

EXHIBIT B

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**PROFESSIONAL SERVICES CONTRACT
FOR THE OPERATIONS AND MAINTENANCE OF
THE WATER AND SEWER SYSTEMS FOR THE CITY OF LAUREL**

THIS PROFESSIONAL CONTRACT ("**Contract**") is entered into by and between the CITY OF LAUREL, MISSISSIPPI ("**City**" or "**Owner**") and H2O Innovation Operation & Maintenance, LLC ("**Operator**") on the day and date(s) hereinafter signed and executed for the purposes and according to the conditions hereinafter specified.

WITNESSETH THAT:

WHEREAS, the City of Laurel, Mississippi, is a Municipal Corporation and body politic organized and existing according to the laws of the State of Mississippi, governed according to the Mayor/Council Form of Government by its duly elected Mayor and City Council ("**Governing City**") pursuant to Section 21-8-1, et seq., Mississippi Code Annotated, as amended; and

WHEREAS, OPERATOR, is a corporation organized and existing according to the laws of the State of OPERATOR, and legally and officially authorized to do business in the State of Mississippi; and

WHEREAS, the City owns, controls and performs maintenance and repairs of its water and sewer systems including Water Production, Water Distribution and Wastewater Collection, Transportation and Treatment Facilities and performs water billing and collection services ("**System**") within the City, and the operations and maintenance of the System has heretofore been under the charge of the Mayor's Office, with work on the System performed by a private contractor, and

WHEREAS, OPERATOR is a corporation that performs professional utility services for Government Agencies; and desires to contract to furnish and provide professional services to operate and maintain the City's Water and Sewer Systems, and the City desires

for OPERATOR to provide said services under this Contract; and

NOW THEREFORE, for and in consideration of the mutual covenants, conditions, obligations and benefits between the parties as herein set forth, and the promise by the City to pay for the professional services to be performed as herein set forth, and by OPERATOR to furnish and provide professional services to operate and maintain the System for the City as herein provided, Owner and Operator hereby covenant and agree to the following terms and conditions, to-wit:

ARTICLE I. – DEFINITIONS

As used in this Contract, the following words and phrases are defined as:

Section 1.01 **"Project"** means all equipment, vehicles, grounds and facilities described in Appendix "A" and "B" hereto, and which shall be updated by written inventory from time to time, and where appropriate, the term Project shall include the management, operations and maintenance of such.

Section 1.02 **"Capital Expenditures"** means any expenditures for the purchase of new equipment, vehicles, or facility additions, fixtures, furnishings, or items to remain with the facility, or utility system repairs that shall significantly extend facility or system life; and, or expenditures that are planned, non-routine or budgeted by Owner.

Section 1.03 **"Labor and Benefits"** costs are defined as a cost category for salaries, group medical and dental insurance, worker's compensation, vacation, sick leave, comp. time and military leave benefits, social security, bonuses, and 401(K) plan (or other applicable retirement, pension or annuity plan) costs for employees, and is generally known as the "compensation and benefit package."

Section 1.04 **"Administrative Costs"** are defined to include audit and accounting fees, insurance, interest expense, depreciation, state fees, recycling fees, curbside fees, landfill fees and ad valorem tax.

Section 1.05 **"Operator Direct Costs"** are defined to include supplies, costs for advertising, non-specific engineering support costs included, but not limited to uniforms, traffic control devices and personal protective equipment, postage, office supplies, training, long distance telephone service, and travel expense of employees.

Section 1.06 **"Maintenance"** means the cost of routine, and/or repetitive activities required or recommended by the equipment or facility manufacturer, or operator, or required by Owner to be scheduled to maximize the service life of the City's equipment, vehicles and facilities.

Section 1.07 **"Repairs"** are defined as the cost of those activities required for operational continuity, safety and performance generally resulting from or to avert failure or accident of equipment, vehicles or facilities, or a component thereof.

Section 1.08 **"Operating Supplies"** are defined as supplies required to complete City of Laurel business including office supplies.

Section 1.09 **"Wear and Tear"** is defined as the damage that naturally and inevitably occurs as a result of normal wear or aging. It is used in a legal context for such areas as warranty coverage from the OPERATOR, which stipulates that damage from wear and tear will not be covered by the OPERATOR in this contract.

Section 1.10 **"Negligence"** is defined as a failure to exercise appropriate and/or ethical ruled care expected to be exercised amongst specified circumstances. It involves harm caused by failing to act as a form of *carelessness* possibly with extenuating circumstances. The core concept of negligence is that people should exercise reasonable care in their actions, by taking account of the potential harm that they might foreseeably cause to other people or property.

ARTICLE II. - EQUIPMENT, VEHICLES AND FACILITIES

Section 2.01 Use and Ownership of Vehicles, Equipment and Tools of City.

The City shall provide for OPERATOR use under this Contract of all vehicles, equipment, and tools presently owned and used for work and service of the System. An inventory of such property is annexed hereto as Appendix "A" and shall be updated from time to time. An audit of current inventory will be performed prior to the start of a new contract. Further, City shall provide at City's expense for OPERATOR use hereunder, additional or replacement vehicles, equipment and tools acquired by City as capital expenditures reasonably required as a result of increased demand, normal replacement needs or regulatory requirements imposed by state or federal agencies. City shall retain ownership of title to said vehicles, equipment and tools presently owned or subsequently purchased by City. Operator shall adhere to the City of Laurel's written Vehicle Usage Policy shown in Appendix Z. The City pays for markings on vehicles used by the Contractor except Contractor pays for "Operated by: [Contractor name]" on each vehicle. Marking shall be placed on three sides: both doors and rear. Currently, large equipment is marked only as City property.

Section 2.02 **Planning for Capital Expenditures.** OPERATOR shall cooperate and coordinate with City according to City's time lines in furnishing of data and justification for budgeting for capital expenditures, giving recognition to the City's budget restrictions, and shall make its best effort to enable City to conform to the budget pertaining to capital expenditures, except where additional capital expenditures are required in the case of emergency or force majeure.

Section 2.03 **Vehicles, Equipment and Tools Owned by Operator.** Operator, within its own discretion, may acquire at its own expense and use for work on the System under this

Contract and store on the facility grounds any of its own vehicles, equipment and tools, for which it shall retain sole ownership and sole possession thereof. In the event operator uses any of its own vehicles, equipment and tools for work required by this Contract, City shall have no responsibility for maintenance, repairs or insurance coverage of such equipment unless arrangements are made in writing and approved by the Governing Authority of the City for the City to furnish maintenance, repairs and/or insurance on the operator owned properties, in which case, said properties shall be used by the operator solely and exclusively for the work of the City under the scope of this Contract. City shall not be responsible for capital expenditures for any property owned by OPERATOR. OPERATOR shall provide personal protection equipment for individual use, including but not limited to hardhats, boots, raingear, uniform expenses (including laundry service for uniforms and City's Mayor or Director of Public Works shall approve uniforms), safety vests, ear plugs, sunscreen and medical supplies. OPERATOR shall provide all traffic control devices including, but not limited to barrels, cones, signage and barricades.

Section 2.04 Special Use by City. As part of this contract and the consideration herein, **OPERATOR** shall allow City to use vehicles, equipment and tools owned by City and assigned to OPERATOR for system use under this Contract on a temporary basis for extraordinary circumstances where such property use is needed for City services not involving system use. In such event, a request shall be made by City to OPERATOR in writing, stating the need for use of the item, the scheduled time in which it is needed, the estimated length of time required for its special use by City, and the assigned City employee or Operator employee to take possession and utilize the property. Except in the case of an extreme emergency of City, such special use of equipment by City will be scheduled so as not to impede the work schedule of OPERATOR. Without waiving or limiting any of its immunities or defenses and upon proper adjudication, City would be responsible for any liability or claims of liability resulting from its special use by City employees of vehicles, equipment and tools. If the special use by City involves equipment needed by OPERATOR to comply with performance standards under this Contract, the resulting non-compliance will not be used to negatively measure or evaluate Operator's performance.

Section 2.05 Use and Ownership of Facilities. As part of this contract and the consideration herein, City shall provide OPERATOR as its contract agent use of offices, office furniture, office equipment, warehouse and yard space within the present Public Works/Water, Sewer, and Utility Billing facilities and premises, as reasonably required for operator to execute its duties and maintain its offices under this Contract. The facilities provided to Operator according to this section are (or shall be) specifically identified under Appendix "B" annexed hereto. The City shall retain such facilities and/or the partial use of facilities, furnishings and office equipment identified as required for the Public Works Director and his staff, and for the operation of services that shall continue to be provided by the Water, Sewer, and Utility Billing Department that are not hereby assigned to operator under this Contract.

Section 2.06 Restriction on Use of City Property. All equipment, vehicles and facilities belonging to City and assigned to OPERATOR under this Contract shall be possessed and used by Operator exclusively and solely in the work of the System under the scope of this Contract, and for no other work or use by Operator or its employees outside of the

work provided under this Contract. No third party, or other contractor shall be allowed by Operator or Owner to use the City owned vehicles, equipment, tools and facilities provided to Operator under this Contract. No City owned vehicles or equipment assigned to Operator under this Contract shall be used for personal use, and shall not be used as a means of transportation by employees of the Operator to and from their personal residence, and shall not be taken outside of the boundaries of the City of Laurel, except by special permission in writing by City. Operator's staff shall have be in a Laurel uniform while operating a City vehicle. Up to two (2) vehicles may be assigned to an employee for use on the job, and may be maintained at said employee's personal residence during non-business hours so long as said employee is on call for emergency service. During such time the vehicle shall not be used for personal use. Additional vehicles shall be assigned to "on call" employees only by written permission from the Mayor as submitted annually and at other times as deemed necessary.

Section 2.07 Signage. All City owned vehicles and equipment shall be marked with City labels and shall bear such identification as may be required by State law for municipal owned property. Each vehicle assigned to the Operator shall be marked "Operated by (OPERATOR'S NAME)" and paid for by Operator. Signage shall be on both sides and the rear.

ARTICLE III. - SCOPE OF OPERATOR'S SERVICES

Section 3.01 General Purpose. Operator shall provide professional utility management, operational and maintenance services to operate and maintain the "System" traditionally operated and maintained by the City's Water, Sewer, and Utility Billing Divisions of the Water and Sewer Department to include all services presently provided under Contract hereby amended. Operator shall provide the labor, supervision and professional expertise required to provide such services in a good and workmanlike manner according to normal and customary industry standards and City's Benchmarks for performance and quality standards as herein stated. Management shall possess the skills, knowledge, education, and experience necessary to manage a function and organization of the size of Laurel. The contractor will be expected to provide such services in a professional manner in accordance with normal and customary industry standards. Operator shall continuously find ways to improve efficiency as the environment changes, i.e. laws, regulations, city ordinances, software, customer demands, new technology, etc. Operator shall maintain hiring practices and provide the training necessary to ensure that the workforce is sufficiently trained. Those positions identified as Key & Essential shall be subject to approval by the Mayor. All Appendices from Appendix AA through Appendix KK has information to the Water, Sewer, and Utility Billing that is included in contract for supportive information.

Section 3.02 Water and Sewer Operations and Maintenance. Operator shall maintain the City's water and sewer system in a reasonable manner consistent with the City's operations and maintenance practices, and current City of Laurel standards and in accordance with performance standards herein set forth. Water and sewer system operations and maintenance shall include, but not be limited to the following:

- A. Within the design limits of the City's water supply and distribution system, manage, operate and maintain the system such that water discharged from the Project meets requirements specified by State and Federal regulatory agencies. This service shall include providing Project staff that will meet operator certification requirements of the State of Mississippi. System includes pressure reducing valves, elevated water storage tanks, and water wells.
- B. Within the design limitations of the City's wastewater collection system, manage, operate and maintain the system such that the Project meets current requirements as presently specified by State and Federal regulatory agencies. This service shall include providing Project staff that will meet operator certification requirements of the State of Mississippi.
- C. Operate a computerized maintenance management software system (CityWorks) for the Owner. This system shall be employed to document all maintenance activities to include labor, materials, and equipment for the water and sewer system. Operator shall provide a monthly well production report with run times. Owner shall have the right to inspect these records at any time. Operator shall follow Standard Operating Procedures in Appendix "W".
- D. Develop an Emergency Response Plan in addition to the plan adopted by the City and Department of Public Works for use by the Project staff in the event of a local emergency such as a hurricane, tornado, flood conditions, hazardous waste spill, terrorist act, etc. to be approved by Mayor and/or City Public Works Director.
- E. Perform other contract operations services as directed by the Owner. Such services must be pre-authorized by the Owner and the additional costs, if any, for those services will be negotiated between Owner and Operator prior to any work being performed.
- F. Provide for water sample collection by Operator's staff consistent with current system needs and State and Federal requirements. This shall include insuring the water samples are properly taken, preserved and transported to the appropriate State testing laboratory as is currently being performed to insure the safety of the potable water supply of the City.

