

DOCUMENT ROUTING FORM

3 ✓ 9/20/12 (L)

NAMÉ OF DOCUMENT: MARKETING AGREEMENT W/ UTILITY SERVICE PARTNERS PRIVATE LABEL, INC. D/B/A SERVICE LINE WARRANTIES OF AMERICA FOR UTILITY SERVICE LINE WARRANTY PROGRAM FOR HOMEOWNERS

Approved Comm. Mtg. on **SEPT 5, 2012** CAM# **12-2076** ITEM: **M-8**

Routing Origin: CAO ENG. COMM. DEV. OTHER _____

Also attached: copy of CAR copy of document ACM Form 3 originals

By: LB forwarded to: **GINA CORREA-CHASE**
Initials

1.) Approved as to Content: Albert Cole
Department Director

Capital Improvements defined as having a life of at least 10 years and a cost of at least \$50,000 and shall mean improvements to real property (land, buildings, fixtures) that add value and/or extend useful life, inc. major repairs such as roof replacement, etc. Term "Real Property" include: land, real estate, realty, real.

Please Check the proper box: CIP FUNDED YES NO
Capital Improvement Projects

2.) Approved as to Funds Available: by _____ Date: _____
Finance Director N/A

Amount Required by Contract/Agreement \$ _____ Funding Source: _____

Dept./Div. _____ Index/Sub-object _____ Project # _____

3.) City Attorney's Office: Approved as to Form:# 3 Originals of each to City Mgr. By: **CARRIE SARVER**

CS
Carrie Sarver

RECEIVED
FILED
CITY ATTORNEY'S OFFICE
2012 SEP 7 PM 12:26

4.) Approved as to content: Assistant City Manager:

By: _____ By: _____
Stanley Hawthorne, Assistant City Manager Susanne Torriente, Assistant City Manager

5.) Acting City Manager: Please sign as indicated and forward 3 originals of each to Mayor.

6.) Mayor: Please sign as indicated and forward 3 originals of each to Clerk.

7.) To City Clerk for attestation and City seal.

9/19

INSTRUCTIONS TO CLERK'S OFFICE

8.) City Clerk: retains one original document and forwards 2 original documents of each to:

GINA CORREA-CHASE

Copy of document to _____ Original Route form to Linda Blanco, CAO
 Attach _____ certified copies of Reso. # _____ Fill-in date

**Marketing Agreement
by and between
Utility Service Partners Private Label, Inc. d/b/a
Service Line Warranties of America, a foreign profit corporation
authorized to do business in the State of Florida, and
the City of Fort Lauderdale**

Dated this 5th day of September, 2012

WHEREAS, Service Line Warranties of America ("SLWA"), provides affordable utility service line warranties to consumers covering the repair or replacement of enrolled lines as a result of wear and tear or inherent defect; and

WHEREAS, In consideration of the License Fee (as defined below) to be paid by SLWA to City of Fort Lauderdale ("City") has agreed to cooperate with SLWA in marketing SLWA's services to City's residents and homeowners (the "Residents") as described below;

NOW THEREFORE, In consideration of the promises contained herein and with the intent to be legally bound hereby, the Parties do hereby agree as follows:

1. City hereby grants to SLWA a non-exclusive license to use City's name and logos on letterhead and marketing materials to be sent to the Residents from time to time, and to be used in advertising, all at SLWA's sole cost and expense and subject to City Manager's prior review and approval, which will not be unreasonably conditioned, delayed, or withheld.
2. As consideration for such license, SLWA will be liable to pay to City, within 30 days of the end of each final calendar quarter, 10% of the revenue from SLWA warranty subscriptions collected from the Residents during such calendar year (the "License Fee"), together with a statement certifying collections of such SLWA revenue, so long as this marketing agreement ("Agreement") remains in effect. City will have the right, at its expense, to conduct an annual audit, upon reasonable notice and during normal business hours, of SLWA's books and records pertaining to sales of warranty products to the Residents while this marketing agreement is in effect and for one year after any termination of this marketing agreement.
3. The term of this Agreement will be for one year from the date of the execution hereof. This Agreement may be renewed annually upon mutual agreement of both parties. If SLWA elects to renew this Agreement, written notice shall be provided to the City, as provided herein, at least 90 days in advance. Upon receiving notice from SLWA of their intent to renew, City shall inform SLWA of its decision whether to renew this Agreement for an additional year. City may terminate this Agreement 30 days after giving notice to SLWA that SLWA is in material breach of this agreement if such breach is not cured during such 30-day period. City may terminate this Agreement for convenience on 60 days notice. SLWA will be permitted to complete any marketing initiative initiated or planned prior to the effective date of any termination of this Agreement and shall pay the License Fee to the City for the calendar year in which this Agreement is terminated after which time, except for SLWA'S obligation to permit City to conduct an audit as described above, neither party will have any further obligations to the other and the license described in this letter will terminate.

