

THIRD AMENDATORY AGREEMENT

This **THIRD AMENDATORY AGREEMENT** is made and entered by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (the “City”), and **POLARIZED WATER SOLUTIONS**, a Colorado limited liability company, whose address is 42029 Colonial Trail, Elizabeth, Colorado 80107 (the “Contractor”), referred to herein jointly as the “Parties” and individually as a “Party”.

WITNESSETH:

WHEREAS, the Parties entered into an On-Call Sand Trap/Interceptor Repair and Maintenance Services Agreement dated January 3, 2022, an Amendatory Agreement dated August 16, 2022, and a Second Amendatory Agreement dated December 20, 2023 (collectively, the “Agreement”) to provide services for the various Sand and Grease Traps located throughout the City; and

WHEREAS, the Parties now wish to modify the Agreement to extend the Term, increase the Maximum Contract Amount, and as otherwise set forth below.

NOW THEREFORE, in consideration of the premises and the Parties’ mutual covenants and obligations, the Parties agree as follows:

1. Section 3 of the Agreement, entitled “**TERM**”, is amended to read as follows:

“3. **TERM**: The term of the Agreement started on January 1, 2022 and shall expire at 11:59:59 p.m. on December 31, 2025. The Term of this Agreement may be extended by the City under the same terms and conditions by a written amendment to this Agreement for up to one (1) additional one (1) year term. This Agreement may be terminated earlier as provided in this Agreement and may be extended as provided in a separate amendment to this Agreement (“Term”).”

2. Section 4 of the Agreement, entitled “**COMPENSATION AND PAYMENT**”, Sub-section A, entitled “**Maximum Contract Amount**”, is amended to read as follows:

“A. **Maximum Contract Amount**: The City agrees to pay the Contractor, and the Contractor agrees to accept, as the total compensation for the Work rendered and costs incurred (including all "out-of-pocket" expenses) during the term of this Agreement a sum not to exceed **EIGHT HUNDRED FIFTY THOUSAND DOLLARS AND NO CENTS (\$850,000.00)**, which amount shall not be exceeded unless this Agreement is modified to increase said amount by a duly authorized and written amendment to this Agreement executed by the Parties in the same

manner as this Agreement. All Work is subject to inspection by the City prior to payment.”

3. Section 28 of the Agreement, entitled “**PREVAILING WAGE REQUIREMENTS:**”, is amended to read as follows:

“**28. PREVAILING WAGE REQUIREMENTS:**

“**A.** Contractor shall comply with, and agrees to be bound by, all requirements, conditions and City determinations regarding the Payment of Prevailing Wages Ordinance, Sections 20-76 through 20-79, D.R.M.C. including, but not limited to, the requirement that every covered worker working on a City owned or leased building or on City-owned land shall be paid no less than the prevailing wages and fringe benefits in effect on the date the bid or request for proposal was advertised. In the event a request for bids, or a request for proposal, was not advertised, Contractor shall pay every covered worker no less than the prevailing wages and fringe benefits in effect on the date funds for the contract were encumbered. A copy of the applicable prevailing wage rate schedule is attached as **Exhibit F** and incorporated herein by reference.

“**B.** Date bid or request for qualifications/proposals was advertised: 10/19/2021.

“**C.** Prevailing wage and fringe rates will adjust on the yearly anniversary of the actual date of bid or proposal issuance, if applicable, or the date of the written encumbrance if no bid/proposal issuance date is applicable. Unless expressly provided for in this Agreement, Contractor will receive no additional compensation for increases in prevailing wages or fringe benefits.

“**D.** Contractor shall provide the Auditor with a list of all subcontractors providing any services under the contract.

“**E.** Contractor shall provide the Auditor with electronically-certified payroll records for all covered workers employed under the contract.

“**F.** Contractor shall prominently post at the work site the current prevailing wage and fringe benefit rates. The posting must inform workers that any complaints regarding the payment of prevailing wages or fringe benefits may be submitted to the Denver Auditor by calling 720-913-5000 or emailing auditor@denvergov.org.

“**G.** If Contractor fails to pay workers as required by the Prevailing Wage Ordinance, Contractor will not be paid until documentation of payment satisfactory to the Auditor has been provided. The City may, by written notice, suspend or terminate work if Contractor fails to pay required wages and fringe benefits.”

4. A new section 44, entitled “**COMPLIANCE WITH DENVER WAGE LAWS:**”, is hereby added to the Agreement as follows:

“44. COMPLIANCE WITH DENVER WAGE LAWS: To the extent applicable to the Contractor’s provision of Services hereunder, the Contractor shall comply with, and agrees to be bound by, all rules, regulations, requirements, conditions, and City determinations regarding the City’s Minimum Wage and Civil Wage Theft Ordinances, Sections 58-1 through 58-26 D.R.M.C., including, but not limited to, the requirement that every covered worker shall be paid all earned wages under applicable state, federal, and city law in accordance with the foregoing D.R.M.C. Sections. By executing this Agreement, the Contractor expressly acknowledges that the Contractor is aware of the requirements of the City’s Minimum Wage and Civil Wage Theft Ordinances and that any failure by the Contractor, or any other individual or entity acting subject to this Agreement, to strictly comply with the foregoing D.R.M.C. Sections shall result in the penalties and other remedies authorized therein.”

5. As herein amended, the Agreement is affirmed and ratified in each and every particular.

6. This Third Amendatory Agreement will not be effective or binding on the City until it has been fully executed by all required signatories of the City and County of Denver, and if required by Charter, approved by the City Council.

**[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK;
SIGNATURE PAGES FOLLOW.]**

Contract Control Number: GENRL-202475586-03 [GENRL-202161473-03]
Contractor Name: POLARIZED WATER SOLUTIONS

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver, Colorado as of:

SEAL

CITY AND COUNTY OF DENVER:

ATTEST:

By:

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

Attorney for the City and County of Denver

By:

By:

By:

Contract Control Number:
Contractor Name:

GENRL-202475586-03 [GENRL-202161473-03]
POLARIZED WATER SOLUTIONS

By: Signed by:
Justin Evett
7C66D896E431416... _____

Name: Justin Evett
(please print)

Title: COO - Pump Division
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)