

AGREEMENT FOR DWIGHT H. HUNTER POOL SLIDE

THIS AGREEMENT is entered into this _____ day of _____, 2023 between the CITY OF GAINESVILLE, a Florida municipal corporation ("CITY"), and RAIN DROP PRODUCTS LLC, an Ohio limited liability company registered to do business in Florida ("CONTRACTOR").

WHEREAS, Sourcewell issued Request for Proposals No. 010521 and entered a Contract to provide playground and water play equipment with related accessories and services, Contract No. 010521-RDP, with CONTRACTOR dated February 18, 2021 ("Sourcewell Contract"); and

WHEREAS, CITY desires to enter into this Agreement with CONTRACTOR for purchase of water play equipment based upon the Sourcewell Contract.

NOW, THEREFORE, in consideration of the foregoing premises and covenants contained herein the parties agree as follows:

1. CONTRACTOR shall provide water play equipment in accordance with the terms and conditions of the Sourcewell Contract as modified herein, including CONTRACTOR's Proposal No. 1850712 dated February 9, 2023 (but the Warranty Details and General Terms and Conditions therein shall not apply because the terms are governed by this Agreement and the Sourcewell Contract), attached hereto and incorporated as Exhibit A. Subsequent purchases may be made by Purchase Order that incorporates this Agreement. In the event of conflict between contract documents, the order of precedence shall be first this Agreement, then the Sourcewell Contract, and finally the Proposal in Exhibit A.

2. The term of this Agreement shall begin upon execution and continue through September 30, 2023. Time is of the essence, and all deliverables and work in Exhibit A shall be completed by such date.

3. All references in the Sourcewell Contract to "Sourcewell" or "Participating Entities" or Participating Public Agency" shall be construed and deemed to mean the CITY.

4. CITY shall pay CONTRACTOR Three Hundred Fifty-Three Thousand Eight Hundred Fifty-Four Dollars and Eighty-Four Cents (\$353,854.84) in accordance with the price breakdown in Exhibit A. Subsequent purchases shall be in accordance with the price terms of the Sourcewell Contract then in effect.

5. Nothing in this Agreement shall be interpreted as a waiver of the CITY's sovereign immunity as granted under Section 768.28, Florida Statutes.

6. Florida has a very broad public records law and certain records of a contractor may be considered public records. Accordingly, by entering into an agreement with the CITY, CONTRACTOR must:

- a. Keep and maintain public records required by the CITY to perform the service.

b. 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 copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, F.S., or as otherwise provided by law.

c. Ensure that public 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 contract term and following completion of the contract if the CONTRACTOR does not transfer the records to the CITY.

d. Upon completion of the contract, 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 contract, 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 completion of the contract, the CONTRACTOR shall meet all applicable requirements for retaining public records. All records stored 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 THE 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 (352) 393-8187, waiteed@gainesvillefl.gov, ELIZABETH WAITE, CITY OF GAINESVILLE WSPP, P.O. BOX 490, STATION 24, GAINESVILLE, FL 32627-0490.

7. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, except for its conflict of laws provisions. In the event of any legal action under this Agreement, venue shall be in Alachua County, Florida for any State court action and Gainesville, Florida for any federal court action.

8. CONTRACTOR shall not discriminate on the basis of race, color, religion, gender, national origin, marital status, sexual orientation, age, disability or gender identity, or other unlawful forms of discrimination in the performance of this Agreement. CONTRACTOR understands and agrees that a violation of this clause shall be considered a material breach of this Agreement and may result in termination of the Agreement. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.

9. CONTRACTOR shall (1) utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the CONTRACTOR during the term of the Agreement; and (2) shall expressly require any subcontractor performing work or providing services pursuant to the Agreement to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.

10. This Agreement constitutes the entire agreement between the parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day first above written.

RAIN DROP PRODUCTS, LLC

CITY OF GAINESVILLE

By: _____

By: _____

Print Name: _____

Cynthia W. Curry, City Manager

Title: _____

Date: _____

Date: _____

Approved as to Form and Legality:

Assistant City Attorney

DRAFT