4. SLWA shall indemnify, hold harmless, and defend City, its elected officials, appointed officials, and employees from and against any loss, claim, liability, damage, or expense that any of them may suffer, sustain or become subject to in connection with any third party claim (each a "Claim"), arising out of or related to this Agreement. SLWA shall have the obligation, at its sole cost and expense, to retain counsel to defend any such claim and such counsel shall be reasonably satisfactory to the City. This indemnification provision shall survive termination of this Agreement.

5. Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered without the written consent of the other party.

6. Failure by City to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. Both parties agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof.

7. SLWA shall comply with all federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations related to this Agreement.

8. In the event this Agreement or a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless either part elects to terminate this Agreement. The election to terminate this Agreement based upon this provision shall be made within seven (7) days after the findings by the court become final.

9. Preparation of this Agreement has been a joint effort by both parties and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than any other.

10. This Agreement shall be construed with and governed by the laws of the State of Florida. Venue for any lawsuit by either party against the other party or otherwise arising out of this Agreement and for any other legal proceeding shall be in Broward County, Florida, and in the event of federal jurisdiction, in the Southern District of Florida.

11. This Agreement shall be executed in three (3), signed Agreements, with each one treated as an original.

12. Whenever either party desires to give notice unto the other, it must be given by written notice, sent by certified United States mail, with return receipt requested, addressed to the party for whom it is intended, at the place last specified, and the place for giving of notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places for giving of notice, to-wit:

CITY: Finance Director
City of Fort Lauderdale
100 North Andrews Avenue
Fort Lauderdale, FL 33301

With a copy to: City Manager
City of Fort Lauderdale
100 North Andrews Avenue
Fort Lauderdale, FL 33301

SLWA : Utility Service Partners Private Label, Inc.
11 Grandview Circle, Suite 100
Canonsburg, PA 15317
Attn: Brad Carmichael, VP of Business Development

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

[SIGNATURE PAGES FOLLOW]

IN WITNESS OF THE FOREGOING, the parties have set their hands and seals the day and year first above written.

CITY

WITNESSES:

CITY OF FORT LAUDERDALE, a municipal corporation of the State of Florida:

Sabea Ali
Sabea Ali

Print Name

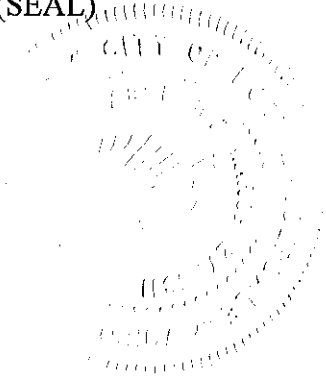
Julia Peneto
Ava S. Peneto

Print Name

By [Signature]
JOHN P. "JACK" SEILER, Mayor

By [Signature]
LEE R. FELDMAN, City Manager

(SEAL)



ATTEST

By [Signature]
JONDA K. JOSEPH, City Clerk

Approved as to form:

[Signature]
CARRIE L. SARVER
Assistant City Attorney

WITNESSES

Alan Crittenden
Print Name

John Matheny
Print Name

SLWA

Utility Service Partners Private Label, Inc. d/b/a Service Line Warranties of America, a foreign profit corporation authorized to do business in the State of Florida,

By Philip E. Riley, Jr.

Philip E. Riley, Jr.
President & CEO

By Brad H. Carmichael

Brad H. Carmichael
Vice President

(CORPORATE SEAL)

COMMONWEALTH OF PENNSYLVANIA)
COUNTY OF WASHINGTON) ss

The foregoing instrument was acknowledged before me, a notary public, this 30th day of August, 2012 by Philip E. Riley, Jr. and Brad H. Carmichael, as President & CEO and as Vice President, respectively, of Utility Service Partners Private Label, Inc. d/b/a Service Line Warranties of America, a foreign profit corporation authorized to do business in the State of Florida, on behalf of the corporation. They are personally known to me or have produced West Virginia driver's licenses as identification and affirmed that they executed the foregoing instrument in such capacity.

In witness whereof, I hereunto set my hand and official seal.

Affix Seal:

My Commission Expires: July 7, 2016

Sharon A. Ament
Notary Public

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Sharon A. Ament, Notary Public
City of Pittsburgh, Allegheny County
My Commission Expires July 7, 2016
MEMBER, PENNSYLVANIA ASSOCIATION OF NOTARIES