

**THE GOVERNING BOARD OF THE
ST. JOHNS RIVER WATER MANAGEMENT DISTRICT
BLACK CREEK WATER RESOURCE DEVELOPMENT
AQUIFER RECHARGE AREA PROJECT
TWO-STEP INVITATION FOR BID 38732**

The St. Johns River Water Management District (the “District”) is initiating a “Two-Step Invitation for Bids (Two-Step IFB),” whereby the District will procure this project through a qualifications-based and competitive bidding process. The first step involves Respondents submitting qualifying information pertaining to financial capabilities, access to required equipment, and knowledge and experience to successfully perform the work. The second step involves the pre-qualified Respondents submitting competitive sealed bids.

Further information is available through DemandStar at *Demandstar.com* [(800) 711-1712], Vendor Registry at *Vendorregistry.com*, or the District’s website at *sjrwm.com*. Solicitation packages may be obtained from DemandStar, Vendor Registry, or the District by calling or emailing Kendall Matott, Senior Procurement Specialist, at (386) 312-2324 or kmatott@sjrwm.com. Qualification submittals and Bid responses will be opened in the Procurement Conference Room, Administration Building, Palatka Headquarters, 4049 Reid Street, Palatka, Florida 32177-2571.

Project Description

The Black Creek Water Resource Development Project (“Project”) includes passive treatment of diverted surface water in lined earthen basins containing granular treatment media prior to discharge to Alligator Creek. The six treatment basins cover approximately 12 acres. The granular media will be furnished and delivered to the site by a media supplier under separate contract to the District. The project site is located within Camp Blanding, a 73,000-acre training center for Florida National Guard Units, in southwestern Clay County, Florida. Camp Blanding granted the District an easement for the work, which is located on the southwest side of Treat Road approximately one mile west of the intersection of Treat Road and State Road 21 (SR21) and 2.5 miles north of Keystone Heights, Clay County, Florida. The construction estimate range for this project and related work is \$10,000,000 – \$12,000,000.

Mandatory Pre-Bid Conference

A MANDATORY PRE-BID CONFERENCE IS SCHEDULED FOR
10:00 A.M., MAY 31, 2023, AT THE PROJECT SITE
ONE MILE WEST OF THE TREAT ROAD AND SR21 INTERSECTION
2.5 MILES NORTH OF KEYSTONE HEIGHTS, CLAY COUNTY, FLORIDA
RESPONDENT’S REPRESENTATIVE(S) MUST ATTEND IN PERSON

The purpose of the pre-bid conference is to review requirements of this solicitation, and to provide Respondents an opportunity to view project site. For solicitations with mandatory pre-bid conferences, the District will only accept bids from those firms attending the pre-bid conference. Access to the Camp Blanding project site is limited; the pre-bid meeting will be the only opportunity for Respondents to visit and review the construction site.

Two-Step IFB Process

The first step of the Two-Step IFB competitive process involves Respondents providing qualification submittals to the District. A District Evaluation Committee (Committee) will review the submittal information and research performed by District staff to verify information submitted by Respondents. The Committee will use the qualification submittals to evaluate each Respondent on a “Pass/Fail” basis. This

will determine which respondents are qualified to proceed to Step Two of the process and submit a bid for the work. Each Respondent must receive a “Pass” on all qualifying criteria listed in the Instructions to Respondents to proceed to Step Two and submit a bid on the work. Through these evaluations, the Committee should gain a reasonable expectation that all firms selected to submit bids are capable of successfully performing and completing the work in a timely and effective manner. The District may cancel the Two-Step IFB if less than three firms are qualified to bid.

Qualification submittals or Bid packages received after the day and time stated will not be considered and will be returned to the respondent unopened. The District reserves the right to reject any and all parties who submit qualifications submittals or bid packages. The District also reserves the right to waive any minor deviations in an otherwise valid response to the Two-Step IFB process, to reject any or all responses to the Two-Step IFB, and to select the firms that are considered qualified to receive an Invitation for Bid.

The District will conduct the Two-Step IFB competitive process as follows:

- **Step One:** Prospective respondents shall submit information pertaining to their qualifications to successfully perform the work by 2:00 P.M., June 9, 2023
 - The Committee will meet at 2:00 p.m. on June 19, 2023, to review the responses and qualifying information to determine which respondents are qualified to proceed to Step Two of the IFB process (District Headquarters, 4049 Reid Street, Palatka, FL 32177, Administration Building, Conference Room 147)
 - The District will issue a Notice of Intended Decision to notify all Respondents of the Committee’s decision of which Respondents have been qualified to proceed to Step Two of the IFB process
- **Step Two:** Qualified respondents will submit competitive sealed bids by 2:00 P.M. July 6, 2023
 - The District will issue a Notice of Intended Decision to notify all Respondents of the results of the bid process and recommendation of the award

Special accommodations for disabilities may be requested through Kendall Matott, or by calling (800) 955-8771 (TTY), at least five business days before the date needed.

TABLE OF CONTENTS

INSTRUCTIONS TO RESPONDENTS - 4 -

1. DEFINITIONS - 4 -
2. CONTRACT ADMINISTRATION - 4 -
3. WHERE TO DELIVER QUALIFICATIONS AND BID - 4 -
4. OPENING OF QUALIFICATIONS AND BIDS - 5 -
5. PREPARATION AND ORGANIZATION OF BID DOCUMENTS - 5 -
6. INQUIRIES AND ADDENDA - 6 -
7. CONSTRUCTION ESTIMATED COST RANGE - 7 -
8. MINIMUM QUALIFICATIONS - 7 -
9. BID GUARANTY - 8 -
10. SUBCONTRACTS - 9 -
11. SUBCONTRACTOR LIMITATION - 9 -
12. SIGNATURE AND CERTIFICATION REQUIREMENTS - 9 -
13. DISQUALIFICATION OF RESPONDENTS - 9 -
14. REJECTION OF QUALIFICATIONS SUBMITTAL OR BID - 10 -
15. WITHDRAWAL OF BID - 10 -
16. AWARDING THE AGREEMENT - 10 -
17. EXECUTION OF AGREEMENT - 11 -
18. EXAMINATION OF AGREEMENT DOCUMENTS AND WORK AREA - 11 -
19. FLORIDA SALES TAX - 12 -
20. DIVERSITY - 12 -
21. PUBLIC ENTITY CRIMES/DISCRIMINATORY VENDORS - 12 -
22. NOTICES AND SERVICES THEREOF - 12 -
23. PROTEST PROCEDURES - 13 -

FORMS - 14 -

- BID FORM - 14 -
- PROPOSED SUBCONTRACTORS - 16 -
- TRENCH SAFETY ACT COMPLIANCE FORM - 17 -
- CERTIFICATE AS TO CORPORATION - 18 -
- AFFIDAVIT AS TO NON-COLLUSION AND CERTIFICATION OF MATERIAL CONFORMANCE WITH SPECIFICATIONS - 19 -
- QUALIFICATIONS — GENERAL - 20 -
- QUALIFICATIONS — SIMILAR PROJECTS - 21 -
- QUALIFICATIONS — OTHER PROJECTS - 23 -
- QUALIFICATIONS — CLIENT REFERENCE - 25 -
- DRUG-FREE WORKPLACE FORM - 27 -
- BID BOND FORM - 28 -
- PERFORMANCE AND PAYMENT BOND - 29 -
- NO RESPONSE FORM - 30 -
- ATTACHMENT A — STATEMENT OF WORK - 55 -
- ATTACHMENT B — INSURANCE REQUIREMENTS - 56 -
- ATTACHMENT C — DISTRICT’S SUPPLEMENTAL INSTRUCTIONS (sample) - 57 -
- ATTACHMENT D — CONTRACT PAYMENT REQUIREMENTS FOR STATE-FUNDED COST REIMBURSEMENT CONTRACTS - 58 -
- ATTACHMENT E — DISTRICT’S SUPPLEMENTAL WORK ALLOWANCE AUTHORIZATION (sample) - 59 -

INSTRUCTIONS TO RESPONDENTS

1. DEFINITIONS

The definitions of capitalized terms used in this solicitation that are not otherwise defined herein can be found in the sample contract document (the “Agreement”) that is at the end of these instructions. The Agreement includes these Instructions to Respondents, any addenda published by the District, the bid provided by Respondent (the “Bid“), and all required certifications and affidavits.

2. CONTRACT ADMINISTRATION

All inquiries related to this solicitation may only be directed to the Procurement Specialist:

Kendall Matott, Senior Procurement Specialist
 Phone: (386) 312-2324
 Email: kmatott@sjrwmd.com

Between the release of this solicitation and the posting of the final Step 2 notice of intended decision, Respondents to this solicitation or persons acting on their behalf may not contact any employee or officer of the District’s engineer for this project, CDM Smith, Inc., or the District concerning any aspect of this solicitation, except the procurement employee listed above. Violation of this provision is grounds for rejecting a response.

3. WHERE TO DELIVER QUALIFICATIONS AND BID

The Qualifications submittal and Bid package must be submitted in sealed envelopes to:

Kendall Matott, Senior Procurement Specialist
 Attn: Office of Financial Services
 St. Johns River Water Management District
 4049 Reid St, Palatka, FL 32177-2571

Respondents must clearly label the Qualifications submittal and Bid package envelopes with **large bold, and/or colored lettering (place label on inner envelope if double sealed)** as follows:

SEALED QUALIFICATIONS — DO NOT OPEN
 Respondent’s Name: _____
 Two-Step Invitation for Bid: 38732
 Opening Time: 2:00 P.M.
 Opening Date: June 9, 2023

SEALED BID — DO NOT OPEN
 Respondent’s Name: _____
 Two-Step Invitation for Bid: 38732
 Opening Time: 2:00 P.M.
 Opening Date: July 6, 2023

Please note that the United States Postal Service does not deliver regular mail or express mail to the above address. The District’s experience is that Federal Express and United Parcel Service will.

4. OPENING OF QUALIFICATIONS AND BIDS

Respondents or their authorized agents are invited to attend the opening of the Qualification submittals and Bid packages at the following time and place:

Sealed Qualifications Submittal: 2:00 P.M., June 9, 2023
 Sealed Bid Package: 2:00 P.M., July 6, 2023
 St. Johns River Water Management District Headquarters
 4049 Reid Street, Palatka, Florida 32177-2571

The Florida Public Records Act, §119.071(1)(b), Fla. Stat., exempts sealed Qualifications submittals and Bids from inspection and copying until such time as the District provides notice of an intended decision pursuant to §120.57(3)(a), Fla. Stat., or until 30 days after opening of bids, proposals, submittals, or final replies, whichever is earlier. This exemption is not waived by the public opening of the Qualifications submittals or Bids.

Unless otherwise exempt, Respondent's Qualifications submittal and Bid are a public record subject to disclosure upon expiration of the above exemption period. If any information submitted with the Qualifications submittal or Bid is a trade secret as defined in §812.081, Fla. Stat., and exempt from disclosure pursuant to §815.04, Fla. Stat., Respondent must clearly identify any such material as "CONFIDENTIAL TRADE SECRET" in its Qualifications submittal or Bid **AND** explain the basis for such exemption. The District reserves the right, in its sole judgment and discretion, to reject a Qualifications submittal or Bid for excessive or unwarranted assertion of trade secret confidentiality and return the Qualifications submittal or Bid to Respondent.

5. PREPARATION AND ORGANIZATION OF BID DOCUMENTS

Respondent must submit its Qualifications submittal and Bid Package in "hard copy" (paper) format. Instructions for submitting are below.

- a. Respondents must submit the following fully executed documents on reproduced copies of the attached forms provided in FORMS and include in the respective submittals noted below:

1. Qualifications Submittal

- (a) Knowledge and experience to perform the work

i. Forms:

- a) Certificate as to Corporation
- b) Qualifications — General
- c) Qualifications — Similar Projects
- d) Qualifications — Client References

ii. Respondent-provided information:

- a) Include Respondent's approach to provide the manpower needed to accomplish the work, including permanent employees and project-specific hires.
- b) Include information on the experience of earthwork foremen and crews that Respondent plans to use on this project, including any special training.

c) Financial capability

- 1) Provide letter from Bonding Company confirming Respondent has the bonding capacity required for this project and will be issued a performance and payment bond in the contract amount.

- d) Access to required equipment
 - 1) Provide a list of Respondent-owned equipment Respondent plans to use to perform the Work, if any, including manufacturer, model, and year of manufacture.
 - 2) Provide a list of equipment Respondent plans to lease/rent to perform the Work.
- 2. Bid Package
 - (a) Bid Form
 - (b) Cost Schedule
 - (c) Affidavit as to Non-collusion and Certification of Material Conformance with Specifications
 - (d) Subcontractor List
 - (e) Trench Safety Compliance Form
 - (f) Bid Bond form – **Respondent must use the District Bid Bond form**
 - (g) Drug-Free Workplace Form (not required unless there is a tie bid)
- b. **Respondents must submit one original and three hard copies of their Qualifications submittal and Bid package in the form and manner specified herein.**
 - (a) All blank spaces on the Qualification submittal and bid documents must be typewritten or legibly printed in ink.
 - (b) Respondent must specify the cost for any one complete bid item for the entire work described in the Agreement (the “Work”) in both figures and written words as indicated by the spaces provided (Step 2 of the Solicitation process).
 - (c) In the event you decline to submit a Qualifications submittal or Bid, the District would appreciate submittal of the “No Response Form” provided at the end of the “FORMS” section to describe the reason for not submitting a Qualifications submittal or Bid.

All of the forms and questionnaires in the Two-Step Invitation for Bids package are available upon request in Microsoft® Word to aid the Respondent in submitting its Qualifications submittal or Bid.

If you need assistance or have any questions about the format, please call or email Kendall Matott at (386) 312-2324 or kmatott@sjrwmd.com.

6. INQUIRIES AND ADDENDA

District staff are not authorized to orally interpret the meaning of the specifications or other Agreement documents, or correct any apparent ambiguity, inconsistency, or error therein. In order to be binding upon the District, the interpretation or correction must be given by the Procurement Specialist and must be in writing. The Procurement Specialist may orally explain the District’s procedures and assist Respondents in referring to any applicable provision in the Two-Step Invitation for Bids documents, but the Respondent is ultimately responsible for submitting the Bid in the appropriate form and in accordance with written procedures.

Every request for a written interpretation or correction must be received at least nine days prior to opening of Qualifications submittal or Bids in order to be considered. Requests should be submitted by email at kmatott@sjrwmd.com. Interpretations, corrections, and supplemental instructions will be communicated by written addenda to this solicitation posted by DemandStar and Vendor Registry to all prospective Respondents (at the respective addresses furnished for such purposes) no later than five days before the opening of Qualifications submittal or Bids.

Submission of Qualifications or Bid constitutes acknowledgment of receipt of all addenda. Qualifications submittal and Bids will be construed as though all addenda had been received. Failure of the Respondent to receive any addenda does not relieve Respondent from any and all obligations under the Qualifications submittal or Bid, as submitted. All addenda become part of the Agreement.

7. CONSTRUCTION ESTIMATED COST RANGE

The construction estimated cost range for the Project and related work is \$10,000,000 – \$12,000,000. This amount is an estimated range only and does not limit the District in awarding the Agreement. Respondents are cautioned to not make any assumptions from the estimated range about the total funds available for the Work. The District retains the right to adjust the estimated range in awarding the Agreement. The District also reserves the right to reject all Bids that are over the estimated range. In addition, the District reserves the right to increase, decrease, or delete any class, item, or part of the Work to reduce costs for any reason.

8. MINIMUM QUALIFICATIONS

Respondent must use the “Qualification” forms (General, Similar Projects, and Client References) provided in these documents to document the minimum qualifications listed below. If Respondent fails to include these forms and the Respondent-provided documentation requested below for Step 1 of the solicitation process, Respondents submittal may be considered non-responsive.

a. Similar Projects (Two Projects – Similar Nature): Respondent (or a combination of the Contractor or project manager assigned to the work) must have **successfully completed** as the prime Contractor at least two projects of a similar nature that included (lined earthen basins, earthwork, ground storage tank, mechanical and electrical work within the 10 years immediately preceding the date for receipt of Qualification submittals. The District recognizes that subcontractors may have performed portions of the qualifying projects.

1. One of the qualifying Similar Projects must also have had a project value of at least \$5,000,000; and include at least eight acres of liner.
2. The other qualifying Similar Project must also have had a project value of at least \$3,000,000; and include at least five acres of liner.
3. For each qualifying Similar Project, Respondent must have performed approximately 50% of the work with its own workforce (i.e., not a subcontractor) on each Similar Project (exclusive of lining for the earthen basins, ground storage tank, and electrical work).
4. For each qualifying Similar Project under Step 1 of the Solicitation process, Respondent is responsible to provide all the information requested. Respondent is cautioned to ensure that the contact information (names, email addresses, and phone numbers) is correct, and that the proposed contact is amenable to speak with District representatives and/or respond to a written inquiry. The District will contact the individuals named to verify the Similar Project information as it relates to this solicitation. If the information provided by Respondent is not of a similar nature, cannot be verified by the District, or the proposed contact person fails to respond to the District’s inquiry, Respondent’s Qualification submittal may be considered non-responsive.

(Complete the District-provided forms)

b. Other Project (One Project – Ground Storage Tank/Water Main Piping): In addition to the Similar Projects under paragraph 8.a above, Respondent (or a combination of the Contractor or project manager assigned to the work) must have **successfully completed** at least one other project (within ten years prior to the date for receipt of Qualification submittals) that include a ground storage tank of at least 250,000-gallon capacity and 24” (or larger) diameter water main piping.

