

Prepared By and Return to:
Stefanie Beskovoyne, Esq.
Utility Systems Department
City of Port St. Lucie
1001 SE Prineville Street
Port St. Lucie, FL 34984

**LEASE OF EQUIPMENT, CHEMICALS AND SERVICES AGREEMENT
BETWEEN THE
CITY OF PORT ST. LUCIE, FLORIDA
AND
SOURCE TECHNOLOGIES LLC**

**SOLE SOURCE
ODOR SCRUBBERS
CONTRACT # 20240174**

THIS SERVICES AND MAINTENANCE AGREEMENT (“AGREEMENT”) is entered into as of the 1st day of October 2024 (“Effective Date”) by and between the **CITY OF PORT ST. LUCIE**, a Florida municipal corporation whose mailing address is 121 SW Port St. Lucie Blvd., Port St. Lucie, FL 34984 (“City”) and **SOURCE TECHNOLOGIES LLC**, a Florida limited liability company (“Contractor”) whose mailing address is 157 Venture Court, Suite 9, Lexington, KY 40511. The City and Contractor may be referred to individually as a “Party” or collectively as “the Parties.”

RECITALS

WHEREAS, the City desires to acquire the services of Contractor to maintain and service odor scrubber systems at Lift Stations SP 16, NP 39, NP 41 and NP 22 (“Odor Scrubber Systems”); and

WHEREAS, Contractor sent a proposal to the City on September 4, 2024 for ST 200/ST 209 Air Scrubber Pricing and related services, attached hereto as Exhibit “A” (“Scope of Work”); and

WHEREAS, Contractor can provide proprietary chemicals, equipment and services for the treatment of odors and corrosion at Odor Scrubber Systems located at certain Utility Systems Department’s Lift Stations; and

WHEREAS, the City desires to lease the odor scrubbing units from Contractor, a sole source provider, the attached hereto as Exhibit “B” (“Sole Source Letter”); and

WHEREAS, the City has utilized the services of Contractor previously via Contract #20210078 and finds this Contractor to provide reliable and efficient services; and

WHEREAS, City desires to expand this program in the future should funding become available; and

WHEREAS, City hereby authorizes Contractor to enter onto City-property solely for the purposes set forth herein; and

WHEREAS, the Contractor agrees to own, insure, operate and maintain the Odor Scrubber Systems at SP 16, NP 22, NP 39, and NP 41, and any other stations, as amended, in accordance with the following terms and conditions,

NOW THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. The above recitals are true and correct and by this reference incorporated herein and made a part hereof.
2. All other terms and conditions of the Scope of Work shall be incorporated herein by reference.

SECTION I – SCOPE OF SERVICES AND RESPONSIBILITIES

- A. GENERAL RESPONSIBILITIES. Contractor agrees to provide those services to City, generally and typically encompassed by and as a function of Contractor's professional discipline(s) and as more fully specified in connection with the Project more particularly described in the attached Scope of Work. Contractor shall use, in performing any and all services for City, the level of care, skill, and due diligence expected of and recognized by a reasonable, prudent, and experienced professional in Contractor's professional discipline(s) as being sound professional practice under similar conditions and circumstances. **If Contractor fails to possess or use such care, skill, and due diligence in providing the services, Contractor shall be responsible to City for any loss or damages resulting there from, except as monetarily limited herein.**

CONTRACTOR IS REQUIRED TO REPORT ANY SPILL, LEAK, DAMAGE, INJURY, HARM OR RELATED INCIDENTS OCCURRING ON CITY PROPERTY TO THE CITY IMMEDIATELY UTILIZING THE CONTACT INFORMATION CONTAINED HEREIN. ANY BREACH OF THIS PROVISION COULD RESULT IN A BREACH OF THIS AGREEMENT AND RESULT IN ITS SUBSEQUENT CANCELLATION.

- B. SPECIFIC RESPONSIBILITIES.

1. The specific services to be provided by Contractor shall be pursuant to the terms and conditions hereof and as further defined in the Scope of Work or as otherwise amended by a written agreement signed by both parties (hereinafter collectively referred to as the "Documents"). The Scope of Work includes the specific services and work to be provided by Contractor, City's responsibilities in addition to those provided herein, and the method and amount of Contractor's compensation.