- G. Provide staff response for emergency repair of the utility system, as required. This shall include emergency "call-out" telephone numbers for assigned project staff, as well as the corporate support team. OPERATOR staff will maintain availability for emergency call out throughout the term of this agreement.
- H. Provide twenty-four (24) hour per day access to Project for Owner. Visits may be made at any time by any of Owner's employees. The Owner shall provide keys for Project to the Operator. Visitors to the Project must comply with Operator's operating and safety procedures.
- I. Document all labor, materials, equipment, repair parts and expenses incurred by Operator on behalf of the Owner.
- J. Employ monitoring and testing measures designed to assure compliance by the City of Laurel with Federal and State regulations and requirements under the Safe Drinking Water Act 42 U. S. C. § 6901, et seq. as amended, and City of Laurel Ordinances adopted to comply therewith, including, but not limited to the implementation and adherence to requirements in effect for a Cross Connection Control Program, and preparation of Consumer Confidence Reports on the quality of drinking water for distribution by City to customers according to requirements of Federal and State law and the U. S. Environmental Protection Agency (EPA), The Mississippi Department of Environmental Quality (DEQ), State Health Department, or other Government Agency; Mississippi Safe Drinking Water Law, § 41-26-1, et seq. as amended; and the inspection and monitoring for intrusion of grease in sanitary sewer systems and other State Laws controlling public water and sewer operations.
- K. The Cross Connection Control Program shall be administered from the Department of Water and Sewer Facility located at 401 N 5th Avenue or 500 Thames Avenue. This should follow the current Federal Government Standards.
- L. Assist and advise the City of Laurel in its Management, Operation and Maintenance Program, including provisions for record keeping, for the purpose of Laurel's Sanitary Sewer Collection System and Water Distribution System. This shall include completing a Global Positioning System survey for each new water meter, water value, fire hydrant, sewer manhole, sewer pipe, water pipe, water well, water tank, sewer pump station, or pressure reducing value that is installed or replaced that is currently not on the City's GIS maps. This survey shall be coordinated with the Laurel Engineering Department and GIS Department for proper procedures prior to commencing survey.
- M. Operate a computerized inventory management system (Storeroom) to track materials and equipment used for this Contract. The

City of Laurel shall conduct an inventory inspection semi-annually. This inventory shall be minimally ninety-seven (97) per cent accurate. The Operator shall reimburse the City of Laurel for any missing equipment or materials annually by September 30 each year during the term of the Contract below the ninety-seven (97) per cent accuracy level.

N. Within staff and equipment capabilities provided for under this Contract, Operator shall perform water and sewer improvements to the existing system including replacing existing water and sewer pipes, installing or replacing sewer lift stations, installing new water and sewer systems as coordinated by the Mayor and Operator. Operator shall provide staff members that repair and replace fire hydrants using priorities set by the Laurel Fire Department and the Mississippi Fire Rating Bureau to make sure that all Fire Hydrant are operating to standard.

O. Make recommendations as deemed needed to the Mayor for adoption of Ordinances, Policies or for capital improvements to improve and maintain the City's water and sewer systems, and to assure compliance with Federal, State and local laws and regulations.

P. Pavement restoration shall be completed prior to acceptance of any work and the service request/work order being considered complete. This shall follow the Standard Operating Procedure to provide notice to Public Works in the Appendix "W" for timely restoration.

Q. Complete a comprehensive review within 60 days of the start of the contract of all of the water wells, sewer lift stations and the treatment plants and provide the Owner with a report as to the repairs necessary "not wear and tear" to keep the facility up and running and in good order. Also provide all of the necessary equipment needed to keep the system in up and running.

Section 3.03 Benchmark Performance Standards for Water System Services and Maintenance.

A. **Water Requests for Services.** Operator shall comply with certain "benchmark" performance standards for quality, production and response time, where requests for services are received requiring work to be performed for water system maintenance, repairs, or improvements under Section 3.02 above. The Criteria for Benchmark Standards for water system services requested are specified on Appendix "C" annexed hereto as a material part of this Contract.

B. **Routine Water System Maintenance.** Operator shall comply with "benchmark" performance standards for quality, production and response time, in the systematic routine maintenance and repairs of water system components required under Section 3.02 above. The Criteria for Benchmark Performance Standards for routine maintenance and repairs are listed on Appendix "D", annexed hereto as a material part hereof.

Section 3.04 Benchmark Performance Standards for Sewer System Services and Maintenance.

A. **Sewer System Service Requests.** Operator shall comply with certain "benchmark" performance standards for quality, production, and response time, where requests for services are received requiring work to be performed for sewer system maintenance, repairs, or improvements under Section 3.02 above. The Criteria for Benchmark Standards for sanitary sewer system collection services are specified on Appendix "E" annexed hereto as a material part of this Contract.

B. **Routine Sewer System Maintenance and Repairs.** Operator shall comply with certain "benchmark" performance standards for quality, production and routine response for the systematic routine maintenance and repairs of the sanitary sewer collection system under Section 3.02 above. The Criteria for Benchmark Performance Standards for routine maintenance and repairs are specified on Appendix "F" annexed hereto as a material part of this Contract.

C. Compliance with "benchmark" performance standards in this Contract shall not relieve **Operator** from adhering to and complying with all applicable or governing standards, regulations, and laws.

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Section 3.09 Customer Service and Billing. Customer Service and Billing services performed by the Operator shall include the following and The Criteria for Benchmark Standards for customer service and billing system are specified on Appendix "Y" annexed hereto as a material part of this Contract:

A. Provide for the routine handling of new accounts, customer inquiries,

complaints, and requests for bill review.

- B. Perform daily routine cash collections and postings for walk-in, drive-through, mail, bank draft, and other customers.
- C. Maintain an internal control structure to ensure that the assets of the City are safeguarded against theft, abuse, or misuse.
- D. Develop standard operating procedures for the day-to-day operations of the billing department. This should encompass such things as the handling of cash, inquiries and complaints, requests for bill review, water disconnect, adjustments, etc.
- E. Operator shall manage the City's Utility Billing Department's budget. This would include a periodic review of the City's budget to actual report, identifying actual and potential budget shortfalls.
- F. Perform other utility billing operations and services as directed by owner. Such services must be pre-authorized by owner and the scope of work and related cost will be negotiated between owner and operator.
- G. Operator shall handle any meter maintenance problems for action.

Section 3.10 Meter reading. Meter reading services performed by Operator shall include the following:

- A. Operator shall adequately staff and provide training necessary to ensure that all City meters are read in an accurate and timely manner so that the generation of bills can be accomplished as outlined in the City's ordinance.
- B. Operator shall provide sufficient number of meter readers to effectively handle the demands of cut-offs, cut-ons, rereads, reconnects, and other like type needs that will be part of the daily routine of the City's water billing department.

Section 3.11 Revenue Collecting. Revenue collection services performed by Operator shall include the following:

- A. Operator will be responsible for collecting the City's utility bills in accordance with the City's Ordinances and rules. The operator will be responsible for putting standard operating procedures in place to ensure

that bills are collected in the most efficient manner possible; while at the same time, working in accordance with the City's adopted ordinances and rules.

B. Active overdue accounts - These accounts are defined as accounts who have a carryover balance from prior months whereby the customer continues to receive water and sewer service. The operator will be responsible for enacting procedures to ensure that all active overdue accounts are pursued and either collected or service discontinued for non-payment

C. Inactive overdue accounts - These accounts are defined as accounts who have an overdue balance whereby the customer's service for water and sewer services has been disconnected for non payment. The operator will be responsible for enacting procedures to ensure that all inactive accounts are turned over to a collection agency designated by the City under terms and conditions set forth in the contract with collection agency.

Section 3.12 Benchmark Performance Standard for Utility Billing.

A. Production Benchmarks 50%

1. **Collection Rate 50%** - Contractor shall produce a 30-day collection rate of not less than 95%. Measurement Time frame will run with City's Fiscal Year end of September 30th. Invalid adjustments discovered and known-billing errors, which are corrected in subsequent periods, will be excluded when calculating this rate. Hardship Cases approved by the Mayor would not count against the Operator.

B. Quality Benchmarks 10%

1. **Record Keeping 5%** - Contractor will be responsible for maintaining accurate records on customer accounts. Records shall include at a minimum the following information: Customer full name, physical address of service account, social security number and or driver's license number, and date of birth. This information must be entered into the City's billing software system in the designated fields. If for any reason the above-required information is not made available, OPERATOR employee shall note in writing "not available" on the contract. All contracts shall be signed by the customer to be valid. Each customer account will be measured separately when determining the accuracy test. If any of the required information is missing for any single record or the contract is not signed, then the entire record will be deemed inaccurate. Contractor shall insure that the error rate for missing information does not exceed 10%. This rate will be determined by

reviewing new customer information subsequent to date of contract for the fiscal year time frame being measured.

2. **Billing \ Receipt Accuracy Rate 2.5%**- Contractor is to ensure that the meter reading accuracy error rate does not exceed 3%. This calculation will include such errors as 1) meter read errors by the meter reader; 2) keypunch errors by the billing clerk; 3) cashier errors for misapplied payments and or keypunch errors; and 4) input error for bill adjustments. Excluded from this calculation will be valid adjustments not resulting in human error such as leak adjustments, decisions rendered by City's grievance committee, and system generated errors. This rate will be calculated based on a frequency rate. Total number of bills processed in a year will be compared to the number of inaccurate bills to determine the accuracy rate. Measurement time frame will run with City's Fiscal Year.

- a. Random sample will be completed to check at a 95% level of confidence rate each meter in the field and cross reference with records in the field and complete this once per year.
- b. The City of Laurel may hire a person to be over the water and sewer system. This position would create the service request to replace the meters.

3. **Compliance with City's adjustment policy 2.5%** - As with all city ordinances and rules, contractor will be expected to comply with the following adjustment policy which is as follows:

- a. Documentation from OPERATOR substantiating the adjustment must be attached. Examples include consumption history, proof of occupancy, letter from grievance committee, etc.
- b. Each adjustment must be signed by the OPERATOR employee approving the adjustment. Contractor will be expected to ensure that the error rate does not exceed 10%. A sample will taken from all adjustments made during the fiscal year. Measurement time frame will run with City's Fiscal Year.
- c. A random sample will be done at a 95% Level of Confidence.

C. Timeliness Benchmarks 20%

1. **Reconnect Time 10%** - Contractor will be responsible for ensuring that the average reconnect time for turn-offs due to non-payment from

customer request to arriving at residence does not exceed eight hours during normal business hours if reported before 3:00pm. All request after 3:00pm shall be processed on the next business day. Contractor shall ensure that the error rate does not exceed 10%.

2. **On Time Mailing of Bills 10%** - Contractor is to ensure that bills be mailed within 2 days of target date 90 % of time. Target date is stated in the City's Code of Ordinances or general policy. Measurement time frame will run with City's Fiscal Year. Allowances will be granted for circumstances beyond contractor's control.
 - a. Time to check the meters to see if they are working properly and time to have them replaced. Probably can be done with the new meter software.
 - b. A random sample will be done at a 95% Level of Confidence.
 - c. Any Delays with the Billing through outside sources (Arista, etc) would not be the responsibility of the Operator.

D. Routine Maintenance – 20%

1. **Steady Replacement Program 20%** - Contractor shall Steadily Replace the meters per year. The City of Laurel has a meter replacement program. The meters have a 10 year life-span with a 10 year warranty period. After 10 years every water meter needs to be replaced.
 - a. Every meter should reviewed every month for accuracy, if that meter accuracy is not accurate then the contractor will need to check it for replacement. The contractor should have 60 days to check the meter. Then 60 days to repair or replace the meter if needed. A monthly report should be submitted to the City of Laurel which shows which meters were checked and work done to keep each meter accurate.
 - b. After 10 years, the contractor shall be responsible for replacing 10% of the meters each year as needed

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Section 3.15 Waste Water Treatment Facilities. The Wastewater Treatment Division is responsible for the management and oversight of the repair of the 2 Treatment plants that service the City of Laurel and any interceptors, water systems, or pump stations that support these plants.

A. General Scope of Work.

1. Treatment Plants, Interceptors, and Water Systems

- a. Treatment Plants, Interceptors and Pump Stations. Operator shall provide all expertise services in operations and maintenance to the City for the wastewater treatment and collection system facilities and potable water facilities, (collectively, the "Facilities"), under its jurisdiction in Jones County, Mississippi. These services shall include, but not be limited to, supervision, labor, materials, transportation, vehicles, hand tools, equipment, and consultants to operate and maintain said Facilities and all appurtenances thereto in good operating order, and in clean, neat, and attractive condition.
- b. Operator shall operate all Facilities twenty-four (24) hours per day, year round, with all permit requirements and shall minimize odors, unsightly discharges and other nuisances at all times. Generally, the wastewater operations to be performed by Operator shall include, but not limited to, operation and management of the SCADA Systems (Supervisory Control and Data Acquisition), screening and grit removal, primary sedimentation, secondary sedimentation, trickling filtration, activated sludge, sludge thickening, sludge dewatering, UV disinfection, chlorination, dechlorination, and post aeration. Sludge thickening and dewatering shall include gravity and belt thickening operations, digestion, and placing sludge on drying beds for final sludge dewatering responsibilities assumes the City will provide sludge dewatering equipment at all facilities. The operations to be performed by Operator shall also include operating and maintaining the interceptor systems within the City of Laurel and the County of Jones. The "City" reserves the right to add responsibilities for Laurel and/or Jones County in the future. The cutting and trimming of grass and shrubs at all facilities is to be included in the services performed by "Operator."
- c. Develop a written set of standard operating procedures, ("SOP"), for the public water system. The SOP should be developed in sufficient detail and updated routinely to carefully identify all routine activities required to efficiently operate and maintain all components of the public water systems.
- d. Maintain an emergency operation plan for the public water systems and be prepared to implement this plan when necessary.

