



CITY OF CORAL GABLES

405 Biltmore Way
Coral Gables, FL 33134
(305) 460-5102

Finance Department / Procurement Division Request for Sole Source Procurement (Over \$25,000 requires Commission approval)

Section 2-689 A contract may be awarded without competitive bids or proposals when the Procurement Officer, after conducting a good faith review of all available sources, determines in writing, pursuant to a written request from a department head, that the contract by its very nature is not suitable to competitive bids or proposals, as there is only one source for the required supply, service or construction item capable of fulfilling the needs of the city.

CONTRACT ID: _____

PART I: Department/Vendor Information

| Division/ Department | Dept. Contact | Requisition No. |
|-------------------------|-----------------------------|-----------------|
| Suggested Vendor | Service/Item Description | Value |

PART II: Explanation (Supporting documentation must be attached)

| | |
|------------------------------|--|
| Sole Source Justification | |
|------------------------------|--|

Department Head Signature

Date

Chief Procurement Officer Signature

Date

June 1, 2023

Coral Gables Police Department
2151 Salzedo Street
Coral Gables, FL 33134

TG-17 Inc., doing business as Bond, is the sole supplier for all-inclusive rapid response UAS services for police agencies operating as Public Aircraft Operations. Bond is the only supplier comprehensively offering a list of unique, necessary attributes for providing these services on the level required by the Coral Gables Police department, including but not limited to:

1. Orientation
 - a. Safety and security company with proven track record working with police departments
2. Functionality and payload of the UAS
 - a. Full standard law enforcement payloads (IR and visible light cameras)
 - b. Specialized *intervention and deterrence* payload (megaphone and spotlight)
 - c. Urban safety configuration, including 6 propellers allowing for the drone to lose a propeller or motor and remain airborne, as well as a parachute
 - d. Omnichannel telecommunications subsystem optimized for support in urban environments that includes ability, in real time, to leverage LTE by AT+T, Verizon, and T-Mobile separately or jointly, and/or 2.4Ghz
 - e. Software package that allows secure access and communications in support of police operations
3. Regulatory
 - a. Support to acquire and maintain all necessary FAA authorizations to operate as a Public Aircraft Operation
 - b. DOD blue-list approved manufacturer
4. Service level
 - a. Staff to operate UAS for both on-demand 24x7 911 response and special event coverage
 - b. Proprietary training program that uniquely prepares staff for providing full-service rapid-response UAS services under PAO regulations
 - c. Always-on command center staff to assist in analysis and review of data.

Lastly, Bond provides a unique, proven capability to integrate the UAS services they provide with their mobile app, which can be made available to all residents, police professionals, and other practitioners, who can now interact with the Bond team without occupying police resources, offering increased security and peace of mind.

Should you have any questions, please contact me.

TG-17, Inc., d/b/a Bond
85 Broad Street
Floor #9
New York, NY 10004



Regards,

A handwritten signature in black ink that reads "Kempel".

Doron Kempel, CEO

THIS **SERVICES AGREEMENT** (the "Agreement"), is made as of January 1, 2023 (the "Effective Date"), between the City of Coral Gables (hereinafter called the "City"), and TG-17, Inc. d/b/a Bond, a Delaware corporation (hereinafter called "Bond").

WHEREAS, in accordance with Section 2-693 of the City of Coral Gables' Procurement Code, the parties hereto entered into that certain Pilot Program Agreement, dated as of June 29, 2022 (the "Pilot Program Agreement"), pursuant to which Bond provided the City a "Drone as First Responder Program" as described in the Pilot Program Agreement (the "Pilot Program");

WHEREAS, the City is interested in engaging Bond to provide the UAS Services (as defined below), and Bond is willing to perform such services under the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the promises and the mutual covenants herein contained, the City and Bond agree as follows:

ARTICLE 1 THE CONTRACT DOCUMENTS

1.1 The following documents shall comprise the Contract Documents ("Contract Documents"):

- (a) This Agreement; and
- (b) Bond's Certificates of Insurance and Additional Insured Endorsements, attached hereto as Exhibit A.

1.2 Any of the Contract Documents listed above but not attached hereto are hereby incorporated by reference and shall be deemed to be of the same force and effect as if actually attached hereto. This Agreement incorporates all prior negotiations, agreements, and understandings applicable to the matters contained in this Agreement. Accordingly, it is agreed that no deviation from the terms of this Agreement shall be predicated upon any prior representations or agreements, whether oral or written.

ARTICLE 2 SCOPE OF WORK

Bond shall provide the City the following services (collectively, the "UAS Services"):

- (a) exclusively leasing the UAS set forth in Exhibit B hereto that are registered with the FAA (as hereinafter defined);
- (b) identifying and establishing a right to use a flat roof from which Bond's drone team can safely operate for the Term (as hereinafter defined);
- (c) providing a qualified two-member flight crew, including an FAA-certified Remote Pilot (as hereinafter defined) with appropriate rating;
- (d) activating of the UAS (as hereinafter defined) in appropriate situations as mutually determined by Bond and the City, including providing at least 500

hours of scheduled on-demand availability for 911 response and support for at least 3 event days;

- (e) providing appropriate sensor(s) or camera(s) capable of collecting data from emergency sites and during the entire flight of a UA;
- (f) providing all equipment or other personnel, such as visual observers, and any other direct participants in the operation of the UAS necessary to safely perform the UAS Services in accordance with all Applicable Laws and Regulations (as defined below);
- (g) developing a method and mode of communication between Bond and the City (telecommunications, common maps, terminology), which will facilitate the manner in which Bond will provide the City with the real-time information Bond gathers in the performance of UAS Services; and
- (h) developing of a public messaging program and other community engagement activities to present the Pilot Program to the local community.