2. In order to accomplish the work described and authorized by City within the time frames and conditions set forth herein, Contractor agrees to observe the following requirements:
 - (a) Contractor shall maintain an adequate and competent staff of professionally qualified persons throughout the performance of this Agreement so as to achieve acceptable and timely completion of the work.
 - (b) Contractor will perform all services in such a manner as to be in conformance with all applicable federal, state, and local laws, codes, rules, and regulations.
 - (c) Contractor shall prepare all applications and completed forms and other documents as may be specified in the Scope of Work.
 - (d) Contractor shall cooperate fully with City in order that the services may be properly scheduled and coordinated. City's representatives shall have the right to inspect the work of Contractor at any time during normal business hours.
 - (e) Contractor shall, upon request of City, make available on electronic digital media the documents and other data produced by Contractor under this Agreement. Contractor may not charge the City for access or copies of such electronic digital media.
 - (f) Contractor must maintain all requisite licenses and acquire any and all permits required for the Scope of Work.
3. Contractor shall furnish additional copies of the reports, drawings, specifications, and other documents produced by Contractor as may be requested by City in addition to those required in the Scope of Work. All original documents furnished to Contractor by City pursuant to this Agreement or the Scope of Work are and shall remain the property of City and shall be delivered to City upon completion of the work or at City's request, whichever occurs first.
4. Compensation to Contractor for services rendered shall be in accordance with this Agreement or the Scope of Work or amendment issued and delivered hereunder. Except as otherwise provided herein, all of Contractor's services are included within the scope of basic compensation provided for in the Scope of Work or amendment signed by both parties.

SECTION II – DURATION OF AGREEMENT

A. AGREEMENT. This Agreement shall remain in full force and effect until completion of the work as specified in the Scope of Work unless otherwise terminated pursuant to the terms of this Agreement.

B. SCOPE OF WORK. The Scope of Work may be modified by City's issuance and delivery to Contractor of a written amendment which will become effective upon acknowledgment by Contractor and return of an executed original to City.

C. ORDERLY AND CONTINUOUS PROGRESS. The provisions of this Agreement, the Scope of Work, unless stated otherwise therein, anticipate the orderly and continuous progress of the work.

SECTION III – TERM AND TERMINATION

A. TERM AND TERMINATION. This Agreement is effective when fully executed and the term shall commence on the date this Agreement is fully executed ("Initial Term").-Upon expiration of the Initial Term, this Agreement shall automatically renew for successive three-year terms ("Renewal Term") unless either party provides notice of their intent to not renew within 30 days of the expiration of the Initial Term or any successive Renewal Terms.

B. TERMINATION FOR CAUSE. The occurrence of any one or more of the following events shall constitute cause for the City to declare the Contractor in default of its obligations under the Agreement:

- i. The Contractor fails to deliver or has delivered nonconforming services or fails to perform, to the City's satisfaction, any material requirement of the Agreement or is in violation of a material provision of this Agreement, including, but without limitation, the express warranties made by the Contractor;
- ii. The Contractor fails to make substantial and timely progress toward performance of the Agreement;
- iii. The revocation or loss of required license(s) or certification(s) may result in immediate termination of the Agreement effective as of the date on which the license or certification is no longer in effect;
- iv. The Contractor becomes subject to any bankruptcy or insolvency proceeding under federal or state law to the extent allowed by applicable federal or state law including bankruptcy laws; the Contractor terminates or suspends its business; or the City reasonably believes that the Contractor has become insolvent or unable to pay its obligations as they accrue consistent with applicable federal or state law;
- v. The Contractor has failed to comply with applicable federal, state and local laws, rules, ordinances, regulations and orders when performing within the scope of the Agreement;
- vi. The Contractor has engaged in conduct that has or may expose the City to liability, as determined in the City's sole discretion;
- vii. The Contractor furnished any statement, representation or certification in connection with the Agreement, which is materially false, deceptive, incorrect or incomplete.

C. TERMINATION FOR CONVENIENCE. Either Party may terminate this Agreement at any time without cause, by providing thirty (30) days' prior written notice to the other Party.

Any such termination shall be accomplished by delivery in writing of a notice to Contractor.

- D. PAYMENT IN THE EVENT OF TERMINATION. In the event this Agreement is terminated by either Party prior to the anticipated completion date, Contractor shall receive payment from City for the unpaid portion, if any, of Contractor's services actually authorized and provided under this Agreement to the effective date of such termination, provided that Contractor is not in default of any provision of this Agreement, the Scope of Work.

SECTION V – PAYMENTS TO CONTRACTOR

City shall pay to Contractor, and Contractor agrees to accept, for services rendered pursuant to this Agreement, fees in accordance with the following conditions:

1. The basic compensation of Contractor shall be as provided in the Scope of Work specifying the services to be performed by Contractor, except as may be otherwise authorized by City.
2. City is exempt from state and local sales and use taxes and shall not be invoiced for same.
3. The Scope of Work, as well as any amendment, may be divided into units of deliverables or phases of work, including, but not limited to, reports, findings, drawings, drafts, or other work product, that must be received and accepted in writing by City's designated representative prior to approval of payment for such work.
4. Contractor shall submit a duly certified and proper invoice for approval to City's representative. Such invoices shall be reviewed by City and, if approved, shall be submitted to the City's finance department for payment together with certification that the services invoiced have been rendered and that the services are in conformity with this Agreement. In any case in which an improper invoice is submitted by Contractor, City shall within ten (10) business days after such improper invoice is received by the designated City representative, notify Contractor that the invoice is improper and indicate what corrective action on the part of Contractor is needed to make the invoice proper.
5. In the event a dispute occurs between City and Contractor concerning payment of an invoice, such disagreement shall be resolved by the City Manager or his designee. City shall pay Contractor the amount agreed between the Parties as proper for the invoice or, if agreement cannot be reached, the amount determined by a party mutually agreed upon by both Parties to be proper for the invoice. Such payment shall be less any amounts previously paid by City with respect to such invoice.
6. In order for both Parties to close their books and records, Contractor shall clearly state "Final Invoice" on Contractor's final billing to City for the services provided. Contractor shall submit with such Final Invoice certification that all services under this Agreement, the Scope of Work have been performed and that all fees, charges, and costs have been invoiced to City, together with a list of suppliers providing goods or services under this Agreement, the Scope of