- e. Ensure that an adequate inventory is maintained of all supplies, chemicals and equipment required to properly operate the public water systems.
 - f. If applicable, inspect all chemical feeders routinely, i.e. sodium fluoride, polyphosphate, etc.
 - g. Create and implement a Capacity Development Notebook to include, but not be limited to, the following:
 - (i) Security Vulnerability Self-Assessment;
 - (ii) Emergency Response Plan;
 - (iii) Update Water Users Agreement;
 - (iv) Sampling Maps for Lead, Copper and Bacteria;
 - (v) Maintenance of Distribution Maps;
 - (vi) Program Maintenance for:
 - (a) Fire hydrants, motors, pumps, chlorine equipment, generators, and grass cutting;
 - (b) Backflow preventer annual inspection and repair program; and
 - (c) Location and exercise of Main Line Valves.
 - (vii) Program for Unaccountable Water Loss:
 - (a) Water Meter System: reading, replacing and installation; and
 - (b) Master Meters: reading and calibration
 - h. Operation and management of SCADA (Supervisory Control and Data Acquisition). A list of the Facilities and their characteristics is attached hereto as Appendix "A" and incorporated herein by reference.
 - i. Operator shall, at the written request of the City, assist the City in other peripheral matters relevant to the City's Facilities, but not required by the Request For Proposal or as specified in the contract terms below. Operator's additional participation will include labor, supervision, materials, transportation, vehicles, tools, equipment, and consultants, as deemed appropriate by both parties, with consideration toward staff availability, resources, and financial impact to the respective parties.
2. Operator shall professionally manage and operate the OWNER's Wastewater Collection, Transportation and Treatment Facilities, according to the terms and conditions set forth herein and for the compensation herein specified. Operator shall provide professional engineers, experienced managers, certified wastewater operators, and other skilled personnel necessary for the complete and successful operation of the OWNER's facilities. The operation and management of the Facilities.
 3. The duties and compensation of Operator hereunder are based upon the conditions which exist as of the date of this Agreement. Should any of the

following changes of condition occur during the term of this Agreement, Operator shall continue to provide the Services, and the Agreement shall be amended to reflect the change in conditions, and Operator, compensation shall be increased to fully compensate Operator for the additional Services or level of Services and the additional cost incurred as a result thereof. The changes of condition referred to are as their operation or the Services, or any changes in the NPDES permit (Appendix "EE") or any license or other permit required to operate the Facilities or the imposition of any judicial decree, administrative order, or the like, affecting the Facilities or the Services.

4. OWNER shall provide all equipment, sludge removal, tools, and materials required for the successful completion of this task Appendix A except (which Operator shall obtain at its own cost and expense): Upon retirement of any of the City personnel vehicles (pickups or cars only) listed in Appendix A, Operator shall be responsible for providing same for use during the term of this Agreement. OWNER shall promptly reimburse Operator for such additional costs, including tax, title, and insurance
5. Operator's negligence. Operator shall maintain equipment histories, maintenance records, repair expense data, and shall provide regular reports to OWNER concerning the Facilities. Operator shall assist the OWNER when purchasing all items described above in accordance with state purchasing guidelines. Operator shall not mark up prices or obtain any monetary benefit from the purchase of supplies, tools, materials, equipment, etc.. OWNER shall have the right to review Operator's records concerning purchases under this Section at any reasonable time.
6. Operator shall provide all laboratory testing and sampling presently required by the NPDES and Mississippi Department of Health permits and SDWA within the capabilities of the existing laboratories. The cost of any laboratory analyses that must be performed in accordance with the NPDES permits, SDWA or applicable law and which cannot be performed on site shall be paid directly by OWNER. Operator shall submit completed and signed Discharge Monitoring Reports (DMR's) to OWNER as required. Operator shall provide OWNER with a monthly operating report for the water and wastewater treatment plants.
7. Operator shall provide normal and reasonable odor control methods. ("Normal and reasonable" shall mean acceptable methods and practices or process operations within the industry). Should OWNER require additional processing, treatment, or chemical addition for odor control, the Annual Fee shall be increased to fully compensate Operator for any additional costs resulting therefrom, including reasonable amounts for overhead and profit. Operator will, if such requirements develop, assist OWNER in finding or developing the most cost-effective method.
8. Operator shall be liable for the payment of any and all fines, civil

penalties or damages levied against Operator or the OWNER by a regulatory agency or other party for violation of the NPDES permits (Appendix "EE") or Safe Drinking Water Act ("SDWA") requirements pertaining to the management of the Facilities, or otherwise, occurring during the term of this Agreement, except as otherwise provided herein. Operator shall have the right to contest any such fine, penalty or demand for damages. OWNER shall do all things necessary to fully assist Operator in contesting any such fine, penalty or demand for damages should Operator, at its sole discretion, elect to so do, including, but not limited to, entering its appearance in such proceedings, filing or allowing Operator to file on its behalf such pleadings, responses or other papers as Operator may deem necessary or expedient, and allowing Operator to conduct the defense of or contest the proceedings in the name of the City or Operator or both, whichever is applicable. OWNER understands and agrees that the purpose hereof is to afford Operator the fullest opportunity to contest any such fine, penalty or demand for damages should it so elect, and that any obligation of Operator to pay or answer to or for OWNER for such fine, penalty or damages shall not be enforceable should the OWNER fail to perform the obligations hereunder.

9. Operator shall not be liable for any fines, penalties, or damages, as set forth in this agreement, if any of the following conditions are the cause thereof.
 - a. Influent loadings (biologically, chemically or hydraulically) at either the water or wastewater treatment plants exceed the parameters set forth in Appendix "EE". OWNER represents to Operator that the Facilities are of a design and have sufficient capacity to perform within the parameters set forth in Appendix "EE" without violating the NPDES permit or any other applicable legal requirements.
 - b. Operator has relied upon this representation and shall not be responsible for any fine, penalty or damages if said representations are inaccurate or not true;
 - c. Biologically toxic or other abnormal pollutants are contained in the raw water treated by the water treatment plant or the wastewater discharged to the OWNER's wastewater treatment system that violates Applicable Law, including the OWNER's sewer use ordinance; industrial pretreatment ordinance; the ordinances, laws or regulations of the State of Mississippi, the Mississippi Department of Natural Resources or of the United States, including those of the United States Environmental Protection Agency;
 - d. OWNER fails at any time during the term of this Agreement to provide Operator with operating facilities of sufficient quality or capacity to meet all legal and governmental requirements, for

the operation of the Facilities including the NPDES permit. This shall include, but not be limited to, the failure or refusal of OWNER to repair or replace equipment which is or has become damaged or ineffective or which has been damaged or destroyed.

10. Operator shall cut or have cut the areas around the Smyly and Massey lagoons at least Four (4) times during each contract year.

11. Sludge

a. OWNER shall provide and have available at all times during the term of this Agreement a regulatory agency approved site for the handling of sludge generated by the wastewater and water treatment plants. The method of sludge handling at the wastewater treatment plant at the inception of this Agreement consists of discharging waste activated liquid sludge directly to a ten (10) acre sludge lagoon at each plant site. OWNER is performing no work with regard to sludge disposal at the inception date hereof. Should OWNER or any regulatory authority at any time require any other activities concerning the sludge or its disposal, OWNER shall fully compensate Operator for any additional cost to Operator, resulting from any such requirement, and the Annual Fee shall be increased to reflect such additional sums. However, Owner shall be given the right to purchase any sludge removal directly first.

b. Operator shall have no interest, ownership or otherwise, in the waste sludge generated by the Facilities.

c. Operator shall not be subjected to or responsible for any liability or claim resulting from the generation by the water or wastewater treatment plants of waste sludge, nor for any liability or claims resulting from or relating to its disposal, nor for any liability arising out of or resulting from the use of said sludge. The OWNER does hereby assume liability and responsibility arising out of or resulting from the use of or disposal of said sludge resulting from any governmental or third party action, suit or proceeding. shall be obligated to pay all such costs and expense, including attorney's fees, as they become due and payable arising out of any actions therefrom. Operator shall notify OWNER of any claim hereunder within a reasonable time after it has notice thereof.

d. If OWNER is unable to provide a regulatory agency approved site for sludge disposal, as set forth above, OWNER shall provide an alternative method for the disposal of said sludge, which shall be approved by all necessary regulatory bodies. If the alternate method results in additional costs to Operator, the Annual Fee shall be increased to cover all such additional costs, including reasonable overhead and profit.

12. OWNER shall provide the necessary maintenance tools and equipment required for the proper operation and maintenance of the Facilities, as set forth in Appendix "B". Said apparatus, tools, equipment, and supplies shall be inventoried by OWNER and verified by Operator on or within thirty (30) days of the commencement date of this Agreement. Upon termination of this Agreement, Operator shall surrender said property of OWNER in good operating condition, reasonable wear and tear and damage

- a. OWNER shall also provide all necessary laboratory apparatus and equipment including the initial stocking of analytical chemicals and expendables necessary to meet the NPDES monitoring and analytical requirements, those pertaining to routine process monitoring and control and those necessary to perform the analyses Appendix "B". Said apparatus, tools, equipment and Supplies shall be inventoried by OWNER and verified by Operator on or within thirty (30) days of the commencement date of this Agreement. Upon termination of this Agreement, Operator shall surrender said property to OWNER in good operating condition, reasonable wear and tear and damage by any incident of Force Majeure excepted.
- b. OWNER will provide a bin or other means for and will pick up and remove and dispose from each site at its expense all trash, screenings, debris and garbage deposited therein by Operator.

13. Basic Agreement Requirements.

14.01 Operator shall adequately staff the Facilities with no less than the number of employees, as shown in Appendix K, experienced in wastewater treatment process control, wastewater transport, sludge dewatering, water systems operations, i.e. wells and tanks, and other necessary maintenance procedures, The wastewater Facilities operations staff provided shall comply with all requirements of the Board of Certification of Wastewater Treatment Plant Operators. At a minimum, each plant supervisor must have or be able to obtain a Mississippi Class Four (IV) operator certification or appropriate reciprocity from an acceptable foreign jurisdiction. Operator shall provide wastewater treatment plant operators and support personnel in sufficient quantities of staffing per shift to efficiently and safely operate equipment throughout the contract period. Chemist and laboratory analyst(s) shall complete yearly training in order to keep the personnel updated with the latest local and Federal environmental regulations, public health concerns, laboratory procedures, and safety requirements. The water systems Facilities operations staff shall comply with all requirements of the Mississippi State Board of Health. The supervisors will have a minimum Class D Mississippi

State Board of Health Waterworks Operators Certification. Appendix "K", attached hereto and incorporated herein by reference, provides staffing requirements for key personnel. All personnel shall wear uniforms identifying them as assigned to the City project. All Operator employees employed in conjunction with Operator's performance of this Agreement shall not be used by Operator for performance of any other contract held by Operator except in any emergency or with the approval of the City's designee. Operator shall submit a qualification list of all its employees within (30) days of the effective date of this Amendment, including all operators' licenses.

- A. It is the desire and requirement of the City that with regard to staffing on City projects and facilities and all work within the scope of scope of this contract, Operator shall not engage or allow any employees to work directly under or be responsible to report to any supervisor with whom the reporting employee is related by blood or marriage within the third degree, computed by the rule of the civil law, without, a distinction between the kindred of the whole and half blood of equal degree.
- B. Relation by blood or marriage within the third degree includes spouse, domestic partner, parent, mother-in-law, father-in-law, step-parent, children, domestic partner children, son-in-law, daughter-in-law, step-child, brother, step-brother, brother-in-law, sister, step-sister, sister-in-law, grandparent, grandchild, uncle, aunt, nephew, niece, great-grandchild, and great-grandparent.
- C. Operator shall offer employment to, and provide training for existing employees, pending satisfactory completion of pre-employment physical examination, drug testing, state certification requirements and screening by Operator. None of the above referenced requirements shall be construed in a manner as to create a third party beneficiary right guaranteeing employment to existing employees.
- D. Operator shall select the management personnel, specifically the Program Manager, Maintenance Director, and all Plant Managers subject to the approval of the Executive Director to perform the services to be provided in accordance with this agreement. Said approval by the City shall not be unreasonably withheld.
- E. Operator's Program Manager shall have proven technical and managerial skills and experience in the field of wastewater treatment. Nominees for the Program Manager shall be presented to the Executive Director for specific approval. The City reserves the right to request a review and the dismissal of

any Operator employee whose performance or actions are unsatisfactory to the City, in its sole discretion.