ARTICLE 3 AIRCRAFT LEASE

As part of the UAS Services, Bond hereby agrees to lease, on an exclusive basis, all of the UAS (as defined below) that were operated in connection with the Pilot Program to the City for the Term (as defined below) of this Agreement. This Aircraft Lease provision shall survive termination of the Agreement. A list of UA subject to this Aircraft Lease provision is attached hereto as Exhibit "B." Delivery by the City of a duly executed copy of this Agreement will be conclusive proof between Bond and the City that the City has accepted the UAS for lease hereunder without any reservations whatsoever. Bond leases and the City takes the UAS and each part thereof "as-is," "where-is." The City represents and warrants that the UAS will be operated solely as provided for in this Agreement.

ARTICLE 4 FEES

4.1 In consideration of the provision of the UAS Services by Bond and the rights granted to the City under this Agreement, the City shall pay to Bond a fee in the amount of two hundred forty thousand dollars (\$240,000). Payment to Bond of such fee shall constitute payment in full for the performance of the UAS Services. Such fee will be payable within thirty (30) days of receipt by the City of an invoice from Bond.

4.2 Should the City require additional hours of coverage beyond 500 per year, each hour will be billed at \$250. Should the City require coverage for additional events, each day of event coverage will be billed at \$7,500.

4.3 All late payments shall bear interest at the lesser of: (a) the rate of [12]% per month and (b) the highest rate permissible under applicable law, calculated daily and compounded monthly. The City shall also reimburse Bond for all reasonable costs incurred in collecting any late payments, including, without limitation, attorney's fees. In addition to all other remedies available under this Agreement or at law (which Bond does not waive by exercise of any rights hereunder), Bond shall be entitled to suspend the provision of any UAS Services if the City fails

to pay any amounts when due hereunder and such failure continues for ten (10) days following written notice thereof.

ARTICLE 5 BOND'S OBLIGATIONS

5.1 Bond's Responsibility. Bond shall be responsible for ensuring that: (1) the Remote Pilot, visual observer, and any other Bond personnel directly participating in the operation of the UAS fulfill all of their respective duties, obligations, and regulatory requirements under this Agreement, Applicable Laws and Regulations, and the Operating Documents; and (2) the UAS has been properly inspected, maintained, registered (including ensuring that any necessary FAA permits have been obtained), and marked in accordance with this Agreement, Applicable Laws and Regulations, and Operating Documents. Bond will immediately notify the City in the event that the FAA or other regulatory body with jurisdiction over it takes any action against Bond's authority to operate UAS or conduct operations. It is the sole obligation of Bond to report any accidents, incidents, or other reportable events, arising out of the UAS Services, to the appropriate governmental agency, if required, including but not limited to the FAA and National Transportation Safety Board. Any such reports arising out of any UAS services performed under this Agreement must also be provided to the City as soon as practicable (but in no event later than fourteen (14) calendar days) after the event is reported.

5.2 Designation of Remote Pilot. Bond shall designate one or more of its qualified UAS Remote Pilot employees to serve as the Remote Pilot hereunder, and shall notify the City in writing of Bond's designation. The Bond employee(s) to be designated as the Remote Pilot may be changed from time to time as Bond may, in its sole discretion, decide to do so; provided, however, Bond shall notify the City of any changes to the Remote Pilot promptly after Bond's change. The City shall have the right to notify Bond of any complaints it has with respect to any Remote Pilots.

5.3 Remote Pilot Qualifications and Training. Bond shall ensure that, during the Term, the Remote Pilot at all times holds a remote pilot certificate with an appropriate and current rating. Bond shall ensure that, prior to operating the UAS under this Agreement, the Remote Pilot: (1) has demonstrated the ability to safely operate the UAS in a manner consistent with how the UAS will be operated in order to perform the UAS Services (including evasive and emergency maneuvers/procedures and maintaining appropriate distances from persons, vessels, vehicles, and structures); (2) is familiar with and has been trained on all applicable Operating Documents and all Applicable Laws and Regulations; and (3) will comply with all applicable Operating Documents and all Applicable Laws and Regulations.

5.4 Remote Pilot Duties and Obligations. In connection with the provision of the UAS Services, the Remote Pilot in coordination with Bond shall have responsibility for: (1) providing all maintenance and repair of the UAS to ensure that it is in a condition for safe flight; (2) inspecting the UAS after any maintenance or repair, and prior to any flight, to ensure that it is in a condition for safe flight; (3) making all necessary arrangements for the positioning, take-off, flight, and landing of the UAS; (4) maintaining, or causing to be maintained, all records, logs, and other documentation required by the FAA related to the maintenance, repair, inspection, and operation of the UAS; (5) serving as Remote Pilot of the UAS during any flight operation that occurs in connection with the UAS Services; (6) obtaining any necessary preflight approvals or making any preflight notifications; (7) ensuring that all UAS crew members can safely perform their duties required under this Agreement and in accordance with Applicable Laws and Regulations and the Operating Documents; and (8) reporting any accidents, incidents, or other reportable events to

the appropriate governmental agency, including but not limited to the FAA and National Transportation Safety Board.