Note: If Respondent does not have a single project with both Items 1 and 2 below, Respondent may submit two separate projects:

1. At least one project must have included the installation of a ground storage tank of at least 250,000-gallon capacity.

2. At least one project must have included the installation of at least 5,000 feet of 24” diameter (or larger) water main.

(Complete the District-provided forms)

Note: If a Similar Project provided under 8.a. also satisfies the requirements for the Other Project in 8.b., then the project may be submitted for both Similar Project 8.a. and the Other Project 8.b. Requirements.

- c. License: Respondent shall currently employ a Florida Licensed General Contractor who shall serve as Respondent’s qualifying agents and who shall have at least four years of experience on projects of the nature specified under subparagraph (a) above.

(Respondent-provided documentation – license), and

(Respondent-provided documentation to substantiate experience)

- d. Client References: Respondent must provide three client references who can verify Respondent’s qualifications and performance record. Respondent must have completed a project for the client reference within the past 10 years. Up to two of the client references may be from the similar projects listed in response to subparagraph (a), above. For each client reference cited, Respondent is responsible to provide all the information requested. Respondent is cautioned to ensure that the contact information (names, email addresses, and phone numbers) is correct, and that the proposed contact is amenable to speak with District representatives and/or respond to a written inquiry. The District will contact the references to verify the information as it relates to this solicitation. If the information provided by Respondent cannot be verified by the District, or the proposed contact person fails to respond to the District’s inquiry, Respondent’s Qualification submittal may be considered non-responsive.

(Complete the District-provided forms)

Irrespective of the minimum qualifications stated above, the District may make such investigations as it deems necessary to determine the ability of the Respondent to perform the Work. The District reserves the right to reject any Submittal (Step 1) or Bid (step 2) if the evidence submitted by such Respondent and/or the District’s independent investigation of such Respondent fails to satisfy the District that such Respondent is properly qualified to carry out the obligations of the Agreement and complete the Work in a manner acceptable to the District within the time period specified.

9. **BID GUARANTY**

Each Bid must be accompanied by a Bid guaranty in the form of a Bid bond for five percent of the “Total Bid Cost” indicated on the Bid. Respondent must use the District’s Bid Bond form. The Bid bond must be written through a licensed Florida agency with a company licensed to do business in the State of Florida and meeting the requirements of the Agreement. The guarantee must provide that the Bid will remain firm for 90 days after the designated date and hour of the Bid opening; that if the Bid is accepted, Respondent must enter into a contract with the District in accordance with the Agreement; and that Respondent will provide any required performance and payment bonds and certificates of insurance.

If Respondent withdraws its Bid after receiving notice of acceptance thereof, Respondent will be liable to the District for the full amount of the guaranty as representing the District’s damages on account of Respondent’s default.

Attorneys-in-fact who sign Bid bonds and performance and payment bonds must file with such bonds a certified copy of their power of attorney to sign such bonds. All bonds must be countersigned by a Florida resident agent of the surety, with proof of agency attached.

10. SUBCONTRACTS

Respondent must identify all portions of the Work Respondent intends to perform through subcontractors for each portion of the Work exceeding ten percent of the Work on the attached "Proposed Subcontractors" form. Respondent must submit with its Bid (Step 2) a list of all known subcontractors who will participate in more than ten percent of the Work. Acceptance of the Bid does not constitute approval of the subcontractors identified with the Bid.

11. SUBCONTRACTOR LIMITATION

Respondent is limited to utilizing subcontractors for no more than 40% of the total value of the work. Additionally, at least 40% of the construction labor hours expended on the project site for earthwork and piping (excluding supervisory, management, quality contractor manager, and safety officer hours) must be performed by the prime Contractor's own workforce (i.e., on Contractor's direct payroll).

12. SIGNATURE AND CERTIFICATION REQUIREMENTS

An individual submitting a Qualification submittal or Bid must sign his/her name therein and state his/her address and the name and address of every other person interested in the Qualification submittal or Bid as principal. If a firm or partnership submits the Qualification submittal or Bid, state the name and address of each member of the firm or partnership. If a corporation submits the Qualification submittal or Bid, an authorized officer or agent must sign the Qualification submittal and Bid, subscribing the name of the corporation with his or her own name and affixing the corporate seal. Such officer or agent must also provide the name of the state under which the corporation is chartered, and the names and business addresses of the President, Secretary, and Treasurer. Corporations chartered in states other than Florida must submit evidence of registration with the Florida Secretary of State for doing business in the State of Florida. Respondent must certify that all persons or entities having an interest as principal in the Qualification submittal, Bid, or in substantial performance of the Work have been identified in the Qualification submittal and Bid forms.

13. DISQUALIFICATION OF RESPONDENTS

Any of the following causes will be considered as sufficient grounds for disqualification of a Respondent and rejection of the Qualifications submittal or Bid:

- a. Contacting a CDM Smith, Inc., or District employee or officer other than the procurement employee named in this solicitation about any aspect of this solicitation before the notice of intended decision is posted;
- b. Submission of more than one Qualifications submittal or Bid for the same subject matter by an individual, firm, partnership, or corporation under the same or different names;
- c. Evidence of collusion among Respondents;
- d. Submission of materially false information with the Qualifications submittal or Bid;
- e. Information gained through checking of references or other sources which indicates that Respondent may not successfully perform the Work;
- f. Incomplete contractual commitment(s) to other persons or entities, which, in the sole judgment of the District, may hinder or prevent the prompt completion of the Work if awarded to Respondent;
- g. Respondent has failed or is failing to adequately perform on any contract with the District (regardless of whether or not such performance failure has been cured), including without limitation: (1) a material breach thereof; (2) a failure to complete work in a timely manner or within the contract price when such failure is attributable to the actions or inactions of Respondent or Respondent's subcontractors or suppliers, which may or may not result in the District issuing a cure notice; (3) substandard quality of work, which may or may not result in a violation of a law, regulation, or

building code; (4) any failure to cooperate with the District during performance of the contract; or (5) evidence of financial instability or irresponsibility, as may be indicated through notice of non-payment of claims or liens filed against Respondent's bond or the District by Respondent's subcontractors or suppliers;

- h. Respondent has defaulted on a previous contract with the District or other public entity, which may be evidenced by a successful claim on Respondent's performance or payment bond due to the default;
- i. The evidence submitted by Respondent, or the District's investigation of Respondent, fails to satisfy the District that Respondent is properly qualified to carry out the obligations of the Agreement in a manner acceptable to the District and within the time period specified; or
- j. Any other cause that is sufficient to raise doubt regarding the ability of a Respondent to perform the Work in a manner that meets the District's objectives for the Work.

14. REJECTION OF QUALIFICATIONS SUBMITTAL OR BID

Qualifications submittals and Bids must be delivered to the specified location and received before the Qualifications submittal opening and Bid opening dates and times in order to be considered. Untimely Qualifications submittal and Bids will be returned to the Respondent unopened. Bids will be considered irregular and may be rejected if they show material omissions, alterations of forms, additions not called for, conditions, limitations, or other material irregularities. The District may consider incomplete any Qualifications submittal or Bid not prepared and submitted in accordance with the provisions specified herein, and reserves the right to waive any minor deviations or irregularities in an otherwise valid Qualifications submittal or Bid.

The District reserves the right to reject any and all Qualifications submittals or Bids and cancel this Bid Two-Step IFB when it determines, in its sole judgment and discretion, that it is not in its best interest to award the agreement.

15. WITHDRAWAL OF BID

Respondent may withdraw its Bid if it submits such a written request to the District prior to the designated date and hour of opening of Bids. Respondent may be permitted to withdraw its Bid no later than 72 hours after the Bid opening for good cause, as determined by the District in its sole judgment and discretion.

16. AWARDING THE AGREEMENT

- a. The Agreement will be awarded to the lowest responsive, responsible Respondent, being the Respondent with the lowest Total Bid Cost who demonstrates, in accordance with the requirements of the bid documents, a verifiable history of the skill, ability, integrity, and reliability necessary for the faithful performance of the Agreement (the "Successful Respondent"). The Agreement may be modified based on the District's acceptance of any alternatives listed in the bid that the District deems in its best interest.
- b. Section 286.0113, Fla. Stat., exempts from being open to the public, any portion of a meeting at which: (1) a negotiation with a Respondent is conducted pursuant to a competitive solicitation; (2) a Respondent makes an oral presentation as part of a competitive solicitation; (3) a Respondent answers questions as part of a competitive solicitation; or (4) negotiation strategies are discussed. Also, recordings of, and any records presented at, the exempt meeting are exempt from §119.07(1) and §24(a), Art. I of the State Constitution (Public Records) until such time as the District provides notice of an intended decision or until 30 days after opening the bids, proposals, submittals, or final replies, whichever occurs earlier. A complete recording shall be made of any portion of an exempt meeting. No portion of the exempt meeting may be held off the record.

- c. Pursuant to §286.0113 Fla. Stat., if the District rejects all bids and concurrently provides notice of its intent to reissue the competitive solicitation, any recordings or records presented at any exempt meeting relating to the solicitation shall remain exempt from §119.07(1) and §24(a), Art. I of the State Constitution (Public Records) until such time as the District provides notice of an intended decision concerning the reissued competitive solicitation or until the District withdraws the reissued competitive solicitation. A recording and any records presented at an exempt meeting are not exempt for longer than 12 months after the initial District notice rejecting all bids.
- d. If two or more bids are equal in all respects, the Agreement will be awarded as follows: (1) to the Respondent that certifies compliance with §287.087, Fla. Stat., via the Drug-Free Workplace Form; (2) to a Respondent whose bid contains commodities manufactured, grown, or produced within the State of Florida pursuant to §287.082 Fla. Stat.; or (3) by lot.
- e. The District reserves the right to award the Agreement to the next lowest available bidder in the event the Successful Respondent fails to enter into the Agreement, or the Agreement with said Respondent is terminated within 90 days of the effective date.
- f. All Respondents will be notified of the District's intent to award or decision to award the Agreement. For the purpose of filing a bid protest under §120.57(3), Fla. Stat., the time period will commence as provided in "NOTICES AND SERVICES THEREOF."

17. EXECUTION OF AGREEMENT

Submittal of a Bid binds the Successful Respondent to perform the Work upon acceptance of the Bid and execution of the Agreement by the District.

Unless all Bids are rejected, a contract substantially in the form included in these documents will be provided to the Successful Respondent, who must execute and return the Agreement to the District within ten days of the date of receipt, along with the following:

- a. A performance and payment bond (**Contractor must use the District Performance and Payment Bond form**).
- b. A completed Internal Revenue Service Form W-9
- c. Satisfactory evidence of all required insurance coverage
- d. Proof satisfactory to the District of the authority of the person or persons executing the Agreement on behalf of Respondent
- e. All other information and documentation required by the Agreement

The District will not execute the Agreement until the above documents have been executed and delivered to the District. The Agreement will not be binding until executed by the District. A copy of the fully executed Agreement will be delivered to the Successful Respondent. The District reserves the right to cancel award of the Agreement without liability at any time before the Agreement has been fully executed by all parties and delivered to the Successful Respondent.

Failure upon the part of the Successful Respondent to execute the Agreement or timely submit the required evidence of insurance coverage, or any other matter required by the Agreement, will be just cause, if the District so elects, for the recommended award to be annulled. In such event, the District will be entitled to the full amount of the guaranty, not as a penalty, but in liquidation of and compensation for damages sustained.

18. EXAMINATION OF AGREEMENT DOCUMENTS AND WORK AREA

Respondent is solely responsible for being fully informed of the conditions under which the Work is to be performed in relation to existing conditions. Respondent is responsible for carefully examining the general area of the Work, the requirements of the drawings, and other contract documents related to the

Work, the time in which the Work must be completed, and any other details of the Work. Respondent must satisfy itself from its own personal knowledge and experience or professional advice as to the character of the Work, the conditions, and materials to be encountered, the character, quality, and quantities of the Work, and any other conditions affecting the Work, including surrounding land.

Failure to satisfy the obligations of this paragraph will not relieve a Successful Respondent of its obligation to furnish all material, equipment, and labor necessary to perform the Agreement and to complete the Work for the consideration set forth in its Bid. Any such failure will not be sufficient cause to submit a claim for additional compensation.

No verbal agreement or conversation with any District officer, agent, or employee, either before or after the execution of the Agreement, will affect or modify any of its terms.

19. FLORIDA SALES TAX

The District is exempt from payment of State of Florida sales tax pursuant to §212.08(6), Fla. Stat. Any tangible personal property that is the subject of this Two-Step Invitation for Bids is intended to remain tangible personal property and not become part of a public work owned by the District.

20. DIVERSITY

The District is committed to the opportunity for diversity in the award and performance of all procurement activities. The District encourages Respondents to make a good faith effort to ensure that women and minority-owned business enterprises (W/MBE) are given the opportunity for maximum participation as second and lower tier participants. The District will assist Respondents by sharing information on W/MBEs to encourage their participation.

21. PUBLIC ENTITY CRIMES/DISCRIMINATORY VENDORS

In accordance with §287.133 and §287.134, Fla. Stat., a person or affiliate who has been placed on the convicted or discriminatory vendor lists following a conviction for a public entity crime or placement on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in §287.017 for CATEGORY TWO (\$35,000) for a period of 36 months following the date of being placed on the convicted or discriminatory vendor lists.

22. NOTICES AND SERVICES THEREOF

The District will publish notice of specifications and criteria, including addenda, intended agency decisions, or other matters pertinent to this solicitation on Onvia DemandStar at *DemandStar.com* and Vendor Registry at *vendorregistry.com*. Onvia DemandStar and Vendor Registry may also be accessed through the District's web site at *sjrwm.com*. In addition, the District will post notices of intended agency decisions at the District's headquarters, 4049 Reid Street, Palatka, Florida, Administration Building, Procurement Bulletin Board, on the date the publication is posted on Onvia DemandStar.

Notices will be posted for a minimum of 72 hours. The time period for filing a Notice of Protest pursuant to §120.57(3), Fla. Stat., and Rule 28-110.003, Fla. Admin. Code, commences at the time notices are posted.

As a courtesy to Respondents, the District may send copies of the notices of intended agency decisions via email or facsimile to Respondent. These courtesy communications neither constitute official notice nor vary the times of receipt set forth above.

23. PROTEST PROCEDURES

Pursuant to §120.57(3), Fla. Stat., and Rule 28-110.003, Fla. Admin. Code, any person adversely affected by the procurement methodology described herein, or the specifications or criteria, including addenda, must file a Notice of Protest within 72 hours after its posting.

Pursuant to §120.57(3), Fla. Stat., and Rule 28-110.003, Fla. Admin. Code, any person adversely affected by a District decision or intended decision to award a contract, or to reject all bids, proposals, or qualifications, must file a written Notice of Protest within 72 hours after posting of the decision or intended decision.

Pursuant to §120.57(3), Fla. Stat., and Rule 28-110.004, Fla. Admin. Code, the protester must also file a Formal Written Protest within ten days after the date the Notice of Protest is filed with the District. The Formal Written Protest must state with particularity the facts and law upon which the protest is based. Pursuant to §287.042(2)(c), Fla. Stat., any person who files an action protesting the decision or intended decision must post with the District Clerk at the time of filing the Formal Written Protest a bond, cashier's check, or money order made payable to the St. Johns River Water Management District in an amount equal to one percent (1%) of the District's estimated contract amount.

No additional time will be added for mailing. All filings must comply with Rule 28-106.104, Fla. Admin. Code, and must be addressed to and received by the District Clerk at the District Headquarters in Palatka, Florida within the prescribed time periods. The District will not accept as filed any electronically transmitted facsimile pleadings, petitions, Notice of Protest, or other documents.

The District's acceptance of pleadings, petitions, Notice of Protest, Formal Written Protest, or other documents filed by email is subject to certain conditions set forth in the District's Statement of Agency Organization and Operation (issued pursuant to Rule 28-101.001, Florida Administrative Code), which is available for viewing at sjrwmd.com. These conditions include, but are not limited to, the document being in the form of a PDF or TIFF file and being capable of being stored and printed by the District.

Failure to file a protest within the time prescribed in §120.57(3), Fla. Stat., or failure to post the bond or other security required by law within the time allowed for filing a bond will constitute a waiver of proceedings under chapter 120, Fla. Stat. Mediation under §120.573, Fla. Stat., is not available.

FORMS
BID FORM

Include this form in the Bid Package

RESPONDENT:

The undersigned, as Respondent, hereby declares and certifies that the only person(s) or entities interested in this bid as principal(s), or as persons or entities who are not principal(s) of the Respondent but are substantially involved in performance of the Work, is or are named herein, and that no person other than herein mentioned has any interest in this bid or in the Agreement to be entered into; that this bid is made without connection with any other person, company, or parties making a bid; and that this bid is in all respects fair and in good faith without collusion or fraud.

Respondent represents to the District that, except as may be disclosed in an addendum hereto, no officer, employee or agent of the District has any interest, either directly or indirectly, in the business of Respondent to be conducted under the Agreement, and that no such person shall have any such interest at any time during the term of the Agreement, should it be awarded to Respondent.

Respondent further declares that it has examined the Agreement and informed itself fully in regard to all conditions pertaining to this solicitation; it has examined the specifications for the Work and any other Agreement documents relative thereto; it has read all of the addenda furnished prior to the bid opening, as acknowledged below; and has otherwise satisfied itself that it is fully informed relative to the Work to be performed.

Respondent agrees that if its bid is accepted, Respondent shall contract with the District in the form of the attached Agreement, and shall furnish everything necessary to complete the Work in accordance with the time for completion specified in the Agreement, and shall furnish the required evidence of the specified insurance.

