

REQUEST FOR PROPOSALS  
No. 24-R083613CD  
OPERATIONAL SUPPORT SERVICES  
FOR PINEY POINT TREATMENT  
PLANT AND DEEP INJECTION  
WELL  
JANUARY 31, 2024

Manatee County BCC  
Procurement Division  
1112 Manatee Avenue West, 7th Floor, Suite 705  
Bradenton, FL 34205  
[purchasing@mymanatee.org](mailto:purchasing@mymanatee.org)



## **ADVERTISEMENT**

### **REQUEST FOR PROPOSALS No. 24-R083613CD**

### **OPERATIONAL SUPPORT SERVICES FOR PINEY POINT TREATMENT PLANT AND DEEP INJECTION WELL**

Manatee County, a political subdivision of the State of Florida (hereinafter referred to as County) will receive proposals from individuals, corporations, partnerships, and other legal entities authorized to do business in the State of Florida (Proposers), to provide Operational Support Services for Piney Point Treatment Plant and Deep Injection Well, as specified in this Request for Proposals to include water treatment plant operating services.

#### **DATE, TIME AND PLACE DUE**

The Due Date and Time for submission of Proposals in response to this RFP is **March 1, 2024 at 3:00 P.M. ET**. Proposals must be delivered to the following location: Manatee County Administration Building, 1112 Manatee Avenue West, 7th Floor, Suite 705, Bradenton, FL 34205 prior to the Due Date and Time.

#### **SOLICITATION INFORMATION CONFERENCE**

There is no Solicitation Information Conference for this Request for Proposals. There is a mandatory site visit requirement for this solicitation, see Article A.01 for contact information.

#### **DEADLINE FOR QUESTIONS AND CLARIFICATION REQUESTS**

The deadline to submit all questions, inquiries, or requests concerning interpretation, clarification or additional information pertaining to this Request for Proposal to the Manatee County Procurement Division is February 21, 2024. Questions and inquiries should be submitted via email to the Designated Procurement Contact shown below.

**Important: A prohibition of lobbying is in place. Review Section A.13 carefully to avoid violation and possible sanctions.**

**DESIGNATED PROCUREMENT CONTACT:** Chris Daley, CPPO, CPPB, Procurement Project Manager

(941) 749-3048, Fax (941) 749-3034

Email: [chris.daley@mymanatee.org](mailto:chris.daley@mymanatee.org)

Manatee County Financial Management Department  
Procurement Division

AUTHORIZED FOR RELEASE:

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Form 2	Proposal Signature Form
Form 3	Public Contracting and Environmental Crimes Certification
Form 4	Conflict of Interest Disclosure Form
Form 5	Non-Collusion Affidavit
Form 6	Truth-in Negotiation Certificate
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### **Section E, Exhibits**

Exhibit 1	Scope of Services
Exhibit 2	Proposal Response
Exhibit 3	Piney Point Chemical Dosages January 2024
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Exhibit 10	Piney Point Site Picture week of 12-4-23
Exhibit 11	Sample Agreement

## **SECTION A, INSTRUCTIONS TO PROPOSERS**

In order to receive consideration, Proposers must meet the minimum qualification requirements and comply with the following instructions. Proposals will be accepted from a single business entity, joint venture, partnership or corporation.

### **A.01 INFORMATION CONFERENCE AND SITE VISIT**

There is no Solicitation Information Conference scheduled for this Request for Proposal, however there is a Mandatory Site Visit requirement. All Proposers shall conduct a site visit of the Piney Pint Treatment Plant, located at 11951 Bud Rhoden Road in Pakmetto, Florida prior to the due date of the proposals to be considered for award.

Proposers shall contact Anthony Benitez at 941-708-7450 ext 7333 to schedule their site visit.

### **A.02 PROPOSAL DUE DATE**

The Due Date and Time for submission of Proposals in response to this Request for Proposals (RFP) is **March 1, 2024 at 3:00 P.M. ET**. Proposals must be delivered to the following location: Manatee County Administration Building, 1112 Manatee Ave. W., 7th Floor, Suite 705, Bradenton, FL 34205 and be time stamped by a Procurement representative prior to the Due Date and Time. Proposals will be opened immediately following the Due Date and Time at the Manatee County Administration Building, 7th Floor, Suite 705.

Proposal(s) received after the Due Date and Time will not be considered. It will be the sole responsibility of the Proposer to deliver its proposal to the Manatee County Procurement Division for receipt on or before the Due Date and Time. If a proposal is sent by U.S. Mail, courier or other delivery services, the Proposer will be responsible for its timely delivery to the Procurement Division. Proposals delayed in delivery will not be considered, will not be opened at the public opening, and arrangements will be made for their return at the Proposer's request and expense.

### **A.03 PUBLIC OPENING OF PROPOSALS**

Sealed Proposals will be publicly opened at Manatee County Administration Procurement Division, 1112 Manatee Avenue West, 7th Floor, Suite 705, Bradenton, Florida 34205, in the presence of County officials immediately upon expiration of the Due Date and Time.

Manatee County will make public the names of the business entities which submitted a proposal and city and state in which they reside at the opening. No review or analysis of the proposals will be conducted at the proposal opening.

### **A.04 SUBMISSION OF PROPOSALS**

The contents of the Proposal sealed package must include:

- One (1) bound original clearly identifying Proposer and marked “ORIGINAL”.
- Three (3) bound copy(s) clearly identifying Proposer and marked “COPY” with all required information and identical to the original.
- One (1) electronic format copy(s) clearly identifying Proposer.

Electronic format copies should be submitted on separate Universal Serial Bus (USB) portable flash memory drives or compact disc (CD) in MicroSoft Office® or Adobe Acrobat® portable document format (PDF) in one continuous file. Do not password protect or otherwise encrypt electronic Proposal copies. Electronic copies must contain an identical Proposal to the original.

Submit the proposal package in a sealed container with the following information clearly marked on the outside of the package: RFP No. 24-R083613CD, Operational Support Services for Piney Point Treatment Plant and Deep Injection Well, Proposer’s name, and Proposer’s address. Proposals must be received by the Manatee County Procurement Division prior to the Due Date and Time at the following address:

Manatee County  
Procurement Division  
1112 Manatee Avenue West, 7th Floor, Suite 705  
Bradenton, FL 34205

#### **A.05 ORGANIZATION OF PROPOSALS**

Proposals must be organized and arranged with tabs in the same order as listed in the subsections within Exhibit 2 identifying the response to each specific item.

Proposals must clearly indicate the legal name, address and telephone number of the Proposer. Proposals must be signed by an individual authorized to make representations for the Proposer.

#### **A.06 DISTRIBUTION OF SOLICITATION DOCUMENTS**

All documents issued pursuant to this RFP are distributed electronically and available for download at no charge at [www.mymanatee.org](http://www.mymanatee.org) > *Bids and Proposals*. This link is located on the left side of the County website home page. Documents may be viewed and downloaded for printing using Adobe Reader® software.

At its sole discretion, the County may utilize a third-party provider, to distribute proposals. Visit the third-party’s website for more information regarding this service. Participation in the third-party system is not a requirement for doing business with Manatee County.

Additionally, the RFP and all related documents are available for public inspection at the Manatee County Procurement Division, 1112 Manatee Avenue West, 7th Floor, Suite 705, Bradenton, FL 34205. Call (941) 749-3014 to schedule an appointment. Documents are

available between the hours of 8:00 A.M. and 5:00 P.M., Monday through Friday, with the exception of County holidays.

As a courtesy, Manatee County notifies the Manatee County Chamber of Commerce and the Manasota Black Chamber of Commerce of all active solicitations, who then distributes the information to its members.

**A.07 ADDENDA**

Any interpretations, corrections or changes to this RFP will be made by addenda. Addenda will be posted on the Procurement Division's web page of the County website at <http://www.mymanatee.org/purchasing> > *Bids and Proposals*. For those solicitations that are advertised on a third-party distribution system, addenda will also be posted on the third-party distribution system on the 'Planholders' link.

All addenda are a part of the RFP and each Proposer will be bound by such addenda. It is the responsibility of each Proposer to read and comprehend all addenda issued. Failure of any Proposer to acknowledge an issued addendum in its Proposal will not relieve the Proposer from any obligation contained therein.

**A.08 PROPOSAL EXPENSES**

All costs incurred by Proposer in responding to this RFP and to participate in any interviews/presentations/demonstrations, including travel, will be the sole responsibility of the Proposer.

**A.09 QUESTION AND CLARIFICATION PERIOD**

Each Proposer shall examine all RFP documents and will judge all matters relating to the adequacy and accuracy of such documents. Any questions or requests concerning interpretation, modification, clarification or additional information pertaining to this RFP shall be made in writing via email to the Manatee County Procurement Division to the Designated Procurement Contact or to [purchasing@mymanatee.org](mailto:purchasing@mymanatee.org). All questions received and responses given will be provided to potential Proposers via an addendum to this RFP.

If the Proposer requests modifications to the RFP documents, the Proposer must provide detailed justification for each modification requested. The County will determine what changes will be acceptable to the County and changes approved by the County will be issued in a written addendum

Manatee County will not be responsible for oral interpretations given by other sources including County staff, representative, or others. The issuance of a written addendum by

the Procurement Division is the only official method whereby interpretation, clarification or additional information will be given.

**A.10 FALSE OR MISLEADING STATEMENTS**

Proposals which contain false or misleading statements, or which provide references which do not support an attribute or condition claimed by the Proposer, may be rejected. If, in the opinion of the County, such information was intended to mislead the County in its evaluation of the proposal, and the attribute, condition or capability is a requirement of this RFP such Proposer will be disqualified from consideration for this RFP and may be disqualified from submitting a response on future solicitation opportunities with the County.

**A.11 WITHDRAWAL OR REVISION OF PROPOSALS**

Proposers may withdraw Proposals under the following circumstances:

- a. If Proposer discovers a mistake(s) prior to the Due Date and Time. Proposer may withdraw its proposal by submitting a written notice to the Procurement Division. The notice must be received in the Procurement Division prior to the Due Date and Time for receiving proposals. A copy of the request shall be retained, and the unopened proposal returned to the Proposer; or
- b. After the Proposals are opened but before a contract is signed, Proposer alleges a material mistake of fact if:
  - 1. The mistake is clearly evident in the solicitation document; or
  - 2. Proposer submits evidence which clearly and convincingly demonstrates that a mistake was made in the Proposal. Request to withdraw a Proposal must be in writing and approved by the Purchasing Official.

**A.12 JOINT VENTURES**

Proposers intending to submit a proposal as a joint venture with another entity are required to have filed proper documents with the Florida Department of Business and Professional Regulation and all other State or local licensing agencies as required by Florida Statute Section 489.119, prior to the Due Date and Time.

**A.13 LOBBYING**

After the issuance of any solicitation, no prospective Proposers, or their agents, representatives or persons acting at the request of such Proposers, shall contact, communicate with or discuss any matter relating in any way to the solicitation with any County officers, agents or employees, other than the Purchasing Official or designee, unless otherwise directed by the Purchasing Official or designee. This prohibition includes

copying such persons on written communications (including email correspondence) but does not apply to presentations made to evaluation committees or at a County Commission meeting where the Commission is considering approval of a proposed contract/purchase order. This requirement ends upon final execution of the contract/purchase order or at the time the solicitation is cancelled. Violators of this prohibition will be subject to sanctions as provided in the Manatee County Code of Ordinances Section 2-26-31 and 2-26-32. Sanctions may include (a) written warning; (b) termination of contracts; and (c) debarment or suspension.

**A.14 EXAMINATION OF PROPOSALS**

The examination and evaluation of the proposals submitted in response to this solicitation generally requires a period of not less than ninety (90) calendar days from the Due Date and Time.

**A.15 ERRORS OR OMISSIONS**

Once a proposal is opened, the County will not accept any request by Proposer to correct errors or omissions in the proposal other than as identified in paragraph A.10.

**A.16 DETERMINATION OF RESPONSIBLENESS AND RESPONSIVENESS**

The County will conduct a due diligence review of all proposals received to determine if the Proposer is responsible and responsive.

To be responsive a Proposer must submit a proposal that conforms in all material respects to the requirements of this RFP and contains all the information, fully completed attachments and forms, and other documentation required. Proposals that are deemed non-responsive will not be considered or evaluated.

To be responsible, a Proposer must meet the minimum qualification requirements and have the capability to perform the Scope of Services contained in this RFP. Proposals submitted by Proposers that are deemed non-responsible will not be considered or evaluated.

**A.17 RESERVED RIGHTS**

The County reserves the right to accept or reject any and all proposals, to waive irregularities and technicalities, to request additional information and documentation, and to cancel this solicitation at any time prior to execution of the contract. In the event only one proposal is received, the County reserves the right to negotiate with the Proposer. The County reserves the right to award the contract to a responsive and responsible Proposer which in its sole determination is the best value and in the best interests of the County.

The County reserves the right to conduct an investigation as it deems necessary to determine the ability of any Proposer to perform the work or service requested. Upon request by the County, Proposer shall provide all such information to the County. Additional information may include, but will not be limited to, current financial statements prepared in accordance with generally accepted accounting practices and certified by an independent CPA or official of Proposer; verification of availability of equipment and personnel; and past performance records.

**A.18 APPLICABLE LAWS**

Proposer must be authorized to transact business in the State of Florida. All applicable laws and regulations of the State of Florida and ordinances and regulations of Manatee County will apply to any resulting contract. This solicitation process will be conducted in accordance with Manatee County Code of Ordinances, Chapter 2-26.

**A.19 TAXES**

Manatee County is exempt from Federal Excise and State Sales Taxes. (F.E.T. Cert. No. 59-78-0089K; Florida Sales Tax Exempt Cert. No. 85-8012622206C-6). Therefore, the Proposer is prohibited from delineating a separate line item in its proposal for any sales or service taxes.

The successful Proposer will be responsible for the payment of taxes of any kind, including but not limited to sales, consumer, use, and other similar taxes payable on account of the work performed and/or materials furnished under the award in accordance with all applicable laws and regulations.

**A.20 SCRUTINIZED COMPANIES**

Pursuant to Florida Statute Section 287.135, as of July 1, 2012, a company that, at the time of submitting a response for a new contract or renewal of an existing contract, is on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to Florida Statute Section 215.473, is ineligible for, and may not submit a response for or enter into or renew a contract with an agency or local governmental entity for goods or services of \$1 million or more.

**A.21 COLLUSION**

Proposer certifies that its Proposal is made without prior understanding, agreement, or connection with any other corporation, firm or person submitting a Proposal for the same materials, services, supplies, or equipment and is in all respects fair and without collusion or fraud.

Any such violation may result in contract cancellation, return of materials or discontinuation of services and the possible removal of Proposer from participation in future County solicitations for a specified period.

The County reserves the right to disqualify a Proposer during any phase of the solicitation process and terminate for cause any resulting contract upon evidence of collusion with intent to defraud on the part of the Proposer.

#### **A.22 CODE OF ETHICS**

With respect to this proposal, if any Proposer violates, directly or indirectly, the ethics provisions of the Manatee County Procurement Code and/or Florida criminal or civil laws related to public procurement, including but not limited to Florida Statutes Chapter 112, Part II, Code of Ethics for Public Officers and Employees, such Proposer will be disqualified from eligibility to perform the work described in this RFP, and may also be disqualified from submitting any future bids or proposals to supply goods or services to Manatee County.

#### **A.23 PUBLIC ENTITY CRIMES**

In accordance with Section 287.133, Florida Statutes, a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a proposal on a contract to provide any goods or services to a public entity, may not submit a proposal on a contract with a public entity for the construction or repair of a public building or public work, may not submit proposals on leases or real property to a public entity, may not be awarded or perform work as a contractor, 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 Section 287.017 for Category Two for a period of 36 months from the date of being placed on the convicted vendor list.

In addition, Manatee County Code of Laws Chapter 2-26 Article V prohibits the award of County contracts to any person or entity who/which has, within the past 5 years, been convicted of, or admitted to in court or sworn to under oath, a public entity crime or of any environmental law that, in the reasonable opinion of the Purchasing Official, establishes reasonable grounds to believe the person or business entity will not conduct business in a reasonable manner.

To ensure compliance with the foregoing, Manatee County Code of Laws requires all persons or entities desiring to contract with Manatee County to execute and file with the Purchasing Official an affidavit, executed under the pain and penalties of perjury, confirming that person, entity, and any person(s) affiliated with the entity, does not have such a record and is therefore eligible to seek and be awarded business with Manatee County. Proposer is to complete Form 3 and submit with its Proposal.

**A.24 AMERICANS WITH DISABILITIES**

Manatee County does not discriminate upon the basis of any individual's disability status. This non-discrimination policy involves every aspect of County's functions including one's access to participation, employment, or treatment in its programs or activities. Anyone requiring reasonable accommodation for an information conference or proposal opening should contact the person named on the cover page of this document at least twenty-four (24) hours in advance of either activity.