Work, and certification that all such suppliers have been fully paid. No Final Invoice shall be approved for payment until Contractor has fully complied with this provision.

SECTION V – INDEMNIFICATION AND INSURANCE

Contractor agrees to indemnify, defend, and hold harmless, the City, its officers, agents, and employees from, and against any and all claims, actions, liabilities, losses and expenses including, but not limited to, attorney’s fees for personal, economic, or bodily injury, wrongful death, loss of or damage to property, at law or in equity, which may arise or may be alleged to have risen from the negligent acts, errors, omissions or other wrongful conduct of Contractor, agents, laborers, subcontractors or other personnel entity acting under Contractor control in connection with the Contractor’s performance of services under this Agreement. To that extent, Contractor shall pay any and all such claims and losses and shall pay any and all such costs and judgments which may issue from any lawsuit arising from such claims and losses including wrongful termination or allegations of discrimination or harassment, and shall pay all costs and attorney’s fees expended by the City in defense of such claims and losses, including appeals. That the aforesaid hold-harmless agreement by Contractor shall apply to all damages and claims for damages of every kind suffered, or alleged to have been suffered, by reason of any of the aforesaid operations of Contractor or any agent laborers, subcontractors, or employee of Contractor regardless of whether or not such insurance policies shall have been determined to be applicable to any of such damages or claims for damages. Contractor shall be held responsible for any violation of laws, rules, regulations, or ordinances affecting in any way the conduct of all persons engaged in or the materials or methods used by Contractor on the work. This indemnification shall survive the termination of this Agreement.

The Contractor shall on a primary basis and at its sole expense agree to maintain in full force and effect at all times during the life of this Agreement, insurance coverage, limits, including endorsements, as described herein. The requirements contained herein, as well as City's review or acceptance of insurance maintained by Contractor are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by Contractor under the Agreement.

The parties agree and recognize that it is not the intent of the City of Port St. Lucie that any insurance policy/coverage that it may obtain pursuant to any provision of this Agreement will provide insurance coverage to any entity, corporation, business, person, or organization, other than the City of Port St. Lucie and the City shall not be obligated to provide any insurance coverage other than for the City of Port St. Lucie or extend its immunity pursuant to Section 768.28, Florida Statutes, under its self-insured program. Any provision contained herein to the contrary shall be considered void and unenforceable by any party. This provision does not apply to any obligation imposed on any other party to obtain insurance coverage for this project and/or any obligation to name the City of Port St. Lucie as an additional insured under any other insurance policy or otherwise protect the interests of the City of Port St. Lucie as specified in this Agreement.

Workers’ Compensation Insurance & Employer’s Liability: The Contractor shall agree to maintain Workers' Compensation Insurance & Employers' Liability in accordance with Section 440, Florida Statutes. Employers’ Liability must include limits of at least \$100,000.00 each accident,

\$100,000.00 each disease/employee, and \$500,000.00 each disease/maximum. A Waiver of Subrogation endorsement must be provided. Coverage shall apply on a primary basis.

Commercial General Liability Insurance: The Contractor shall agree to maintain Commercial General Liability insurance, issued under an Occurrence form basis, including Contractual liability, to cover the hold harmless agreement set forth herein, with limits of not less than:

Each occurrence	\$1,000,000
Personal/advertising injury	\$1,000,000
Products/completed operations aggregate	\$2,000,000
General aggregate	\$2,000,000
Fire damage	\$100,000 any 1 fire
Medical expense	\$10,000 any 1 person

Additional Insured: An Additional Insured endorsement **must** be attached to the certificate of insurance (should be CG2026) under the General Liability policy. Coverage is to be written on an occurrence form basis and shall apply as primary and non-contributory. Defense costs are to be in addition to the limit of liability. A waiver of subrogation is to be provided in favor of the City. Coverage shall extend to independent contractors and fellow employees. Contractual Liability is to be included. Coverage is to include a cross liability or severability of interests provision as provided under the standard ISO form separation of insurers clause.