Acknowledgment is hereby made of the following addenda (identified by number) received:

Addendum No.	Date	Addendum No.	Date
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Respondent (firm name) _____
Date

Address

Email address

Signature _____
Telephone number

Typed name and title

COST SCHEDULE

Include this form in the Bid Package

Bid to be opened at 2:00 p.m., July 6, 2023

To: ST. JOHNS RIVER WATER MANAGEMENT DISTRICT

In accordance with the advertisement requesting bids for the Black Creek Water Resource Development Aquifer Recharge Area Project, subject to the terms and conditions of the Agreement, the undersigned proposes to perform the Work for the price contained in the following schedule (fill in all blanks).

If said bid exceeds the estimated range provided in the solicitation, the District expressly reserves the right to increase, decrease, or delete any class, item, or part of the Work, as may be determined by the District.

Respondents are reminded to refer to "PREPARATION AND ORGANIZATION OF BID DOCUMENTS" for information to be included with the bid package.

The bid will be awarded to the lowest responsive and responsible Respondent for the Total Bid Cost (Total Base Bid Cost AND Supplemental Work Allowance).

Total Base Bid Cost..... \$ _____

Supplemental Work Allowance (SWA) \$ 600,000.00

Total Bid Cost (Total Base Bid AND SWA)..... \$ _____

Total Bid Cost (Total Base Bid and SWA) in words: _____

Supplemental Work Allowance: The District will include a Supplemental Work Allowance (SWA) in the amount of \$600,000 in the Successful Respondent's agreement to cover activities not included in the construction drawings, technical specifications, or Scope/Statement of Work (i.e., changes to the quantities, unforeseen site conditions, or changes to the work). SWA Funds can only be released to the Successful Respondent through issuance of a written Supplemental Work Allowance Authorization form. Escalation costs are not considered a compensable cost under this allowance. All escalation costs, if any, will be borne by the Successful Respondent.

I HEREBY ACKNOWLEDGE, as Respondent's authorized representative, that I have fully read and understand all terms and conditions as set forth in this bid and upon award of such bid, shall fully comply with such terms and conditions.

Respondent (firm name)

Date

Address

Email Address

Signature

Telephone number

Typed name and title

PROPOSED SUBCONTRACTORS

Include this form in the Bid Package (attach additional sheets if necessary)

Respondent must identify all portions of the Work Respondent intends to perform through subcontractors for each portion of the Work exceeding ten percent of the Work. Acceptance of the Bid does not constitute approval of the subcontractors identified with the Bid.

1. Name and address of subcontractor: _____

Description of work: _____

Estimated value of Work: _____

2. Name and address of subcontractor: _____

Description of work: _____

Estimated value of Work: _____

3. Name and address of subcontractor: _____

Description of work: _____

Estimated value of Work: _____

4. Name and address of subcontractor: _____

Description of work: _____

Estimated value of Work: _____

5. Name and address of subcontractor: _____

Description of work: _____

Estimated value of Work: _____

6. Name and address of subcontractor: _____

Description of work: _____

Estimated value of Work: _____

TRENCH SAFETY ACT COMPLIANCE FORM

Include this form in the bid package (attach additional sheets if necessary)

Solicitation: Two-Step IFB 38732
 Project: Black Creek Water Resource Development Aquifer Recharge Area Project

By signing below, Respondent agrees to the following terms:

1. Respondent acknowledges: (i) the existence of the Florida Trench Safety Act, §553.60 et. seq., Florida Statutes (hereinafter called the “Act”), and the requirements established herein; (ii) the Act established the Federal excavation safety standards set forth at 29 CFR Part 1926, Subpart P as the Interim State standard applicable to this project in regards to trench safety; (iii) Trench Safety Act Compliance Costs are disclosed for the sole purpose of compliance with the procedural requirements of the Act; and (iv) the amounts disclosed in this form have been included within the Total Lump Sum Price listed on the bid form.
2. If awarded the contract, Respondent will comply with all applicable trench safety standards, during all phases of the work, and will ensure that all subcontractors will also comply with the Act.
3. Respondent will consider the geotechnical information available from the District, from its own sources, and all other relevant information in its design of the trench safety system it will employ on the subject project. Respondent acknowledges that the District is not obligated to provide such information, that Respondent is not to rely solely on such information if provided, and that Respondent is solely responsible for the selection of the data on which Respondent relies in designing said safety system, as well as for the system itself.
4. **Trench Safety Act Compliance Cost Disclosure** (*Costs provided for information only; not payment*):

	Trench Safety Compliance Method	Unit (LF, SF)	Quantity	Unit Cost	Extended Cost
1.				\$	\$
2.				\$	\$
3.				\$	\$
4.				\$	\$
5.				\$	\$

Use additional sheets if necessary. The separate item identifying the cost of compliance with trench safety standards shall be based on the linear feet of trench to be excavated. The separate item for special shoring requirements, if any, shall be based on the square feet of shoring used.

Total

\$

5. Acceptance of the bid to which this certification and disclosure applies in no way represents that the District or its representatives have evaluated or determined that the costs disclosed in this form are adequate to comply with the applicable trench safety requirements, nor does it in any way relieve Respondent of its sole responsibility for complying with all applicable safety requirements.

Respondent: _____

By: _____
 Signature of Authorized Representative

Date: _____

Title: _____

CERTIFICATE AS TO CORPORATION

Include this form in the Qualifications Submittal

The below Corporation is organized under the laws of the State of _____; is authorized by law to respond to this Two-Step Invitation for Bids and perform all work and furnish materials and equipment required under the Agreement, and is authorized to do business in the state of Florida.

Corporation name: _____

Address: _____

Registration No.: _____

Registered Agent: _____

By: _____

(Official title)

(Affix corporate seal)

Attest: _____

(Secretary)

The full names and business or residence addresses of persons or firms interested in the foregoing bid as principals or officers of Respondent are as follows (specifically include the President, Secretary, and Treasurer and state the corporate office held of all other individuals listed):

Identify any parent, subsidiary, or sister corporations involving the same or substantially the same officers and directors that will or may be involved in performance of the Project, and provide the same information requested above on a photocopy of this form.

If applicable, attach a copy of a certificate to do business in the state of Florida, or a copy of the application that has been accepted by the state of Florida to do business in the state of Florida, for the Respondent and/or all out-of-state corporations that are listed pursuant to this form.

AFFIDAVIT AS TO NON-COLLUSION AND CERTIFICATION OF MATERIAL CONFORMANCE WITH SPECIFICATIONS

Include this form in the Bid Package

STATE OF _____

COUNTY OF _____

I, the undersigned, _____ being first duly sworn, depose and say that:

1. I am the owner or duly authorized officer, representative, or agent of:

_____ the Respondent that has submitted the attached bid.

2. The attached bid is genuine. It is not a collusive or sham bid.

3. I am fully informed respecting the preparation and contents of, and knowledgeable of all pertinent circumstances respecting the attached bid.

4. Neither Respondent nor any of its officers, partners, owners, agents, representatives, employees, or parties in interest, including this affiant, has in any way colluded, conspired, connived, or agreed, directly or indirectly, with any other Respondent, firm, or person to submit a collusive or sham bid in connection with the Agreement for which the attached bid has been submitted, or to refrain from bidding in connection with such Agreement, or has in any manner, directly or indirectly, sought by agreement, collusion, communication, or conference with any other Respondent, firm, or person to fix the price or prices in the attached bid of any other Respondent, or to fix any overhead, profit, or cost element of the bid prices or the bid price of any other Respondent, or to secure through collusion, conspiracy, connivance, or unlawful agreement any advantage against the District or any other person interested in the proposed Agreement.

5. The price(s) quoted in the attached bid are fair and proper and are not tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the Respondent or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

6. No official or other officer or employee of the District, whose salary or compensation is payable in whole or in part by the District, is directly or indirectly interested in this bid, or in the supplies, materials, equipment, work, or labor to which it relates, or in any of the profits therefrom.

7. Any materials and equipment proposed to be supplied in fulfillment of the Agreement to be awarded conform in all respects to the specifications thereof. Further, the proposed materials and equipment will perform the intended function in a manner acceptable and suitable for the intended purposes of the District.

Signature: _____

Title: _____

Subscribed and sworn to before me this _____ day of _____, 20 ____.

Notary Public, state of _____ at Large

My commission expires:

(SEAL)

QUALIFICATIONS — GENERAL

Include this form in the Qualifications Submittal

As part of the bid, Respondent shall complete the following so that the District can determine Respondent’s ability, experience, and facilities for performing the Work.

Name of Respondent: _____

Year company was organized/formed: _____

Number of years Respondent has been engaged in business under its present contractor/trade name: _____

Total number of years Respondent has experience in similar construction (passive water treatment systems in lined earthen basins, to include at a minimum: earthwork, piping, lining, ground storage tank, mechanical and electrical work) as described in the INSTRUCTIONS TO RESPONDENTS: _____

Has Respondent previously been engaged in the same or similar business under another firm or trade name? If so, please describe each such instance.

Has Respondent ever been adjudicated bankrupt, initiated bankruptcy, or been the subject of bankruptcy proceedings on behalf of the current entity submitting this bid or a prior entity that Respondent substantially operated or controlled? If yes, please describe the nature and result of those proceedings and the entity involved.

Describe the background/experience of the person or persons who will be primarily responsible for directing the Work that will be performed pursuant to this bid. This inquiry is intended to encompass the project manager and/or superintendent who will be engaged on a daily basis in directing performance of the Work.

Has Respondent defaulted on a previous contract with a public entity? Was a successful claim made against Respondent’s performance or payment bond due to the default? If yes to either question, please describe the nature and result of those proceedings and the entity and bonding company involved.

QUALIFICATIONS — SIMILAR PROJECTS

Include this form in the Qualifications Submittal

Respondent (or a combination of the Contractor or project manager assigned to the work) must have **successfully completed** as the prime Contractor at least two projects of a similar nature that included (lined earthen basins, earthwork, ground storage tank, mechanical and electrical work) within the 10 years immediately preceding the date for receipt of Qualification submittals. The District recognizes that subcontractors may have performed portions of the qualifying projects.

Completed Similar Project 1 must also have had a project value of at least \$5,000,000; and include at least eight acres of liner. Respondent must have performed approximately 50% of the work with its own workforce (i.e., not a subcontractor) on each Similar Project as described in Paragraph 8 – MINIMUM QUALIFICATIONS of the INSTRUCTIONS TO RESPONDENTS.

Completed Similar Project 1 (Qualification 8.a):

Agency/company: _____

Current contact person at agency/company: _____

Telephone: _____ Email: _____

Address of agency/company: _____

Name of project: _____

Description: _____

Acres of Liner installed: _____

Percentage of work Respondent performed its own workforce (must be approximately 50%): _____

Project value: _____ Start date: _____ Completion date: _____
(min. \$5,000,000) (month/year) (month/year: prior to June 9, 2023)

Name(s) of assigned personnel:

Project Manager: _____

Project/Construction Superintendent: _____

Contractor Quality Control Manager, if applicable: _____

Safety Officer, if applicable: _____

Others: _____

QUALIFICATIONS — SIMILAR PROJECTS (continued)

Include this form in the Qualifications Submittal

Respondent (or a combination of the Contractor or project manager assigned to the work) must have **successfully completed** as the prime Contractor at least two projects of a similar nature that included (lined earthen basins, earthwork, ground storage tank, mechanical and electrical work) within the 10 years immediately preceding the date for receipt of Qualification submittals. The District recognizes that subcontractors may have performed portions of the qualifying projects.

Completed Similar Project 2 must also have had a project value of at least \$3,000,000; and include at least five acres of liner. Respondent must have performed approximately 50% of the work with its own workforce (i.e., not a subcontractor) on each Similar Project as described in Paragraph 8 – MINIMUM QUALIFICATIONS of the INSTRUCTIONS TO RESPONDENTS.

Completed Similar Project 2 (Qualification 8.a):

Agency/company: _____

Current contact person at agency/company: _____

Telephone: _____ Email: _____

Address of agency/company: _____

Name of project: _____

Description: _____

Square feet of Liner installed: _____

Percentage of work Respondent performed its own employees (must be approximately 50%): _____

Project value: _____ Start date: _____ Completion date: _____
(min. \$3,000,000) (month/year) (month/year: prior to June 9, 2023)

Name(s) of assigned personnel:

Project Manager: _____

Project/Construction Superintendent: _____

Contractor Quality Control Manager, if applicable: _____

Safety Officer, if applicable: _____

Others: _____

QUALIFICATIONS — OTHER PROJECTS

Include this form in the Qualifications Submittal

In addition to the qualifying Similar Projects under paragraph 8.a above, Respondent (or a combination of the Contractor or project manager assigned to the work) must have **successfully completed** at least one other project (within the ten years prior to the date for receipt of Qualification submittals) that include a minimum 250,000-gallon capacity ground storage tank and at least 5,000 LF of 24” (or larger) water main piping. As described in Paragraph 8 – MINIMUM QUALIFICATIONS of the INSTRUCTIONS TO RESPONDENTS.

Notes: If Respondent does not have a single project with both Items 1 and 2 below, Respondent may submit two separate projects:

If a Similar Project provided under 8.a. also satisfies the requirements for the Other Project in 8.b., then the project may be submitted for both Similar Project 8.a. and the Other Project 8.b. Requirements.

1. At least one project must have included the installation of a ground storage tank of at least 250,000-gallon capacity.
2. At least one project must have included the installation of at least 5,000 feet of 24” diameter (or larger) water main.

Agency/company: _____

Current contact person at agency/company: _____

Telephone: _____ Email: _____

Address of agency/company: _____

Name of project: _____

Description: _____

Ground Storage Tank Capacity (min. 250,000 gallons): _____

Water Main Piping (min. 5,000 LF and 24” diameter or larger): _____

Project value: _____ Start date: _____ Completion date: _____
(no minimum) (month/year) (month/year: prior to June 9, 2023)

Name(s) of assigned personnel:

Project Manager: _____

Project/Construction Superintendent: _____

Contractor Quality Control Manager, if applicable: _____

Safety Officer, if applicable: _____

Others: _____

QUALIFICATIONS — OTHER PROJECTS (continued)

Include this form in the Qualifications Submittal (if needed)

In addition to the qualifying Similar Projects under paragraph 8.a above, Respondent (or a combination of the Contractor or project manager assigned to the work) must have **successfully completed** at least one other project (within the ten years prior to the date for receipt of Qualification submittals) that include a minimum 250,000-gallon capacity ground storage tank and at least 5,000 LF of 24” (or larger) water main piping. As described in Paragraph 8 – MINIMUM QUALIFICATIONS of the INSTRUCTIONS TO RESPONDENTS.

Note: If Respondent does not have a single project with both Items 1 and 2 below, Respondent may submit two separate projects:

1. At least one project must have included the installation of a ground storage tank of at least 250,000-gallon capacity.
2. At least one project must have included the installation of at least 5,000 feet of 24” diameter (or larger) water main.

Agency/company: _____

Current contact person at agency/company: _____

Telephone: _____ Email: _____

Address of agency/company: _____

Name of project: _____

Description: _____

Ground Storage Tank Capacity (min. 500,000 gallons): _____

Water Main Piping (min. 5,000 LF and 24” diameter or larger): _____

Project value: _____ Start date: _____ Completion date: _____
(no minimum) (month/year) (month/year: prior to June 9, 2023)

Name(s) of assigned personnel:

Project Manager: _____

Project/Construction Superintendent: _____

Contractor Quality Control Manager, if applicable: _____

Safety Officer, if applicable: _____

Others: _____

QUALIFICATIONS — CLIENT REFERENCE

Include this form in the Qualifications Submittal

Respondent shall provide three client references, which may include the similar projects listed above. (For similar projects listed above, simply state "Similar Project No. ____.")

Client Reference 1:

Agency/company: _____

Current contact person at agency/company: _____

Telephone: _____ Email: _____

Agency/Company address: _____

Name of project: _____

Description: _____

Project value: _____ Project manager: _____

Project start date: _____ Completion date: _____

Client Reference 2:

Agency/company: _____

Current contact person at agency/company: _____

Telephone: _____ Email: _____

Agency/Company address: _____

Name of project: _____

Description: _____

Project value: _____ Project manager: _____

Project start date: _____ Completion date: _____

QUALIFICATIONS — CLIENT REFERENCE (CONTINUED)

Include this form in the Qualifications Submittal

Respondent shall provide three client references, which may include the similar projects listed above. (For similar projects listed above, simply state "Similar Project No. ____.")

Client Reference 3:

Agency/company: _____

Current contact person at agency/company: _____

Telephone: _____ Email: _____

Agency/Company address: _____

Name of project: _____

Description: _____

Project value: _____ Project manager: _____

Project start date: _____ Completion date: _____

DRUG-FREE WORKPLACE FORM

This form required only in the event of a tie bid

The Respondent, (business name) _____, in accordance with §287.087, Fla. Stat., hereby certifies that Respondent does the following:

1. Informs employees about the dangers of drug abuse in the workplace, the business’s policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations
2. Publishes a statement notifying employees that
 - a. the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against its employees for violations of such prohibition.
 - b. as a condition of working on the contractual services that are the subject of this solicitation, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of chapter 893, Fla. Stat., or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five days after such conviction.
3. Gives each employee engaged in providing the contractual services that are the subject of this solicitation a copy of the statement specified in paragraph 2, above.
4. Imposes a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee’s community, by any employee convicted of a violation listed in sub-paragraph 2.b., above.
5. Makes a good faith effort to continue to maintain a drug-free workplace through implementation of §287.087, Fla. Stat.

