

<b>Effective Date:</b>	<b>City Vendor#:</b> 41029
<b>Between the City of Charlotte ("City") and Strickland Waterproofing Co., Inc. ("Company")</b>	
<p>This cover sheet ("Cover Sheet") and each of the attachments listed below ("Attachments") together comprise <b>Waterproofing Services</b> (the "Contract") entered into as of the <b>Effective Date</b>, between <b>Strickland Waterproofing Co., Inc.</b> a North Carolina Business Corporation registered to do business in North Carolina, and the City of Charlotte, a North Carolina municipal corporation:</p>	
Service Terms General Conditions Price Schedule Scope of Services	Federal Contracting Terms Federal Aviation Contracting Terms Confidentiality Terms CBI Forms
<b>Term:</b> This Contract will start on the <b>Effective Date</b> and continue through midnight on <b>October 1, 2027</b> , through (the "Initial Term").	<b>Renewals:</b> The City will have the option to renew this Contract for up to one (1) two-year term by giving notice to Company.
<b>Services.</b> Company agrees to perform the services described in the Attachments ("Services") under the terms and conditions set forth in this Contract.  <b>Compensation.</b> The City will pay for the Services at the rates set forth in the Price Schedule. These rates shall remain firm for the duration of this Contract, unless otherwise stated in the Price Schedule.  <b>Payment Cap:</b> Notwithstanding any renewal, the City's payment obligations under this Contract shall not exceed: <b>\$5,100,000</b> (the "Payment Cap") absent a written amendment executed by the City.  <b>Capitalized terms used in this Contract have the meanings assigned in this Contract.</b>	<u>Email invoices to:</u> <a href="mailto:cocap@charlottenc.gov">cocap@charlottenc.gov</a> -or- Mail invoices to the following: City of Charlotte A/P Attn: P.O. Box 37979 Charlotte, NC 28237-7979  Each invoice shall include the <u>purchase order number</u> and <u>Contract Number</u> and shall be accompanied by a sales tax statement <u>or</u> shall have the sales tax amount shown clearly, along with the invoice total, on the face of the invoice.
<u><b>Vendor Business Contact</b></u> Edgar Black Strickland Waterproofing Co., Inc. 500 North Hoskins Road Charlotte, North Carolina 28216 Phone: 704-347-1345 Email: Eblack@stricklandwaterproofing.com	<u><b>City Business Contact</b></u> Bill Moore General Services, Facilities Operations 531 Spratt Street Charlotte, North Carolina 28206 Phone: 980-214-7508 Email: William.Moore@charlottenc.gov
By signing below, the parties accept and agree to the terms set forth in this Contract.	
<b>Strickland Waterproofing Co., Inc.</b> Signature: <u>X</u> <u>Edgar Black</u> Print Name: <u>Edgar Black</u> Title: <u>Vice President</u> Date: <u>9-18-24</u>	<b>City of Charlotte</b> Signature: _____ Print Name: _____ Title: _____ Date: _____

## SERVICE TERMS

This Attachment is incorporated into the Waterproofing Services ("Contract") between the **City of Charlotte** ("City") and **Strickland Waterproofing Co., Inc.** ("Company" or "the Company"). Capitalized terms not defined in this Attachment will have the meanings stated in the Contract.

- 1. Services.** Company agrees to perform the services described in the Scope of Services Attachment (the "Services"). Additional Scope of Services Attachments may be added to this Contract by a written amendment, and once added shall become part of the "Services."
- 2. Expenses.** Company shall not be entitled to charge the City for any travel, mileage, meals, materials, or other costs or expenses associated with this Contract.
- 3. Premium Rates.** Unless explicitly listed in the Price Schedule, Company will not charge the City at overtime, emergency, or other premium rates, regardless of the number of hours worked in a given day or week.
- 4. Billing Records.** During the term of this Contract and for three (3) years after it terminates, Company will keep documentation sufficient to verify the amounts billed to the City. The City has the right to audit Company's timecards, invoices, reports and other documents relating to amounts charged under this Contract, and will not be required to pay for: (a) any time billed that was excessive in light of the result achieved, or (b) any Services that did not meet the standards and requirements referenced in this Contract. Company agrees to make such documents available for inspection and copying by the City in Charlotte, North Carolina between the hours of 9:00 a.m. to 5:00 p.m. Monday through Friday, within ten (10) days after the City requests them. The City shall pay its own expenses relating to such audits, but shall not have to pay any expenses or additional costs of the Company. However, if non-compliance is found that would have cost the City in excess of \$10,000 but for the audit, then the Company shall be required to reimburse the City for the cost of the audit.
- 5. Employment Taxes and Employee Benefits.** Company acknowledges and agrees that Company's employees and subcontractors are not employees of the City. Company represents, warrants, and covenants that Company will pay all withholding tax, social security, Medicare, unemployment tax, worker's compensation, and other payments and deductions that are required by law relating to provision of the Services. Company shall indemnify, defend, and hold harmless the City and the City's officials, employees and agents from and against any and all claims, losses, damages, fines, penalties, obligations, liabilities and expenses, including but not limited to reasonable attorneys' fees arising from Company any claim that an individual performing the Service is an employee of the City.
- 6. City Ownership of Work Product.** The City will have exclusive ownership of all reports, documents, designs, ideas, materials, concepts, plans, creative works, software, data, programming code and other work product developed for or provided to the City in connection with this Contract, and all patent rights, copyrights, trade secret rights and other intellectual property rights relating thereto (collectively the "Intellectual Property"). Company hereby assigns and transfers all rights in the Intellectual Property to the City. Company further agrees to execute and deliver such assignments and other documents as the City may later require to perfect, maintain, and enforce the City's rights as sole owner of the Intellectual Property, including all rights under patent and copyright law. Company hereby appoints the City as attorney in fact to execute all such assignments and instruments and agrees that its appointment of the City as an attorney in fact is coupled with an interest and is irrevocable.
- 7. License to Use Intellectual Property.** The City grants Company a royalty-free, non-exclusive license to use and copy the Intellectual Property to the extent necessary to perform this Contract. Company may not to use the Intellectual Property for other purposes without the City's prior written consent, and Company agrees to treat the Intellectual Property and all City data with the same level of protection that Company afford Company's own trade secrets and intellectual property.
- 8. Contract Data.** The City shall have exclusive ownership of the following (collectively referred to as "Contract Data"): (a) all data produced or generated under this Contract for the benefit of the City or its customers; and (b) all data provided by, accessed through, or processed for the City under this Contract. Company will promptly provide the Contract Data to the City in machine readable format upon the City's request at any time while this Contract is in effect or within three years after this Contract terminates.
- 9. Company Will Not Sell or Disclose Contract Data.** Company will treat Contract Data as Confidential Information under this Contract. Company will not reproduce, copy, duplicate, disclose, or use the Contract Data in any manner except as authorized by the City in writing or expressly permitted by this Contract.
- 10. Supporting Data.** If Company will be providing work product under this Contract that is based on an analysis of data Company will provide the City with all data supporting Company's analysis ("Supporting Data") in a machine-readable format, together with a written description of the methods of analysis. Excluding Confidential Information of Company (as defined in this Contract), the City shall be permitted to reproduce, copy, duplicate, disclose, or use the Supporting Data for any purpose, and it shall be treated as a public record under North Carolina law.
- 11. City Resources.** The City is not required to provide any information, personnel, facilities, or other resources aside from what is specifically required in the Scope of Service unless the City can do so at no cost. When this Attachment requires the City to provide a resource, Company shall request it in writing in a timely manner. If Company will be delayed in performing due to any failure by the City to provide a resource required by this Contract, Company shall promptly notify in writing both the City Business Contact and Official Notice Recipients identified in the General Conditions. Failure or delay by the City to provide required resources will not excuse