Except as to Workers' Compensation and Employers' Liability, Certificates of Insurance and policies shall clearly state that coverage required by the Agreement has been endorsed to include the City of Port St. Lucie, a municipality of the State of Florida, its officers, agents and employees as Additional Insured for Commercial General Liability and Business Auto policies. The name for the Additional Insured endorsement issued by the insurer shall read: **“City of Port St. Lucie, a municipality of the State of Florida, its officers, employees and agents shall be listed as additional insured and shall include Contract # 20240174 – the Lease of Equipment, Chemicals, and Services Agreement – Sole Source Odor Scrubbers.”** Copies of the Additional Insured endorsements shall be attached to the Certificate of Insurance. The policies shall be specifically endorsed to provide thirty (30) days written notice to the City prior to any adverse changes, cancellation, or non-renewal of coverage thereunder. In the event that the statutory liability of the City is amended during the term of this Agreement to exceed the above limits, the Contractor shall be required, upon thirty (30) days written notice by the City, to provide coverage at least equal to the amended statutory limit of liability of the City.

Business Automobile Liability Insurance: The Contractor shall agree to maintain Business Automobile Liability at a limit of liability not less than \$1,000,000.00 each accident covering any auto, owned, non-owned and hired automobiles. In the event the Contractor does not own any automobiles, the Business Auto Liability requirement shall be amended allowing Contractor to agree to maintain only Hired & Non-Owned Auto Liability. This amended requirement may be satisfied by way of endorsement to the Commercial General Liability, or separate Business Auto Coverage form. Certificate holder must be listed as additional insured. A waiver of subrogation must be provided. Coverage shall apply on a primary and non-contributory basis.

Property Insurance: The Contractor shall agree to procure and maintain Commercial Property Insurance covering the buildings, including Building Ordinance and Law coverage, fixtures and equipment, improvements and betterments related to this Agreement. Flood insurance is required for building/improvements and betterments if property lies within a Special Flood Hazard Area. Perils insured should be equivalent to ISO special causes of loss form and the valuation of covered property should be replacement cost. Coverage is to be written in an amount of not less than the full replacement cost without deduction for depreciation, special form, including perils of fire, windstorm/hail, earth movement, theft, vandalism, and malicious mischief. All forms of Business Income to be included. Equipment Breakdown / Boiler & Machinery is to be included.

Pollution Insurance: Contractor shall procure and agree to maintain in full force during the term of this Contract, Contractors Pollution Liability Insurance in limits not less than \$1,000,000 per occurrence and \$2,000,000 aggregate, for any operations relating to the construction, handling, storage, and transportation of hazardous materials and/or waste. Contractors Pollution should be in force for no less than the entire term of the project and two years extended Completed Operations. The City of Port St. Lucie shall be listed as an additional insured. A waiver of subrogation shall be provided in favor of the City. Coverage shall apply on a primary and non-contributory basis.

Waiver of Subrogation: The Contractor shall agree by entering into this Agreement to a Waiver of Subrogation for each required policy. When required by the insurer, or should a policy condition not permit an Insured to enter into a pre-loss contract to waive subrogation without an endorsement, then Contractor shall agree to notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent.

Deductibles: All deductible amounts shall be paid for and be the responsibility of the Contractor for any and all claims under this Agreement. Where an SIR or deductible exceeds \$5,000, the City of Port St. Lucie reserves the right, but not obligation, to review and request a copy of the Contractor's most recent annual report or audited financial statement.

It shall be the responsibility of the Contractor to ensure that all independent contractors and subcontractors comply with the same insurance requirements referenced herein. It will be the responsibility of the contractor to obtain Certificates of Insurance from all independent contractors and subcontractors listing the City as an Additional Insured without the language, "when required by written contract." If Contractor, any independent contractor, or any subcontractor maintain higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by Contractor, independent contractor, or subcontractor.

The Contractor may satisfy the minimum limits required above for either Commercial General Liability, Business Auto Liability, and Employers' Liability coverage under Umbrella or Excess Liability. The Umbrella or Excess Liability shall have an Aggregate limit not less than the highest "Each Occurrence" limit for either Commercial General Liability, Business Auto Liability, or Employers' Liability. When required by the insurer, or when Umbrella or Excess Liability is written on Non-Follow Form, the City shall be endorsed as an "Additional Insured."

The City, by and through its Risk Management Department, reserves the right, but not the obligation, to review, modify, reject or accept any required policies of insurance, including limits, coverages or endorsements, herein from time to time throughout the term of this Agreement. All insurance carriers must have an AM Best rating of at least A:VII or better. When a self-insured retention or deductible exceeds \$5,000, the City reserves the right, but not the obligation, to review and request a copy of the Contractor's most recent annual report or audited financial statement.

SECTION VI – CONFLICT

In the event of a conflict in this Agreement or the Scope of Work or other contract documents, the terms of this Agreement shall apply and supersede over conflicting terms.

