

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, APPROVING AN AGREEMENT WITH FUQUAY, INC. FOR MANHOLE REHABILITATION SERVICES FOR FISCAL YEAR 2021-2022 IN CONFORMANCE WITH PROPOSAL NO. 635-21; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City Council desires to authorize an agreement for annual manhole rehabilitation services (FY21-22) in conformance with Proposal No. 635-21 submitted by Fuquay, Inc.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS:**

**SECTION 1.** The City Council hereby approves the contractor agreement between the Town of Addison and Fuquay, Inc. for annual manhole rehabilitation services (FY21-22) in conformance with Proposal No. 635-21, in an amount not-to-exceed of \$59,467, a copy of which is attached to this Resolution as **Exhibit A**. The City Manager is hereby authorized to execute the agreement.

**SECTION 2.** This Resolution shall take effect from and after its date of adoption.

**DULY RESOLVED AND ADOPTED** by the City Council of the Town of Addison, Texas, on this the **11<sup>th</sup>** day of **January 2022**.

**TOWN OF ADDISON, TEXAS**

\_\_\_\_\_  
Joe Chow, Mayor

**ATTEST:**

\_\_\_\_\_  
Irma Parker, City Secretary

## Exhibit A

### **CONTRACTOR AGREEMENT** Annual Manhole Rehabilitation Services FY21-22 Proposal #635-21

This **CONTRACTOR AGREEMENT** ("Agreement") is made as of the Effective Date by and between **Fuquay, Inc.**, hereinafter called "CONTRACTOR", and the **Town of Addison, Texas**, hereinafter called "CITY".

#### RECITALS

**WHEREAS**, CITY desires CONTRACTOR to perform certain work and services set forth in Section 1 (the "Scope of Services"), and

**WHEREAS**, CONTRACTOR has expressed a willingness to perform said work and services, hereinafter referred to only as "services", specified in the Contract Documents, and enumerated under Section 1, of this Agreement;

**NOW, THEREFORE**, for and in consideration of the covenants and promises made one to the other herein, CITY and CONTRACTOR agree as follows:

#### **Section 1. Scope of Services**

Upon issuance of one more written notice(s) to proceed by CITY, CONTRACTOR agrees to provide to CITY the necessary services, labor, materials, equipment and supplies related to the annual manhole rehabilitation services project for FY21-22 (the "Project") as set forth in Exhibit "A" (Scope of Services) and as more particularly described in the Contract Documents.

#### **Section 2. Term of Agreement**

The term of this Agreement shall begin on the last date of execution hereof (the "Effective Date") and shall continue until CONTRACTOR completes the services required herein to the satisfaction of CITY and has been paid in full by City, unless sooner terminated as provided in Section 9, below.

#### **Section 3. Contract Documents**

- A. This Agreement is a part of the Contract Documents, which include:
- 1) This Agreement, including any exhibits or addenda hereto;
  - 2) CITY'S request for proposals for the Project (the "Bid") together with all applicable performance standards and regulations applicable to the services (including all specifications and warranties applicable to the materials for the Project);
  - 3) CITY'S written notice(s) to proceed to the CONTRACTOR;
  - 4) CONTRACTOR's proposal dated October 28, 2021, attached hereto as "Exhibit A" (the "Proposal" or "Response");
  - 5) Properly authorized change orders; and
  - 6) Any other materials distributed by the CITY that relate to the Project.

In the event there exists a conflict between any term, provision, or interpretation of the Contract Documents, the documents shall take precedent and control in the order listed above in this Section 3. If discrepancies are found that may impact CONTRACTOR's work or services related to the Project, it shall be the CONTRACTOR's obligation to seek clarification as to which requirements or provisions control before undertaking any work on that component of the Project. Should CONTRACTOR fail or refuse to seek a

clarification of such conflicting or inconsistent requirements or provisions prior to any work on that component of the Project, CONTRACTOR shall be solely responsible for the costs and expenses - including additional time - necessary to cure, repair and/or correct that component of the Project.

**Section 4. Contractor Obligations**

A. CONTRACTOR shall devote such time as reasonably necessary for the satisfactory performance of the work under this Agreement. Should CITY require additional services not included under this Agreement, CONTRACTOR shall make reasonable effort to provide such additional services at mutually agreed charges or rates, and within the time schedule prescribed by CITY; and without decreasing the effectiveness of the performance of services required under this Agreement.

