

## RESOLUTION

No. \_\_\_\_\_

Approved as to Form and Legality

WESLEY BRIDGES, ESQ., DIRECTOR OF LAW

Date of Adoption MAY 05 2022

Factual content certified by

MARK LAVENBERG, DIRECTOR OF WATER AND SEWER

Councilman /womanpresents the following Resolution:

**RESOLUTION AUTHORIZING A CONTRACT TO  
FOLEY CAT INCORPORATED AWARDED THROUGH SOURCEWELL  
CONTRACT NO. #032119-CAT FORMERLY NATIONAL JOINT POWER  
ALLIANCE (NJPA) FOR THE PURCHASE OF ONE (1) 2021 CAT 420XE IT  
BACKHOE LOADER WITH ACCESSORIES FOR THE DEPARTMENT OF  
WATER AND SEWER, DIVISION OF CONSTRUCTION AND MAINTENANCE  
CREW PERSONNEL IN AN AMOUNT NOT TO EXCEED \$159,953.00**

**WHEREAS**, this contract was awarded from May 13, 2019 to May 13, 2023 (no later than the later of four years from the expiration date of the currently award contract or four years from the date that the NJPA Chief Procurement Officer awards the Contract). This contract may be extended for a fifth year at Sourcewell's discretion. SOURCEWELL Contract No. #032119-CAT formerly National Joint Power Alliance (NJPA) was awarded a contract for Heavy Construction Equipment with Related Accessories, Attachments, and Supplies for National Joint Power Alliance (NJPA); and

**WHEREAS**, this purchase is necessary for the Department of Water and Sewer, Division of Construction and Maintenance Crew Personnel to perform daily and emergency response water utility work in the TWW distribution system as a direct support vehicle equipped with hydraulics, scene lights, etc. for a heavy equipment operator to excavate at the job site. It allows the C&M Crew to maintain and repair water appurtenances in the water distribution system in an effective and expeditious manner; and

**WHEREAS**, the City of Trenton, Department of Water and Sewer, Division of Construction and Maintenance Crew Personnel will enter into SOURCEWELL Contract No. #032119-CAT formerly National Joint Power Alliance (NJPA); and

# RESOLUTION

**WHEREAS**, the Department of Water and Sewer, Division of Construction and Maintenance Crew Personnel will purchase one (1) 2021 CAT 420XE IT Backhoe Loader with accessories awarded to Foley Cat Incorporated, 855 Centennial Avenue, P.O. Box 1555, Piscataway, New Jersey 08855-1555 through SOURCEWELL Contract No. #032119-CAT formerly National Joint Power Alliance (NJPA); and

**WHEREAS**, funds in an amount not to exceed \$159,953.00 have been certified to be available in the following account number(s): CY'2022, 2-05- -55-5500-841-028. This is a one-time purchase.

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the City of Trenton that the Mayor is hereby authorized to execute a contract with Foley Cat Incorporated, 855 Centennial Avenue, P.O. Box 1555, Piscataway, New Jersey 08855-1555 in an amount not to exceed \$159,953.00 for the purchase one (1) 2021 CAT 420XE IT Backhoe Loader with accessories for the City of Trenton, Department of Water and Sewer, Trenton Water Works Construction and Maintenance Personnel for the said purposes in the manner prescribed by law.

	Aye	Nay	Abstain	Absent		Aye	Nay	Abstain	Absent		Aye	Nay	Abstain	Absent
CALDWELL WILSON					RODRIGUEZ					MCBRIDE				
HARRISON					VAUGHN									
MUSCHAL					WILKINS									

This Resolution was adopted at a Meeting of the City Council of the City of Trenton on MAY 05 2022

Kathy McBride  
President of Council

Penelope S. Edwards-Carte  
Penelope S. Edwards-Carte  
Assistant Municipal Clerk

