**TEAMING AGREEMENT**

This Teaming Agreement is entered into by Stormwater Maintenance, LLC, a Maryland Limited Liability Company with offices located at 10944 Beaver Dam Road, Suite C, Hunt Valley, Maryland 21030 (“***SWM***”) and subconsultant name, a State Limited Liability Company or corporation, with offices located at Address (“***Consultant***”) (each a “***Party***” and collectively the “***Parties***”).

Whereas, the Client name (“***Client***”) has issued a Request for Proposal (the “***Solicitation***”) for Name of Project from RFP (the “***Project***”); and

Whereas, the Parties, because of their diverse capabilities, have determined that they would benefit from a teaming agreement between their respective organizations in order to provide the best solution in response to the Solicitation and in pursuit of the Project; and

Whereas, the Parties agree that SWM will be the prime contractor (the “***Prime***”) and Consultant will be the subcontractors (the “***Subcontractor***”); and

Whereas, SWM intends to submit a proposal in response to the Solicitation (the “***Proposal***”); and

Whereas, this Agreement and the Statement of Work (the “***SOW****”*, incorporated as Attachment A hereto) identify and define the major responsibilities of each Party in pursuit of the Project,

Now, therefore, in consideration of the mutual promises herein contained, the Parties agree as follows:

**1. Proposals.**

* 1. The Prime intends to submit a proposal for the Project in response to the Solicitation and will include the Subcontractor as a proposed subcontractor for that portion of the work identified in Exhibit A.
  2. Each Party will exert all commercially reasonable efforts to cause selection of the Prime as a prime contractor for the Project and acceptance of the Subcontractor as a subcontractor for the Project. Each Party agrees to exert all commercially reasonable efforts towards this objective throughout any and all negotiations concerning a proposed contract or subcontract, which may follow submission of the proposal.
  3. The Subcontractor will furnish the Prime all proposal portions pertinent to the work identified in the SOW. The work in the SOW must be provided and priced on a fixed price basis with an hourly breakdown of costs. The Prime may provide input, feedback, and comments on the Subcontractors scope and fee. Subcontractor will submit to the Prime all information required by the Solicitation for inclusion in the Proposal. The Subcontractor will provide proposal assistance and support for interviews, clarifications, or requests as needed and requested by the Prime.
  4. The Parties agree that the Prime will have ultimate control of the Proposal.
  5. If, during the term of this Agreement, a prime contract resulting from the Solicitation is awarded to the Prime, the Parties agree to negotiate a subcontract in good faith for the work set forth in Exhibit A, the SOW, as may be modified by the Parties. The subcontract shall be substantially in the form attached hereto as Exhibit “B”.

* 1. Proposal Costs. Each Party shall bear their own costs, risks and liabilities incurred in connection with support of the proposal efforts. Neither Party shall have any right to any reimbursement, payment or compensation of any kind from the other except under the terms of a subcontract unless otherwise mutually agreed to in writing by the Parties.
  2. Proposal Schedule. Consultant shall devote sufficient resources and manpower to the pursuit of the Project and the preparation of the Proposal and shall devote its best efforts to the timely completion of all required tasks. Consultant shall comply with applicable schedules related to the preparation of the Proposal. Lack of acceptable performance, work quality, or adherence to agreed upon schedules by Consultant shall be considered material breach, of the Agreement and may be grounds for termination of this Agreement at the sole discretion of SWM under Section 4.

2. Subcontracting Terms. Work shall be performed by the Subcontractor in accordance with provided schedules and technical specifications, if any, on a firm-fixed price basis and in accordance with the SOW. The terms of any resulting subcontract shall govern the relationship between the Parties and shall be negotiated between the Parties within seven (7) days days of award of a prime contract to the Prime. Both Parties agree to make every reasonable effort to contract with each other for the work identified in the SOW attached hereto as Exhibit A.

