

**CITY OF MIRAMAR
PROPOSED CITY COMMISSION AGENDA ITEM**

Meeting Date: June 12, 2023

Presenter's Name and Title: Kirk Hobson-Garcia, P.E., Asst. Public Works Director

Prepared By: Kirk Hobson-Garcia, P.E., Asst. Public Works Director and Kristy Gilbert, Asst. Public Works Director

Temp. Reso. Number: 7899

Item Description: Temp. Reso. #R7899, approving the purchase of additional parts for Contractor Operated Parts Store Services with Genuine Parts Company D/B/A NAPA Auto Parts, in an additional amount of \$230,000, for the balance of fiscal year 2023; utilizing Sourcewell RFP No. 110520 entitled "Fleet and Facility Related Vendor Managed Inventory and Logistics Management Solutions". *(Assistant Director of Public Works, Kirk Hobson-Garcia and Director of Procurement, Alicia Ayum).*

Consent ☒ Resolution ☐ Ordinance ☐ Quasi-Judicial ☐ Public Hearing ☐

Instructions for the Office of the City Clerk: None

Public Notice – As required by the Sec. ____ of the City Code and/or Sec. ____, Florida Statutes, public notice for this item was provided as follows: on ____ in a ____ ad in the ____; by the posting the property on ____ and/or by sending mailed notice to property owners within ____ feet of the property on ____
(fill in all that apply)

Special Voting Requirement – As required by Sec. ____, of the City Code and/or Sec. ____, Florida Statutes, approval of this item requires a ____ (unanimous, 4/5ths etc.) vote by the City Commission.

Fiscal Impact: Yes ☒ No ☐

REMARKS: Additional funds totaling \$230,000 during FY2023 will be expended from Account No. 503-50-521-519-000-604616 entitled "Fleet Maintenance - Reimbursable Parts".

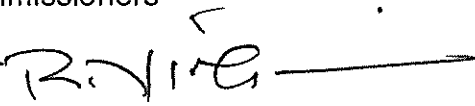
Content:

- Agenda Item Memo from the City Manager to City Commission
- Resolution TR7899
 - Exhibit A: Sourcewell Solicitation Number RFP No. 110520 entitled "Fleet and Facility Related Vendor Managed Inventory and Logistics Management Solutions".



**CITY OF MIRAMAR
INTEROFFICE MEMORANDUM**

TO: Mayor, Vice Mayor, & City Commissioners

FROM: Dr. Roy L. Virgin, City Manager 

BY: Anthony Collins, Director of Public Works

DATE: June 1, 2023

RE: Temp. Reso. No. 7899, Approving the Purchase of Additional Contractor Operated Parts Store Services

RECOMMENDATION: The City Manager recommends approval of Temp. Reso. No. 7899, approving the purchase of additional Contractor Operated Parts Store Services with Genuine Parts Company D/B/A NAPA Auto Parts ("Napa"), in the amount of \$230,000, utilizing Sourcwell Solicitation Number RFP No. 110520 entitled "Fleet and Facility Related Vendor Managed Inventory and Logistics Management Solutions".

ISSUE: City Commission approval is required for all expenditures exceeding the \$75,000 from the same vendor within a single fiscal year. This resolution authorizes additional expenditures with Napa in the amount of \$230,000 for Fiscal Year 2023 ("FY2023").

BACKGROUND: The City's Public Works Department, Fleet Maintenance Program is responsible for overseeing the repair and maintenance of all City vehicles and equipment. On September 1, 2021, the City Commission adopted Resolution No. 21-154 approving an agreement for contractor operated parts store services with Genuine Parts Company d/b/a NAPA Auto Parts in the amount of \$593,500. The contract commencing October 1, 2021 and is effective through December 29, 2024.

The continuing purchase of parts for the City's fleet of vehicles is required to support Fleet Maintenance's continuing preventative maintenance and repair operations. The sluggish return to normal, following the COVID-19 pandemic, continues to slow or even temporarily halt the flow of raw materials and finished goods causing manufacturing disruptions and cost increases. Increases in the cost of parts continues to impose significant challenges for supply chains nationally and globally. These effects have resulted in higher material prices and more limited supply of raw materials thus higher part prices. Additional

expenditures totaling \$230,000 are anticipated through the end of FY2023 to provide continuing parts store services.

The table below details the parts store services expenditures approved and pending purchases through the end of FY2023:

FY2023 Expenditures with Napa

Description of Work	Munis Purchase Order No.	Total Amount	Account No.
Contractor Operated Parts Store Services	230053	\$575,000	503-50-521-519-000-604616
Services paid to date (Reso 21-154)		504,099	
Additional Services Pending			
Contractor Operated Parts Store Services	PO Pending	230,000	503-50-521-519-000-604616
Additional services pending		230,000	
Total Projected Expenses during FY23		\$823,500	

Napa is the awarded vendor through Sourcewell Solicitation Number RFP No. 110520 entitled "Fleet and Facility Related Vendor Managed Inventory and Logistics Management Solutions" competitive bid process. Utilizing this Contract provides the City with a comprehensive solution and competitive pricing for continuing vehicle repair needs. The Procurement Department has reviewed the contract and price quotes and confirmed utilizing the contract is in the best interest of the City.

DISCUSSION: The contracting of the fleet inventory control room to a single vendor continues to improve parts availability for mechanics and reduces inventory management costs. This arrangement allows the fleet mechanics to focus on keeping vehicles and equipment in operation rather than the investment and business of inventory control. Napa will continue to provide parts, supplies and equipment to fleet mechanics for the maintenance and repair of City vehicles. Parts are procured when they are delivered to mechanics at the parts window. Having an experienced vendor like Napa under contract, during the 2023 hurricane season, will ensure the City is well stock with parts to handle all emergency vehicle repairs should the City be impacted by a storm.

ANALYSIS: Funds totaling \$230,000 will be expended from Account No. 503-50-521-519-000-604616 entitled "Fleet Maintenance-Reimbursable Parts".

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6/1/23

**CITY OF MIRAMAR
MIRAMAR, FLORIDA**

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF MIRAMAR, FLORIDA, APPROVING THE PURCHASE OF ADDITIONAL PARTS FOR CONTRACTOR OPERATED PARTS STORE SERVICES WITH GENUINE PARTS COMPANY D/B/A NAPA AUTO PARTS, FOR THE BALANCE OF FISCAL YEAR 2023; UTILIZING SOURCEWELL RFP NO. 110520 ENTITLED “FLEET AND FACILITY RELATED VENDOR MANAGED INVENTORY AND LOGISTICS MANAGEMENT SOLUTIONS”; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Public Works Department, Fleet Maintenance Program is responsible for overseeing the repair and maintenance of all City vehicles and equipment; and

WHEREAS, on September 1, 2021, the City Commission adopted Resolution No. 21-154 approving an agreement for contractor operated parts store services with Genuine Parts Company d/b/a NAPA Auto Parts in the amount of \$593,500; and

WHEREAS, the contract commencing October 1, 2021, and is effective through December 29, 2024; and

WHEREAS, during FY2023, expenditures to date have totaled \$504,099; and

WHEREAS, ongoing parts store services for repair of City vehicles and equipment are needed for the remainder of FY2023; and

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WHEREAS, Section 2-412(a)(1) of the City Code provides that all commodities or services provided by a single vendor in excess of \$75,000 must be formally approved by the City Commission; and

WHEREAS, Section 2-413 of the City Code provides for purchases made utilizing already competed agreements of other governmental agencies, or cooperative purchases, such as the Sourcewell Solicitation Number RFP No. 110520 to be exempt from further competitive bidding requirements; and

WHEREAS, the City will utilize Sourcewell Solicitation Number RFP No. 110520, attached hereto as Exhibit "A"; and

WHEREAS, the City Manager recommends that the City Commission approve the purchase of additional expenditures for contractor operated parts store services from Genuine Parts Company D/B/A NAPA Auto Parts in the amount of \$230,000 utilizing Sourcewell Solicitation Number RFP No. 110520; and

WHEREAS, the City Commission deems it to be in the best interest of the citizens and residents of the City of Miramar to approve the purchase of additional expenditures for contractor operated parts store services from Genuine Parts Company D/B/A NAPA Auto Parts in the amount of \$230,000 utilizing Sourcewell Solicitation Number RFP No. 110520.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF MIRAMAR, FLORIDA AS FOLLOWS:

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Section 1: That the foregoing “**WHEREAS**” clauses are ratified and confirmed as being true and correct and are made a specific part of this Resolution.