- Company from any failure or delay in performance unless Company has followed these steps. The duration of any excused delay will be limited to the time period after Company has followed these steps.
- 12. Compensation for Termination Without Cause.** If the City terminates this Contract without cause, the City shall pay Company for Services rendered through the date of termination at the rates set forth in the Price Schedule. The City's obligation to make such payments is conditioned upon Company having complied with the Section of General Conditions captioned "Obligations On Termination," and is subject to the City's right to inspect billing records and dispute any charges as provided under this Attachment.
- 13. Removal and Replacement of Personnel.** "Key Personnel" are the individuals listed as such on the Scope of Service, and any other individuals whom the City reasonably deems integral to successful performance of the Services. Absent the City's written approval, Company will not: (i) remove Key Personnel from performance of this Contract or permit Company's subcontractors to remove Key Personnel from performance of this Contract; or (ii) materially reduce or allow Company's subcontractors to materially reduce the involvement of Key Personnel in performing this Contract. The City will have the right to interview and approve Key Personnel, and also to require the removal and replacement of Key Personnel if the City has reasonable grounds to believe that the individual is not suitable for the assignment, including without limitation insufficient experience, inadequate qualifications, lack of necessary skills, improper conduct, background check results, or other grounds. Upon receipt of a request for rejection, removal, or replacement of an individual, Company will promptly comply with the request and provide the City with the requisite background materials for a proposed alternate or successor. If Company does not believe the City has reasonable grounds for making the request, Company will notify the City in writing and the City will have the right to exercise its termination rights under the Contract, or to suspend the Contract and any payments due until such matter is resolved.
- 14. Regeneration of Lost or Damaged Data.** If Company loses or damages any data in the City's possession, Company will, at Company's own expense, promptly replace or regenerate such data from the City's machine-readable supporting material, or obtain, at Company's own expense, a new machine-readable copy of lost or damaged data from the City's data sources.
- 15. City Materials and Data Treated as Confidential.** Company will treat as confidential information all data and materials provided by or processed for the City in connection with this Contract. Company will not reproduce, copy, duplicate, disclose, or in any way treat the data supplied by the City in any manner except that contemplated by this Contract.
- 16. Background Checks.**
- 16.1. BACKGROUND CHECKS REQUIRED PRIOR TO WORK.** Prior to starting work under this Contract, Company will conduct a background check on each Company employee assigned to work under this Contract, and will require its subcontractors (if any) to perform a background check on each of their employees assigned to work under this Contract (collectively, the "Background Checks"). Each Background Check must include: (a) the person's criminal conviction record from the states and counties where the person lives or has lived in the past seven (7) years; and (b) a reference check.
- 16.2. NEW CHECKS REQUIRED EACH YEAR AND PRIOR TO NEW PROJECTS.** After starting work under this Contract, Company will, on an annual basis, perform a Background Check for each Company employee assigned to work under this Contract during that year, and will require its subcontractors (if any) to do the same for each of their employees. If Company undertakes a new project under this Contract, then prior to commencing performance of the project Company will perform a Background Check for each Company employee assigned to work on the project, and will require its subcontractors (if any) to do the same for each of their employees.
- 16.3. ADDITIONAL INVESTIGATION OF CERTAIN EMPLOYEES.** If a person's duties under this Contract fall within the categories described below, the Background Checks that Company will be required to perform (and to have its subcontractors perform) shall also include the following additional investigation:
- 16.3.1. If the job duties require driving: A motor vehicle records check.
- 16.3.2. If the job duties include responsibility for initiating or affecting financial transactions: A credit history check.
- 16.3.3. If job duties include entering a private household or interaction with children: A sexual offender registry check.
- 16.4. COMPLIANCE WITH APPLICABLE LAW.** Company must follow all State and Federal laws when conducting Background Checks, including but not limited to the Fair Credit Reporting Act requirements, and shall require its subcontractors to do the same.
- 16.5. DUTY TO REPORT INFORMATION TO CITY.** Company shall notify the City of any information discovered in the Background Checks that may be of potential concern for any reason.
- 16.6. CHECKS CONDUCTED BY CITY.** The City may conduct its own background checks on principals of Company as the City deems appropriate. By operation of the public records law, background checks conducted by the City are subject to public review upon request.
- 17. Terms Applicable to Purchases made by the City's Aviation Department:**
- a. **MANAGEMENT AND REPORTING TOOLS.** Company agrees to utilize any project or change management or

reporting tools, as required by the City in its sole discretion. Specifically, Company may be required to use a City adopted web-based project control software ("e-Builder") for records retention and management of all Work documentation. Information on e-Builder can be found at [www.e-builder.net](http://www.e-builder.net). City will provide access and technical service for five (5) e-builder licenses at no cost to the Company. The City will provide training at no cost to the Company.

Company further agrees to report payments and all other information related to the CBI and DBE Program as may be required or requested by the City, and to submit this documentation into the InclusionCLT system, or subsequent software platform provided by the City, or in such other manner as may be prescribed, and further require that its Subcontractors provide such documentation and information through the same system.

- b. **COMPLIANCE WITH SECURITY MEASURES.** To the extent applicable based on the scope of the work provided by Company, Company acknowledges and agrees that:
- The City's Aviation Department has offices in the secured area of the Terminal, access to which is subject to security measures imposed by the United States ("Security

Plan") and enforced by the Transportation Security Administration;

- Access to the Aviation Department, to the airfield or other secured area by Company's officers and employees shall be limited to and conditioned upon compliance with the Security Plan as it exists upon the effective date of this Contract, and as may be modified from time to time;
- Company's officers and employees who need regular access to the secured areas will have to apply for and qualify for security identification badges ("Security Badges") issued by the Aviation Director; and
- City shall not be liable to Company for any diminution or deprivation of Company's rights hereunder on account of the inability or delay of Company or his officers or employees to obtain a Security Badge, regardless of the reason.
- Company shall comply and ensure its employees comply with the Airport's Security Standards and AOA Standards, as amended from time to time, which can be found at [www.cltairport.com/credentialing](http://www.cltairport.com/credentialing)

## GENERAL CONDITIONS

This Attachment is incorporated into the Waterproofing Services ("Contract") between the **City of Charlotte** ("City") and **Strickland Waterproofing Co., Inc.** ("Company" or "the Company"). Capitalized terms not defined in this Attachment will have the meanings stated in the Contract.

1. **PRIORITY OF ATTACHMENTS.** In the event of a conflict among the Attachments, the Federal Contracting Terms shall have first priority, and all other Attachments shall have priority in the order in which they are listed on the Cover Sheet.
2. **INVOICES.** Each invoice sent by Company shall detail all Services performed and delivered which are necessary to entitle Company to the requested payment under the terms of this Contract. All invoices must include an invoice number and the City purchase order number for purchases made under this Contract. Purchase order numbers will be provided by the City. Invoices must be submitted with lines matching those on the City-provided purchase order.
3. **PAYMENT TERMS.** The City will pay undisputed, properly submitted invoices within thirty (30) days after receipt. As a condition of payment, Company must invoice the City for Services within sixty (60) days after the Services are performed. Company WAIVES THE RIGHT TO CHARGE THE CITY FOR ANY SERVICES THAT HAVE NOT BEEN INVOICED WITHIN SIXTY (60) DAYS AFTER SUCH SERVICES WERE RENDERED.
4. **TERMINATION FOR CONVENIENCE.** For any reason or no reason, the City may terminate this Contract at any time by giving thirty (30) days written notice to Company. The City shall only pay for Products and Services rendered through the date of termination, subject to Company's compliance with Section 8 (Obligations on Termination Section). Company shall terminate and/or cancel all subcontracts and orders outstanding for such services and products that it is legally entitled to cancel.
5. **TERMINATION FOR CAUSE.** Without limiting any other termination rights set forth in this Contract, either party may terminate this Contract for default if the other party fails to cure a material breach or fails to fulfill its duties, covenants, or obligations as described in the Contract within thirty (30) days after receipt of written notice that identifies the breach and the intent to terminate if not cured. In addition, the City may terminate this Contract for default without a cure period if Company:
  - 5.1. makes a misrepresentation or provides misleading information in connection with the solicitation, or any provision contained in this Contract;
  - 5.2. attempts to assign, terminate or cancel this Contract except as prescribed;
  - 5.3. ceases to do business, makes an assignment for the benefit of creditors, admits in writing its inability to pay debts as they become due, files a petition in bankruptcy or has an involuntary bankruptcy petition filed against it (except in connection with a reorganization under which the business of such party is continued and performance of all its obligations under this Contract shall continue), or if a receiver, trustee or liquidator is appointed for it or any substantial part of other party's assets or properties; or
- 5.4. acts in a way that creates a risk to safety or causes or is likely to cause the City to incur property damage, fines, or penalties.
6. **TERMINATION CONVERSION.** If the Contract is terminated by the City for cause but it is later conclusively determined that the Company has not in fact defaulted, the termination shall be deemed to have been effected for the convenience of the City and the Company shall be paid through the date of the termination.
7. **AUTHORITY TO TERMINATE.** Authority to terminate this Contract on behalf of the City rests with the City Manager and Deputy City Manager, or any designee of the forgoing having the same level of delegated signature authority as would have been required to execute the Contract.
8. **OBLIGATIONS ON TERMINATION.** Upon expiration or termination of this Contract, Company will promptly provide to the City, at no cost, (i) all data, materials, software, and equipment provided to Company by or on behalf of the City; (ii) all deliverables that are completed or in process as of the date of termination; and (iii) a statement of all Services performed through termination, together with such detail and documentation as is otherwise required under this Contract for payment. The expiration or termination of this Contract shall not relieve either party of its obligations regarding "Confidential Information", as defined in the Section titled Confidentiality Terms. Any termination shall not relieve Company of the obligation to pay any fees, taxes or other charges then due to the City. Termination shall not relieve the Company from any claim for damages previously accrued or then accruing against Company. In the event that the City disputes in good faith an allegation of default by Company, notwithstanding anything to the contrary in this Contract, the Company agrees that it will not terminate this Contract or suspend or limit the delivery of the Work or any warranties or repossess, disable or render unusable any Software supplied by the Company, unless (i) the parties agree in writing, or (ii) an order of a court of competent jurisdiction determines otherwise.
9. **REPRESENTATIONS AND WARRANTIES.** Company represents, warrants, and covenants that: (a) all Services and deliverables will meet and comply with Contract requirements, applicable law, and accepted industry standards; (b) each person providing the Services has the qualifications, skills, experience, and knowledge necessary to perform the tasks assigned; (c) no services or deliverables provided under this Contract will infringe or misappropriate any patent, copyright, trademark, trade secret, or other intellectual property rights of any third party; (d) neither the execution nor the

performance of this Contract will violate any third party contractual rights; (e) Company is a duly organized and validly existing entity of the type set forth in the first paragraph of this Contract, is in good standing under the laws of the state specified in the first paragraph of this Contract, and is registered to do business in North Carolina; and (f) Company has the requisite power and authority to execute and perform this Contract. Company and each person signing this Contract for Company represents and warrants that the execution, delivery, and performance of this Contract have been duly authorized by Company. Additional warranties may be set forth in the Attachments.

## 10. REMEDIES.

**10.1. Right to Withhold Payment.** At the non-breaching party's election, Company and the City are each entitled to setoff and deduct from any amounts owed to the other party under this Contract all damages and expenses incurred due to the other party's breach. If Company breaches any provision of this Contract, the City may elect to withhold a portion of or all payments due until the breach has been fully cured. The City may obtain performance of the Work elsewhere.

**10.2. Misappropriation or Infringement Breach.** In the event of a violation, misappropriation or infringement of any copyright, trademark, patent, trade secret or other proprietary rights with respect to the work provided under this Contract, in addition to the indemnification obligation under the Contract, Company shall (i) procure the right for the City to use the infringing product or service; or (ii) repair or replace the infringing product or service so that it is no longer infringing so long as such modification does not adversely affect the Contract.