**A.25 EQUAL EMPLOYMENT OPPORTUNITY**

In accordance with Title VI of the Civil Rights Act of 1964, Title 15, Part 8 of the Code of Federal Regulations and the Civil Rights Act of 1992, Manatee County hereby notifies all Proposers that it will affirmatively ensure minority business enterprises are afforded full opportunity to participate in response to this Request For Proposal and will not be discriminated against on the grounds of race, color, national origin, religion, sex, age, handicap, or marital status in consideration of award.

**A.26 MINORITY AND/OR DISADVANTAGED BUSINESS ENTERPRISE**

The State of Florida Office of Successful Proposer Diversity provides the certification process and maintains the database of certified MBE/DBE firms. Additional information may be obtained at <http://www.osd.dms.state.fl.us/iframe.htm> or by calling (850) 487-0915.

**A.27 DISCLOSURE**

Upon receipt, all inquiries and responses to inquiries related to this Request for Proposal become "Public Records" and shall be subject to public disclosure consistent with Florida Statute, Chapter 119.

Proposals become subject to disclosure thirty (30) days after the opening or if a notice of intent to award decision is made earlier than this time as provided by Florida Statutes § 119.071(1)(b). No announcement or review of the proposals shall be conducted at the public opening.

If County rejects all proposals and concurrently notices its intent to reissue the solicitation, the rejected proposals are exempt from public disclosure until such time the County provides notice of an intended decision concerning the reissued solicitation or until County withdraws the reissued solicitation. A proposal is not exempt for longer than twelve (12) months after the initial notice of rejection of all proposals.

Pursuant to Florida Statute 119.0701, to the extent successful Proposer is performing services on behalf of County, successful Proposer must:

- a. Keep and maintain public records required by public agency to perform the service. That information and data it manages as part of the services may be public record in accordance with Chapter 119, Florida Statutes and Manatee County public record policies. Proposer agrees, prior to providing goods/services, it will implement policies and procedures, which are subject to approval by County, to maintain, produce, secure, and retain public records in accordance with applicable laws, regulations, and County policies including but not limited to Section 119.0701, Florida Statutes.
- b. Upon request from the public agency's custodian of public records, provide the public agency 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 Florida Statutes, Chapter 119, or as otherwise provided by law.
- c. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the successful Proposer does not transfer the records to the public agency.
- d. Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of contractor or keep and maintain public records required by the public agency to perform the service. If the successful Proposer transfers all public records to County upon completion of the contract, the successful Proposer shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the successful Proposer keeps and maintains public records upon completion of the contract, the successful Proposer shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to County, upon request from County's custodian of public records, in a format that is compatible with the information technology systems of County.

**IF THE SUCCESSFUL PROPOSER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO ITS DUTY TO PROVIDE PUBLIC RECORDS RELATING TO ANY RESULTING CONTRACT, CONTACT COUNTY'S CUSTODIAN OF PUBLIC RECORDS AT:**

**PHONE: (941) 742-5845**

**EMAIL: [LACY.PRITCHARD@MYMANATEE.ORG](mailto:LACY.PRITCHARD@MYMANATEE.ORG)**

**ATTN: RECORDS MANAGER**

**1112 MANATEE AVENUE WEST**

## **BRADENTON, FL 34205**

### **A.28 TRADE SECRETS**

Manatee County is subject to Chapter 119, Florida Statutes. Therefore, all documents, materials, and data submitted as part of a Proposal in response to a Request for Proposal are governed by the disclosure, exemption and confidentiality provisions relating to public records in Florida Statutes.

**Notwithstanding any other provision in this solicitation, designation of the entire proposal as trade secret, proprietary, or confidential, is not permitted and may result in a determination that the Proposal is non-responsive and therefore the proposal will not be evaluated or considered.**

Except for materials that are ‘trade secrets’ as defined by Chapter 812, Florida Statutes, ownership of all documents, materials and data submitted as part of a Proposal in response to the Request for Proposal shall belong exclusively to County.

To the extent that Proposer desires to maintain the confidentiality of materials that constitute trade secrets pursuant to Florida law, trade secret material submitted must be segregated from the portions of the Proposal that are not declared as trade secret. In addition, Proposer shall cite, for each trade secret claimed, the Florida Statute number which supports the designation. Further, Proposer shall offer a brief written explanation as to why the cited Statute is applicable to the information claimed as trade secret.

Additionally, Proposer shall provide a hard copy of its Proposal that redacts all information designated as trade secret.

In conjunction with trade secret designation, Proposer acknowledges and agrees that:

- a. Trade secret requests made after the opening will not be considered. However, County reserves the right to clarify the Proposers request for trade secret at any time; and
- b. County and its officials, employees, agents, and representatives are hereby granted full rights to access, view, consider, and discuss the information designated as trade secret throughout the evaluation process and until final execution of any awarded purchase order or contract; and
- c. That after notice from County that a public records request has been made pursuant to Proposer’s proposal, the Proposer at its sole expense, shall be responsible for defending its determination that submitted material is a trade secret and is not subject to disclosure. Action by Proposer in response to notice from the County shall be taken immediately, but no later than 10 calendar days from the date of notification or Proposer will be deemed to have waived the trade secret designation of the materials.

Proposer shall indemnify and hold County, and its officials, employees, agents and representatives harmless from any actions, damages (including attorney's fees and costs), or claims arising from or related to the designation of trade secrets by the Proposer, including actions or claims arising from County's non-disclosure of the trade secret materials.

**A.29 CONFIDENTIALITY OF SECURITY RELATED RECORDS**

- a. Pursuant to Florida Statutes § 119.071(3), the following records (hereinafter referred to collectively as “the Confidential Security Records”) are confidential and exempt from the disclosure requirements of Florida Statutes § 119.07(1):
  - i. A Security System Plan or portion thereof for any property owned by or leased to County or any privately owned or leased property held by County.
  - ii. Building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the internal layout and structural elements of a building, arena, stadium, water treatment facility, or other structure owned or operated by County.
  - iii. Building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the internal layout or structural elements of an attractions and recreation facility, entertainment or resort complex, industrial complex, retail and service development, office development, or hotel or motel development in the possession of, submitted to County.
- b. Successful Proposer agrees that, as provided by Florida Statute, it shall not, as a result of a public records request, or for other reason disclose the contents of, or release or provide copies of the Confidential Security Records to any other party absent the express written authorization of County's Property Management Director or to comply with a court order requiring such release or disclosure. To the extent successful Proposer receives a request for such records, it shall immediately contact the County's designated Contract administrator who shall coordinate County's response to the request.

**A.30 E-VERIFY**

Prior to the employment of any person under this contract, the successful Proposer shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of (a) all persons employed during the contract term by the successful Proposer to perform employment duties within Florida and (b) all persons, including subcontractors, assigned by the successful Proposer to perform work pursuant to the contract with Manatee County. For more information on this process, please refer to United States Citizenship and Immigration Service site at: <http://www.uscis.gov/>.

Only those individuals determined eligible to work in the United States shall be employed under this contract.

By submission of a proposal in response to this RFP, the successful Proposer commits that all employees and subcontractors will undergo e-verification before placement on this contract.

The successful Proposer shall maintain sole responsibility for the actions of its employees and subcontractors. For the life of the contract, all employees and new employees brought in after contract award shall be verified under the same requirement stated above.

**A.31 LICENSES AND PERMITS**

The successful Proposer shall be solely responsible for obtaining all necessary license and permit fees, including, but not limited to, all license fees, permit fees, impact fees, or inspection fees, and responsible for the costs of such fees. Successful Proposer is solely responsible for ensuring all work complies with all Federal, State, local, and Manatee County ordinances, orders, codes, laws, rules, regulations, directives, and guidelines.

**A.32 HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA)**

Any person or entity that performs or assists the County with a function or activity involving the use or disclosure of “individually identifiable health information (IIHI) and/or Protected Health Information (PHI) shall comply with the Health Insurance Portability and Accountability Act (HIPAA) of 1996. HIPAA mandates for privacy, security, and electronic transfer standards include, but are not limited to:

- a. Use of information only for performing services required by the contract or as required by law;
- b. Use of appropriate safeguards to prevent non-permitted disclosures;
- c. Reporting to the County any non-permitted use or disclosure;
- d. Assurances that any agents and subcontractors agree to the same restrictions and conditions that apply to the Proposer and reasonable assurances that IIHI/PHI will be held confidential;
- e. Making PHI available to the customer;
- f. Making PHI available to the customer for review and amendment, and incorporating any amendments requested by the customer;
- g. Making PHI available to the County for an accounting of disclosures; and making internal practices, books, and records related to PHI available to the County for compliance audits.

PHI shall maintain its protected status regardless of the form and method of transmission (paper records and/or electronic transfer of data). The selected Proposer must give its customers written notice of its privacy information practices, including specifically, a

description of the types of uses and disclosures that would be made with protected health information.

**A.33 BINDING OFFER**

Proposals will remain valid for a period of 120 days following the Due Date and Time and will be considered a binding offer to perform the required services and/or provide the required goods. The submission of a Proposal will be taken as prima facie evidence that the Proposer has familiarized itself with the contents of this Solicitation.

**A.34 PROTEST**

Any actual bidder, proposer, or contractor who is aggrieved in connection with the notice of intent to award of a contract with a value greater than \$250,000 where such grievance is asserted to be the result of a violation of the requirements of the Manatee County Procurement Code or any applicable provision of law by the officers, agents, or employees of the County, may file a protest to the Purchasing Official.

Protest must be in writing and delivered via email at [purchasing@mymanatee.org](mailto:purchasing@mymanatee.org) or by hand delivery to the Procurement Division at 1112 Manatee Avenue West, 7th Floor, Suite 705, Bradenton, FL 34205 by 5:00 p.m. on the fifth business day following the date of posting of the Notice of Intent to Award on the County website. There is no stay of the procurement process during a protest. The Purchasing Official shall have the authority to settle and resolve a protest concerning the intended award of a contract.

For additional information regarding the County protest process, visit the Procurement Division webpage on the County website.

**A.35 ACCESSIBILITY**

The County is committed to making its documents and information technologies accessible to individuals with disabilities by meeting the requirements of Section 508 of the Rehabilitation Act and best practices (W3C WCAG 2). **For assistance with accessibility regarding this solicitation, contact the Manatee County Procurement Division via email at [purchasing@mymanatee.org](mailto:purchasing@mymanatee.org) or by phone at 941-748-4501, X3014.**

Successful Proposer shall ensure all its electronic information, documents, applications, reports, and deliverables required in the proposal are in a format that meets the requirements of Section 508 of the Rehabilitation Act and best practices (W3C WCAG 2).

Where not fully compliant with these requirements and best practices, Successful Proposer shall provide clear points of contact for each document and information technology to direct users in how to obtain alternate formats. Further, successful Proposer shall develop

accommodation strategies for those non-compliant resources and implement strategies to resolve the discrepancies.

**A.36 PROJECTED SOLICITATION SCHEDULE**

The following projected solicitation schedule has been established for this Solicitation process. Refer to the County’s website ([www.mymanatee.org](http://www.mymanatee.org) > *Business* > *Bids & Proposals*) for meeting locations and updated information pertaining to any revisions to this schedule.

<b>Scheduled Item</b>	<b>Scheduled Date</b>
No Information Conference has been scheduled for this solicitation	
Question and Clarification Deadline	February 21, 2024
Proposal Due Date and Time	March 1, 2024 by 3:00 P.M., ET
Technical Evaluation Meeting	March 18, 2024 at 1:00 PM ET
Technical Evaluation Meeting	March 19, 2024 at 1:00 PM ET
Interviews/Demonstrations/Presentations, if conducted	TBD
Final Technical Evaluations	TBD
Projected Award	April 2024

The purpose of the Solicitation Schedule is to provide a projected timeline of solicitation events. The County reserves the right to modify or change any of the projected dates and times.

**END SECTION A**

## **SECTION B, EVALUATION OF PROPOSALS**

### **B.01 EVALUATION**

Evaluation of proposals will be conducted by an evaluation committee. Each evaluation committee member will evaluate and score the proposals for each of the evaluation criteria.

The committee reserves the right to provide a final score without conducting interviews, presentations, and/or demonstrations with Proposers. Therefore, each Proposer must ensure that its proposal contains all the information requested in this RFP and reflects Proposer's best offer.

The committee will consider all information submitted by each responsible and responsive Proposer, clarification information provided by Proposer, information obtained during the interview/presentation/demonstration, feedback received from Proposer's references, and any other relevant information received during any investigation of Proposer, to ascertain the ability of the Proposer(s) to perform the scope of services as stated in this RFP.

### **B.02 EVALUATION CRITERIA**

The following evaluation criteria have been established for this RFP.

<b>Criteria</b>	<b>Maximum Score</b>
Proposer & Team's Experience	20
Approach	20
Organizational Structure and Capacity	10
Fee Proposal	50

### **B.03 CLARIFICATIONS/INTERVIEWS /PRESENTATIONS/ DEMONSTRATIONS**

As part of the evaluation process the evaluation committee may request additional information or clarification from Proposers for the purpose of further evaluation of (a) conformance to the solicitation requirements, (b) the abilities of the Proposer, and (c) understanding of the proposal submitted. Additional information and/or clarification must be submitted by Proposer within the requested time-period.

Additionally, interviews, presentations and/or demonstrations may be conducted with Proposers as part of the evaluation process. If conducted, the evaluation committee will make a determination of those proposals that are deemed by the committee as having a

reasonable probability of being selected for award. The Proposers for this ‘short-list’ of proposals will be invited to meet with the committee. Proposers shall make arrangements to attend the interviews, presentations and/or demonstrations if invited. The interviews, presentations and/or demonstrations are closed to the public to the extent permitted by law.

The committee reserves the right to provide a final score without conducting interviews, presentations, and/or demonstrations with Proposers. Therefore, each Proposer must ensure that its proposal contains all the information requested in this RFP and reflects Proposer’s best offer.

**B.04 BEST AND FINAL OFFER (BAFO)**

The County may request a BAFO if additional information or modified proposals are necessary for the evaluation committee to complete its evaluation and scoring. The information received from the BAFO will be used by the evaluation committee to re-evaluate and re-score the Proposers.

**B.05 SCORING OF PROPOSALS**

The evaluation committee will determine from the responses to this RFP and subsequent investigation as necessary, the Proposer(s) whose proposal(s) best meet the County’s requirements and recommend the County enter into negotiations for an agreement.

In its review, the evaluation committee may take the following actions:

- a. Review all responses pursuant to the evaluation factors stated herein,
- b. Short list Proposers to be further considered in oral interview/presentation/product demonstrations,
- c. Recommend commencement of negotiations to the Purchasing Official,
- d. Reject all proposals received and cancel the Request for Proposal,
- e. Receive written clarification of proposal.

**END SECTION B**

## **SECTION C, NEGOTIATION OF THE AGREEMENT**

### **C.01 GENERAL**

- a. The proposal will serve as a basis for negotiating an agreement.
- b. Upon submission, all proposals become the property of Manatee County which has the right to use any or all ideas presented in any proposal submitted in response to this Request for Proposal whether, or not, the proposal is accepted.
- c. All products and papers produced by Proposer and submitted to the County during the solicitation process become the property of Manatee County.

### **C.02 NEGOTIATION**

The evaluation committee will make a recommendation as to the Proposer which the County should enter into negotiations, if any. Upon approval of the recommendation, the successful Proposer will be invited to enter negotiations led by the County Procurement Division. These negotiations are generally relative to the scope of work/services to be provided and any associated costs.

The County will publicly notice the Intent to Negotiate prior to commencing negotiations as required by law and policy.

### **C.03 RECOMMENDATION FOR AWARD**

Upon successful completion of negotiations, a recommendation for award to the successful Proposer(s) will be presented for approval per County ordinances, policies and procedures.

### **C.04 AGREEMENT**

The successful Proposer(s) will be required to enter into an agreement. Agreement may, or may not, include all elements of this RFP or the resulting successful Proposer's Proposal where alternatives provide best value, are desirable to the County, and the parties agree to such terms.

The term of the Agreement shall be for the period of two years with the option to renew for three, one year periods.

### **C.05 AWARD**

The County does not make award to a Proposer who is delinquent in payment of any taxes, fees, fines, contractual debts, judgments, or any other debts due and owed to County, or is in default on any contractual or regulatory obligation to County. By submitting this solicitation response, Proposer attests that it is not delinquent in payment of any such debts due and owed to County, nor is it in default on any contractual or regulatory obligation to County. In the event the Proposer's statement is discovered to be false, Proposer will be subject to suspension and/or debarment and County may terminate any contract it has with Proposer.

