideline-cpg-program>.

k. *Access to Records*

The following access to records requirements applies to this contract:

(1) The Contractor agrees to provide the City, the State of Florida, the federal awarding agency, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.

(2) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

(3) The Contractor agrees to provide the federal awarding agency Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.

l. *Compliance with Federal Law, Regulations, and Executive Orders*

This is an acknowledgement that federal financial assistance will be used to fund the contract only. The Contractor will comply with all applicable federal law, regulations, executive orders, federal awarding agency policies, procedures, and directives.

m. *No Obligation by Federal Government*

The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.

n. *Program Fraud and False or Fraudulent Statements or Related Acts*

CITY OF COCOA
SERVICE LEVEL AGREEMENT
(Contract No. 21-22-COC)

The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this contract.

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CITY OF COCOA
SERVICE LEVEL AGREEMENT
(Contract No. 21-22-COC)

IN WITNESS WHEREOF, the parties have hereunto set their hands and seal on the date first above written.

CITY OF COCOA

By: _____
Stockton Whitten, City Manager

Date: _____

ATTEST:

Carie Shealy, City Clerk

CONTRACTOR

Niles Humberg Enterprises, LLC dba Ace Flow Control

By: _____
Print name/title: Niles Humberg / President

Date: 07-06-2021

STATE OF Florida
COUNTY OF Seminole

The foregoing instrument was acknowledged before me by means of (☒) physical presence or (☐) online notarization, this 6th day of July, 2021, by Nils Humberg, the President of NIS Humberg Enterprises, who is personally known to me or who produced FL DL as identification and who did take an oath.



(Notary Public Signature)

(Print Name)
Notary Public, State of Florida
Commission No.: #GG 245336
My Commission Expires: 8/21/2022