**CITY OF TRENTON, NEW JERSEY**

**NATIONAL INTERGOVERNMENTAL POWER ALLIANCE (NJPA) CONTRACT # 032119-CAT  
PURCHASE OF ONE (1) 2021 CAT 420XE IT BACKHOE LOADER WITH ACCESSORIES FOR THE  
DEPARTMENT OF WATER AND SEWER, DIVISION OF CONSTRUCTION AND MAINTENANCE  
CREW PERSONNEL AWARDED TO FOLEY CAT INCORPORATED**

**RESOLUTION NUMBER#: 22-157**

This Agreement, entered into this 20<sup>TH</sup> Day of MAY 2022 between the City of Trenton, a municipal corporation of the State of New Jersey, ('CITY') 319 EAST STATE STREET, TRENTON, NEW JERSEY 08618 and **FOLEY CAT INCORPORATED, 855 CENTENNIAL AVENUE, P.O. BOX 1555, PISCATAWAY, NEW JERSEY 08855-1555** (Contractor"), witnesseth that:

**WHEREAS, Contractor has bid, proposed or offered to furnish and deliver to the City the materials, supplies and/or goods to perform the services **IN AN AMOUNT NOT TO EXCEED \$159,953.00. THIS IS ONE-TIME PURCHASE.****

**FIRST, Contractor, under the penalty expressed in the bond hereinafter mentioned, will furnish, supply and deliver to the City of Trenton the following materials, supplies or services as authorized by:**

**RESOLUTION AUTHORIZING A CONTRACT TO FOLEY CAT INCORPORATED,  
855 CENTENNIAL AVENUE, P.O. BOX 1555, PISCATAWAY, NEW JERSEY 08855-1555 FOR THE  
PURCHASE OF ONE (1) 2021 CAT 420XE IT BACKHOE LOADER WITH ACCESSORIES THROUGH THE  
NATIONAL INTERGOVERNMENTAL POWER ALLIANCE (NJPA) CONTRACT #032119-CAT FOR THE CITY  
OF TRENTON, DEPARTMENT OF WATER AND SEWER, DIVISION OF CONSTRUCTION AND  
MAINTENANCE CREW PERSONNEL**

below in strict accordance with the terms and conditions of the bid specifications, the bid response and the authorizing resolution, which are included above and is incorporated by reference,. Additionally, Contractor will furnish good and ample security in a sum equal to the said contract price for the said articles and services.

**SECOND. The City of Trenton will pay Contractor the total sum mentioned herein when the appropriate Department Director has executed a certification that the said articles or services have been furnished, delivered and accepted in full conformity to the aforementioned specifications and offer or proposal.**

**THIRD. The City of Trenton reserves the right to order a greater or lesser quantity, not to exceed twenty-five percent, of any or all of the articles named in the said offer or proposal than is stated therein, and it is distinctly agreed between the said parties that the price quoted in the offer or proposal of Contractor shall be regarded as a standard of prices, and the total sum mentioned herein as the consideration of this contract shall not be regarded as limiting the right of the City of Trenton to order such greater or lesser quantity.**

**FOURTH. In the event of the failure of Contractor to deliver to the City of Trenton, such articles or perform such work or labor as described in such quantities as ordered at the time stated for such delivery by the City of Trenton, or in the event that such articles as are delivered or work and labor performed do not meet the specifications or standards, as established by the City of Trenton for such articles or acceptance of such work and labor, then such delivery shall be rejected by telephone or written notice to the Agent or address indicated by the Contractor and by simultaneous and like notice to his surety. Additionally, if Contractor or his surety does not cure the default within the time set by the said Agent on behalf of the City of Trenton, then the said Agent on behalf of the City, shall have the right to procure such services or purchase such articles in their place and stead in the open market as are needed for replacement, and from the best source available in the judgment of the said Agent and to charge the expense of such articles or work performed to Contractor and to deduct the amount thereof from any moneys due or to become due to Contractor by virtue of this agreement. Provided, however, that the surety on the bond of Contractor for the faithful performance of this agreement shall be first notified of the necessity for such replacement, and given the same time allowance for such replacement as is given Contractor.**

**FIFTH. This contract shall not be amended, assigned or subcontracted without the consent of the City of Trenton in writing (if the total compensation payable thereunder shall thereby exceed \$2,500.00, approval by Resolution of the Governing Body shall be required), and any breach of this covenant shall authorize**

the City of Trenton, by its said Agent, to declare this contract null and void and to refuse to make any further payments thereunder to Contractor.