B. To the extent reasonably necessary for CONTRACTOR to perform the services under this Agreement, CONTRACTOR shall be authorized to engage the services of any agents, assistants, persons, or corporations that CONTRACTOR may deem proper to aid or assist in the performance of the services under this Agreement with the prior written approval of CITY. The cost of such personnel and assistance shall be a reimbursable expense to CONTRACTOR only if authorized in writing in advance by CITY.

C. Unless otherwise agreed, CONTRACTOR shall provide and pay for all materials, supplies, machinery, equipment, tools, superintendence, labor, insurance, and all water, light, power, fuel, transportation and all other facilities necessary for the execution and completion of the work covered by the Scope of Services. Unless otherwise specified, all materials shall be new and both workmanship and materials shall be of a good quality. CONTRACTOR shall, if required, furnish satisfactory evidence as to the kind and quality of materials. Materials or work described in words that so applied have well known, technical or trade meaning shall be held to refer to such recognized standards.

D. CONTRACTOR shall comply with all laws, ordinances, rules and regulations governing CONTRACTOR's performance of this Agreement.

E. All minor details of the work not specifically mentioned in the Scope of Services but obviously necessary for the proper completion of the work, such as the proper connection of new work to old, shall be considered as incidental to and a part of the work for which the prices are set forth in this Agreement. CONTRACTOR will not be entitled to any additional compensation therefor unless specifically stated otherwise. Otherwise the term "extra work" as used in this Agreement shall be understood to mean and include all work that may be required by CITY to be done by CONTRACTOR to accomplish any alteration or addition to the work in conformance with the Contract Documents. It is agreed that CONTRACTOR shall perform all extra work under the direction of the City's designated representative when presented with a written work order signed by the City's representative, subject, however, to the right of CONTRACTOR to require written confirmation of such extra work order by CITY. Payment for extra work shall be as agreed in the work order.

F. CONTRACTOR agrees to indemnify, defend, and save CITY harmless from all claims growing out of any demands of subcontractors, laborers, workmen, mechanics, materialmen, and suppliers of machinery and parts thereof, equipment, power tools, all supplies incurred in the furtherance of the performance of this Agreement. When CITY requests, CONTRACTOR shall furnish satisfactory evidence that all obligations of the nature hereinabove designated have been paid, discharged or waived.

**Section 5. Payment**

A. CITY agrees to pay CONTRACTOR for all services authorized in writing and properly performed by CONTRACTOR in conformance with the Contract Documents in a total amount not to exceed FIFTY-NINE THOUSAND, FOUR HUNDRED AND SIXTY-SEVEN AND NO/100 DOLLARS (\$59,467.00) ("Contract Price"), subject to additions or deletions for changes or extras agreed upon in



writing. Unless otherwise provided herein, payment to CONTRACTOR shall be monthly based on the CONTRACTOR'S monthly progress report and detailed monthly itemized statement for services that shows the names of the CONTRACTOR'S employees, agents, contractors performing the services, the time worked, the actual services performed, and the rates charged for such services, in a form reasonably acceptable to CITY. CITY shall pay such monthly statements within thirty (30) days after receipt and CITY verification of the services.

B. CITY may deduct from any amounts due or to become due to CONTRACTOR any sum or sums owing by CONTRACTOR to CITY. In the event of any breach by CONTRACTOR of any provision or obligation of this Agreement, or in the event of the assertion by other parties of any claim or lien against CITY, or the CITY'S premises, arising out of CONTRACTOR's performance of this Agreement, CITY shall have the right to retain out of any payments due or to become due to CONTRACTOR an amount sufficient to completely protect the CITY from any and all loss, damage or expense therefrom, until the breach, claim or lien has been satisfactorily remedied or adjusted by CONTRACTOR.

C. CITY may, on account of subsequently discovered evidence, withhold the whole or part of any payment to such extent as may be necessary to protect itself from loss on account of:

- (1) Defective work not remedied;
- (2) Claims filed or reasonable evidence indicating possible filing of claims;
- (3) Failure of CONTRACTOR to make payments promptly to subcontractors or for material or labor which CITY may pay as an agent for the CONTRACTOR; or
- (4) Damages to another contractor or subcontractor.