5.5 Scope of UAS Services Review. The City is not in the business of providing aviation services. As a result, the City is relying on the specialized knowledge and expertise of Bond. If the UAS Services cannot be so performed, Bond must notify the City as soon as practicable to inform the City of any such concerns. If any particular UAS Services cannot be flown safely and in accordance with all Applicable Law and Regulations, then such UAS shall not be flown.

5.6 Control of Aircraft. Nothing in this Agreement shall be construed as authority to operate UAS or conduct UAS operations other than in strict compliance with all Applicable Laws and Regulations and the Operating Documents. The parties hereto recognize and agree that the UAS at all times will be under the operational control of the City, and that on, or in connection with, any UAS flight under this Agreement, the Remote Pilot shall act on behalf of, and at the direction of, the City, provided that the City is acting in compliance with Applicable Laws and Regulations, and except as expressly provided in this Section 4.6. The Remote Pilot shall, in accordance with the FARs, exercise his or her duties and responsibilities in regard to safety of flight. The Remote Pilot shall have complete discretion to terminate, divert, or delay any flight or take other action for safety-of-flight reasons. The decision of the Remote Pilot with regard to any safety-of-flight decision shall be final.

5.7 Storage of Data. All data generated during operations performed by Bond on behalf of the City shall be transferred to the City for storage per City policies and guidance.

ARTICLE 6 TERM; TERMINATION

6.1 Term. This Agreement shall commence as of the Effective Date and shall terminate on December 31, (the "Term").

6.2 Termination for Cause. If Bond is in breach of a material provision of the Contract Documents, and such breach is not cured by Bond within thirty (30) days after written notice thereof, then the City may notify Bond of its intent to terminate this Agreement; provided, however, if such breach is not capable of being cured within such thirty (30)-day period, provided that Bond commences such cure during such thirty (30)-day period, and is diligently proceeding to achieve such cure, Bond shall have sixty (60) days after written notice thereof from the City within which to achieve such cure, and the failure to do so shall allow the City to terminate this Agreement. If Bond makes a general assignment for the benefit of its creditors, or if a receiver is appointed on account of Bond's insolvency, or if it persistently or repeatedly disregards, except in cases for which an extension of time is granted, disregards Applicable Laws and Regulations, then the City may, without prejudice to any right or remedy and after giving Bond five (5) calendar days' written notice within which to cure such breach, terminate this Agreement, in which case this Agreement shall be null, void, and of no force and effect, and neither party shall be entitled to damages on account of such termination.

6.3 Termination for Convenience.

Either party may terminate this Agreement for such party's convenience and without cause upon thirty (30) calendar days' written notice to the other party; except where either party anticipatorily repudiates the Agreement, in which case the other party may immediately, without prior notice, terminate this Agreement for such terminating party's convenience and without

cause, in which case this Agreement shall be null, void, and of no force and effect, and neither party shall be entitled to damages on account of such termination. For the avoidance of doubt, neither party shall be liable to the other for lost profits or any other type of consequential, special or indirect damages.

**ARTICLE 7
INDEPENDENT CONTRACTOR,
DEFENSE, INDEMNIFICATION, & HOLD HARMLESS**

7.1 Independent Contractor. Bond acknowledges that it is entering into this Agreement as an independent contractor. Bond, its employees or agents, will not be considered employees of the City or entitled to participate in plans, distributions, arrangements or other benefits extended to City employees.

7.2 Agency. Nothing herein shall imply or shall be deemed to imply an agency relationship between the City and Bond.

7.3 Bond warrants that it fully complies with all federal statutes and regulations regarding the employment of undocumented workers and others and that all employees performing work under this Agreement meet the citizenship or immigration status requirements set forth in federal statutes and regulations. Bond shall indemnify, defend, and hold harmless City, its officers and employees from and against any sanctions and any other liability which may be assessed against Bond or City in connection with any alleged violation of any federal statutes or regulations pertaining to the eligibility for employment of any persons performing work hereunder.

7.4 Defense, Indemnification, & Hold Harmless.

7.4.1 To the fullest extent permitted by laws and regulations, Bond shall defend, indemnify, and hold harmless the City, its elected and appointed officials, attorneys, administrators, consultants, agents, and employees from and against all claims, damages, losses, and expenses direct, indirect, or consequential (including but not limited to fees and charges of attorneys and other professionals and court and arbitration costs), arising in each case from third-party claims, resulting from the performance of this Agreement and caused in whole or in part by any willful, intentional, reckless, or negligent act or omission of Bond, any subconsultant or subcontractor, or any person or organization directly or indirectly employed by any of them to perform the UAS Services or anyone for whose acts any of them may be liable, including any such acts or omissions related to UAS flown by Bond that have not been initiated by the City and are unconnected with this Agreement, regardless of whether or not such act or omission is caused in part by a party indemnified hereunder and regardless of the negligence of any such indemnified party. The parties expressly agree that this provision shall be construed broadly, and Bond's obligations to pay for the City's legal defense hereunder shall arise and be fully enforceable when Bond (or any subconsultant or subcontractor or any person or organization directly or indirectly employed by Bond) is alleged to have acted willfully, intentionally, recklessly, or negligently in the performance of this Agreement. Any failure of Bond to comply with the terms of this provision shall be deemed a material breach of this Agreement and may subject Bond to debarment from consideration for future award of City contracts pursuant to Section 2-912(4) of the City of Coral Gables Code of Ordinances. This provision shall survive termination of the Agreement.