Section 2: That it approves additional expenditures with Genuine Parts Company D/B/A NAPA Auto Parts in the amount of \$230,000 utilizing Sourcewell Solicitation Number RFP No. 110520.

Section 3: That the appropriate City officials are authorized to do all things necessary and expedient to carry out the aims of this Resolution.

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5/11/23
6/1/23

Section 4: That this Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED this _____ day of _____, _____

Mayor, Wayne M. Messam

Vice Mayor, Alexandra P. Davis

ATTEST:

City Clerk, Denise A. Gibbs

I HEREBY CERTIFY that I have approved
this RESOLUTION as to form:

City Attorney,
Austin Pamies Norris Weeks Powell, PLLC

Requested by Administration

Commissioner Winston F. Barnes
Commissioner Maxwell B. Chambers
Commissioner Yvette Colbourne
Vice Mayor Alexandra P. Davis
Mayor Wayne M. Messam

Voted

Reso. No. _____

INTEGRATED SUPPLY AGREEMENT
BY AND BETWEEN
GENUINE PARTS COMPANY
AND
THE CITY OF MIRAMAR, FLORIDA

**INTEGRATED SUPPLY AGREEMENT
BY AND BETWEEN
GENUINE PARTS COMPANY
AND
THE CITY OF MIRAMAR, FLORIDA**

THIS INTEGRATED SUPPLY AGREEMENT (this "Agreement") is made by and between **GENUINE PARTS COMPANY**, a Georgia corporation (d/b/a NAPA Auto Parts) ("NAPA"), and **THE CITY OF MIRAMAR, FLORIDA**, a Florida municipal corporation ("CUSTOMER"), to be effective as of the 1 day of SEP, 2021 (the "Effective Date").

WITNESSETH

WHEREAS, pursuant to a competitive bidding and selection process by Sourcewell (f/k/a National Joint Powers Alliance) (hereinafter, "Sourcewell"), a Minnesota-based Service Cooperative created by Minnesota Legislative Statute 123A.21, Sourcewell and NAPA executed contract #110520-GPC on December 23, 2020 (hereinafter, "Sourcewell Contract"), attached hereto as Exhibit C, to establish a source of supply for certain auto, truck and bus parts as well as to provide Integrated Business Solutions services; and

WHEREAS, by becoming a participating member of Sourcewell (hereinafter, "Member"), CUSTOMER and its related entities (hereinafter, "User Agencies") are authorized to utilize the pricing and incentives available to Sourcewell Members set forth in the Sourcewell Contract; and

WHEREAS, CUSTOMER desires to become a User Agency under such Sourcewell Contract and desires to receive integrated business solutions services from NAPA; and

WHEREAS, CUSTOMER and NAPA agree that the Sourcewell Contract is a vehicle by which CUSTOMER may contract directly with NAPA for parts and services, but that the terms and conditions of this Agreement and not the terms and conditions of the Sourcewell Contract shall govern the relationship of the parties; and

WHEREAS, NAPA desires to provide integrated business solutions services and to establish inventories in CUSTOMER's locations to service the fleet parts needs of CUSTOMER and to serve as the primary supplier of automotive replacement parts and other supplies and/or equipment (the "Inventory" or "Products") to serve the needs of CUSTOMER; and

WHEREAS, CUSTOMER desires to provide space for the Inventory on the premises of CUSTOMER for use by NAPA ("On Site Store") and agrees that NAPA will be its primary supplier of the Inventory pursuant to the terms herein.

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties hereto agree as follows:

AGREEMENT

1. **DEFINITIONS.** For purposes of this Agreement, the following terms shall have the meanings set forth below:

- (a) ***Primary Supplier*** shall mean the parts supplier that provides a minimum of ninety percent (90%) of the Inventory needs of CUSTOMER.
- (b) ***NAPA Owned Store*** shall mean an auto parts store lawfully using the tradename or trademark "NAPA" which is wholly owned by NAPA.
- (c) ***NAPA Jobber*** shall mean an auto parts store lawfully using the tradename or trademark "NAPA" with respect to which NAPA maintains no ownership interest.
- (d) ***Current NAPA Jobber Acquisition Cost*** shall mean NAPA's current gold price as set forth on NAPA's Confidential Jobber Cost and Suggested Resales price list.

2. **CUSTOMER'S CURRENT LOCATIONS.** NAPA will establish On Site Store(s) at the CUSTOMER'S following location(s):

13900 Apembroke Road, Bldg M
Miramar, FL 33027

Additional locations of the CUSTOMER may be added to this Agreement but only by a written amendment executed and agreed to by both the CUSTOMER and NAPA.

3. **TERM.** Subject to the terms and conditions set forth below, this Agreement shall begin on the Effective Date and shall end when the Sourcewell Contract terminates or expires or when terminated earlier in accordance with the applicable terms and conditions stated herein. As the Sourcewell Contract is renewed or extended, this Agreement may be renewed or extended for a period of time equal to or shorter than the period of time the Sourcewell Contract is renewed or extended upon the mutual written agreement of the parties. Notwithstanding the foregoing, should the parties desire to extend this Agreement past the termination or expiration date of the Sourcewell Contract,

Sourcewell Contract

the parties may do so by entering into a mutually agreed upon written amendment to this Agreement. Further, as Sourcewell awards new successive agreements to NAPA following expiration of the Sourcewell Contract, any new contract number and/or new terms and conditions may be added with mutual agreement via a written amendment to this Agreement. Either party may terminate this Agreement at any time for its convenience by giving the other party sixty (60) days prior written notice of such termination.

4. DUTIES AND RESPONSIBILITIES OF NAPA. NAPA shall have the following duties and responsibilities during the term of this Agreement:

(a) NAPA will operate the On Site Store(s) and provide the Inventory to CUSTOMER's now existing locations. NAPA shall provide all personnel required to operate the On Site Store(s).

(b) In those circumstances when delivery is required by CUSTOMER, NAPA will provide parts to CUSTOMER's locations on a daily route basis. In addition, NAPA will accelerate delivery on those items CUSTOMER requires to be delivered on an expedited basis. NAPA will make all reasonable efforts to ensure prompt delivery to the CUSTOMER's location(s) requesting part(s).

(c) NAPA shall provide all computers and reports necessary to monitor monthly expenses as they pertain to the daily operation of the On Site Store(s). NAPA shall provide computer ordering and cataloging to each On Site Store.

(d) NAPA shall provide a profit and loss statement of the parts operations to the CUSTOMER on approximately the 25th of each month for each On Site Store.

(e) NAPA shall provide back-up emergency service during non-working hour contingencies. This overtime expense (calculated at time and one half) will be charged on a cost basis to CUSTOMER and must be pre-approved by CUSTOMER. The parties shall mutually agree upon the pre-approval process for such emergency situations. NAPA will provide a list of personnel, including telephone numbers, who will respond to emergency service requests.

5. DUTIES AND RESPONSIBILITIES OF CUSTOMER. CUSTOMER shall have the following duties and responsibilities during the term of this Agreement:

(a) CUSTOMER shall provide, at its sole expense, usable space for NAPA's On Site Store(s) and the Inventory. CUSTOMER shall provide access to restroom facilities for NAPA employees. Further, CUSTOMER shall furnish, at its sole expense, all utilities for the On Site Store(s) including: water, sanitation, sewer, light, telephone, heat, gas, electricity, power, fuel, janitorial and all other utilities and services rendered or delivered to the On Site Store(s) whatsoever. CUSTOMER shall provide NAPA a safe work environment that is free from hostility, violence, or discrimination. NAPA reserves

the right to terminate the contract immediately should NAPA encounter a hostile, violent, discriminatory, or unsafe work environment.

(b) CUSTOMER shall use NAPA as its Primary Supplier of the Inventory under this Agreement. CUSTOMER reserves the right to purchase any item outside this Agreement where it is determined to be more economical or timely so long as the purchase of aforesaid part or parts does not result in NAPA no longer being CUSTOMER's Primary Supplier in which case NAPA may terminate this Agreement.