Award of an agreement is subject to the approval of either the Purchasing Official or the Board of County Commissioners, as provided for in the current Manatee County Procurement Code.

## **END SECTION C**

**SECTION D, FORMS**

**FORM 1 - ACKNOWLEDGMENT OF ADDENDA**

The undersigned acknowledges receipt of the following addenda:

Addendum No. _____	Date Received:
Addendum No. _____	Date Received:
Addendum No. _____	Date Received:
Addendum No. _____	Date Received:
Addendum No. _____	Date Received:
Addendum No. _____	Date Received:
Addendum No. _____	Date Received:
Addendum No. _____	Date Received:
Addendum No. _____	Date Received:

Print or type Proposer’s information below:

_____	_____
Name of Proposer	Telephone Number
_____	_____
Street Address	City/State/Zip
_____	_____
Email Address	Website Address
_____	_____
Print Name & Title of Authorized Officer	Signature of Authorized Official Date

**FORM 2 - PROPOSAL SIGNATURE FORM**

The undersigned represents that by signing this Proposal Signature Form that:

- (1) He/she has the authority and approval of the legal entity purporting to submit the Proposal and any additional documentation which may be required such as the Joint Venture Agreement or Joint Venture Affidavit, if applicable; and
- (2) All facts and responses set forth in the Proposal are true and correct; and
- (3) If the Proposer is selected by County to negotiate an agreement, that Proposer’s negotiators will negotiate in good faith to establish an agreement to provide the services described in this RFP; and
- (4) By submitting a Proposal and signing below, the Proposer agrees to the terms and conditions in this RFP, which incorporates all addenda, appendices, exhibits, and attachments, in its entirety, and is prepared to sign the Agreement, of which a sample is incorporated into this RFP as Exhibit 11. The Proposer understands that if it submits exceptions to the Sample Agreement in its Proposal, the Proposer may be determined non-responsive.

Print or type Proposer’s information below:

_____	_____
Name of Proposer	Telephone Number
_____	_____
Street Address	City/State/Zip
_____	_____
Email Address	Web Address
_____	_____
Print Name & Title of Authorized Officer	Signature of Authorized Officer      Date

**FORM 3 - PUBLIC CONTRACTING AND ENVIRONMENTAL CRIMES CERTIFICATION**

SWORN STATEMENT PURSUANT TO MANATEE COUNTY PROCUREMENT CODE SECTION 2-26 ARTICLE V,

THIS FORM MUST BE SIGNED AND SWORN TO IN THE PRESENCE OF A NOTARY PUBLIC OR OTHER OFFICIAL AUTHORIZED TO ADMINISTER OATHS.

This sworn statement is submitted to Manatee County by

\_\_\_\_\_

[print individual's name and title]

for \_\_\_\_\_

[name of entity submitting sworn statement]

whose business address is: \_\_\_\_\_

and (if applicable) its Federal Employer Identification Number (FEIN) is \_\_\_\_\_

\_\_\_\_\_. If the entity has no FEIN, include the Social Security Number of the individual signing this sworn statement:

I, the undersigned, understand that no person or entity shall be awarded or receive a County contract for public improvements, procurement of goods or services (including professional services) or a county lease, franchise, concession or management agreement, or shall receive a grant of County monies unless such person or entity has submitted a written certification to County that it has not:

(1) been convicted of bribery or attempting to bribe a public officer or employee of Manatee County, the State of Florida, or any other public entity, including, but not limited to the Government of the United States, any state, or any local government authority in the United States, in that officer's or employee's official capacity; or

(2) been convicted of an agreement or collusion among Proposers or prospective Proposers in restraint of freedom of competition, by agreement to bid a fixed price, or otherwise; or

(3) been convicted of a violation of an environmental law that, as determined by the County, reflects negatively upon the ability of the person or entity to conduct business in a responsible manner; or

(4) made an admission of guilt of such conduct described in items (1), (2) or (3) above, which is a matter of record, but has not been prosecuted for such conduct, or has made an admission of guilt of such conduct, which is a matter of record, pursuant to formal prosecution. An admission of guilt shall be construed to include a plea of nolo contendere; or

(5) where an officer, official, agent or employee of a business entity has been convicted of, or has admitted guilt to, any of the crimes set forth above on behalf of such and entity and pursuant to the direction or authorization of an official thereof (including the person committing the offense, if he/she is an official of the business entity), the business shall be chargeable with the conduct herein above set forth. A business entity shall be chargeable with the conduct of an affiliated entity, whether wholly owned, partially owned, or one which has common ownership or a common board of directors.

For purposes of this Form, business entities are affiliated if, directly or indirectly, one business entity controls or has the power to control another business entity, or if an individual or group of individuals controls or has the power to control both entities. Indicia of control shall include, without limitation, interlocking management or ownership, identity of interests amount family members, shared organization of a business entity following the ineligibility of a business entity under this Article, or using substantially the same management, ownership or principles as the ineligible entity.

Any person or entity who claims that this Article is inapplicable to him/her/it because a conviction or judgment has been reversed by a court of competent jurisdiction, shall prove the same with documentation satisfactory to Manatee County's Purchasing Official. Upon presentation of such satisfactory proof, the person or entity shall be allowed to contract with Manatee County.

**I UNDERSTAND THAT ANY CONTRACT OR BUSINESS TRANSACTION SHALL PROVIDE FOR SUSPENSION OF PAYMENTS, OR TERMINATION, OR BOTH, IF THE PROCUREMENT DIVISION OR THE COUNTY ADMINISTRATOR DETERMINES THAT SUCH PERSON OR ENTITY HAS MADE FALSE CERTIFICATION.**

\_\_\_\_\_  
Signature of Contractor Representative

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
by \_\_\_\_\_.  Personally known OR  Produced the  
following identification

\_\_\_\_\_  
[Type of identification]

\_\_\_\_\_

Notary Public Signature

My commission expires \_\_\_\_\_

\_\_\_\_\_  
[Print, type or stamp Commissioned name of Notary Public]

**Signatory Requirement** - In the case of a business entity other than a partnership or a corporation, this affidavit shall be executed by an authorized agent of the entity. In the case of a partnership, this affidavit shall be executed by the general partner(s). In the case of a corporation, this affidavit shall be executed by the corporate president.

**FORM 4 - CONFLICT OF INTEREST DISCLOSURE FORM**

The award of an agreement resulting from this RFP is subject to the provisions of Manatee County Code of Laws. Proposer must disclose within its Proposal: the name of any officer, director, or agent who is also an employee of Manatee County. Furthermore, Proposer must disclose the name of any County employee who owns, directly or indirectly, an interest of more than five percent (5%) in the Proposer’s firm or any of its branches, divisions, or affiliates.

By signing below, Proposer confirms that it is not currently engaged or will not become engaged in any obligations, undertakings or contracts that will require the firm to maintain an adversarial role against the County or that will impair or influence the advice or recommendations it provides to the County.

Please check one of the following statements and attach additional documentation if necessary:

\_\_\_\_\_ To the best of my knowledge, the undersigned firm has no potential conflict of interest for this RFP.

\_\_\_\_\_ The undersigned firm, by execution of this form, submits information which may be a potential conflict of interest for this RFP.

Acknowledged and attested to by:

\_\_\_\_\_  
Firm Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name and Title (Print or Type)

\_\_\_\_\_  
Date

**Return this fully executed form with your Proposal.**

**FORM 5 - NON-COLLUSION AFFIDAVIT**

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

Before me, the undersigned authority, personally appeared \_\_\_\_\_, who, after being by me first duly sworn, deposes and says of his/her personal knowledge that:

a. He/She is \_\_\_\_\_ of \_\_\_\_\_, the Proposer that has submitted a Proposal to perform work for the following:

RFP No.: \_\_\_\_\_ Title: \_\_\_\_\_

b. He/She is fully informed respecting the preparation and contents of the attached Request for Qualifications, and of all pertinent circumstances respecting such Solicitation.

Such Proposal is genuine and is not a collusive or sham Proposal.

c. Neither the said Proposer 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 Proposer, firm, or person to submit a collusive or sham Proposal in connection with the Solicitation and contract for which the attached Proposal has been submitted or to refrain from proposing in connection with such Solicitation and contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other Proposer, firm, or person to fix the price or prices in the attached Proposal or any other Proposer, or to fix any overhead, profit, or cost element of the Proposal price or the Proposal price of any other Proposer, or to secure through any collusion, conspiracy, connivance, or unlawful agreement any advantage against the City or any person interested in the proposed contract.

d. The price or prices to be submitted shall be fair and proper and shall not be tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the Proposer or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

Signature: \_\_\_\_\_

Subscribed and sworn to (or affirmed) before me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, by \_\_\_\_\_, who is personally known to me OR has produced \_\_\_\_\_ as identification.

Notary Signature \_\_\_\_\_

Notary Name: \_\_\_\_\_

Notary Public (State): \_\_\_\_\_

My Commission No: \_\_\_\_\_

Expires on: \_\_\_\_\_

SEAL

**FORM 6 - TRUTH – IN – NEGOTIATION CERTIFICATE**

The undersigned warrants (i) that it has not employed or retained any company or person, other than bona fide employees working solely for the undersigned, to solicit or secure the Agreement and (ii) that it has not paid or agreed to pay any person, company, corporation, individual, or firm other than its bona fide employees working solely for the undersigned or agreed to pay any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of the Agreement.

The undersigned certifies that the wage rates and other factual unit costs used to determine the compensation provided for in the Agreement are accurate, complete, and current as of the date of the Agreement.

(This document must be executed by an authorized official of Proposer (e.g., President, CEO, Partner, Managing Partner))

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

**FORM 7 – SCRUTINIZED COMPANY CERTIFICATION**

This certification is required pursuant to Florida State Statute Section 287.135 and must be executed and returned with Proposer’s Proposal.

As of July 1, 2011, a company that, at the time of bidding or submitting a Proposal for a new contract or renewal of an existing contract, is on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List is ineligible for, and may not bid on, submit a Proposal for, or enter into or renew a contract with an agency or local governmental entity for goods or services of \$1 million or more.

Companies must complete and return this form with its response.

Company: \_\_\_\_\_

FEIN: \_\_\_\_\_

Address. \_\_\_\_\_

City/State/Zip. \_\_\_\_\_

I, \_\_\_\_\_, as a representative of \_\_\_\_\_  
\_\_\_\_\_ certify and affirm that this entity is not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

## FORM 8, INSURANCE REQUIREMENTS

The Successful Proposer will not commence work under the resulting Agreement until all insurance coverages indicated by an “X” herein have been obtained. The Successful Proposer shall obtain and submit to the Procurement Division within ten (10) calendar days from the date of notice of intent to award, at its expense, the following minimum amounts of insurance (inclusive of any amounts provided by an umbrella or excess policy): Work under this Agreement cannot commence until all insurance coverages indicated herein have been obtained on a standard ACORD form (inclusive of any amounts provided by an umbrella or excess policy):

### **Automobile Liability Insurance Required Limits**

Coverage must be afforded under a per occurrence policy form including coverage for all owned, hired and non-owned vehicles for bodily injury and property damage of not less than:

- \$2,000,000 Combined Single Limit; OR
- \$ 1,000,000 Bodily Injury and \$1,000,000 Property Damage
- \$10,000 Personal Injury Protection (No Fault)
- \$1,000,000 Hired, Non-Owned Liability
- \$10,000 Medical Payments

*This policy shall contain severability of interests’ provisions.*

### **Commercial General Liability Insurance Required Limits (per Occurrence form only; claims-made form is not acceptable)**

Coverage shall be afforded under a per occurrence policy form, policy shall be endorsed and name ‘Manatee County, a political subdivision of the State of Florida’ as an Additional Insured, and include limits not less than:

- \$3,000,000 Single Limit Per Occurrence
- \$6,000,000 Aggregate
- \$6,000,000 Products/Completed Operations Aggregate
- \$1,000,000 Personal and Advertising Injury Liability
- \$100,000 Fire Damage Liability
- \$10,000 Medical Expense, and
- \$1,000,000, Third Party Property Damage
- \$6,000,000 Project Specific Aggregate (Required on projects valued at over \$10,000,000)

*This policy shall contain severability of interests’ provisions.*

### **Employer’s Liability Insurance**

Coverage limits of not less than:

- \$1,000,000 Each Accident
- \$1,000,000 Disease Each Employee
- \$1,000,000 Disease Policy Limit

- Worker's Compensation Insurance
- US Longshoremen & Harbor Workers Act**
- Jones Act Coverage**

Coverage limits of not less than:

- Statutory workers' compensation coverage shall apply for all employees in compliance with the laws and statutes of the State of Florida and the federal government.
- If any operations are to be undertaken on or about navigable waters, coverage must be included for the US Longshoremen & Harbor Workers Act and Jones Act.

Should 'leased employees' be retained for any part of the project or service, the employee leasing agency shall provide evidence of Workers' Compensation coverage and Employer's Liability coverage for all personnel on the worksite and in compliance with the above Workers' Compensation requirements. NOTE: Workers' Compensation coverage is a firm requirement. Elective exemptions are considered on a case-by-case basis and are approved in a very limited number of instances.

**Aircraft Liability Insurance Required Limits**

Coverage shall be afforded under a per occurrence policy form, policy shall be endorsed and name 'Manatee County a political subdivision of the State of Florida' as an Additional Insured, and include limits not less than:

- \$ Each Occurrence Property and Bodily Injury with no less than \$100,000 per passenger each occurrence or a 'smooth' limit.
- \$ General Aggregate.

**Un-Manned Aircraft Liability Insurance (Drone)**

Coverage shall be afforded under a per occurrence policy form, policy shall be endorsed and name 'Manatee County a political subdivision of the State of Florida' as an Additional Insured, and include limits not less than:

- \$ Each Occurrence Property and Bodily Injury; Coverage shall specifically include operation of Unmanned Aircraft Systems (UAS), including liability and property damage.
- \$ General Aggregate

**Installation Floater Insurance**

When the contract or agreement **does not** include construction of, or additions to, above ground building or structures, but does involve the installation of machinery or equipment, Installation Floater Insurance shall be afforded under a per occurrence policy form, policy shall be endorsed and name "Manatee County, a political subdivision of the State of Florida" as an Additional Insured, and include limits not less than:

- 100% of the completed value of such addition(s), building(s), or structure(s)

**Professional Liability and/or Errors and Omissions (E&O) Liability Insurances**

Coverage shall be afforded under either an occurrence policy form or a claims-made policy form. If the coverage form is on a claims-made basis, then coverage must be maintained for a minimum of three years from termination of date of the contract. Limits must not be less than:

- \$ 1,000,000 Bodily Injury and Property Damage Each Occurrence
- \$ 2,000,000 General Aggregate

**Builder's Risk Insurance**

When the contract or agreement includes the construction of roadways and/or the addition of a permanent structure or building, including the installation of machinery and/or equipment, Builder's Risk Insurance shall be afforded under a per occurrence policy form, policy shall be endorsed and name "Manatee County, a political subdivision of the State of Florida" as an Additional Insured, and include limits not less than:

- An amount equal to 100% of the completed value of the project, or the value of the equipment to be installed
- The policy shall not carry a self-insured retention/deductible greater than \$10,000

Coverage shall be for all risks and include, but not be limited to, storage and transport of materials, equipment, supplies of any kind whatsoever to be used on or incidental to the project, theft coverage, and Waiver of Occupancy Clause Endorsement, where applicable.

**Cyber Liability Insurance**

Coverage shall comply with Florida Statute 501.171, shall be afforded under a per occurrence policy form, policy shall be endorsed and name 'Manatee County, a political subdivision of the State of Florida' as an Additional Insured, and include limits not less than:

- \$ Security Breach Liability
- \$ Security Breach Expense Each Occurrence
- \$ Security Breach Expense Aggregate
- \$ Replacement or Restoration of Electronic Data
- \$ Extortion Threats
- \$ Business Income and Extra Expense
- \$ Public Relations Expense

NOTE: Policy must not carry a self-insured retention/deductible greater than \$25,000.

**Hazardous Materials Insurance (As Noted Below)**

Hazardous materials include all materials and substances that are currently designated or defined as hazardous by the law or rules of regulation by the State of Florida or federal government.

All coverage shall be afforded under either an occurrence policy form or a claims-made policy form, and the policy shall be endorsed and name 'Manatee County, a political subdivision of the State of Florida' as an Additional Insured. If the coverage form is on a claims-made basis, then coverage must be maintained for a minimum of three years from termination of date of the contract. Limits must not be less than:

***Pollution Liability***

Amount equal to the value of the contract, subject to a \$1,000,000 minimum, for Bodily Injury and Property Damage to include sudden and gradual release, each claim and aggregate.

***Asbestos Liability (If handling within scope of Contract)***

Amount equal to the value of the contract, subject to a \$1,000,000 minimum, for Bodily Injury and Property Damage to include sudden and gradual release, each claim and aggregate.