7.4.2 To the fullest extent permitted by laws and regulations, the City shall defend, indemnify, and hold harmless Bond, its directors, officers, partners, members, managers,

employees, agents, representatives, successors, and assigns from and against all claims, damages, losses, and expenses direct, indirect, or consequential (including but not limited to fees and charges of attorneys and other professionals and court and arbitration costs), arising in each case from third-party claims, resulting from (i) the performance of this Agreement and caused in whole or in part by any willful, intentional, reckless, or negligent act or omission of the City, its elected and appointed officials, attorneys, administrators, consultants, agents, and employees or anyone for whose acts any of them may be liable, regardless of whether or not such act or omission is caused in part by a party indemnified hereunder and regardless of the negligence of any such indemnified party or (ii) the breach or violation of any privacy or other civil right of any citizen of the City. The parties expressly agree that this provision shall be construed broadly, and the City's obligations to pay for Bond's legal defense hereunder shall arise and be fully enforceable when the City (or its elected and appointed officials, attorneys, administrators, consultants, agents, and employees) is alleged to have acted willfully, intentionally, recklessly, or negligently in the performance of this Agreement. This provision shall survive termination of the Agreement.

7.4.3 With respect to any and all claims against the City or any of its elected or appointed officials, consultants, agents, or employees by any employee of Bond, any subconsultant, any subcontractor, any person or organization directly or indirectly employed by any of them to perform or furnish any of the goods and/or services or anyone for whose acts any of them may be liable, the indemnification obligation under the above Sections 6.4.1 and 6.4.2 shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Bond or any such subconsultant or other person or organization under workers' or workman's compensation acts, disability benefit acts, or other employee benefit acts. Moreover, nothing in this Indemnification and Hold Harmless provision shall be considered to increase or otherwise waive any limits of liability, or to waive any immunity, established by Florida Statutes, case law, or any other source of law.

7.5 The indemnification and hold harmless provision shall include, but not be limited to, all of the following:

- (a) damages awarded to any person or party;
- (b) attorney's fees and costs incurred in defending such claims. The City may use the attorney or law firm of its choice in which event Bond will pay such firm the fees it charges the City, provided such fees are reasonable in light of the prevailing market rate for similar legal services. Such fees shall be deemed reasonable if they are no greater than the fees that the City pays other counsel for representation in similar cases. If the City Attorney's Office provides the defense, Bond will reimburse the City at the prevailing market rate for similar legal services;
- (c) Attorney's fees and cost of any party that a court orders the City to pay;
- (d) in the event that the City lost time that results from the City or its officials or employees responding to discovery or testifying by deposition or in court. In this regard, for any time the City spends in responding to document requests or public records requests relating to such claims whether from Bond or any other party, Bond will reimburse City \$50.00 for each employee work hour spent reviewing or responding to such requests. For any time spent testifying in court

or in depositions, or preparing for such testimony, Bond will reimburse City on a per hour basis as follows:

- Mayor or City Commissioner: \$300.00 per hour
 - City Manager: \$250.00 per hour
 - An Assistant City Manager or Department Director: \$250.00 per hour
 - An Assistant Department Director: \$100.00 per hour
 - City Attorney or Deputy City Attorney: Prevailing market rates
 - Other City employees: \$50.00 per hour;
- (e) the expenses incurred by City in complying with any administrative or court order that may arise from such claims;
- (f) miscellaneous expenses relating to such claims including expenses of hotels and transportation in trips relating to such claims; and
- (g) any other direct or indirect expense that City would not have incurred but for a claim that arises out of this Agreement.

This Indemnification and Hold Harmless provision shall survive termination of the Agreement.

ARTICLE 8 REPRESENTATIONS AND WARRANTIES

8.1 As of the Effective Date, each party represents and warrants to the other party hereto that:

- (a) it has full power and authority to enter into this Agreement, to carry out its obligations hereunder and to consummate the transactions contemplated hereby; and
- (b) this Agreement has been duly executed and delivered by such party and constitutes a valid and binding obligation of such party enforceable against such party in accordance with its terms, except as may be limited by bankruptcy, insolvency, reorganization or other laws affecting creditors' rights generally and by general equitable principles (regardless of whether considered in a proceeding in equity or at law).

8.2 As of the Effective Date, the City represents and warrants that this Agreement is being entered into in accordance with Section 2-693 of the Code of the City of Coral Gables Florida as a "sole brand procurement."

ARTICLE 9 INSURANCE REQUIREMENTS

9.1 Pursuant to the City of Coral Gables Code, Section 2-1007, the Risk Management Division of the Office of Labor Relations and Risk Management has developed the following insurance requirements to protect the City of Coral Gables to the maximum extent feasible against any and all claims that could significantly affect the ability of the City to continue to fulfill its obligations and responsibilities to the taxpayers and the public. Consequently, prior to commencing work, Bond shall procure, and provide the City with evidence of insurance coverage as required herein and name the City as an Additional Insured on a primary and non-contributory basis. Bond shall secure and maintain, at its own expense, and keep in effect during the full period of the contract a policy or policies of insurance, and must submit these documents to the Risk Management Division of Office of Labor Relations and Risk Management for review and approval.