As the person authorized to sign this statement, I certify that this firm complies fully with the above requirements.

By: _____

Title: _____

Date: _____ /

BID BOND FORM
ST. JOHNS RIVER WATER MANAGEMENT DISTRICT
STATE OF FLORIDA

KNOW ALL PERSONS BY THESE PRESENTS that _____, whose address is:

_____, ("Principal"), and _____, whose address is _____,

("Surety"), are held and firmly bound unto the St. Johns River Water Management District, whose address is 4049 Reid Street, Palatka, Florida 32177 (the "District"), in the Penal Sum of _____ dollars (\$_____) lawful money of the United States, for the payment of which we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally.

THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas Principal has submitted the accompanying bid for Bid 38732, Black Creek Water Resource Development Aquifer Recharge Area Project, which is scheduled to be opened on July 6, 2023.

NOW, THEREFORE, if Principal shall not withdraw this bid within 90 days after date of bid opening and shall within ten days after the prescribed forms are presented to him for signature, enter into a written contract with the District, in accordance with the bid as accepted, and shall give such bond or bonds as may be specified in the contract documents, with good and sufficient sureties, as may be required, for the faithful performance and proper fulfillment of the contract and give such bonds within the time specified; and, if Principal shall pay the District the difference between the amount specified in bid and the amount for which the District may procure the required work supplies, if the latter amount be in excess of the former, then the above obligations shall be void, and of no effect, otherwise to retain in full force and effect.

The Surety, for value received, hereby stipulates and agrees that the obligations of said Surety and its BOND shall be in no way diminished, impaired, or affected by any extension of the time within which the District may accept such Bid, and said Surety does hereby waive notice of any such extension.

IN WITNESS WHEREOF, the parties have executed this statement under their several seals this _____ day of _____, 20____, the name and corporate seal of each corporate party being affixed below and this statement being signed by his representative, pursuant to authority of its governing body.

Signed, sealed and delivered in the presence of:

PRINCIPAL
_____,
(Official Title)

By: _____

(typed name) (SEAL)

SURETY
_____,
(Official Title)

By: _____

(typed name) (SEAL)

NOTE: If Principal and Surety are corporations, the respective corporate seals should be affixed and attached. Attach a certified copy of Power-of-Army appointing individual Attorney-in-Fact for execution of bid bond on behalf of Surety.

PERFORMANCE AND PAYMENT BOND

Bond Number _____
Surety Number _____

St Johns River Water Management District Contract Number 38732

BY THIS BOND, we, _____, whose address is _____
_____, Phone _____, (“Principal”), and _____
_____ whose address is _____,
Phone _____, a corporation organized under the laws of the state of _____ and licensed
to do business in the state of Florida (“Surety”), bind ourselves and our heirs, personal representatives,
successors, and assigns, jointly and severally, unto the St. Johns River Water Management District (the
“District”), whose address is 4049 Reid Street, Palatka, Florida 32177-2571, Phone (386) 329 4500, for the use
and benefit of claimants, as defined in §255.05(1), Fla. Stat., in the amount of Total Contract Amount,
\$_____, for the payment of which sum will and truly be made.

THE CONDITION OF THIS BOND is that if Principal:

1. Performs the work described in these contract documents, which are incorporated into this bond by reference, at the times and in the manner prescribed in the contract; and
2. Promptly makes payment to all claimants supplying Principal with labor, materials, or supplies, used directly or indirectly by Principal in the prosecution of the Work described in the contract, and
3. Pays the District all losses and damages, expenses, costs, and attorney’s fees, including appellate proceedings, that the District sustains because of a default by Principal under the contract; and
4. Performs the guarantee of all work and materials furnished under the contract for the time specified in the contract, then this bond is void; otherwise it remains in full force.

Any action instituted by a claimant under this bond for payment must be in accordance with the notice and time limitation provisions in §255.05(2) and (10), Fla. Stat.

Any changes in or under the contract documents (which include the plans and specifications) and compliance or noncompliance with any formalities connected with the contract documents or the changes do not affect Surety’s obligation under this bond, and Surety hereby waives notice of any such changes. Further, Principal and Surety acknowledge that the Penal Sum of this bond shall increase or decrease in accordance with approved changes or other modifications to the contract documents.

IN WITNESS WHEREOF, Principal and Surety have executed this instrument under their several seals on this _____ day of _____, 20____, the name and corporate seal of each corporate party being hereto affixed and this Bond fully signed by each party’s undersigned representative, pursuant to authority of its governing body.

Signed, sealed and delivered in the presence of:

Principal

(Official title)
Surety

(Official title)

By: _____

(Typed name) (SEAL)
By: _____

(Typed name) (SEAL)

(Countersignature by Florida Registered Agent)

NOTE: If Principal and Surety are corporations, the respective corporate seals should be affixed and attached. Attach a certified copy of power of attorney appointing individual attorney-in-fact for execution of Payment Bond on behalf of Surety.

NO RESPONSE FORM
ST. JOHNS RIVER WATER MANAGEMENT DISTRICT
TWO-STEP INVITATION FOR BIDS 38732

Your reasons for not responding to this Two-Step Invitation for Bids are valuable to the St. Johns River Water Management District's procurement process. Please complete this form and return it to the Office of Financial Services no later than the date set for receipt of bids. Thank you for your cooperation.

Please check (as applicable):

- Specifications too "general" (explain below)
- Insufficient time to respond to the solicitation
- Do not provide this type of work for this project
- Schedule would not permit us to perform
- Unable to meet solicitation specifications
- Specifications unclear (explain below)
- Disagree with solicitation or Agreement terms and conditions (explain below)
- Other (specify below)

Remarks: _____

DATE _____

RESPONDENT (FIRM NAME) _____

ADDRESS _____

EMAIL ADDRESS _____

SIGNATURE

TYPED NAME AND TITLE

TELEPHONE NUMBER

**AGREEMENT
BETWEEN THE
ST. JOHNS RIVER WATER MANAGEMENT DISTRICT
AND _____ FOR THE
BLACK CREEK WATER RESOURCE DEVELOPMENT
AQUIFER RECHARGE AREA PROJECT**

THIS AGREEMENT is entered into by and between the GOVERNING BOARD of the ST. JOHNS RIVER WATER MANAGEMENT DISTRICT (the "District"), whose address is 4049 Reid Street, Palatka, Florida 32177-2571, and _____ ("Contractor"), whose address is _____ . All references to the parties hereto include the parties, their officers, employees, agents, successors, and assigns.

In consideration of the payments hereinafter specified, Contractor agrees to furnish and deliver all materials and perform all labor required for IFB 38732, Black Creek Water Resource Development Aquifer Recharge Area Project (the "Work"). In accordance with IFB 38732, Contractor shall complete the Work in conformity with this Agreement, which consists of and incorporates all of the following documents: (1) advertisement for bids, proposals, or qualifications; (2) Instructions to Respondents; (3) addenda; certifications, and affidavits; (4) bid, proposal, or qualifications submittals; (5) Agreement, including the Statement of Work; (6) CDM Smith Technical Specifications and Drawings (Exhibits 1 and 2, respectively), and any Special Conditions or other attachments. If any provision in the body of this Agreement conflicts with any attachment or exhibit hereto, the body of this Agreement shall prevail. This Agreement, including attachments, shall take precedence over all solicitation documents (items 1 – 4). The parties hereby agree to the following terms and conditions.

1. TERM

- (a) The term of this Agreement shall be from the Effective Date to the Completion Date. Time is of the essence for each and every aspect of this Agreement. Where additional time is allowed to complete the Work, the new time limit shall also be of the essence. All provisions of this Agreement that by their nature extend beyond the Completion Date survive termination or expiration hereof.
- (b) **Effective Date.** The Effective Date is the date upon which the last party to this Agreement has dated and executed the same.
- (c) **Commencement of Work.** Contractor shall commence the Work within 15 days of the Effective Date. Contractor shall prosecute the Work regularly, diligently, and uninterruptedly so as to complete the Work ready for use in accordance with the Statement of Work and the time for completion stated therein. Contractor shall not commence the Work until any required submittals are received and approved.
- (d) **Completion Date.** The Completion Date of this Agreement is the latter of 730 days from the Effective Date of the Agreement or September 30, 2025, unless extended by mutual written agreement of the parties. All Work shall be completed for use no later than the Completion Date.

2. LIQUIDATED DAMAGES

- (a) If Contractor neglects, fails, or refuses to satisfactorily complete the Work by the Completion Date, Contractor shall, as a part of the consideration for this Agreement, pay the District the amount stipulated herein, not as a penalty, but as liquidated damages for such breach, for each day Contractor is in default thereafter. This amount is fixed and agreed upon between the parties due to the impracticability and extreme difficulty of ascertaining the actual damages the District would sustain in such event. The amount of liquidated damages shall be \$2,000 per day. Liquidated damages shall be deducted from payments as they become due and may be deducted from the retainage due upon completion. They constitute an agreed-upon liquidated sum solely for

consequential damages attributable to delay and are not a substitute for any other consequential damages incurred by the District, such as the cost of finding a replacement Contractor for completion of the Work if this Agreement is terminated by the District for non-performance.

- (b) Contractor shall not be charged with liquidated damages or any excess cost when the District determines that Contractor’s reasons for the time extension are acceptable in accordance with **FORCE MAJEURE; DELAYS**. A written extension of the Completion Date constitutes a waiver of liquidated damages to the new Completion Date unless expressly provided therein to the contrary.

3. DELIVERABLES

- (a) The Work is specified in the Statement of Work, Attachment A. Contractor shall deliver all products and deliverables as stated therein. Contractor is responsible for the professional quality, technical accuracy, and timely completion of the Work. Both workmanship and materials shall be of good quality. Contractor shall, if required, furnish satisfactory evidence as to the kind and quality of materials provided. Unless otherwise specifically provided for herein, Contractor shall provide and pay for all materials, labor, and other facilities and equipment necessary for performance of the Work. The District’s Project Manager shall make a final acceptance inspection of the deliverables when completed and finished in all respects.
- (b) If not otherwise addressed in the Statement of Work, upon written request, Contractor shall submit written progress reports to the District’s Project Manager at the frequency requested in the form approved by the Project Manager at no additional cost to the District. The progress report shall provide an updated progress schedule, taking into account all delays and approved changes in the Work. Failure to provide a progress report will be cause to withhold payment.

- 4. **OWNERSHIP OF DELIVERABLES.** All deliverables, including Work not accepted by the District, are District property when Contractor has received compensation therefor, in whole or in part. Any District source documents or other District or non-District documents, specifications, materials, reports, or accompanying data developed, secured, or used in the performance of the Work, excluding proprietary materials, as outlined in a Statement of Work, are District property and shall be safeguarded and provided to the District upon request. District plans and specifications shall not be used on other work and, with the exception of the original plans and specifications, shall be returned to the District upon request. This obligation shall survive termination or expiration of this Agreement.

5. FUNDING OF AGREEMENT

- (a) For satisfactory performance of the Work, the District agrees to pay Contractor \$_____ (the “Total Compensation”). The parties may agree in writing to re-allocate funding from the amounts described below.

Fiscal Year: October 1, 2023 – September 30, 2024 Amount: \$ TBD

Fiscal Year: October 1, 2024 – September 30, 2025 Amount: \$ TBD

Funding for each applicable fiscal year is subject to District Governing Board budgetary appropriation.

- (b) **Annual budgetary limitation.** For multi-fiscal year agreements, the District must budget the amount of funds that will be expended during each fiscal year as accurately as possible. The Statement of Work, Attachment A, includes the parties’ current schedule for completion of the Work and projection of expenditures on a fiscal year basis (October 1 – September 30) (“Annual Spending Plan”). If Contractor anticipates that expenditures will exceed the budgeted amount during any fiscal year, Contractor shall promptly notify the District’s Project Manager and provide a proposed revised work schedule and Annual Spending Plan that provides for completion of the Work without increasing the Total Compensation. The last date for the District to receive this request is August 1 of the then-current fiscal year. The District may in its sole discretion prepare a District Supplemental

Instruction Form incorporating the revised work schedule and Annual Spending Plan during the then-current fiscal year or subsequent fiscal year(s).

6. PAYMENT OF INVOICES

- (a) Contractor shall submit itemized invoices on a monthly basis by one of the following two methods: (1) by email to acctpay@sjrwmd.com (preferred) or (2) by mail to the St. Johns River Water Management District, Finance Director, 4049 Reid Street, Palatka, Florida 32177-2571. Each invoice shall be submitted in detail sufficient for proper pre-audit and post-audit review. If necessary for audit purposes, Contractor shall provide additional supporting information as required to document invoices. Refer to Section 01026, Application for Payment, of the CDM Smith Technical Specifications for additional information and requirements regarding the payment of invoices.
- (b) **End of District Fiscal Year Reporting.** The District's fiscal year ends on September 30. Irrespective of the invoicing frequency, the District is required to account for all encumbered funds at that time. When authorized under the Agreement for work completed, submittal of an invoice as of September 30 satisfies this requirement. The invoice shall be submitted no later than October 30. If the Agreement does not authorize submittal of an invoice for work completed as of September 30, Contractor shall submit, prior to October 30, a description of the additional Work completed between the last invoice and September 30, and an estimate of the additional amount due as of September 30 for such Work. If there have been no prior invoices, Contractor shall submit a description of the Work completed on the project through September 30 and a statement estimating the dollar value of that Work as of September 30.
- (c) **Final Invoice.** The final invoice must be submitted no later than 20 business days after the Completion Date; provided, however, that when the Completion Date corresponds with the end of the District's fiscal year (September 30), the final invoice must be submitted no later than 30 days after the Completion Date. **Final invoices that are submitted after the requisite date shall be subject to a penalty of ten percent of the invoice. This penalty may be waived by the District, in its sole judgment and discretion, upon a showing of special circumstances that prevent the timely submittal of the final invoice. Contractor must request approval for delayed submittal of the final invoice not later than ten days prior to the due date and state the basis for the delay.**
- (d) All invoices shall include the following information: (1) District contract number; (2) Contractor's name and address (include remit address, if necessary); (3) Contractor's invoice number and date of invoice; (4) District Project Manager; (5) Contractor's Project Manager; (6) supporting documentation as to cost and/or project completion (as per the cost schedule and other requirements of the Statement of Work/Technical Specifications); and (7) Progress Report (if required). Contractor should not include its FEIN on the invoice. Invoices that do not correspond with this paragraph shall be returned without action, stating the basis for rejection. Payments shall be made within 20 business days of receipt of the invoice. Disputes regarding invoice sufficiency are resolved pursuant to the dispute resolution procedure of this Agreement.
- (e) **Travel expenses.** This Agreement does not include separate payment for travel expenses.
- (f) **Payments.** Absent exceptional circumstances, Contractor is required to sign up and receive payment(s) electronically from the District via Automated Clearing House (ACH) payment.
- (g) **Payments withheld.** The District may withhold or, on account of subsequently discovered evidence, nullify, in whole or in part, any payment to such an extent as may be necessary to protect the District from loss as a result of: (1) defective Work not remedied; (2) failure of Contractor to make payments when due to subcontractors or suppliers for materials or labor; (3) failure to maintain adequate progress in the Work; (4) damage to another contractor; or (5) any other material breach of this Agreement. Amounts withheld shall not be considered due and shall not be paid until the ground(s) for withholding payment have been remedied.

(h) **Retainage.** The District shall pay Contractor 95% of each approved invoice and retain five percent as retainage, to be paid upon completion of the Work, which occurs at the completion of the Punch List. Contractor may present the District with a payment request for part or all of the retainage as provided by §218.735(7)(e), Fla. Stat.

7. **PAYMENT AND RELEASE.** Upon satisfactory completion of the Work, the District will provide Contractor a written statement accepting all deliverables. Contractor’s acceptance of final payment shall constitute a release in full of all Contractor claims against the District arising from the performance of this Agreement, with the exception of any pending claims for additional compensation that have been documented and filed as required by this Agreement.

8. **INSURANCE.** Contractor shall acquire and maintain all insurance required by Attachment B, Insurance Requirements, and shall not commence Work until it has provided Certificates of Insurance to the District as per Attachment B. Receipt of Certificates of Insurance indicating less coverage than required does not constitute a waiver of the Insurance Requirements. Contractor waives its right of recovery against the District to the extent permitted by its insurance policies. Contractor’s insurance shall be considered primary, and District insurance shall be considered excess, as may be applicable to Contractor’s obligation to provide insurance.

9. **FUNDING CONTINGENCY.** This Agreement is at all times contingent upon funding availability, which may include a single source or multiple sources, including, but not limited to: (1) ad valorem tax revenues appropriated by the District’s Governing Board; (2) annual appropriations by the Florida Legislature, or (3) appropriations from other agencies or funding sources. Agreements that extend for a period of more than one Fiscal Year are subject to annual appropriation of funds in the sole discretion and judgment of the District’s Governing Board for each succeeding Fiscal Year. Should the Work not be funded, in whole or in part, in the current Fiscal Year or succeeding Fiscal Years, the District shall so notify Contractor and this Agreement shall be deemed terminated for convenience five days after receipt of such notice, or within such additional time as the District may allow. For the purpose of this Agreement, “Fiscal Year” is defined as the period beginning on October 1 and ending on September 30.