***Disposal***

When applicable, Successful Proposer shall designate the disposal site and furnish a Certificate of Insurance from the disposal facility for Environmental Impairment Liability Insurance covering liability.

- Amount equal to the value of the contract, subject to a \$1,000,000 minimum, for Liability for Sudden and Accidental Occurrences, each claim and an aggregate.
- Amount equal to the value of the contract, subject to a \$1,000,000 minimum, for Liability for Non-Sudden and Accidental Occurrences, each claim and an aggregate.

**Hazardous Waste Transportation Insurance**

Successful Proposer shall designate the hauler and have the hauler furnish a Certificate of Insurance for Automobile Liability insurance with Endorsement MCS-90 for liability arising out of the transportation of hazardous materials. EPA identification number shall be provided.

All coverage shall be afforded under either an occurrence policy form or a claims-made policy form and the policy shall be endorsed and name “Manatee County, a political subdivision of the State of Florida” as an Additional Insured. If the coverage form is on a claims-made basis, then coverage must be maintained for a minimum of three years from termination of date of the contract. Limits must not be less than:

- Amount equal to the value of the contract, subject to a \$1,000,000 minimum, per accident.

**Liquor Liability Insurance**

Coverage shall be afforded under a per occurrence policy form, policy shall be endorsed and name “Manatee County, a political subdivision of the State of Florida” as an Additional Insured, and include limits not less than:

- \$1,000,000 Each Occurrence and Aggregate

**Garage Keeper’s Liability Insurance**

Coverage shall be required if the maintenance, servicing, cleaning or repairing of any County motor vehicles is inherent or implied within the provision of the contract.

Coverage shall be afforded under a per occurrence policy form, policy shall be endorsed and name “Manatee County, a political subdivision of the State of Florida” as an Additional Insured, and include limits not less than:

- Property and asset coverage in the full replacement value of the lot or garage.

**Bailee’s Customer Liability Insurance**

Coverage shall be required for damage and/or destruction when County property is temporarily under the care or custody of a person or organization, including property that is on, or in transit to and from the person or organization’s premises. Perils covered should include fire, lightning, theft, burglary, robbery, explosion, collision, flood, earthquake and damage or destruction during transportation by a carrier.

Coverage shall be afforded under a per occurrence policy form, policy shall be endorsed and name “Manatee County, a political subdivision of the State of Florida” as an Additional Insured, and include limits not less than:

- Property and asset coverage in the full replacement value of the County asset(s) in the Successful Proposer’S care, custody and control.

**Hull and Watercraft Liability Insurance**

Coverage shall be afforded under a per occurrence policy form, policy shall be endorsed and name “Manatee County, a political subdivision of the State of Florida” as an Additional Insured, and include limits not less than:

- \$ Each Occurrence
- \$ General Aggregate
- \$ Fire Damage Liability
- \$10,000 Medical Expense, and
- \$ Third Party Property Damage
- \$ Project Specific Aggregate (Required on projects valued at over \$10,000,000)

**Other [Specify]**

**BOND REQUIREMENTS**

**Bid Bond**

A Bid Bond in the amount of 5% of the total offer. Bid bond shall be submitted with the sealed response and shall include project name, location, and / or address and project number. In lieu of the bond, the bidder may file an alternative form of security in the amount of 5% of the total offer. in the form of a money order, a certified check, a cashier’s check, or an irrevocable letter of credit issued to Manatee County. NOTE: A construction project over \$200,000 requires a Bid Bond in the amount of 5% of the total bid offer.

**Payment and Performance Bond**

A Payment and Performance Bond shall be submitted by Successful Bidder for 100% of the award amount and shall be presented to Manatee County within ten (10) calendar days of issuance of the notice of intent to award. NOTE: A construction project over \$200,000 requires a Payment and Performance Bond.

## INSURANCE REQUIREMENTS

### I. THE POLICIES ARE TO CONTAIN, OR BE ENDORSED TO CONTAIN, THE FOLLOWING PROVISIONS:

#### **Commercial General Liability and Automobile Liability Coverages**

- a. **“Manatee County, a Political Subdivision of the State of Florida,” is to be named as an Additional Insured in respect to:** Liability arising out of activities performed by or on behalf of the Successful Proposer, his agents, representatives, and employees; products and completed operations of the Successful Proposer; or automobiles owned, leased, hired or borrowed by the Successful Proposer. The coverage shall contain no special limitation(s) on the scope of protection afforded to the COUNTY, its officials, employees or volunteers.  
In addition to furnishing a Certificate of Insurance, the Successful Proposer shall provide the endorsement that evidences Manatee COUNTY being listed as an Additional Insured. This can be done in one of two ways: (1) an endorsement can be issued that specifically lists “Manatee County, a Political Subdivision of the State of Florida,” as Additional Insured; or, (2) an endorsement can be issued that states that all Certificate Holders are Additional Insured with respect to the policy.
- b. The Successful Proposer'S insurance coverage shall be primary insurance with respect to the COUNTY, its officials, employees and volunteers. Any insurance or self-insurance maintained by the COUNTY, its officials, employees or volunteers shall be excess of Successful Proposer's insurance and shall be non-contributory.
- c. The insurance policies must be on an occurrence form.

#### **Workers' Compensation and Employers' Liability Coverages**

The insurer shall agree to waive all rights of subrogation against the COUNTY, its officials, employees and volunteers for losses arising from work performed by the Successful Proposer for the COUNTY.

### II. General Insurance Provisions Applicable to All Policies

1. Prior to the execution of contract, or issuance of a Purchase Order, and then annually upon the anniversary date(s) of the insurance policy's renewal date(s) for as long as this contract remains in effect, Successful Proposer shall furnish the COUNTY with a Certificate(s) of Insurance (using an industry accepted certificate form, signed by the Issuer, with applicable endorsements, and containing the solicitation or contract number, and title or description) evidencing the coverage set forth above and naming “Manatee County, a Political Subdivision of the State of Florida” as an Additional Insured on the applicable coverage(s) set forth above.
2. If the policy contains an aggregate limit, confirmation is needed in writing (letter, email, etc.) that the aggregate limit has not been eroded to procurement representative when supplying Certificate of Insurance. In addition, when requested in writing from the COUNTY, Successful Proposer will provide the COUNTY with a certified copy of all applicable policies. The address where such certificates and certified policies shall be sent or delivered is as follows:

**Manatee County, a Political Subdivision of the State of Florida**  
**Attn: Risk Management Division**  
**1112 Manatee Avenue West, Suite 969**  
**Bradenton, FL 34205**

3. The project's solicitation number and title shall be listed on each certificate.
4. Successful Proposer shall provide thirty (30) days written notice to the Risk Manager of any cancellation, non-renewal, termination, material change, or reduction in coverage of any insurance policies to procurement representative including solicitation number and title with all notices.
5. Successful Proposer agrees that should at any time Successful Proposer fail to meet or maintain the required insurance coverage(s) as set forth herein, the COUNTY may terminate this contract.
6. The Successful Proposer waives all subrogation rights against COUNTY, a Political Subdivision of the State of Florida, for all losses or damages which occur during the contract and for any events occurring during the contract period, whether the suit is brought during the contract period or not.
7. The Successful Proposer has sole responsibility for all insurance premiums and policy deductibles.
8. It is the Successful Proposer'S responsibility to ensure that his agents, representatives and subcontractors comply with the insurance requirements set forth herein. Successful Proposer shall include his agents, representatives, and subcontractors working on the project or at the worksite as insured under its policies, or Successful Proposer shall furnish separate certificates and endorsements for each agent, representative, and subcontractor working on the project or at the worksite. All coverages for agents, representatives, and subcontractors shall be subject to all of the requirements set forth to the procurement representative.
9. All required insurance policies must be written with a carrier having a minimum A.M. Best rating of A- FSC VII or better. In addition, the COUNTY has the right to review the Successful Proposer's deductible or self-insured retention and to require that it be reduced or eliminated.
10. Successful Proposer understands and agrees that the stipulated limits of coverage listed herein in this insurance section shall not be construed as a limitation of any potential liability to the COUNTY, or to others, and the COUNTY'S failure to request evidence of this insurance coverage shall not be construed as a waiver of Successful Proposer'S obligation to provide and maintain the insurance coverage specified.
11. Successful Proposer understands and agrees that the COUNTY does not waive its immunity and nothing herein shall be interpreted as a waiver of the COUNTY'S rights, including the limitation of waiver of immunity, as set forth in Florida Statutes 768.28, or any other statutes, and the COUNTY expressly reserves these rights to the full extent allowed by law.
12. No award shall be made until the Procurement Division has received the Certificate of Insurance in accordance with this section.

## **BONDING REQUIREMENTS**

**Bid Bond/Certified Check.** By submitting a proposal, the Successful Proposer agrees should its proposal be accepted, **to execute the form of Agreement and present the same to COUNTY for approval within ten (10) calendar days after notice of intent to award.** The Successful Proposer further agrees that failure to execute and deliver said form of Agreement **within ten (10) calendar days** will result in damages to COUNTY and as guarantee of payment of same a bid bond/certified check shall be enclosed within the submitted sealed proposal in the amount of five (5%) percent of the total amount of the proposal. The Successful Proposer further agrees that in case the Successful Proposer fails to enter into an Agreement, as prescribed by COUNTY, the bid bond/certified check accompanying the proposal shall be forfeited to COUNTY as agreed liquidated damages. If COUNTY enters into an agreement with a Successful Proposer, or if COUNTY rejects any and/or all proposals, accompanying bond will be promptly returned.

**Payment and Performance Bonds.** Prior to commencing work, the Successful Proposer shall obtain, for the benefit of and directed to COUNTY, a Payment and Performance Bond satisfying the requirements of Florida Statutes § 255.05, covering the faithful performance by the Successful Proposer of its obligation under the Contract Documents, including but not limited to the construction of the project on the project site and the payment and obligations arising thereunder, including all payments to Subcontractors, laborers, and materialmen. The surety selected by the Successful Proposer to provide the Payment and Performance Bond shall be approved by COUNTY prior to issuance of such Bond, which approval shall not be unreasonably withheld or delayed provided that surety is rated A- or better by Best's Key Guide, latest edition.

Failure to provide the required bonds on the prescribed form may result in Successful Proposer being deemed nonresponsive. Bonds must be in the form prescribed in Florida Statutes § 255.05, and must not contain notice, demand or other terms and conditions, including informal pre-claim meetings, not provided for in Florida Statutes § 255.05.

Bonds shall be in an amount equal to 100% of the contract price issued by a duly authorized and nationally recognized surety company, authorized to do business in the State of Florida, satisfactory to COUNTY. Surety shall be rated as "A-" or better by Best's Key Guide, latest edition. The attorney-in-fact who signs the bonds must file with the bonds, a certificate and effective dated copy of power-of-attorney. Payment and Performance Bonds shall be issued to "Manatee County, a political subdivision of the State of Florida", **within ten (10) calendar days after issuance of notice of intent to award.**

In addition, pursuant to Florida Statutes § 255.05(1)(b), Florida Statutes, prior to commencing work, the Successful Proposer shall be responsible and bear all costs associated to record the Payment and Performance Bond with the Manatee County Clerk of the Circuit Court. A certified copy of said recording shall be furnished to the Procurement Division upon filing. Pursuant to Florida Statutes § 255.05(1)(b), Florida Statutes, COUNTY will make no payment to the Successful Proposer until the Successful Proposer has complied with this paragraph.

Furnishing Payment and Performance Bonds shall be requisite to execution of an Agreement with COUNTY. Said Payment and Performance Bonds will remain in force for the duration of

this Agreement with the premiums paid by the Successful Proposer. Failure of the Successful Proposer to execute such Agreement and to supply the required bonds shall be just cause for cancellation of the award. COUNTY may then contract with the next lowest, responsive and responsible Successful Proposer or re-advertise this RFP.

Failure of COUNTY at any time to require performance by the Successful Proposer of any provisions set out in the resulting Agreement will in no way affect the right of COUNTY, thereafter, to enforce those provisions.

**FORM 8, INSURANCE STATEMENT  
RFP NO. 24-R083613CD**

**THE UNDERSIGNED** has read and understands the insurance requirements applicable to any Agreement resulting from this solicitation and shall provide the insurances required in this RFP within ten (10) days from the date of Notice of Intent to Award.

Proposer Name: \_\_\_\_\_ Date: \_\_\_\_\_

Signature  
(Authorized  
Official): \_\_\_\_\_

Printed Name/Title: \_\_\_\_\_

Insurance Agency: \_\_\_\_\_

Agent Name: \_\_\_\_\_ Agent Phone: \_\_\_\_\_

***Return this signed statement with your proposal.***

**FORM 9, INDEMNITY AND HOLD HARMLESS**

**MANATEE COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA**

The Successful Proposer shall indemnify and hold harmless County, its officers, and employees from liabilities, damages, losses, and costs, including but not limited to reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the Successful Proposer, its personnel, design professionals and other persons employed or utilized by the Successful Proposer in the performance of the Agreement, including without limitation, defects in design, or errors or omissions that result in material cost increases to County. Such indemnification shall include the payment of all valid claims, losses, and judgments of any nature whatsoever in connection therewith and the payment of all related fees and costs. County reserves the right to defend itself with its own counsel or retained counsel at Successful Proposer's expense.

Signature of Authorized Official of Proposer: \_\_\_\_\_

Title: Date: \_\_\_\_\_

Project Number and /or Name: \_\_\_\_\_

Insurance Agent: \_\_\_\_\_

Acknowledgement:

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by \_\_\_\_\_ [FULL LEGAL NAME], who is

Personally known to me

OR

has produced \_\_\_\_\_ as identification.

Notary Signature \_\_\_\_\_

Print Name \_\_\_\_\_

Seal

## **SECTION E, EXHIBITS**

**Exhibit 1, Scope of Services**

**Exhibit 2, Proposal Response**

**Exhibit 3, Piney Point Chemical Dosages January 2024**

**Exhibit 4, Piney Point Injection Well Permit**

**Exhibit 5, Piney Point County-Receiver Services Agreement**

**Exhibit 6, Piney Point Water Quality Treatability Study Review**

**Exhibit 7, Piney Point Treatment Plant Plans and Schematics**

**Exhibit 8, Piney Point Injection Well MOR's**

**Exhibit 9, Piney Point Projected Water Balance Nov. 23**

**Exhibit 10, Piney Point Site Picture week of 12-4-23**

**Exhibit, 11, Sample Agreement**

## **EXHIBIT 1, SCOPE OF SERVICES**

### **1.01 PURPOSE**

The purpose of this Request for Proposals (RFP) is to solicit responses from qualified firms or individuals to provide Operational Support Services for the Piney Point Treatment Plant and Class I Injection Well. The intent of this solicitation is to select from candidate respondents based upon scoring of proposal price and candidate qualifications where the selected firm would have the highest overall score (hereinafter referred to in this Scope as Contractor).

The term of this contract will be for five (5) years subdivided into 2 phases: the Initial Drawdown Phase and the Long-Term Seepage Phase. The demarcation point between the phases is somewhat uncertain as completion of the Initial Drawdown Phase depends greatly on how much rainfall might occur.

### **1.02 BACKGROUND**

Manatee County is working in a limited capacity to support the court-appointed receiver's efforts to achieve successful closure of the former Piney Point phosphate mining facility. The County designed, permitted and constructed a Class I industrial injection well, a companion dual zone monitoring well and a water treatment plant for the project. The injection well and treatment plant are County-owned assets located on County property at 11951 Bud Rhoden Road, Palmetto, FL 34221. This site is located a few hundred yards south of the Piney Point site.

This RFP and Scope of Work reflect new services which have never been procured by Manatee County. The Class I Injection Well and the accompanying Treatment Plant were designed, constructed and are currently going through initial startup testing to determine parameters such as: loading rates, runtimes, operational SOPs, protocols, chemical dosages and other operational performance data. This information is still under development and although the County will endeavor to share as much information as available during this procurement process, it is uncertain if this data set will be completed within the timeframe of this procurement effort. Included in this RFP is the chemical dosage and cost to treat 1 MGD of flow based on operational testing in January 2024 (**Exhibit 3**).

Analytical lab reports for various surface waters are included here but site conditions are dynamic as the impoundment waters are now being comingled and mixed as a part of the closure process. So historic lab reports are not likely indicative of current or future conditions. Candidate firms and individuals are required to visit the site, and highly encouraged to collect their own samples and perform testing to determine chemical costs to factor into their proposal.