INSURER REQUIREMENTS

Bond shall maintain, at its own cost and expense, the following types and amounts of insurance with insurers with rating of "A-" "VI" or better according to the A.M. Best rating guide as a minimum standard. The insurers providing coverage must be approved by the State of Florida and hold all of the required licenses in good standing to conduct business within the State of Florida. In addition, they must be acceptable to the City of Coral Gables Risk Management Division and/or the City Attorney's Office.

TYPE OF COVERAGE & LIMIT OF LIABILITY REQUIREMENT

Workers' Compensation and Employers Liability Insurance covering all employees, subcontractors, and/or volunteers of Bond engaged in the performance of the scope of work associated with this Agreement. The minimum limits of liability shall be in accordance with applicable state and/or federal laws that may apply to Workers' Compensation insurance, with the following limits:

Workers' Compensation - Coverage A
Statutory Limits (State of Florida or Federal Act)

Employers' Liability - Coverage B
\$1,000,000 Limit - Each Accident
\$1,000,000 Limit - Disease each Employee
\$1,000,000 Limit - Disease Policy Limit

Commercial General Liability Insurance written on an occurrence basis, including but not limited to, coverage for contractual liability, products and completed operations, personal & advertising injury, bodily injury and property damage liabilities with limits of liability no less than:

Each Occurrence Limit - \$1,000,000
Fire Damage Limit (Damage to rented premises) - \$100,000
Personal & Advertising Injury Limit - \$1,000,000
General Aggregate Limit - \$2,000,000
Products & Completed Operations Aggregate Limit - \$2,000,000

Business Automobile Liability Insurance covering all owned, non-owned and hired vehicles used in connection with the performance of work under this Agreement, with a combined single limit of liability for bodily injury and property damage of not less than:

Combined Single Limit (Each Accident) - \$1,000,000
Any Auto (Symbol 1)
Hired Autos (Symbol 8)
Non-Owned Autos (Symbol 9)

MINIMUM COVERAGE FORM (SHALL BE AT LEAST AS BROAD AS):

Workers Compensation

The standard form approved by the State of Jurisdiction

Commercial General Liability

ISO (Insurance Services Office, Inc.) Commercial General Liability coverage ("occurrence" Form CG 0001) or its equivalent. "Claims made" form is unacceptable except for professional or environmental liability coverage.

Commercial Auto Liability

ISO (Insurance Services Office, Inc.) Commercial Auto Liability coverage (form CA 0001) or its equivalent.

REQUIRED ENDORSEMENTS

In addition to being stated on the Certificate of Insurance, the following endorsements with City approved language:

Additional insured status provided on a primary & non-contributory basis (except for Workers Compensation Insurance)

Waiver of Subrogation on all required insurance coverages.

Notices of Cancellation/Non-renewal/Material Changes on any required insurance coverage must be sent directly to the City of Coral Gables by the Insurance Company. The City only requires the same statutory notice that an insurance company must provide to the insured, however this Notice may not be less than thirty (30) calendar days, except a Ten (10) Day Notice of cancellation is acceptable for non-payment of premium.

Notices of Cancellation, Non-renewal or Material Change must be provided to the following address:

CITY OF CORAL GABLES
INSURANCE COMPLIANCE
P.O. Box 100085 – CE
Duluth, GA 30096

All policies shall contain a "severability of interest" or "cross liability" clause without obligation for premium payment of the City.

HOW TO EVIDENCE COVERAGE TO THE CITY

The following documents must be provided to the City;

A Certificate of Insurance containing the following information:

Issued to entity contracting with the City

Evidencing the appropriate Coverage
Evidencing the required Limits of Liability required
Evidencing that coverage is currently in force
Language provided in the Special Provision Section of the Certificate of Insurance affirming that all endorsements required by the City have been endorsed to all of the policies.
A copy of each endorsement that is required by the City

All Certificates of Insurance must be signed by a person authorized by that insurer to bind or amend coverage on its behalf.

The City reserves the right to require a complete copy of any insurance policies required by the City. Should the City invoke this right, the policy must be provided directly to the City by the insurance agent or insurance company.

The City reserves the right to require additional insurance requirements **at any time during the course of the Agreement.**

WAIVER OF INSURANCE REQUIREMENTS

Should Bond not be able to comply with any insurance requirement, for any reason, Bond must write a letter to the Risk Management Division on their letter head requesting that a waiver of a specific insurance requirement be granted. The requested waiver will be evaluated by the Risk Management Division. The Risk Management Division will approve or reject the requested waiver of insurance and will forward the waiver to the City Attorney's Office for further evaluation.

Bond is encouraged to review their individual insurance needs with their insurance agents/brokers regularly to determine the adequacy of the coverage and the limits of liability that are being purchased. In certain circumstances, the City of Coral Gables will require additional insurance to respond to the hold harmless and indemnification clauses executed with the City of Coral Gables. Based on the nature of the work performed, the City of Coral Gables will determine what additional types of insurance and/or higher limits of liability that must be obtained.