SIXTH. In case of any conflict between the provisions of this agreement and of any of the provisions of the specifications, the latter shall govern and control.

Applicable for Public Construction Contracts Only: "Dispute Resolution Procedures (N.J.S.A. 40A:11-50). Disputes arising under this contract shall be subject to mediation or non-binding arbitration at the sole discretion of the City of Trenton, before a construction industry mediator or arbitrator or panels thereof. The City of Trenton shall have the right to select a third party to mediate any disputes arising under this agreement and the mediation shall be conducted informally in a manner decided upon by the mediator".

SEVENTH. Contractor hereby agrees to pay all workmen as a minimum the prevailing wages rate in accordance with Chapter 150 of the New Jersey Laws of 1963, Prevailing Wages on Public Contracts and U.S. Department of Labor Wage Rates with the higher rate for any given occupation being the governing rate, and N.J.S.A. 10:2-1 et seq., prohibiting discrimination in employment on public contracts.

EIGHTH. During the performance of this contract, the contractor agrees as follows:

a. CONTRACTOR or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, or sex. CONTRACTOR will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, gender identity or expression, affectional or sexual orientation, disability, nationality or sex. Such action shall include, but not be limited to the following: employment, up-grading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause. (N.J.S.A. 10:5-33; N.J.A.C. 17:27-3.4)

b. CONTRACTOR or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of CONTRACTOR, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, gender identity or expression, affectional or sexual orientation, disability, nationality or sex. (N.J.S.A. 10:5-33; N.J.A.C. 17:27-3.4)

c. CONTRACTOR or subcontractor where applicable, will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of CONTRACTOR's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment. (N.J.S.A. 10:5-33; N.J.A.C. 17:27-3.4)

d. CONTRACTOR or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to P.L. 1975, c.127, as amended and supplemented from time to time. (N.J.A.C. 17:27-3.4)

Note: A public works contract for a subcontractor with a total work force of four or fewer employees or for a contractor or subcontractor performing under an existing Federally approved or sanctioned affirmative action program shall contain as mandatory language only paragraphs a, b, and c above, and the contract shall not contain any other mandatory language prescribed by N.J.A.C. 17:27. (N.J.A.C. 17:27-3.4) (c)

e. All bidders and all contractors who are negotiating for a procurement or service contract with the public agency which is not subject to a federally approved or sanctioned affirmative action program are required to submit to the public agency, prior to or at the time the contract is submitted for signing by the public agency (in accordance with N.J.A.C. 17:27-4.3 promulgated by the Treasurer pursuant to P.L. 1975, c. 127), one of the following three documents:

1. Appropriate evidence that the contractor is operating under an existing federally approved or sanctioned affirmative action program; or

2. A certificate of employee information report approval issued in accordance N.J.A.C. 17:27-4; or

3. An initial employee information report consisting of forms provided by the affirmative action office and completed by the contractor in accordance with N.J.A.C. 17:27-4. (N.J.A.C. 17:27-3.3) (a)

f. CONTRACTOR or subcontractor agrees to attempt in good faith to employ minority and female workers consistent with the applicable county employment goals prescribed by N.J.A.C. 17:27-5.2 promulgated by the Treasurer pursuant to P.L. 1975, c. 127, as amended and supplemented from time to time or in accordance with a binding determination of the applicable county employment goals determined by the affirmative action office pursuant to N.J.A.C. 17:27-5.2 promulgated by the Treasurer pursuant to P.L. 1975, c. 127, as amended and supplemented from time to time. (N.J.A.C. 17:27-5.3) (a) (1)

g. CONTRACTOR or subcontractor agrees to inform in writing appropriate recruitment agencies in the area, including employment agencies, placement bureaus, colleges, universities, labor unions, that it does not discriminate on the basis of age, creed, color, national origin, ancestry, marital status or sex, gender identity or expression, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices. (N.J.A.C. 17:27-5.3) (a) (2)