## 1.02 DEFINING THE TWO PHASES OF THIS PROJECT

Contractor shall furnish all equipment, labor, chemicals, materials, supplies, services, licensing, transportation, and other components necessary to comply with the terms and conditions of the Agreement pursuant to the articles and sections herein. There are two (2) distinct phases that have been identified for this project:

- Initial Drawdown Phase: Estimated to be 18 months to two (2) years, when closure activities atop the phosphogypsum mounds are underway, there will be higher flows of water diverted from the site as the surface impoundments are pumped dry. During this initial phase, the water is more likely to exhibit variable water quality and may require closer supervision of operations at the treatment facility and injection well. The nominal rate of flow for the treatment and injection system will be 1 MGD (694 gpm) during this phase.
- Long Term Seepage Phase: Following the closure discussed above, flows will be significantly lower, water quality is expected to be relatively consistent, and this will present lesser challenges to operations of the treatment plant and injection well. Flow targets for the long-term seepage phase will commence at about 0.19 MGD (132 gpm) at the beginning and diminish very slowly over the next 48 years, or until the state determines seepage water from the site no longer presents any offsite risk.

## 1.03 GENERAL REQUIREMENTS

As described above, there are two (2) distinctive phases associated with operational support services, but the following general requirements shall pertain regardless of which phase the project is in. Each Respondents' proposal would be well advised to convey their understanding and ability to comply with these requirements.

- A. Contractor must have experience operating and maintaining water treatment plants and deep injection wells.
- B. Contractor must have demonstrated proficiency with Underground Injection Control (UIC) permitting and compliance reporting.
- C. Contractor shall develop a site safety plan which shall include but not be limited to chemical deliveries, maintenance on chemical feed systems, how visitors and tours will be safely conducted and the locations and contact numbers for local emergency rooms, urgent care providers and emergency responders.
- D. Contractor shall develop an Operations Plan which identifies personnel assigned to the project their role, training, key areas of expertise and experience.

#### 1.04 SPECIFIC SERVICE REQUIREMENTS

As noted, there are two (2) distinctive phases associated with these services to be provided – there is the Initial Drawdown Phase and the Long-Term Seepage Phase. Each phase is unique and likely will entail differing staffing support levels. The treatment plant is a unique and special purpose facility that does not provide potable water to the public, does not receive sanitary wastewater and is not a permitted industrial treatment facility under state or federal guidelines. As such, it does not have an associated operating permit. However, the County has clear expectations that the facility will be operated and maintained in accordance with best industry practices. This is embodied by a professional services approach with diligent attention paid to site safety, operational control, data management, inventory administration, preventative maintenance, demand maintenance troubleshooting/repair, general housekeeping, grounds maintenance and preservation of site security.

The operation and maintenance of the treatment plant and injection well are better defined in the description which follows. However, the facility is equipped with elements of programmable control, automation and can transmit alarms to standby personnel and/or stop the process if parameters deviate from specified control ranges. The County has chosen not to stipulate staffing requirements or credentials but, rather, has chosen to leave such details to each individual Respondent to make in their offer along with assurances that the plan they have developed will meet the project’s needs and expectations as described below:

##### A. Operations:

- a. The County has funded a consultant to design, build and startup the treatment plant. That effort will result in SOPs, chemical dosages and treatment protocols proven to satisfactorily reduce particulates, pH and levels of the inorganic constituents of struvite (magnesium, ammonium and phosphate) to solubility levels for this water to be well below risk of solids precipitation which could endanger the injection well. However, the Contractor is encouraged to be creative, innovative and refine those chemical dosages or treatment approaches if they believe they can more economically treat the water to acceptable standards for injection.
- b. Contractor shall have the expertise and capability to adjust SOPs and fine tune chemical dosages and operating regimens in response to changing site conditions as needed.
- c. Contractor will daily record chemical storage tank levels, review chemical use rates, project days of storage onsite and place restocking orders in such fashion as to avoid risk of depletion before resupply.
- d. Contractor shall develop daily operating sheet(s) which reflect critical water quality parameters, levels, pressures, flows and chemical dosages as measured through the treatment process and at the wellhead performed or gathered with a frequency necessary to ensure proper operation and process control of the facilities, maintaining these records onsite and making them available for inspection upon request.

- e. Contractor shall review and assess operational data for information regarding trends which may reveal equipment that may be defective or out specification and in need of repair or to identify opportunities to optimize treatment and save on chemical expenses.
- f. Contractor shall compile and submit monthly and annual Injection Well permit reports.

B. Maintenance, Utilities and Housekeeping:

- a. Contractor shall adhere to and perform manufacturer-recommended instrument calibrations, preventative maintenance protocols for all instruments and equipment, maintain these onsite and produce them for review if requested.
- b. Contractor shall be responsible for all needed O&M expenses including water treatment chemicals, field testing kits/reagents, instrument probes, replacement chemical pumps, consumables and other supplies needed to complete this scope of work. Contractor shall maintain an inventory of critical items such as probes, lubricants, fuses, bulbs, breakers and reagents to avoid or minimize unnecessary shutdowns.
- c. Contractor shall be responsible for the following utility and service expenses:
  - i. Electricity
  - ii. Water and wastewater service expense
  - iii. Solid waste pickup expense
  - iv. HVAC system repair and maintenance expense
  - v. Internet connectivity expense (20 MBps speed connection will be provided)
- d. Contractor shall be responsible for implementing any required PLC programming changes needed to adjust alarm setpoints and startup/shutdown relays and sequences.
- e. Contractor shall also be responsible for installing any needed PLC security upgrades or service pack updates to guard against cyber threats.
- f. If equipment fails during a warranty period, the Contractor shall pursue replacement on the County's behalf under warranty coverage.
- g. Contractor shall maintain the facilities and grounds in an orderly and presentable fashion, will maintain site security by keeping landscaping and vegetation regularly trimmed, fences in good condition, gates and doors closed/locked as applicable, maintaining the exterior security lighting and keeping gates closed.
- h. Contractor shall be responsible for exercising all chemical feed pump, storage tank, yard piping and any reactor vessel valves with a frequency of no less than every 12 months to maintain them in proper working condition.
- i. In cases where there are multiple similar units provided, Contractor shall endeavor to ensure rotational management strategies are in place to distribute runtime and avoid equipment sitting idle for excessive periods.

- j. Where possible, Contractor shall implement first-in-first out inventory and chemical storage practices to minimize risk of inventory deterioration or products decaying, becoming stale and losing potency.

C. Coordination with the Receiver:

- a. Contractor shall coordinate flow rates and water sources with the Receiver.
- b. If Contractor finds it necessary to stop or significantly reduce the rate of flow at the treatment plant at any point, they shall timely communicate with the Receiver using a direct voice communication channel (in person, telephone or radio) so the Receiver can make adjustments on their end as needed to protect their operations and equipment.

**1.05 ESTIMATED PROJECT COST**

The budget level estimate for these services is \$433,000 per month for the first 24 months and \$149,000 per month thereafter for the remaining 36 months of the initial five (5) year term. In annual cost terms that is \$5.196 million per year for each of the first two (2) years to be followed by \$1.788 million per year for each of the subsequent three (3) years, or \$15.756 million total.

**1.07 COUNTY RESPONSIBILITIES**

- A. The County has funded the design, permitting and construction of the treatment plant and injection well.
- B. The County will provide access to the site including all keys, codes, passwords, O&M manuals, SOPs and equipment warranty information for the facilities located at 11951 Bud Rhoden Road, Palmetto, FL 34221.
- C. The County will provide an initial fill of all treatment chemicals.
- D. The County is funding treatment plant startup to develop SOPs, operational protocols, chemical dosages, process loading rates and runtimes, etc. and will provide that data to the Contractor.
- E. The County will transfer utility service accounts (electricity, internet, water, sewer, solid waste) to the Contractor's name.
- F. The County will provide the name and contact information for the HVAC system provider so the Contractor can negotiate a service agreement as applicable.
- G. Attachments available for download that are related to this Exhibit that may be helpful to teams developing a proposal include the following:
  - 1. Piney Point Chemical Dosages January 2024
  - 2. Piney Point Injection Well Permit
  - 3. Piney Point County - Receiver Agreement
  - 4. Piney Point Water Quality Treatability Study Review
  - 5. Piney Point Treatment Plant Plans and Schematics
  - 6. Piney Point Injection Well MORs
  - 7. Piney Point Projected Water Balance Nov23
  - 8. Piney Point Site Pictures week of 12-4-23

**END OF EXHIBIT 1**

## **EXHIBIT 2, PROPOSAL RESPONSE REQUIREMENTS**

This section identifies specific information which must be contained within the Proposal and the order in which such information should be organized. The information each Proposer provides will be used to determine those Proposers with the background, experience and capacity to perform the scope of services as stated in this RFP and which Proposer(s) best meets the overall needs of the County. For more information on the evaluation process, refer to Section B, Evaluation of Proposals.

### **2.01 INFORMATION TO BE SUBMITTED**

The contents of each Proposal will be organized and arranged with tabs in the same order as listed below and with the same TAB numbers. The Proposal should contain sufficient detail to permit the County to conduct a meaningful evaluation. However, overly elaborate proposals are not requested or desired.

### **2.02 PROPOSAL FORMAT**

#### **A. FORMAT**

For more information regarding submission of Proposals, refer to the Request for Proposals, Section A.04, Submission of Proposals.

#### **B. TAB 1 - INTRODUCTION**

Include the following in Tab 1 of the Response.

1. A cover page that identifies Proposer, the RFP by title and the RFP number.
2. An introductory letter/statement that describe your Response in summary form (limit 2 pages).
3. A table of contents.

#### **C. TAB 2 – MINIMUM QUALIFICATION REQUIREMENTS**

In Tab 2 submit the information and documentation requested that confirms Proposers meets the following minimum qualification requirement(s):

1. Must be registered with the State of Florida, Division of Corporations to do business in Florida.

**No documentation is required. The County will verify registration.**

2. Proposer, or its representative(s), has made an inspection of the Piney Point Treatment Plant for work specified in this RFP on or after the date of advertisement of this RFP and prior to the Due Date and Time.

**Proposer must submit a statement on company letterhead and signed by an authorized official of Proposer that Proposer, or its representative(s), has made an inspection of the Piney Point Treatment Plant site, listing the date of the inspection and the individuals, by name, who conducted the inspection.**

3. Proposer Is NOT listed on the Florida State Board of Administration, Scrutinized List of Prohibited Companies. (NOTE TO BUYERS - Only for solicitations over \$1M)

**No documentation is required. The County will verify.**

4. Proposer is not on the Florida Suspended or Debarred Vendor List

**No documentation is required. The County will verify.**

5. If Proposer is submitting as a joint venture, it must have filed the required documents with the Florida Department of Business and Professional Regulation as required by Florida Statute Section 489.119, prior to the Due Date and Time.

**If Proposer is a joint venture, provide a copy of Proposer's approved filing with the Florida Department of Business and Professional Regulation.**

6. Proposer has no reported conflict of interests in relation to this RFP.

**Disclose the name of any officer, director or agent who is also an employee of the County. Disclose the name of any County employee who owns, directly or indirectly, any interest in the Proposer's firm or any of its branches. If no conflicts of interests are present, Proposer must submit a statement to that effect.**

#### **D. TAB 3 – FORMS**

Provide the completed and executed Forms listed below in Tab 3.

- Form 1, Acknowledgement of Addenda
- Form 2, Response Signature Form
- Form 3, Public Contracting and Environmental Crimes Certification
- Form 4, Conflict of Interest Disclosure
- Form 5, Non-Collusion Affidavit
- Form 6, Truth in Negotiation Certification
- Form 7, Scrutinized Company Certification
- Form 8, Insurance Statement
- Form 9, Indemnity and Hold Harmless

#### **E. TAB 4 - TRADE SECRETS**

Pursuant to Section A.28, Trade Secrets, in Tab 4 identify any trade secret being claimed. Proposer must submit purported trade secret as follows:

1. Trade secret material must be segregated, within the applicable TAB, from the portions of the Response that are not being declared as trade secret. NOTE: Responses cannot be designated as 'Proprietary' or 'Confidential' in their entirety.
2. Proposer shall cite, for each trade secret being claimed, the Florida Statute number which supports the designation.

3. Proposer shall offer a brief written explanation as to why information claimed as trade secret fits the cited Statute.
4. Proposer shall provide an additional electronic copy of its Response that redacts all designated trade secrets.

#### **F. TAB 5 - PROPOSER STATEMENT OF ORGANIZATION**

In Tab 5, provide information and documentation on Proposer as follows:

1. Legal contracting name including any dba.
2. State of organization or incorporation.
3. Ownership structure of Proposer's company.  
(e.g., Sole Proprietorship, Partnership, Limited Liability Corporation, Corporation)
4. Federal Identification Number.
5. A fully completed (signed and dated) copy of Proposer's W-9.
6. Contact information for Proposer's corporate headquarters and local office (if different) NOTE: local is defined as Manatee, DeSoto, Hardee, Hillsborough, Pinellas or Sarasota counties.
  - a. Address
  - b. County, State, Zip
  - c. Phone
  - d. Number of years at this location
7. List of officers, owners and/or partners, or managers of the firm. Include names, addresses, email addresses, and phone numbers.
8. Provide supporting documentation from the certifying agent indicating Proposer is a certified Minority-owned Business Enterprise, if applicable.
9. Contact information for Proposer's primary and secondary representatives during this RFP process to include the following information:
  - a. Name
  - b. Phone
  - c. E-mail
  - d. Mailing Address
  - e. County, State, Zip
10. Provide a brief summary regarding any prior or pending litigation, either civil or criminal, involving a governmental agency or which may affect the performance of the services to be rendered herein, in which the Proposer, any of its partners, employees or subcontractors is or has been involved within the last three years.
11. Provide details of any ownership changes to Proposer's organization in the past three years or changes anticipated within six months of the Due Date and Time (e.g., mergers, acquisitions, changes in executive leadership).

#### **G. TAB 6 – PROPOSER AND TEAM'S EXPERIENCE**

In Tab 6, provide details of Proposer and its team's experience to include the following:

1. Provide a summary of Proposer's background, size and years in business.
2. Describe Proposer's experience in operating and maintaining water or wastewater plants for other government agencies, particularly those within Florida.
3. Provide Proposer's years of experience in operating and maintaining water or wastewater plants and deep injection wells.
4. Identify and include information regarding experience and qualifications of

- Proposer's key staff to be assigned to the services. Include a resume for each with the name of the firm(s) for their current and previous employers, their full names, professional credentials (e.g., certifications and/or licenses), and roles and duties which the individuals will provide to the County. Include the address of their current primary office location, email address and phone number.
5. Identify any proposed sub-contractors to accomplish the work. Include the company name, the name of the individual(s) to be assigned, and an overview of their experience and qualifications applicable to their role in the provision of water or wastewater treatment plant operation and maintenance services for the County.
  6. Describe any significant or unique accomplishments, recognition, or awards received by Proposer, its key personnel, or its subcontractors for previous similar services.
  7. Provide a minimum of three client references for water or wastewater treatment plant maintenance and operations performed by Proposer, who are agreeable to responding to an inquiry by the County. References should include the following information:
    - a. Client name
    - b. Client address
    - c. Client contact name
    - d. Client contact phone and fax numbers
    - e. Client contact email address
    - f. Brief description of work (1-2 sentences)
    - g. Performance period (start/end dates)
    - h. Total dollar value of contract

#### **H. TAB 7 - APPROACH**

In Tab 7, provide Proposer's project approach to include the following:

1. A narrative of the project approach and an explanation of how this approach meets County objectives and requirements as specified in this RFP.
2. An explanation of Proposer's technical ability to perform all facets of the scope of services defined in Exhibit 1. If more than one Proposer is jointly filing a Response, details must be provided to clearly demonstrate individual roles and responsibility for all components of the project.
3. Details of implementation plan and schedule. Proposers shall provide a timeline detailing acceptance of contract and associated details with dates to demonstrate their ability to begin providing services within a reasonable timeframe.
4. Provide a narrative of the methodology for engaging with County representatives in-the-course of performing the duties.
5. Proposer shall thoroughly explain:
  - a. Its accessibility in the areas of availability for meetings, general communications, coordination, and supervision
  - b. How Proposer physically plans on attending pre-scheduled meetings
  - c. How Proposer plans on ensuring accessibility and availability during the term of the Agreement
6. Proposer's Risk Management and Safety Plan that includes a list of risks related to the provision of services and Proposer's proposed mitigation procedures for each item.
7. Include a detailed description of the Proposer's safety plan to control the environment of the work site during operations of the treatment plant.
8. Submit any additional information not previously requested which Proposer believes would assist County in the evaluation of Proposer's approach to provide the required

services.