When the above grounds are removed, or CONTRACTOR provides a surety bond satisfactory to CITY which will protect CITY in the amount withheld because of said grounds, CITY will release the amounts withheld.

**Section 6. Responsibilities**

A. CONTRACTOR shall be responsible for the professional quality, technical accuracy, and the coordination of all materials (including Tremco Incorporated's specifications for the materials), construction, installation and other services furnished by CONTRACTOR under this Agreement. CONTRACTOR shall, without additional compensation, correct or revise any errors or deficiencies in the installation and construction of the Project components to conform with the Contract Documents.

B. Neither CITY's review, approval or acceptance of, nor payment for any of the services required under this Agreement, shall be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement, and CONTRACTOR shall be and remain liable to CITY in accordance with applicable law for all damages to CITY caused by CONTRACTOR's negligent performance of any of the services furnished under this Agreement.

**Section 7. Time for Performance**

A. CONTRACTOR shall perform all services as provided for under this Agreement in a proper, efficient, timely, and professional manner in accordance with CITY's requirements. CONTRACTOR shall have completed the work in conformance with the schedule(s) established by CITY, subject to any extension(s) approved by CITY in conformance with this Section 7.

B. In the event CONTRACTOR's performance of this Agreement is delayed or interfered with by acts of the CITY or others, CONTRACTOR may request an extension of time for the performance of same as hereinafter provided, but shall not be entitled to any increase in fee or price, or to damages or additional compensation as a consequence of such delays.

C. No allowance of any extension of time, for any cause whatever, shall be claimed or made to CONTRACTOR, unless CONTRACTOR shall have made written request upon CITY for such extension within forty-eight (48) hours after the cause for such extension occurred, and unless CITY and CONTRACTOR have agreed in writing upon the allowance of additional time to be made.

D. CONTRACTOR understands and agrees that time is of the essence of this contract, and that for each day of delay beyond the scheduled provided for the completion of any component of the work or services herein specified and contracted for (after due allowance for such extension of time as may otherwise be provided for extension of time herein), CITY may withhold permanently from the Contract Price an amount equal to \$250 per day, which the parties mutually agree is the amount reasonably necessary to mitigate the effect upon CITY of CONTRACTOR's delay in performance for this particular Project.

E. In case CONTRACTOR should abandon and fail or refuse to resume work within ten (10) days after written notification from the City, or if CONTRACTOR fails to comply with the orders of the CITY, when such orders are consistent with the Contract Documents, then, and in that case, where performance and payment bonds exist, the Sureties on these bonds may be notified in writing by CITY and directed to complete the work (at CITY'S sole discretion), and a copy of said notice shall be delivered to CONTRACTOR. After receiving said notice of abandonment, CONTRACTOR shall not remove from the work any machinery, equipment, tools, materials or supplies then on the job, but the same, together with any materials and equipment under contract for the work, may be held for use on the work by the CITY or the Surety on the performance bond, or another contractor in completion of the work; and CONTRACTOR shall not receive any rental or credit therefor, it being understood that the use of such equipment and materials will ultimately reduce the cost to complete the work and be reflected in the final settlement. Nothing in this section shall be deemed a waiver of any remedy available to the CITY under this Agreement and the CITY shall retain all remedies upon default provided in Section 14 herein.

(1) In case the Surety should fail to commence compliance with the notice for completion hereinbefore provided for, written ten (10) days after service of such notice, then the CITY may provide for completion of the work in either of the following elective manners:

