

RESOLUTION 23-236

A RESOLUTION TO AUTHORIZE A CONTRACT FOR MS4 STREAM MONITORING SERVICES

WHEREAS, the City of Spring Hill Stormwater Department (MS4) is required by Tennessee Department of Environment and Conservation (TDEC) to perform sampling of the City's streams every five (5) years for permitting compliance; and

WHEREAS, the City of Spring Hill advertised and received quotes for this service on October 19, 2023; and

WHEREAS, Civil Environmental Consultants (CEC) was the lowest bidder; and

WHEREAS, City recommends awarding the contract for services to CEC in the amount of \$34,000.00.

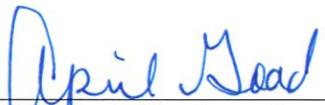
NOW, THEREFORE BE IT RESOLVED, that the City of Spring Hill Board of Mayor and Aldermen, authorize a contract for Stream Monitoring Services at a cost not to exceed \$34,000.00 to CEC.

Passed and Adopted by the Board of Mayor and Aldermen of the City of Spring Hill, Tennessee on the 20th day of November, 2023.



Jim Hagaman, Mayor

ATTEST:



April Goad, City Recorder

LEGAL FORM APPROVED:



Patrick Carter, City Attorney



REQUEST: **Approval of Resolution 23-236**

SUBMITTED BY: Tyler Scroggins, Public Works Director

DATE: November 20, 2023

RE: To authorize a contract with CEC for MS4 stream monitoring services

ATTACHMENTS: Contract

PURPOSE:

The purpose of this resolution is to approve the contract for MS4 stream monitoring.

BACKGROUND:

MS4 monitoring programs are intended to provide data that, when combined with other MS4 information, identifies pollutant sources and assists in determining the effectiveness of the program in improving water quality. TDEC requires analytical monitoring (sampling and analyses of the streams) and non-analytical monitoring (visual stream inspections) to be done every five years and the results will be turned in to TDEC in our annual report.

The City publicly advertised a RFP for these services with a bid opening October 19, 2023. Two bids were received with Civil Environmental Consultants (CEC) being the low bidder at a cost of \$34,000.00

FINANCIAL IMPACT:

Funds are budgeted for this service in the Stormwater budget -Contract Services budget (416-43150-52549).

STAFF RECOMMENDATION:

Staff recommends the bid to CEC and authorizing a contract with same to perform the stream monitoring.

SPRING HILL VENDOR SERVICES AGREEMENT

THIS SERVICES AGREEMENT (“Agreement”) is made by and between THE CITY OF SPRING HILL, TENNESSEE (the “City”) and **M.A.Y Construction Company, Inc.** (“Vendor”) (collectively as “Parties”), and is entered into on _____, and is effective as of the Effective Date set forth herein.

RECITALS:

WHEREAS, the City requires services for stormwater stream monitoring that it cannot provide itself and desires to contract with a third-party independent contractor to provide said services for the City’s benefit; and

WHEREAS, pursuant to state law, the City issued published a Request for Proposal (RFP) and Vendor submitted a bid; and

WHEREAS, the City has selected a Vendor to provide the services it desires.

NOW, THEREFORE, in consideration of the foregoing facts and circumstances, the mutual covenants and promises contained herein and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by each of the Parties, the Parties do hereby agree to the following:

1. **EFFECTIVE DATE.** The Effective Date of this Agreement shall be _____.
2. **TERM.** The term of this Agreement shall be from the Effective Date herein through _____.
3. **INSURANCE.** Vendor shall maintain in full force and effect, during the entire term of this Agreement, liability insurance, along with commercial general liability, workers’ compensation and automobile insurance, in the minimum limits set forth below, naming City as an additional insured, and shall provide to the City certificates of insurance upon reasonable request.
 - a. Commercial general liability, including premises-operations, products/completed operations, broad form property damage, blanket contractual liability, independent contractors, personal

injury or bodily injury with a policy limit of not less than One Million Dollars (\$1,000,000), combined single limit, per occurrence;

- b. Business automobile liability for owned vehicles, hired, and non-owned vehicles, with a policy limit of not less than One Million Dollars (\$1,000,000), combined single limit, per occurrence for bodily injury and property damage;
- c. Workers' compensation insurance as required by the State of Tennessee. The Provider agrees to waive, and to obtain endorsements from its workers' compensation insurer waiving subrogation rights under its workers' compensation insurance policy against the City, its officers, agents, employees, and volunteers arising from work performed by Provider for the City and to require each of its subcontractors, if any, to do likewise under their workers' compensation insurance policies.

4. **VENDOR RESPONSIBILITIES.**

- a. Provide analytical monitoring for stream segments within the City of Spring Hill MS4 program area
- b. Provide non-analytical monitoring for stream segments within the City of Spring Hill MS4 program area
- c. Provide the City with a final report, including records of monitoring information, no later than June 30, 2024

5. **CITY'S RESPONSIBILITIES.**

- a. No applicable City responsibilities

6. **INDEPENDENT CONTRACTOR.** It is expressly agreed and understood that Vendor is an independent contractor and shall not represent itself, its agents or employees as agents or employees of the City. Nothing herein is to be construed as to create any employer-employee relationship between Vendor and the City; and neither Vendor nor any of its employees shall be deemed to be employees or agents of

the City. At all times material to this Agreement, any subcontractors or agents employed by Vendor shall be considered acting under the supervision, direction and control of City.