3. Confidentiality. With respect to the information exchanged between the Parties during the term of this Agreement, the following provision shall apply:

1. When proprietary matters (which shall include copyrighted works, trade secrets, and confidential information) are disclosed by one Party to another Party in writing and are clearly identified as being proprietary, the Party receiving such information agrees that such matters shall be protected through all reasonable means against use, disclosure or copying other than for purposes of the preparation and execution of the proposal under this Agreement and any resulting Prime Contract. The Parties further acknowledge that the work product developed for the Proposal is also confidential and/or proprietary, and each Party agrees to use such information solely for the purpose of developing the Proposal for these Project. Notwithstanding any termination of this Agreement, each Party shall continue to employ such means of protection for such proprietary matter for five (5) years after transmittal to the other Party, and thereafter shall abide by any continuing limitations applicable under pertinent trademark, patent, trade secret or copyright laws.
2. The standard of care imposed on the Party receiving such proprietary matters will consist of at least the same level of effort it employs to avoid unauthorized use, disclosure or dissemination of its own proprietary matters of similar value and sensitivity.
3. The obligations with respect to use, disclosure and access to the trade secrets and confidential information of each Party set forth in this Agreement are not applicable to the following:
   1. Information that was or is made available to the public without restriction by the disclosing Party or by a third party;
   2. Information that was previously known to the receiving Party independent of any disclosure by the Party; or
   3. Information that was or is independently developed by the receiving Party.
4. This Agreement shall not preclude a party from making disclosures of proprietary matters to the Client as part of the proposal; provided, however, that any such matters disclosed or delivered to the Client shall be appropriately marked with restrictive notice. This Agreement shall further not preclude disclosure of proprietary matters to the extent required by the order of a court or government official with jurisdiction. Prior to making any such disclosure, the Party shall advise the other Party of the intent to make such disclosure and cooperate in any lawful attempts to prevent or limit disclosure.
5. Upon termination of this Agreement, each Party shall, within 60 days of termination if requested, return to the other Party or destroy all writings that reflect or embody proprietary matter of the other Party in such Party’s’ possession or under its control. Notwithstanding the foregoing, each Party will be permitted to retain a copy of proprietary and confidential information as may be necessary to document such Party’s compliance with the requirements of this Agreement and any agreements related to the Project and for defending or maintaining any litigation (including administrative proceedings) relating to such agreements; provided that such retained materials shall otherwise continue to be safeguarded as confidential in the manner required by this Agreement.
6. Each Party retains all rights, including the copyright, of all documents (“Individual Party Intellectual Property, or simply Individual Party IP”) of which it is the author and which it supplied to other Party with respect to the Project and the preparation of the Proposal. Each Party grants to the other Party a non-exclusive royalty free license to use its Individual Party IP in connection with the preparation of the Proposal and the performance of services, if a contract is award as the result of the Proposal. With respect to those documents jointly prepared by the Party, including the Proposal (collectively “Team IP”), each Party shall be deemed to be an author and shall jointly retain all rights, including the copyright; provided that such Team IP may only be used in connection with the Project and this Agreement. The license granted by any Party to the other Party in connection with its Individual Party IP terminates upon the termination of this Agreement; provided, however, that where the termination is pursuant to Paragraph 8(c), 8(f) or 8(g), the license shall not terminate and the remaining Party may continue to use the Individual Party IP in connection with the preparation of the Proposal. Other than a limited right of use consistent with the intent and purposes of this Agreement as described in this Subparagraph (f), no right or license to the other Party under any trademark, trade secret, patent or copyright is either granted or implied by the transmittal of any proprietary matter to that Party.

4. Termination. This Agreement shall remain in full force and effect until the first of the following occurs:

a. Client cancels the Solicitation;

b. A prime contract is awarded to a contractor other than the Prime;

c. The Client disapproves the use of the Subcontractor for any reason not attributable to the Prime;

d. The inability of the Parties to agree on subcontract terms and conditions within seven (7) days after award of a prime contract to the Prime despite their best efforts to do so;

e. The Parties agree, in writing, to terminate this Agreement;

f. One (1) year after the effective date of this Agreement, unless extended in writing by the Parties.

g. The actual or notice of proposed suspension or debarment by the government of either Party;

h. Either party files bankruptcy, liquidation, insolvency, receivership, or like proceeding and the proceeding is not dismissed within thirty (30) days of the filing;

i. A material breach of this Agreement by either Party; or

j. Upon execution of the Subcontract by both Parties,

at which point this Agreement will terminate and shall be of no further legal force or effect, provided that the termination of this Agreement shall not supersede the obligation of the parties with respect to the protection of proprietary information. In the event that this Agreement is terminated, either Party shall be free to pursue the performance of the Project in association with the successful contractor or any other third party, subject to the provisions of this Agreement.

