AGREEMENT BETWEEN THE TOWNSHIP OF WEST ORANGE AND CFM CONSTRUCTION INC. FOR THE EMERGENCY REPAIR AT SHORT HILLS PUMP STATION

275-26

THIS AGREEMENT, made this 13th day of October, 2026

BETWEEN: Township of West Orange
66 Main Street
West Orange, New Jersey 07052
Hereinafter Referred to as the "Township"

AND: CFM Construction, Inc.
5 Bay Street
Stirling, NJ 07980
Hereinafter referred to as "Contractor."

WHEREAS, pursuant to N.J.S.A. 40A:11-6 and N.J.A.C. 5:34-6.1, in the case of emergencies that affect the public health, safety and welfare, any contract may be negotiated or awarded for the Township of West Orange without public advertising for bids; and

WHEREAS, on February 9, 2026, an inspection at the Short Hills Pump Station, located at 111 Old Short Hills Road, revealed an imminent health hazard due to only one pump being operational, and an imminent failure hazard of the only operational pump due to no emergency power being provided to the Short Hills Pump Station; and

WHEREAS, pursuant to the Local Public Contracts Law, Emergency Contracts, N.J.S.A. 40A:11.6a the Municipal Engineer on February 13, 2026, notified the Purchasing Agent of the need to perform an emergency repair at the Short Hills Pump Station; and

WHEREAS, to expedite the work and to perform the emergency repair of the Short Hills Pump Station to protect public health and safety an emergency contract shall be issued to CFM Construction, Inc., as they are familiar with the required improvements and are readily available to perform the emergency work.

NOW, THEREFORE, in consideration of the terms, conditions and stipulations hereinafter set forth, it is mutually agreed by and between the parties:

1. EMERGENCY WORK ALREADY PERFORMED

In accordance with N.J.S.A. 40A:11.6a, certain emergency work has already been performed by the Contractor:

a. Grease removal from wet well with by Oswald Enterprises utilizing a vactor truck;
b. Engineering design of the emergency upgrades;
c. Temporary metering of the influent sewage flow to determine the existing pump flow rate and total dynamic head;
d. Determination that the pumps purchased by the Township are correctly sized for the pump station;
e. Installation of temporary electric pump alternating with the existing pump and utilizing the existing pump control system;
f. Payment of PSE&G fees for the service upgrade and temporary service;

g. PSE&G's installation of a new utility pole and transformers for the 480 volt service upgrade;
h. Pumps/Mixer Control Panel received and placed inside pump station building; and
i. Automatic Transfer Switch received and placed inside pump station building.

The total payment due in accordance with Section 5 of this Agreement, for the work already performed, is $202,600.00.

2. EMERGENCY WORK TO BE PERFORMED

Contractor shall perform the following additional emergency services:

a. New electrical construction for the entire pump station, including new 480 volt electrical service upgrade, distribution panels, transformer, new lighting, new receptacles, and new electric heating;
b. New natural gas fueled stand-by generator with automatic transfer switch to replace inoperative diesel powered single pump motor drive;
c. New ductile iron pump suction piping with isolation valves and new connections to the wet well;
d. New ductile iron pump discharge piping, check valves, isolation valves, flow meter and discharge header connected to the existing force main at the wall inside the dry well.
e. Construction of pump bases and installation of Wilo dry pit submersible pumps, previously purchased by the Township;
f. New submersible mixer installed in the wet well to keep the solids in suspension as the sewage is being pumped;
g. New Duplex Pump and Mixer Control panel with PLC, VFDs and pressure transducer for pump operation including a backup float system for secondary operation and alarms.
h. New aluminum wet well access hatch with safety grate;
i. Bypass pumping with external electric pump and stand-by diesel pump with automatic controls, connected to the existing bypass connection to the force main;
j. Cleaning of wet well, high pressure water blasting and epoxy coating interior surfaces.
k. Painting of dry well walls and pump station building interior walls;
l. Start up, testing and training of operating personnel.

The design drawings for the Short Hills Pump Station Rehabilitation, prepared by Van Cleef Engineering Associates, LLC, a subcontractor of Contractor, is attached hereto as "Exhibit A."

3. ADDITIONAL NECESSARY WORK

Vibrational testing of all pumps shall be conducted to confirm that the pumps are performing in accordance with the manufacturer's design standards and provide start date within 30 days of completion.

4. CONSIDERATION

Due to the emergency nature of the Agreement, the services will be performed expeditiously on an as-needed basis, until the emergency conditions are resolved. The expenses will be kept to a minimum, while mitigating damages as efficiently as possible. The estimated cost for the sewer pump station repairs is $880,000.00. This estimate was calculated as follows:

a. $27,600.00 already paid to PSE&G by the Contractor;
b. $2,400.00 already paid to Oswald Enterprises by the Contractor;
c. $850,000.00 estimate by the Contractor for the emergency improvements to Short Hills Pump Station.