**10.3. Other Remedies.** The election of one remedy does not waive other legal or equitable remedies that a party may pursue. The remedies enumerated herein are in addition to any other remedy available at law or in equity, such as the right to cover.

### 10.4. Reserved.

**11. INDEMNIFICATION.** To the fullest extent permitted by law, Company shall indemnify, defend, and hold harmless the City and the City's officials, employees, and agents from and against any claims, losses, damages, fines, penalties, royalties, obligations, liabilities, and expenses, including but not limited to reasonable attorneys' fees to the extent that they arise from actual or alleged:

**11.1.** Breach of contract, negligence or willful misconduct by Company or any of Company's agents, employees, or subcontractors, including but not limited to any liability caused by an accident or other occurrence resulting in bodily injury, death, sickness, or disease to any person(s) or damage to or destruction of any property whether real, personal, or intangible, and including data and other intellectual property;

- 11.2. Violation of any federal, state, or local law, ordinance, rule, regulation, guideline, or standard by Company or its employees or subcontractors, or by any service, product, or deliverable provided under this Contract;
- 11.3. Violation, misappropriation, or infringement of any copyright, trademark, patent, trade secret, or other proprietary rights with respect to any services products or deliverables provided under this Contract ("Infringement Claims");

If an Infringement Claim occurs, Company will either: (i) procure for the City the right to continue using the affected product or service; or (ii) repair or replace the infringing product or service so that it becomes non-infringing, provided that the performance of the overall product(s) and service(s) provided to the City shall not be adversely affected by such replacement or modification. If Company is unable to comply with the preceding sentence within thirty (30) days after the City is directed to cease use of a product or service, Company shall promptly refund to the City all amounts paid under this Contract.

In any case in which Company provides a defense to the City pursuant to this indemnity, the defense will be provided by attorneys reasonably acceptable to the City. The provisions of this Contract regarding indemnity will survive the expiration or termination of this Contract.

If this Contract is funded in full or in part by federal funds, the indemnity rights granted to the City in this Contract shall also extend to the U.S. Government agency that extends such funding, and to the agency's officers, officials, employees, agents, and independent contractors (excluding Company).

## 12. INSURANCE.

Company shall provide and maintain at its expense during the term of this Contract the following program(s) of insurance covering its operations. Such insurance shall be provided by insurer(s) qualified to do business in North Carolina, have a rating at least "A-" by A.M. Best, and be satisfactory to the City as approved by the City's Risk Management Division. Evidence of such programs satisfactory to the City shall be delivered to the City on or before the effective date of this Contract and prior to commencing any work hereunder. Such policy shall list "City of Charlotte, 600 East Fourth St. Charlotte, NC 28202" as an additional insured for operations or services, rendered under this Contract. City is to be given written notice within thirty (30) days of any termination of any program of insurance.

Company's insurance shall be primary of any self-funding and/or insurance otherwise carried by the City for all loss or damages arising from Company's operations under this Contract. If any of the coverage conditions are met by a program of self-insurance, Company must submit evidence of the right to self-insure as provided by the State of North Carolina.

Company and each of its subcontractors shall and does waive all rights of subrogation against the City and each of its indemnified parties. The City shall be exempt from, and in no

way liable or responsible for any sums of money that may represent a deductible or self-insured retention in any insurance policy of the Company or its subcontractors.

The following insurance is required under this Contract:

(a) **Automobile Liability**

Evidence of current automobile insurance (attach copy of automobile policy declaration page(s)) or submit a current certificate of insurance, showing the vehicles covered and coverage amounts as the appropriate one of the following:

- i. If Company owns or leases commercial vehicles to provide goods or perform a service under this Contract, Automobile Liability must be provided at a limit of not less than **\$1,000,000** per occurrence/aggregate, combined single limit, each occurrence, for bodily injury and property damage liability covering all owned, non-owned, and hired vehicles.
- ii. If Company does not own or lease any vehicles but is using their personal vehicles to perform a service under this Contract, primary Personal Automobile Liability may be provided at limits not less than **\$100,000** each person, **\$300,000** each accident and property damage liability of **\$50,000**.
- iii. If Company does not own or lease any vehicles but has employees using their vehicles to provide goods or perform a service under this Agreement, Company must provide hired/non-owned automobile liability coverage at a limit of not less than **\$1,000,000** per occurrence aggregate.
- iv. If Company is trucking fuel or hauling potential pollutants, the Automobile Liability coverage shall be broadened to include pollution coverage on covered autos, and a copy of endorsement CA 99 48 shall be provided to the City. Company must also supply the City with evidence of motor carrier endorsement MCS-90 as required by the Federal Motor Carrier Safety Administration's Motor Carrier Act.
- i. If the Company will be operating vehicles in the Aircraft Operation Area ("AOA"), the aforementioned insurance limits shall be no less than **\$5,000,000** for all the categories as described above.

(b) **Commercial General Liability**

Insurance with a limit not less than **\$1,000,000** per occurrence/aggregate including coverage for bodily injury, property damage, products and completed operations, personal/advertising injury liability and contractual liability. If the Company will be performing work in the Aircraft Operation Area ("AOA"), all commercial general liability insurance shall increase to **\$5,000,000** per accident, combined single limit, each occurrence.

(c) **Workers' Compensation Insurance**

Insurance meeting the statutory requirements of the State of North Carolina and any applicable Federal laws; and, Employers' Liability - **\$100,000** per accident limit, **\$500,000** disease per policy limit, **\$100,000** disease each employee limit. If Company does not employ more than 2 full time employees, Company must attest this fact on company letterhead and include such letter in this Contract.

(d) **Reserved**

13. **NOTICE.** Any notice, consent, waiver, authorization, or approval referenced in this Contract must be in writing, and delivered in person, by U.S. mail, overnight courier or electronic mail to the City and Company Contacts identified on the Cover Sheet (or as updated in writing from time to time). Notice of breach, default, termination, prevention of performance, delay in performance, modification, extension, or waiver must also be copied to the recipients listed below (the "Official Notice Recipients"), and if sent by electronic mail shall also be simultaneously sent by mail deposited with the U.S. Postal Service or by overnight courier:

<b>Alicia Young Hall, Assistant City Attorney</b>
City Attorney's Office
600 East Fourth Street
Charlotte, NC 28202
704-336-2254
<a href="mailto:Alicia.YoungHall@charlottenc.gov">Alicia.YoungHall@charlottenc.gov</a>

<b>David Wolfe, Deputy Director</b>
General Services
600 East Fourth Street
Charlotte, NC 28202
704-577-8611
<a href="mailto:David.Wolfe@charlottenc.gov">David.Wolfe@charlottenc.gov</a>

<b>Edgar Black, Vice President</b>
Strickland Waterproofing Co., Inc.
500 North Hoskins Road
Charlotte, North Carolina 28216
704-347-1345
<a href="mailto:Eblack@stricklandwaterproofing.com">Eblack@stricklandwaterproofing.com</a>

Notice shall be effective upon receipt by the intended recipient. The parties may change their Official Notice Recipients by written notice to the other party.

14. **WORK ON CITY'S PREMISES.** Whenever on City premises, Company will obey all instructions and City policies applicable to City employees and contractors that Company is made aware of. If Company causes damage to the City's equipment

- or facilities, Company will promptly repair or replace such damaged items at Company's expense.
15. **NON-APPROPRIATION OF FUNDS.** If City Council does not appropriate the funding needed by the City to make payments under this Contract for a given fiscal year, the City will not be obligated to pay amounts due beyond the end of the last fiscal year for which funds were appropriated. In such event, the City will promptly notify Company of the non-appropriation and this Contract will be terminated at the end of the last fiscal year for which funds were appropriated. No act or omission by the City that is attributable to non-appropriation of funds shall constitute a breach of or default under this Contract.
16. **REQUIRED BY CITY ORDINANCE: COMMERCIAL NON-DISCRIMINATION.** Company agrees to comply with the Non-Discrimination Policy set forth in Chapter 2, Article V of the Charlotte City Code, which is available for review at <http://library.municode.com/index.aspx?clientId=19970> and incorporated herein by reference. Company consents to be bound by the award of any arbitration conducted thereunder.
17. **REQUIRED BY STATE LAW.**
- 17.1. E-Verify. Company will comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes, and shall ensure that each of its subcontractors also do so.
  - 17.2. NC Prohibition on Contracts with Companies that Invest in Iran or Boycott Israel. By executing this contract, Company represents and warrants that it is eligible to contract with the City because it is not identified as an ineligible company on the State Treasurer's list created pursuant to G.S. 147-86.58 or identified as a restricted company for purposes of the Israel Boycott. Company also agrees to immediately notify the City if it is identified as an ineligible company on either list at any time during the term of this Contract.
18. **CHARLOTTE BUSINESS INCLUSION POLICY.** The City has adopted a CBI Policy, which is posted on the City's website at <https://charlottenc.gov/GS/procurement/cbi/Pages/default.aspx>. The parties agree that:
- 18.1. That Charlotte Business Inclusion Program Policy ("CBI Policy") and its Administrative Procedures Manual ("CBI Manual") are posted on the City's website and available in hard copy form upon request. Both the CBI Policy and CBI Manual comprise the CBI Program.
  - 18.2. The terms of the CBI Program, as revised from time-to-time, are incorporated into this Agreement by reference; and
  - 18.3. A violation of the CBI Program shall constitute a material breach of this Agreement and shall entitle the City to exercise any of the remedies set forth in the CBI Program, including but not limited to liquidated damages.
  - 18.4. The City will incur damages if the Company violates the CBI Program, including but not limited to loss of goodwill, detrimental impact on economic development, and diversion of internal staff resources. The parties further acknowledge and agree that the damages the City might reasonably be anticipated to incur as a result of such failures are difficult to ascertain due to their indefiniteness and uncertainty. Accordingly, the Company agrees to pay the liquidated damages assessed by the City at the rates set forth in the CBI Program for each specified violation. The Company further agrees that for each specified violation the agreed upon liquidated damages are reasonably proximate to the loss the City will incur as a result of such violation.
  - 18.5. Without limiting any of the other remedies the City has under the CBI Program, the City shall be entitled to withhold periodic payments and final payment due to the Company under this Agreement until the City has received in a form satisfactory to the City all claim releases, payment affidavits and other documentation required by the CBI Program. In the event payments are withheld under this provision, the Company waives any right to interest that might otherwise be warranted on such withheld amount under North Carolina General Statutes Section 143-134.1.
  - 18.6. The remedies set forth in the CBI Program shall be deemed cumulative and not exclusive and may be exercised successively or concurrently, in addition to any other available remedy.
  - 18.7. The Company agrees to participate in any dispute resolution process specified by the City from time-to-time for the resolution of disputes arising from the CBI Program.
  - 18.8. Nothing in this Section shall be construed to relieve Company from any obligation it may have under N.C. Gen. Stat. §143-134.1 regarding the payment of subcontractors.
19. **CHARLOTTE BUSINESS INCLUSION MWSBE UTILIZATION AND REPORTING.**
- 19.1. **SUBCONTRACTOR UTILIZATION.** Company has committed to subcontract for supplies and/or services from City Certified Small Business Enterprises (SBEs), and/or City Registered Minority Business Enterprises (MBEs) and Woman Business Enterprises (WBEs) for the duration of the Contract, as follows:
- | Total MBE Utilization          | %            |
|--------------------------------|--------------|
| Total WBE Utilization          | %            |
| Total SBE Utilization          | %            |
| <b>Total MWSBE Utilization</b> | <b>TBD %</b> |
- Company shall not terminate, replace or reduce the work of an MWSBE without providing written notice to the city as outlined in the CBI Policy. Failure of Company to fulfill these utilization requirements shall constitute a material breach of this Contract, and shall entitle the City to exercise any of the remedies set