SECTION VII – NOTICES

Any notices shall be in writing, addressed to the Party's representative designated herein, as amended, and shall be deemed served as follows: (1) on the date hand delivered, as evidenced by an affidavit of service; (2) on the date delivered by courier service such as FedEx, UPS, or U.S. Priority or Express Mail; (3) on the date delivered by First Class U.S. Mail, as evidenced by a return receipt; (4) on the fifth day after the date sent by First Class U.S. Mail, as evidenced by an affidavit of mailing executed by the sender, a copy of which affidavit is provided simultaneously to the recipient with the notice or request. Any notice or request the delivery of which is refused by the recipient shall be deemed given as of the date it is mailed or sent. Notwithstanding the foregoing, notices and request, including but not limited, necessary or required for prosecution of Contractor's services and work pursuant to the Scope of Work may be exchanged electronically between the Parties, the transmission of which shall be simultaneously provided in writing and hand delivered or mailed by First Class U.S. Mail to the parties identified herein:

For the City:

Mike Jolly
Superintendent
City of Port St. Lucie
Utility Systems Department
1001 SE Prineville Street
Port St. Lucie, FL 34983
MJolly@CityofPSL.com
772-579-9952 (cell)

For the Contractor:

BJ Statler
President
Source Technologies LLC
bstatler@sourcetechologiesllc.com

NOTICE OF DEFAULT. If there is a default event caused by the Contractor, the City shall provide written notice to the Contractor requesting that the breach or noncompliance be remedied within the period of time specified in the City's written notice to the Contractor. If the breach or noncompliance is not remedied within the period of time specified in the written notice, the City may:

- i. Immediately terminate the Agreement without additional written notice(s); and/or
- ii. Enforce the terms and conditions of the Agreement and seek any legal or reasonable remedies; and/or

- iii. Procure substitute services from another source and charge the difference between the Agreement and the substitute Agreement to the defaulting Contractor. Any such charge, in the City's sole option, may be charged via invoice to the Contractor or deducted from payments owed to the Contractor.

SECTION VIII – PUBLIC RECORDS COMPLIANCE

Contractor acknowledges its responsibility for compliance with Chapter 119, Florida Statutes. Pursuant to section 119.0701, Florida Statutes, Contractor shall comply with all public records laws, specifically to:

- A. Keep and maintain public records required by the City to perform the service.
- B. The timeframes and classifications for records retention requirements must be in accordance with the General Records Schedule GS1-SL for State and Local Government Agencies. (See <http://dos.myflorida.com/library-archives/records-management/general-records-schedules>)
- C. Records include all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business with the City. Contractor's records under this Agreement include but are not limited to, supplier/subcontractor invoices and contracts, documents, meeting notes, emails, and all other documentation generated during the term of this Agreement.
- D. Upon request from the City's custodian of public records, provide the City with a copy of the requested records or allow the records to be inspected or provide copies within a reasonable time at a cost that does not exceed the cost provided for by law that may be charged by a local government. If a Contractor does not comply with the City's request for records, City shall enforce the provisions in accordance with the Agreement.
- E. Ensure that records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement if the Contractor does not transfer the records to City.
- E. Upon completion of the Agreement, transfer, at no cost, to the City all public records in possession of the Contractor or keep and maintain public records required by the City to perform the service. If the Contractor transfers all public records to the City upon completion of the Agreement, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon the completion of the Agreement, the Contractor shall meet all applicable requirements for retaining public records. All records kept electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.

IF CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:

**CITY CLERK
121 SW PORT ST. LUCIE BLVD.
PORT ST. LUCIE, FL 34984
(772) 871-5157
PRR@CityofPSL.com**

G. A Contractor who fails to provide the public records to the City within a reasonable time may also be subject to penalties under Section 119.10, Florida Statutes.

SECTION IX – NONDISCRIMINATION

Contractor shall not discriminate against any person in its operations, activities or delivery of services under this Agreement. Contractor shall affirmatively comply with all applicable provisions of federal, state and local equal employment laws and shall not engage in or commit any discriminatory practice against any person based on race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation or any other factor which cannot be lawfully used as a basis for service delivery.

SECTION X –LIMITATION OF LIABILITY

For good and valuable consideration paid by City to Contractor, the receipt and sufficiency of which is hereby acknowledged by Contractor, Contractor agrees the City's liability, if any, in all instances shall not exceed the monetary limits set forth in section 768.28, Florida Statutes (as amended), and no other provision of this Agreement or related documents shall be deemed or operate as a waiver of City's sovereign immunity. The Parties' obligations under this section shall survive the termination of this Agreement for any matter arising prior to the effective date of the termination.

SECTION XI – WAIVER OF COMPLIANCE; CONSENTS

Any term or condition of this Agreement may be waived by the Party that is entitled to the benefit thereof, but no such waiver shall be effective unless set forth in a written instrument duly executed by or on behalf of the Party waiving such term or condition. Any waiver by any Party of any condition, or of the breach of any provision, term, covenant, representation, or warranty contained in this Agreement, in any one or more instances, shall not invalidate this Agreement, nor shall such waiver be deemed to be nor construed as a furthering or continuing waiver of any such condition, or of the breach of any other provision, term, covenant, representation or warranty of this

Agreement. Except as otherwise provided herein, the failure of a Party to assert any of its rights under this Agreement or otherwise shall not constitute a waiver of such rights. A waiver by a Party shall not invalidate this Agreement, nor shall such waiver be construed as a waiver of any other covenant, condition, representation, or warranty. A waiver by a Party of the time for performing any act shall not constitute a waiver of time for performing any other act or the time for performing an identical act required to be performed.