- a. The CITY may employ such force of labor and use such machinery, equipment, tools, materials and supplies as said CITY may deem necessary to complete the work and charge the expense of such labor, machinery, equipment, tools, materials and supplies to said CONTRACTOR, and expense so charged shall be deducted and paid by the CITY out of such moneys as may be due, or that may thereafter at any time become due to the CONTRACTOR under and by virtue of this Agreement. In case such expense is less than the sum which would have been payable under this contract, if the same had been completed by the CONTRACTOR, then said CONTRACTOR shall receive the difference. In case such expense is greater than the sum which would have been payable under this contract, if the same had been completed by said CONTRACTOR, then the CONTRACTOR and/or its Surety shall pay the amount of such excess to the CITY; or
- b. The CITY under sealed bids, when and in the manner required by law, may let the contract for the completion of the work under substantially the same terms and conditions which are provided in this Agreement. In the case of any increase in



cost to the CITY under the new contract as compared to what would have been the cost under this Agreement, such increase shall be charged to the CONTRACTOR and the Surety shall be and remain bound therefor. However, should the cost to complete any such new contract prove to be less than what would have been the cost to complete under this Agreement, the CONTRACTOR and/his Surety shall be credited therewith.

**Section 8. Ownership of Project; Bill of Sale**

A. CONTRACTOR warrants that title to all work, including all equipment and materials incorporated into the Project, will pass to CITY no later than the time of final payment. CONTRACTOR further warrants that upon payment by CITY, all work for which payments have been received from CITY shall be free and clear of liens, claims, security interests or other encumbrances in favor of CONTRACTOR or any other person or entity whatsoever.

B. CONTRACTOR agrees to assign to CITY at the time of completion of the Scope of Services all manufacturer's warranties relating to equipment, materials and labor used in the Project and further agrees to perform the Project in such manner to preserve all manufacturer's warranties. If necessary as a matter of law, CONTRACTOR may retain the right to enforce directly any such manufacturers' warranties during the one year period following the date of acceptance of the Project by City.

**Section 9. Termination**

A. CITY may suspend or terminate this Agreement for cause or without cause at any time by giving written notice to CONTRACTOR. In the event suspension or termination is without cause, payment to CONTRACTOR, in accordance with the terms of this Agreement, will be made based on services reasonably determined by CITY to be satisfactorily performed to the date of suspension or termination. Such payment will be due upon delivery of all instruments of service to CITY.

B. If CITY requires a modification of this Agreement with CONTRACTOR, and in the event CITY and CONTRACTOR fail to agree upon a modification to this Agreement, CITY shall have the option of terminating this Agreement and CONTRACTOR's services hereunder at no additional cost other than the payment to CONTRACTOR, in accordance with the terms of this Agreement, for the services reasonably determined by CITY to be properly performed by CONTRACTOR prior to such termination date.

**Section 10. Insurance**

A. CONTRACTOR shall during the term hereof maintain in full force and effect all insurance policies required by the CITY, which shall strictly comply with CITY's adopted insurance requirements for projects of this nature and scope, including, at a minimum: (i) a comprehensive general liability policy of insurance for bodily injury, death and property damage insuring against all claims, demands or actions relating to the CONTRACTOR's performance of services pursuant to this Agreement with a minimum combined single limit of not less than \$1,000,000.00 per occurrence (\$2,000,00.00 aggregate) for injury to persons (including death), and for property damage; (ii) policy of automobile liability insurance covering any vehicles owned and/or operated by CONTRACTOR, its officers, agents, and employees, and used in the performance of this Agreement with policy limits of not less than \$1,000,000.00 combined single limit and aggregate for bodily injury and property damage; (iii) statutory Worker's Compensation Insurance at the statutory limits and Employers Liability covering all of CONTRACTOR's employees involved in the provision of services under this Agreement with policy limit of not less than \$1,000,000.00.

B. All insurance and certificate(s) of insurance shall contain the following provisions: (1) name CITY, its officers, and employees as additional insureds as to all applicable coverage with the exception of

Workers Compensation Insurance; (2) provide for at least thirty (30) days prior written notice to CITY for cancellation or non-renewal of the insurance; (3) provide for a waiver of subrogation against CITY for injuries, including death, property damage, or any other loss to the extent the same is covered by the proceeds of insurance. Contractor shall provide written notice to CITY of any material change of or to the insurance required herein.

C. All insurance companies providing the required insurance shall be authorized to transact business in Texas and rated at least "A" by AM Best or other equivalent rating service.

D. A certificate of insurance evidencing the required insurance and all endorsements shall be submitted prior to commencement of services.