All insurance documents evidencing insurance to City of Coral Gables – Insurance Compliance should be sent via email to cityofcoralgables@ebix.com and copy to druiz@coralgables.com. Should you require assistance, contact the dedicated Call Service Lines for City of Coral Gables:

Call Service Lines - Insurance Compliance
Phone: (951) 652-2883.
Fax: (770) 325-0417
Email: cityofcoralgables@ebix.com

When submitting Professional, Contractor and/or Vendor evidence of insurance to the City of Coral Gables, the Certificate Holder section of the Certificate of Insurance should read as follows:

City of Coral Gables
Insurance Compliance

ARTICLE 10 SOVEREIGN IMMUNITY

10.1 Sovereign Immunity. Bond acknowledges that the Florida Doctrine of Sovereign Immunity bars all claims by Bond against the City other than claims arising out of this Agreement, and claims for which the City may be liable under Section 768.28, Florida Statutes. Specifically, Bond acknowledges that it cannot and will not assert any claims against the City, unless the claim is based upon a breach by the City of this Agreement or the claim is a claim for which the City may be liable under Section 768.28, Florida Statutes. Bond acknowledges that this Agreement in no way estops or affects the City's exercise of its regulatory authority. In addition, the City retains the full extent of its sovereign immunity in relation to the exercise of its regulatory authority, subject to the limited waiver of sovereign immunity set forth in Section 768.28, Florida Statutes. Bond acknowledges that it has no right and will not make claim based upon any of the following:

- (a) Claims based upon any alleged breach by the City of implied warranties or representations not specifically set forth in this Agreement, as the parties stipulate that there are no such implied warranties or representations of the City. All obligations of the City are only as set forth in this Agreement;
- (b) Claims based upon negligence or any tort arising out of this Agreement, unless such claims are subject to the limited waiver of sovereign immunity set forth in Section 768.28, Florida Statutes; and
- (c) Claims upon alleged acts or inactions by any City employee or agent of the City, unless such claims are based upon a breach of this Agreement by the City or are subject to the limited waiver of sovereign immunity set forth in Section 768.28, Florida Statutes.
- (d) Claims based upon an alleged waiver of any of the terms of this Agreement, unless such waiver is determined in a court of competent jurisdiction. Bond affirms that the provisions regarding notice of claims, and the requirement for a written change order cannot be waived and further, without timely notice of a claim or a written change order as required in this Agreement, Bond shall not be entitled to additional compensation or an extension of the Contract Time. Such claims for additional compensation or extensions of the Contract Time are waived if the Bond has not given all required notices and obtained a written change order when required.

**ARTICLE 11
FLORIDA PUBLIC RECORDS LAW
FLORIDA STATUTES CHAPTER 119, ET SEQ.**

11.1 Records subject to the provisions of Public Record Law, Florida Statutes Chapter 119, shall be kept and maintained in accordance with such statute. Bond acknowledges that records and books, not subject to exemption under Chapter 119, may be disclosed and/or produced to third parties by the City in accordance with requests submitted under Chapter 119 or court orders without penalty or reprisal to the City for such disclosure and/or production. Bond also agrees to assert, in good faith, any relevant exemptions provided for under Chapter 119 for records in its possession on behalf of the City. Furthermore, Bond agrees to comply with the provisions outlined in Section 119.0701 of the Florida Statutes, the requirements of which are incorporated herein.

IF BOND HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO BOND'S DUTY TO PROVIDE

PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 305-460-5210, cityclerk@coralgables.com, 405 Biltmore Way, First Floor, Coral Gables, FL 33134.

**ARTICLE 12
WAIVER OF CONSEQUENTIAL DAMAGES**

12.1 Each party waives claims against the other party for consequential damages arising out of or related to this Agreement or its performance, including but not limited to, damages for lost income, profit, lost bonding capacity, financing, business and reputation, or for loss of management or labor productivity, damages incurred for principal office expenses, including the compensation of personnel stationed there, and for anticipated profit on any work not performed.

**ARTICLE 13
RESOLUTION OF DISPUTES; GOVERNING LAW AND VENUE**

13.1 Bond understands and agrees that all claims by Bond against the City based upon an alleged breach of the terms of this Agreement by the City shall be submitted for resolution in the following manner. Any claims by Bond arising under this Agreement shall be submitted in writing, with all supporting documentation, to the City Manager as identified in the notice provisions herein (Article 20) with a copy to the City's Chief Procurement Officer. Upon receipt of the notification, the City Manager or his designee shall review the issues relative to the dispute or claim, and issue a written finding within ninety (90) calendar days from the date of submission of the dispute or claim consistent with Section 2-913 of the City of Coral Gables Code of Ordinances, unless the City Manager or his designee requires additional time to gather information or allow the parties to provide additional information. During the pendency of any dispute and after a determination thereof, Bond, the City Manager, and City shall act in good faith to mitigate any potential damages. The decision of the City Manager shall be final and conclusive unless determined by a court of competent jurisdiction to be fraudulent, capricious, arbitrary, or so grossly erroneous as to necessarily imply bad faith, or not be supported by substantial evidence. A party may seek judicial relief pursuant to the Florida Rules of Appellate Procedure, provided that the claimant shall not be entitled to such judicial relief if the claimant has not followed the procedure outlined herein. Indeed, the parties hereto agree that a failure to comply with the dispute resolution procedures outlined in this Article shall constitute a failure to exhaust administrative remedies and, therefore, bar any potential judicial action related thereto.

13.2 This Agreement and the Contract Documents shall be construed under and in accordance with the laws of the State of Florida. Any legal proceeding arising from this Agreement and/or the Contract Documents shall be brought only in a court of competent jurisdiction in Miami-Dade County, Florida.