## **I. TAB 8 - ORGANIZATIONAL STRUCTURE AND CAPACITY**

1. Submit details of Proposer's staffing resources, at the location that will provide services to the County as well as corporately; by discipline and the number of personnel within each discipline.
2. Detail the location of the managing office and what plans will be adopted to ensure County citizens receive consideration for employment; and vendors located within the County will be used for the acquisition of goods and services needed to perform the scope of services.
3. If Proposer's staffing resources includes sub-consultants, submit the name of the firm(s) who will perform each discipline. If more than one firm is listed for a discipline, then label which firm is the primary firm for that discipline. Firms may perform more than one discipline.
4. Submit an organizational diagram clearly identifying key personnel as well as other staffing resources who are designated to provide services to the County. For each individual in the organization diagram, include each individual's name, title, firm and indicate their functional relationship to each other.
5. If Proposer is teaming with other entities to provide the required goods and services, detail any prior similar work any two or more team members have jointly performed.
6. If a joint venture is proposed, provide an affidavit attesting to the formulation of the joint venture and provide proof of incorporation as a joint venture or a copy of the formal joint venture agreement between all joint venture parties, indicating their respective roles, responsibilities, and levels of participation in the project.
7. An explanation, in general terms, of Proposers' financial capacity to perform the scope of services. If Proposer is jointly filing a Response with other entities, details must be provided to demonstrate financial capacity of each entity.
8. Provide a statement on company letterhead and signed by a company official authorizing a County auditor and/or financial analysts access to your financial records, including all records prepared by an independent firm, or the financial records of other entities for which you have ownership interest. Such access will occur at the primary location of the Proposer, or such other location as may be agreed, for the purposes of verifying financial representations, and/or to review and assess the historical and current financial capacity of Proposer's business entity and its expected ability to meet ongoing financial obligations related to the required services, if awarded a contract. If an audit is conducted, the County's audit and/or financial analysts will report their findings in a summary report to the Procurement Official, which will be placed in the Response files for subsequent use, review, and discussions during evaluations.
9. Disclose any ownership interest in other entities proposed for services. This ownership disclosure includes ownership by the Proposer through a parent, subsidiary or holding company or any other form of business entity. Submit entity names and the percent of ownership for each.
10. Detail Proposer and any subcontractor's current workloads and any projected changes to the workload within the next six months.
11. Submit any additional information not previously requested which Proposer believes would assist County in the evaluation of Proposer's capacity to provide the required services.

## **J. FEES**

Proposers should use the Fee Form on the following page for submitting its proposed fee to operate and maintain the Piney Point Treatment Plant and Deep Injection Well. Fees must be submitted as all-inclusive to provide the operating and maintenance services of the Piney Point Treatment Plant and Deep Injection Well in accordance with the requirements identified in the Scope of Services and as set forth in this RFP document.

For the purpose of comparatively evaluating proposal costs, the cost basis will be the proposed value per million gallons of water treated and disposed of in the injection well. Each candidate proposal will then be comparatively ranked and scored as follows:

- 1) The lowest overall responsible and responsive proposal cost will be assigned the highest possible score (50 points).
- 2) All other proposals will receive the score determined by multiplying the 50 points possible times the quotient defined by the fraction created when dividing the lowest proposal cost by each proposal's cost.

*As an example of score, if Proposal A were the lowest proposal cost at \$3.30 and Proposal B was \$5.10, then the cost score points for Proposal B would be calculated as follows:  $50 \text{ points} \times \{ \$3.30 / \$5.10 \} = 32.35 \text{ points}$ .*

Submit one hard copy original and one duplicate hard copy of the Fees proposal form in a separate sealed envelope labeled "Fees Proposal" with the Proposer's name and include with Proposer's original hard copy of Proposal. Do not include copies of the Fees proposal form in the duplicate hard copies of the proposal response.

## **Fee Proposal Form**

Provide a unit price per million gallon per day (MGD) of water treated, to be all inclusive of labor, chemicals, coordination of pumping with the Receiver, electrical power, water/wastewater service, solid waste service, grounds maintenance, facility maintenance, consumables, all needed water quality sampling & analysis, development and submittal of monthly Injection Well operating reports, any needed repairs & maintenance, miscellaneous expenses, cooperation with the County on any permit-related testing, and overhead, and profit:

Cost per Million Gallons Treated in numerals: \$\_\_\_\_\_

Repeat the above in written words:

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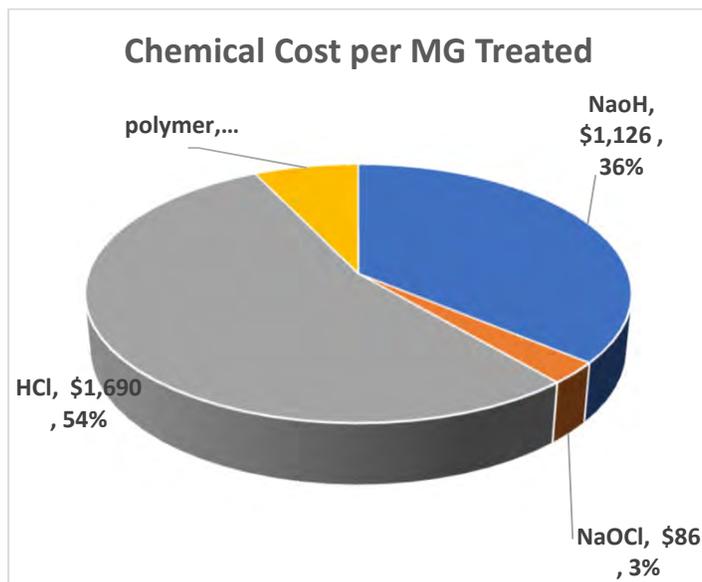
This unit cost will apply for the initial term of the Agreement and may be adjusted for future years with escalation/de-escalation according to annual changes in the Consumer Price Index (CPI), Producers Price Index (PPI) or other reasonable adjustments if mutually agreeable, if an amendment is executed prior to commencement of the period in question.

**END EXHIBIT 2**

**EXHIBIT 3, PINEY POINT CHEMICAL DOSAGES JANUARY 2024**

**Chemicals Needed to Treat 1 MGD flow  
Based on Operational Testing January 2024**

chemical	strength	units	unit cost (\$/gal)	usage rate (gpd)	cost per MG
NaOH	50%	gpd	\$ 2.82	400	\$ 1,126
NaOCl	10.50%	gpd	\$ 1.29	66.5	\$ 86
HCl	15%	gpd	\$ 2.60	650	\$ 1,690
polymer	-	gpd	\$ 32.00	7	\$ 224
Note: low bid chemical prices for Lake Manatee WTP					\$ 3,126



**EXHIBIT 4, PINEY POINT INJECTION WELL PERMIT**



# FLORIDA DEPARTMENT OF Environmental Protection

Bob Martinez Center  
2600 Blair Stone Road  
Tallahassee, FL 32399-2400

**Ron DeSantis**  
Governor

**Jeanette Nuñez**  
Lt. Governor

**Shawn Hamilton**  
Secretary

**Sent Via Electronic Mail**

December 16, 2021

In the Matter of an Application for Permit by:

Jeff Goodwin  
Deputy Director  
Manatee County Utilities  
4410 66th Street West  
Bradenton, Florida 34210  
[Jeff.Goodwin@mymanatee.org](mailto:Jeff.Goodwin@mymanatee.org)

DEP UIC Permit No.: 0322708-002-UC/1I  
WACS Facility ID: 101607  
County: Manatee  
Class I Injection Well System, IW-1  
Construct and Operationally Test  
Piney Point Injection Well

## Notice of Permit

Enclosed is permit number 0322708-002-UC/1I to construct and operationally test a Class I injection well.

Any party to this order (permit) has the right to seek judicial review of the permit pursuant to Section 120.68, Florida Statutes, (F.S.), by the filing of a Notice of Appeal pursuant to Rules 9.110 and 9.190, Florida Rules of Appellate Procedure, with the Clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, [Agency\\_Clerk@FloridaDEP.gov](mailto:Agency_Clerk@FloridaDEP.gov); and by filing a copy of the Notice of Appeal accompanied by the applicable filing fees with the appropriate District Court of Appeal. The Notice of Appeal must be filed within 30 days from the date this Notice is filed with the Clerk of the Department.

**Permittee:** Jeff Goodwin, Deputy Director  
Manatee County Utilities  
Piney Point Injection Well

**DEP UIC Permit No.:** 0322708-002-UC/11  
**WACS Facility ID No.:** 101607  
**Date:** December 16, 2021

**Executing and Clerking:**

Executed in Tallahassee, Florida.  
State of Florida Department of Environmental Protection

*Cindy Fischler*

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Cindy Fischler, P.G.  
Environmental Administrator  
Aquifer Protection Program  
Division of Water Resource Management

**Certificate of Service**

The undersigned duly designated clerk hereby certifies that this **Notice of Permit** and all copies were sent on the filing date Thursday, December 16, 2021, to the following listed persons:

Cindy Fischler, DEP/TLH, [Cindy.Fischler@FloridaDEP.gov](mailto:Cindy.Fischler@FloridaDEP.gov)  
Annette G. Roberts, DEP/TLH, [Annette.G.Roberts@FloridaDEP.gov](mailto:Annette.G.Roberts@FloridaDEP.gov)  
James Dodson, DEP/TLH, [James.Dodson@FloridaDEP.gov](mailto:James.Dodson@FloridaDEP.gov)  
Jim Cichon, DEP/TLH, [James.Cichon@FloridaDEP.gov](mailto:James.Cichon@FloridaDEP.gov)  
Dan Warmke, DEP/TLH, [Daniel.Warmke@FloridaDEP.gov](mailto:Daniel.Warmke@FloridaDEP.gov)  
Rufus Dickey, DEP/TLH, [Rufus.L.Dickey@FloridaDEP.gov](mailto:Rufus.L.Dickey@FloridaDEP.gov)  
Benjamin Melnick, DEP/TLH, [Benjamin.Melnick@FloridaDEP.gov](mailto:Benjamin.Melnick@FloridaDEP.gov)  
Doug Beason, DEP/OGC, [Doug.Beason@FloridaDEP.gov](mailto:Doug.Beason@FloridaDEP.gov)  
Leandro Garcia, DEP/TLH, [Leandro.Garcia@FloridaDEP.gov](mailto:Leandro.Garcia@FloridaDEP.gov)  
John Coates, DEP/TLH, [John.Coates@FloridaDEP.gov](mailto:John.Coates@FloridaDEP.gov)  
Brock Law, DEP/TLH, [Brock.E.Law@FloridaDEP.gov](mailto:Brock.E.Law@FloridaDEP.gov)  
Edith Chuy, DEP/TLH, [Edith.Chuy@FloridaDEP.gov](mailto:Edith.Chuy@FloridaDEP.gov)  
Kim Cruz, DEP/SWD, [Kimberly.Cruz@FloridaDEP.gov](mailto:Kimberly.Cruz@FloridaDEP.gov)  
Erica Peck, DEP/SWD, [Erica.Peck@FloridaDEP.gov](mailto:Erica.Peck@FloridaDEP.gov)  
James Dwyer, PE, ASRus, [JDwyer@ASRus.net](mailto:JDwyer@ASRus.net)  
Mark McNeal, PG, ASRus, [MMcNeal@ASRus.net](mailto:MMcNeal@ASRus.net)  
Pete Larkin, PG, ASRus, [PLarkin@ASRus.net](mailto:PLarkin@ASRus.net)  
Jason Meadows, USEPA/ATL, [Meadows.JasonB@EPA.gov](mailto:Meadows.JasonB@EPA.gov)

**Filing and Acknowledgment**

Filed, on this date, pursuant to Section.120.52, Florida Statutes, (F.S.), with the designated Department Clerk, receipt of which is hereby acknowledged.

---

*Lisa Williams*  
Clerk

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12/16/2021  
Date



# FLORIDA DEPARTMENT OF Environmental Protection

Bob Martinez Center  
2600 Blair Stone Road  
Tallahassee, FL 32399-2400

**Ron DeSantis**  
Governor

**Jeanette Nuñez**  
Lt. Governor

**Shawn Hamilton**  
Secretary

## Underground Injection Control Class I Injection Well System Construction and Testing Permit

### Permittee

Jeff Goodwin  
Deputy Director  
Manatee County Utilities  
4410 66th Street West  
Bradenton, Florida 34210  
[Jeff.Goodwin@mymanatee.org](mailto:Jeff.Goodwin@mymanatee.org)

### Permit/Certification

UIC Permit Number: 0322708-002-UC/11  
WACS Facility ID: 101607  
Date of Issuance: December 16, 2021  
Date of Expiration: December 16, 2026  
Permit Processor: Annette G. Roberts

### Facility

Piney Point Injection Well  
3105 Buckeye Road  
Palmetto, Florida 34221

### Location

County: Manatee  
Latitude: 27° 37' 16.6" N  
Longitude: 82° 31' 42.6" W

### Project: Class I Injection Well System IW-1

This permit is issued under the provisions of Chapter 403, Florida Statutes (F.S.), and the rules adopted thereunder, particularly Rule 62-528, Florida Administrative Code (F.A.C.). The above-named permittee is hereby authorized to perform the work or operate the facility shown on the application and approved drawing(s), plans, and other documents attached hereto or on file with the Department of Environmental Protection (Department) and made a part hereof and specifically described as follows.

**To Construct and Operationally Test:** One non-hazardous Class I injection well (IW-1) and one dual-zone monitor well (DZMW-1) for the disposal of industrial wastewater from the Manatee County Piney Point Facility. The maximum injection rate for IW-1 shall be 2,813 gallons per minute (GPM) or 4.05 million gallons per day (MGD). The injection well will be constructed with a 20-inch diameter casing set to 1,950 feet below land surface (bls), a 11.75-inch diameter tubing set to 1,950 feet bls with a cemented annulus, and a total depth of 3,300 feet bls. The dual-zone monitor well DZMW-1 will be completed in the upper Floridan aquifer from 600 to 650 feet bls and from 900 to 950 feet bls, with final monitoring intervals determined based on in situ testing.

**In Accordance With:** The Application to Construct [DEP Form No. 62-528.900(1)] received April 22, 2021, response to the Department's request for additional information

**Permittee:** Jeff Goodwin, Deputy Director  
 Manatee County Utilities  
 Piney Point Injection Well

**DEP UIC Permit ID No.:** 0322708-002-UC/11  
**WACS Facility ID No.:** 101607  
**Date:** December 16, 2021

dated May 5, 2021, and supporting information submitted to the Aquifer Protection Program (APP) Tallahassee office.

**Location:** Piney Point Injection Well, 3105 Buckeye Road, Palmetto, Florida 34221, in Manatee County.

The injection and monitor wells, as designated below by Well Name and Water Assurance Compliance System (WACS) Testsite identification (ID), and construction details at this facility, are as follows:

**Injection Well (IW)**

Well Name	WACS Testsite ID	Well Depth (feet bls)	Casing Diameter (OD inches)	Casing or Tubing Type	Casing Depth or Interval (feet bls)
IW-1	13989	3,300	50	Steel	60
			40	Steel	350
			30	Steel	900
			20	Steel	1,950
			11.75	FRP	1,950
			Open Hole		1,950 – 3,300

**Injection Well Notes:** Will be constructed with new, unused steel and fiberglass-reinforced plastic (FRP) with a fully cemented annulus completed to land surface.

**Monitor Well (MW)**

Well Name	WACS Testsite ID	Monitor Zone	Casing Diameter (OD inches)	Casing Type	Casing Depth <sup>b</sup> (feet bls)	Monitoring Depth <sup>b</sup> (feet bls)
DZMW-1 <sup>a</sup>			24	Steel	60	
			16	Steel	600	
	29238A	Upper Zone				600 – 650
	29238B	Lower Zone	6	FRP	900	900 – 950

**Monitor Well Notes:**

<sup>a</sup> Will be constructed with new, unused steel and FRP with a fully cemented annulus completed to land surface, except for an open zone to allow for sample collection.

<sup>b</sup> The exact depths of casing seats and monitor intervals shall be determined in accordance with Specific Conditions III.B.2 through III.B.9.