forth in the CBI Policy, including but not limited to liquidated damages.

- 19.2. LETTERS OF INTENT. Company acknowledges that it will be required to execute one or more letters of intent on or prior to the Effective Date. Each letter of intent will list the subcontractor (MWSBE) vendor name and the amount that Company has committed to spend with the subcontractor. The letter(s) of intent will be submitted in such format as the City shall determine. Company consents to submit its letter(s) of intent via the City's selected electronic compliance management system, at the City's option. The letter(s) of intent shall be deemed to be incorporated into this Contract when submitted by Company and accepted by the City. Any changes to letters of intent or any new letters of intent will also be deemed incorporated into this Contract when submitted by Company and accepted by the City.
  - 19.3. PAYMENTS TO MWSBEs. Company shall abide by N.C. Gen. Stat. §143-134.1 (b) and within seven (7) days of receipt by the prime contractor of each periodic or final payment, the prime contractor shall pay the subcontractor based on work completed or service provided under the subcontract. Furthermore, if Company has made a Quick Pay Commitment under the CBI Program, Company shall comply with any provisions of the Quick Pay Commitment that are more stringent than N.C. Gen. Stat. §143-134.1 (b) but shall also remain bound by N.C. Gen. Stat. §143-134.1(b).
  - 19.4. PAYMENT REPORTING. As a condition to receiving payments under this contract, Company agrees to submit any payment record into InclusionCLT, or any subsequent system designated by the city, detailing the amounts paid by Company to all subcontractors and suppliers receiving payment in connection with this contract.
- 20. GENERAL.**
- 20.1. ENTIRE AGREEMENT/AMENDMENT. This Contract is the parties' entire agreement regarding its subject matter. It supersedes all prior agreements, negotiations, representations, and proposals, written or oral. No change order, amendment, or other modification to this Contract will be valid unless in writing and signed by both Company and the City. Clicking "consent" or "agree" electronically when accessing software or a website will not constitute a writing sufficient to bind the City.
  - 20.2. RELATIONSHIP OF THE PARTIES. The parties' relationship under this Contract is solely that of independent contractors. Nothing contained in this Contract shall be construed to (i) give any party the power to direct or control the day-to-day administrative activities of the other; or (ii) constitute such parties as partners, co-owners or otherwise as participants in a joint venture. Neither party has power or authority to act for, bind, or otherwise create or assume any obligation on behalf of the other.
  - 20.3. GOVERNING LAW AND VENUE. North Carolina law will govern all matters relating to this Contract (without regard to North Carolina conflicts of law principles). Any legal actions or proceedings relating to this Contract shall be brought in a state or federal court sitting in Mecklenburg County, North Carolina, other than actions to enforce a judgment.
  - 20.4. ASSIGNMENT/SUBCONTRACTING. Neither party may assign or subcontract any of its rights or obligations under this Contract without prior written consent of the other party. Unauthorized assignments shall be void.
  - 20.5. DELAY / CONSEQUENTIAL DAMAGES. The City will not be liable to Company, its agents or any subcontractor for or any delay in performance by the City, or for any consequential, indirect, or special damages or lost profits related to this Contract.
  - 20.6. SEVERABILITY. The invalidity of one or more provisions of this Contract will not affect the validity of the remaining provisions so long as the material purposes of the Contract can be achieved. If any provision of this Contract is held to be unenforceable, then both parties will be relieved of the unenforceable obligations, and this Contract shall be deemed amended by modifying such provision to the extent necessary to make it enforceable while preserving its intent.
  - 20.7. PUBLICITY. Company may not identify or reference the City or this Contract in any advertising, sales promotion, or other materials without the City's prior written consent of the City except: (i) Company may list the City as a reference, and (ii) Company may identify the City as a customer in presentations to potential customers.
  - 20.8. WAIVER. No waiver of any provision of this Contract shall be effective unless in writing and signed by the party waiving the rights. No delay or omission by either party to exercise any right or remedy it has under this Contract shall impair or be construed as a waiver of such right or remedy. A waiver by either party of any covenant or breach of this Contract shall not constitute or operate as a waiver of any succeeding breach of that covenant or of any other covenant.
  - 20.9. SURVIVAL. Any provision of this Contract that contemplates performance or observance subsequent to termination or expiration of this Contract shall survive termination or expiration and continue in full force and effect for the period so contemplated including, but not limited to, provisions relating to warranties and warranty disclaimers, intellectual property ownership, indemnity, payment terms, and confidentiality.

- 20.10. TAXES. Company will pay all applicable federal, state, and local taxes that may be chargeable against the performance of the Services.
- 20.11. CONSTRUCTION OF TERMS. Both parties have carefully considered the particular language used in this Contract. The general rule of law that ambiguities are construed against the drafter will not apply.
- 20.12. DAYS. Unless specifically stated otherwise, all references to days in this Contract refer to calendar days rather than business days. Any references to "business days" shall mean the days that the City's main office at 600 East Fourth Street, Charlotte, NC, is open for the public to transact business.
- 20.13. CONFLICTS OF INTEREST. Company will not take any action that is or is likely to be perceived as conflict of interest under this Contract. Company has not made and will not make any gifts to City employees or officials in connection with this Contract.
- 20.14. COMPLIANCE WITH LAWS. Company and its subcontractors will comply with all local, state, and federal ordinances, statutes, laws, rules, regulations, and standards ("Applicable Law") in performing this Contract. Company represents and warrants that each deliverable provided under this Contract will comply with all Applicable Law, including without limitation the Americans With Disabilities Act.
- 20.15. PRE-AUDIT. No pre-audit certificate is required under N.C. Gen. Stat. §159-28(a) because this Contract is for an indefinite quantity with no minimum purchase requirement. Notwithstanding anything contained herein to the contrary, this Contract does not require the City to purchase a single product or service, and a decision by the City to not make any purchase hereunder will violate neither this Contract nor any implied duty of good faith and fair dealing. The City has no financial obligation under this Contract absent the City's execution of a valid and binding purchase order or contract addendum containing a pre-audit certificate."

## PRICE SCHEDULE

This Attachment is incorporated into the **Waterproofing Services** (the "Contract") between the **City of Charlotte** and **Strickland Waterproofing Co., Inc.** ("Company"). Capitalized terms not defined in this Attachment shall have the meanings assigned to such terms in the Contract. In the event of a conflict between this Attachment and the terms of the main body of the Contract or any other Attachment or appendix, the terms of this Attachment shall govern.

Company shall provide the Services detailed in this Contract at rates set forth below. The Company shall pay for any required building permits and the City will reimburse the cost.

**Project Name:** Waterproofing Services

**Company's Name:** Strickland Waterproofing Co., Inc.

### Price Sheet #1

DESCRIPTION	REGULAR HOURS	AFTER HOURS	EMERGENCY
Trip Charge (mobilization fee)	\$150.00	\$300.00	\$450.00
Supervisor	\$75.00/hour	\$100.00/hour	\$125.00/hour
Waterproofing Lead Foreman	\$56.00/hour	\$76.00/hour	\$96.00/hour
Waterproofing Applicator	\$35.00/hour	\$55.00/hour	\$75.00/hour
Hoist Operator	\$35.00/hour	\$55.00/hour	\$75.00/hour
Flagman	\$35.00/hour	\$55.00/hour	\$75.00/hour
Profit and Overhead Markup for Materials	15%		
Profit and Overhead Markup for Equipment Rental	15%		

## PRICE SCHEDULE (*Continued*)

Project Name: Waterproofing Services

Company's Name: Strickland Waterproofing Co., Inc.