10. **PROJECT MANAGEMENT PERSONNEL**

(a) The Project Managers listed below shall be responsible for overall coordination and management of the Work. Either party may change its Project Manager upon three business days’ prior written notice to the other party. Written notice of change of address shall be provided within five business days. All notices shall be in writing to the Project Managers at the addresses below and shall be sent by one of the following methods: (1) hand delivery; (2) U.S. certified mail; (3) national overnight courier; (4) email or, (5) fax. Notices via certified mail are deemed delivered upon receipt. Notices via overnight courier are deemed delivered one business day after having been deposited with the courier. Notices via email or fax are deemed delivered on the date transmitted and received.

DISTRICT

Robert Naleway, Project Manager
 St. Johns River Water Management District
 4049 Reid Street, Palatka, Florida 32177-2571
 Phone: (386) 312-2366
 Email: rnaleway@sjrwmd.com

CONTRACTOR

TBD, Project Manager
 TBD
 TBD
 Phone: TBD
 Email: TBD

(b) The District’s Project Manager shall have sole responsibility for transmitting instructions, receiving information, and communicating District policies and decisions regarding all matters pertinent to performance of the Work.

(c) Contractor shall provide efficient supervision and quality control management of the Work, using its best skill and attention. Contractor shall keep on the worksite during its progress, a competent project/construction superintendent, and contractor quality control (“CQC”) system manager that are satisfactory to the District. The project/construction superintendent, and contractor quality control manager shall not be changed except with the District’s consent, unless the project/construction superintendent and/or contractor quality control manager prove(s) to be unsatisfactory to Contractor and/or ceases to be in its employ. The project/construction superintendent shall represent Contractor in the absence of Contractor’s Project Manager. All directions given to him shall be as binding as if given to Contractor. If the District produces documented evidence and informs Contractor that any person on the job is incompetent, disorderly, or is working contrary to the Agreement or the District’s instructions, that person shall thereupon be immediately dismissed from the project and shall not be given employment on any work connected with this Agreement. The District may request Contractor replace its Project Manager if said manager fails to carry the Work forward in a competent manner, follow instructions or specifications, or for other reasonable cause.

(d) Project/Construction Superintendent and Contractor Quality Control System Manager qualifications (submit qualifications for the project superintendent/CQC manager to the District for approval):

Note: The project/construction superintendent and CQC system manager may be either two separate individuals or the same person provided the proposed individual meets qualification requirements in subparagraphs 1 and 2 below.

1. At a minimum, the Project/Construction Superintendent must:

- i. Be able to: (1) perform basic construction layout; (2) read and interpret plans and specifications; (3) supervise subcontractors, foremen, and work crews; (4) coordinate and expedite equipment and material deliveries; (5) make field decisions based upon site conditions; (6) coordinate multiple construction activities at the same time; (7) coordinate mobilization and demobilization activities; and (8) complete a Punch List.
- ii. Have at least five years of construction supervisory experience on projects of a related nature (earthwork, piping, electrical) within the ten years immediately preceding the date set for receipt of bids. The experience may be with Respondent or in combination with other construction firms.
- iii. Have worked in the capacity of Project/Construction Superintendent on at least one project of a related nature (earthwork, piping, electrical) for a combined total of not less than 50% of the project duration.

2. At a minimum, the CQC System Manager must be either a current Florida licensed engineer with three years CQC system management experience or a non-licensed individual with five years CQC system management experience. The required experience may be with the Respondent or in combination with other construction firms. Experience on construction projects of a related nature (earthwork, piping, and electrical) is preferred and within ten years immediately preceding the date of set for receipt of bids.

(e) Contractor shall maintain an adequate and competent professional staff. Contractor’s employees, subcontractors, or agents shall be properly trained to meet or exceed any specified licensing, training and/or certification applicable to their profession. Upon request, Contractor shall furnish proof thereof.

11. **INDEMNIFICATION.** Contractor shall indemnify and hold harmless, release, and forever discharge the District, its public officers, employees, agents, representatives, successors, and assigns, from any and all liabilities, damages, losses, and costs, including, but not limited to, reasonable attorney’s fees to the extent caused by the negligence, recklessness, or intentional wrongful misconduct, arising from or caused by Contractor, its employees or subcontractors, in the performance of the Work.

Contractor shall further indemnify the District for all costs and penalties the District incurs related to any failure to offer Patient Protection and Affordable Care Act compliant health care coverage to Contractor-employees performing under this contract.

12. SCHEDULING AND WORK PLANNING; PROGRESS REPORTING

- (a) **Pre-work Conference.** Within ten days after execution of this Agreement, Contractor shall schedule a pre-work conference with the District's Project Manager to discuss scheduling and other matters. Refer to Section 01200, Project Meetings, of the Technical Specifications for additional information and requirements regarding the Pre-work Conference. Contractor shall provide a work plan for the District's approval not less than five days prior to the pre-work conference. The District shall have ten days to review the work plan. Not less than five days prior to the pre-work conference, Contractor shall provide the District a list of each subcontract exceeding ten percent of the Total Compensation. The list shall include: (1) name, address, contract, phone number and email address of subcontractor, (2) description of subcontract work, and (3) estimated value of work.
- (b) **Progress Meetings.** The District will conduct on-site progress meetings with Contractor every two weeks. Contractor shall make available its Project Manager, Project/Construction Superintendent, Contractor Quality Control Manager, and other appropriate personnel to discuss matters pertinent to the Work. Refer to Section 01200, Project Meetings, of the Technical Specifications for additional information and requirements regarding the Progress Meetings.
- (c) **Progress Reports.** Contractor shall provide to the District the project schedule and update/status reports as provided in the Statement of Work. Reports will provide detail on progress of the Work and outline any potential issues affecting completion or the overall schedule. Reports may be submitted in any form agreed to by District's Project Manager and Contractor, and may include emails, memos, and letters. Refer to Section 01200, Project Meetings, of the Technical Specifications for additional information and requirements regarding the progress reports.
- (d) **Daily Reporting.** Contractor is responsible for providing a daily report regarding the progress of the Work. A form shall be completed for each day any Work is performed until the project is accepted by the District. Completed forms shall be submitted to the District's Project Manager or other authorized representative by 9:00 a.m. of the following day. Refer to Section 01400, Quality Control, of the Technical Specifications for additional information for a copy of the Daily Report form.
- (e) **Critical Path Management.** Contractor is responsible to provide a Critical Path Management (CPM) network for the Work. Refer to Section 01310, Construction Scheduling, of the Technical Specifications for additional information and requirements regarding the CPM preparation, submittal and approval.
- (f) **Failure to Meet Schedule.** If progress of the Work falls five percent or more behind schedule, except as a result of District-approved delays, Contractor shall take all necessary steps to augment the work effort to get the project back on schedule. Should the progress of the Work fall ten percent or more behind schedule, the District may advise Contractor through a "cure" notice that this Agreement is subject to termination for cause if the failure is not cured within the time frame specified in said notice. Refer to Section 01310, Construction Scheduling, of the Technical Specifications for additional information and requirements regarding scheduling. In the event of a conflict between this Agreement and Section 01310, the language in this Agreement shall govern.

13. FORCE MAJEURE; DELAYS

- (a) **Force Majeure.** Contractor shall not be liable for failure to carry out the terms of this Agreement to the extent such failure is due to a Force Majeure event, except for failures that could have been reasonably foreseen and guarded against so as to avoid or reduce the adverse impact thereof. A Force Majeure event is hereby defined as the failure to carry out any of the terms of this Agreement due to

any one of the following circumstances beyond the control of Contractor: (a) the operation and effect of rules, regulations, or orders promulgated by any commission, county, municipality, or governmental agency of the State of Florida or the United States, (b) a restraining order, injunction, or similar decree of any court of competent jurisdiction, (c) war, (d) flood, (e) earthquake, (f) fire, (g) severe wind storm, (h) acts of public disturbance, (i) quarantine restrictions, (j) epidemics or pandemics, (k) strikes, (l) freight embargoes, or (m) sabotage. The times specified herein for performances include delays that can ordinarily be anticipated due to adverse weather conditions. The District is not obligated to grant an extension of time due to adverse weather conditions unless such conditions rise to the level of Force Majeure.

- (b) **Delay.** Contractor shall not be compensated for delays caused by Contractor's inefficiency, rework made necessary by Contractor's error, failure to perform the Work as scheduled, or any other corrective or productivity measures made necessary by errors, omissions, or failures to properly perform the Work. Within ten days after the onset of a delay, Contractor shall notify the District in writing of the delay, which shall provide: (1) a detailed description the delay and its probable duration, (2) the specified portion of the Work affected, and (3) an opinion as to the cause of the delay and liability (if any) for the delay. Notices provided more than ten days after the inception of the delay shall only be effective as to additional costs or delay incurred during the ten-day period preceding receipt of such notice. In the case of continuing cause delay for the same cause, only one notice of delay is necessary. **Failure to provide this notice waives any claim for extension of time or additional compensation resulting from such delay.** If the delay is due to the failure of another District contractor to complete its work in a timely manner, changes ordered in the Work, a Force Majeure event, or any other cause which the District, in its sole judgment and discretion, determines to justify the delay, then the Completion Date may be extended as necessary to compensate for the delay. All time extensions shall be in the form of a written amendment signed by both parties.

14. **MODIFICATION OF SPECIFICATIONS; CHANGE ORDERS; EMERGENCY CHANGES IN WORK**

- (a) **Modification of Specifications.** No verbal agreement or conversation with any officer, agent, or employee of the District after execution of this Agreement shall affect or modify any of its terms. No one is authorized to change any provision of the specifications without written authorization of the District. The presence or absence of a District inspector shall not relieve Contractor from any requirements of this Agreement. The District's Project Manager may also issue a District Supplemental Instruction (DSI) form (Attachment C) to authorize minor adjustments to the Work that are consistent with the purpose of the Work. A DSI may not be used to change the Total Compensation, quantity, quality or the Completion Date of the Work, or to change or modify the Agreement. The DSI shall indicate that both parties agree the adjustments to the Work do not affect the Total Compensation or the Completion Date. Both parties must sign the DSI. If Contractor believes that the proposed supplemental instructions will involve extra cost or extend the Completion Date and the District continues to direct that the DSI be implemented, Contractor shall implement said instructions and may submit a Change Order, subject to the dispute resolution procedure. In an emergency condition, the parties shall follow the procedure for "Emergency Changes in the Work."
- (b) **Change Orders**
- (i) The District may alter, add to, or deduct from the Work by executing a Change Order without liability to Contractor, except for the reasonable cost of any additional Work. All such Work within Contractor's capacity to perform shall be performed pursuant to the Change Order. Any associated claim for extension of time will be adjusted when the Change Order is issued. The parties shall negotiate the cost of the Change Order on an equitable basis, which may be determined in one or more of the following ways: (1) estimate and acceptance of a lump sum, (2) unit prices named in the contract or subsequently agreed upon, (3) costs and percentage or by (4) cost and a fixed fee. If the parties cannot agree upon cost, Contractor shall implement

the Change Order and shall maintain and present in such form as the District Project Manager may direct the correct amount of the net cost of labor and materials, together with vouchers. The Project Manager will certify the amount due Contractor, including reasonable allowances for overhead and profit. Pending a final determination of value, payments will be based upon the District Project Manager's certification. Final resolution of the amount due to Contractor shall be pursuant to the dispute resolution procedure.

- (ii) For any Change Order requests submitted by Contractor, the District may determine that District instructions to correct deficient Work, to stop the Work due to deficiencies in the Work, or any other matters that impose additional costs upon Contractor, do not warrant an increase in the Total Compensation or extension of the Completion Date. If Contractor disputes this determination, final resolution shall be pursuant to the dispute resolution procedure.
- (c) **Emergency Changes in Work.** In the event an emergency endangering life or property requires immediate action, the District may give Contractor an oral instruction to proceed with an emergency change in the Work, which will be confirmed in writing within five days. Within 15 days after commencement of the emergency change in the Work, Contractor shall provide the District with a written estimate of any increased costs or delays as a result thereof. **Failure to so notify the District constitutes a waiver of any right to an extension of time or increase in compensation.** Within 15 days after receipt of Contractor's estimate, the parties shall negotiate a Change Order. If unable to reach agreement, disputed issues shall be resolved pursuant to the dispute resolution procedure. In no event shall Contractor decline to perform the emergency change in the Work.
- (d) **Supplemental Work allowance (SWA).** The District has included a SWA in the amount of \$600,000 to cover Contractor activities not included in the construction drawings, technical specifications, or Scope/Statement of Work (i.e., changes to the quantities, unforeseen site conditions, or changes to the work). SWA Funds can only be released through issuance of a written Supplemental Work Allowance Authorization form (Attachment E). Escalation costs are not considered a compensable cost under this allowance. All escalation costs, if any, will be borne by Contractor.

15. TERMINATION AND SUSPENSION

- (a) **District Termination for Cause.** The Agreement may be terminated by the District for cause in the event of any breach hereof, including, but not limited to, Contractor's: (1) failing to carry forward and complete the Work as provided herein; (2) failing to comply with applicable laws, regulations, permits, or ordinances; (3) failing to timely correct defective Work; (4) making a general assignment for the benefit of its creditors; (5) having a receiver appointed because of insolvency; (6) filing bankruptcy or having a petition for involuntary bankruptcy filed against it; (7) failing to make payments when due to subcontractors, vendors, or others for materials or labor used in the Work; (8) making a material misrepresentation to the District regarding the Work, or (9) any other material breach of this Agreement. In such event, the District shall provide Contractor with written notice of its intention to terminate this Agreement, stating the nature of the deficiency and the effective date of termination. At the District's sole judgment and discretion, the District may afford Contractor an opportunity to cure said deficiency, in which event the notice shall specify the time allowed. Upon termination, the District may take possession of the premises and of all materials thereon and finish the Work by whatever means it deems expedient. In such event, Contractor shall not receive any further payment until the Work is completed by the District. Contractor shall be liable for all costs involved in completing the Work, including additional managerial and administrative services, which shall be offset against any amount due to Contractor.
- (b) **District Termination for Convenience.** Notwithstanding any other provision hereof, the District may at any time terminate this Agreement or any Work issued under it, in whole or in part, without cause, upon 30 days' written notice to Contractor. In such event, Contractor shall be compensated for

any Work performed prior to the date of termination and for materials that were ordered prior to receipt of notice of termination that cannot be returned to the vendor, which shall become District property. Upon receipt of notice, Contractor shall discontinue the Work on the date and to the extent specified therein and shall place no further orders for materials, equipment, services, or facilities, except as needed to continue any portion of the Work not terminated. Contractor shall also make every reasonable effort to cancel, upon terms satisfactory to the District, all orders or subcontracts related to the terminated Work. Contractor may not claim any compensation not specifically provided for herein, including, but not limited to: loss of anticipated profits; idle equipment, labor, and facilities; any additional claims of subcontractors and vendors.

- (c) **District Suspension for Cause.** The District may issue a written partial or full Stop Work Notice in the event Contractor fails to comply with or is negligent in performing any provision hereof. All performance shall immediately cease as per such notice and no further billable costs shall be incurred. The District may terminate this Agreement if Contractor fails or refuses to comply with a Stop Work Notice.
- (d) **District Suspension for Convenience.** The District may direct Contractor to stop Work, in whole or in part, whenever, in the District's sole judgment and discretion, such stoppage is necessary to ensure proper completion of the Work, avoid injury to third persons, or otherwise meet the District's objectives. The District shall provide Contractor not less than five days' written notice, except in emergency circumstances. Contractor shall immediately comply with such notice. Should such stoppage increase Contractor's cost, an equitable adjustment will be made by Change Order. The notice shall be effective until rescinded in writing, unless the period of suspension is stated in the notice.
- (e) **Contractor's Right to Stop Work or Terminate Agreement**
- (i) **Stop Work.** Contractor may stop work only under the following circumstances: (1) the Work is ordered temporarily discontinued by a court or other public authority; (2) it is necessary to stop work in order to protect the safety of Contractor or third persons; or (3) the District fails to pay Contractor when due any undisputed and adequately documented sum certified for payment by the District Project Manager. In such event, Contractor shall provide the District not less than seven days prior written notice of its intention to stop work, except in emergency circumstances or when necessary to prevent injury to persons or property.
- (ii) **Termination.** Contractor may terminate this Agreement under only the following circumstances: (1) the Work is ordered discontinued by a court or other public authority, through no act or fault of Contractor, for a period of not less than three months; (2) the District fails to pay Contractor when due any undisputed and adequately documented sum certified for payment by the District Project Manager. In such event, Contractor shall provide not less than 20 days written notice of its intention to terminate and afford the District the opportunity to cure said deficiency within said time period.
- (iii) **Duty to Perform.** Except as expressly provided above, in the event of any event, dispute, or other matter arising under this Agreement, Contractor shall fully perform the Work in accordance with the District's written instructions and may claim additional compensation as a Change Order, subject to the dispute resolution procedure.

ADDITIONAL PROVISIONS (In Alphabetical Order)

16. DEFINITIONS

ADDENDA: Written or graphic instruments issued prior to the opening of responses, which make additions, deletions, or revisions to the solicitation or contract documents.

AGREEMENT: The written contract between the District and Contractor covering the Work, which includes all documents attached to this Agreement or incorporated herein by reference. The words “contract” and “Agreement” are synonymous in these documents.

AMENDMENT: Any written change made to the terms and conditions of the Agreement.

BID: The written offer of Respondent (when submitted on the reproduced approved forms) to perform the Work and furnish the necessary materials in accordance with the provisions of this Agreement.

BID BOND: The security furnished with a Bid to guarantee that Respondent will enter into a contract and execute, deliver, and perform all other obligations described in the Two-Step Invitation for Bids if Contractor receives a Notice of Intent to Award the contract from the District.