**Subject To:** Specific Conditions I-IX and General Conditions 1-24.

**Permittee:** Jeff Goodwin, Deputy Director  
Manatee County Utilities  
Piney Point Injection Well

**DEP UIC Permit ID No.:** 0322708-002-UC/11  
**WACS Facility ID No.:** 101607  
**Date:** December 16, 2021

## **Specific Conditions**

### **I. General Requirements**

1. This permit is for Manatee County Utilities to construct and operationally test one non-hazardous Class I injection well IW-1 and associated dual-zone monitor well DZMW-1 for the disposal of industrial wastewater from the Manatee County Piney Point Facility. This permit does not authorize the construction or operational testing of any other well or wells. *[62-528.440(2)(a), F.A.C.]*
2. No underground injection is allowed that causes or allows movement of fluid into an underground source of drinking water (USDW) if such fluid movement may cause a violation of any Primary Drinking Water Standard or may otherwise affect the health of persons. *[62-528.440(2)(c), F.A.C.]*
3. In the event a well must be plugged or abandoned, the permittee shall obtain a permit from the Department as required by Rule 62-528, F.A.C. When no longer used for their intended purpose, these wells shall be properly plugged and abandoned. Within 180 days of well abandonment, the permittee shall submit to the Department the proposed plugging method, pursuant to Rule 62-528.460, F.A.C. *[62-528.435(6) and 62-528.460(1), F.A.C.]*
4. If injection is to continue beyond the expiration date of this permit, the permittee shall apply for and obtain an operation permit. If necessary to complete the maximum two-year operational testing period as referenced in Rule 62-528.450(3)(e), F.A.C., the permittee shall apply for renewal of the construction permit at least 60 days prior to the expiration date of this permit. *[62-528.307(2)(a) and 62-528.450(3)(e), F.A.C.]*

### **II. Site Requirements**

1. A drilling pad shall be provided to collect spillage of contaminants and to support the heaviest load that will be encountered during drilling. *[62-528.410(9)(b), F.A.C.]*
2. No drilling operations shall begin without an approved disposal site for drilling fluids, cuttings, or waste. It shall be the permittee's responsibility to obtain the necessary approval(s) for disposal prior to the start of construction. A detailed disposal plan shall be submitted to the Department prior to the commencement of drilling activities for the injection and monitor wells. *[62-528.410(9)(a), F.A.C.]*
3. Specific drilling pad dimensions and design drawings for Department record shall be provided prior to commencing construction and shortly after selection of the drilling contractor. *[62-528.410(9)(b), F.A.C.]*

**Permittee:** Jeff Goodwin, Deputy Director  
Manatee County Utilities  
Piney Point Injection Well

**DEP UIC Permit ID No.:** 0322708-002-UC/11  
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4. Hurricane Preparedness – Upon the issuance of a “Hurricane Watch” by the National Weather Service, the preparations to be made include but are not necessarily limited to the following:
  - a. Secure all on-site salt and stockpiled additive materials to prevent surface and/or groundwater contamination.
  - b. Properly secure drilling equipment and rig(s) to prevent damage to wells and on-site treatment process equipment.

*[62-528.307(1)(f), F.A.C.]*

### **III. Construction and Testing Requirements**

#### **A. General**

1. Any construction, modification, repair, or abandonment of a well shall be performed by a Florida licensed water well contractor, licensed under Rule 62-532, F.A.C., to engage in the business of construction, modification, repair, or abandonment of a well. *[62-532.200, F.A.C.]*
2. Well construction shall follow the requirements of Rule 62-532.500 for Water Well Construction Standards. *[62-532.500, F.A.C.]*
3. The measurement points for drilling and logging operations shall be surveyed and referenced to the North American Vertical Datum (NAVD) of 1988 prior to the onset of drilling activities for the injection and monitor wells. *[62-160.240(3)(b)3., F.A.C.]*
4. Blow-out preventers or comparable flow control devices shall be installed on the injection and monitor wells prior to penetration of the Floridan Aquifer system. *[62-528.410(9)(c), F.A.C.]*
5. The Department shall be notified 30 days prior to the mobilization of drilling operations to the site, and again 7 days prior to the mobilization of drilling operations to the site. *[62-528.430(1), F.A.C.]*
6. Waters spilled during construction or testing of the injection well system shall be contained and properly disposed. *[62-528.307(1)(e) and (f), and 62-528.410(9)(b), F.A.C.]*
7. If additives that were not approved in the permit application are to be used during grouting, for lost circulation, or for any other reason, information on their properties shall be submitted to the Department prior to their use for review and approval. *[62-528.410(5)(c), F.A.C.]*
8. No more than 6% bentonite gel shall be used to cement any casing or tubing unless advance approval is received from the Department due to conditions found during the drilling and logging of the well. *[62-528.410(5)(f) and 62-528.420(5)(c), F.A.C.]*

## **B. Monitoring**

1. The construction, geophysical logging, and packer testing programs shall be implemented in accordance with this permit and as proposed in the following submittals:

- April 22, 2021, Application to Construct [DEP Form No. 62-528.900(1)];
- May 5, 2021, Response to RAI;
- Other approved submittals received by the Department.

*[62.528.307(1)(b), F.A.C.]*

2. Exact depths of casing seats and monitor intervals shall be determined based on field conditions and the results obtained during the construction and testing program and are subject to the conditions of this permit. The injection well will be constructed first followed by the monitor wells. In the case of a multi-well injection system, at least one injection well shall be constructed first.

*[62-528.410(4)(c), F.A.C.]*

3. Packer tests and geophysical logs shall be conducted in both injection and monitor wells to identify permeable zones, confinement, and the base of the USDW.

a. The program shall include sufficient packer tests to be conducted during the drilling of Injection Well IW-1 and dual-zone monitor well DZMW-1, at intervals which are to be identified in each well's formation testing program. The depth and placement of the packer tests shall be proposed by the permittee and approved by the Department.

b. Placement of the upper and lower monitor zones are subject to review and approval by the Department. In conjunction with geophysical logs for the proposed injection well, sufficient straddle packer tests shall be conducted above and below the base of the USDW with packer element separation to accurately define the depth of the base of the USDW. Sufficient confirmatory straddle packer tests shall also be completed at DZMW-1, to verify the upper and lower monitor intervals from the injection well construction data. The placement and depth of the packer tests shall be approved by the Department.

c. Packer tests shall be conducted in the anticipated confining intervals, from the lowermost zone of the USDW to the top of the injection zone. Results from the packer tests will contribute to the demonstration of confinement. To the extent practicable, the packer tests shall be performed over intervals that are sufficiently narrow so as not to include high hydraulic conductivity beds.

**Permittee: Jeff Goodwin, Deputy Director  
Manatee County Utilities  
Piney Point Injection Well**

**DEP UIC Permit ID No.: 0322708-002-UC/11  
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Date: December 16, 2021**

- d. Water samples shall be collected from each packer test and analyzed for total dissolved solids (TDS), chlorides, specific conductance, temperature, ammonia, total Kjeldahl nitrogen, and sulfate.

*[62-528.405(1)(a) and (2)(a), and 62-528.420(6)(f), F.A.C.]*

- 4. Department approval is required prior to the following stages of construction and testing:

- a. Intermediate (30-inch) casing seat in the injection well
- b. Final (20-inch) casing seat in the injection well
- c. Final seat for tubing and packer in the injection well
- d. Injection well formation testing program to identify the depth of the base of the USDW using the smallest practicable interval.
- e. Dual-zone monitor well formation testing program to identify the depth of the base of the USDW using the smallest practicable interval.
- f. Intermediate (16-inch) casing seat in the monitor well
- g. Final (6-inch O.D.) casing seat in the monitor well
- h. Monitor zone selections
- i. Short-term injection test
- j. Operational testing

*[62-528.410(4)(c) and 62-528.420(4)(c), F.A.C.]*

- 5. The depth of the USDW and the background water quality of the monitor zones shall be determined during drilling and testing using the following information:

- a. Water samples from packer testing data with analysis and interpretation.
- b. Geophysical logging upon reaching the total depth of the appropriate pilot hole interval including the following logs at a minimum: caliper, gamma ray, dual induction, and borehole compensated sonic. Other logs as identified in the permit application documents shall be run.

*[62-528.405(1)(a) and 62-528.405(3)(b), F.A.C.]*

- 6. The upper monitor interval shall be established within the lowermost portion of the USDW unless it can be demonstrated that no zone is present that can produce adequate water for the collection of representative ground water samples. *[62-528.425(1)(g)4., F.A.C.]*

- 7. The lower monitor interval shall be positioned in a zone below the base of the USDW that can produce adequate water for the collection of representative ground water samples. The purpose of the lower monitor zone is to verify the long-term effectiveness of the confining zone and external mechanical integrity of the injection well. The lower monitor zone shall be positioned above the confining zone to monitor its long-term effectiveness and shall be placed below the base of

**Permittee:** Jeff Goodwin, Deputy Director  
Manatee County Utilities  
Piney Point Injection Well

**DEP UIC Permit ID No.:** 0322708-002-UC/11  
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the USDW to detect fluid movement prior to movement into the USDW.  
*[62-528.425(1)(g)4., F.A.C.]*

8. The data and analysis supporting the selection of the monitor intervals shall be submitted to the Department after the collection, interpretation, and analysis of all pertinent cores, geophysical logs, packer testing and analysis of fluid samples. The Department shall approve the final selection of the specific upper and lower monitor intervals prior to monitor well completion. *[62-528.420(4)(c), F.A.C.]*
9. To identify the upper and lower monitor zones, the following information from the injection and monitor wells and all available on-site sources of data shall be analyzed, interpreted and submitted for Department review and approval:
  - a. Borehole televiewer or downhole television survey.
  - b. The characteristics of the transition zone (especially regarding TDS) in the vicinity of the base of the USDW.
  - c. Packer test data including water quality (TDS, chlorides, sulfate, specific conductance, ammonia, and total Kjeldahl nitrogen, at a minimum).
  - d. The specific capacity of the proposed upper and lower monitor zones based on packer testing results.
  - e. The identification of the base of the USDW.
    - i. The permittee shall identify the base of the USDW, based on the definition in Rule 62-528.200(66), F.A.C.; and shall complete the lower monitor zone so that the permittee is monitoring a permeable zone within the Avon Park Formation that is below the base of the USDW.
    - ii. The permittee shall complete an upper monitor zone in a permeable zone within and near the base of the USDW.
    - iii. The permittee shall provide results from lithologic logs, packer tests, and core/cutting descriptions to describe the presence of confining zones that are encountered during drilling of the proposed injection well, and in accordance with Rules 62-528.420 and 62-528.425, F.A.C.
    - iv. If the permittee's drilling and water quality information indicates that the upper portion of the Avon Park High Permeability Zone is not below the base of the USDW, the permittee shall propose an alternate, deeper permeable monitor zone for Department approval, prior to completing the lower monitoring interval for the proposed dual-zone monitoring well.  
*[62-528.420(4)(c), and 62-528.425, F.A.C.]*
10. Confinement shall be demonstrated using at a minimum, directly measured lithologic properties, geophysical evidence, and tests performed while pumping the formation. *[62-528.405(2)(c), F.A.C.]*

**Permittee:** Jeff Goodwin, Deputy Director  
Manatee County Utilities  
Piney Point Injection Well

**DEP UIC Permit ID No.:** 0322708-002-UC/11  
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11. Test results pertaining to formation testing shall include and/or specifically reference the following informational and quality control items:
- Information that documents the calibration of tools, including field checks prior to testing.
  - The conditioning/development of the borehole prior to logging, including the techniques used and the time periods in which they were applied, and
  - Pertaining to packer/pump testing - recording the pumping rate regularly throughout the test to account for possible variations in the pumping rate, and providing information regarding the detection of packer leaks, if any, during testing.

*[62-528.405(2) and (3), F.A.C.]*

12. Representative samples of circulation fluid shall be collected when drilling with water, air, or reverse air during the drilling of the pilot holes of injection and monitor wells. Representative samples of circulation fluid shall be collected at a minimum of every 90 feet during drilling. The circulation fluid samples shall be analyzed for chloride and specific conductance at a minimum.

*[62-528.405(1)(a) and 62-528.420(6)(g), F.A.C.]*

13. At sites where previous injection has occurred, the representative samples of circulation fluid below the intermediate 30-inch casing in the injection well shall be analyzed for TDS, chloride, sulfate, specific conductance, ammonia, and total Kjeldahl nitrogen, at a minimum. *[62-528.405(2)(c) and (3)(b), F.A.C.]*

14. If effluent is encountered or suspected during pilot hole drilling and testing, the Department shall be notified immediately by telephone and in writing and immediate appropriate precautionary measures shall be taken to prevent any upward fluid movement. *[62-528.440(2)(d), F.A.C.]*

### **C. Mechanical Integrity**

- Mechanical Integrity:
  - Injection is prohibited until the permittee affirmatively demonstrates that the well has mechanical integrity. Prior to operational testing the permittee shall establish, and thereafter maintain the mechanical integrity of the well at all times.
  - If the Department determines that the injection well lacks mechanical integrity, written notice shall be given to the permittee.
  - Within 48 hours of receiving written notice that the well lacks mechanical integrity, unless the Department requires immediate cessation of injection, the permittee shall cease injection into the well unless the Department allows continued injection pursuant to subparagraph d below.

**Permittee:** Jeff Goodwin, Deputy Director  
Manatee County Utilities  
Piney Point Injection Well

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- d. The Department shall allow the permittee to continue operation of a well that lacks mechanical integrity if the permittee has made a satisfactory demonstration that fluid movement into or between underground sources of drinking water is not occurring.

*[62-528.307(2)(f), F.A.C.]*

2. Mechanical integrity of each injection well shall be determined pursuant to Rule 62-528.300(6)(b) and (c), F.A.C. For wells with a fluid-filled casing/tubing annulus, this includes both continuous annular monitoring and a pressure test of the casing/tubing annulus every 5 years. *[62-528.300(6)(b) and (c), F.A.C.]*
3. Verification of pressure gauge calibration must be provided to the Department representative at the time of the test and in the certified test report. *[62-528.300(6)(f), F.A.C.]*
4. The Department's Southwest District office must be notified a minimum of seven (7) calendar days prior to all testing for mechanical integrity on the injection wells. Any change in the approved testing procedure must be approved by the Department before testing begins. All testing must be initiated during daylight hours, Monday through Friday other than State Holidays, unless approval has been given by the Department. An evaluation of test results must be submitted with all test data. *[62-528.300(6)(f), F.A.C.]*

#### **D. Surface Equipment**

1. The integrity of the monitor zone sampling systems shall be maintained at all times. Sampling lines shall be clearly and unambiguously identified by monitor zone at the point at which samples are drawn. All reasonable and prudent precautions shall be taken to ensure that samples are properly identified by the monitor well name or zone and that samples obtained are representative of those zones. Sampling lines and equipment shall be kept free of contamination with independent discharges and no interconnections with any other lines. *[62-528.307(1)(f) and 62-528.307(2)(b), F.A.C.]*
2. The surface equipment for each injection well disposing of domestic (municipal) effluent shall maintain compliance with Rule 62-600.540(4), F.A.C., for water hammer control, screening, access for logging and testing, and reliability and flexibility in the event of damage to the well and effluent piping. *[62-600.540(4), 62-528.307(1)(f), and 62-528.307(2)(b), F.A.C.]*
3. Injection wells not disposing of domestic (municipal) effluent shall maintain compliance with Rule 62-528.450(2)(j), F.A.C. for water hammer control, as well as access for logging and testing, and reliability and flexibility in the event of damage to the well and effluent piping. *[62-528.450(2)(j), 62-528.307(1)(f), and 62-528.307(2)(b), F.A.C.]*

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4. The surface equipment and piping for the injection and monitor wells shall be kept free of corrosion at all times. *[62-528.307(1)(f) and 62-528.307(2)(b), F.A.C.]*
5. Spillage onto the injection well pad(s) during construction activities, and any waters spilled during mechanical integrity testing, maintenance, testing, or repairs to the system(s) shall be contained on the pad(s) and directed to a sump which in turn discharges to the pumping station wet well, via other approved means to the injection well system, or by another method approved by the Department. *[62-528.307(1)(f) and 62-528.307(2)(b), F.A.C.]*
6. After well construction activities are complete, the injection well pads are not, unless specific approval is obtained from the Department, to be used for storage of any material or equipment at any time. *[62-528.307(1)(f) and 62-528.307(2)(b), F.A.C.]*
7. Four surficial aquifer monitor wells, identified as Pad Monitor Wells (PMWs), shall be located near the corners of the pads to be constructed for the injection and monitor wells, and shall be identified by number or pad location, i.e. NW, NE, SW, and SE. If located in a traffic area the wellhead(s) must be protected by traffic bearing enclosure(s) and cover(s). Each cover must lock and be specifically marked to identify the well and its purpose. The PMWs shall be sampled as follows:
  - a. The PMWs shall be sampled and analyzed prior to drilling the test injection or monitor wells and then weekly thereafter during the construction and associated testing phases. Sampling shall include specific conductance (micromhos/centimeter [ $\mu\text{mhos/cm}$ ]), pH (standard units), chloride (milligram per liter [mg/L]), field temperature ( $^{\circ}\text{Celsius}$  [C]), and water level (pound per square inch [psi] or feet [ft] North American Vertical Datum [NAVD] of 1988). Chloride and specific conductance may be from field or lab samples.
  - b. Initial PMW analyses shall be submitted prior to the onset of drilling activities.
  - c. The PMWs shall also be sampled for total dissolved solids (mg/L, laboratory samples) during the first four weeks of PMW sampling and at all times when specifically requested by the Department.
  - d. The results of the PMW analyses shall be submitted to the Department in the weekly progress report. The PMWs shall be retained in service throughout the construction phase of the project. Upon completion of construction, the permittee may submit a request to the Department for cessation of sampling followed by capping or plugging and abandonment of these wells.