(c) Each On Site Store location shall be appropriately secured or otherwise maintained separate and apart from the business of CUSTOMER. There shall be no intermingling of CUSTOMER's parts or other inventory with NAPA's parts or inventory. Access to the secured On Site Store(s) shall be restricted to NAPA employees and authorized NAPA representatives only. CUSTOMER'S employees, contractors or agents shall not be permitted to enter the secured On-Site Store area unless accompanied by a NAPA employee or other authorized NAPA representative. CUSTOMER hereby assumes and shall bear any and all risk of loss or damage from any cause to the Inventory and other personal property located in the On Site Store(s), except for loss or damage arising out of the acts, errors or omissions of NAPA. NAPA shall invoice CUSTOMER for any such loss of or damage to the Inventory and/or other personal property located in the On Site Store(s), and CUSTOMER shall pay such invoiced amount to NAPA in accordance with the payment terms set forth in Section 7 below.

(d) CUSTOMER shall, at all times during the term of this Agreement, at CUSTOMER'S sole expense, maintain in good condition and repair (so as to prevent any damage or injury to NAPA's employees, the Inventory or other personal property located in the On Site Store(s)) the roof, exterior walls, foundation, and structural portions of the On Site Store(s) and all portions of the electrical and plumbing systems lying outside of the On Site Store(s) but serving the On Site Store(s).

(e) CUSTOMER shall provide information regarding fleet changes to NAPA as soon as possible. Fleet changes include but are not limited to the removal of types of vehicles from the fleet and the addition of new vehicles to the fleet.

6. ALTERNATIVE SUPPLIERS. Each On Site Store may be serviced by a NAPA Owned Store or a NAPA Jobber. CUSTOMER acknowledges that whether it will be serviced by a NAPA Owned Store or a NAPA Jobber will be determined by NAPA, in its sole discretion, and that if CUSTOMER is to be serviced by a NAPA Jobber, then such NAPA Jobber must evidence its desire to abide by the terms of this Agreement by entering into an Assignment in the form of Exhibit A hereto.

7. PAYMENT TERMS/PRICING. NAPA shall invoice the CUSTOMER for all Inventory purchased pursuant to this Agreement on a monthly basis according to the pricing plan below. CUSTOMER agrees to pay the entire amount of all statements received from NAPA by the 25th day of the month following receipt of any such statement. If CUSTOMER has not paid the entire amount of all statements received from

NAPA within 10 days of the 25th day of the month following receipt of such invoice, CUSTOMER shall be put on COD until such amount is paid in full. No prompt pay discount is available under this Agreement.

There are three pricing options available to CUSTOMER. Those pricing options are Pricing Option #1 (Management Fee), Pricing Option #2a (10% Gross Profit on Products/Monthly Operating Expenses), and Pricing Option #2b (Higher Gross Profit on Products/No Monthly Operating Expenses). The pricing option for *this* Agreement must be indicated by CUSTOMER initials, below.

PRICING OPTION #1 (MANAGEMENT FEE)

CUSTOMER INITIALS: _____

The overall objective of CUSTOMER's pricing plan is for: (i) NAPA to provide Products in accordance with the Pricing Plan Summary set forth below, (ii) NAPA to provide Outside Services in accordance with the Pricing Plan Summary set forth below, (iii) reimbursement by CUSTOMER of each On Site Store's operating expenses, and (iv) payment by CUSTOMER of the Management Fee (as defined below). By billing CUSTOMER for these four categories, NAPA's On Site Store(s) will achieve its target ten percent (10%) net profit for the Agreement (the "Net Profit Target"). These categories are defined as follows:

- (a) **Product Price.** The pricing of the Products to be supplied to CUSTOMER by NAPA pursuant to this Agreement shall be divided into: 1) "**NAPA Product Price**," which is the pricing of NAPA branded or NAPA cataloged supplier manufactured products; and 2) "**Non-NAPA Product Price**," which is the pricing of products which have not been manufactured by NAPA suppliers or do not exist in NAPA's proprietary catalog system but which have been acquired for CUSTOMER by NAPA pursuant to this Agreement. The pricing of NAPA Product and Non-NAPA Product shall be billed in accordance with the Pricing Plan Summary defined below.
- (b) **Outside Services Price.** Outside Services are those services not traditionally performed by NAPA. The pricing of Outside Services shall be billed in accordance with the Pricing Plan Summary defined below.
- (c) **Operational Expenses.** Any and all costs and expenses associated with the operation of the On Site Store(s), including, but not limited to, vehicle gas and maintenance costs, salary and benefits payable to NAPA employees at the On Site Store(s), worker's compensation benefits and insurance, unemployment insurance, personal property insurance for the On Site Store(s) and Inventory, any deductible for losses covered under the personal property, automobile liability, or general liability insurance

policies of NAPA, all equipment supplied by NAPA, Corporate Allocation Expenses (as defined below), inventory investment expense, obsolescence expense, pension funding costs, accounting fees, general office expenses, and shared service expenses. An example of a profit and loss statement reflecting such costs and expenses is attached hereto as Exhibit B. CUSTOMER acknowledges and agrees that the costs and expenses reflected on the profit and loss statement set forth on Exhibit B are subject to change based on actual monthly costs, expenses or Corporate Allocation Expenses incurred relative to the operation of the On Site Store(s). To achieve economies of scale, NAPA utilizes certain headquarter and corporate personnel to assist in the performance of this Agreement. As a result, each On Site Store location is charged certain corporate allocation expenses for various line items shown on Exhibit B ("Corporate Allocation Expenses") which are calculated as a percentage of total Product sales for each month. As such, there is not a supportive invoice for such expenses other than a monthly allocation rate statement. These Corporate Allocation Expenses allow NAPA to have fewer employees performing routine general administrative tasks such as paper work and filing at the On Site Store(s), allowing NAPA counter personnel to focus more attention on serving the On-Site Store operations, and maximizing on-site cost efficiency.

- (d) **Management Fee.** CUSTOMER shall be billed a Management Fee (as defined below) on a monthly basis in accordance with the terms below.

PRICING PLAN SUMMARY

NAPA Product Price	Billed to CUSTOMER at the Current NAPA Jobber Acquisition Cost
Non-NAPA Product Price	Billed to CUSTOMER at NAPA's current product acquisition cost
Outside Services Price	Billed to CUSTOMER at NAPA's cost
Operational Expenses	Billed to CUSTOMER in accordance with Section 7(c) above.
Management Fee	Billed to CUSTOMER in accordance with the terms below
Net Profit Target	10% net profit for the NAPA On Site Store(s) after Products, Outside Services, Operational Expenses, and Management Fee are billed to CUSTOMER.

NAPA Product shall be billed to CUSTOMER at the Current NAPA Jobber Acquisition Cost. Non-NAPA Product shall be billed to CUSTOMER at NAPA's current product acquisition cost, and Outside Services shall be billed to CUSTOMER at NAPA's cost. CUSTOMER is solely responsible for improper or inappropriate instructions by CUSTOMER's employees to NAPA regarding NAPA's purchases of nontraditional parts or services, unless CUSTOMER provided prior written notice to NAPA of parts or services that may not be procured by NAPA in relation to this Agreement. Operational Expenses will be charged to CUSTOMER in accordance with Section 7(c) above, with all such charges for Operational Expenses to be included in CUSTOMER's monthly billing statement. CUSTOMER will be billed at the end of each month for Operational Expenses on an "in arrears" basis.

CUSTOMER shall pay to NAPA on a monthly basis a management fee equal to ten percent (10%) of the Total Monthly Net Sales (as defined below) during the preceding month (the "Management Fee"). For purposes hereof, "Total Monthly Net Sales" means the total dollar amount of all Products (both NAPA and Non-NAPA) and Outside Services sold to the CUSTOMER during the preceding month at the prices set forth in the pricing plan summary above less purchase returns.

CUSTOMER and NAPA mutually agree that CUSTOMER'S maximum annual payment obligation for all Products, Outside Services, Operational Expenses and Management Fees billed to CUSTOMER pursuant to this Section 7 shall be set at \$_____ per annum; and CUSTOMER has encumbered such amount to cover this potential liability. The parties agree to mutually work together to adjust the amount if such amount must be increased during the term of the contract. **CUSTOMER INITIALS** _____

PRICING OPTION #2a (10% GROSS PROFIT ON PRODUCTS / MONTHLY OPERATING EXPENSES)

CUSTOMER INITIALS: _____

The overall objective of CUSTOMER's pricing plan is for NAPA to provide Products in accordance with the agreed upon Pricing Plan Summary set forth below and reimbursement by CUSTOMER of each On Site Store's operating expenses. By billing CUSTOMER for these two categories, NAPA's On Site Store(s) will achieve its target ten percent (10%) net profit for the Agreement (the "Net Profit Target"). These categories are defined as follows:

- (a) **Product Price.** The pricing of the Products to be supplied to CUSTOMER by NAPA pursuant to this Agreement shall be divided into: 1) "**NAPA Product Price**," which is the pricing of NAPA branded or NAPA cataloged supplier manufactured products; and 2) "**Non-NAPA Product Price**," which is the pricing of products which have not been manufactured by NAPA suppliers or do not exist in NAPA's proprietary

catalog system but which have been acquired for CUSTOMER by NAPA pursuant to this Agreement. The pricing of NAPA Product and Non-NAPA Product shall be billed in accordance with the Pricing Plan Summary defined below.