**Section 11. Indemnification.**

**CITY SHALL NOT BE LIABLE FOR ANY LOSS, DAMAGE, OR INJURY OF ANY KIND OR CHARACTER TO ANY PERSON OR PROPERTY ARISING FROM THE SERVICES OF CONTRACTOR PURSUANT TO THIS AGREEMENT. CONTRACTOR HEREBY WAIVES ALL CLAIMS AGAINST CITY, ITS OFFICERS, AGENTS AND EMPLOYEES (COLLECTIVELY REFERRED TO IN THIS SECTION AS "CITY") FOR DAMAGE TO ANY PROPERTY OR INJURY TO, OR DEATH OF, ANY PERSON ARISING AT ANY TIME AND FROM ANY CAUSE OTHER THAN THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF CITY OR BREACH OF CITY'S OBLIGATIONS HEREUNDER. CONTRACTOR AGREES TO INDEMNIFY AND SAVE HARMLESS CITY FROM AND AGAINST ANY AND ALL LIABILITIES, DAMAGES, CLAIMS, SUITS, COSTS (INCLUDING COURT COSTS, REASONABLE ATTORNEYS' FEES AND COSTS OF INVESTIGATION) AND ACTIONS OF ANY KIND BY REASON OF INJURY TO OR DEATH OF ANY PERSON OR DAMAGE TO OR LOSS OF PROPERTY TO THE EXTENT CAUSED BY CONTRACTOR'S NEGLIGENT PERFORMANCE OF SERVICES UNDER THIS AGREEMENT OR BY REASON OF ANY NEGLIGENT ACT OR OMISSION ON THE PART OF CONTRACTOR, ITS OFFICERS, DIRECTORS, SERVANTS, EMPLOYEES, REPRESENTATIVES, CONSULTANTS, LICENSEES, SUCCESSORS OR PERMITTED ASSIGNS (EXCEPT WHEN SUCH LIABILITY, CLAIMS, SUITS, COSTS, INJURIES, DEATHS OR DAMAGES ARISE FROM OR ARE ATTRIBUTED TO NEGLIGENCE OF CITY, IN WHOLE OR IN PART, IN WHICH CASE CONTRACTOR SHALL INDEMNIFY CITY ONLY TO THE EXTENT OR PROPORTION OF NEGLIGENCE ATTRIBUTED TO CONTRACTOR AND/OR ITS OFFICERS, DIRECTORS, SERVANTS, EMPLOYEES, REPRESENTATIVES, CONSULTANTS, LICENSEES, SUCCESSORS OR PERMITTED ASSIGNS AS DETERMINED BY A COURT OR OTHER FORUM OF COMPETENT JURISDICTION). CONTRACTOR'S OBLIGATIONS UNDER THIS SECTION SHALL NOT BE LIMITED TO THE LIMITS OF COVERAGE OF INSURANCE MAINTAINED OR REQUIRED TO BE MAINTAINED BY CONTRACTOR UNDER THIS AGREEMENT. THIS PROVISION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.**

**Section 12. Assignment**

CONTRACTOR shall not assign or sublet this Agreement, or any part thereof, without the prior written consent of CITY.

**Section 13. Applicable Laws**

CONTRACTOR shall comply with all federal, state, county and municipal laws, ordinances, regulations, safety orders, resolutions and building codes relating or applicable to services to be performed under this Agreement. The laws of the state of Texas shall govern this Agreement; and venue for any action



concerning this Agreement shall be in the State District Court of Dallas County, Texas. The parties agree to submit to the personal and subject matter jurisdiction of said court

**Section 14. Default of CONTRACTOR**

In the event CONTRACTOR fails to comply or becomes disabled and unable to comply with the provisions of this Agreement as to the quality or character of the service or time of performance, and the failure is not corrected within ten (10) days after written notice by CITY to CONTRACTOR, CITY may, at its sole discretion without prejudice to any other right or remedy:

A. Terminate this Agreement and be relieved of the payment of any further consideration to CONTRACTOR except for all work determined by CITY to be satisfactorily completed prior to termination. Payment for work satisfactorily completed shall be for actual costs, including reasonable salaries and travel expenses of CONTRACTOR to and from meetings called by CITY at which CONTRACTOR is required to attend, but shall not include any loss of profit of CONTRACTOR. In the event, of such termination, CITY may proceed to complete the services in any manner deemed proper by CITY, either by the use of its own forces or by subletting the work to another contractor.