5. PAYMENT

Payment shall be made by the Township within thirty (30) days of the receipt and approval of itemized bills and vouchers. No payments may be made in advance of services pursuant to N.J.S.A. 40A:5-16.

6. TERM

The term of this agreement for the Emergency Work to Be Performed as set forth in Section 2 above, commenced on February 9, 2026 and all construction and repair work shall continue until the work is completed, but no later than within ninety (90) days of the execution of this Agreement, unless earlier terminated in accordance with the provisions set forth in Section 20, below.

7. WORK STANDARD

All work is to be performed in a good workman like manner in accordance with all applicable laws, regulations, rules of any and all government entities, and manufacturers guidelines, and in a manner necessary to preserve all applicable manufacturer warranties. Further, the Contractor is required to obtain all applicable permits, inspections, and approvals required by any government entity throughout the performance of this Agreement.

8. LICENSING AND CERTIFICATIONS

The Contractor and any and all subcontractors performing work under this Agreement must be fully qualified professionals and must maintain current professional licenses and certifications required by State law, rules, regulations, or manufacturers to conduct all work required by this Agreement, including, but not limited to, Professional Engineering, Electrician, and Plumbing Licensing.

9. MANUFACTURER WARRANTIES

The Contractor agrees to take all steps necessary to ensure that warranties are valid, including registration of equipment to the extent that the same is required in order to activate warranties.

10. NEW JERSEY LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of New Jersey notwithstanding any provisions of such laws relating to jurisdiction.

11. PARTIAL INVALIDITY

If any term, condition, or provision of this Agreement or the application thereof to any person or circumstance shall, at any time, or to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those to which this Agreement is invalid or unenforceable, shall not be affected thereby, and each term, condition, and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law, provided, however, that no such invalidity shall in any way reduce the services to be performed by the Contractor for the Township.

12. NO ASSIGNMENT

The Contractor shall not assign, transfer, convey, sublet, or otherwise dispose of this Agreement or its right, title or interest in or to the same or any part thereof without prior written consent of the Township and the approval of the Township's Municipal Council.

13. BINDING ON SUCCESSORS

Except as otherwise provided in this Agreement, all agreements' terms, provisions and conditions to this Agreement shall be binding on and inure to the benefit of the parties hereto, their respective personal representatives and successors.

14. MODIFICATIONS

No modification of this Agreement or work change orders shall be valid or binding unless the modifications shall be in writing, approved by the Township's Municipal Council and executed by the Township and the Contractor.

15. NO WAIVER

No waiver of any term, provision or condition contained in this Agreement or any breach of any such term, provision or condition shall constitute a waiver of any subsequent breach of such term, provision or condition by either party, or justify or authorize the non-observance on any other occasion of the same, or any other term, provision, or condition of this Agreement by either party.

16. CAPTIONS

The captions or the paragraph headings contained in this Agreement are solely for purposes of convenience and shall not be deemed part of this Agreement for the purpose of construing the meaning thereof or for any other purpose.

17. OWNERSHIP OF RECORDS

All records and data relating to work performed for the Township shall belong to the Township and shall be surrendered to the Township upon the expiration or termination of this Agreement, except that the Contractor will retain such information as is necessary to maintain a complete work record. The Contractor shall not use such information or data except for the performance of the service hereunder, without the prior written permission of the Township. This includes, but is not limited to, all warranties, bill of sales, and titles.

18. INSURANCE

The Contractor performing work for or on behalf of the Township shall keep in force the following types of insurance at its own expense and underwritten by a company licensed to do business in the State of New Jersey and acceptable to the Township. The Township reserves the right to accept, amend or modify any of the conditions listed. The Township must be notified within three (3) days of an offense, which may result in a claim. The Contractor shall not take any action to cancel any of the insurance required under this Agreement without the approval of the Township. The maintenance of insurance under this section shall not relieve the Contractor of any liability greater than the insurance coverage. **Any and all subcontractors retained must fully comply with the same insurance requirements as listed. The Contractor and any and all subcontractors must provide insurance certificates to the Township.**

a. WORKER'S COMPENSATION AND EMPLOYER'S LIABILITY INSURANCE with limits of not less than $1,000,000.00 will be maintained in full force during the life of this contract by the Contractor covering all employees engaged in performance of this contract pursuant to N.J.S.A. 34:15-12(a) and N.J.A.C. 12-235-1.6.