- (b) **Operational Expenses.** Any and all costs and expenses associated with the operation of the On Site Store(s), including, but not limited to, vehicle gas and maintenance costs, salary and benefits payable to NAPA employees at the On Site Store(s), worker's compensation benefits and insurance, unemployment insurance, personal property insurance for the On Site Store(s) and Inventory, any deductible for losses covered under the personal property, automobile liability, or general liability insurance policies of NAPA, all equipment supplied by NAPA, Corporate Allocation Expenses (as defined below), inventory investment expense, obsolescence expense, pension funding costs, accounting fees, general office expenses, and shared service expenses. An example of a profit and loss statement reflecting such costs and expenses is attached hereto as Exhibit B. CUSTOMER acknowledges and agrees that the costs and expenses reflected on the profit and loss statement set forth on Exhibit B are subject to change based on actual monthly costs, expenses or Corporate Allocation Expenses incurred relative to the operation of the On Site Store(s). To achieve economies of scale, NAPA utilizes certain headquarter and corporate personnel to assist in the performance of this Agreement. As a result, each On Site Store location is charged certain corporate allocation expenses for various line items shown on Exhibit B ("Corporate Allocation Expenses") which are calculated as a percentage of total Product sales for each month. As such, there is not a supportive invoice for such expenses other than a monthly allocation rate statement. These Corporate Allocation Expenses allow NAPA to have fewer employees performing routine general administrative tasks such as paper work and filing at the On Site Store(s), allowing NAPA counter personnel to focus more attention on serving the On-Site Store operations, and maximizing on-site cost efficiency.

PRICING PLAN SUMMARY

NAPA Product Price	Billed to CUSTOMER at a 10% gross profit rate (The formula for NAPA Product Price for CUSTOMER is the Current NAPA Jobber Acquisition Cost divided by .90) This formula will achieve the gross profit rate set forth above. Example: Current NAPA Jobber Acquisition Cost is \$1.00. CUSTOMER's price would be $\$1.00/.90=\1.11
Non-NAPA Product Price	Billed to CUSTOMER at a 10% gross profit rate (The formula for Non-NAPA Product Price for

	CUSTOMER is NAPA's current product acquisition cost divided by .90) This formula will achieve the gross profit rate set forth above. Example: current product acquisition cost is \$1.00. CUSTOMER's price would be \$1.00/.90=\$1.11
Operational Expenses	Billed to CUSTOMER in accordance with Section 7(b) above.
Net Profit Target	10% net profit for the NAPA On Site Store(s) after Products and Operational Expenses are billed to CUSTOMER.

Both NAPA Product and Non-NAPA Product shall be set by NAPA to yield a gross profit of ten percent (10%). Operational Expenses will be charged to CUSTOMER in accordance with Section 7(b) above, with all such charges for Operational Expenses to be included in CUSTOMER's monthly billing statement. CUSTOMER will be billed at the end of each month for Operational Expenses on an "in arrears" basis.

CUSTOMER and NAPA mutually agree that CUSTOMER'S maximum annual payment obligation for all Products and Operational Expenses billed to CUSTOMER pursuant to this Section 7 shall be set at \$_____ per annum; and CUSTOMER has encumbered such amount to cover this potential liability. The parties agree to mutually work together to adjust the amount if such amount must be increased during the term of the contract. **CUSTOMER INITIALS** _____

In addition, NAPA may use any sub-contractor for the procurement of "outside" services (i.e., those services not traditionally performed by NAPA), and CUSTOMER will be billed an additional charge for any such purchases so as to yield NAPA a ten percent (10%) gross profit on such purchases. CUSTOMER must provide pre-approval in writing of such outside service purchases. CUSTOMER is solely responsible for improper or inappropriate instructions by CUSTOMER's employees to NAPA regarding NAPA's purchases of nontraditional parts or services, unless CUSTOMER provided prior written notice to NAPA of parts or services that may not be procured by NAPA in relation to this Agreement.

PRICING OPTION #2b (HIGHER GROSS PROFIT ON PRODUCTS / NO MONTHLY OPERATING EXPENSES)

CUSTOMER INITIALS: _____

The overall objective of CUSTOMER's pricing plan is for NAPA to provide Products in accordance with the agreed upon Pricing Plan Summary set forth below. By billing CUSTOMER for the Products, NAPA's On Site Store(s) will achieve its target ten

percent (10%) net profit for the Agreement (the “Net Profit Target”). CUSTOMER’s pricing plan is comprised of the following elements:

- (a) **Product Price.** The pricing of the Products to be supplied to CUSTOMER by NAPA pursuant to this Agreement shall be divided into: 1) “**NAPA Product Price**,” which is the pricing of NAPA branded or NAPA cataloged supplier manufactured products; and 2) “**Non-NAPA Product Price**,” which is the pricing of products which have not been manufactured by NAPA suppliers or do not exist in NAPA’s proprietary catalog system but which have been acquired for CUSTOMER by NAPA pursuant to this Agreement. The pricing of NAPA Product and Non-NAPA Product shall be billed in accordance with the Pricing Plan Summary defined below.
- (b) **Operational Expenses.** Any and all costs and expenses associated with the operation of the On Site Store(s), including, but not limited to, vehicle gas and maintenance costs, salary and benefits payable to NAPA employees at the On Site Store(s), worker’s compensation benefits and insurance, unemployment insurance, personal property insurance for the On Site Store(s) and Inventory, any deductible for losses covered under the personal property, automobile liability, or general liability insurance policies of NAPA, all equipment supplied by NAPA, Corporate Allocation Expenses (as defined below), inventory investment expense, obsolescence expense, pension funding costs, accounting fees, general office expenses, and shared service expenses. An example of a profit and loss statement reflecting such costs and expenses is attached hereto as Exhibit B. CUSTOMER acknowledges and agrees that the costs and expenses reflected on the profit and loss statement set forth on Exhibit B are subject to change based on actual monthly costs, expenses or Corporate Allocation Expenses incurred relative to the operation of the On Site Store(s). To achieve economies of scale, NAPA utilizes certain headquarter and corporate personnel to assist in the performance of this Agreement. As a result, each On Site Store location is charged certain corporate allocation expenses for various line items shown on Exhibit B (“Corporate Allocation Expenses”) which are calculated as a percentage of total Product sales for each month. As such, there is not a supportive invoice for such expenses other than a monthly allocation rate statement. These Corporate Allocation Expenses allow NAPA to have fewer employees performing routine general administrative tasks such as paper work and filing at the On Site Store(s), allowing NAPA counter personnel to focus more attention on serving the On-Site Store operations, and maximizing on-site cost efficiency.

PRICING PLAN SUMMARY

NAPA Product Price	Billed to CUSTOMER on a “9074 NAPA Pricing Profile”
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Non-NAPA Product Price	Billed to CUSTOMER at a 25% gross profit rate (The formula for Non-NAPA Product Price for CUSTOMER is NAPA's current product acquisition cost divided by .75) This formula will achieve the gross profit rate set forth above. Example: current product acquisition cost is \$1.00. CUSTOMER's price would be $\$1.00/.75=\1.33
Operational Expenses	Paid entirely by NAPA
Net Profit Target	Amounts will be refunded or charged based on the failure or achievement of an overall 10% net profit for the previous month.

NAPA Product shall be billed to CUSTOMER based on a "9074 NAPA Pricing Profile" which has been provided to CUSTOMER in connection with this Agreement. Non-NAPA Product shall be billed by NAPA to yield a gross profit of twenty-five percent (25%). All Operational Expenses shall be borne by NAPA.

Sales at each On Site Store location will be reviewed after the first ninety (90) days of operation and on a month by month basis thereafter to ensure a ten percent (10%) net profit for NAPA. If monthly sales at each On Site Store, independently as opposed to in the aggregate, are producing more than a ten percent (10%) net profit for NAPA, NAPA will pay to CUSTOMER, via a refund check, the overage. Conversely, if NAPA's net profit for the preceding month is less than ten percent (10%), NAPA will bill CUSTOMER for the deficiency.