- F. Operator shall dismiss any employee involved in misconduct, drugs, alcohol consumption, possession and/ or the use of firearms on City premises, upon learning of such a problem in accordance with all applicable City, State and Federal regulations.
- G. Operator's employees shall not claim any right or benefits as condition of their employment in performance of the agreement.
- H. Operator shall endeavor to employ highly qualified, trained personnel to operate the plants.
- I. It is expressly agreed and understood that Operator is in all aspects an independent contractor as to the work and is in no respect an agent, servant, or employee of the City. The agreement specifies the work but the method to be employed to accomplish the work shall the responsibility of Operator.
- J. Operator may subcontract services to be performed hereunder with the prior approval of the City. No such approval will be construed as involving the City as a party of or to such subcontract, or subjecting the City to liability of any kind to any subcontractor. Said approval by the City shall not be unreasonably withheld.
- K. No subcontract shall, under any circumstances, relieve Operator of its liability and obligation under this agreement. Despite any subcontracting, the City shall deal through Operator. Subcontractors will be dealt with as workmen and representatives of Operator.
- L. Operator shall maintain complete, current, and accurate records of operation and maintenance activities, which will be available for inspection and copying by the City during normal working hours. Additionally, Operator will maintain and protect all existing Facilities' records located at each facility. Upon termination of this agreement all such records, both past and current, must remain at the facility.
- M. Operator shall properly maintain security of the Facilities within the property lines. All City vehicles and equipment assigned by the City to Operator will be restricted to use necessary for the performance of the work under this Agreement.

- N. Operator shall pay all expenses required for normal services related to operations and maintenance of the Facilities including, but not limited to, personnel costs, consumables, sewage screening and grit disposal costs, trash removal, and normal operating supplies excluding electrical, natural gas, portable water, and process chemical costs. Operator shall provide said services in a manner that minimizes the disruption of services to the City.
- O. Operator shall provide inventory of City equipment and vehicles and documentation of routine and preventative maintenance according to manufacturer's specifications, which will be performed by Operator using a computerized maintenance system. Operator shall provide an integrated maintenance program, ("IMP"), a recurring state-of-the-art, reliability-centered inspection, testing, maintenance and minor repair program that determines best practices for managing the functions and consequences of failures of facilities equipment and system components. The computerized IMP system shall be a windows based operating system as proposed in Operator's response to the Request for Proposal (RFP). Operator will use existing database for conversion to the windows based system. The system must include individual computers at each Facility and at Operator's central administrative office. Each computer must be capable of running the entire computerized maintenance program. All computers must be interconnected, utilizing modems. Operator may also utilize computers located at each Facility for process control, report compilation, and monitoring. A complete copy of the computerized maintenance system utilized shall be furnished to the City, at no cost, for monitoring of all maintenance activities on the City's existing computer system. Operator will pay for any modifications to the City's computer and mode, to allow the computerized maintenance system to run. Operator will be responsible for updating the City's system a minimum of once per week and upon completion of a major maintenance project. Operator will bring this system into full operation by 60 days of commencement of this contract. All maintenance provided by Operator shall be in a manner that minimizes the disruption of wastewater collection and treatment services to the City.
- P. Operator will provide at no additional cost to Laurel crane service to pull pumps at plants, and interceptor pump stations. Laurel can exempt Operator from above if Operator's cranes are too small to handle said pulls.
- Q. At least once a month, a schedule of equipment and vehicles, separate and apart from the computerized maintenance system,

will be provided to the City. Such schedule will itemize new equipment placed into service, replacement of existing equipment, existing equipment taken out of service, and equipment transferred to another City location. A complete explanation of the circumstances relating to the disposition of equipment and vehicles will accompany this schedule.

- R. The computerized maintenance system will include but not be limited to, equipment identification and history, spare parts inventory, lubrication and preventative maintenance tasks/ schedules, repair history, and other pertinent information. The computerized maintenance system shall be maintained in such a manner to ensure that data is current and up to date. Data entries shall be made within a maximum of five (5) working days after the event. Operator's Program Manager and/ or Maintenance Director shall review this data, prior to entry. All data shall be available to the City via the City's computer system.
- S. The City's Designee shall have the right to inspect these maintenance records during normal business hours. When requested by the City, Operator will submit to the City documentation of the cost effectiveness of "repair versus replace" decisions made by Operator prior to any action being taken. Maintenance and repairs for all equipment, structures and vehicles shall not include costs associated with flood, fire, acts of God, or other similar extraordinary occurrences not within the control of Operator.
- T. Operator will provide the most cost-effective method (from the City's standpoint) to make repairs. Consistent with Operator's response to the RFP, Operator will make all repairs that can be done with the proposed staffing plan, tools, and equipment. All repair work shall be conducted in a manner that minimizes the disruption of wastewater collection and treatment services to the City. Out of scope repair work will be conducted as approved by the City and all Operator labor costs will be discounted 12.5%.
- U. Operator will pay for repairs for all City equipment, structures and vehicles up to \$100.00 per item during the term of services provided, unless the City elects to pay for the repair. The aggregate amount, which Operator shall be required to pay under this section, shall not exceed \$15,000.00 annually. Such repair costs shall not include Operator's cost for labor or vehicles. In accordance with City policy, Operator must maintain detailed records, including, cost receipts of all expenditures separately for each plant. If Operator expends less than \$15,000.00 in a year, the City will be refunded any sum between

the amount actually spent by Operator for that year and \$15,000.00. After the \$15,000.00 limit is reached, the City must approve any further repairs, and will either pay for such repairs directly or reimburse Operator within forty-five (45) days of service.

- V. Special Maintenance Services may be required of Operator by the City. These will be negotiated on an as-needed basis.
- W. Operator will assure enforcement of existing equipment warranties on all new equipment. Operator shall maintain any existing guarantees and warranties for mutual benefit of the City and Operator.
- X. Operator will perform the necessary testing and laboratory analysis as required by all City permits and for process control. Operator shall prepare, submit and maintain operating records, logs and reports for in-process tracking of plant output characteristics. The cost of testing samples that require the use of an outside laboratory, the transportation thereof and costs for Enterococci Bacteria will be the responsibility of the City. Operator will comply with all applicable Local, State and Federal laws and any other applicable regulations, including preparing and signing all monitoring operating reports and submitting them to the proper agencies with monthly copies to the City. Operator will also cooperate with the sludge disposal contractor by providing information to the sludge disposal contractor when necessary to complete the annual sludge reports. The existing laboratory and equipment is available to Operator. New requirements for lab equipment and supplies are the responsibility of Operator in accordance with Paragraph 2.13 above. All bench sheets, chain of custody records, laboratory data, meter calibrations, plant operating data, and DMR preparatory information must remain at each Facility upon termination of the Agreement.
- Y. Operator's Program Administrator or designate will meet monthly with the City's Designee at a regularly schedule meeting. The purpose of these meetings will be to discuss services, including reports on capital improvements, at the Facilities. Information to be covered during these meetings shall comply with City Policy. Operator will work with the City with the mutual objective of optimizing consumption of chemicals, natural gas, electricity and water. Operator shall also develop and update operating procedures to reflect current operating processes.

- Z. Operator must submit to the City weekly operating reports for each Facility. Reporting week shall run from Sunday through Saturday. The City shall receive weekly operating reports no later than Tuesday of the week following the reporting period. Monthly operating reports for each Facility must be submitted by Operator to the City. Reporting month shall consist of a calendar month, and the report must be received by the City by the 4th day of each month. Operator must complete all the requested and required regulatory reports (i.e., annual sludge reports, NPDES renewal permit applications, etc.). Operator shall provide monthly staffing reports. This report is due on the 4th day of each month. At the request of the City, Operator will review and provide technical recommendations to accept or deny industrial waste discharges to the City's Facilities. All reports must be reviewed at the regular scheduled monthly meeting. Upon the agreement of both parties, any Specialty Reports required of the City that do not require outside employment by Operator shall be completed by Operator on behalf of the City.
- AA. Maintain and operate the wastewater treatment Facilities so that effluent discharge requirements are at all times in accordance with requirements as listed by NPDES permits, Appendix "A" and the City's Operations and Maintenance Policy and Procedures.
- BB. In the event that the effluent does not meet all the requirements on the effective date of takeover, Operator shall have thirty (30) days before guarantee of effluent quality becomes effective. At no time, however, can Operator allow effluent quality to be less than average of the twelve (12) months prior to the effective date of takeover.
- CC. In the event any one of the plant loading parameters exceeds design parameters, Operator shall make reasonable effort to maintain the plant effluent within permit limits but in any case return the plant effluent to limits listed in the NPDES Permit within thirty (30) days after loadings return to within the design parameters.
- DD. In the event a plant loading(s) exceeds a plant design peak capacity for the loading, Operator shall make reasonable effort to maintain the plant effluent within permit limits but in any case return the plant effluent to limits listed in the NPDES Permit within seven (7) days after the peak loading in question has returned to within the plant's design peak capacity.
- EE. In the event abnormal or biologically toxic material is received at the Wastewater Treatment Plants and/ or Facilities, Operator will notify the City, but in no case more than twenty-four (24) hours, after discovery of the abnormal condition, and work with the City representative to remove and reduce such

- substance to the best ability of both parties. Operator will resume responsibility for the NPDES permit within 30 days after any toxic substances are removed from the plant influent.
- FF. Operator shall operate and manage the water system facilities in accordance with the regulations and guidelines of the Mississippi State Department of Health.
- GG. Operator will assume all liability for fines or civil penalties imposed against either the City or Operator by a regulatory agency during the Agreement term for violations caused by Operator.
- HH. Operator shall notify the City within twenty-four (24) hours of any abnormal loading condition or occurrences and make recommendations to effect necessary changes to the process to achieve a suitable effluent under the permit requirements.
- II. Operator will obtain City approval prior to any modification or major maintenance affecting appearance or Facilities operation and maintain the cleanliness and appearance of all City sites and Facilities in a professional manner.
- JJ. Operator shall operate the Facilities to minimize odors and filter flies through an ongoing odor control and fly control program and deal in a professional manner with community groups concerned with odors or any other facets of operations. Operator will notify the City of complaints the same or next working day. Should problems persist, recommendations with anticipated capital improvements and operating costs must be submitted by Operator to eliminate filter fly and odor control problems.
- KK. Operator will utilize local purchasing and banking and hire any additional staff from the local area to the greatest extent possible.
- LL. Operator shall provide an on-going education and safety program for all employees. This program shall be monitored by the City's Designee as to its effectiveness and value to the City. The cost of this program will be responsibility of Operator. The program shall encourage employees to develop good safety and work habits and to develop operator skills required to take and successfully pass tests for State licensing. All employees shall participate.
- MM. Operator shall submit no later than end of May, each year, an estimated budget for the following fiscal year which will include two (2) components: the estimated change in

compensation due Operator and the necessary capital improvements or replacements, if any, to be provided by the City.

- NN. Operator shall furnish all equipment, tools, trucks, cars, oil, filters, consumables and fuel (excluding auxiliary generator fuel) for the operation of the Facilities. Equipment items shown on Appendix "C", attached hereto and incorporated herein by reference, provided by the City is available for use by Operator. These items shall remain with the Facilities and may not be used at any of the other Facilities except in an emergency or with the approval of the City. The exception to this will be oil and grease which will be purchased by the City and the cost of said purchase will be refunded to the City by Operator.
- OO. Operator shall within sixty (60) days of the effective date of take over inform the City's Designee of any existing defects in operating equipment or systems and of any recommended capital improvements. Operator shall also provide a cost estimate with documentation on repair and/ or replacement recommendations made for said equipment or system. The City will review the defects noted and capital improvements recommended and will take appropriate action to correct deficiencies. Operator will not be relieved of its responsibility to perform if the capital improvements recommended are not implemented.
- PP. Operator shall be responsible to pay all Federal, State, County, and local taxes due or payable on the services furnished in this agreement. Payment of taxes shall be made to proper authorities.
- QQ. Operator will furnish telephone services (excluding telemetry) for all plants.
- RR. Operator shall comply in all respects with the policies of the City as set forth in the City's Policy Manual and as otherwise adopted by the City and provided to Operator. Amendments or revisions to the City's Policy or the Policy Manual shall be provided to Operator, which shall be responsible for compliance therewith after seven (7) days following the date on which provided by the City.
- SS. Operator will cooperate with the City to coordinate sludge hauling (which shall be the responsibility of the City) to ensure that processed solids are removed from the plants in a timely manner so as to avoid plant operations problems and nuisances. Operator will work with the City to enhance Sludge

Management Alternatives. Operator will be responsible for grit and screening disposal to ensure that processed solids are removed from the plants in a timely manner so as to avoid plant operations problems and nuisances.

TT. Operator will be responsible, subject to final review by the City's Mayor, for the preparation and submittals of required permit application and renewal submittals to the appropriate authorities, including applications and renewals for final sludge disposal, within the limitations addressed in above.

UU. Operator shall conduct all Mississippi One Call line locations. Operator will be responsible for all costs associated with repairing damaged lines and equipment resulting from failure to properly mark the requested locates (per City documentation).

VV. Operator shall provide an emergency call-out notification system which will permit local dialing area calls to a specified series of phone numbers, which will result in notification to a manned response organization twenty-four (24) hours a day, seven (7) days per week. The City shall provide the telephone dial-out equipment and pay associated monthly line charges.

WW. Operator shall provide radio and/ or cellular phones for all key contracting staff, i.e. project managers and plant managers, as well as provide the same equipment to key personnel of the City.

XX. Operator shall semi-annually perform a walk through inspection of interceptor/ force mains (including air-release valves) to look for leaks, erosion, etc. and provide a written report of such.

YY. Operator shall provide an electrician to maintain electrical systems of both water and sewer equipment.

ZZ. Grit will be removed from plant grit basins when grit levels reach 50% of normal capacity. Additionally, Operator will report grit levels at all plants on a monthly basis.