5. Relationship of the Parties. This Agreement is not intended by the Parties to constitute or create a joint venture, pooling arrangement, partnership, or other formal business organization of any kind, other than a team agreement and the rights and obligations of the Parties shall be only those expressly set forth herein. Neither Party shall have authority to bind the other except to the extent expressly authorized herein. The Parties shall remain independent contractors to each other at all times and the employees of one shall not be deemed employees of the other. Neither Party shall act as an agent for the other.

6. Limitation of Liability. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR CONSEQUENTIAL, INCIDENTAL, INDIRECT OR SPECIAL DAMAGES OF ANY TYPE, INCLUDING WITHOUT LIMITATION, LOST PROFITS, LOSS OF OPPORTUNITY, PUNITIVE OR OTHER INDIRECT DAMAGES THAT ARE CLAIMED TO BE INCURRED BY THE OTHER PARTY WHETHER SUCH CLAIM ARISES UNDER CONTRACT, TORT (INCLUDING STRICT LIABILITY) OR OTHER THEORIES OF LAW AND REGARDLESS OF WHETHER OR NOT INFORMED OF THEIR POSSIBILITY.

7. Publicity. No news release, public announcement, advertisement or publicity concerning this Agreement, any proposals, any resulting contracts or tasks, or any subcontracts to be performed hereunder, shall be released by Consultant without the prior written approval of SWM.

8. Profits. Nothing contained herein shall be construed as providing for the sharing of profits or losses arising out of the efforts of either or both of the parties.

9. Disputes. Should a dispute arise between the Parties’ personnel as to the responsibilities, limitations, or working relations of either organization, or as to the rights, duties or liabilities of either Party hereunder or as to any action or matter arising out of or under this Agreement, every effort will be made to resolve the difference by the same personnel. When such resolution cannot be achieved, the dispute will be referred to Jennifer Rauhofer of SWM, and the President or Chief Executive Officer of Subcontractor respectively. These individuals will take whatever action that may be necessary to reach an agreement which is acceptable to both parties. In the event the above business dispute(s) is not resolved by negotiation within ten (10) days from the date Prime’s representative or Subcontractor’s representative is notified of the dispute(s), whichever date is later, the Parties hereto reserve all rights to pursue legal remedies.

10. Governing Law. This Agreement shall be enforced and interpreted construed in accordance with the laws of the State of Maryland and any federal laws applicable therein.

11 Severability. If any part, term or provision of this Agreement shall be held void, illegal, unenforceable, or in conflict with any law of a federal, state, or local government having jurisdiction over this Agreement, the validity of the remaining portions of provisions shall not be affected thereby.

12. Customer Contacts. SWM will be the sole contact with the Client concerning the Proposal and any work product delivered under any contract or subcontract for the Project. All communications with the Client pertaining to either the Solicitation or work under any prime contract or subcontract related to the Project shall be made through the Prime unless otherwise expressly authorize in writing by the Prime. In the event the Subcontractor is contacted by the Client for anything related to the Project, Subcontractor shall promptly notify the Prime, who in its sole discretion shall permit and/or coordinate for a response to the Client.

13. Assignment. Neither Party may assign or transfer its interests hereunder or delegate its duties, in whole or in part without the express prior written approval of the other party, which consent shall not be unreasonably withheld. This Agreement shall be binding upon each of the Parties and their respective successors and assigns and their respective successors and assigns and delegates.

14. Modification and Waiver. This Agreement shall not be amended or modified, nor shall any waiver of any right hereunder be effective, unless mutually agreed upon and set forth in a document executed by duly authorized representative of both Parties. The waiver of any breach of any term or condition herein contained shall not be deemed to be a waiver of such term or condition for any subsequent breach of the same.