CUSTOMER and NAPA mutually agree that CUSTOMER'S maximum annual payment obligation for Products billed to CUSTOMER pursuant to this Section 7 shall be set at \$_____ per annum; and CUSTOMER has encumbered such amount to cover this potential liability. The parties agree to mutually work together to adjust the amount if such amount must be increased during the term of the contract.

CUSTOMER INITIALS _____

In addition, NAPA may use any sub-contractor for the procurement of "outside" services (i.e., those services not traditionally performed by NAPA), and CUSTOMER will be billed an additional charge for any such purchases so as to yield NAPA a twenty-five percent (25%) gross profit on such purchases. CUSTOMER must provide pre-approval in writing for such outside service purchases. CUSTOMER is solely responsible for improper or inappropriate instructions by CUSTOMER's employees to NAPA regarding NAPA's purchases of nontraditional parts or services, unless CUSTOMER provided prior written notice to NAPA of parts or services that may not be procured by NAPA in relation to this Agreement.

8. INSURANCE.

(a) CUSTOMER shall maintain during the term of this Agreement workers' compensation insurance for its employees and general liability insurance covering its property. NAPA acknowledges that CUSTOMER may elect to self-insure such obligations.

(b) NAPA shall maintain during the term of this Agreement workers' compensation insurance coverage for its employees located at the On Site Store(s) in amounts required by law. In addition, NAPA shall maintain personal property insurance during the term of this Agreement in an amount sufficient to cover any loss or damage to the Inventory and any other personal property owned by NAPA that is located at the On Site Store(s).

9. **NO LIENS.** CUSTOMER warrants that it shall take no action, including but not limited to the granting of a security interest, or fail to take any action, which would operate or does operate in any way to encumber the Inventory of NAPA located in the On Site Store(s).

10. **PERSONNEL.** NAPA and CUSTOMER shall attempt in good faith to mutually agree upon the identity of the persons that will be selected to staff the On Site Store(s). In the event that CUSTOMER for any reason wishes to remove or replace any of the NAPA personnel in the On Site Store(s), the parties will attempt to resolve CUSTOMER's request by mutual agreement.

11. **WARRANTY/LIABILITY DISCLAIMER.** All Products supplied pursuant to this Agreement are subject to the terms of written warranties provided by the manufacturer of each Product, and NAPA shall use reasonable commercial efforts to assist the CUSTOMER in processing all warranty claims that the CUSTOMER may have against a manufacturer. The manufacturer's warranty will be the sole and exclusive remedy of the CUSTOMER in connection with any claims concerning the Products supplied to CUSTOMER pursuant to this Agreement. ALL OTHER WARRANTIES, BOTH EXPRESS AND IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ARE HEREBY EXCLUDED. Copies of the manufacturers' warranties are available to CUSTOMER upon request.

For suppliers (or categories of suppliers) of Non-NAPA Products that CUSTOMER instructs NAPA to utilize or consider for future purchases, NAPA is under no obligation to (and NAPA disclaims all liability in connection with) investigate product quality, management, ownership, reputation, certifications, qualifications, price competitiveness, or any other related characteristics of the products, individuals or entities at issue.

12. **TERMINATION FOR CAUSE.** This Agreement may be terminated immediately, unless otherwise stated in this Section 12, by either party for cause:

(a) In the event that the other party fails or refuses to pay any amounts due

under this Agreement and such failure continues for ten (10) days;

(b) In the event that the other party fails or refuses to perform any other obligation required under this Agreement, and such failure or refusal continues for thirty (30) days after written notice thereof; or

(c) In the event that the other party files any bankruptcy petition, has any bankruptcy petition filed against it, makes any assignment of its assets for the benefit of creditors, or admits in writing its inability to pay its debts as they become due.

13. EFFECT OF TERMINATION. Immediately upon termination, expiration, or non-renewal of this Agreement for any reason:

(a) All duties, responsibilities and other obligations of each party hereunder shall terminate, except for the payment of any amounts due and owing to NAPA at the time of termination, expiration, or non-renewal.

(b) Each party shall immediately return to the other party all equipment, software, books, records, tools and any other personal property owned by the other party that are in such party's possession. CUSTOMER shall allow NAPA full and unrestricted access to enter into the On Site Store(s) and immediately remove all equipment and other items of personal property owned by NAPA without being deemed guilty of trespass or any other violation of the law. All inventory records, sales history, sales analysis and all other information generated by NAPA under this Agreement will be returned to CUSTOMER.

Nothing contained in this Section shall be deemed a waiver of, or in any other manner impair or prejudice, any other legal rights that either party may have against the other party for any breach of this Agreement. The provisions and obligations of Sections 9, 11, 13, 14, 15, 16, and 22 shall survive the termination, expiration, or non-renewal of this Agreement for any reason.

14. BUY-BACK OF INVENTORY. Upon termination, expiration, or non-renewal of this Agreement, NAPA shall have the option to require CUSTOMER to purchase all non-NAPA Inventory owned by NAPA and located in each On Site Store at NAPA's On Site Store's current product acquisition cost, and CUSTOMER shall have the option to purchase all NAPA Inventory, owned by NAPA and located in each On Site Store at the Current NAPA Jobber Acquisition Cost. Upon CUSTOMER's request, NAPA shall provide CUSTOMER with a listing of all NAPA and non-NAPA Inventory owned by NAPA and located in the On Site Store(s).

CUSTOMER INITIALS: _____

15. INDEMNIFICATION. NAPA shall be responsible for and shall indemnify and hold CUSTOMER harmless from and against all damages, claims or

demands that may, during the term of this Agreement, arise or be occasioned by the negligent or intentional acts of NAPA or NAPA's employees.

16. NOTICES. Whenever any notice, demand or request is required or permitted hereunder, such notice, demand or request shall be hand-delivered in person or sent by overnight mail through a reputable service, or by certified mail, return receipt requested, to the addresses set forth below:

As to NAPA: Genuine Parts Company d/b/a NAPA Auto Parts
11718 North Florida Avenue
Tampa, FL 33612
Attn: Coleman Foley

With a copy to: Genuine Parts Company
2999 Wildwood Parkway
Atlanta, GA 30339
Attn: Legal Department

As to CUSTOMER: Vernon E. Hargray
City Manager
City of Miramar
2300 Civic Center Place
Miramar, Florida 33025
Telephone: (954) 602-3120
Facsimile: (954) 602-3553

With a copy to: City Attorney
Austin Pamies Norris Weeks Powell, PLLC
401 NW 7 Avenue
Fort Lauderdale, Florida 33311
Telephone: 954-768-9770
Facsimile: 954-768-9790

Each such notice shall be deemed delivered (i) on the date of receipt if delivered by hand or overnight courier service or (ii) on the date three (3) business days after depositing with the United States Postal Service if mailed by registered or certified mail. Either party may change its address specified for this notice by giving the other party at least ten (10) days written notice in accordance with this Section 16.

17. FORCE MAJEURE / DAMAGE OF PREMISES.

(a) Whenever performance by either party of any of their respective obligations (other than the obligation to make payment of money due hereunder) is substantially prevented by reason of any act of God, other industrial or transportation disturbance, fire, floods, riots, acts of enemies, national emergencies, pandemics, or by

any other cause not within the reasonable control of such party and not occasioned by its negligence, then such performance shall be excused and the performance of such obligations under this Agreement shall be suspended for the duration of such prevention and for a reasonable time thereafter; provided that the foregoing in this Section 17 shall not apply to obligations relating to the payment of money.

(b) NAPA may terminate this Agreement immediately in the event that the CUSTOMER's premises are damaged by any casualty, or such portion of the premises is condemned by any legally constituted authority, such as will make the CUSTOMER's premises unusable for the On Site Store(s) in the reasonable judgment of NAPA.

18. SUCCESSORS AND ASSIGNS. The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective officers, directors, employees, successors and assigns. Notwithstanding the foregoing, the rights and obligations of either party to this Agreement may not be assigned without the prior written consent of the other party hereto, which consent shall not be unreasonably withheld.

19. AMENDMENTS. No amendment to this Agreement shall be binding on either party hereto unless such amendment is in writing and executed by both parties with the same formality as this Agreement is executed.