14. City Responsibilities

A. The City shall pay to Operator as compensation for the services performed a total cost for the treatment plant operations but should have the cost divided if requested by the City, as follows:

\$ _____ per month for existing wastewater treatment plants.

\$ _____ per month for existing pump stations and interceptors.

\$ _____ per month for CDBG wastewater treatment plants.
\$ _____ per month for CDBG pump stations and interceptors.
\$ _____ per month for CDBG water systems.

- B. The City shall be responsible for power bills for each facility based on present usage. To achieve the best rate, the electricity supply agreement shall be in the name of the City and shall be paid by the City.
- C. The City and Operator, respectively, shall be responsible for costs for natural gas and potable water in the same way as electricity costs described for power bills, as described above.
- D. The City will be responsible for the cost of process consumable chemicals (not laboratory chemicals) and process supplies. Operator shall identify improvement opportunities associated with sludge thickening and dewatering facilities, and shall establish and review regularly the most cost effective use of sludge thickening chemicals and shall submit a report to the City on operating recommendations.
- E. The City will provide for the use of equipment listed in Appendix "A" attached hereto and incorporated herein. Should the City elect to remove any item listed in Appendix "A" from use, the City agrees to replace said item with comparable equipment. Operator will furnish any additional equipment, tools, trucks, cars, and fuel it needs in the normal and ordinary operation of the Facilities.
- F. The City will observe and inspect the work done in order to insure full and complete compliance with this agreement. Upon completion of any inspection, the City may request Operator to correct any punch list items found by the City. Operator shall have ten (10) days to form an action plan to cure said punch list items and thirty (30) days to substantially complete work on said punch list items. The failure on the part of the City to enforce its rights as to any provision of this agreement shall not be construed as a waiver of its rights to enforce such provision in the future.
- G. The City will ensure that the standard fire and flood insurance policies are maintained, including extended coverage to the full insurable value of the Facilities and shall name Operator as an additional insured according to its insurable interest under these policies during the term of the Agreement.
- H. The City shall pay for all repair related items in excess of the \$100.00 Agreement limit. The City shall purchase said repair related improvements items where reasonable justification is provided by Operator. In the event the City and Operator are

unable to reach agreement on the necessity for the required improvement, the City in a timely manner shall retain its engineering consultant to decide the necessity of the improvement.

- I. The City will maintain existing easements and licenses for the mutual benefit of both parties.
- J. The City will furnish Operator with copies of all regulatory permits received for Facilities operations. The City will keep Operator informed of all inquiries, complaints or orders received by written communication.
- K. Operator shall advise the City in a timely manner of all inspections, inquiries, correspondence, notices and complaints received. Written as well as verbal notification will be given.

15. Utilities, Consumable Chemicals and Grounds Maintenance

- A. Electric Power. The City shall be responsible for power bills for each facility. Any power usage in excess of the base period (past three (3) year average) shall require written explanation to the City's Designee. If the excesses are warranted for process changes, loading abnormalities or improvements, the City will pay the excess amount and the base will be adjusted. If, however, excesses are unwarranted, Operator shall pay the excess. Increases in the base rate of power will be the responsibility of the City.
- B. Sharing Electric Power Savings. After the base period, Operator shall share in savings to the City on the basis of 50% rebated to Operator of the average savings due to usage decreases. This will be based on the cost of power at the effective date.
- C. Natural Gas. The City and Operator, respectively, shall be responsible for natural gas costs in the same manner as the electrical power costs described in other paragraphs of the Agreement.
- D. Potable Water. The City and Operator, respectively, shall be responsible for domestic potable water and costs in the same manner as electrical power costs described in other paragraphs of this agreement.
- E. Consumable Chemical and Process Supplies. The City shall be responsible for all routine consumable chemicals (not including

laboratory chemicals or dewatering chemicals unless Operator is requesting additional monies.) Operator's responsibility will include recommending and subsequent evaluation of chemicals used or to be used. The City and Operator will jointly inventory all chemical supplies on the effective date of this agreement.

- F. **Emergency Power Equipment.** Operator shall be responsible for the care and cycling of all auxiliary equipment on a weekly basis, or as mutually agreed upon. In the event of prolonged emergency (in excess of twelve (12) hours,) Operator will notify the City periodically of the current emergency conditions.

- G. **Grounds Maintenance.** The grass cutting, trimming, edging and shrubbery care shall be accomplished by Operator. The cost to provide grounds maintenance should be based on cutting and trimming all of the City's facilities and administrative building based upon the following schedule.
 - i. Four (4) months each year (May- August) – mow and trim weekly;
 - ii. Four (4) months each year (March, April, September and October) – mow and trim every other week;
 - iii. Four (4) months each year (November- February) – mow and trim once a month; and
 - iv. Operator will fertilize all plants once a year in April, with, at a minimum, 8-8-8 Fertilizer, applied at the manufacturer's suggested application rate.

Section 3.16. **Benchmark Performance Standards for Treatment Plant Maintenance.** Operator shall comply with certain "benchmark" performance standards for quality, production, and response time, where requests for repair services are received that require work to be performed for Treatment Plant Maintenance under Section 3.15 above. The Criteria for Benchmark Performance Standards for Treatment Plant Maintenance service requests are specified on Appendix "FF" annexed hereto as a material part of this Contract.

- A. **NPDES Compliance 50%** - Maintain a minimum of 100% compliance with the NPDES Permit.

- B. **Ground Maintenance 20%** - Operator must keep Grounds Maintenance acceptable. The grass cutting, trimming, edging and shrubbery care shall be accomplished by Operator and must meet the included schedule.

- C. **Quality Benchmarks 20%** - Meeting the City and MDEQ standards.

- D. **Record Keeping 10%** - Operator will be responsible for maintaining

accurate records on all treatment plant operations. These records will be reviewed with random samples to determine a 95% Level of Confidence that they are accurate.

ARTICLE IV. - GENERAL OBLIGATIONS OF OPERATOR

In performing the services herein required of Operator, it is covenanted and agreed, as follows:

Section 4.01 Staff and Employees.

- A. Operator shall hire, train, employ and supervise sufficient employees and management personnel to operate and manage the project and perform the services required under this Contract. It is agreed, however, that the employee staff, shall include, but not be limited to personnel identified in Appendix "K" with necessary qualification and training to perform the standards of work required for each said employee position. An organizational chart, a list of said Key and Essential positions, minimum compensation rates, educational requirements, and detailed job descriptions for the streets, drainage, sewer and water maintenance portions of the Contract is annexed hereto as Appendix "K" and made a part hereof. The Mayor shall approve Key and Essential personnel as listed. If additional personnel are needed to meet the requirements of this Contract, Operator shall submit a separate list of those personnel and corresponding wage rates with Price Proposal. All employees shall be full time and performing work for the City of Laurel under this Contract completing business related to Laurel Water and Sewer.
- B. Operator shall maintain the total number of positions as defined in Appendix "K". In the event a position becomes vacant, the Operator shall fill that position within fifteen (15) working days of the previous termination for non-Key and Essential positions, and thirty (30) working days for Key and Essential positions. Operator shall supply Owner records of personnel status to substantiate staffing. Operator shall reimburse the City of Laurel at the minimum rate listed in Appendix "K" plus 50% per work day for each unfilled position once the allowable working days after termination has expired. The City shall deduct this amount from the monthly retainage and final pay application.
- C. Operator shall assume sole responsibility for cost of labor and benefits of all employees required to operate the System. Said employees shall continue to be employees of OPERATOR and not the City. Operator shall be obligated to make a "one-time" offer if employment, effective on or before the commencement date of this Contract, effective upon severance of employment with the City to all employees identified to be full-time employees performing the work of the City's Water, Sewer, and Utility Billing. Compensation and benefits ("labor and benefits") offered shall be at levels comparable to, or greater than the compensation and benefit plan level of the respective employees for the City, with the understanding that a company sponsored 401 (K) Plan for retirement shall be effected, and employees shall not qualify to continue the State Retirement Plan as of said new employment. Operator's offer of employment to employees may be made contingent upon satisfactory results of a drug screening test, physical examinations and satisfactory drive record. Current employees employed by Operator under this offer

shall be guaranteed wages and benefits for ninety (90) days, unless employment is terminated for due cause. This provision is enforceable by the City of Laurel against Operator as a condition of the Contract between the City and Operator, but is not to be interpreted as a Contract between Operator and any employee of Operator hired to perform work under this Contract.

- D. Comply with Standard Operating Procedures (SOP's) for use by the Project staff. (See Appendix "W" for existing SOP's). Operator shall assist in the development and follow future SOP's as approved by the City.
- E. Perform work planning and scheduling for the staff, including documentation of the completion of those work tasks. Monthly reports of progress shall be made available for inspection by Owner.
- F. Develop an Emergency Response Plan for use by the Project Staff approved by the City of Laurel. This plan shall address Homeland Security, Mississippi Department of Environmental Quality and Mississippi Department of Health requirements including, but not limited to oil spills, sewer spills and water outages.
- G. Operator shall assign one of its employee staff members to each vehicle and provide a written list of these vehicle assignments to the Mayor or his designated City employee should the City-owned vehicles utilized by the Operator under this contract. Operator shall adhere to the following: All changes in assignment shall be likewise provided in writing; and the employee assigned to each vehicle will be held accountable by the Operator for the proper operation and use of the City vehicle as well as the inventory of City parts and equipment consistent with all City policies. Operator and its employees shall comply with the City's vehicle use policies.
- H. Provide training, education and staff development as needed to maintain employees qualified and able to perform the work required by Section 3.02, Section 3.05, Section 3.07, Section 3.09, Section 3.10, and Section 3.11 above in a good, courteous and workmanlike manner. This training will include, but is not limited to orientation, safety, continuing education and monthly training. Operator is responsible for computer training for all programs currently used by the City's Water & Sewer Department, including, but not limited to ArcView, Microsoft Office Suite, project planning software, Internet, CityWorks, Storeroom, Telephone Notification System, Vehicle Tracking System and SCADA. Operator's staff shall be NIMS trained as needed.
- I. Each employee assigned by Operator to operate any vehicle and/or equipment owned by City shall be required to demonstrate his/her proficiency in the operation and maintenance of that vehicle or equipment prior to such assignment, and also daily checks for basic maintenance shall be required to insure the useful life of the vehicles and/or equipment. Operator shall develop qualification tests and/or procedures to demonstrate proficiency and maintenance responsibility that are subject to review by and satisfaction of the Mayor or his designated City employee. Prior to operation of any equipment or vehicle owned by the City, Operator's employees shall be approved on an individual basis by the Mayor or his designated

representative, according to the qualification requirements for subject vehicle or equipment, including but not limited to daily checklist and field operation.

- J. Each employee assigned to a position shall be required to demonstrate to Operator the ability and knowledge necessary to perform the job function successfully. The certification practices shall be subject to review and satisfaction of the Mayor or his designated City employee. City has the right to revoke the ability for an employee of the Operator to continue in a position if unreasonable instances of rework occur as determined by the City.
- K. Operator shall obtain and keep current any and all business, professional and/or privilege licenses required by Federal, State or Local law or regulation to perform the services to be provided to City under this Contract. Operator's staff shall possess all required licenses including but not limited to driver's license, herbicide license, etc. to perform the work under this contract.
- L. Operator shall implement and adhere to a random drug-screening program that all employees are subject to and is consistent with state and federal law on a random monthly basis. Blind results of test results shall be forwarded to the Mayor. This program shall include policies for disciplinary action, including dismissal for failure of drug test. To the extent permitted by law, Operator' drug screening program shall also minimally include pre-employment tests and drug screening as a result of probable cause, including, but not limited to accidents. Additional test for alcohol should be administered following accidents.
- M. Operator shall have a staff member designated as the safety/environmental officer who shall be a full time position, and shall report directly to the Project Manager, as shown in the organizational chart included as Appendix "K"
- N. Operator shall follow City's Personnel Policy and Procedures Manual effective at the time regarding nepotism, vacation leave, sick leave, computer usage and cellular telephone usage in Appendix "BB".
- O. Operator shall perform background checks for each employee prior to hiring. An independent party, approved by the Mayor, shall perform these checks, and a copy of these results shall be forwarded to the Mayor, or designated representative. Background checks should include, at a minimum, criminal record, driving and vehicle records, education verification, employment verification, licensing verification, and immigrant status. Any felony conviction of potential employees shall be brought to the attention of the Mayor prior to hiring. Employee consent for background check by Operator may be required prior to employment.
- P. Operator's dedicated construction crews shall complete projects according to industry time standards, such as Means' Estimating Handbook. These construction crews are to be used for projects approved by the City's Mayor or Director of Public Works only.

- Q. Operator shall designate an employee to be responsible for an equipment dispatching and yard boss program to maximize equipment usage.
- R. Deleted.
- S. Operator shall perform minor maintenance and repair on small tools in Appendix "A" such as replace oil, grease, replace blades, replace chains, fill fluids, replace string, replace spark plugs, carburetor adjustment and rebuild and similar type work.
- T. Deleted.
- U. Nothing contained in this contract shall limit or excuse the operator's responsibility and liability related to its employee's qualifications for and performance of duties assigned under this contract.

Section 4.02 Expense and Cost of Service Obligation of Operator. Certain costs of the services specified on Appendix "L" are to be incurred and paid by OPERATOR, which costs were heretofore determined by City to be a reasonable expense for operation and maintenance of its water and sewer operations. No materials purchased by City for City use shall be used (on credit system or otherwise) by Operator or Owner except on City of Laurel projects.