7. **AMENDMENT AND TERMINATION.** This Agreement may be terminated without cause at any time by either Party through the issuance of a thirty (30) day written notice pursuant to this Agreement. Termination with cause shall not require advance notice.
8. **NO CONFLICT OF INTEREST.** No City official, employee or member of the governing body of the City shall be admitted to any share or part of this Agreement or to any benefit to arise from the same. Likewise, no officer, employee, or member of the governing body of Vendor or who exercises any function or responsibilities in connection with the carrying out of the project to which this Agreement pertains shall have any private interest, direct or indirect, in this Agreement.
9. **ASSIGNMENT; SUBCONTRACTING.** This Agreement may not be assigned by either Party. The Vendor shall not subcontract its responsibility pursuant to this Agreement to a third party.
10. **MODIFICATION.** This Agreement shall not be modified or amended except by an instrument in writing executed by or on behalf of Vendor and the City.
11. **NONDISCRIMINATION.** Consistent with the City's policy and state and federal law that harassment and discrimination are unacceptable conduct, the Vendor agrees that harassment or discrimination directed toward a permit applicant, a City employee, or a citizen by the Vendor or Vendor's employee or subconsultant on the basis of race, religious creed, color, national origin, ancestry, handicap, disability, marital status, sex, age, or sexual orientation will not be tolerated. The Vendor agrees that any and all violations of this provision shall constitute a material breach of this Agreement.
12. **EXECUTION IN COUNTERPARTS.** This Agreement may not be amended, changed, modified, altered or terminated except by instrument in writing signed by the Parties. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

13. **TIME.** The Contractor shall finish within the agreed upon time frame.
14. **VENUE AND JURISDICTION.** The venue and jurisdiction for any disputes arising pursuant to this Agreement shall be in the Circuit Court for Maury County, Tennessee.
15. **INDEMNITY.** Vendor shall provide a defense, indemnify and hold the City harmless from and against any and all claims arising from Vendor or from the conduct of its business or from any activity, work, or things, including all damages, costs, attorney's fees, expenses and liabilities incurred in the defense of any claim or action arising there from.
16. **APPLICABLE LAW.** This Agreement shall be governed by and construed in accordance with the laws of the State of Tennessee.
17. **FORCE MAJEURE.** The Parties shall not be liable to each other or be deemed to be in breach of this Agreement for any failure or delay in rendering performance arising out of causes beyond their respective reasonable control and without its fault or negligence. Such causes may include, but are not limited to, acts of God or the public enemy, terrorism, significant fires, floods, earthquakes, epidemics, quarantine restrictions, strikes, freight embargoes, or Governmental Authorities approval delays which are not caused by any act or omission by the parties, and unusually severe weather. The Parties agree to notify each other of the existence and nature of any delay.
18. **BINDING EFFECT.** This Agreement shall inure to the benefit of and shall be binding upon City and Vendor and their respective heirs, administrators, successors and assigns.
19. **SEVERABILITY.** In the event any provision of this Agreement or any instrument delivered in connection herewith shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provisions hereof or thereof.
20. **NOTICES.** All notices or other communications hereunder shall be deemed sufficiently given and shall be deemed given when delivered by hand-delivery or mailed by first class, postage prepaid, registered or certified mail and addressed as follows:

If to Vendor: _____

If to City: Mayor Jim Hagaman
199 Town Center Parkway
P.O. Box 789
Spring Hill, TN 37174

Copy to: Patrick M. Carter, Esq.
Middle Tennessee Law Group, PLLC
d/b/a Wolaver, Carter & Heffington
809 South Main Street, Suite 100
Columbia, TN 38401

City and Vendor may, by notice given hereunder, designate from time to time any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

21. **CAPTIONS.** The paragraph headings in this Agreement are for convenience only, and they form no part of this Agreement and shall not affect its interpretation.
22. **ENTIRE AGREEMENT.** This Agreement represents the entire agreement between Vendor and the City and supersedes all prior negotiations, representations and agreements either written or oral, unless otherwise expressly stated herein.
23. **PAYMENT OF EXPENSES; BREACH.** Each of the Parties to this Agreement shall pay his/her/its own expenses, costs and attorney's fees associated with the negotiation, preparation, execution and delivery of this Agreement and the documents related thereto and the consummation of the transactions contemplated herein. In the event of a breach in the performance of any of the provisions of this Agreement or any of the documents related thereto, the breaching party shall pay the reasonable attorney's fees and court costs of the non-breaching party associated with the enforcement of any of the provisions of any such document or this Agreement.

IN WITNESS WHEREOF, Vendor and the City have caused their duly authorized representatives to execute and deliver this Agreement, all as of the day and year first written above.

CITY OF SPRING HILL, a Tennessee municipality

By: 

JIM HAGAMAN
Mayor of Spring Hill
Date of Execution: 11-20-2023

By: _____
VENDOR REPRESENTATIVE
Date of Execution: _____