20. NO WAIVER OF RIGHTS. No failure of either party hereto to exercise any power given such party hereunder or to insist upon strict compliance by the other party to its obligations hereunder, and no custom or practice of the parties in variance with the terms hereof, shall constitute a waiver of either party's right to demand exact compliance with the terms hereof. Notwithstanding the same, only waivers made in writing shall be valid and enforceable.

21. LIMITATIONS ON RIGHTS OF THIRD PARTIES. All obligations of a party under this Agreement are imposed solely and exclusively for the benefit of the parties, and no other person shall, under any circumstances, be deemed to be a beneficiary of such obligations.

22. LIMITATION OF LIABILITY. Intentionally Deleted.

23. INDEPENDENT CONTRACTOR. The parties hereto are independent contractors. Nothing in this Agreement shall create or shall be deemed to create any fiduciary relationship or the relationship of principal and agent, partnership, joint venturers or any other similar or representative relationship between the parties hereto.

24. CHOICE OF LAW. This Agreement shall be construed and interpreted under the laws of the State of Florida.

25. COUNTERPARTS. This Agreement may be executed in one or more counterparts and each counterpart shall, for all purposes, be deemed an original, but all such counterparts shall together constitute but one and the same instrument.

26. SECTION HEADINGS. Section titles or captions contained herein are inserted only as a matter of convenience for reference and in no way define, limit, extend, or describe the scope hereof or the intent of any provision hereof.

27. SEVERABILITY. In the event any part of this Agreement shall be finally determined by a court of law to be illegal or unenforceable for any reason, then that illegal or unenforceable part shall be severed from the Agreement, and the remaining terms shall continue in full force and effect.

28. ENTIRE AGREEMENT. This Agreement constitutes the entire agreement of the parties hereto and no prior representation, inducement, promise or agreement, oral or written, between the parties not embodied herein shall be of any force and effect.

29. AMENDMENT TO INTEGRATED SUPPLY AGREEMENT. Simultaneous with the execution of this Agreement, NAPA and CUSTOMER shall execute that certain Amendment to Integrated Supply Agreement dated as of even date herewith, attached hereto as Exhibit D.

[Signatures Appear on Next Page]

IN WITNESS WHEREOF, the parties hereto cause their hands and seals to be affixed by their duly-authorized representatives effective as of the date and year first above written.

GENUINE PARTS COMPANY

By: 
Name: Art Fischer
Title: Division Vice President

CITY OF MIRAMAR, FLORIDA

By: _____
Name: _____
Title: _____

ATTEST:

By: _____

Approved as to form and legal sufficiency
for the use of and reliance by the City of
Miramar only:

By: _____

WITNESS WHEREOF, the parties hereto have caused this instrument to be executed by their respective officials thereunto duly authorized, this the day and year written.

CITY OF MIRAMAR, FLORIDA

By: 

Vernon E. Hargray, City Manager

ATTEST:



Denise A. Gibbs, City Clerk

(SEAL)

Approved as to form and legal sufficiency
for the use of and reliance by the City of
Miramar only:

By: 

City Attorney

Austin Pamies Norris Weeks Powell, PLLC

EXHIBIT A
ASSIGNMENT

See attached.

ASSIGNMENT

FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which are hereby acknowledged, GENUINE PARTS COMPANY, a Georgia corporation (hereinafter "Assignor"), hereby assigns, transfers, sets over and delivers to [JOBBER], a _____ (hereinafter "Assignee"), all of Assignor's rights, obligations and interest, including any options to renew or extend the contract term, in those certain location(s) as set forth below, as governed by the Integrated Supply Agreement dated _____ by and between Genuine Parts Company and _____ [CUSTOMER] (the "Integrated Supply Agreement").

Location(s): _____

Assignee hereby accepts the assignment of the Integrated Supply Agreement, agrees to provide the services and perform all other obligations required to be performed by "NAPA" in said Integrated Supply Agreement at the times and in the manner set forth in said Integrated Supply Agreement, and shall be bound by all other terms, covenants and conditions of said Integrated Supply Agreement with regard to the location(s) set forth above, all with the same force and effect as if Assignee were originally named as "NAPA" therein.

[CUSTOMER] hereby consents to the above assignment of the Integrated Supply Agreement on the terms set forth herein and hereby agrees to release and discharge Assignor from any further obligation or liability under the Integrated Supply Agreement and to look solely to Assignee as the responsible party under the Integrated Supply Agreement for all liabilities or obligations arising from and after the effective date of this assignment.

The parties hereto agree that the assignment as set forth herein shall be effective as of 12:01 a.m. on _____.

[Signatures appear on following page]


IN WITNESS WHEREOF, the undersigned have set their hands this ____ day
of ____, 20__.

ASSIGNOR:

ASSIGNEE:

GENUINE PARTS COMPANY

____ [JOBBER]

By: 
Name: Art Fischer
Its: Division Vice President

By: _____
Name: _____
Its: _____

Agreed and acknowledged:

____ [CUSTOMER]

By: _____
Name: _____
Its: _____


WITNESS WHEREOF, the parties hereto have caused this instrument to be executed by their respective officials thereunto duly authorized, this the day and year written.

CITY OF MIRAMAR, FLORIDA

By: 

Vernon E. Hargray, City Manager

ATTEST:


Denise A. Gibbs, City Clerk

(SEAL.)

Approved as to form and legal sufficiency
for the use of and reliance by the City of
Miramar only:

By 

City Attorney

Austin Pamies Norris Weeks Powell, PLLC

EXHIBIT B

SAMPLE PROFIT AND LOSS STATEMENT

See attached.

EXHIBIT C

SOURCEWELL CONTRACT

A copy of the Sourcewell contract may be found at: <https://www.sourcewell-mn.gov/cooperative-purchasing/110520-gpc>.

**AMENDMENT TO INTEGRATED SUPPLY AGREEMENT
BETWEEN
GENUINE PARTS COMPANY AND
CITY OF MIRAMAR, FLORIDA**

THIS AMENDMENT TO INTEGRATED SUPPLY AGREEMENT (this "Amendment") is entered into this 1 day of sep, 2021 (the "Amendment Effective Date") by and between **GENUINE PARTS COMPANY**, a Georgia corporation ("NAPA") and **CITY OF MIRAMAR, FLORIDA** ("CUSTOMER").

WHEREAS, NAPA and CUSTOMER are parties to that certain Integrated Supply Agreement dated as of sep, 2021 (the "Agreement") for the supply and sale of automotive parts and related supplies at certain locations as required by CUSTOMER; and

WHEREAS, NAPA and CUSTOMER desire to amend the Agreement according to the terms set forth below.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, NAPA and CUSTOMER hereby agree to amend the Agreement as follows:

1. All capitalized terms not otherwise defined herein shall have the meanings set forth in the Agreement.
2. Section 3 of the Agreement is hereby amended by removing the last sentence from such section and replacing it with the following:

"Upon the termination or expiration of the Sourcewell Contract, in the event that NAPA enters into a new agreement with Sourcewell (the "New Sourcewell Contract"), the parties may agree to extend the term of this Agreement by entering into an addendum to this Agreement which incorporates the terms of such New Sourcewell Contract."

3. Section 4(e) of the Agreement is hereby deleted in its entirety and replaced with the following:

"NAPA shall provide back-up emergency service during non-working hour contingencies upon request. This overtime expense (calculated at time and one half) will be charged on a cost basis to CUSTOMER; provided that NAPA currently employs one employee to cover the CUSTOMER's needs with working 50 hours a week, and extra overtime beyond 10 hours a week requires CUSTOMER approval. The parties shall mutually agree upon the pre-approval process for any emergency situations. NAPA will provide a list of personnel, including telephone numbers, who will respond to such emergency service

Sourcewell Contract

requests.”

4. Section 7 of the Agreement is hereby deleted in its entirety and replaced with the following:

“ 7. **PAYMENT TERMS/PRICING.** NAPA shall invoice the CUSTOMER for all Inventory purchased and services provided pursuant to this Agreement on a monthly basis according to the pricing plan below by submitting periodic invoices for the goods and services provided to The City of Miramar, ATTN: Accounts Payable, 2300 Civic Center Place, Miramar, FL 33025. The date of the invoice shall not exceed thirty (30) calendar days from the date of acceptance of the goods and services by the City. Under no circumstance shall an invoice be submitted to the City in advance of the delivery and acceptance of the commodities and/or services, unless otherwise agreed to. All invoices shall reference the appropriate contract number, the address where the commodities were delivered or the services performed, and the corresponding acceptance slip that was signed by an authorized representative of the City when the goods and/or services were delivered and accepted. Payment by the City shall be made within thirty (30) days after receipt of Provider's invoice, which shall be accompanied by sufficient supporting documentation and contain sufficient detail, to allow a proper audit of expenditures should the City require one to be performed.