### Price Sheet #2 – Aviation Work

DESCRIPTION	REGULAR HOURS	AFTER HOURS	EMERGENCY
Trip Charge (mobilization fee)	\$150.00	\$300.00	\$450.00
Supervisor	\$75.00/hour	\$100.00/hour	\$125.00/hour
Waterproofing Lead Foreman	\$56.00/hour	\$76.00/hour	\$96.00/hour
Waterproofing Applicator	\$35.00/hour	\$55.00/hour	\$75.00/hour
Hoist Operator	\$35.00/hour	\$55.00/hour	\$75.00/hour
Flagman	\$35.00/hour	\$55.00/hour	\$75.00/hour
Profit and Overhead Markup for Materials	15%		
Profit and Overhead Markup for Equipment Rental	15%		

## SCOPE OF SERVICES

This Attachment is incorporated into the Waterproofing Services (the "Contract") between the **City of Charlotte** and **Strickland Waterproofing Co., Inc.** ("Company"). Capitalized terms not defined in this Attachment shall have the meanings assigned to such terms in the Contract. In the event of a conflict between this Attachment and the terms of the main body of the Contract or any other Attachment or appendix, the terms of this Attachment shall govern.

### **3. SCOPE OF WATERPROOFING SERVICES.**

#### **3.1. OVERVIEW.**

The City of Charlotte maintains approximately 180 city-owned facilities including offices, firehouses, police division stations, and equipment shops that house various city facilities. On-going maintenance of these facilities requires waterproofing services to provide protection against water, water vapor, and waterborne contamination.

The selected vendor(s) shall be responsible for all flagmen, hoisting, rigging, scaffolding and staging, material handling equipment, manpower, personal safety protection, and small tools necessary to perform the work.

The City reserves the right to assign Projects per its discretion or to solicit project pricing from firms contracted for this scope of work.

#### **3.2. SERVICES.**

Services include performing investigations, above grade and below grade, of the exterior of buildings to assess their condition. As a result of these assessments, the Company may be requested to make temporary and/or permanent repairs to the structures. The Company is responsible for casual dewatering of surface and ground water, as required to perform the work under a given task order.

All below-grade waterproofing on walls includes, as applicable, fluid-applied/crystalline, sheet waterproofing, protection board, drainage board/mat, filter, fabric, membrane, associated flashing termination bars, etc., and rigid insulation over below-grade waterproofing. Exterior caulk includes, but is not limited to, all masonry control joints, expansion joints, louvers, cast stone joints, and all dissimilar materials. Backer rod is included. Work includes caulking between the structural slab and topping, caulking of all soffits, between stucco, cast stone, brick, metal, etc., and caulking of all plumbing fixtures.

#### **3.3. SPECIAL CONDITIONS.**

##### **1. BUILDING PERMITS**

The Company shall be responsible for obtaining any and all required building permits and the City will reimburse the cost.

##### **2. CARE OF WORK**

The Company shall be responsible for the proper care and protection of all Work performed under this Contract during the Contract Period whether or not the same has been covered in part by payments made by the City. Company shall be responsible for all damages to persons or property that occurs as a result of Company's fault, omission, or negligence in connection with the prosecution of the Work.

##### **3. CHANGE ORDERS**

The City may issue a written Change Order that requires the Company to furnish extra materials and/or perform additional Work not provided for in the Contract Documents, but which may be found necessary to the proper protection and/or completion of the Project. Prices for such change shall be based on actual cost, plus fifteen percent (15%) for profit.

Alterations or modifications to the Work performed under the Contract shall be made only by written Change Order between the Company and the City prior to the commencement of altered or modified work. No claims for any extra work or materials will be allowed unless covered by written Change Order.

Pay requests for additional Work and/or materials shall be submitted within three (3) days after such additional work is completed, or materials furnished, so that the Project Manager may establish the accuracy of the charges. Payment for additional work or materials will not be made in the absence of such a written Change Order from the Project Manager.

#### **4. CLEANING UP**

All clean up shall comply with all applicable Federal, State, and local laws and regulations. The Company shall at all times keep the Project site free from accumulation of waste materials, debris or rubbish caused by the Work. At the end of each workday, the Company shall:

- (a) Remove from the Project site all tools, surplus materials, debris or rubbish;
- (b) Leave the site and the work in a neat and orderly fashion;
- (c) Clean all equipment and dispose of wash water/solvents as well as other cleaning and protective materials (e.g., rags, drop cloths, masking papers), strippers, etc., as directed by the Project Manager; and
- (d) Whenever possible, clean up shall be conducted with water or water-based agents.

Arrangements may be made, in advance, with the Project Manager for the use of City owned or leased waste containers for disposal of the above.

#### **5. CONTINGENCIES AND OTHER ALLOWANCES**

Contingencies and other allowances, as specified in the Contract or any applicable task order, shall cover the actual cost to the Company for the work or product in the amount stated in the Contract or task order. Contingencies and other allowances shall be included in the Contract Sum. Payment for contingency items will not be allowed unless approved in advance by the Project Manager. Any unused portion of the contingency or other allowances remaining at the completion of the Project will revert back to the City as a credit.

#### **6. CUTTING AND PATCHING**

Cutting and patching includes the cutting and patching of nominally completed and previously existing concrete, steel, wood and miscellaneous metal structures; piping and pavement, in order to accommodate the coordination of the work, or the installation of facilities or structures or to uncover other facilities and structures for access or inspection, or to obtain samples for testing, or for similar purposes.

Prior to any cutting and patching, the Company shall submit a written request to the City describing why cutting and patching cannot reasonably be avoided; how it will be performed; how structural elements (if any) will be reinforced; products to be used; subcontractors who will perform the work; approximate dates of the work; and anticipated results in terms of structural, operational, and visual variations from the original condition.

Unless otherwise indicated, the Company shall provide materials for cutting and patching which will result in an equal-or-better product than the material being cut and patched, in terms of performance characteristics and including visual effects where applicable. The Company shall use material identical with the original materials where feasible.

#### **7. EMERGENCY CONTACT**

Company personnel shall be reachable cell phone in urgent or emergency situations. The Company shall provide at least two (2) local telephone numbers that may be used to contact the Company or his authorized representative in the event of an urgent or emergency situation after normal business hours.

#### **8. EMERGENCY SERVICES**

Company personnel shall be reachable by cell phone in urgent or emergency situations. The Company shall provide at least two (2) local telephone numbers that may be used to contact the Company or its authorized representative in the event of an urgent or emergency situation after normal business hours. The Company shall respond to a call for emergency services within one (1) hour and shall be provide personnel at the site of the emergency within two (2) hours. Emergency services shall be provided 24 hours per day, 365 days a year.

#### **9. EQUIPMENT**

The Company shall have in its possession, or available to it, sufficient equipment, hand tools, materials, and supplies necessary to perform the Services.

#### **10. FINAL INSPECTION**

When the Work has been completed, the City will make all final inspections and tests it deems appropriate for the purpose of ascertaining that the Work has been completed in accordance with the requirements of the Contract. The Company shall correct all deficiencies that are found. When the City has determined that all deficiencies have been corrected and that the Work has been completed in all respects in accordance with the Contract, the City shall take possession of the Work. Thereafter no further performance of Work shall be required, except as regards latent defects, fraud, or such gross mistakes as may amount to fraud, or as regards the City's rights under any warranty or guaranty, or under this Contract. When the City takes possession of the Work, the Company will be relieved of the duty of maintaining and protecting the Work, and of the risk of loss thereof or damage thereto, except to the extent of his duties and obligations under this Contract.

#### **11. FINAL PAYMENT**

Upon receipt of Company's final invoice for payment and upon City's acceptance of final inspection, the City shall make final payment for the unpaid balance due the Company.

Final invoice for payment shall be accompanied by the following documents:

- (a) Record Drawings (reproducible) (if applicable);
- (b) Guarantees of all materials and workmanship;
- (c) Company's Affidavit, Release and Waiver of Claims;
- (d) Consent of Surety (if applicable);
- (e) Final Tax Statement;
- (f) Complete list of all Subcontractors and areas of work performed;
- (g) Payment Affidavit and Subcontractor/Supplier Utilization (CBI Form #6);
- (h) Warranties as required by the Contract.

#### **12. HAZARDOUS MATERIALS**

When Company encounters any materials considered or suspected of being hazardous, it shall immediately secure the area and contact the Charlotte-Mecklenburg Hazardous Materials Coordinator, telephone 704.336.2461 for further instructions.

#### **13. MATERIALS AND EQUIPMENT STORAGE**

The Company shall be responsible for locating and providing storage areas for materials and equipment. The material and equipment storage shall comply with all local and state ordinances throughout the contract period. The Company shall restore the storage area to its original condition upon completion of the Project or upon such time as directed by the City. Such restoration shall be at no additional cost to the City.

The Company shall be responsible for the safeguarding of materials and equipment against fire, theft, and vandalism and shall not hold the City responsible in any way for the occurrences of same. The Company shall furnish and erect, at no additional cost, whatever works may be necessary or the protection of the public including, but not limited to, barricades, fences, etc. Prior to final payment being made, the Company shall obtain a release from the property owner of the storage area utilized for the Project.

#### **14. NOTICE TO PROCEED**

City will issue a Notice to Proceed to the Company to begin the Work under a task order. Upon receiving this Notice to Proceed, the Company shall diligently prosecute the Work in accordance with the schedule as stipulated, and shall complete the Work within the time required by the task order.

## **15. OSHA REQUIREMENTS**

Company and equipment shall comply with all Occupational Safety Health Act Standards (OSHA) applicable to the work and employees shall wear OSHA required safety equipment while working.

## **16. PERIODIC PAYMENTS**

Company shall keep the Project Manager informed of the proposed Work plan and submit pay requests to the Project Manager. If unit prices are used, pay requests shall reflect the unit price bid for all items and any approved change orders. Pay requests must be accompanied by a Sales/Use Tax Statement and a Payment Affidavit. Payment will be made within thirty (30) calendar days after receipt of a correct pay request. Pay requests shall have a zero (0) percent interest penalty rate.

## **17. PROGRESS DELAYS**

If, at the sole discretion of the City, the Company falls significantly behind the approved project schedule, the Company shall take any and all steps necessary to improve the progress. In such case, the City may require the Company to increase the number of shifts, initiate or increase overtime operations, increase days of work in the work week, or increase the amount of construction plant, or to do all of the foregoing. The City may also require the Company to submit for approval supplemental progress schedules detailing the specific operation changes to be instituted to regain the approved schedule. All of the foregoing shall be without additional cost to the City.