B. CITY may, without terminating this Agreement or taking over the services, furnish the necessary materials, equipment, supplies and/or help necessary to remedy the situation, at the expense of CONTRACTOR.

**Section 15. Adjustments in Services**

No claims for extra services, additional services or changes in the services will be made by CONTRACTOR without written consent from CITY prior to the performance of such services.

**Section 16. Execution Becomes Effective**

This Agreement will be effective upon signing of the Agreement by authorized representatives of CONTRACTOR and CITY.

**Section 17. Agreement Amendments**

This Agreement contains the entire understanding of the parties with respect to the subject matter hereof and there are no oral understandings, statements or stipulations bearing upon the meaning or effect of this Agreement which have not been incorporated herein. This Agreement may only be modified, amended, supplemented or waived by a written instrument executed by the parties except as may be otherwise provided therein.

**Section 18. Severability.**

In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions, and the Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.

**Section 19. Independent Contractor.**

In satisfying the conditions of and providing the services under this Agreement, CONTRACTOR is acting independently, and CITY assumes no responsibility or liabilities to any third party in connection with



CONTRACTOR's actions. All services to be performed by CONTRACTOR pursuant to this Agreement shall be in the capacity of an independent contractor and not as an agent or employee of CITY. CONTRACTOR shall supervise the performance of its services and shall be entitled to control the manner and means by which its services are to be performed, subject to the terms of this Agreement. There is no intended third-party beneficiary to this Agreement.

**Section 20. Right-Of-Access.**

CITY will obtain and/or furnish right-of-access on any project site for CONTRACTOR to perform any required studies, surveys, tests or other necessary investigations in relation to the Scope of Services. CONTRACTOR will take reasonable precautions to minimize damage to the personal or real property in the performance of such surveys, tests, studies and investigations.

**Section 21. Notice.**

Any notice required or permitted to be delivered hereunder may be sent by first class mail, overnight courier or by confirmed telefax or facsimile to the address specified below, or to such other party or address as either party may designate in writing, and shall be deemed received three (3) days after delivery set forth herein:

If to CITY: Wesley S. Pierson, City Manager  
City of Town of Addison  
5300 Belt Line Road  
Town of Addison, Texas 75254

With copy to: Whitt L. Wyatt, City Attorney  
Wood Banowsky, PLLC  
3710 Rawlins St., Suite 1000  
Dallas, Texas 75219

If to CONTRACTOR: Fuquay, Inc.  
4861 Old Hwy 81  
New Braunfels, Texas 78132

**Section 22. Counterparts**

This Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument. Each counterpart may consist of any number of copies hereof each signed by less than all, but together signed by all of the parties hereto.

**Section 23. Recitals; Exhibits.**

All recitals and exhibits attached hereto are incorporated and made a part hereof for all purposes.

**Section 24. Survival of Obligations.**

Any of the representations and obligations of the parties, as well as any rights and benefits of the parties pertaining to a period of time following the termination of this Agreement shall survive termination.

**Section 25. Sales and Use Taxes**

CONTRACTOR understands and acknowledges that CITY is a governmental entity and exempt from the payment of sales and use taxes for certain materials and equipment conveyed to City as part of this Project or otherwise incorporated into the Project. CITY agrees to provide CONTRACTOR such documentation as may otherwise be required by state law to allow CONTRACTOR to avoid payment of sales and uses taxes for materials and equipment with respect to the Project to the extent allowed by law.

**Section 26. Audits and Records.**

CONTRACTOR agrees that during the term hereof the CITY and its representatives may, during normal business hours and as often as deemed necessary, inspect, audit, examine and reproduce any and all of CONTRACTOR's records relating to the services provided pursuant to this Agreement for a period of one year following the date of completion of services as determined by the CITY or date of termination if sooner.

**Section 27. Conflicts of Interests.**

CONTRACTOR represents that no official or employee of the CITY has any direct or indirect pecuniary interest in this Agreement.

**Section 28. Hazardous Materials.**

CONTRACTOR shall report the presence and location of any hazardous materials it notices or which a contractor of similar skill and experience should have noticed to the CITY.