Section 4.03 Other Obligations and Services by Operator.

- A. Perform other contract Water and Sewer System Operations services as directed by Owner. Such services must be pre-authorized by Owner and, if outside of the scope of work, the cost of those services will be negotiated between Owner and Operator prior to such additional (or extra) work being performed.
- B. Document all materials and parts and expenses incurred on behalf of the Owner, which are to be reimbursed as hereinafter provided, and Operator shall update the Owner monthly on the cost-to-date of materials and parts versus the City's annual budget amount for "Streets, Drainage, and Equipment Shop System Maintenance and Repair".
- C. During any project rehabilitation phase, Operator shall comply with all regulatory requirements. Upon completion of any system rehabilitation, the Operator's liability under this clause shall continue.
- D. Provide twenty-four (24) hour per day access to project for Owner. Visits may be made at any time by any of Owner's employees. The Owner shall provide keys for project to the Operator. Visitors to the project must comply with Operator's operating and safety procedures.
- E. Perform other professional utility management services that are incidental to, but not herein required or covered in the Scope of Services as directed by Owner. Such additional services may be justified as result of annexation efforts by the City,

installation or acquisition of extended or additional utility service facilities, or by newly imposed State and Federal regulatory requirements. Owner must preauthorize these services, and additional compensation to Operator will be negotiated on a case-by-case basis.

- F. Provide capital planning and assistance to Owner for both short and long-term needs for expansions or modifications to the existing utility system as a result of increased demand, normal replacement needs or new regulations or requirements imposed by the State or Federal agencies. If such work is considered to be additional work outside of the scope of this Contract, then preauthorization by Owner according to a negotiated price shall be required.
- G. On a continuing basis, as a service under this Contract, Operator shall provide professional management assistance if requested by City to reduce the cost of operations and maintenance of the streets and drainage system for Owner throughout the term of this Contract.
- H. Operator shall establish a system for response to "service call" repair needs and complaints in a reasonable and timely manner in conformity to the "benchmark standards" of this Contract so as to prioritize repairs according to apparent severity of the problem and the number of incidences requiring attention.
- I. Operator shall warn the public promptly of known dangerous conditions. This shall include, but not be limited to signage, door hangers, media communications (TV, radio, newspaper), automatic telephone notification system and email.
- J. Work Orders tracking labor, materials, and equipment usage must be completed with 100% accuracy for all requests and daily routine work. It is recognized by the parties that this tracking of work orders is essential in disaster events. Therefore no exceptions are allowed without approval by the Mayor with reason or cause given for failure to track these areas.
- K. Operator's personnel shall complete daily operator's checklist, shown in Appendix "S", for all equipment used by that individual. This information shall be forwarded to City's Equipment Manager according to City's Public Works Department Policy.
- L. Deleted..
- M. Operate a computerized inventory management system to track materials and equipment (indoor, outdoor and storage yard) used for this Contract. The City of Laurel shall conduct an inventory inspection semi-annually. This inventory shall minimally be ninety-seven (97) per cent accurate. The Operator shall reimburse the City of Laurel for any missing equipment or materials annually by September 30 each year during the term of the Contract below the ninety-seven (97) per cent accuracy level.

N. Operator shall complete all of the forms in Appendix "T" and any others deemed necessary by the Mayor.

Section 4.04 Right of Entry, Easement Requirements. Operator shall not be required by Owner under this Contract to perform any service on private property, without documentary proof of easement, right-of-entry, or title ownership in favor of City or Operator. Operator shall not enter private property without proper authorization and authorized or permitted by law. The Operator shall be entitled to rely at City's risk on the City's reasonable representation of rights of access, egress, easement or ownership of ditches, water courses, drainage easements, streets, alleys and roadways, and rights-of-entry. Operator may get this information from the City's Urban Development Office or the City Engineer.

ARTICLE V. - GENERAL OBLIGATIONS OF OWNER

The parties hereto covenant and agree to the following covenants, conditions and owner's obligations under this Contract, to-wit:

Section 5.01 Provision for Facilities, Vehicles and Equipment. As part of this contract and the consideration herein, City shall provide for Operator's use of offices, office furniture, vehicles and equipment as provided and conditioned in Article II above, or elsewhere in this Contract. Owner shall also provide the following:

- A. Perform and fund both the preventive and corrective maintenance repair including ordinary wear and tear (except for funding of repairs of damages caused by Operator, due to negligence or damage other than ordinary wear and tear to vehicles and equipment) for all of its vehicles and equipment used by Operator under this Contract. "Ordinary wear and tear" shall be defined as the normal and reasonable abrasions and deterioration of appearance, parts, and operational capabilities due to equipment age and operations performed in accordance with the operator's manual. Final decision of "ordinary wear and tear" will rest with the City's Director of Public Works.
- B. Provide auto tags and inspection certificates required for all vehicles.

Section 5.02 Licenses, Easements, and Warranties. City shall maintain all easements, warranties, licenses, permits or other types of authorization that it has or shall require for the project.

Section 5.03 Taxes, Permit Fees, Etc. City shall pay all franchise, property or other taxes and/or permit or license fees required by any governmental agency or by any regulation for system work under this Contract. City shall not be required to pay any tax on income earned by Operator as a result of this project, or any franchise fees of Operator, and City shall not pay any professional licensing fee or professional association dues for

Operator or any of its staff or employees. City shall not waive any professional fees normally charged by City for individuals or OPERATOR employees to perform their trade because of this Contract.

Section 5.04 Budgeted Costs Retained by City. City shall continue to pay for financial and budget items not assumed by Operator under this Contract required for operations and management of the system as indicated on Appendix "L". Obligations of City include utilities and local telephone service (Operator shall pay all long distance charges), building materials, repair parts, limestone, asphalt, gravel, concrete/cement, sewer or water pipe materials, meters and related supplies, its office supplies, operating supplies, cleaning (janitorial) service, gasoline and diesel fuel, oil and lubricants, sludge removal, and equipment rental expenses.

Section 5.05 Capital Expenditures of System. City shall bear the costs of repairs, rehabilitation, expansion or modification to the System as a result of increased demand, replacement needs, or regulatory requirements imposed by State or Federal agencies. Any such repairs, rehabilitation, expansion or modification of the System shall require approval of the expenditure thereof by City.

ARTICLE VI. - COMPENSATION BY CITY TO OPERATOR

Section 6.01 Annual Base Fee. The base fee to be paid by City to OPERATOR is agreed hereby to provide for the administration and compensation according to the intent of this Contract, certain items of responsibility may be agreed to be transferred from one party to another, and that the annual base fee in such instance(s) shall be equally adjusted so as not to increase or decrease the total cost of services and expenses to City from the Contract. In accordance with this Contract, and subject to agreed adjustments, the Owner shall pay the Operator as base fee for the first year of the term of this Contract, as follows:

Base Fee For First Year (Prorated if Necessary) **\$4,724,554.00**

The base fee includes cost of labor and benefit items listed (Items 1-24) on Appendix "L" and gives reduction consideration for provisions such as facilities, vehicles, equipment, machinery, tools, and repair services furnished by City.

Except for emergency calls, Operator's holiday schedule shall be limited to the same holidays approved by the Governing Authority of City.

The City Finance Director on request shall be allowed to inspect applicable pay roll records of Operator periodically as necessary to satisfy that the positions shown in Appendix "K" are being compensated according to staff requirements.

The first year for which the annual base fee shall apply begins on the "**commencement date**" of the Contract and expires on September 30th of that year, and each succeeding year of the Contract for purposes of annual base fee shall cover the twelve month period occurring from October 1st to September 30th.

Section 6.02 Escalation or Adjustment of Annual Base fee.

- A. **Escalation.** The annual base fee for year two (2) of the Contract shall be increased by application of the Consumer Price Index (CPI). The CPI will be calculated as a percentage and multiplied by the base fee for year one (1) to determine the new annual fee. The CPI used will be the index for the month of July for all urban consumers using the U.S. city average for all items with the base period 1982-84=100. Subsequent years will be treated accordingly with the CPI calculated based on the previous year. The annual increase shall not exceed 3%.
- B. **Adjustment of Base Fee for Change of Scope of Services.** In the event that a change in scope of services is initiated by the Owner, Owner and Operator will negotiate and provide by written amendment hereto a commensurate adjustment in the annual base fee to be paid during the remainder of the term of this Contract to cover increased labor costs, or to deduct costs where the scope of services may be decreased.
- C. **Changes Decreasing the Scope of Contract.** Where budget amendments are adopted to decrease the scope of services under this Contract, the Contract shall be amended and compensation adjusted for a decrease in staffing as is appropriate.

Section 6.03 Monthly Payment of Annual Base Fee. One-Twelfth (1/12th) of the annual base fee ("monthly payment") for the then current year shall be due and payable in arrears, subject to application for payment (shown in Appendix "X") and submitted to the Mayor or designated representative on the last day of the month for each month that services are to be provided, less monthly retention amounts for quality and performance assurance as required by this Contract and less, if any, the personnel deficiency and/or equipment damage adjustments.

Section 6.04 Change in Work.

- A. **Changes Within Scope of Contract,** Owner may make changes in the work, provided the changes are reasonably within the scope of this Agreement, and Operator shall expeditiously perform the changes as directed.
- B. **Changes Increasing Scope of Contract.** Any change in the work that

results in an increase in the utility workforce shall correspondingly increase the costs as provided in this Article. All System modifications and expansions, which result in a recognized need and resulting Owner approved increase in staffing, or increases in staffing to respond to new State and federal regulations constitute a change in the work and a "change of scope of services." Water and Sewer System modifications and expansions due to annexation of adjoining areas by the City which result in a recognized need and resulting Owner approved increase in staffing constitute a change in the work.

Section 6.05 Retained Compensation to Assure Achievement of Quality, Response and Production Standards.

- A. **Purpose of Retention of Compensation.** The purpose for City's retention of compensation is to assure that Operator has achievement and incentive standards for performance in the areas of customer satisfaction, quality of work, production and timely response, and systematic routine maintenance, and that the City has applicable benchmarks to measure contract performance.
- B. **Retention of Compensation.** From the Annual Base Fee to be paid by City to Operator under this Contract, City shall retain a total of five percent (5%), by retention from each monthly compensation fee payment one twelfth (1/12) of the annual retention amount. Said retention from monthly payments shall commence with the monthly base fee payment due for the first month of the annual period of this contract beginning on May 1, 2026 (commencement date). Retention from monthly base fee payments shall continue in the same amount each month during the remainder of the Term of this Contract.
- C. **Penalty for Failure to Complete Service Requests.** In the event Operator does not complete a service request according to benchmark quality and time standards in its entirety, including documentation, restoration and clean up, the City shall deduct \$200 per instance and \$25 per day thereafter, as approved by the Mayor.
- D. **Penalty for Safety Violations.** In the event Operator does not comply with appropriate safety regulations per Manual on Uniform Traffic Control Devices (MUTCD) or OSHA in order to protect the public, the City shall deduct \$200 per instance as approved by the Mayor.
- E. **Penalty for Not Responding to "After Hours" Calls.** In the event Operator does not respond by either telephone or site visit within one (1) hour to Customer requesting service, the City shall deduct \$200 per instance, and \$50 per hour thereafter, as approved by the Mayor.

- F. **Penalty for Failure to Complete Daily Operator's Checklist.** In the event an Operator's employee does not complete daily checklist for any of City's equipment used by Operator for this Contract, the City shall deduct \$100 per instance, as approved by the Mayor.
- G. **Penalty for Negligent After Hours Priorities.** In the event that after hours emergency events which endanger the public, including, but not limited to sewer main breakage, sewer force main breakage, water main breaks larger than 1.5", street cave-ins or major storm drain blockage, are not repaired immediately, the City shall deduct \$200 per instance, as approved by the Mayor.
- H. **Penalty for Failure to Comply with City Vehicle Usage Policy for Hourly Employees.** In the event Operator does not comply with City Vehicle Usage Policy for Hourly Employees Policy (Appendix "Z"), the City shall deduct \$200 per instance, as approved by the Mayor.
- I. **Penalty for Failure to Meet Construction Specifications.** In the event Operator does not comply with construction plans and specifications for work related to this Contract, including, but not limited to installing pipe at incorrect grade, failure to compact fill or poor concrete workmanship, the City shall deduct a minimum of \$200 per instance plus the Operator shall pay all costs of rework, or cost of itemized rework, as approved by the Mayor.
- J. **Penalty for Failure to Comply with City of Laurel Policies.** In the event Operator does not comply with policies related to this Contract as stated by the City of Laurel, the City shall deduct \$200 per instance, as approved by the Mayor.
- K. **Penalty for Failure to Meet Construction Time Standards.** In the event Operator's dedicated construction crews do not complete projects according to industry time standards, such as Means' Estimating Handbook, the City shall deduct \$50 per day over the construction schedule, as approved by the Mayor.
- L. **Penalty for Driving Time Over Two (2) Hours per Day.** Recognizing the importance of fuel conservation, the Operator shall organize and schedule work in order to reduce vehicle drive time. In the event Operator's employees drive in excess of two (2) hours in any one day, per City's GPS tracking software when purchased, Operator shall provide a map of the area driven, the daily GPS tracking report, and justification for each violation to the Mayor for determination if it is justified. The Mayor shall deduct \$200 per day for unjustified vehicle driving time over two (2) hours.
- M. **Disposition of Annual Retention Amount.**
- 1) **Audit Review Authority.** A CPA or other qualified person or firm

(herein "auditor") employed by the City at the expense of the City annually to perform the audits required to measure performance relative to benchmarks for the purpose of determining disposition of the retained funds.