SECTION XII – THIRD-PARTY BENEFICIARIES; NO JOINT VENTURE

The terms and provisions of this Agreement are intended solely for the benefit of the Parties and their respective successors and permitted assigns, and it is not the intention of the Parties to confer third-party beneficiary rights upon any other person. Nothing in this Agreement, or any exhibit or attachment hereto, creates or is intended to create an association, trust, partnership, joint venture, or other entity or similar legal relationship among or between the Parties.

SECTION XIII – CONTRACTOR ORGANIZATION

Contractor’s status as a legal entity, if applicable, shall continuously be in good standing, active, and current with the state of its incorporation or registration and with the State of Florida, and Contractor shall keep its status active and current throughout the term of this Agreement. Contractor shall keep City apprised of all changes in its designated officers, directors, and other officials, any of any name change.

SECTION XIV – PUBLIC ENTITY CRIMES

This Agreement shall be null and void if Contractor or any person or affiliate is identified on the Department of Management Services’ “Convicted Vendor List.” This list is defined as consisting of persons and affiliates who are disqualified from public contracting and purchasing process because they have been found guilty of a public entity crime. No public entity shall award any contract to, or transact any business in excess of the threshold amount provided in section 287.017, Florida Statutes, for Category Two with any person or affiliate on the “Convicted Vendor List” for a period of thirty- six (36) months from the date that person or affiliate was placed on the “Convicted Vendor List” unless that person or affiliate has been removed from the list. By signing and submitting this Agreement, Contractor attests that neither it nor any affiliate has been placed on such Convicted Vendor List.

SECTION XV – GOVERNING LAW AND VENUE

This Agreement shall be governed by and construed in accordance with the laws of the State of Florida (without giving effect to conflict of law principles) as to all matters, including but not limited to, matters of validity, construction, effect, performance, and remedies. Venue for resolution of any dispute arising from or under this Agreement or its performance shall be in St. Lucie County, Florida and all actions and proceedings arising from or under this Agreement or otherwise related to the subject matter of this Agreement shall be in the court of the State of Florida in St. Lucie County, Florida, which court shall have exclusive jurisdiction for such purpose.

SECTION XVII – WAIVER OF JURY TRIAL

Each of the Parties hereto irrevocably waives its right to a jury trial with respect to any action or claim arising out of any dispute in connection with this Agreement or otherwise related to the subject matter of this Agreement. This provision is a material inducement for the Parties hereto to enter into this Agreement and shall survive the termination of this Agreement.

SECTION XIX – REMEDIES

Any remedies provided in this Agreement shall be deemed cumulative and additional and are not in lieu of or exclusive of each other or of any other rights or remedies any Party otherwise has by law, equity, or statute.

SECTION XX – ATTORNEYS' FEES; COSTS

In any action arising under this Agreement or the Scope or Work, the prevailing Party is entitled to recover reasonable fees for the services of such Party's attorneys, experts, and Contractors, together with costs of the action, through trial and appeal, in an amount to be determined by the court (and including fees and costs incurred in establishing entitlement to and the amount of such fees and costs). In the event each Party shall partially prevail in such action, costs and reasonable attorneys' fees shall be equitably apportioned between the Parties by the court.

SECTION XXI – MISCELLANEOUS

- A. PAROL EVIDENCE RULE. This Agreement and its exhibits and attachments (if applicable), together with any amendments properly executed pursuant to the provisions of this Agreement, set forth all the promises, agreements, conditions, and understandings, either oral or written, between the Parties, and there are no other agreements and understandings, oral or written, with reference to the subject matter hereof that are not merged into this Agreement. Except as otherwise provided in this Agreement, all exhibits and attachments referred to herein are intended to be, and hereby are, specifically made a part of this Agreement. The Parties were given the opportunity to have their legal counsel participate in the preparation of this Agreement; therefore, this Agreement shall be construed neither against nor in favor of any Party hereto, but rather in accordance with the fair meaning thereof.
- B. WORK CHANGES. The City reserves the right to order work changes in the nature of additions, deletions, or modifications without invalidating the Agreement, and agrees to make corresponding adjustments in the Agreement price and time for completion. Any and all changes must be authorized in writing and signed by the City's Purchasing Agent. Any adjustment in the Agreement price resulting in a credit or a charge to the City shall be determined by mutual agreement of the parties before starting the work involved in the change.
- C. DELIVERY OF DOCUMENTS. Upon completion of Contractor's work authorized under this Agreement, or upon early termination of this Agreement by either Party, Contractor

shall, within ten (10) days, or any extensions thereto as may be mutually agreed to by the Parties, deliver or otherwise make available to City all documents, materials, files, and electronic digital media, including, but not limited to, reports, drawings, plans, specifications, and other data and documents, that have been obtained, prepared, or produced by Contractor in performing services under this Agreement, regardless of whether the work on such documents and materials has been completed or is in progress.