**Section 29. No Boycott Israel and/or No Industry Discrimination.**

Pursuant to Texas Government Code Chapter 2270, the CONTRACTOR's execution of this Agreement shall serve as verification that the Organization does not presently boycott Israel and will not boycott Israel during the term of this Agreement. Pursuant to Texas Government Code Chapter 2251, the CONTRACTOR's execution of this Agreement shall serve as verification that the Organization does not current discriminate against firearm and ammunition industries and will not for the term of the contract. Discriminating means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with the firearm or ammunition industry or with a person or entity doing business in the firearm or ammunition industry, but does not include an action made for ordinary business purposes.

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SIGNATURE PAGE FOLLOWS]



IN WITNESS WHEREOF, the parties have executed and delivered this Agreement as of the date of last execution hereof.

**FOR CITY:**

**Town of Addison, Texas**

By: \_\_\_\_\_  
Wesley S. Pierson, City Manager

Date: \_\_\_\_\_

**ATTEST:**

By: \_\_\_\_\_  
Irma Parker, City Secretary

**FOR CONTRACTOR:**

**Fuquay, Inc.**

By: 

Name: DAVID KALLFELZ

Title: PRESIDENT

Date: 12/13/2021

**EXHIBIT A**

**Scope of Services**  
Proposal #635-21

(attached)





FUQUAY, INC.

Exhibit A - Scope of Services



4661 Old Hwy 81, New Braunfels, TX 78132

Phone (830) 606-1882 Fax (830) 606-1885

PROPOSAL

DATE: October 28, 2021
PROJECT: CITY OF ADDISON MANHOLE REHABILITATION

Cured In Place Pipe CIPP for Pipeline Rehabilitation #635-21

Table with columns: ITEM 22, Structure (Manhole) Rehabilitation and Corrosion Protection and Related Items, LIST PRICING, MEMBER PRICING, PROJECT SPECIFIC DISCOUNTED PRICING. Includes sub-sections MH1, MH2, MH3, and MH4 with detailed item descriptions and pricing.

Sector #		Item #	Description	Unit	Qty	Unit Price	Total Price	Contingency	Supplemental	Contingency Total	Supplemental Total
<b>MH 6</b>											
Sector #	22	22104	Inflow & Infiltration Repair -- Injection of Chemical Grout Material	GAL	1	\$267.50	\$267.50	-\$18.73	\$248.78	\$248.78	\$235.00
Sector #	22	22105	Inflow & Infiltration Repair -- Injection of Chemical Grout Material Labor & Equipment	HR	1	\$203.50	\$203.50	-\$14.25	\$189.26	\$189.26	\$180.00
Sector #	22	22113	New manhole frame and cover (Price only includes labor, City of Addison will provide new ring and cover)	EA	1	\$1,872.50	\$1,872.50	-\$131.08	\$1,741.43	\$1,741.43	\$975.00
Sector #	22	22118	Manhole Rehabilitation - Polyurethane (PCM) only -- 250 m's thickness	SOFT	170	\$27.00	\$4,590.00	-\$1.89	\$25.11	\$4,268.70	\$25.00
Sector #	22	22129	Instal Ring Encasement	EA	1	\$856.00	\$856.00	-\$59.92	\$796.08	\$796.08	\$725.00
Sector #	22	22130	Travel and Mobilization- Manhole Rehabilitation Crew from New Braunfels, TX	MLE	260	\$16.00	\$4,160.00	-\$1.12	\$14.88	\$3,868.80	\$0.50
<b>TOTAL</b>											<b>\$6,495.00</b>
<b>MH 6</b>											
Sector #	22	22103	Condition Standards and Repair Methods -- Condition 3	SOFT	138	\$45.00	\$6,210.00	-\$3.15	\$41.85	\$5,775.30	\$37.00
Sector #	22	22104	Inflow & Infiltration Repair -- Injection of Chemical Grout Material	GAL	2	\$267.50	\$535.00	-\$18.73	\$248.78	\$497.56	\$235.00
Sector #	22	22105	Inflow & Infiltration Repair -- Injection of Chemical Grout Material Labor & Equipment	HR	1	\$203.50	\$203.50	-\$14.25	\$189.26	\$189.26	\$180.00
Sector #	22	22130	Travel and Mobilization- Manhole Rehabilitation Crew from New Braunfels, TX	MLE	260	\$16.00	\$4,160.00	-\$1.12	\$14.88	\$3,868.80	\$0.50
<b>TOTAL</b>											<b>\$5,866.00</b>
<b>MH 7</b>											
Sector #	22	22103	Condition Standards and Repair Methods -- Condition 3	SOFT	163	\$45.00	\$7,335.00	-\$3.15	\$41.85	\$6,821.55	\$37.00
Sector #	22	22104	Inflow & Infiltration Repair -- Injection of Chemical Grout Material	GAL	3	\$267.50	\$802.50	-\$18.73	\$248.78	\$746.33	\$235.00
Sector #	22	22105	Inflow & Infiltration Repair -- Injection of Chemical Grout Material Labor & Equipment	HR	3	\$203.50	\$610.50	-\$14.25	\$189.26	\$567.77	\$180.00
Sector #	22	22130	Travel and Mobilization- Manhole Rehabilitation Crew from New Braunfels, TX	MLE	260	\$16.00	\$4,160.00	-\$1.12	\$14.88	\$3,868.80	\$0.50
<b>TOTAL</b>											<b>\$7,406.00</b>
<b>MH 1-7 TOTAL</b>											<b>\$39,467.00</b>
<b>SUPPLEMENTAL (CONTINGENCY) ITEMS FOR UNFORSEEN REPAIRS</b>											
Sector #	22	22103	Condition Standards and Repair Methods -- Condition 3	SOFT	\$40.54	\$45.00	\$24,324.33	-\$3.15	\$41.85	\$22,621.62	\$37.00
<b>CONTINGENCY TOTAL</b>											<b>\$20,000.00</b>
<b>MH 1-7 TOTAL W/ CONTINGENCY SUPPLEMENTAL ITEMS FOR UNFORSEEN REPAIRS</b>											<b>\$59,467.00</b>