BUSINESS DAY: Monday through Friday, excepting those holidays observed by the District – New Years Day, Martin Luther King Day, Memorial Day, Independence Day, Labor Day, Veteran’s Day, Thanksgiving (and Friday), and Christmas Day.

CHANGE ORDER: A written agreement of the parties after the Effective Date to amend this Agreement so as to modify the Statement of Work or the Total Compensation or provide for an extension of time.

CONTRACTOR: Contractor, its officers, employees, agents, successors, and assigns.

CONTRACTOR’S PROJECT MANAGER: The individual designated by Contractor to be responsible for overall coordination, oversight, and management of the Work for Contractor.

CONTRACTOR’S QUALITY CONTROL (CQC) MANAGER: The individual responsible for overall management of the CQC system the authority to act in all CQC matters for Contractor.

CONTRACTOR’S SAFETY OFFICER: The individual responsible for overall safety of the project and the authority to act in all safety matters for Contractor.

CONTRACTOR’S SUPERINTENDENT: Contractor’s representative who is present during the progress of the Work and authorized to receive and fulfill instructions from Contractor’s Project Manager or the District.

CPM or CRITICAL PATH METHOD: The use of a calculated task duration with no regard for probabilities. A path has no float and is the longest path through the project. A critical path encompasses those project activities that are crucial and cannot be shifted, having a calculated task duration. They are the important activities driving the project. Float belongs to the District.

DELIVERABLES: All Work that is to be performed pursuant to the Statement of Work, in whole or in part, including, but not limited to, all equipment or materials that are incorporated within the Work.

DISTRICT’S PROJECT MANAGER: The District employee designated by the District to be responsible for overall coordination, oversight, and management of the Work for the District.

FINAL RELEASE OF LIENS: The instrument that is to be signed by Contractor and submitted to the District upon completion of the Work showing that all bills from subcontractors have been paid.

TWO-STEP INVITATION FOR BIDS: An advertised solicitation for sealed competitive Qualifications and Bids, with the title, date, and hour of the public openings designated. It includes a detailed description of the goods and/or services sought, the dates for submittal of Qualifications and Bids, and all contractual terms and conditions.

INSPECTOR: The District’s Project Manager or an authorized representative of the District who is assigned to inspect the Work.

PERFORMANCE AND PAYMENT BOND: The security furnished by Contractor and surety in the form provided by the District as a guarantee that Contractor will perform all of its contractual obligations

in accordance with the terms of the Agreement and pay in full all bills and accounts for material, labor, services, and supplies used directly or indirectly in the performing the Work.

PERSON: Any individual, partnership, society, association, joint stock company, corporation, estate, receiver, trustee, assignee, referee, or capacity, whether appointed by a court or others, and any combination of individuals.

PRINCIPAL: When used in a bid, proposal, or Performance and Payment Bond, the word “principal” means the same as the word “Contractor.”

SCOPE/STATEMENT OF WORK: The District’s written directions, requirements and technical specifications for completing the Work. Standards for specifying materials or testing that are incorporated therein by reference shall have the same force and effect as if fully set forth therein.

SUBCONTRACTORS: Those persons having a direct contract with Contractor relating to performance of the Work, including one who furnishes material worked into a special design in accordance with the plans or specifications of the Work, but not including one who merely furnishes material.

SURETY: The person bound by the Agreement bond with and for Contractor, and who is primarily liable and engages to be responsible for Contractor’s satisfactory performance of the Work and for its payment of all debts pertaining thereto.

TOTAL BID: The total cost to be paid to Contractor for completion of the Work.

TOTAL COMPENSATION: The total funds to be expended pursuant to this Agreement upon satisfactory completion of the Work.

WORK: All labor, materials, equipment, transportation, supporting documentation, and other products, services, or facilities necessary for complete performance of the Agreement.

17. ACCESS; WORK AREA; GATES

- (a) **Access.** The District will provide sufficient access to accomplish the Work. Contractor shall maintain all on-site roadways and paved and unpaved access roadways to and from the worksite in an acceptable and passable condition at no additional cost to the District, which shall, upon conclusion of the Work, be returned to their original condition. Land access to construction sites is restricted to the route designated by the District. Contractor is responsible for improvements and repairs to access routes required during construction. All access routes shall be used for the purpose of construction only. Contractor shall not disturb lands or waters outside the area of construction, except as may be found necessary and authorized by the District.
- (b) **Work Area.** All Work shall be confined to the designated work area(s). Contractor shall obtain written approval from the District before making any adjustments.
- (c) **Gates.** Contractor shall keep all gates to District lands or easements closed and locked in accordance with District specifications when not in use, and shall immediately notify the District when a gate has become impaired due to vandalism or other cause. Unless otherwise stated in the specifications, Contractor shall be responsible for providing lock(s) to District properties.

18. ASSIGNMENT AND SUBCONTRACTS

- (a) Contractor shall not sublet, assign, or transfer any Work involving more than 60% of the total value of the Work, or assign any monies due hereunder, without the District’s prior written consent. **At least 40% of the total value of the work must be performed directly by Contractor’s workforce (i.e., not a subcontractor) . Additionally, at least 40% of the construction labor hours expended on the project site (excluding supervisory, management, quality contractor manager, and safety officer hours) must be performed by the prime Contractor’s own workforce (i.e., on Contractor’s direct payroll).** As soon as practicable after signing this Agreement, but not less than

seven business days prior to the effective date of any subcontracts, Contractor shall notify the District's Project Manager in writing of the name of any subcontractor that has not been previously disclosed in the procurement process. Within five business days the District shall indicate its approval or disapproval, which shall not be unreasonably withheld. Failure to timely provide such approval or disapproval shall constitute approval. Neither District approval of a subcontractor nor any other provision of this Agreement creates a contractual relationship between any subcontractor and the District.

- (b) Contractor is responsible for fulfilling all work elements in any subcontracts and payment of all monies due. Contractor is fully responsible to the District for the acts and omissions of its subcontractors and persons directly or indirectly employed by them, and shall hold the District harmless from any liability or damages resulting from any subcontract to the extent allowed by law.

19. **AUDIT; ACCESS TO RECORDS.** Contractor must preserve its books and other records involving transactions related to this Agreement and provide the District, or its duly authorized representatives, access and necessary facilities to inspect and audit those records for five years after the receipt of funds. If an examination or audit is performed, Contractor must continue to maintain all required records until such audit has been completed and all questions arising from it are resolved. Contractor shall refund any payment(s) that are found to not constitute allowable costs based upon an audit examination.

20. BONDS

- (a) **Payment Bond.** A payment bond equal to the Total Compensation is required for fixed price contracts greater than \$200,000.
- (b) **Performance Bond.** A performance bond equal to the Total Compensation is required for fixed price contracts greater than \$200,000.
- (c) **Recording.** Bonds shall be recorded in the public records of the county where the Work is located. A certified copy of completed and recorded bonds must be delivered to and accepted by the District prior to commencement of the Work. Bond premiums shall be paid by Contractor. **Bonds must be on the form provided in the Bid Documents** and written through a licensed agency that fulfills the requirements of §287.0935, Fla. Stat.
- (d) **Qualification-Management and Strength.** The Surety executing a bond must be rated no less than "Excellent" for both financial strength and issuer credit, with a rating outlook of stable or positive for both, and must have a financial size rating of VII or better according to the latest information available from A.M. Best Company, Inc.'s, rating and analysis website.

21. **CIVIL RIGHTS.** Pursuant to chapter 760, Fla. Stat., Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, pregnancy, or national origin, age, handicap, or marital status.

22. **CLEANUP; EQUIPMENT REMOVAL.** Upon expiration or termination of this Agreement, Contractor shall restore the worksite to its original condition, except for replacement of vegetation, unless otherwise required by this Agreement. Contractor shall remove all public and private property all machinery, equipment, supplies, surplus materials, temporary structures, rubbish, and waste materials resulting from its activities. After 20 days, the District may sell or dispose of any materials left at the worksite as it sees fit and deduct the cost of sale or disposal from any amounts due to Contractor. Any revenues obtained shall be applied toward costs incurred by the District, with excess revenues paid to Contractor.

23. **COOPERATION WITH THE INSPECTOR GENERAL, PURSUANT TO §20.055(5) FLA. STAT.** Contractor and any subcontractors understand and will comply with their duty, pursuant to §20.055(5),

Fla. Stat., to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing.

24. COORDINATION WITH THE DISTRICT AND OTHER DISTRICT CONTRACTORS

- (a) The District may let other contracts in connection with the Work. Wherever work done by the District or another District contractor is contiguous to Contractor's Work, the respective rights of the various interests shall be established by the District so as to secure completion of the Work. Contractor shall arrange its Work so as not to interfere with the District or other District contractors and join its Work to that of others in a proper manner, and in accordance with the intent of the Statement of Work. Contractor shall perform its Work in the proper sequence in relation to that of other District contractors, as may be directed by the District. Contractor shall afford other District contractors reasonable opportunity for introduction and storage of their materials and execution of their work, and shall properly conduct and coordinate its Work with theirs. Contractor shall take into account all contingent work to be done by others and shall not plead its want of knowledge of such contingent work as a basis for delay or non-performance. Contractor shall be liable for any damage it causes to the work performed by other District contractors.
- (b) If any part of the Work depends for proper execution or results upon the work of other District contractors, Contractor shall inspect and promptly report any defects in the other contractors' work that render it unsuitable for Contractor's Work. Failure to so inspect and report shall constitute an acceptance of the other contractors' work as fit and proper for the reception of its Work, except as to defects which may develop in the other contractors' work after execution of the Work.

25. CORRELATION AND INTENT OF DOCUMENTS; QUESTIONS OR ISSUES REGARDING PERFORMANCE OF THE WORK

- (a) This Agreement and all attachments are complementary. What is called for by one is as binding as if called for by all. The intent is to include all labor and materials, equipment, transportation, and incidentals necessary for the proper and complete execution of the Work. Materials or work described in words, which so applied have a well-known technical or trade meaning, shall be held to refer to such recognized standards.
- (b) It is the District's intention to fully assist Contractor in the successful performance of the Work and to respond in a timely manner to questions or issues that arise. Contractor should discuss any questions or issues with the District's Project Manager and communicate such questions or issues in writing when required by this Agreement. The District shall respond through its Project Manager.

26. DISPUTE RESOLUTION

- (a) **During the course of work.** In the event any dispute arises during the course of the Work, Contractor shall fully perform the Work in accordance with the District's written instructions and may claim additional compensation. Contractor is under a duty to seek clarification and resolution of any issue, discrepancy, or dispute by submitting a formal request for additional compensation, schedule adjustment, or other dispute resolution to the District's Project Manager no later than 15 days after the precipitating event. If not resolved by the Project Manager within five business days, the Project Manager shall forward the request to the District's Office of General Counsel, which shall issue a written decision within 15 days of receipt. This determination shall constitute final action of the District and shall then be subject to judicial review upon completion of the Work. **Contractor shall proceed with the Work in accordance with said determination. This shall not waive Contractor's position regarding the matter in dispute.**
- (b) **Invoices.** In the event the District rejects an invoice as improper, and Contractor declines to modify the invoice, Contractor must notify the District in writing within ten days of receipt of notice of rejection that Contractor will not modify the invoice and state the reason(s) therefor. Within five

business days of receipt of such notice, if not informally resolved through discussion with the District Project Manager, the Project Manager shall forward the disputed invoice and Contractor's written response to the District's Office of General Counsel. The matter shall then proceed as described in subsection (a), above.

27. **DIVERSITY.** The District is committed to the opportunity for diversity in the award and performance of all procurement activities. The District encourages Respondents to make a good faith effort to ensure that women and minority-owned business enterprises (W/MBE) are given the opportunity for maximum participation as second and lower tier participants. The District will assist Respondents by sharing information on W/MBEs to encourage their participation.

28. **DUTY TO INSPECT AND REPORT DEFICIENCIES IN PLANS AND SPECIFICATIONS**

- (a) For any Work that is dependent upon conditions at the worksite, Contractor's acceptance of contract award represents and warrants that Contractor has inspected and satisfied itself concerning the nature and location of the Work and general and local conditions, including, without limitation: (1) conditions affecting transportation, disposal, handling, and storage of materials; (2) availability and quality of labor; (3) availability and condition of roads; (4) climatic conditions and seasons; (5) hydrology of the terrain; (6) topography and ground surface conditions; (7) nature and quantity of surface materials to be encountered; (8) equipment and facilities needed preliminary to and during the Work; and (9) all other matters that can affect the Work and the cost thereof. Contractor's failure to acquaint itself with such conditions will not relieve it from its responsibility for properly estimating the time required or cost of performing the Work. Where the District has investigated subsurface conditions, this data may be provided to Contractor or is available upon request. Contractor must either seek clarification concerning the data or assume the responsibility for its interpretation.
- (b) If Contractor discovers hidden or subsurface conditions that differ materially from those normally expected or indicated in the technical specifications or drawings, Contractor shall immediately, and before such conditions are disturbed, notify the District in writing of: (1) subsurface or latent physical conditions differing materially from those indicated in the technical specifications or drawings, or (2) unknown physical conditions of an unusual nature differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for herein. The District shall promptly investigate the conditions and determine whether they materially differ so as to cause an increase or decrease in Contractor's cost. Where the differing site conditions materially impact Contractor's cost, an equitable adjustment shall be made and the Agreement modified accordingly. No claim will be allowed if Contractor fails to provide the required notice.
- (c) If Contractor in the course of the Work finds any defect in the plans and specifications, including, but not limited to, any discrepancy between the drawings and the physical conditions at the worksite, or any errors or omissions in the drawings or in the layout, as given by points and instructions, it shall immediately inform the District in writing, which shall be promptly verified by the District. Any Work done after such discovery, until authorized, will be done at Contractor's risk as to cost overruns and modifications necessary to correct deficiencies in the Work. To ensure the proper execution of its subsequent Work, Contractor shall measure Work already in place or completed and shall immediately report any discrepancy between the executed Work and the drawings or other specifications.

29. **EMPLOYMENT ELIGIBILITY.**

- (a) Pursuant to §448.095, Fla. Stat., Contractor must use the United States Department of Homeland Security's E-Verify system ("E-Verify") to verify the work authorization status of all newly hired employees during the term of this Agreement. Within 30 days of this Agreement's Effective Date, Contractor must provide the District with evidence that Contractor is enrolled in the E-Verify

system. Answers to questions regarding E-Verify as well as instructions on enrollment may be found at the E-Verify website: www.e-verify.gov.

- (b) Contractor shall include in related subcontracts, if authorized under this Agreement, a requirement that subcontractors performing work or providing services pursuant to this Agreement utilize the E-Verify System to verify employment eligibility of all employees used by the subcontractor in the performance of the Work. The subcontractor must provide Contractor with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. Contractor must maintain a copy of such affidavit for the duration of the Agreement. If the District has a good faith belief that a subcontractor knowingly violated §448.095, Fla. Stat., and notifies Contractor of such, but the Contractor has otherwise complied with the statute, then Contractor shall immediately terminate the contract with the subcontractor.

30. GOVERNING LAW, VENUE, ATTORNEY’S FEES, WAIVER OF RIGHT TO JURY TRIAL.

This Agreement shall be construed according to the laws of Florida and shall not be construed more strictly against one party than against the other because it may have been drafted by one of the parties. As used herein, “shall” is always mandatory. In the event of any legal proceedings arising from or related to this Agreement: (1) venue for any state proceedings shall be in Putnam County (2) venue for any federal legal proceedings shall be in Duval County; (3) each party shall bear its own attorney’s fees, including appeals; (4) for civil proceedings, the parties hereby consent to trial by the court and waive the right to jury trial.

- 31. INTEREST IN THE BUSINESS OF CONTRACTOR; NON-LOBBYING.** Contractor certifies that no officer, agent, or employee of the District has any material interest, as defined in chapter 112, Fla. Stat., either directly or indirectly, in the business of Contractor to be conducted under this Agreement, and that no such person shall have any such interest at any time during the term of this Agreement. Pursuant to §216.347, Fla. Stat., monies received from the District pursuant to this Agreement shall not be used to lobby the Florida Legislature or any other state agency.

- 32. INDEPENDENT CONTRACTOR.** Contractor is an independent contractor. Neither Contractor nor Contractor’s employees are employees or agents of the District. Contractor controls and directs the means and methods by which the Work is accomplished. Contractor is solely responsible for compliance with all labor and tax laws pertaining to it, its officers, agents, and employees, and shall indemnify and hold the District harmless from any failure to comply with such laws. Contractor’s duties include, but not be limited to: (1) providing Workers’ Compensation coverage for employees as required by law; (2) hiring employees or subcontractors necessary to perform the Work; (3) providing any and all employment benefits, including, but not limited to, annual leave, sick leave, paid holidays, health insurance, retirement benefits, and disability insurance; (4) payment of all federal, state and local taxes, income or employment taxes, and, if Contractor is not a corporation, self-employment (Social Security) taxes; (5) compliance with the Fair Labor Standards Act, 29 U.S.C. §§ 201, et seq., including payment of overtime as required by said Act; (6) compliance with the Patient Protection and Affordable Care Act 42 U.S.C. §§ 18001, et seq.; and (7) providing employee training, office or other facilities, equipment and materials for all functions necessary to perform the Work. In the event the District provides training, equipment, materials, or facilities to meet specific District needs or otherwise facilitate performance of the Work, this shall not affect Contractor’s duties hereunder or alter Contractor’s status as an independent contractor. This paragraph does not create an affirmative obligation to provide any employee benefits not required by law.