15. Exclusivity. Due to the need to exchange Proprietary and Confidential Information, the Subcontractor, including any affiliates, subsidiaries, or parent companies, agrees that it will not actively participate in other team efforts that are competitive to this Agreement or compete independently for work covered by the Solicitation during the duration of this Agreement. Nothing contained in this Agreement shall restrict the rights of the Parties and/or subsidiaries, from quoting, offering to sell or selling to others any items or services that it regularly offers for sale to any other entity.

16. Entire Agreement. This is the entire Agreement between the Parties relative to the subject matter herein, and in the event anything contained herein conflicts with any general confidentiality agreement executed between the Parties (other than the Mutual Confidentiality Agreement referenced in Section 3 of this Agreement), the two documents shall be read together and the terms of this Teaming Agreement shall prevail.

17. Notices. All notices, certificates, acknowledgements and other reports (“***Notices***”) sent by a Party shall be in writing and deemed properly delivered when duly mailed by certified mail to the other Party at its address as follows, or to such other addresses as either Party may designate by written notice to the other. Additionally, Notices sent by any other means (i.e. e-mail, facsimile, overnight delivery, courier) are acceptable subject to written confirmation of both the transmission and receipt of notice.

Prime:

Stormwater Maintenance, LLC

10944 Beaver Dam Road, Suite C

Hunt Valley, Maryland 21030

Attn: Jennifer Rauhofer, President

Phone: 410.785.0875

Email: [jr@mdswm.com](mailto:jr@mdswm.com)

Subcontractor:

Name

Address

Person

Phone:

Email:

18. Construction. This Agreement will be construed as if prepared jointly by the Parties, and the Parties agree and stipulate that (i) the language used in this Agreement shall be deemed to be the language chosen by the parties to express their mutual intent, and (ii) they will not allow any uncertainty or ambiguity to be interpreted against either Party.

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

20. Section Headings. The section headings appearing in this Agreement have been inserted for the purpose of convenience and ready reference. They do not purport to, and shall not be deemed to, define, limit or extend the scope or intent of the sections to which they appertain, and they shall not for any purpose affect the interpretation of this Agreement.

[Signature page follows]

IN WITNESS WHEREOF the Parties have caused this Agreement to be duly executed by their duly authorized representatives effective as of the day and year last written below.

Accepted and Agreed to:

**Stormwater Maintenance, LLC**

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name: Jennifer Rauhofer

Title: President

Date: Date

**Company name**

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name:

Title:

Date:

**Attachment A**

**STATEMENT OF WORK**

Prime will, upon negotiation of a subcontract and subsequent agreed upon taskings, support specific Client tasking, including in connection with the following:

IF DESIGN/BUILD WHERE SWM IS CONSTRUCTING:

Consultant will be responsible for the design portion of the proposal and for the obligations of the designer under the Prime Contract as set forth in the Subcontract. The Parties agree that SWM will have input and final say over the overall design approach, value engineering, and cost control aspects of the pre-award design and engineering effort by Consultant. Consultant’s pre-award design will be based upon reasonable engineering assumptions and the preliminary information as is available in the documents in the RFP and further investigation by Consultant, as required, to prepare a design that is suitable for reasonably accurate construction estimating by SWM.

The Standard of Care for all design professional services performed by Consultant pursuant to this Agreement shall be the usual and customary professional skill and care ordinarily exercised by members of its profession carrying out services of the nature and scope required for the Project at the time and place the services are rendered under similar circumstances.

**Attachment B**

**SUBCONTRACT AGREEMENT**

THIS AGREEMENT, entered into this \_\_\_ day of \_\_\_\_\_\_\_\_\_, 20\_\_, by and between Stormwater Maintenance, LLC with offices at 10944 Beaver Dam Rd., Suite C, Hunt Valley, Maryland, 21030 referred to in this Agreement as (“SWM”) and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ located at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ referred to as “Subcontractor.”

RECITALS

R-1. SWM has entered into a contract with \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (the “Owner”) for the purposes of furnishing certain stormwater design/build services in connection with the \_\_\_\_\_\_\_\_\_\_\_\_\_ (the “Project”); and

R-2. SWM desires Subcontractor to perform certain services as described more fully on Exhibit A attached hereto in connection with the Project and Subcontractor desires to perform such services.