2) Measurement of Performance Related to Standard Benchmark Criteria and Quality Standards.

- (a) Customer Satisfaction. Each six (6) months a customer satisfaction survey will be completed by the auditor based upon service requests that were completed during the preceding six (6) months' period. For the survey, customers will be contacted at random to determine the satisfaction rate with a 95% level of confidence. A copy of this survey is attached as Appendix "O". In addition, Customers shall be given the opportunity to provide satisfaction perspectives via an independent telephone survey company, such as Qualistics. The overall satisfaction score shall be calculated by the average of the total results of the three surveys.
- (b) Response Time/Production Time. Using the table of benchmarks for the problem corrected, a City of Laurel inspector will determine by random inspection or otherwise if service requests were completed as indicated in the work order system within the benchmark time allocated for the problem. Response and production time shall be determined as specified on attached appendices.
- (c) Quality of Work. Using the City of Laurel Construction Standards a City inspector will determine by random inspection or otherwise if service requests were completed according to City quality standards.
- (d) Completion Rate of Service Requests. Using the CityWorks order system, or the proven system in effect at the time, the completion rate shall be determined by dividing the number of closed service requests by the number of open service requests over the one-year period. Those requests not exceeding the benchmark response/production time shall not be counted.
- (e) Routine Maintenance. The measurement for these services shall be determined by the City's inspector reports for each routine maintenance item according to the benchmarks established in the attached appendices.

3) Annual Performance Audit Report.

- (a) Annual Report. Using the auditor's satisfaction reports and the City inspection reports (Appendix "N") determined according to subsection 2), paragraphs (a) through (e) above stated in this section, the Mayor or City's representative, and auditor shall present to the Mayor and City Council and to the Operator an Annual Performance Audit Report (herein "**The Annual Report**") within one hundred and eighty (180) days after the last day of the annual period being reported. If the

Annual Report is not disputed in writing by the Operator or the City on or before thirty (30) days after it is presented to the Operator and City, it shall be deemed accepted as presented. If disputed by the Operator, Mayor or City's representative shall review disputed claims and make final recommendation to Mayor and City Council.

(b) Payment of Retained Fees. The disposition of the retained base fees during the annual period of the Annual Report shall be determined by the auditor and included in the report on the basis of the **Retainage Distribution Matrix** shown in Appendix "M". According to the report, the percent of retained fees earned by Operator for the annual period computed according to the Matrix shall be paid to the Operator on or before ninety (90) days after the Annual Report is accepted by the parties.

4) **Mitigation of Deductions for Performance Deficiencies.**

(a) Force Majeure. Delays caused by rain or severe weather conditions, or other events beyond the control of the Operator that directly cause the Operator not to meet response time or production benchmarks shall not be included in measuring performance, or shall be adjusted to account for such uncontrollable delays.

(b) Equipment Availability. In considering measurement of Operator's performance, City shall be held to a ninety percent (90%) rate of availability of equipment owned by the City and used by Operator under this Contract. If failure to provide equipment at such rate causes or contributes to Operator's failure to achieve benchmark standards, the deficiency shall not be measured negatively against the Operator. The percentage of availability shall not include preventive maintenance, which will be scheduled so as not to affect performance. Nor shall down time for repair of equipment damaged or in disrepair because of Operator's negligence be used to reduce the rate of equipment availability. Operator shall be responsible for requesting rental equipment, if needed, in a timely manner. Operator shall have access to the City's Maintenance Shop records to perform an audit to review and agree/disagree with current status.

5) **Disputes of Fact.** Any dispute concerning questions of fact that may affect the measurement of Operator's performance shall first be considered by the Mayor and the Operator. If the dispute is not thereby resolved, then it shall be arbitrated and decided by the City Attorney or his designated Assistant. The Director and Operator may agree on some other person to act as arbitrator in lieu of the City Attorney. The Operator shall not waive its right to legal action and assertion of its claims by virtue of arbitration herein provided. However, the decision of the arbitrator shall take effect immediately, and shall continue in effect until it is reversed or abated by adjudication of a Court having jurisdiction, or unless the decision is stayed by agreement of the City and the Operator.

ARTICLE VII. - REIMBURSEMENTS BY OWNER TO OPERATOR

Section 7.01 Expenses to be Reimbursed. If it is necessary or expedient for Operator to purchase materials, repair parts or incur expenses in behalf of Owner, and if such expenses are properly documented and pre-approved by the Mayor, City shall be obligated to reimburse Operator as a direct pass-through expense upon presentation of a receipt or copy of paid invoice according to the following conditions:

- A. The purchase or expense item must be one that City is obligated to pay under this Contract as a budgeted item.
- B. Operator shall, if practical, utilize items already in City's stock, or request purchase directly by the City, in lieu of making purchase in behalf of the City.
- C. City shall not reimburse any sales tax, and therefore Operator shall develop with the City a purchase order system for purchasing items in behalf of City.
- D. Purchases made in behalf of City require Owner's prior written authorization, and all purchases shall be procured consistent with State of Mississippi Purchase and Bid Laws and current purchasing practices and policies of City.

Section 7.02 Emergency Purchases and Expenditures. Repair parts, or emergency expenditures may be purchased on an "emergency basis" by Operator if needed to protect the health and well being of the public. Operator shall notify the City for approval of such emergency expenditure prior to incurring the same, and if said prior notice is not possible, notice of the purchase or expenditure shall be given to the City as early as possible thereafter and in advance of the next regular or special City Council meeting. Costs for these parts shall be billed as "pass-through" expenses with no additional "Contractor mark-up". Reimbursements for such emergency expenditure shall be in addition to the base compensation. An appropriate justification of emergency expenses will be provided to the City with receipts or paid invoices included to document the cost. Operator shall cooperate and coordinate with City in addressing the emergency expense item with itemized costs thereof, and justification to the Governing Authority of the City as necessary to comply with State Purchasing Laws pertaining to emergency expenditures.

Section 7.03 Payment Becoming Due to Operator. All reimbursement and pass-through expenses properly incurred and duly billed and justified by Operator and any other payment due from City to OPERATOR under this Contract shall be due upon receipt of invoice presented in accordance with this Contract, and shall be payable within thirty (30) days, and delinquent thereafter.

ARTICLE VIII. - TERM AND RENEWAL

Section 8.01 Initial Term. The term of this Contract ("**Initial Term**") shall commence on **May 1, 2026** ("**Commencement Date**") and shall expire (unless sooner terminated as herein provided) on September 30, 2030.

Section 8.02 Cessation of City's Obligation As a Matter of Law. The Governing Authority of the City elected for a term of office beginning in July 2029, may act to renegotiate or cease funding of this Contract with or without cause at any time after officially commencing to serve its term of office. Unless and until official action, if any, to renegotiate or terminate this Contract is taken by the newly elected Governing Authority, and reasonable notice is given by City to Operator thereof, said Contract shall remain in full force and effect from month to month until expiration of the initial term as provided herein or approved extensions hereof. This contract allows for an initial term of four (4) years and the extension of this contract for two (2) one year terms for a potential term of six (6) years ending in 2032.

Section 8.03 Owner's Right to Early Cancellation and Renewal. This Contract may be cancelled or renegotiated by City without cause effective at the conclusion of the Second (2nd) annual period of the Contract if the Mayor gives written notice of intent to cancel sixty (60) days or more prior to the end of said annual period. After officially commencing their term of office in July 2029, the newly elected Governing Authority prior to September 30, 2030, may act to renew this Contract for a successive term not to exceed two (2) years from October 1, 2030 according to such terms and conditions as it may negotiate. Should either H2O or the Owner effectuate a termination, H2O at OWNER's written request, agrees to maintain the normal operations and staffing of the Facilities for a period of up to one hundred twenty (120) days after the effective date of termination. (For the purposes of this Agreement "effective date of termination" means the date one hundred twenty (120) days from the date of the notice of termination unless the parties shall otherwise mutually agree in writing.) Compensation as defined in ARTICLE VI will apply during the one hundred twenty (120) day period following the effective date of termination, subject to the provisions of ARTICLE VI, during the period after the effective date of termination.

ARTICLE IX. - INDEMNITY. LIABILITY AND INSURANCE

Section 9.01 Operator's Liability and Indemnity. It is understood that Operator shall have sole and exclusive custody and control of vehicles and equipment owned or leased or rented by City, when said vehicles and equipment are in operation or custody of Operator or its agents, employees, or officers or those on behalf of the Operator. Further, Operator shall have custody and possession of Owners' vehicles and equipment only for purpose of performing municipal services pertaining to operations and maintenance of City's systems under this Contract, Operator therefore indemnifies Owner and agrees to hold Owner harmless from, and to defend Owner against any and all damages or claims of damages for bodily injury or property damage caused or claimed to be caused by acts or omissions of Operator's employees, agents, officers or representatives, and third parties, or for damages to Owner's property as a result of acts or omissions of Operator's employees, agents, officers or representatives or for breach of this Contract on the part of the Operator. Operator shall not invoke City's ownership of property involved as a defense against claims of acts or omissions by Operator's employees of vehicles or equipment provided by City to Operator under this Contract. All indemnity of City by Operator under this Article shall include City employees, officials, agents and representatives.

Section 9.02 Intentionally left blank.

Section 9.03 Intentionally left blank.

Section 9.04 **Operator's Liability for Fines and Penalties.** Operator shall be responsible for, and indemnifies and agrees to hold harmless the Owner, its employees, officials, agents and representatives from liability or claims of liability of any kind, fines, penalties or assessments incurred for failure to perform responsibly by Operator under the terms of this Agreement, or violations of any governmental or agency regulations on the part of the Operator, Operator's employees, agents, officers or representatives, required of Operator to be performed under this Contract.

Section 9.05 **Insurance by Operator.** Operator agrees to procure and maintain, at its sole cost and expense, during the term of this Contract, insurance of the types and minimal amounts, as follows:

- A. **Worker's Compensation.** At all times during the term of this Contract, Operator shall keep worker's compensation insurance in effect in full compliance with all applicable State and Federal laws and regulations, with waiver of subrogation against City or its insurers.

- B. **Employer's Liability Insurance.** At all times during the term of this Contract, Operator shall keep employer's liability insurance in effect in minimum amounts of \$1,000,000.00 per individual claim covering injury or death to any employee of Operator **which may be outside the scope of liability under the Worker's Compensation Act**, and shall insure against losses due to employee dishonesty, forgery, and alteration with minimum limits of liability of \$100,000.

- C. **General Liability Insurance.** At all times during the term of this Contract, Operator shall keep commercial general liability insurance and general liability insurance for operation of all vehicles and equipment used in the course of business under this Contract covering third party liability in an amount of not less than \$2,000,000.00 combined single limits per occurrence for bodily injury or property damage. Said policy shall be insured by an insurance company, or companies, with a current rating by BEST of A-X (10), or otherwise, by companies accepted by Owner in writing in the event of a lesser rating. Rental Equipment must have a rider to provide insurance.

- D. **Comprehensive, Collision, and Uninsured Motorist Insurance.** Owner and Operator recognize that Operator assumes liability to City for use and control of City vehicles and equipment as set forth in Sec. 9.01 and Sec. 9.04 above. At all times during the term of the Contract, Operator shall maintain Automobile liability insurance and property damage insurance to cover and insure all equipment and property used by proposer or its contractors or agents in the course of business under the contract as well as all equipment and property of the owner that even though not in use at the time, is subject to use

by the proposer or its agents or contractors in the course of business under the contract to include without limitation comprehensive and collisions coverages as well as uninsured motorist insurance each with a minimum limits of \$1,000,000 per occurrence for bodily injury and property damage. Such coverages shall include without limitation any motor vehicle, whether owned, hired, or non-owned.

- E. **Additional Excess Liability Insurance.** At all times during the term of this Contract, Operator shall keep additional excess liability insurance including Pollution Liability Insurance in minimum amount of \$5,000,000.00.
- F. **Professional Liability Insurance.** At all times during the term of this Contract, Operator shall keep professional liability insurance in minimum amounts of \$2,000,000.00.
- G. **Increase in Insurance Premium.** In the event that insurance premium expense for Operator to maintain general liability insurance and comprehensive, collision, and uninsured motorist insurance required under Section 9.05, Paragraphs C and D of the Contract increases as a direct result of acquisition of additional or replacement equipment by the Owner, the City shall reimburse Operator for the increase in premium expense within thirty (30) days after said insurance is shown to have become due and paid by Operator.