13.3 In connection with any litigation including appellate proceedings arising out of this Agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs.

**ARTICLE 14
SUCCESSORS AND ASSIGNS**

14.1 The covenants, agreements, rights and obligations shall be binding upon, and shall inure to the benefit of, the parties and their respective successors and permitted assigns. Bond shall not assign this Agreement without the express prior written consent of the City. The City shall not assign this Agreement without the express prior written consent of Bond.

ARTICLE 15 MODIFICATION

15.1 No change or modification of this Agreement shall be valid unless in writing and signed by the parties hereto. No waiver of any of the provisions of this Agreement shall be valid unless in writing and signed by the party against whom it is sought to be enforced.

ARTICLE 16 RIGHTS AND REMEDIES

16.1 The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.

ARTICLE 17 WAIVER

17.1 A waiver by either party of any breach of this Agreement shall not be binding upon the waiving party unless such waiver is in writing. In the event of a written waiver, such a waiver shall not affect the waiving party's rights with respect to any other or further breach.

ARTICLE 18 SEVERABILITY; SURVIVAL

18.1 If any provision of this Agreement is found to be void and unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall nevertheless be binding upon the parties with the same effect as though the void or unenforceable provision had been severed and deleted. Provisions of this Agreement which are stipulated to survive, and any provision which by its nature can be reasonably understood as intended to survive, shall survive the expiration or earlier termination of this Agreement. For the avoidance of doubt, the following Sections and Articles shall survive the expiration or earlier termination of this Agreement: 6.4, 6.5, 11, 12, 13, 15, 17 and 29.

ARTICLE 19 UNCONTROLLABLE FORCES

19.1 Neither the City nor Bond shall be considered to be in default of this Agreement if delays in or failure of performance of any obligations under this Agreement shall be due to Uncontrollable Forces, the effect of which, by the exercise of reasonable diligence, the nonperforming party could not avoid. The term "Uncontrollable Forces" shall mean any event which results in the prevention of, or delay in: (a) the performance of this Agreement by a party, (b) or party's obligations under this Agreement, and, in either case, which is beyond the reasonable control of the nonperforming party. Uncontrollable Forces includes, but is not limited to, fire, flood, earthquake, storm, lightning, epidemic, war, riot, civil disturbance, sabotage, and governmental action.

19.2 Neither party shall, however, be excused from performance if nonperformance is due to forces which are preventable, removable, or remediable, and which the nonperforming party could have, with the exercise of reasonable diligence, prevented, removed, or remedied with reasonable dispatch. The nonperforming party shall, within a reasonable time of being prevented from, or delayed in, the performance of any obligations under this Agreement by an Uncontrollable Force, give written notice to the other party describing the circumstances and Uncontrollable Forces preventing continued performance of any of the obligations under this Agreement.

ARTICLE 20 WRITTEN NOTICE

20.1 Any notice, request, instruction or other document required or permitted to be given hereunder by either party hereto to the other shall be in writing, and delivered personally, or sent by certified or registered mail, postage prepaid, return receipt requested, or by e-mail, to the address set forth below for such party. Any notice so given shall be deemed received when personally delivered or three (3) business days after mailing. Any party may change the address to which notices are to be sent by giving notice of such change of address to the other party in the manner herein provided for giving notice.

For the City:
City Manager
City of Coral Gables
405 Biltmore Way
Coral Gables, Florida 33134
E-mail: piglesias@coralgables.com

For Bond:
Doron Kempel
85 Broad Street
New York, NY 10004
E-mail: Doron.Kempel@ourbond.com

cc: City Attorney

ARTICLE 21 COMPLIANCE WITH LAWS

21.1 In performance of the UAS Services, Bond will comply with all UAS/drone laws. It shall be the responsibility of Bond to obtain and maintain, at no cost to the City, any and all license and permits required to complete the UAS Services provided pursuant to this Agreement.

ARTICLE 22 CONFLICT OF INTEREST

22.1 Bond represents and warrants that no person employed by Bond which exercises any functions or responsibilities in connection with this Agreement has any personal financial interests direct or indirect with the City. Bond further covenants that, in the performance of this Agreement, no person having a conflicting interest shall be employed. Any such interests on the part of Bond or its employees must be disclosed in writing to City.

22.2 Bond is aware of the conflict of interest code of the City of Coral Gables, the Conflict of Interest and Code of Ethics of Miami-Dade County, Florida, Section 2-11.1 et seq., and the Ethics Laws of the State of Florida, and agrees that it shall fully comply in all respects with the terms of said laws.

22.3 Bond represents that it has provided a list of all current clients subject to the jurisdiction of the City. Any potential or actual conflict between private interests and responsibilities under this Agreement shall be immediately disclosed to the City.

**ARTICLE 23
FEDERAL AND STATE TAXES**

23.1 The City is exempt from Federal Tax and State Sales and Use Taxes. Upon request, the City will provide an exemption certificate to Bond. Bond shall not be exempted from paying sales tax to its contractors for services to fulfill the contractual obligations with the City, nor shall Bond be authorized to use the City's Tax Exemption Number in securing such materials.

**ARTICLE 24
CONTINGENT FEES**

24.1 Bond warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Bond, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for Bond, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement.