NOW, THEREFORE, in consideration of the mutual covenants set forth in this Agreement, SWM and Subcontractor hereto agree as follows:

I. Scope of Work.

Subcontractor shall perform in a proper manner, satisfactory to SWM, the services as more fully described in Exhibit A, "Scope of Work; Schedule; Payment" attached hereto and made a part hereof (the “Work”).

II. Time of Performance.

The services to be performed hereunder shall commence upon receipt by Subcontractor of a written "Notice to Proceed" from SWM and shall be completed in accordance with the schedule set forth in Exhibit A.

III. Payment.

For satisfactory performance of the services described above, provided Subcontractor is not then in breach of its obligations under this Agreement, SWM shall pay to Subcontractor the compensation provided for on Exhibit A. After receipt and approval by SWM of Subcontractor’s invoice prepared in such form and supported by such documents as SWM may reasonably require, SWM will include Subcontractor’s invoice with SWM's regular billings to the Owner. SWM will make payment to the Subcontractor within ten (10) days after receipt of payment from the Owner for work performed by Subcontractor.

It is understood and agreed to by the Subcontractor that payment from Owner to SWM for work performed by Subcontractor is a condition precedent for payment to Subcontractor from the Owner.

IV. Compliance With Laws.

Subcontractor shall observe and abide by all applicable laws, ordinances and regulations of federal, state and local governments, in connection with the Work.

V. Subcontract and Assignment.

This Agreement may not be assigned or subcontracted by Subcontractor, in whole or part, without the prior written consent of SWM. Approval by SWM of any subcontractor shall not relieve the Subcontractor of any liability or responsibility for the proper performance of the Work. Subcontractor shall not subcontract any work without SWM’s express written permission.

VI. Inspections.

All work performed by Subcontractor shall be subject to the quality inspection and approval by SWM at all times, but such approval shall not relieve Subcontractor of responsibility for the proper performance of the Work. SWM will have input and final say of the overall design approach, value engineering, and cost control aspects of the design and engineering. Subcontractor shall provide sufficient, safe and proper facilities at all times for such inspection of the work, and shall furnish all information concerning the Work, and grant SWM's duly authorized representatives free access at all reasonable times to Subcontractor's facilities where the Work is to be performed.

VII. Safety

SWM makes no representation with respect to the physical conditions or safety of the Project Site. The Subcontractor shall, at its own expense, preserve and protect from injury its employees engaged in the performance of the Work and all property and persons which may be affected by its operations in performing the Work. The prevention of accidents to workers engaged in the Work and others affected by the Work is the responsibility of the Subcontractor and Subcontractor shall comply with all federal, state, labor and local laws, regulations and codes concerning safety as shall be applicable to the Work and to the safety standards established by SWM during the progress of the Work. Subcontractor shall indemnify, defend and hold harmless SWM, Owner and their respective officers, directors, agents and employees from any costs, expenses or liability (including attorneys' fees, fines or penalties) resulting from failure of Subcontractor to comply with the aforesaid laws, regulations and codes.

VIII. Standard of Care

In performing the services required by this Agreement, Subcontractor shall use that degree of usual and customary professional skill and care ordinarily exercised by members of its profession under similar circumstances practicing in the same or similar locality at the time the services are rendered.

IX. Changes.

SWM shall have the right, at any time prior to completion of the Work, to direct changes in this Agreement, including but not limited to, changes in the Scope of Work. If the change causes an increase or decrease in the cost of, or the time required for the Subcontractor’s performance under this Agreement, the Subcontractor must submit to SWM, within ten (10) days after receipt of the change notice, any request for adjustment. SWM will issue an addendum to this Agreement or Additional Work Authorization for equitable adjustments.

X. Termination for Convenience.

(a) SWM shall have the right at any time to terminate this Agreement in whole, or in part, by written notice to Subcontractor. Upon receipt of this notice the Subcontractor shall immediately discontinue performance.

(b) In the event of termination for convenience, subject to Section III of this Agreement, SWM shall pay the Subcontractor for all work performed and accepted by SWM prior to termination, plus the profit due for the work performed. However, in no event shall SWM be obligated to pay more than the Agreement value less any previously paid funds.