33. INSPECTION AND TESTING OF WORK; REJECTION OF WORK AND MATERIALS; TOOLS, PLANT, AND EQUIPMENT; MATERIAL SUBSTITUTION

- (a) **Standards for Quality and Workmanship.** All materials, equipment, and supplies furnished by Contractor for permanent incorporation into the Work shall be new and of the quality standards

specified. Unless otherwise specified, all material and workmanship shall meet the requirements in the applicable standards specifications of the American Society for Testing and Materials. If two or more brands, makes of material, devices, or equipment are shown or specified, each should be regarded as the equal of the other. First-calls and the finished product shall be equal to the best-accepted standards of the trade class. The finished product shall be equal to the best-accepted standards of the trade for the category of Work performed. The District's intent is to obtain a high-quality job that will operate and function with the lowest possible maintenance costs. Inspection standards will be established to ensure that this objective is achieved.

- (b) **Materials and Equipment Schedules.** The District shall have the right of prior approval for all materials or equipment incorporated into the Work. Within ten days after the date of contract award and before any material or equipment is purchased, Contractor shall submit to the District's Project Manager a complete list of materials or equipment to be incorporated into the Work. The list shall include catalog cuts, diagrams, drawings, and such other descriptive data as may be required. The use of materials or equipment not in accordance with this Agreement may be rejected.
- (c) **Inspection.** The Work and all materials or equipment used therefor are subject to inspection by the District at all times in order to ensure compliance herewith. Upon request, Contractor shall provide samples of the type and quantity of the various materials used in the Work, as determined and directed by the District. The District's Project Manager and inspector(s) shall be provided access to the Work wherever it is in preparation or progress. Contractor shall provide proper facilities for such access and inspection. Construction contractors shall maintain one complete copy of the drawings and specifications for the Work at the worksite, which shall be made available to the District upon request.
- (d) **Re-examination of Work.** The District may order re-examination of questioned Work and, if so ordered, the Work shall be uncovered by Contractor. If such Work is found to be in accordance with specifications, the District will pay the cost of re-examination and replacement. If such Work is found to be not in accordance with specifications, Contractor will pay such cost.
- (e) **Testing**
 - (i) The District may require that materials be tested prior to incorporation in the Work. In some instances it may be expedient to make these tests at the source of supply. Therefore, upon request, Contractor shall furnish the District with information identifying the source of supply before incorporating material into the Work. Upon request, Contractor shall furnish two copies of the manufacturer's certificate of compliance with these specifications covering manufactured items. All tests performed by a laboratory to ascertain whether the material, as placed, meets the required specification will be paid for by Contractor. This paragraph does not obligate the District to perform tests for acceptance of material or relieve Contractor of its responsibility to furnish satisfactory material.
 - (ii) If the specifications, the District's instructions, laws, ordinances, or any public authority require any Work to be specifically tested or approved, Contractor shall give the District's Project Manager timely notice of its readiness for inspection. If inspection is by an authority other than the District's Project Manager, Contractor's Project Manager shall supply the District's Project Manager with 72-hours prior notice of such inspection. Inspections by the District's Project Manager will be made promptly and, where practicable, at the source of supply. If any Work should be covered up without the prior approval of the District's Project Manager, it shall, if required by the District, be uncovered for examination at Contractor's expense.
- (f) **Rejection of Work and Materials.** Contractor shall promptly notify the District of any defective material and shall not incorporate such material into the Work. The District may reject all Work and material that does not conform to this Agreement, which shall be removed and replaced with approved quality material at no additional cost to the District. If the District deems any portion of the

Work unsatisfactory, Contractor shall rework those areas so that the total Work is completed in a manner satisfactory to the District. If disputed, Contractor may submit a Change Order, subject to the dispute resolution procedure.

- (g) **Tools, Plant, and Equipment.** If at any time before commencement of or during progress of the Work, tools, plant, or equipment appear to the District to be insufficient, inefficient, or inappropriate to secure the quality of Work or the proper rate of progress, the District may order Contractor to increase its efficiency, to improve its character, or to augment the number of or substitute new tools, plant, or equipment, as the case may be. Contractor shall conform to such order. If Contractor maintains that any such order is not in conformance with this Agreement, is unnecessary, or requires Contractor to incur excessive costs or delays, Contractor may submit a Change Order, subject to the dispute resolution procedure. Failure of the District to make such demand shall not relieve Contractor of its obligation to secure the quality of the Work and the rate of progress necessary to timely complete the Work.
- (h) **Material substitution.** Except where otherwise indicated, whenever a material or a piece of equipment required in the Work is shown in the specifications by using the name of the proprietary product or that of a particular manufacturer or vendor, any material, equipment, device, or article that will in the District's opinion at least equally perform the same duties imposed by the general design, considering quality, workmanship, economy of operation, and suitability for the purpose intended, may be considered "equal" and substituted for the material or piece of equipment originally specified. In the event Contractor desires the District to consider an item for substitution, Contractor shall submit a written request, which shall give all pertinent details and comparisons of the substitute with the item specified. The District will notify Contractor in writing of its acceptance or rejection. In all cases, new material shall be used. Contractor shall pay all costs resulting from inspection or testing of materials or equipment proposed for substitution.
34. **LAND AND WATER RESOURCES.** Contractor shall not discharge or permit the discharge, directly or indirectly, of any fuels, oils, calcium chloride, acids, insecticides, herbicides, wastes, toxic or hazardous substances, or other pollutants or harmful materials, onto any lands or into any surface or ground waters, including, but not limited to, streams, lakes, rivers, canals, ditches, or reservoirs. Contractor shall investigate and comply with all applicable federal, state, county, and municipal laws concerning toxic wastes, hazardous substances, and pollution of surface and ground waters. If any waste, toxic or hazardous substance, or other material that can cause pollution, as defined in §403.031, Fla. Stat., is dumped or spilled in unauthorized areas, Contractor shall notify the District thereof within one workday and thereafter shall remove the material and restore the area to its original condition. If necessary, contaminated ground shall be excavated and disposed of as directed by the District and replaced with suitable fill material, compacted, and finished with topsoil, and planted as required to re-establish vegetation. All cleanup and disposal costs shall be borne by Contractor.
35. **LIENS.** Neither final payment nor payment of any part of the retainage shall become due until Contractor delivers to the District releases of all labor and material cost liens arising from Contractor's performance of the Work, including Contractor and any subcontractor(s), and an affidavit by Contractor stating that the releases and receipts include all labor and material costs for which a lien could be filed. If any subcontractor refuses to furnish Contractor a release or a receipt in full, Contractor may furnish to the District a bond satisfactory to the District, indemnifying the District against any such potential lien. If any lien or potential lien remains unsatisfied, the District may discharge the same forthwith and deduct the cost thereof from any amounts due to Contractor. In the event Contractor has been fully paid or the amount of such lien exceeds the amount due to Contractor, Contractor shall refund to the District all monies that the District paid in discharging such lien, including all costs and a reasonable attorney's fee. The discharging of such a lien by the District shall not constitute a waiver of any claims of defenses that Contractor may have against the lienor.

36. **NUISANCE.** Contractor shall exercise every reasonable means to avoid creating or continuing a public or private nuisance resulting from the Work, including, but not limited to: (1) excessive noise associated with radio or other forms of electronic entertainment for persons at the worksite; (2) dust from construction operations, and (3) the uncontrolled flow of surface waters.
37. **PERMITS AND LICENSES; COMPLIANCE WITH LAW.** Contractor shall comply with all applicable federal, state, and local laws and regulations, including those pertaining to health and safety. Contractor shall include this requirement in all subcontracts. All materials used and work performed must conform to the laws of the United States, the State of Florida and county and municipal ordinances. Contractor represents and warrants that it is duly licensed to perform the Work in accordance with the laws of the State of Florida and the county or municipality in which the Work is to be performed. For out-of-state contractors, Contractor warrants that it is authorized to do business within the state of Florida and registered with the Secretary of State. Unless otherwise provided in the Statement of Work, the responsibility of the parties for obtaining permits is apportioned as follows:
- (a) The District shall procure all permits required from the Florida Department of Environmental Protection, the U.S. Environmental Protection Agency, and the U.S. Army Corps of Engineers.
 - (b) Contractor shall procure any permits required by the county or municipality wherein the Work is located.
 - (c) Contractor shall:
 - (i) give to the proper authorities all required notices relative to the Work;
 - (ii) obtain and pay for all official permits and any professional or other licenses, code stamps, and inspections that are Contractor's responsibility;
 - (iii) furnish any bonds, security, or deposits required to permit performance of the Work;
 - (iv) until the Work is accepted as substantially complete, comply with all conditions of governmental permits; and
 - (v) resolve any issues resulting from a finding of noncompliance by any governmental agencies, including all costs for delays, litigation, fines, or other costs.
38. **PETROLEUM STORAGE TANKS.** Any petroleum storage tanks with a capacity of 55 gallons or greater that Contractor brings onto District property must be either double-walled or kept within secondary containment that will contain 110% of the tank volume.
39. **PROTECTION OF THE WORK, DISTRICT EQUIPMENT, AND PROPERTY.** Contractor is responsible for the proper care of the Work and protecting the Work from damage until final acceptance by the District, whether or not the same has been covered by partial payments. Contractor is solely responsible for all District-owned equipment in its possession, if any. Contractor shall adequately protect and maintain all passageways, guard fences, lights, and other facilities as required by public authority or local conditions. Contractor is responsible for locating and protecting all utilities. Contractor shall conduct the Work so as to minimize damage to existing improvements, and shall restore, as nearly as practical, to its original condition, any such improvements damaged by its operations. In the event of temporary suspension of the Work, or during inclement weather, or whenever the District shall direct, Contractor shall carefully protect the Work from damage. If any Work is damaged due to Contractor's failure to so protect the Work, the loss shall be remedied at Contractor's expense. Contractor shall protect public and privately-owned property, structures, utilities, and work of any kind against damage or interruptions of service resulting from its activities. Contractor shall repair, replace, or restore any damage or loss to any public or private property to the District's satisfaction. Should Contractor fail to perform these obligations, the District may make good any such damage and deduct the cost thereof from Contractor's final payment.

40. PUBLIC RECORDS

- (a) Contractor is responsible for identifying confidential trade secret information as such upon submittal to the District. Notwithstanding any other provision hereof, the District shall not be liable to Contractor for release of confidential information not identified as such upon submittal. If the District receives a public records request that requests information claimed to be confidential by Contractor, the District shall take such steps as are necessary to comply with chapter 119, Fla. Stat., while protecting the confidentiality of trade secret information. In the event of a dispute as to whether the requested information is a trade secret, Contractor shall be liable for all costs incurred by the District resulting from the dispute, including any court costs and attorney's fees. The calculation of those costs shall not include costs that are charged to the public records requestor.
- (b) Contractor shall comply with Florida Public Records law under Chapter 119, Fla. Stat. Records made or received in conjunction with this Agreement are public records under Florida law, as defined in §119.011(12), Fla. Stat. Contractor shall keep and maintain public records required by the District to perform the services under this Agreement.
- (c) If Contractor meets the definition of "Contractor" found in §119.0701(1)(a), Fla. Stat.; [i.e., an individual, partnership, corporation, or business entity that enters into a contract for services with a public agency and is acting on behalf of the public agency], then the following requirements apply:
 - (i) Pursuant to §119.0701, Fla. Stat., a request to inspect or copy public records relating to this Agreement for services must be made directly to the District. If the District does not possess the requested records, the District shall immediately notify Contractor of the request, and Contractor must provide the records to the District or allow the records to be inspected or copied within a reasonable time. If Contractor fails to provide the public records to the District within a reasonable time, Contractor may be subject to penalties under s. 119.10, Fla. Stat.
 - (ii) Upon request from the District's custodian of public records, Contractor shall provide the District with a copy of the 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, Fla. Stat., or as otherwise provided by law.
 - (iii) Contractor shall identify and ensure that all 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 the Agreement term and following completion of the Agreement if Contractor does not transfer the records to the District.
 - (iv) Upon completion of the Agreement, Contractor shall transfer, at no cost to District, all public records in possession of Contractor or keep and maintain public records required by the District to perform the services under this Agreement. If Contractor transfers all public records to the District upon completion of the Agreement, Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public disclosure requirements. If Contractor keeps and maintains public records upon completion of the Agreement, Contractor shall meet all applicable requirements for retaining public records. All records that are stored electronically must be provided to the District, upon request from the District's custodian of public records, in a format that is accessible by and compatible with the information technology systems of the District.
- (d) **IF CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLA. STAT., TO CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE DISTRICT'S CUSTODIAN OF PUBLIC RECORDS AT:**

District Clerk
St. Johns River Water Management District
4049 Reid Street
Palatka, Florida 32177-2571
(386) 329-4127
clerk@sjrwmd.com

41. **RELEASE OF INFORMATION.** Contractor shall not publish or release any information related to performance of this Agreement, or prepare, publish, or release any news or press release in any way related to this Agreement, without prior District review and written consent.
42. **REMEDIES FOR NON-PERFORMANCE**
- (a) **District Remedies.** The remedies enumerated herein are non-exclusive. In addition to the remedies set forth below, the District may avail itself of any statutory and/or common law remedies not set forth herein. In the event of a breach, the District may terminate this Agreement for cause. Alternatively, the District may allow Contractor to correct the deficiency, or may take such action as is necessary to correct such deficiency through District action or that of a third party. Delay or failure by the District to enforce any right or remedy hereunder shall not impair, or be deemed a waiver of, any such right or remedy, or impair the District's rights or remedies for any subsequent breach of this Agreement.
- (b) **Contractor Correction of Deficiencies.** The District shall provide Contractor with written notice of deficiency. At the District's sole judgment and discretion, the District may afford an opportunity to correct said deficiency, in which event the notice shall specify the time allowed to cure. If Contractor disputes that a failure of performance has occurred, Contractor shall, nevertheless, perform the corrective action and may submit a request for a Change Order subject to the dispute resolution procedure. Unless authorized through a Change Order, the Completion Date shall not be extended in order to correct deficiencies. Contractor shall bear the cost of correcting all work of other contractors that is destroyed, damaged, or otherwise negatively impacted by its corrective action. Failure to take timely corrective action may result in termination for cause or the District pursuing alternative remedies, as provided herein.
- (c) **Alternative Remedies to Correct Deficiency.** If the District determines that it is not in its best interest for Contractor to correct incomplete or damaged Work caused by Contractor's failure of performance, the District may pursue any or all of the following remedies, in whole or in part: (1) accept the Work as is and deduct the reasonable value of the deficient Work from the Total Compensation; (2) complete the Work through the utilization of District employees and deduct the cost thereof from the Total Compensation; (3) contract with a third party to complete the deficient Work and deduct the cost thereof from the Total Compensation.
- (d) **District Technical Assistance.** The District may elect to provide technical assistance to Contractor in order to complete satisfactory performance of the Work. If the District is performing a function that Contractor is required to perform, the District may deduct the cost of providing such technical assistance from the Total Compensation. Prior to providing any such technical assistance, the District shall notify Contractor that it considers such assistance to be above and beyond its duties under this Agreement and that it intends to deduct the cost of providing such assistance from the Total Compensation. Contractor shall not be entitled to reject technical assistance when the District determines that such assistance is necessary to complete the Work.
43. **ROYALTIES AND PATENTS.** Contractor certifies that, to the best of its information and belief, the Work does not infringe on any patent rights. Unless provided otherwise herein, Contractor shall: (1) pay

all royalties, patent, and license fees necessary for the Work; (2) defend all suits or claims for infringement of any patent rights, and (3) save and hold the District harmless from loss on account thereof; provided, however, that the District shall be responsible for any such losses when the utilization of a particular process or product of a particular manufacturer is specified by the District. If Contractor obtains information that the process or article so specified is a patent infringement, it shall be responsible for such loss unless it promptly so notifies the District.

44. SAFETY

- (a) Contractor shall hire a Safety Officer for the project. Alternatively, Contractor may designate the Project/Construction Superintendent to act in this capacity. Contractor's Safety Officer shall be onsite when any work is being accomplished at the project/construction site. This individual is responsible for overall safety of the project and the authority to act in all safety matters for Contractor.
- (b) For any Work that is to be performed on this project, Contractor has the sole and exclusive duty for the overall safety of the project/construction site. Contractor and any subcontractors performing services under this Agreement shall conform to all relevant U.S. Occupational Safety and Health Act (OSHA) regulations during the course of such effort. Any fines levied for failure to comply with these requirements shall be borne solely by the responsible contractor.
- (c) Contractor shall determine the need for and provide and maintain sufficient protection for the safety of its employees and other persons who may utilize the Premises. Protective clothing, equipment, and devices shall, at a minimum, conform to OSHA standards for the products being used.
- (d) All equipment used by Contractor shall always be maintained in a safe operating condition and be free from defects or wear that may in any way constitute a hazard to any person or persons on the Premises. Contractor shall prevent damage to District property, materials, and equipment.
- (e) Contractor shall always enforce strict discipline and good order among its employees and shall not employ any unfit person or anyone not skilled in the work assigned. Neither Contractor nor its subcontractors shall allow or cause to be allowed any hunting or any weapons, animals, alcohol, or drugs, on or from the Premises or adjacent property.
- (f) Contractor shall always exercise precaution for the protection of persons and property. Barricades must be provided when work is performed in areas traversed by persons, or when deemed necessary by the District's Project Manager. Contractor employees shall not park their vehicles or store equipment or materials adjacent to roads where it may be a hazard to traffic. A clear distance of at least 30 feet from the edge of the pavement or right-of-way shall be kept free of any obstacles unless otherwise authorized by the District. Contractor shall ensure that only authorized personnel are allowed on the worksite and shall post notices warning both employees and the public of all safety hazards created by Contractor.
- (g) Refer to the Technical Specifications for additional information and requirements relating to safety.