## **18. PROJECT LOCATION INSPECTIONS**

All trades shall be performed by skilled craftsmen. Satisfactory work and housekeeping will be maintained by the Company at all times. The worksite conditions, progress of work, and quality of work at each Project location may be inspected by the City on a continual basis. Any condition or situation deemed by the City to be unsatisfactory shall be remedied as soon as logically possible and no later than within 24 hours. During its inspection, the City may note whether each Project location is satisfactory or unsatisfactory.

## **19. PROTECTION OF PROPERTY**

Company shall be responsible for providing and placement of barricades, flag tape and any other safety equipment required to protect the public and employees in the work area. Company shall be responsible for the security of its equipment and materials.

## **20. QUALITY OF WORK AND INSPECTIONS**

All trades shall be performed by skilled craftsmen. The Company shall be responsible for ensuring that all materials, equipment, and workmanship incorporated into the Work are of the specified quality and fully conform to all requirements of the Contract. The Company shall carry out a quality control program for this purpose.

All Work (which term includes but is not restricted to materials, workmanship, manufacture and fabrication of components) shall be subject to inspection and test by the City at all reasonable times and at all places prior to acceptance, but the City shall have no obligation to make any such inspection or test. Any such inspection or test is for the sole benefit of the City and shall not relieve the Company of the responsibility of providing quality control measures to ensure that the Work strictly complies with the requirements of the Contract. Except to the extent specified by the City, no inspection or test by the City shall be construed as constituting or implying acceptance. Inspection or testing shall not relieve the Company of responsibility for damage to or loss of the material prior to acceptance, or in any way affect the continuing rights of the City after acceptance of the completed Work. All inspection and test by the City shall be performed in such manner as to not unnecessarily to delay the Work.

Any condition or situation deemed by the City to be unsatisfactory shall be remedied as soon as logically possible, but not later than within 24 hours. The Company shall, without charge, replace any material or correct any workmanship found by the City not to conform to the requirements of the Contract, unless the City consents in writing to accept such material or workmanship. The Company shall promptly remove rejected material from the premises.

If the Company does not promptly replace rejected material or correct rejected workmanship, the City:

- (a) May, by contract or otherwise, replace such material or correct such workmanship, or remove unauthorized work, and charge the cost thereof to the Company, or
- (b) May terminate the Company's right to proceed in accordance with the Contract.

## **21. SAFETY**

Provide a safe work environment in accordance with all local, state, Federal, and applicable OSHA regulations. Employees must wear OSHA required safety equipment while working.

## **22. SHOP DRAWINGS, PRODUCT DATA, AND SAMPLES**

Shop drawings must be submitted to the City for approval prior to the execution of work. Shop drawings shall include one reproducible transparency drawn accurately to scale, numbered sequentially retaining the same numbering system throughout all revisions and have enough clear space on each drawing for approval stamps. In submitting shop drawings for approval, all associated shop drawings relating to a complete assembly must, where possible, be submitted at the same time so that each may be checked in relation to the entire proposed assembly. Company must prepare composite shop drawings and installation layouts, when required, to depict proposed solutions for tight field conditions. The composite shop drawings and field installation layouts must be coordinated in the field by Company and its subcontractors for proper relationship to the Work of all other trades involved. Shop drawings shall include the following, where applicable:

- Dimensions
- Identification of products
- Fabrication and installation drawings
- Compliance with specified standards
- Seal of professional architect/engineer if specified
- Roughing-in and setting diagrams
- Wiring diagrams showing field-installed wiring, including power, signal, and control wiring
- Shop work manufacturing instructions
- Templates and patterns
- Schedules
- Notation of coordination requirements
- Notation of dimensions established by field measurement

All drawings submitted to the City showing in detail the proposed fabrication and assembly of structural elements, or the installation, that is, details of form, fit, and attachment, of materials or equipment, and all information concerning products, materials, or equipment to be incorporated into the Work or used in performing it, shall become the property of the City, whether such drawings and information are prepared by the Company or by a subcontractor, or supplier, and whether they are submitted by or through the Company or directly by a subcontractor, or supplier. The Company shall ensure that the City has a royalty-free, non-exclusive, unlimited license for all drawings and documents submitted to the City by the Company and Company's Subcontractors and Suppliers. The City shall have the right to use, duplicate, and disclose all such drawings and all information contained in them, and all other such information, in any manner and for any purpose. The Company warrants that the City's use of all such drawings and information will be free of any claim of infringement of any such copyright or other right, and will fully indemnify and hold harmless the City and its officers, employees, and agents from and against any and all such claims, and any and all loss, damage, or liability, including but not limited to attorneys' fees and other costs of defense, that may result therefrom, directly or indirectly, wholly or in part.

Product data must be collected into a single submittal for each element of work and type of product or equipment. Mark each submittal copy to show which products and options are applicable. Include the following information, as applicable:

- Manufacturer's written recommendations
- Manufacturer's product specifications
- Manufacturer's installation instructions
- Standard color charts
- Manufacturer's catalog cuts
- Wiring diagrams showing factory-installed wiring
- Printed performance reviews
- Operational range diagrams
- Compliance with recognized trade association standards
- Compliance with recognized testing agency standards

Samples must be submitted for initial selection and then for verification. For initial selection, submit at least one full set of manufacturer's color charts consisting of units or sections of units showing the full range of colors, textures, and patterns available. The City shall return submittal with options selected. Company must then submit samples for verification in three (3) sets to include full-size units or samples of size indicated, prepared from the same material to be used for the Work, cured and finished in manner specified and physically identical with the product proposed for use showing full range of color, texture and pattern variations expected. The City will retain two sample sets and return the third sample set to the Company. Company shall maintain sets of approved samples at the Project site available for quality control comparisons throughout the course of the Work. Sample sets may be used to determine final acceptance. Samples must be submitted with a written summary.

#### **23. STAFFING REQUIREMENTS AND IDENTIFICATION OF COMPANY PERSONNEL**

The Company shall provide a sufficient work force and supervisory personnel to perform the specified services and to meet the requirements of the City. The City has the right to require any additional personnel that the City deems necessary to complete the Project. The City also has the right to require removal and replacement of any personnel deemed unsatisfactory by the City.

Personnel shall maintain a neat and clean appearance, with identification clearly identifying the person and the name of their company. Shirts must be worn at all times, with shirt tails tucked in. Tank tops are not permitted. All personnel must wear high visibility safety vests that meet ANSI standards while working in traffic areas.

#### **24. SUPERVISION**

The Company shall provide one competent individual, fluent in the English language and authorized to act in a supervisory capacity for the company over the Services on the Project, who shall be available at all times. The individual so authorized shall be the full-time employee of the Company, experienced in the type of work being performed, and fully capable of managing, directing, and coordinating the Services, reading and thoroughly understanding the contract, and receiving and carrying out directions from the City. The competent individual shall be reachable via cell phone during business hours.

#### **25. WARRANTY OF MATERIALS AND WORKMANSHIP**

All materials and equipment provided shall be listed and labeled for the purpose intended and must be in good working order. All work shall have, at a minimum, a one (1) year warranty from the date of final acceptance against any latent defects, design, materials, workmanship and installation.

#### **26. WORK RESTRICTIONS AND SITE ACCESS**

The Company shall limit the use of the Project site within the Project limits. The Company shall keep driveways and entrances clear at all times and schedule deliveries to minimize space and time requirements of such driveways and entrances.

Work must be performed during normal business working hours of 8:00 AM to 5:00 PM, Monday through Friday, except as otherwise indicated. The Company shall obtain prior approval from the City for any services to be performed outside the normal business working hours.

The Company's access to the work site shall be restricted as shown in the drawings or, if not provided in the drawings, as specified in the Contract. The Company shall not permit any person other than its employees, subcontractors, and persons delivering materials, supplies, or equipment required to perform the Work to use or occupy the worksite, or any part thereof for any purpose whatsoever except as the City may specifically authorize in advance in writing. The Company shall not enter upon private property or upon the area of any easement, either for access to the site or to perform any work under or related to the Contract, without express written permission from the owner or tenant of the property. The use of all easements of access and the performance of all work on private property shall be in a manner that will avoid or minimize inconvenience to the owners or tenants.

#### **27. WORK BY OTHERS**

The City reserves the right to perform other work, including but not limited to work related to the Project, on or about the site of the Work, and to engage other contractors for such work.

The Company shall cooperate fully with the City and all such contractors to permit their work to be performed properly and efficiently, and shall not permit any interference with such work. The Company shall carefully fit its work to such work by others as the City may direct.

If any part of the Company's work depends for proper performance or results upon the Work of the City or of any separate contractor, the Company, before proceeding with such part of its work, shall promptly report to the City any apparent discrepancies or defects in such other work that render it unsuitable for such proper performance or results. The Company's failure so to report shall constitute its acceptance of such other work as fit and proper to receive its work, except as to defects that would not be revealed by a reasonable inspection, and become apparent afterwards.

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## FEDERAL CONTRACTING TERMS

This Attachment is attached and incorporated into the Waterproofing Services (the "Contract") between the **City of Charlotte** and **Strickland Waterproofing Co., Inc.** ("Company"). Capitalized terms not defined in this Attachment shall have the meanings assigned to such terms in the Contract. In the event of a conflict between this Attachment and the terms of the main body of the Contract or any other Attachment or appendix, the terms of this Attachment shall govern. Unless if indicated to the contrary, these provisions will not apply to Strickland Waterproofing Co., Inc. while doing work for Aviation (the Charlotte Douglas International Airport).