**ARTICLE 25
ENTIRETY OF AGREEMENT**

25.1 The City and Bond agree that this Agreement and the Contract Documents sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. This Agreement and the Contract Documents supersede all prior agreements, contracts, proposals, representations, negotiations, letters, or other communications between the City and Bond pertaining to the services, whether written or oral. None of the provisions, terms, and conditions contained in this Agreement may be added to, modified, superseded, or otherwise altered, except by written instrument executed by the parties hereto.

The Insurance Certificates set forth in Exhibit A are made an integral part of this Agreement.

**ARTICLE 26
COUNTERPARTS**

This Agreement may be executed simultaneously in several counterparts, each of which will be an original, but all of which together will constitute one and the same instrument. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

**ARTICLE 27
CONFIDENTIALITY**

Subject to the requirements of Chapter 119 of the Florida Statutes, no reports, information, computer programs, documentation, and/or data given to or prepared or assembled by Bond under this Agreement shall be made available to any individual or organization by the City without prior written approval of Bond.

**ARTICLE 28
STANDARD OF CARE**

Bond shall exercise the same degree of care, skill, and diligence in the performance of the UAS Services as is ordinarily provided by a comparable professional under similar circumstances.

**ARTICLE 29
NON-DISCRIMINATION**

29.1 EEO and ADA. Bond must be and remain in compliance with all local, state and federal Equal Employment Opportunity (EEO) and American Disabilities Act (ADA) requirements.

29.2 It is understood that Bond shall not discriminate against any individual in the performance of the contract with respect to hire, tenure, conditions or privileges of employment, or any other matter directly or indirectly related to employment because of race, creed, color, national origin, age, disability, sex, gender identity, sexual orientation, or any other legally protected class.

29.3 City Policy Regarding Conduct. Bond, its employees, agents and subcontractors must abide by the City's policies regarding conduct. Discrimination, harassment, and/or violations of this clause and City non-discrimination policies will not be tolerated and are grounds for termination of the Agreement without harm to the City or its employees.

**ARTICLE 30
WAIVER OF TRIAL BY JURY**

30.1 THE PARTIES TO THIS AGREEMENT HEREBY AGREE TO EXHAUST ALL ADMINISTRATIVE REMEDIES BEFORE FILING A LAWSUIT IN CIVIL COURT TO RESOLVE THE DISPUTE. FURTHERMORE, CITY AND BOND HEREBY KNOWINGLY, IRREVOCABLY, VOLUNTARILY, AND INTENTIONALLY WAIVE ANY RIGHT EITHER MAY HAVE TO A TRIAL BY JURY IN RESPECT TO ANY ACTION, PROCEEDING, OR COUNTERCLAIM BASED UPON THE CONTRACT DOCUMENTS, OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH, THE TRANSACTIONS CONTEMPLATED HEREIN, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN), OR ACTIONS OF ANY PARTY.

**ARTICLE 31
DEFINITIONS**

31.1 The following terms have the meanings specified or referred to in this Article 31:

- (a) "Applicable Laws and Regulations" means all applicable federal, state, and local laws, statutes, ordinances, regulations, rules, judgements, decrees, directives, mandatory advisory circulars, and orders of any governmental authority. Without limiting the foregoing and for the avoidance of doubt, the term "Applicable Laws and Regulations" includes, but is not limited to, applicable aviation laws and statutes, the FARs, advisory circulars and airworthiness directives of the FAA, and any broadly applicable or UAS-specific state or local laws or ordinances.

- (b) “Operating Documents” shall include all documents needed to safely operate the UAS and conduct UAS operations in accordance with the Federal Aviation Regulations in Title 14 of the Code of Federal Regulations (“FARs”) or any other applicable Federal Aviation Administration (“FAA”) authorizations, approvals, exemptions, waivers, licenses, certificates or permits issued to Bond.
- (c) “Remote Pilot” means the a UAS remote pilot in command.
- (d) “UAS” means an unmanned aircraft identified in Exhibit B and its associated elements (including control station, data links, telemetry, communications and navigation equipment, and the components that control the unmanned aircraft) that are required for the safe and efficient operation of the UA.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date above written.

Approved as to Insurance:

AS TO CITY:

David J. Ruiz
Risk Management Division

Peter J. Iglesias, P.E.
City Manager

Approved by Department Head
or head of negotiations team as to
the negotiated business terms:

Alberto Parjus
Assistant City Manager

Hermes Diaz
Public Works Director

ATTEST:

Approved as to compliance with applicable
Procurement Requirements:

Celeste S. Walker-Harmon
Chief Procurement Officer

Billy Y. Urquia
City Clerk

Approved as to Funds Appropriation:


APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

Diana M. Gomez
Finance Director

Cristina Suarez
City Attorney

AS TO BOND:

ATTEST: **2023-10-26**



Name 

Doron Kempel
Title: Chief Executive Officer

Corporate Secretary

(SEAL)
(OR) WITNESSES (2):



Print Name: _____

Print Name: _____

EXHIBIT A – CERTIFICATES OF INSURANCE

EXHIBIT B – AIRCRAFT LEASED

| Make / Model | FAA Registration No. | S/N |
|---------------------|-----------------------------|------------|
| Easy Aerial Osprey | FA3XWCXEK4 | OSP6200 |
| Easy Aerial Osprey | FA3Y3E9MKY | OSP6201 |
| Easy Aerial Osprey | FA343TY7MY | OSP6203 |
| Easy Aerial Osprey | FA3TKRFFEW | OSP6276 |
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