h. CONTRACTOR or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions. (N.J.A.C. 17:27-5.3) (a) (3)

i. CONTRACTOR or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, creed, color, national origin, ancestry, marital status or sex, and conform with the applicable employment goals, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions. (N.J.A.C. 17:27-5.3) (a) (4)

j. CONTRACTOR agrees that in the hiring of persons for the performance of work under this contract or any subcontract hereunder, or for the procurement, manufacture, assembling or furnishing of any such materials, equipment, supplies or services to be acquired under this contract, no contractor, nor any person acting on behalf of such contractor or subcontractor, shall, by reason of race, creed, color, national origin, ancestry, marital status, gender identity, or expression, affectional or sexual orientation or sex, discriminate against any person who is qualified and available to perform the work to which the employment relates. (N.J.S.A. 10:2-1) (a)

k. No contractor, subcontractor, nor any person on his behalf shall, in any manner, discriminate against or intimidate any employee engaged in the performance of work under this contract or any subcontract hereunder, or engaged in the procurement, manufacture, assembling or furnishing of any such materials, equipment, supplies or services to be acquired under such contract, on account of race, creed, color, national origin, ancestry, marital status, gender identity or expression, affectional or sexual orientation or sex. (N.J.S.A. 10:2-1) (b)

l. There may be deducted from the amount payable to the contractor by the contracting public agency, under this contract, a penalty of \$50.00 for each person for each calendar day during which such person is discriminated against or intimidated in violation of the provisions of the contract. (N.J.S.A. 10:2-1) (c)

m. This contract may be canceled or terminated by the contracting public agency, and all money due or to become due hereunder may be forfeited, for any violation of this section of the contract occurring after notice to the contractor from the contracting public agency of any prior violation of this section of the contract. (N.J.S.A. 10:2-1) (d)

n. The parties of this contract do hereby agree that the provisions of N.J.S.A. 10:2-1 through 10:2-4, dealing with discrimination in employment on public contracts, and the rules and regulations promulgated pursuant thereto, are hereby made a part of this contract and are binding upon them. (N.J.A.C. 13:6-1.1)

o. Contractor and subcontractor agree and guarantee to afford equal opportunity in performance of the contract and, except with respect to affectional or sexual orientation, and gender identity or expression in accordance with an affirmative action program approved by the State Treasurer. (N.J.S.A. 10:5-32 and 10:5-35) (a)

p. The parties of this contract do hereby agree that the provisions of Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. Section 12101 et seq., which prohibits discrimination on the basis of disability by public entities in all services programs and activities provided or made available by public entities, and the rules and regulations promulgated pursuant thereto, are made a part of this contract. The contractor agrees to conduct all activities in compliance with the provisions of Title VI of the Civil Rights Act of 1964, the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972, and the U.S. Department of Labor's regulations at 29 CFR Parts 31, 32 and 34.

Contractor shall cooperate with any state or federal reviews aimed at determining compliance with nondiscrimination laws and regulations authorized by State Law and expressly specified herein.

IN WITNESS WHEREOF, the City of Trenton has caused this agreement to be signed by the Mayor of the City of Trenton and its corporate seal to be hereto affixed, attested by the City Clerk, and Contractor has likewise caused this agreement to be executed the day and year first above written.

CITY OF TRENTON

Attest:

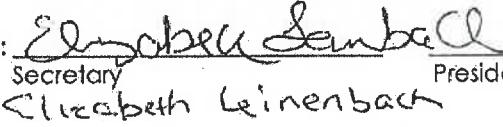
  
Municipal Clerk

  
W. Reed Gusclora, Esq., Mayor

and

FOLEY CAT INCORPORATED, 855 CENTENNIAL AVENUE,  
P.O. BOX 1555  
PISCATAWAY, NEW JERSEY 08855-1555

Attest:

  
Elizabeth Leinenbach  
Secretary

President

  
M. J. Miller

Date 7/28/22