- D. **SAFETY PRECAUTIONS.** Precaution shall be exercised at all times for the protection of persons, including employees, and property. The Contractor shall erect and maintain all necessary safeguards for the protection of the Contractor's employees and subcontractors, City personnel, and the general public, including, but not limited to, posting danger signs, and other warnings against hazards as is prudent and/or required by law to protect the public interest. All damage, injury or loss to persons and/or property caused, directly or indirectly, in whole or in part, by the Contractor's employees, or subcontractor(s), or anyone directly or indirectly employed by said parties, shall be reported to the City immediately and remedied by the Contractor at Contractor's sole expense. The safety provisions of all applicable laws, codes, statutes, and building and construction codes shall be observed. Additionally, Contractor shall provide the City with current Safety Data Sheets for all chemicals utilized on the sites.

SECTION XXII – ASSIGNMENT AND AMENDMENT

Neither this Agreement nor the Documents nor any duties or obligations thereunder, shall be assigned or delegated by Contractor without the prior written consent of City. This Agreement and the Scope of Work may be amended only in writing signed by the Parties and made a part of this Agreement by reference hereto.

SECTION XXIII – SEVERABILITY

If any provision of this Agreement is held to be illegal, invalid, or unenforceable under any present or future law, and if the rights or obligations of any Party under this Agreement will not be materially and adversely affected thereby, such provision shall be fully severable; this Agreement will be construed and enforced as if such illegal, invalid, or unenforceable provision had never comprised a part hereof; the remaining provisions of this Agreement will remain in full force and effect and will not be affected by the illegal, invalid, or unenforceable provision; the Parties shall negotiate in good faith to restore insofar as practicable the benefits to each Party that were affected by such ruling and to include as a part of this Agreement a legal, valid, and enforceable provision as similar in terms to such illegal, invalid, or unenforceable provision as possible.

SECTION XXIV – E-VERIFY

Contractor agrees to comply with section 448.095, Florida Statutes, including the following:

1. Contractor must register with and use the E-Verify system to verify the work authorization status of all new employees of the Contractor. Contractor must provide City with sufficient proof of compliance with this provision before beginning work under this Agreement.

2. If Contractor enters into a contract with a subcontractor, Contractor must require each and every subcontractor to provide the Contractor with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. The Contractor shall maintain a copy of each and every such affidavit(s) for the duration of the Agreement and any renewals thereafter.
3. The City shall terminate this Agreement if it has a good faith belief that a person or an entity with which it is contracting has knowingly violated section 448.09(1), Florida Statutes.
4. Contractor shall immediately terminate any contract with any subcontractor if Contractor has, or develops, a good faith belief that the subcontractor has violated section 448.09(1), Florida Statutes. If City has or develops a good faith belief that any subcontractor of Contractor knowingly violated section 448.09(1), Florida Statutes, or any provision of section 448.095, Florida Statutes, the City shall promptly notify the Contractor and order the Contractor to immediately terminate the contract with the subcontractor.
5. The City shall terminate this Agreement for violation of any provision in this section. If the Agreement is terminated under this section, it is not a breach of contract and may not be considered as such. If the City terminates this Agreement under this section, the Contractor may not be awarded a public contract for at least one (1) year after the date on which the Agreement was terminated. A contractor is liable for any additional costs incurred by the City as a result of the termination of a contract.
6. The City, Contractor, or any subcontractor may file a cause of action with a circuit or county court to challenge a termination under section 448.095(5)(c), Florida Statutes, no later than twenty (20) calendar days after the date on which the Agreement was terminated. The parties agree that such a cause of action must be filed in St. Lucie County, Florida, in accordance with the Venue provision herein.

SECTION XXV – COOPERATION WITH THE INSPECTOR GENERAL

Pursuant to section 20.055, Florida Statutes, it is the duty of every state officer, employee, agency, special district, board, commission, contractor, and subcontractor to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing pursuant to this section. Contractor understands and will comply with this statute.