The overall goal of CUSTOMER's pricing plan is to achieve a nine percent (9%) net profit for NAPA (the "Net Profit Target") by adjusting the pricing of two elements:

- (a) ***Product Costs.*** The pricing of the Inventory to be supplied to CUSTOMER by NAPA pursuant to this Agreement. Product Costs shall be further divided into "NAPA Product Costs," which is the pricing of NAPA supplier manufactured products, and "Non-NAPA Product Costs," which is the pricing of products which have not been manufactured by NAPA suppliers but which have been acquired for CUSTOMER by NAPA pursuant to this Agreement
- (b) ***Operational Costs.*** Any and all costs and expenses associated with the operation of the On Site Store(s) or the vehicles used by NAPA in the operation of the On Site Store(s), including, but not limited to, salary and benefits payable to NAPA employees at the On Site Store(s), worker's compensation benefits and insurance, unemployment insurance, personal property insurance for the On Site Store(s) and Inventory, any deductible for losses covered under the personal property, automobile liability or general liability insurance policies of NAPA and all equipment supplied by NAPA. An example of a profit and loss statement reflecting such

costs and expenses is attached hereto as Exhibit B. To ensure that the CUSTOMER receives the lowest landed cost of parts, NAPA considers shipping, delivery, packaging or handling costs to be part of store operational costs and is factored into the monthly operating statement with no mark-up or profit for NAPA.

PRICING PLAN SUMMARY

NAPA Product Costs	Billed to CUSTOMER at Current NAPA Jobber Acquisition Cost plus a 9% markup
Non-NAPA Product Costs	Billed to CUSTOMER at current product acquisition cost plus a 9% markup
Operational Costs	Billed to CUSTOMER at cost
Net Profit Target	9% net profit for NAPA

NAPA Product Costs will be billed to CUSTOMER at Current NAPA Jobber Acquisition Cost plus a nine percent (9%) mark-up. Non-NAPA Product Costs will be billed to CUSTOMER at current product acquisition cost plus a nine percent (9%) mark-up. Operational costs will be charged to CUSTOMER at cost, with all such charges for Operational Costs to be included in CUSTOMER's monthly billing statement. CUSTOMER will be billed at the end of each month for operational costs on an "in arrears" basis.

In addition, NAPA may use any sub-contractor for the procurement of "outside" purchases or services (i.e., those parts or services not traditionally stocked or performed by NAPA), and CUSTOMER will be billed an additional charge for any such purchases at cost plus a nine percent (9%) mark-up. CUSTOMER must provide pre-approval in writing of such outside purchases.

In the event of CUSTOMER's termination of this Contract prior to the end of the term, CUSTOMER shall pay NAPA on a pro-rata basis for the services performed prior to the CUSTOMER's termination of this Agreement."

5. Section 8 of the Agreement is hereby deleted in its entirety and replaced with the

following:

“8. INSURANCE.

(a) For programs that are active in nature, which shall be determined in the sole and exclusive discretion of the CUSTOMER, NAPA shall maintain liability insurance in the amount set forth herein and naming the CUSTOMER as an additional insured.

(b) Contractor shall maintain the following required types and minimum limits of insurance coverage during the term of this Agreement:

<u>General Liability</u>	<u>Per Occurrence</u>	<u>Aggregate</u>
	\$500,000	\$1,000,000

Workers' Compensation
Statutory Amount

(c) This Agreement shall not be deemed approved until NAPA has obtained all insurance required under this section and has supplied the CUSTOMER with evidence of such coverage in the form of a Certificate of Insurance and endorsement. CUSTOMER shall approve such certificates prior to the performance of any services pursuant to this Agreement.

(d) ALL INSURANCE COMPANIES PROVIDED SHALL: Be rated at least A VII per Best's Key Rating Guide and be licensed to do business in Florida. NAPA's liability insurance policies shall be endorsed to add the CUSTOMER as an additional insured. NAPA's liability insurance shall be primary to any liability insurance policies that may be carried by CUSTOMER. NAPA shall be responsible for all deductibles and self-insured retentions on its liability insurance policies.

(e) Should any of the above described policies be cancelled, materially changed or non-renewed before the expiration date thereof, notice will be delivered to CUSTOMER in accordance with the policy provisions. Upon the request of the CUSTOMER, NAPA shall supply CUSTOMER with evidence of all required insurance coverage in the form of a Certificate of Insurance and endorsement.

6. Section 10 of the Agreement is hereby deleted in its entirety and replaced with the following:

“10. PERSONNEL.

(a) NAPA agrees to discuss with and/or discipline its employees for

violations of law or policy, but cannot agree to discipline an employee based on a standard that conduct is "deemed by CUSTOMER to be detrimental." In the case that CUSTOMER is concerned about the detrimental effects of an employee's actions, NAPA will work in good faith with CUSTOMER to resolve the problem.

(b) In the event that CUSTOMER for any reason wishes to remove or replace any of the NAPA personnel in the On Site Store(s), the parties will attempt to resolve the CUSTOMER's request by mutual agreement. Notwithstanding the above good faith agreement, it is clearly understood that NAPA's employees are not employees of the CUSTOMER, and the CUSTOMER's employees are not employees of NAPA."

7. Section 12 of the Agreement is hereby deleted in its entirety and replaced with the following:

"12. TERMINATION. CUSTOMER may terminate this Agreement for convenience by giving NAPA thirty (30) calendar days prior written notice. NAPA may terminate this Agreement for convenience by giving CUSTOMER sixty (60) calendar days prior written notice. Both parties may terminate this Agreement for cause by giving the other party five (5) calendar days prior written notice upon the failure of the other party to cure any default after being provided with written notice of that default and a demand for cure within ten (10) calendar days. The termination of this Agreement shall not relieve either party of any liability that accrued prior to such termination and any such accrued liability shall survive the termination of this Agreement."

8. Section 15 of the Agreement is hereby deleted in its entirety and replaced with the following:

"15. INDEMNIFICATION. NAPA shall indemnify, defend and hold harmless CUSTOMER, its officers, officials, agents, employees, and volunteers from and against any and all liability, suits, actions, damages, costs, losses and expenses, including reasonable attorneys' fees, demands and claims for personal injury, bodily injury, sickness, diseases or death or damage or destruction of tangible property resulting therefrom, arising out of any willful misconduct or negligent acts or omissions or errors of NAPA, its respective officials, agents, employees or subcontractors in the NAPA's performance of services pursuant to this Agreement. Nothing in this Agreement shall be deemed or treated as a waiver by the City of any immunity to which it is entitled by law, including but not limited to the City's sovereign immunity as set forth in Section 768.28, Florida Statutes."

9. Section 23 of the Agreement is hereby revised to add the following to the end of

such section:

“Services provided by NAPA shall be by employees of NAPA and subject to supervision by NAPA, and not as officers, employees or agents of CUSTOMER. Personnel policies, tax responsibilities, social security, health insurance, employee benefits, travel, per diem policy, and purchasing policies under the Agreement shall be the sole responsibility of NAPA. NAPA shall have no rights under the CUSTOMER’s worker’s compensation, employment, insurance benefits or similar laws or benefits.”

10. Section 24 of the Agreement is hereby deleted in its entirety and replaced with the following:

“**24. GOVERNING LAW AND VENUE.** This Agreement shall be construed in accordance with, and governed by, the laws of the State of Florida. Venue for any action arising out of, or relating to this agreement shall be in Broward County, Florida.”

11. The Agreement is hereby amended by adding a new Section 30 as follows:

“**30. NON-APPROPRIATION OF FUNDS.** In the event no funds or insufficient funds are appropriated and budgeted or are otherwise unavailable in any fiscal year for payments due under this Agreement, then the CUSTOMER, upon written notice to NAPA of such occurrence, shall have the unqualified right to terminate this Agreement without any penalty or expense to CUSTOMER, subject to Section 14 of this Agreement.”

12. The Agreement is hereby amended by adding a new Section 31 as follows:

“**31. TAXES, LICENSES, COMPLIANCE WITH LAWS.** NAPA shall, without additional expense to the CUSTOMER, be responsible for paying its own taxes, of any nature, and remitting to the appropriate governmental entity any and all taxes to be collected under this Agreement, obtaining any necessary licenses and for complying with all applicable federal, state, county, and municipal laws, ordinances and regulations in connection with the performance of the services specified herein.”