ALL MATERIAL IS GUARANTEED TO BE AS SPECIFIED, AND THE WORK TO BE PERFORMED IN ACCORDANCE WITH THE DRAWINGS AND SPECIFICATIONS SUBMITTED FOR THE ABOVE WORK AND COMPLETED IN A SUBSTANTIAL WORKMANLIKE MANNER. ANY ALTERATION OR DEVIATION FROM SPECIFICATIONS AND DRAWINGS INVOLVING EXTRA COSTS WILL BE EXECUTED ONLY UPON WRITTEN ORDERS AND WILL BECOME AN EXTRA CHARGE OVER AND ABOVE THE QUOTATION. WORKER'S COMPENSATION AND PUBLIC LIABILITY INSURANCE ON ABOVE WORK TO BE FURNISHED BY FLUQUAY, INC. THERE MAY BE AN ADDITIONAL CHARGE FOR PROVIDING A WAIVER OF SUBROGATION AND/OR BEING LISTED AS AN ADDITIONAL INSURED ON FLUQUAY INSURANCE. THE CHARGE SHALL BE EQUAL TO THE AMOUNT CHARGED TO FLUQUAY FOR SAID SERVICE.

**EXCLUSIONS:**

BOND, SALES TAX, AND OCP  
 PERMITS, BURDENS, FEES  
 WASTE HULL-OFF  
 SURVEYING  
 SITE CLEARING

BARRICADES, SIGNS, TRAFFIC HANDLING  
 INFILTRATION REPAIR  
 DEWATERING  
 ALL BYPASS PUMPING AND PIPE PLEGGING  
 PROVIDING AND/OR PERFORMING ANY TESTING

**TERMS:**

PAYMENT FOR SERVICES SHALL BE DUE AND PAYABLE WITHIN THIRTY DAYS OF THE DATE/MONTH THE WORK IS PERFORMED. THIS PROPOSAL MAY BE WITHDRAWN BY US IF NOT ACCEPTED WITHIN THIRTY DAYS.

ACCEPTED BY: \_\_\_\_\_

COMPANY: \_\_\_\_\_

RESPECTFULLY SUBMITTED,

NAME: \_\_\_\_\_

FLUQUAY, INC.

TITLE: \_\_\_\_\_