Section 9.06 **Insurance Policy Requirements for Operator's Insurance.** All policies required to be carried by Operator under Article IX shall be written on an occurrence basis, except for professional liability, which may be written on a claims-made basis, and all said policies shall name the City as an additional insured. Said policies shall provide that insurers at risk are primary insurers and that no claim will be made by the insurers that the City is a primary or contributing insurer with respect to any liability covered by the policy or policies or where Operator is liable to City according to this Contract. All policies shall further provide that the City is in no way obligated for the payment of premiums thereon, and that said policies may not be canceled without thirty (30) days prior written notice to City. The existence or non-existence of insurance shall not waive or reduce or limit the responsibilities, obligations, or requirements, legal or otherwise, of Operator under this Contract or any amendment thereof or otherwise existing under law. Operator shall further purchase and acquire at its own expense such tail insurance policies or coverage upon or prior to cancellation, termination, cessation, or other end of this Contract or any amendment thereof to insure against the risks associated with this Contract and its amendments and Operator's performance, responsibilities, obligations, or requirements under the Contract and its amendments for up to one (1) full year (365 days) following the end of the Contract. Operator shall provide copies of all effective policies of insurance that are within the purview of this Section to Owner.

Section 9.07 **Insurance by Owner.** At all times during the term of this Contract, Owner, shall keep property damage insurance for all property including vehicles and equipment

owned by Owner while located on owner's premises including the facility building, improvements and contents owned by the City located at Laurel, Mississippi, excluding any personal property or contents owned by Operator, which shall be Operator's obligation to insure. Any property of Owner, including vehicles or equipment not properly or fully insured shall be the financial responsibility of the Owner to the extent of Owner's liability under this Contract. Said property is presently insured under Owner's self-insured retention plan with excess coverage by a reputable insurance company or companies.

Section 9.08 Notice of Claims. Each party agrees to notify the other forthwith of any asserted or potential claims or any occurrences that may involve the liability or insurance of the other, and to cooperate with each other in addressing such claims.

Section 9.09 Settlement of Uninsured Claims. In the event of damage to vehicles, equipment, or personal property of Owner for which Operator is liable to City under this Contract and where the damages are not covered by Operator's comprehensive, collision or uninsured motorist insurance, or claim is denied by Operator's Insurance carrier, Operator shall be responsible to City for the property loss and/or reasonable costs of repairs. It is recognized that the damaged vehicle or equipment is needed for work required by this Contract pending repair or replacement, then Operator on or after two (2) days from date of loss and fault determination by the Mayor, shall be responsible to obtain use at its expense of rental or other available vehicles or equipment until either the claim is settled or the vehicle is repaired or replaced. If lost or damaged vehicle or equipment is not repaired or replaced within four (4) weeks of damage or loss and fault determination by the Mayor, then City shall repair or replace subject vehicle or equipment per Mississippi State purchasing regulations, and deduct cost from Operator's monthly payment.

ARTICLE X. - COORDINATION BETWEEN OWNER AND OPERATOR

Section 10.01 Coordinators. The Mayor will represent the City in administering and coordinating the Contract relationship between City and OPERATOR for the Water, Sewer, and Utility Billing Maintenance portion of this Contract. City, by its Governing Authority, may subsequently designate by written notice to OPERATOR another City employee to serve as Water, Sewer, and Utility Billing Maintenance Coordinator, in the place and stead of the Mayor. City shall inform in writing OPERATOR of any change of Coordinators. The Coordinator may assign certain City employees to communicate with OPERATOR concerning special activities, i.e., traffic control, communications, maintenance, citizens' complaints, claims, etc.

Section 10.02 Sharing. It is understood that the Coordinator/Mayor or City's representative shall utilize certain adjoining and common office space with OPERATOR personnel, and the parties shall both utilize some of the clerical and public relations/communications employees who may have overlapping duties, and a working relationship and chain of authority shall be developed between the parties in order that this Contract can be administered with common personnel and common facilities in a manner that will not conflict with the overall services to be provided by the Water and Sewer.

ARTICLE XI. - ACCOUNTING RECORDS

Section 11.01 Operator's Records. Operator shall keep full and detailed records and books of account on the basis of generally accepted accounting practices in effect as of the effective date of this Agreement showing the actual direct cost to the Operator under the provisions of this Contract.

Section 11.02 Owner's Access. In addition to the records maintained under Section 11.01 above, Owner shall be afforded access to all the Operator's other records, books, correspondence, instructions, memoranda, payroll records, and similar data relating to this Contract and any of the work pertaining to the Contract.

Section 11.03 Preservation of Records. Operator shall preserve financial documents and other records to which Owner has access rights without additional compensation for a period of three (3) years, or such longer period as required by law, after final payment; and shall turnover or copy and release or otherwise preserve for access to City such documents and records upon termination or expiration of the Contract.

ARTICLE XII. - DEFAULT AND TERMINATION

Section 12.01 Default by Operator. The occurrence of any of the following events shall constitute **default by Operator** under this Contract:

- A. Operator's failure to comply with any term, provision, or covenant of this Contract continuing for a period of thirty (30) days after written notice thereof to Operator;
- B. Operator's abandonment of the project without notification and justification to Owner for seven (7) consecutive days or more;
- C. Operator's doing or permitting to be done anything which causes a lien upon Owner's property, real or personal, without the prior official consent of Owner, and failure to discharge or secure release of such lien within (30) days after written notice thereof.
- D. Operator's submitting false invoices for payment.

Section 12.02 Intentionally left blank.

Section 12.03 Restriction Against Hiring City Employees. It is recognized by the parties that solicitation and granting opportunities for employment of existing City employees by Operator is adverse to its contract relationship with the City and is detrimental to City's relationship with its employees. In recognition thereof, Operator agrees that it shall be a material breach of this Contract for the Operator to offer to employ or to employ City of Laurel employees while employed by the City or within twelve (12) months after their employment relationship with the City ceases. This does not include the time of the initial

start up of the Contract. Mayor shall approve, in writing, hiring of any City employee by the Operator if it occurs before the twelve (12) month period has expired.

Section 12.04 Termination for Breach of Contract. If Operator is in default or breach of this Contract as described in Section 12.01 above, the owner may terminate this Agreement for default by giving thirty (30) days written notice of termination.

Section 12.05 Other Remedies. For default or breach of contract, the Owner may bring an action for specific performance, or damages, including reasonable attorney fees and costs, and assert any remedies to which it is entitled in law or equity. Upon termination by Owner for default of Operator as herein provided, Owner may enter upon and take possession of the project, including all vehicles, equipment, tools, and facilities owned by City to the exclusion of Operator, and shall be entitled to reasonable attorney fees and costs required to re-take possession.

Section 12.06 Cooperation Upon Termination. Upon notice of termination by Owner, or, prior to voluntary termination due to the expiration of the Contract or mutual agreement, Operator shall assist Owner in an orderly transition of the staff and a resumption of operation of the project by Owner.

ARTICLE XIII. - LABOR DISPUTES; FORCE MAJEURE

Section 13.01 Labor Disputes Affecting Performance. In the event activities by Owner's employee groups or unions cause a disruption in Operator's ability to perform at the project, Owner or Operator may seek appropriate injunctive court orders, after conferring with each other in an attempt to resolve the problem. Operator will continue to operate the project on a "best-efforts" basis until any such disruptions cease.

Section 13.02 Force Majeure. Neither party shall be liable for its failure to perform its obligation under this Agreement if performance is made unpractical, impossible or abnormally costly due to any unforeseen occurrence beyond its reasonable control. The party invoking force majeure shall notify the other party in writing with full disclosure of circumstances and an estimate of effect on ability to perform the contract within ten (10) working days after its occurrence.

ARTICLE XIV. - OTHER CONTRACT PROVISIONS

Section 14.01 Cooperation. Each party agrees to use commercially reasonable efforts to assist the other party in discharging its obligations and responsibilities under this Contract, to complete and implement the transactions contemplated by this Contract, and to perform the conditions thereof, and to amend the Contract in a reasonable manner to clarify ambiguities that may arise in the administration of this Contract relationship.

Section 14.02 Waiver. No forbearance, delay or failure by either party to exercise any right under this Contract, and no partial or single exercise thereof shall constitute a waiver of that or any other right unless expressly provided therein, or unless such waiver shall be

in writing and signed by the waiving party.

Section 14.03 Entire Agreement. This Memorandum of Contract and the appendices and exhibits hereto, all of which form a material part hereof, set forth all the covenants, promises, agreements, conditions and understandings between Owner and Operator. Except as otherwise provided for herein no subsequent alteration, amendment, change, addition or modification to this Contract shall be binding upon either party unless reduced to writing, signed in behalf of each party by a duly authorized official, and approved by the Governing Authority of the City. Wherever used, the terms "Owner" and "Operator" shall include the respective officers, directors, elected or appointed officials, employees, and representatives.

Section 14.04 Captions and Interpretations. The caption, section numbers, article numbers and indices appearing in this Contract in no way define, limit, construe or describe the scope or intent of such section or article. The language and all parts of this Contract shall, in all cases, be construed as a part of the whole according to its fair meaning and not strictly for or against either party.

Section 14.05 Partial Invalidity. If any term, covenant, or condition of this Contract, or the application thereof to any person or circumstance, shall to any extent be invalid or unenforceable, the remainder of this Contract or the application of such term, covenant or condition to persons or circumstances other than those to which it is held invalid or unenforceable shall not be affected thereby, and each term, covenant or condition of this Contract shall be valid and shall be enforced to the fullest extent permitted by law.

Section 14.06 Successors and Assignability. All rights and liabilities herein given to or imposed upon the respective parties hereto shall, except as may otherwise be herein provided, extend to and bind the respective heirs, executors, administrators, successors and assigns of said parties. No right shall, however, inure to the benefit of any assignee of either party hereto, unless the assignment to such assignee was officially approved in writing by the other party. Such approval shall require action by the Governing Authority of the City.

Section 14.07 Survival of Obligations. All obligations of either party to the other which by their nature involve performance, and any particular, after the end of the term which cannot be ascertained to have been fully performed until after the end of the term, shall survive the expiration or sooner termination of the term.

Section 14.08 Governing Law. This Contract shall be governed by, construed and enforced in accordance with the laws of the State of Mississippi.

Section 14.09 Holding Over. In the event that operations and maintenance by Operator by actual or constructive consent by City, and use and possession of City properties by Operator shall continue after expiration of the term, or sooner termination hereof, the relationship between the parties shall be subject to all of the terms and conditions of this Contract, and nothing herein shall be construed to authorize any such continuance of the Contract, or limit either party's remedies in the event thereof.

Section 14.10 Amendment to Scope of Services. This Contract may be amended at any time hereafter to enlarge upon and expand the scope of Water and Sewer and Utility Billing services performed by Operator, or to decrease the scope existing of services, provided that such amendment or modification is in writing and is approved by the Governing Authority and OPERATOR prior to such change taking effect.

ARTICLE XV. - NOTICES

All notices shall be in writing and transmitted by certified mail or personal delivery, as follows:

Section 15.01

To Operator:

NAME: Bobby Knesal, P.E.

ADDRESS: 1710 23rd Avenue

Gulfport, MS 39501

PHONE: 228-863-5318

Unofficial Copy To:

LOCAL ADDRESS:

Laurel, MS 39501

Section 15.02

To Owner:

City of Laurel
Attention: Mayor
401 North 5th Avenue
Laurel, MS 39440

Unofficial Copy To:
City of Laurel
Attention: Director of Public Works
2504 Moose Drive
Laurel, MS 39440

APPENDICES

- A. Equipment & Vehicles
- B. Facilities
- C. Benchmark & Performance Criteria – Water Requests
- D. Benchmark & Performance Criteria – Water Routine Maintenance
- E. Benchmark & Performance Criteria – Sewer Requests
- F. Benchmark & Performance Criteria – Sewer Routine Maintenance
- G. Intentionally Left Blank
- H. Intentionally Left Blank
- I. Intentionally Left Blank
- J. Intentionally Left Blank
- K. Mission Critical Personnel, Minimum Wage Rates, Detailed Job Descriptions, Education Requirements, Organization Chart
- L. Appropriation of Costs and Services
- M. Audit Measurements
- N. Inspection Report Forms
- O. Customer Survey
- P. List of Annual Parades & Special Events / Holiday Schedule
- Q. Intentionally Left Blank
- R. Intentionally Left Blank
- S. Daily Operator's Checklist for Equipment
- T. Contractor Reporting Forms
- U. Intentionally Left Blank
- V. Intentionally Left Blank
- W. Standard Operating Procedures including Work Order System
- X. Application for Payment
- Y. Benchmark & Performance Criteria – Utility Billing
- Z. Public Works Vehicle Usage Policy
- AA. One Year Service Request Statistics
- BB. City's Current Personnel Policies
- CC. Intentionally Left Blank
- DD. Maps of the System
- EE. NPDES Permits for Treatment Plants
- FF. Benchmark & Performance Criteria – Wastewater Treatment Plants
Routine Maintenance
- GG. Sewer Pump Station Information
- HH. Risk Management Documents
- II. Security Vulnerability Assessment – 2022
- JJ. MDEQ Inspection Reports for POTW Number 1 and POTW
Number 2
- KK. MSDH Inspection of the Water System 2025

IN WITNESS WHEREOF, each of Owner and Operator has caused this Memorandum of Professional Services Contract to be signed, executed and delivered by its duly authorized representative on the day and date hereinafter stated after having been first duly authorized so to act.

OWNER:

OPERATOR:

CITY OF LAUREL, MISSISSIPPI

H2O Innovation Operation & Maintenance, LLC

BY: _____
MAYOR

BY: 
Senior Vice President

ATTESTED BY:

ATTESTED BY:

CITY CLERK
_____, 2026



SECRETARY
Chief Commercial Officer
March 13th, 2026