XI. Breach by Subcontractor.

(a) SWM shall have the right at any time to terminate this Agreement in whole, or in part, if the  
Subcontractor fails to perform any of its obligations or if the Subcontractor fails to give SWM assurance of adequate performance within ten (10) working days after written request by SWM for such assurances.

(b) In the event of a breach of the Agreement by Subcontractor, SWM may:

(1) Declare the Subcontractor to be in default;

(2) Cancel this Agreement in whole or in part;

(3) Withhold payment of any further funds which may be due the Subcontractor until the breach is corrected;

(4) Pursue any and all other remedies afforded by law.

XII. Indemnification and Insurance.

To the fullest extent permitted by law, the Subcontractor shall indemnify, defend, and hold harmless the SWM, Owner and their respective members, managers, stockholders, officers, directors, employees and agents (“Indemnified Parties”) from and against all claims, damages, demands, losses, expenses, fines, causes of action, suits or other liabilities, (including all costs reasonable attorneys' fees, consequential damages, and punitive damages), arising out of or resulting from, or alleged to arise out of or arise from, the performance of Subcontractor's Work under the Subcontract, whether such claim, damage, demand, loss or expense is attributable to bodily injury, personal injury, sickness, disease or death, or to injury to or destruction of tangible property, including the loss of use resulting therefrom; but only to the extent attributable to the negligence of the Subcontractor or any entity for which it is legally responsible or vicariously liable regardless whether the claim is presented by an employee of Subcontractor. Such indemnity obligation shall not be in derogation or limitation of any other obligation or liability of the Subcontractor or the rights of the SWM contained in this Subcontract or otherwise. This indemnification shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Subcontractor under any workers' compensation acts, disability benefits acts or other employee benefits acts. This indemnification shall be in addition to any indemnity liability imposed by the Contract Documents, and shall survive the completion of the Work or the termination of the Subcontract.

The Subcontractor must maintain the required insurance with a carrier rated A- or better by A. M. Best. The Subcontractor shall maintain at least the limits of liability as set forth below:

**Commercial General Liability Insurance:**

$1,000,000 Each Occurrence Limit (Bodily Injury and Property Damage)

$2,000,000 General Aggregate

$2,000,000 Ongoing & /Completed Operations Aggregate

$1,000,000 Personal and Advertising Injury Limit

**Endorsements:**

General aggregate applies per project/location

Waiver of subrogation in favor of Contractor

SWM and Owner named as additional insured including premises/operations and completed operations – ISO endorsements CG 20 10 07 04 and CG 20 37 07 04 are acceptable (or their equivalent). Coverage to be primary and non-contributory in favor of additional insured.

30 days written notice by certified mail of reduction in coverage, cancellation or non-renewal in favor of Contractor.

There shall be no exclusion endorsement or modification of the Commercial General Liability form arising from pollution, explosion, collapse, underground property damage, completed operations, contractual liability, residential construction work or work performed by subcontractors.

**Business or Commercial Automobile Liability Insurance:**

$1,000,000 combined single limit per accident

**Endorsements:**

Waiver of Subrogation in favor of SWM and Owner

Coverage to be Primary and Non-Contributory in favor of additional insured.

**Workers' Compensation and Employers' Liability Insurance:**

$100,000 Each Accident

$100,000 Each Employee for Injury by Disease

$500,000 Aggregate for Injury by Disease

# Professional Liability, Errors, and Omissions Insurance:

$1,000,000 Each claim

$2,000,000 Aggregate

**Excess or Umbrella Liability (to overlay Employer’s Liability, Automobile Liability and Commercial Liability coverages):**

$1,000,000 occurrence/aggregate

Additional Insured Status and Certificate of Insurance

SWM and Owner, along with their respective officers, agents and employees, shall be named as additional insureds for Ongoing Operations and Products/Completed Operations on the Subcontractor's and any Sub-Subcontractor's Commercial General Liability Policy, which must be primary and noncontributory with respect to the additional insureds. This insurance shall remain in effect as set forth below, in the "Continuation of Coverage" provision.

It is expressly understood by the parties to this Contract that it is the intent of the parties that any insurance obtained by SWM is deemed excess, non-contributory and not co-primary in relation to the coverage(s) procured by the Subcontractor, the Sub-Subcontractor or any of their respective consultants, officers, agents, subcontractors, employees or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of the aforementioned may be liable by operation of statute, government regulation or applicable case law.