b. GENERAL LIABILITY INSURANCE with limits of not less than $1,000,000.00 for Bodily Injury and Property Damage Liability each occurrence and $2,000,000.00 General Aggregate will be maintained in full force during the life of the contract by the Contractor. The policy will include Contractor's protective liability insurance (also known as contingent liability insurance) with the same limits. In the event more than one insured is named in the policy, a CROSS LIABILITY endorsement will be included

which provides that the employees of each of the named insureds are not excluded under the policy as respect to claims that are made against other named insured.

c. AUTOMOBILE LIABILITY INSURANCE with limits of not less than $1,000,000.00 Liability and Property Damage Liability Combined Single Limit, $1,000,000.00 Uninsured Motorist and Underinsured Motorist, $1,000,000.00 Owned, Hired and Non-owned Automobile, will be maintained in full force during the life of this contract by the Contractor.

d. PROFESSIONAL LIABILITY INSURANCE with the limits of not less than $2,000,000.00 maintained in full force during the life of the contract by the Contractor.

19. INDEMNIFICATION AND HOLD HARMLESS

The Contractor agrees, at its sole cost and expense, defend, indemnify, and hold harmless the Township, including their employees, officers, agents, servants, representatives, and officials, from and against any and all claims, actions, penalties, losses, damages, liabilities, judgments, demands, and expenses, including, but not limited to, attorney's fees and costs, which arise out of the performance of this Agreement, to the extent that the same is caused in whole or in part, by the negligence, professional error, or omission of the Contractor or any person employed by it. The Contractor shall provide to the Township with evidence that, at all times during the term of this Agreement, it has obtained statutory professional liability and any other statutorily required coverages. No limitations on the foregoing indemnity shall impair or limit the Township's recourse to the insurance coverage set forth herein.

20. TERMINATION

The Township may terminate the Agreement upon twenty (20) days written notice to the other party. Upon such termination, the Township shall pay the Contractor for all services performed hereunder up to the date of such termination in accordance with the payment terms of this Agreement as well as all reasonable costs and expenses incurred by the Contractor in effecting the termination, including, but not limited to non-cancelable commitments and demobilization costs.

21. FORCE MAJEURE

Neither Party shall be liable to the other, or considered in default or breach of this Agreement, for any failure or delay in performing its obligations, except for obligations to make payments already owed, if the failure or delay results from circumstances beyond the impacted

Party's reasonable control. Such circumstances include, but are not limited to: (a) acts of God; (b) flood, fire, earthquake, or explosion; (c) war; (d) government order or law; (e) actions, embargoes, or blockades; (f) national or regional emergency; (g) strikes, labor stoppages, slowdowns, or other industrial disturbances; (h) epidemic, pandemic, or State of Emergency declared by the State of New Jersey; and (i) other similar events beyond the impacted Party's reasonable control.

22. ENTIRE AGREEMENT

This Agreement, including the attachments referenced herein, contains the entire Agreement of the parties hereto and may not be amended, modified, released or discharged, in whole or in part, except as specifically provided herein or in an instrument in writing executed by the parties hereto.

23. EFFECTIVE DATE OF CONTRACT

This Agreement shall not become binding upon the parties until the Township adopts a bond ordinance and/or appropriates the funds necessary for this Agreement and the Township's Chief Financial Officer certifies to the availability of funds if applicable pursuant to N.J.AC. 5:30-5.4

24. NON-FAIR AND OPEN

This Agreement has been awarded to the Contractor pursuant to N.J.S.A. 40A:11-6, Emergency Contracts, whereby "[a]ny contract may be negotiated or awarded for a contracting unit without public advertising for bids and bidding therefor, notwithstanding that the contract price will exceed the bid threshold when an emergency affecting the public health, safety or welfare requires the immediate delivery of goods or the performance of services."

25. PAY TO PLAY REQUIREMENT

The Contractor is advised of the responsibility to file an annual statement on political contributions with the New Jersey Election Law Enforcement Commission pursuant to N.J.S.A. 19:44A-20.8 (P.L. 2004, c.19, s.7, amended 2005, ch.51, s.15) if the Contractor received contracts in excess of $50,000 from public entities in a calendar year. It is the Contractor's responsibility to determine if filing is necessary. Additional information on this requirement is available from ELEC at 888-313-3532 or at www.elec.state.nj.us.

By executing this Agreement, the Contractor certifies that it is in compliance with N.J.S.A. 19:44A-20.26 (P.L. 2025, c.176 and J.R. 12). The Contractor further certifies that it has

neither made or solicited nor will make or cause to be solicited a prohibited political contribution in violation of any applicable federal, state or local laws. Any such failure to comply shall constitute a breach of the Contract.