13. The Agreement is hereby amended by adding a new Section 32 as follows:

“**32. AUDIT AND INSPECTION RIGHTS.**

(a) CUSTOMER may, at reasonable times, and upon at least five (5) business days prior written notice, for a period of up to three (3) years

following the date of final performance of services by NAPA under this Agreement, audit, or cause to be audited, those books and records of NAPA which are related to NAPA's performance under this Agreement. NAPA agrees to maintain all such books and records at its principal place of business for a period of three (3) years after final payment is made under this Agreement.

(b) CUSTOMER may, at reasonable times, and upon at least five (5) business days prior written notice, during the term hereof, perform such inspections, as CUSTOMER deems reasonably necessary, to determine whether the services required to be provided by NAPA under this Agreement conform to the terms of this Agreement. NAPA shall make available to CUSTOMER all reasonable assistance to facilitate the performance of inspections by the CUSTOMER's representatives.

14. The Agreement is hereby amended by adding a new Section 33 as follows:

"33. NON-DISCRIMINATION. NAPA represents and warrants to CUSTOMER that NAPA does not and will not engage in discriminatory practices and that there shall be no discrimination in connection with NAPA's performance under this Agreement on account of race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation or any other factor which cannot be lawfully used as a basis for delivery of services. NAPA further covenants that no otherwise qualified individual shall, solely by reason of his/her race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation or any other factor which cannot be lawfully used as a basis for delivery of services, be excluded from participation in, be denied services, or be subject to discrimination under any provision of this Agreement."

15. The Agreement is hereby amended by adding a new Section 34 as follows:

"34. PUBLIC RECORDS.

(a) NAPA acknowledges that the public shall have access, at all reasonable times, to certain documents and information pertaining to CUSTOMER contracts, pursuant to the provisions of Chapter 119, Florida Statutes. NAPA agrees to maintain public records in NAPA's possession or control in connection with NAPA's performance under this Agreement and to provide the public with access to public records in accordance with the record maintenance, production and cost requirements set forth in Chapter 119, Florida Statutes, or as otherwise required by law. NAPA shall ensure that public records that are exempt or confidential from public records disclosure requirements are not disclosed except as authorized by law.

(b) Unless otherwise provided by law, any and all reports, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of CUSTOMER. In the event of termination of this Agreement by either party, any reports, photographs, surveys and other data and documents and public records prepared by, or in the possession or control of, NAPA, whether finished or unfinished, shall become the property of CUSTOMER and shall be delivered by NAPA to the City Manager, at no cost to the CUSTOMER, within seven days of termination of this Agreement. All such records stored electronically by NAPA shall be delivered to the CUSTOMER in a format that is compatible with the CUSTOMER's information technology systems. Upon termination of this Agreement, NAPA shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure. Any compensation due to NAPA shall be withheld until all documents are received as provided herein. NAPA's failure or refusal to comply with the provisions of this section shall result in the immediate termination of this Agreement by the CUSTOMER.

(c) NAPA shall comply with The Florida Public Records Act as follows:

(i) Keep and maintain public records in NAPA's possession or control in connection with NAPA's performance under this Agreement, that ordinarily and necessarily would be required by CUSTOMER in order to perform the service.

(ii) Upon request by the CUSTOMER's records custodian, provide the CUSTOMER with a copy of requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.

(iii) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Agreement, and following completion of this Agreement until the records are transferred to the CUSTOMER.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 954-602-3011, dagibbs@miramarfl.gov OR BY MAIL: City Of Miramar – City Clerk's Office, 2300 Civic Center Place, Miramar, FL 33025.

16. The Agreement is hereby amended by adding a new Section 35 as follows:

“35. SURVIVAL. All representations and other relevant provisions herein shall survive and thereby continue in full force and effect, upon termination of this Agreement.”

17. The Agreement is hereby amended by adding a new Section 36 as follows:

“36. MISCELLANEOUS. Notwithstanding anything in this Agreement to the contrary, the parties agree as follows:

(a) Fleet Updates from CUSTOMER: CUSTOMER agrees to provide any information regarding substantial fleet changes to NAPA as soon as possible. Fleet changes include but are not limited to the removal of types of vehicles from the fleet, the addition of new vehicles to the fleet, etc.

(b) Updated OE quality: As NAPA is not the manufacturer of the parts to be provided under this Agreement, NAPA cannot guarantee that parts purchased for this contract will meet or exceed a recently updated quality specification for OEM parts. To the extent the parts after-market has an updated product, NAPA agrees to provide it to CUSTOMER.

(c) Ownership of proprietary computer programs: NAPA owns several proprietary inventions, such as the software on the TAMS computer that it must protect and cannot assign to CUSTOMER.

(d) Delivery times: NAPA agrees to make reasonable commercial efforts to meet required delivery times, but conditions out of NAPA's reasonable control, such as adverse traffic or weather conditions, may delay deliveries that are required from off-site locations. NAPA's employees shall make such deliveries in a manner consistent with safe and responsible driving practices.

Fill Rate: 80% of parts requirements on demand
 85% within four (4) hours of demand
 95% within 24 hours of demand

(e) Ad hoc reports: NAPA will provide any reports that are reasonably

capable of being generated by NAPA's or the CUSTOMER's management systems. Such reports will be provided on whatever frequency needed by CUSTOMER.

(f) Audits: For any records requested by the CUSTOMER that NAPA maintains electronically, NAPA shall provide such records to the CUSTOMER, but shall not be required to grant direct access (i.e., password protected access) to its proprietary computer systems to the CUSTOMER.

(g) Hazardous materials handling: NAPA agrees to arrange for third parties to handle the disposal and/or recycling of certain items, but will not be directly involved in the actual disposal of such items. NAPA shall use reasonable commercial efforts to assist the CUSTOMER in processing any claim that may arise against such third party associated with the disposal of the items.

(h) Hazardous conditions of IBS location: NAPA cannot agree to take on all responsibility for identifying hazards that may exist on premises owned, maintained and controlled by the CUSTOMER. NAPA agrees to notify the CUSTOMER of any facially obvious condition which it may encounter, but cannot be held responsible for identifying hazardous conditions that are inherent in the location, or are not obvious to a guest on the premises. Based on past ownership, the CUSTOMER is in a better position to determine potential environmental, OSHA, and safety problems with the location, and should retain responsibility for all costs incurred from inspections and corrections of deficiencies.

(i) Work Environment: CUSTOMER shall provide a safe work environment that is free from hostility, violence, or discrimination of NAPA's employees or agents.

(j) ADA Compliance: The parties agree that NAPA shall not be required to submit a compliance plan or make any ADA required changes to the property on which it will operate, as NAPA will not own or lease the property.

(k) Limitation of Liability: NEITHER NAPA NOR CUSTOMER SHALL BE LIABLE TO THE OTHER PARTY FOR ANY SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES (INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS OR REVENUES OR LOSS OF BUSINESS), WHETHER KNOWN OR UNKNOWN, ARISING OUT OF OR RELATED TO THIS AGREEMENT.


18. Except as amended herein, all other terms and conditions of the Agreement shall remain unaltered and the Agreement remains in effect, enforceable against each of the parties and is hereby ratified and acknowledged by each of the parties.

19. This Amendment shall be construed and interpreted under the laws of the State of Florida without giving effect to the provisions thereof relating to conflicts of law.

20. This Amendment may be executed in one or more counterparts and each counterpart shall, for all purposes, be deemed an original, but all such counterparts shall together constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be made and executed by their duly-authorized representatives effective as of the Amendment Effective Date.

GENUINE PARTS COMPANY

By: 
Name: Art Fischer
Title: Division Vice President

CITY OF MIRAMAR, FLORIDA

By: _____
Name: _____
Title: _____

ATTEST:

By: _____

Approved as to form and legal sufficiency
for the use of and reliance by the City of
Miramar only:

By: _____

WITNESS WHEREOF, the parties hereto have caused this instrument to be executed by their respective officials thereunto duly authorized, this the day and year written.

CITY OF MIRAMAR, FLORIDA

By: 

Vernon E. Hargray, City Manager

ATTEST:



Denise A. Gibbs, City Clerk

(SEAL)

Approved as to form and legal sufficiency
for the use of and reliance by the City of
Miramar only:

By: 

City Attorney

Austin Pamies Norris Weeks Powell, PLLC