45. **SCRUTINIZED COMPANIES.** Contractor certifies that it is not on the Scrutinized Companies that Boycott Israel List or engaged in a boycott of Israel. Pursuant to §287.135, Fla. Stat., the District may terminate this Agreement at its sole option if Contractor is found to have submitted a false certification; or if Contractor is placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Agreement. If this Agreement is for more than one million dollars, Contractor certifies that it is also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in §287.135, Fla. Stat. Pursuant to §287.135, Fla. Stat., the District may terminate this Agreement at its sole option if Contractor is found to have submitted a false certification; or if Contractor is placed on the Scrutinized Companies with Activities in Sudan List,

or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of the Agreement.

46. **SUBSTANTIAL COMPLETION; PUNCH LIST.** Contractor shall notify the District in writing when it considers the Work to be substantially complete. “Substantially complete” is the point when the District can beneficially occupy its property and use the Work for its intended purpose, with only minor items remaining in order for the Work to be fully complete. Within 30 days of receipt of such notice, the District shall review the Work and determine whether the Work is substantially complete. If the District agrees that the Work is substantially complete, the District shall, within said 30-day period, develop a list of items (“Punch List”) required to render the Work complete, satisfactory, and acceptable in all respects. The Punch List shall be delivered to Contractor not later than five days after it is developed. Contractor shall complete the Punch List items by the Completion Date; provided, however, that if the Completion Date is less than 60 days after the date of delivery of the Punch List, the District may authorize an extension to the Completion Date of up to 60 days. Failure to include any corrective work or pending items not yet completed on the Punch List does not alter Contractor’s responsibility to complete all construction services required by the Agreement. Upon completion of all Punch List items, Contractor may request payment of any remaining retainage. If the District disputes the completion of any items on the Punch List, it may withhold up to 150% of the estimated cost of completing any such items, and shall return the remainder of the retainage to Contractor. Any disputed matters shall be resolved pursuant to the dispute resolution procedure of this Agreement. Refer to the Technical Specifications for additional information and requirements regarding Substantial Completion. In the event of a discrepancy regarding substantial completion between this Agreement and the Technical Specifications, the language in this Agreement shall govern.
47. **SURVEYS; PRESERVATION OF MONUMENTS; POINTS AND INSTRUCTION**
- (a) **Surveys.** When necessary to performance of the Work, unless otherwise provided in the Statement of Work, the District will furnish horizontal and vertical control necessary to lay out the Work, including horizontal reference point(s) and a vertical control benchmark within 200 feet of the site. The District will set the horizontal reference point(s) and vertical control only at the beginning of the job. Contractor is responsible for interim staking during the job and all staking and layout work not otherwise furnished by the District. Contractor shall furnish all construction layout of the Work, including layout, centerline, and grade stakes for access roadways. Contractor shall furnish all personnel, equipment, and materials to make such surveys as are necessary to determine the quantity of Work performed. Field notes and computations for estimates shall be verified by the District’s Project Manager as to the quantities estimated.
- (b) **Preservation of Monuments.** Contractor shall maintain and preserve all new and existing benchmarks, monuments, markers, reference points, and stakes established by others and/or the District. Should any of the aforesaid be destroyed or damaged by Contractor, the same shall be replaced by Contractor’s licensed land surveyor at no cost to the District. Contractor shall be responsible for the cost of any deficiencies in the Work caused by such loss or disturbance.
- (c) **Points and Instructions.** Contractor shall provide reasonable and necessary opportunities and facilities for setting points and making measurements. Contractor shall not proceed until it has made a timely request to the District for, and has received, such points and instructions as may be necessary as the Work progresses. The Work shall be done in strict conformity with such points and instructions.
- (d) Refer to Section 01050, Project Controls (Surveying) of the Technical Specifications for additional information and requirements regarding surveying. In the event of a discrepancy regarding surveying between this Agreement and the Technical Specifications, the language in this Agreement shall govern.

48. **TRENCH SAFETY.** In the performance of this contract, Contractor may be requested to supply cost estimates for trench excavation to a depth exceeding five feet. §553.62, Fla. Stat., incorporates the Occupational Safety and Health Administration's excavation safety standards, 29 CFR §1926.650 Subpart P, as the standard. Contractor shall separately estimate the cost of compliance with those standards as required by §553.63, Fla. Stat. Such estimate shall be based on the linear feet of trench to be excavated and shall include written assurance of compliance with those standards and any applicable special shoring requirements. Refer to the Technical Specifications for additional information and requirements relating to trench safety.
49. **USE OF COMPLETED PORTIONS OF THE WORK.** The District shall have the right to take possession of and use any completed or partially completed portions of the Work, notwithstanding the fact that the time for completing the entire Work or such portions may not have expired. Such taking of possession and use will not be deemed an acceptance of any Work not completed. If such possession and use increases the cost of or delays the Work, Contractor shall be entitled to a Change Order for extra compensation, or extension of time, as necessary, to offset the effect of such prior possession and use.
50. **WARRANTY**
- (a) Contractor warrants that the Work, workmanship, and material furnished by Contractor shall be new and of specified quality, shall conform to the requirements of this Agreement, shall be free from defects, and shall be free from any security interest, lien, or other encumbrances. This warranty shall remain in effect for a period of 12 months after completion of the Work, unless otherwise specified herein. Any defective Work, workmanship, or material corrected during the warranty period shall be similarly warranted for 12 months following its correction or for such other period as specified herein. The express warranty set forth herein shall not be exclusive and shall not act as a limitation upon any statutory or other warranty of any kind, express or implied, including any implied warranty of merchantability or fitness for a particular purpose.
 - (b) In the event of breach of this warranty, Contractor shall take the necessary actions to correct the breach in the most expedient manner as dictated by then-existing circumstances. All costs incidental to the repair, replacement, redesign, and testing incurred as a result thereof, including the removal, replacement, and reinstallation of equipment in place when the Work was started, shall be Contractor's responsibility. Upon written notification of a breach, Contractor shall promptly send the necessary personnel to the project site to assume responsibility for corrective action. Time is of the essence. Contractor shall be afforded necessary and reasonable access to perform warranty work. If Contractor fails to promptly correct the breach, the District may take corrective action without waiving any other rights or remedies it may have, and Contractor shall reimburse the District for all expenses reasonably incurred in performing such corrective action.
 - (c) Refer to the Technical Specifications for additional information and requirements relating to warranty. In the event of a discrepancy regarding warranty between this Agreement and the Technical Specifications, the language in this Agreement shall govern.
51. **WORK SCHEDULE.** For construction or other services at the project site, no Work shall be accomplished on official holidays or weekends unless approved in advance by the District Project Manager. Unless otherwise approved by the District Project Manager, Contractor's work hours on District property shall not commence before 7:00 a.m. and shall conclude on or before 6:00 p.m. All requests to change the schedule shall be coordinated with the District a minimum of 24 hours in advance of the change and confirmed in writing.

IN WITNESS WHEREOF, the St. Johns River Water Management District has caused this Agreement to be executed on the day and year written below in its name by its Executive Director, or duly authorized designee, and Contractor has caused this Agreement to be executed on the day and year written below in its name by its duly authorized representatives, and, if appropriate, has caused the seal of the corporation to be attached. This Agreement may be executed in separate counterparts, which shall not affect its validity. Upon execution, this Agreement constitutes the entire agreement of the parties, notwithstanding any stipulations, representations, agreements, or promises, oral or otherwise, not printed or inserted herein. This Agreement cannot be changed by any means other than written amendments referencing this Agreement and signed by all parties.

ST. JOHNS RIVER WATER
MANAGEMENT DISTRICT

CONTRACTOR

By: _____
Michael A. Register, P.E., Executive Director, or designee

By: _____

Typed Name and Title

Date: _____

Date: _____

Attest: _____

Typed Name and Title

Attachments:

- Attachment A — Statement of Work
- Attachment B — Insurance Requirements
- Attachment C — District’s Supplemental Instructions (sample)
- Attachment D — Contract Payment Requirement for State-Funded Cost Reimbursement Contracts
- Attachment E — District’s Supplemental Work Allowance Authorization (sample)
- Exhibit 1 — CDM Smith Technical Specifications, dated May 2023
- Exhibit 2 — CDM Smith Drawings, dated May 2023
- Exhibit 3 — Geotechnical Data Report

ATTACHMENT A — STATEMENT OF WORK
BLACK CREEK WATER RESOURCE DEVELOPMENT
AQUIFER RECHARGE AREA PROJECT

This Statement of Work includes and incorporates all the requirements set forth in the Technical specifications and drawings for this project prepared by the District's engineer, CDM Smith, which are attached hereto as Exhibits 1 and 2, respectively. The Geotechnical Report, prepared by CSI Geo, Inc., and provided by CDM Smith, is attached hereto as Exhibit 3.

NOTE:

Supplemental Work Allowance: The District will include a Supplemental Work Allowance (SWA) in the amount of \$600,000 in the Successful Respondent's agreement to cover activities not included in the construction drawings, technical specifications, or Scope/Statement of Work (i.e., changes to the quantities, unforeseen site conditions, or changes to the work). SWA Funds can only be released through issuance of a written Supplemental Work Allowance Authorization form (Attachment E). All escalation costs, if any, will be borne by Contractor.

ATTACHMENT B — INSURANCE REQUIREMENTS

Contractor shall acquire and maintain until completion of the Work the insurance coverage listed below, which constitutes primary coverage. Contractor shall not commence the Work until the District receives and approves Certificates of Insurance documenting required coverage. Contractor's General Liability policy shall include Endorsement CG 20 10 04 13, or equivalent, naming the St. Johns River Water Management District (the "District") as Additional Insured. All required policies shall include: (1) endorsement that waives any right of subrogation (Endorsement CG 24 04 05 09, or equivalent) against the District for any policy of insurance provided under this requirement or under any state or federal worker's compensation or employer's liability act; (2) endorsement to give the District no less than 30 days' notice in the event of cancellation or material change. Certificates of Insurance must be accompanied by copies of the requested endorsements.

Any deductibles or self-insured retentions above \$100,000 must be declared to and approved by the District. Approval will not be unreasonably withheld. Contractor is responsible for any deductible or self-insured retention. Insurance must be placed with insurers having an A.M. Best rating of A-V or greater. District receipt of insurance certificates providing less than the required coverage does not waive these insurance requirements.

- (a) **Workers' Compensation Insurance.** Workers' compensation and employer's liability coverage, including maritime workers' compensation, if applicable, in not less than the minimum limits required by Florida law. If Contractor claims an exemption from workers' compensation coverage, Contractor must provide a copy of the Certificate of Exemption from the Florida Division of Workers' Compensation for all officers or members of an LLC claiming exemption who will be participating in the Work. In addition, Contractor must provide a completed District "Affidavit (Non-Construction)" for non-construction contracts. Contractor is solely responsible for compliance with any Federal workers' compensation laws such as Jones Act and USL&H Act, including any benefits available to any workers performing work on this project.
- (b) **General Liability.** Commercial General Liability Insurance on an "Occurrence Basis," with limits of liability for each occurrence of not less than \$1,000,000 for personal injury, bodily injury, and property damage, with an aggregate of \$2,000,000. Coverage shall include: (1) contractual liability, (2) perils generally known as XCU (explosion, collapse, and underground property damage), subsidence, absolute earth movement (excepts as it pertains to earthquake peril only) or any equivalent peril, (3) products and completed operations, (4) independent contractors, and (5) property in the care, control, or custody of Contractor. Extensions shall be added or exclusions deleted to provide the necessary coverage.
- (c) **Automobile Liability.** \$500,000 combined single limit.
- (d) **Umbrella Policy.** Minimum limits of \$2,000,000 per occurrence.
- (e) **Pollution/Environmental Impairment Liability Coverage**
 - (i) Contractor is responsible to provide this coverage through its automobile liability, general liability, or a separate policy if it transports or stores fuel on a vehicle, trailer or piece of equipment.
 - (ii) Contractor is responsible to provide this coverage through its general liability or a separate policy if it has a fuel storage tank stationed on the worksite.

Policy Limits. Not less than \$1,000,000 per claim, personal injury, bodily injury, and property damage and remediation costs.

ATTACHMENT C — DISTRICT’S SUPPLEMENTAL INSTRUCTIONS (sample)

DISTRICT SUPPLEMENTAL INSTRUCTIONS #

DATE:

TO: _____

FROM: Robert Naleway, Project Manager

CONTRACT NUMBER: 38732

CONTRACT TITLE: Black Creek Water Resource Development Aquifer Recharge Area Project

The Work shall be carried out in accordance with the following supplemental instruction issued in accordance with the Contract Documents without change in the Contract Sum or Contract Time. Prior to proceeding in accordance with these instructions, indicate your acceptance of these instructions for minor adjustments to the work as consistent with the Contract Documents and return to the District’s Project Manager.

1. CONTRACTOR’S SUPPLEMENTAL INSTRUCTIONS:
2. DESCRIPTION OF WORK TO BE CHANGED:
3. DESCRIPTION OF SUPPLEMENTAL INSTRUCTION REQUIREMENTS: .

Contractor’s approval: (choose one of the items below):

Approved: _____ Date: _____

(It is agreed that these instructions shall not result in a change in the Total Compensation or the Completion Date.)

Approved: _____ Date: _____

(Contractor agrees to implement the Supplemental Instructions as requested but reserves the right to seek a Change Order in accordance with the requirements of the Agreement.)

Approved: _____ Date: _____
Robert Naleway, District Project Manager

Acknowledged: _____ Date: _____
Kendall Matott, District Sr. Procurement Specialist

c: Contract file
Financial Services

ATTACHMENT D — CONTRACT PAYMENT REQUIREMENTS FOR STATE-FUNDED COST REIMBURSEMENT CONTRACTS

Invoices for state-funded cost reimbursement contracts must be supported by an itemized listing of expenditures by category (salary, travel, expenses, etc.). Supporting documentation must be provided for each amount for which reimbursement is being claimed, indicating that the item has been paid. Check numbers may be provided in lieu of copies of actual checks. Each piece of documentation shall clearly reflect the dates of service. Only expenditures for categories in the approved contract budget will be reimbursed.

Listed below are examples of the types of documentation representing the minimum requirements by cost category:

<u>Salaries:</u>	Submit a payroll register or similar documentation showing gross salary charges, fringe benefits, other deductions, and net pay. If an individual is paid by the hour, a document reflecting the hours worked times the rate of pay is acceptable.
<u>Fringe Benefits:</u>	Fringe benefits should be supported by invoices showing the amount paid on behalf of the employee (e.g., insurance premiums paid). If the contract specifically states that fringe benefits will be based on a specified percentage, rather than the actual cost of fringe benefits, then the calculation for the fringe benefits amount must be shown.
<u>Exception:</u>	Governmental entities are not required to provide check numbers or copies of checks for fringe benefits.
<u>Travel:</u>	Reimbursement for travel must be in accordance with §112.061, Fla. Stat., which includes submission of the claim on the approved State of Florida (State) or District travel voucher.
<u>Other direct costs:</u>	Reimbursement is based upon paid invoices/receipts. If nonexpendable property is purchased using State funds, the contract should include a provision for the transfer of the property to the State when services are terminated. Documentation must be provided to show compliance with Department of Management Services Rule 60A-1.017, F.A.C., regarding the requirements for contracts which include services and that provide for the contractor to purchase tangible personal property as defined in §273.02, Fla. Stat., for subsequent transfer to the State.
<u>In-house charges:</u>	Charges which may be of an internal nature (e.g., postage, copies, etc.) may be reimbursed on a usage log which shows the units, times the rate being charged. The rates must be reasonable.
<u>Indirect costs:</u>	If the contract specifies that indirect costs will be paid based on a specified rate, then the calculation should be shown.

The “Reference Guide for State Expenditures” prepared by the Florida Department of Financial Services can be found at this web address: http://www.fldfs.com/aadir/reference_guide.htm.

ATTACHMENT E — DISTRICT’S SUPPLEMENTAL WORK ALLOWANCE AUTHORIZATION
(sample)

Date:

To: Contractor Project Manager
Contractor
Address
City, State Zip

Project Manager: Robert Naleway, Project Manager

Contract Number:

Contract Title: Black Creek Water Resource Development Aquifer Recharge Area Project

SWA Amount:

SWA Number:

This form serves as written District approval to release supplemental work allowance funds to address changes to quantities, unforeseen site conditions, or changes to the work, as indicated below.

1. **Modification Description (include amount of SWA funds released):**
2. **Reason for Modification:**
3. **Special Notes:**

The Work shall be carried out in accordance with the Contract Documents without change in the Contract Total Compensation or Contract Term.

The Work is authorized to proceed on the date this SWA Authorization is executed by the District. Commencement of the work authorized herein prior to execution of this SWA Authorization by Contractor constitutes acceptance of all terms and conditions of this SWA Authorization. Payment will not be made until this SWA Authorization has been signed by Contractor.

Approved: _____
District Project Manager

Date: _____

Approved: _____
District Approval (per Administrative Directive 411)

Date: _____

Acknowledged: _____
Kendall Matott, District Sr. Procurement Specialist

Date: _____

Contractor’s acceptance:

Approved: _____
Authorized Representative for Contractor

Date: _____

(It is agreed that these instructions shall not result in a change in the Total Compensation or the Completion Date.)

c: Contract file
Financial Services