26. AVAILABILITY OF FUNDS

This is a contract which may be awarded in one fiscal year although the date on which it properly takes effect may fall in a different fiscal year. Accordingly, this contract is subject to the availability and appropriation of sufficient funds in the year in which it takes effect. N.J. Admin. Code 5:30-5.3.

27. CONFLICT OF INTEREST

The Contractor acknowledges that the nature of the service to be performed requires that the Contractor must not have or appear to have a conflict of interest with any potentially adversarial party. The Contractor agrees that:

(a) It will not accept any assignments, compensation, consideration or gratuities from any other party with an interest in the subject matter of this Agreement that shall conflict or shall have the appearance of conflicting with the interest of the Township relative to the purposes of this Agreement.

(b) In the event that a conflict or potential conflict of interest arises, the Contractor shall notify the Township in writing within three (3) days of becoming aware of the conflict or the potential conflict. Failure to provide such notice may be grounds for termination of this Agreement for cause.

(c) In the event that the Township receives timely notice of an actual or potential conflict, the Contractor and the Township shall attempt to reach an agreement on a course of action in response to the actual or potential conflict. If such an agreement cannot be reached, the Township has the right to terminate the Agreement for convenience.

28. INDEPENDENT CONTRACTOR

The Contractor shall be and remain an independent contractor with respect to all services performed hereunder and agrees to and does hereby accept full and exclusive liability for the payment of any and all contributions or taxes for social security, unemployment insurance or old age retirement benefits, pensions or annuities now or hereafter imposed under any state or federal law which are measured by the wages, salaries or other remuneration paid to persons employed by the Contractor for work performed under the terms of this contract and further

agrees to obey all lawful rules and regulations and to meet all lawful requirements by all duly authorized state or federal officials, and said Contractor agrees to indemnify and save harmless the Township from any such contributions or taxes or liability therefore.

29. EQUAL EMPLOYMENT OPPORTUNITY

The Contractor acknowledges that he/she shall comply with the requirement of N.J.S.A. 10:5-31, et seq. and N.J.A.C. 17:27 and submit to the State of New Jersey and/or the Township such documentation as shall be required by law as more specifically set forth in Exhibit B entitled "Mandatory Equal Employment Opportunity Language."

30. PREVAILING WAGES

N.J.S.A. 34:11-56.27 requires that any contract for public work expressly stipulate that workers performing work under the contract shall not be paid less than the required prevailing wage rate. Contractors and their sureties shall be liable to the public body, any lessee to whom the public body is leasing a property or premises or to any lessor from whom the public body is leasing or will be leasing a property or premises, for any excess costs occasioned by the termination of their right to proceed with the work, or such part of the work as to which there has been a failure to pay required wages.

If applicable, the contractor will be required to comply with the provisions of the NJ Prevailing Wage Act, Chapter 150 of the Laws of 1963, setting forth requirements for the payment of prevailing wages and for the proper documentation of such payments where the project construction, reconstruction, demolition, alteration or repair work, or maintenance work, including painting and decorating, done under contract and paid for in whole or in part out of funds of the Township of West Orange, except work performed under a rehabilitation program.

31. STATE REQUIRED RECORD RETENTION N.J.S.A. 52:15C-14(d) and N.J.A.C. 17:44-2.2

The Contractor shall maintain all documentation related to products, transactions or services under this contract for a period of five years from the date of final payment. Such records shall be made available to the New Jersey Office of the State Comptroller upon request. Refusal by the Contractor to provide information upon request by the State Comptroller or otherwise impede or fail to cooperate with any audit or performance review, the State Comptroller may recommend to the Township that the person be subject to termination of their contract, or temporarily or permanently debarred from contracting with the Township.

32. DEFAULT

In the event the Contractor fails or neglects to perform any of the conditions or covenants set forth herein during the Term of this Agreement, the Township shall upon three (3) days written notice to the Contractor, deliver to the Contractor by Certified Mail a Notice of Default, with the opportunity to cure within three (3) days. In the event that the Contractor fails to cure such default within three (3) days of receipt of the Notice, the Township shall terminate this Agreement, and all rights, privileges, or interest herein shall cease. The Contractor shall be liable to the Township for any damages or loss, including, but not limited to reasonable attorneys' fees in the event any legal action is necessary, as a result of the Default, in accordance with New Jersey law.

IN WITNESS WHEREOF, the Township and the Contractor have executed this Agreement as of the date first written above.

ATTEST: TOWNSHIP OF WEST ORANGE

_____ BY: _____
KAREN CARNEVALE, SUSAN McCARTNEY,
MUNICIPAL CLERK MAYOR

ATTEST: CFM CONSTRUCTION, INC.

_____ BY: _____
CARMINE COSCIA,
PRESIDENT