1. **Debarment and Suspension.** Company represents and warrants that, as of the Effective Date of the Contract, neither Company nor any subcontractor or subconsultant performing work under this Contract (at any tier) is included on the federally debarred bidder's list listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." If at any point during the Contract term Company or any subcontractor or subconsultant performing work at any tier is included on the federally debarred bidder's list, Company shall notify the City immediately. The Company's completed Vendor Debarment Certification is incorporated herein as provided in this Attachment below.
2. **Record Retention.** Company certifies that it will comply with the record retention requirements detailed in 2 CFR § 200.333. Company further certifies that it will retain all records as required by 2 CFR § 200.333 for a period of three (3) years after it receives City notice that the City has submitted final expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed.
3. **Procurement of Recovered Materials.** Company represents and warrants that in its performance under the Contract, Company shall comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
4. **Clean Air Act and Federal Water Pollution Control Act.** Company agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
5. **Energy Efficiency.** Company certifies that Company will be in compliance with mandatory standards and policies relating

to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

6. **Byrd Anti-Lobbying Amendment (31 U.S.C. 1352).** Company certifies that:
  - 6.1. No federal appropriated funds have been paid or will be paid, by or on behalf of Company, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal Loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
  - 6.2. If any funds other than federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, Company shall complete and submit Standard Form—LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96)].
  - 6.3. Company shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.
  - 6.4. Company's completed Byrd Anti-Lobbying Certification is incorporated herein as provided in this Attachment below.
7. **Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708).** If the Contract is in excess of \$100,000 and involves the employment of mechanics or laborers, Company must comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, Company is required to compute the wages of every mechanic and laborer on the basis of a standard work week of forty (40) hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of forty (40) hours in the work week. These

- requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or purchases of transportation or transmission of intelligence.
8. **Right to Inventions.** If the federal award is a "funding agreement" under 37 CFR 401.2 and the City wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment of performance or experimental, developmental or research work thereunder, the City must comply with 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.
  9. **DHS Seal, Logo, and Flags.** Company shall not use the Department of Homeland Security ("DHS") seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.
  10. **Federal Government Not a Party.** The Federal Government is not a party to this Contract and is not subject to any obligations or liabilities to the City, Company, or any other party pertaining to any matter resulting from the Contract.
  11. **Domestic Preferences For Procurements.** As appropriate and to the extent consistent with law, the Company should, to the greatest extent practicable under the Contract, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the united states (including, but not limited to iron, aluminum, steel, cement, and other manufactured products). For the purposes of this clause, (i) "produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the united states, and (ii) "manufactured products" means items and construction materials composed in whole or in part of non-ferrous materials such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

## AVIATION SPECIFIC FEDERAL TERMS

This Attachment is attached and incorporated into the Waterproofing Services ("Contract") between the **City of Charlotte** ("City") and **Strickland Waterproofing Co., Inc.** ("The Company"), and is applicable if the Company does work for the City of Charlotte Aviation Department (also known as "Charlotte Douglas International Airport or "CLT"). Capitalized terms not defined in this Attachment will have the meanings stated in the Contract.

**1. COMPLIANCE WITH SECURITY MEASURES.** To the extent applicable based on the scope of the work provided by Company, Company acknowledges and agrees that:

- 1.1.** The City's Aviation Department has offices in the secured area of the Terminal, access to which is subject to security measures imposed by the United States ("Security Plan") and enforced by the Transportation Security Administration;
- 1.2.** Access to the Aviation Department, to the airfield or other secured area by Company's officers and employees shall be limited to and conditioned upon compliance with the Security Plan as it exists upon the effective date of this Contract, and as may be modified from time to time;
- 1.3.** Company's officers and employees who need regular access to the secured areas will have to apply for and qualify for security identification badges ("Security Badges") issued by the Aviation Director; and
- 1.4.** City shall not be liable to Company for any diminution or deprivation of Company's rights hereunder on account of the inability or delay of Company or his officers or employees to ~~have~~ a Security Badge, regardless of the reason.
- 1.5.** Company shall comply and ensure its employees comply with the Airport's Security Standards and AOA Standards, as amended from time to time, which can be found at [www.cltairport.com/credentialing](http://www.cltairport.com/credentialing)

**2. GENERAL CIVIL RIGHTS PROVISIONS.**

- 2.1.** In all its activities within the scope of its airport program, the Company agrees to comply with pertinent statutes, Executive Orders, and such rules as identified in Title VI List of Pertinent Nondiscrimination Acts and Authorities to ensure that no person shall, on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision is in addition to that required by section 504 of the Civil Rights Act of 1964. The above provision binds the Company and subcontractors from the bid solicitation period through the completion of the contract.
- 3. TITLE VI LIST OF PERTINENT NONDISCRIMINATION AUTHORITIES.** During the performance of this contract, the Company, for itself, its assignees, and successors in

interest (hereinafter referred to as the "Company") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- 3.1.** Title VI of the Civil Rights Act of 1964 (42 USC § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 3.2.** 49 CFR part 21 (Non-discrimination in Federally-Assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- 3.3.** The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- 3.4.** Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 et seq.), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27 (Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance);
- 3.5.** The Age Discrimination Act of 1975, as amended (42 USC § 6101 et seq.) (prohibits discrimination on the basis of age);
- 3.6.** Airport and Airway Improvement Act of 1982 (49 USC § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- 3.7.** The Civil Rights Restoration Act of 1987 (PL 100-259) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- 3.8.** Titles II and III of the Americans with Disabilities Act of 1990 (42 USC § 12101, et seq) (prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- 3.9.** The Federal Aviation Administration's Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);

- 3.10. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations** (ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations);
  - 3.11. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency**, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs [70 Fed. Reg. 74087 (2005)];
  - 3.12. Title IX of the Education Amendments of 1972**, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC § 1681, et seq.).
- 4. COMPLIANCE WITH NONDISCRIMINATION REQUIREMENTS:** During the performance of this contract, the Company, for itself, its assignees, and successors in interest (hereinafter referred to as the "Company"), agrees as follows:
- 4.1. Compliance with Regulations:** The Company (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
  - 4.2. Nondiscrimination:** The Company, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Company will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
  - 4.3. Solicitations for Subcontracts, including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the Company for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Company of the contractor's obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
  - 4.4. Information and Reports:** The Company will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Company will so certify to the Sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
  - 4.5. Sanctions for Noncompliance:** In the event of a Company's noncompliance with the non-discrimination provisions of this contract, the Sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to: (a) Withholding payments to the Company under the contract until the Company complies; and/or (b) cancelling, terminating, or suspending a contract, in whole or in part.
  - 4.6. Incorporation of Provisions:** The Company will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The Company will take action with respect to any subcontract or procurement as the Sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Company becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Company may request the City to enter into any litigation to protect the interests of the City. In addition, the Company may request the United States to enter into the litigation to protect the interests of the United States.

## CONFIDENTIALITY TERMS

This Attachment is incorporated into the Contract for Services ("Contract") between the **City of Charlotte** ("City") and **Strickland Waterproofing Co., Inc.** ("Company"). Capitalized terms not defined in this Attachment will have the meanings stated in the Contract.

1. **"CONFIDENTIAL INFORMATION"** means any information, in any medium, whether written, oral, or electronic, obtained or accessed in connection with the Contract that is not subject to mandatory disclosure as a public record under North Carolina law, including without limitation the following:
  - Trade secrets of the City and its suppliers, contractors, and licensors, including software and technical materials.
  - *Information marked "Confidential" or "Proprietary"*
  - *Computer security information of the City, including passwords, codes, configurations, security standards and protocols, and other network, device, and system security features*
  - *Building plans of City-owned buildings and structures*
  - *Plans to prevent or respond to terrorist activity, including vulnerability and risk assessments, potential targets, specific tactics or specific security or emergency procedures, the disclosure of which would jeopardize the safety of government personnel or the general public or the security of any governmental facility, structure, or information storage system(s)*
  - *Information contained in the City's personnel files, as defined by N.C. Gen. Stat. §160A-168 (which includes all information gathered by the City about employees, except information which is a matter of public record under North Carolina law)*
  - *Personal identifying information of individuals, such as social security numbers, bank account numbers, credit and debit card numbers, birth dates, PIN numbers and passwords*
  - *Billing information of customers maintained in connection with the City providing utility services*
  - *Attorney / client privileged information disclosed by either party*
  - *Names and address of individuals who have received a rehabilitation grant to repair their homes.*
  - *Information relating to criminal investigations conducted by the City, and records of criminal intelligence information compiled by the City*

The Confidential Information listed in italics above is "Highly Restricted Information," which subject to additional restrictions as set forth herein. Confidential Information includes information disclosed prior to execution of this Contract as well as information disclosed after execution.

### 2. RESTRICTIONS.

- 2.1. **Company** shall not copy, modify, enhance, compile, or assemble (or reverse compile or disassemble), or

reverse engineer Confidential Information, except as authorized by the City in writing.

- 2.2. Company shall not, directly or indirectly, disclose, divulge, reveal, report or transfer Confidential Information to any third party, other than an agent, subcontractor or vendor of the City or Company having a need to know such Confidential Information for purpose of performing work contemplated by written contracts between the City and Company , and who has executed a confidentiality agreement containing substantially the same protections set forth herein. Notwithstanding the forgoing, Company shall not directly or indirectly, disclose, divulge, reveal, report or transfer Highly Restricted of the other to any third party without the City's prior written consent
- 2.3. Company shall not use any Confidential Information for its own benefit or for the benefit of a third party, except to the extent such use is authorized in writing by the City, or is for the purpose for which such Confidential Information is being disclosed.
- 2.4. Company shall not remove any proprietary legends or notices, including copyright notices, appearing on or in the Confidential Information.
- 2.5. Company shall use reasonable efforts to prohibit its employees, vendors, agents, and subcontractors from using or disclosing the Confidential Information in a manner not permitted by this Contract.
- 2.6. If any demand is made in litigation, arbitration, or any other proceeding for disclosure of Confidential Information, Company shall immediately notify the City, and will reasonably assist the City's effort to seek a protective order or other appropriate relief to prevent or restrict any disclosure of Confidential Information.
- 2.7. Company will restrict employee access to the Confidential Information to those employees who need to know in order to: (a) fulfill Company's contractual obligations to the City, or (b) resolve a dispute with the City. Company will have each employee who will have access to the Confidential Information sign a confidentiality agreement including protections substantially identical to those set forth herein.
- 2.8. Company shall comply with the City's Restricted Data Policy, a copy of which is posted on the City's website, and with any instructions or procedures issued by the City from time to time regarding Highly Restricted Information.
- 2.9. Company shall ensure that each person who obtains access to Confidential Information through Company (including but not limited to Company's employees and subcontractors) has undergone training sufficient

to understand his or her responsibilities with respect to this Contract and the City's Restricted Data Policy.