To the fullest extent permitted by applicable state law, a Waiver of Subrogation Clause shall be added to the General Liability, Automobile and Workers Compensation policies in favor of SWM and Owner, and this clause shall apply to the Contractor's and Owner's officers, agents and employees, with respect to all projects during the policy term.

Prior to commencement of work, Subcontractor shall submit a Certificate of Insurance in favor of SWM and an Additional Insured Endorsement (in a form acceptable to SWM) as required hereunder. The Certificate shall provide for thirty (30) days' notice to SWM for cancellation, except 10 days notice for non-payment of premium

XIII. Independent Contractor

The Subcontractor is an independent contractor for SWM. Nothing in this Agreement or any proposal shall be construed as creating an employer-employee relationship, a partnership or a joint venture between the parties.

XIV. Confidentiality and Covenant Not To Compete.

No publicity releases (including news releases and advertising) relating to this Agreement or the Work shall be issued by the Subcontractor without the prior written approval of SWM.

The Subcontractor acknowledges that the nature of the work may result in the Subcontractor speaking with or otherwise making contact with representatives of SWM customers after receiving permission to do so from SWM. The Subcontractor agrees to keep strictly confidential the terms and conditions of the Agreement, including, but not limited to the pricing and payment provisions of the Agreement.

Further, the Subcontractor agrees that the compensation provided is sufficient consideration received in exchange for the Subcontractor’s agreement to refrain from approaching the customer about performing any stormwater related services not only during the time the Agreement remains in effect but for a 2-year period after the Agreement is terminated regardless of why the Agreement is terminated. This covenant not to compete pertains to any location of business owned by the customer.

XV. Examination of Records.

The Subcontractor agrees that SWM will have access to and the right to examine any books, documents, papers and records of any and all the transactions relating to this Agreement. The Subcontractor shall maintain all records for a period of three (3) years after completion of the Work.

XVI. Partial Invalidity.

If any term, covenant, condition or provision of this Agreement is found by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect, and shall in no way be affected, impaired or invalidated thereby.

XVII. Headings.

Headings in this Agreement are for convenience only and are not intended to be used in interpreting or construing the terms, covenants, and conditions of this Agreement.

XVIII. Governing Laws.

This Agreement shall be governed by the laws of the State of Maryland without regard to the conflicts of laws provisions thereof.

XVIV. Entire Agreement; No Waiver.

This Agreement constitutes the whole agreement between SWM and the Subcontractor with respect to the subject matter contained herein and there are no terms other than those contained herein. Should any provisions of your proposal be in conflict with the terms contained in this agreement, this agreement shall control unless the differences are expressly accepted by modification to this agreement. No modification or amendment of this Agreement shall be valid unless in writing and signed by the parties hereto. No waiver of any breach of any provision of this Agreement shall constitute a waiver of any other breach of the same or any other provision hereof and no waiver shall be effective unless made in writing and signed by an authorized representative of the waiving party.

WITNESS: STORMWATER MAINTENANCE, LLC

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

WITNESS: [SUBCONTRACTOR]

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

EXHIBIT A

Scope of Work; Schedule; Payment

[INSERT DESCRIPTION OF WORK TO BE COMPLETED BY SUBCONTRACTOR; SCHEDULE FOR COMPLETION OF WORK; PAYMENT PROVISIONS].

Consultant will be responsible for the design portion of the proposal and for the obligations of the designer under the Prime Contract as set forth in the Subcontract. The Parties agree that SWM will have input and final say over the overall design approach, value engineering, and cost control aspects of the pre-award design and engineering effort by Consultant. Consultant’s pre-award design will be based upon reasonable engineering assumptions and the preliminary information as is available in the documents in the RFP and further investigation by Consultant, as required, to prepare a design that is suitable for reasonably accurate construction estimating by SWM.

The Standard of Care for all design professional services performed by Consultant pursuant to this Agreement shall be the usual and customary professional skill and care ordinarily exercised by members of its profession carrying out services of the nature and scope required for the Project at the time and place the services are rendered under similar circumstances.

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