SECTION XXVI – AUDITS

The Contractor shall establish and maintain a reasonable accounting system that enables the City to readily identify the Contractor's assets, expenses, costs of goods, and use of funds throughout the term of the Agreement for a period of at least seven (7) years following the date of final payment or completion of any required audit, whichever is later. Records shall include, but are not limited to, accounting records, written policies and procedures; subcontract files (including proposals of successful and unsuccessful bidders, bid recaps, etc.); all paid vouchers including those for out-of-pocket expenses; other reimbursement supported by invoices; ledgers; cancelled checks; deposit slips; bank statements; journals; original estimates; estimating work sheets; contract amendments and change order files; backcharge logs and supporting documentation; insurance documents; payroll documents; timesheets; memoranda; and correspondence. The Contractor shall permit the City's authorized auditor or any authorized representative of the State,

and where federal funds are involved, the Comptroller General of the United States, or any other authorized representative of the United States government, to access and examine, audit, excerpt and to make copies of all books, documents, papers, electronic or optically stored and created records, or other records relating or pertaining to this Agreement kept by or under the control of the Contractor, including, but not limited to, those kept by the Contractor, its employees, agents, assigns, successors, and subcontractors. Such records shall be made available to the City during normal business hours at the Contractor's office or place of business. The Contractor shall not impose a charge for audit or examination of the Contractor's books and records. If an audit discloses incorrect billings or improprieties, the City reserves the right to charge the Contractor for the cost of the audit and appropriate reimbursement. Any adjustments and/or payments that must be made as a result of any such audit or inspection of the Contractor's invoices and/or records shall be made within a reasonable amount of time (not to exceed ninety (90) days) from presentation of the City's findings to the Contractor. Evidence of criminal conduct will be turned over to the proper authorities.

The Contractor shall also ensure the City has these rights with Contractor's employees, agents, assigns, successors, and subcontractors, and the obligations of these rights shall be explicitly included in any subcontracts or agreements formed between the Contractor and any subcontractors to the extent that those subcontracts or agreements relate to fulfillment of the Contractor's obligations to the City.

SECTION XXIV – CAPTIONS

The captions, paragraphs, sections, or letters appearing in this Agreement are inserted only as a matter of convenience and in no way affect, define, limit, construe, or describe the scope or intent of the sections and paragraphs of this Agreement.

SECTION XXV – COUNTERPARTS

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties are authorized to bind their respective entities and have affixed their hands and seals on the dates entered below.

[SIGNATURE PAGES FOLLOW]

ATTEST:

Sign: _____

Print: _____

[SEAL]

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me ___ via online notarization or ___ physical presence this ___ day of _____ 2024, by BJ Statler as President of Source Technologies LLC. He is personally known to me or produced _____ as identification and did/did not take an oath.

CONTRACTOR:

By:  *BJ Statler* _____

BJ Statler
President

Date: 09/26/24

NOTARY PUBLIC:

Name:
Commission No.
My Commission Expires:

CITY OF PORT ST. LUCIE

By: _____
Caroline Sturgis
City Purchasing Agent

Date: _____

EXHIBIT "A"
SCOPE OF WORK



September 4, 2024

Mr. Mike Jolly
Port St. Lucie Utilities
900 SE Ogden Road
Port St. Lucie, FL 34983

Office: 772.344.4121
Email: mjolly@cityofPSL.com

RE: Air Scrubber Lease at Lift Stations

Mr. Jolly,

Source Technologies is pleased to provide the following information for your review and consideration.

Source Technologies appreciates the opportunity to be of service. We look forward to continuing our working relationship with Port St. Lucie Utilities. Should you have any questions regarding this proposal, or if I can be of further assistance, please contact me at (724) 516.3120

Sincerely,

A handwritten signature in black ink that reads "BJ Statler".

BJ Statler

Source Technologies will provide our proprietary, sole sourced EVG chemistry and air scrubbing units at the following locations for the treatment of odors and corrosion at specified lift stations lifted below:

Location	Scrubber Unit	Monthly Lease Price	
NP 41	ST 200	\$1,550.00	
NP 39	ST 200	\$1,550.00	
NP 22	ST 209	\$1,875.00	
SP 16	ST 209	\$1,875.00	
		\$6,850.00	Estimated Monthly Total Cost

Source Technologies Responsibilities:

- Purchase and provide all chemicals for maintenance and upkeep of the odor control units.
- Perform regular inspections of the odor control units at each lift station.
- Inspect each lift station monthly and provide reports following inspections.
- If Port St. Lucie receives an odor complaint, Source shall respond to the complaint within 48 hours to address and/or remedy the complaint.
- Notify Port St. Lucie immediately should a defect or repair be necessary.

Port St. Lucie Responsibilities:

- Provide power and water to each site.
- Responsible for any damage to Source’s owned equipment caused by Port St. Lucie or vandalism.

The lease option will require Source Technologies to completely maintain and operate the air scrubbing unit. This will include all chemical upkeep, equipment repair or replacement, and site reviews.

Milestones

1. Beginning and End Date of Initial Term:

Beginning of Initial Term: **October 1, 2024**
 End of Initial Term: **September 30, 2029**

Contract Period: **5 (Five) years**

2. Extension. Port St. Lucie Utilities reserves the right to extend the term of this contract, provided however, that Port St. Lucie Utilities shall give written notice of its intentions to extend this contract no later than thirty (30) days prior to the expiration date of the contract. Contract renewal shall be based on the Contractor’s performance and the effectiveness of the odor control service. Either party may cancel this contract, in whole or in part, by giving six (6) months prior notice in writing.