- 2.10.** All materials containing Confidential Information shall be returned to the City or destroyed upon satisfaction of the purpose of the disclosure of such information.
- 3. EXCEPTIONS.** Company shall have no obligation with respect to Confidential Information that Company can establish:
- Was already known to Company prior to being disclosed by the City;
  - Was or becomes publicly known through no wrongful act of Company;

- Was rightfully obtained by Company from a third party without similar restriction and without breach hereof;
- Was disclosed pursuant to the requirement or request of a governmental agency, which disclosure cannot be made in confidence, provided that, in such instance, Company shall first give to the City notice of such requirement or request;
- Was disclosed pursuant to the order of a court of competent jurisdiction or a lawfully issued subpoena, provided that Company shall immediately notify the City prior to disclosure, and reasonably assist the City in seeking a protective order providing that this Contract will be applicable to all disclosures under the court order or subpoena.

## CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

The bidder, contractor, or subcontractor, as appropriate, certifies to the best of its knowledge and belief that neither it nor any of its officers, directors, or managers who will be working under the Contract, or persons or entities holding a greater than (ten percent) 10% equity interest in it (collectively "Principals"):

1. Are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency in the United States;
2. Have within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state anti-trust or procurement statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
3. Are presently indicted for or otherwise criminally or civilly charged by a government entity, (federal, state or local) with commission of any of the offenses enumerated in paragraph 2 of this certification; and
4. Have within a three-year period preceding this application/proposal had one or more public transactions (federal, state or local) terminated for cause or default.

I understand that a false statement on this certification may be grounds for rejection of this proposal or termination of the award or in some instances, criminal prosecution.

I hereby certify as stated above:

Edgar Black  
(Print Name)

  
Signature

Vice President  
Title

June 20, 2024  
Date

- I am unable to certify to one or more the above statements. Attached is my explanation. [Check box if applicable]

(Print Name)

\_\_\_\_\_  
Signature

## BYRD ANTI-LOBBYING CERTIFICATION

The undersigned certifies, to the best of their knowledge and belief, that:

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form—LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96)].
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including all subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction by 31 U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Strickland Waterproofing Company, Inc. (the "Company") certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Company understands and agrees that the provisions of 31 U.S.C. A 3801, et seq., apply to this certification and disclosure, if any.

Edgar Black, Vice President  
(Print Name)

  
Authorized Signature

June 20, 2024  
Date

Strickland Waterproofing Company, Inc.  
Company Name

500 North Hoskins Road

Address

Charlotte, NC 28216  
City/State/Zip

## NON-DISCRIMINATION FORM

All requests for bids or Bids issued for City contracts shall include a certification to be completed by the Bidder or Proposer in substantially the following form:

The undersigned Bidder or Proposer hereby certifies and agrees that the following information is correct:

1. In preparing the enclosed Bid, the Bidder has considered all bids submitted from qualified, potential subcontractors and suppliers, and has not engaged in or condoned discrimination as defined in **Section 2** below.
2. For purposes of this form, discrimination means discrimination in the solicitation, selection, or treatment of any subcontractor, vendor, supplier or commercial customer on the basis of a person's race, color, gender, religion, national origin, ethnicity, age, familial status, sex (including sexual orientation, gender identity and gender expression), veteran status, pregnancy, natural hairstyle or disability, or any otherwise unlawful form of discrimination. Without limiting the foregoing, discrimination also includes retaliating against any person or other entity for reporting any incident of discrimination.
3. Without limiting any other remedies that the City may have for a false certification, it is understood and agreed that, if this certification is false, such false certification will constitute grounds for the City to reject the Bid submitted with Non this certification, and terminate any contract awarded based on such Bid. It shall also constitute a violation of the City's Commercial Non-Discrimination Ordinance and shall subject the Bidder to any remedies allowed thereunder, including possible disqualification from participating in City contracts or bid processes for up to two years.
4. As a condition of contracting with the City, the Bidder agrees to promptly provide to the City all information and documentation that may be requested by the City from time to time regarding the solicitation and selection of suppliers and subcontractors in connection with this solicitation process. Failure to maintain or failure to provide such information shall constitute grounds for the City to reject the Bid and to any contract awarded on such bid or Bid. It shall also constitute a violation of the City's Commercial Non-Discrimination Ordinance and shall subject the Bidder to any remedies that are allowed thereunder.
5. As part of its bid, the Bidder shall provide to the City a list of all instances within the past ten years where a complaint was filed or pending against Bidder in a legal or administrative proceeding alleging that Bidder discriminated against its subcontractors, vendors or suppliers, and a description of the status or resolution of that complaint, including any remedial action taken.
6. As a condition of submitting a bid to the City, the Bidder or Proposer agrees to comply with the City's Commercial Non-Discrimination Policy as described in Section 2, Article V of the Charlotte City Code, and consents to be bound by the award of any arbitration conducted thereunder.

Strickland Waterproofing Company, Inc.

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Name of Company

Edgar Black

---

Vice President

---

Name of Authorized Official

---

Title

---

  
Signature of Authorized Official

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June 20, 2024

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Date



Page 1 of 2

CBI FORM 3: Subcontractor / Supplier Utilization Commitment

This form MUST be submitted at the time of Bid Opening. Copy this CBI Form 3 as needed.

Failure to properly complete and submit Form 3 with the Bid constitutes grounds for rejection of the Bid.

Per Section 3.5 of the CBI Administrative Procedures Manual, the Subcontractor/Supplier Utilization Commitment (CBI Form 3), captures information regarding the MWSBEs and other subcontractors and suppliers that the Bidder intends to use on the Contract FOR ALL TIERS.

M/W/SBEs must satisfy the requirements of Section 2 of the CBI Administrative Procedures Manual in order to count the work they intend to perform on the contract with its own current workforces towards the Contract Goal, and must list themselves below.

Bidder Name:	Strickland Waterproofing Co., Inc.	
Project Name:	Waterproofing Services	
	Established MBE Goal:	Negotiate Goal After Proposal
	Established WBE Goal:	Negotiate Goal After Proposal
	Established SBE Goal:	Negotiate Goal After Proposal

List below all M/W/SBEs that you intend to use on this Contract.

NOTE: You will only receive credit for M/W/SBEs that are currently certified with the City as of the Proposal Opening Date.

M/W/SBE Vendor Name (Non-Hauling Services)	Description of work / materials	NIGP Code
A Clean Slate NC, LLC	Cleaning Services	90975, 90976, 91428
Absolute Cleaning & Restoration	Cleaning Services	90976, 91001, 91039, 96221, 98807
Clean Chicks, LLC	Cleaning Services	90974, 90975, 90976, 91428, 98807
Jua Jua Cleaning, LLC	Cleaning Services	90974, 90975, 90976, 91003, 91039, 91428, 96221, 95863, 96221
Miriam Davis Cleaning, LLC	Cleaning Services	90975, 90976, 91039

**Subcontractor / Supplier Utilization Commitment**

List below all non-M/W/SBEs (subcontractors and suppliers) that you intend to use on this Contract.

Vendor Name	Description of work / materials	NIGP Code
360 Specialties	Supply Material	721015, 91484, 238390

**Letters of Intent submitted upon notice from the City**

Per Section 3.5 of the CBI Administrative Procedures Manual, within three (3) Business Days after receiving a request from the City (or within such longer time as may be communicated by the City in writing), Bidders must submit a separate Letter of Intent (**CBI Form 4**) for each M/W/SBE listed on **CBI Form 3**. Each Letter of Intent must be executed by both the M/W/SBE and the Bidder. The City shall not count proposed M/W/SBE utilization for which it has not received a Letter of Intent by this deadline. The Bidder is still obligated to pay the M/W/SBE the full amount listed on the Contract with the M/W/SBE regardless of what percentage is actually counted towards the M/W/SBE Goal.

**Adding subcontractors or suppliers after submitting this form**

Nothing in this certification shall be deemed to preclude you from entering into subcontracting arrangements after submission of this form. However, per the CBI Administrative Procedures Manual, you must comply with the following:

- You must maintain the level of M/W/SBE participation stated in the Contract throughout the duration of the Contract, except as specifically allowed in Section 5
- If you need to terminate or replace a M/W/SBE, you must comply with Section 5.3
- If the scope of work on the Contract increases, or if you elect to subcontract any portion of work not identified on this form as being subcontracted, then you must comply with Section 5.4
- A Letter of Intent (**CBI Form 4**) must also be submitted for each M/W/SBE you add subsequent to contract award.

**All Subcontractors and Suppliers must be registered with the City of Charlotte.**

Pursuant to the City's Vendor Registration Policy, each subcontractor or supplier (non-MBE/SBE, WBEs, SBEs and MBEs) that you use on this contract must be registered in the City's vendor database.

**Signature**

Your signature below indicates that the undersigned firm certifies and agrees that:

- (a) It has complied with all provisions of the CBI Policy and Administrative Procedures Manual; and,
- (b) Failure to properly document such compliance in the manner and within the time periods established by the CBI Policy and Administrative Procedures Manual shall constitute grounds for rejection of your bid.

	Edgar Black	Vice President	June 20, 2024
Signature of Authorized Official	Printed Name	Title	Submittal Date