*[62-528.410(9)(b), F.A.C.]*

#### **IV. Quality Assurance/Quality Control**

1. The permittee shall ensure that the operation of this injection well system shall be as described in the application and supporting documents. Any proposed modifications to the permit, construction procedures, testing procedures, completion procedures, operation procedures, or any additional work not described in the application or supporting documents shall be submitted in writing to the Tallahassee office of the Aquifer Protection Program for review and clearance prior to implementation. Changes of negligible impact to the environment and staff time will be reviewed by the program manager, cleared when appropriate, and incorporated into this permit. Changes or modifications other than those described above will require submission of a completed application and appropriate processing fee as per Rule 62-4.050, F.A.C.  
*[62-4.050, F.A.C.]*
2. Proper operation and maintenance include effective performance and appropriate quality assurance procedures; adequate operator staffing and training; and adequate laboratory and process controls. *[62-528.307(2)(b), F.A.C.]*
3. All water quality samples required by this permit shall be collected in accordance with the appropriate Department Standard Operation Procedures (SOP), pursuant to Rule 62-160.210, F.A.C., *Approved Field Procedures*. A certified laboratory shall conduct the analytical work, as provided by Rule 62-160.300, F.A.C., *Laboratory Certification*. Department approved test methods shall be utilized unless otherwise stated in this permit. All calibration procedures for field testing and laboratory equipment shall follow the manufacturer's instrumentation manuals and satisfy the requirements of the Department SOPs. A listing of the SOPs pertaining to field and laboratory activities is available at the Department's website:  
<https://floridadep.gov/dear/quality-assurance/content/dep-sops>.  
*[62-4.246 and 62-160, F.A.C.]*
4. All indicating, recording, and totalizing devices associated with the injection well system shall be maintained in good operating condition and calibrated annually at a minimum. The pressure gauges, flow meter, and chart recorders shall be calibrated using standard engineering methods.  
*[62-528.307(1)(f) and 62-528.307(2)(b), F.A.C.]*
5. All reports submitted to satisfy the requirements of this permit shall be signed by a person authorized under Rule 62-528.340(1), F.A.C., or a duly authorized representative of that person under Rule 62-528.340(2), F.A.C. All reports required by this permit which are submitted to the Department shall contain the following certification as required by Rule 62-528.340(4), F.A.C.:

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I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

*[62-528.340(1), (2), and (4), F.A.C.]*

6. Analyses shall be conducted on unfiltered samples, unless filtered samples have been approved by the Department as being more representative of ground water conditions. *[62-520.310(5), F.A.C.]*
7. A professional engineer registered pursuant to Chapter 471, F.S., shall be retained throughout the construction period to be responsible for the construction operation and to certify the application, specifications, completion report, and other related documents. The Department shall be notified immediately of any change of engineer. *[62-528.440(5)(b), F.A.C.]*
8. Continuous on-site supervision by qualified personnel (engineer and/or geologist, as applicable) is required during all testing and geophysical logging operations. *[62-528.440(5)(b), F.A.C.]*

#### **V. Reporting Requirements**

1. The drilling and construction schedule, site layout of drilling pad, and pad monitor well locations shall be submitted to the Department during site preparation but prior to drilling operation commencement for the injection well system. *[62-528.430(2)(a), F.A.C.]*
2. Weekly progress reports shall be submitted to the Department's Tallahassee and Southwest District offices throughout the construction period for each well. These reports, which may be submitted by electronic mail, shall be submitted within 48 hours of the end of the period of record and shall include at a minimum the following information:
  - a. A cover letter summary of the daily engineer report, driller's log, and a projection for activities in the next reporting period.
  - b. Daily engineer's reports and driller's/work logs with detailed descriptions of all drilling progress, cementing, testing, logging, and casing installation activities.
  - c. Description of daily footage drilled by diameter of bit, size of hole opener, or reamer being used.
  - d. Collection of drilling cuttings every 10 feet and at every formation change.

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- e. Description of work during installation and cementing of casing, including amounts of casing and cement used. Details of cementing operations shall include the number of cementing stages, and the following information for each stage of cementing: the volume and type of cement pumped, the theoretical fill depth, and the actual tag depth. From both the physical tag and the geophysical logs, a percent fill shall be calculated. An explanation of any deviation between actual versus theoretical fill shall be provided.
  - f. Details of the additions of salt or other materials to suppress well flow, including the date, depth, and amount of material used.
  - g. Description of testing accomplished including (but not limited to) pumping and packer tests.
  - h. Lithologic logs and core descriptions with cuttings description, formation and depth encountered.
  - i. Geophysical logs, video logs, and deviation survey results.
  - j. Water quality analyses, including but not limited to the weekly water quality analysis and water levels for the PMWs.
  - k. Well development records.
  - l. Description of any construction problems that developed during the reporting period and current status.
  - m. Interpretations included with all test results and logs submitted.
  - n. Documentation of disposal of drilling fluids, cuttings, formation water, or waste as per specific condition II.2.  
*[62-528.410(9)(a) and 62-528.430(1), F.A.C.]*
3. The final selection of specific injection and monitor intervals must be approved by the Department. In order to obtain an approval, the permittee shall submit a written request to the APP Tallahassee office. All casing seat requests for the injection and monitor wells shall be accompanied by technical justification. To the extent possible, each casing seat request should address the following items:
- a. Lithologic and geophysical logs with interpretations, as the interpretations relate to the casing seat.
  - b. Water quality data (including but not necessarily limited to TDS concentrations).
  - c. Identification of confining units, including hydrogeologic data and interpretations.
  - d. Identification of monitor zones.
  - e. Casing depth evaluation (mechanically secure formation, potential for grout seal).

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- f. Lithologic drilling rate and weight on bit data, with interpretations (related to the casing seat).
  - g. Identification of the base of the USDW using water quality and geophysical log interpretations.
  - h. A certified (P.E. or P.G.) evaluation of all logging and test results submitted with test data.
  - i. Transmissivity or specific capacity of proposed monitor zone.
  - j. Packer test drawdown curves and interpretation.  
*[62-528.410(4)(c) and 62-528.420(4)(c), F.A.C.]*
4. The short-term injection test request shall contain the following justifications:
- a. Cement bond logs and interpretation.
  - b. Final downhole television survey with interpretation.
  - c. Demonstration of mechanical integrity, which shall include radioactive tracer test results, pressure testing results, and temperature logging results (if the injection test is to be after any of these mechanical integrity tests).
  - d. Reasonable assurance that adequate confinement exists.
  - e. Planned injection testing procedures.
  - f. Proposed source water to be used. Per Rule 62-528.405(3)(b), F.A.C., if an adequate potable water supply for the injection test does not exist, and the data collected during drilling provide assurance of the presence of confining bed(s), the applicant shall, after demonstrating mechanical integrity pursuant to Rules 62-528.300(6)(b)2. and (c), F.A.C., be allowed to use an alternate source for testing only with specific prior written authorization from the Department. An analysis of the alternate water source is required prior to Department approval, according to the table below:

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<b>Water Source</b>	<b>Required Analyses</b>
Potable Water	No analysis needed.
Domestic Wastewater	A copy of the latest comprehensive analysis submitted to the Department's domestic wastewater program.
Desalination Concentrate or Other Industrial Wastewater	A copy of the latest comprehensive analysis submitted to the Department's industrial wastewater program. If more than one year old, sample the water for the parameters required for monthly monitoring of the wastewater in Specific Condition VI.
Ground Water	<p>Sample the water for:</p> <ul style="list-style-type: none"> <li>• total dissolved solids (mg/L)</li> <li>• chloride (mg/L)</li> <li>• specific conductance (temperature compensated, <math>\mu\text{mhos/cm}</math> or <math>\text{mS/cm}</math>)</li> <li>• total suspended solids (TSS) (mg/L)</li> <li>• nitrogen, ammonia, total as N (mg/L)</li> <li>• nitrogen, total Kjeldahl as N (TKN, mg/L)</li> <li>• nitrogen, nitrate, total as N (mg/L)</li> <li>• sodium (mg/L)</li> <li>• potassium (mg/L)</li> <li>• calcium (mg/L)</li> <li>• magnesium (mg/L)</li> <li>• total iron (mg/L)</li> <li>• bicarbonate (mg/L)</li> <li>• phosphorous, total as P (mg/L)</li> <li>• pH (standard units)</li> <li>• sulfate, total as <math>\text{SO}_4</math> (mg/L)</li> <li>• field temperature (<math>^{\circ}\text{C}</math>)</li> <li>• gross alpha (picoCuries per liter [pCi/L])</li> <li>• combined radium-226 and radium-228 (pCi/L)</li> </ul>
Surface Water	<p>As above for ground water, with the additional constituents:</p> <ul style="list-style-type: none"> <li>• total and fecal coliform (cfu/100ml),</li> <li>• Escherichia Coli (cfu/100ml), Enterococci (cfu/100ml), and</li> </ul> <p>Turbidity (Nephelometric Turbidity Unit [NTU]).</p>

[62-528.405(3)(b), F.A.C.]

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5. Upon completion of analysis of cores and sample cuttings recovered during the construction of wells covered by this permit (when no longer needed by the well owner), the permittee shall contact the Geological Sample Acquisition & Management Section of the Florida Geological Survey (FGS) to arrange for the transfer of the cores and cuttings. *[62-528.450(5), F.A.C.]*
6. All cores and cuttings for FGS shall be shipped to the Florida Geological Survey, Geological Sample Acquisition & Management Section, 3915 Commonwealth Boulevard, Tallahassee, Florida 32399. All cores and samples shall clearly identify the site name, well name/number, depths of samples/cores, and the latitude/longitude location of the well(s) using the form in this permit. *[62-528.450(5), F.A.C.]*
7. A final report of the construction and testing of the injection and monitor wells shall be submitted no later than 120 days after commencement of operational testing, pursuant to Rule 62-528.430(1)(e), F.A.C. In addition, a copy of the cover letter for the report shall be sent to the U. S. Environmental Protection Agency, Region 4, Underground Injection Control (UIC) Program, 61 Forsyth St. SW, Atlanta, GA 30303-8909, or [R4gwuic@EPA.gov](mailto:R4gwuic@EPA.gov). This report shall include as a minimum, definitions of the injection interval, all relevant confining units, the depth of the base of the USDW, and all monitoring zones, including all relevant data and interpretations. *[62-528.450(5), F.A.C.]*

## **VI. Operational Testing and Monitoring Requirements**

### **A. Operational Testing**

1. The permittee shall conduct operational testing of the injection well system to demonstrate that the well can absorb the design and peak daily flows that are expected, prior to granting approval for operation. *[62-528.450(3)(a), F.A.C.]*
2. Prior to operational testing, the permittee shall comply with the requirements of rule 62-528.450(3)(a),(b), and (c), F.A.C. *[62-528.307(2)(e), F.A.C.]*
3. The operational testing of the Class I injection well system under this permit shall not commence without written authorization from the Department. *[62-528.450(3)(b), F.A.C.]*
4. Prior to operational testing approval, the following items must be submitted with the request for operational testing approval for APP Tallahassee office review and approval:
  - a. Lithologic and geophysical logs with interpretations.
  - b. A copy of the borehole television survey(s) or borehole televiewer log(s) of the injection well with interpretation.
  - c. Certification (P.E. or P.G.) of mechanical integrity and interpreted test data.

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- d. Results of the short-term injection test with interpretation of the data.
- e. A description of the actual injection procedure including the anticipated maximum pressure and flow rate at which the well will be operated under normal and emergency conditions.
- f. Information concerning the compatibility of the injected waste with fluids in the injection zone and minerals in both the injection zone and the confining zone.
- g. Certification of completion of well construction from water well contractor and certification by the Engineer of Record that permit conditions are met.
- h. Surface equipment (including piping, pressure gauges and flow meters, and all appurtenances) completion certified by the Engineer of Record.
- i. Draft operation and maintenance manual, including a description of surge and water hammer control and emergency discharge management plan procedures. The emergency discharge system must be fully constructed and operational (ready to operate) prior to approval of operational testing.
- j. Calibration certificates for pressure gauges and flow meters.
- k. Signed and sealed record "as-built" engineering drawings of the injection well system including all well construction, subsurface and surface piping and equipment, and appurtenances.
- l. Demonstration of confinement and definition of the injection and confining sequences shall utilize data collected during the drilling, logging, and testing of the injection and monitor wells. This submittal shall be prepared, signed, and sealed by a Florida Registered Professional Geologist or appropriately qualified Florida Registered Professional Engineer.
- m. Background water quality data from the monitoring and injection zones, analyzed for primary and secondary drinking water standards (62-550, F.A.C., see attachment).
- n. A wastestream analysis for the same parameters as in condition VI.A.4.m., above. Unless already submitted, this analysis shall be submitted within 60 days after the beginning of operational testing.
- o. Other data obtained during well construction needed by the Department to evaluate whether the injection well system will operate in compliance with Department rules.
- p. A survey indicating the exact location in metes and bounds of all wells authorized by this permit shall be provided prior to issuance of an operating permit.

*[62-528.450(3)(a)3. and 62-528.455(1)(c)6., F.A.C.]*

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5. Pressure gauges and flow meters shall be installed on the injection wells prior to initiating injection activities at the site. *[62-528.450(3)(a), F.A.C.]*
6. Prior to the authorization of operational testing by the APP Tallahassee office, the permittee shall contact the Southwest District office to arrange a site inspection. The inspection will determine if the conditions of the permit have been met and to verify that the injection well system is operational. During the inspection, emergency procedures and reporting requirements shall be reviewed.  
*[62-528.450(3)(c), F.A.C.]*
7. The Engineer of Record or designated qualified representative must be present for the start-up operations and the APP Tallahassee office must be notified in writing of the date operational testing commenced for the subject wells.  
*[62-528.440(5)(b), F.A.C.]*

**B. Monitoring**

1. The permittee shall submit monthly to the APP Tallahassee office the results of all injection well and monitor well data required by this permit no later than the last day of the month immediately following the month of record. The report shall include:
  - a. A cover page summarizing the current status of all monthly activities, including, but not limited to, the certification and signature required in Specific Condition Number IV.5. above.
  - b. Operational and water quality data in a tabular format. The following identifying information must be included on each data sheet:
    - i. Facility Name
    - ii. Well Name
    - iii. UIC Permit Number
    - iv. WACS Facility ID
    - v. WACS Testsite ID on the appropriate data sheet (as provided on the Injection Well and Monitor Well tables on page 2 above).
  - c. Laboratory pages and original supporting documentation including DEP Form FD 9000-24, *Groundwater Sampling Log*, for the purging of each monitor well.  
*[62-528.307(2)(d), F.A.C.]*
2. The report may be sent via electronic mail in Adobe™ (.pdf) format to the following Program e-mail addresses:

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Southwest District Office  
Aquifer Protection Program

[SWD\\_UIC@FloridaDEP.gov](mailto:SWD_UIC@FloridaDEP.gov)  
[TAL\\_UIC@FloridaDEP.gov](mailto:TAL_UIC@FloridaDEP.gov)

If a paper copy of the report is submitted, it should be sent to Department staff at the following addresses:

Southwest District Office

13051 N. Telecom Parkway  
Temple Terrace, Florida 33637-0926

Aquifer Protection Program

2600 Blair Stone Road, MS 3530  
Tallahassee, Florida 32399-2400

*[62-528.307(3)(d), F.A.C.]*

3. The injection system shall be monitored in accordance with Rules 62-528.425(1)(g) and 62-528.430(2), F.A.C. Monitor wells shall be located within 150 feet of the injection well. The following injection well performance data and monitor zone data shall be recorded and reported in the *Monthly Operation Report* (MOR) as indicated below. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

*[62-528.307(2)(d), 528.430(2), and 62-528.450(3)(b), F.A.C.]*

- a. Quarterly (Q) sampling measurements shall be taken in the months of March, June, September, and December and submitted with the MOR due that month.
- b. Monthly (M) sampling measurements shall be taken during the same week of each month, and as close to 30 days apart as possible.

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Parameter	Unit	Recording Frequency or Sampling Method	Frequency of Analyses		
			IW-1 13989	DZMW-1 Upper Zone 29238A	DZMW-1 Lower Zone 29238B
Injection Pressure, Max.	psi	continuous	D/M <sup>a</sup>		
Injection Pressure, Min.	psi	continuous	D/M <sup>a</sup>		
Injection Pressure, Avg.	psi	continuous	D/M <sup>a</sup>		
Flow Rate, Max.	GPM	continuous	D/M <sup>a</sup>		
Flow Rate, Min.	GPM	continuous	D/M <sup>a</sup>		
Flow Rate, Avg.	GPM	continuous	D/M <sup>a</sup>		
Volume Injected per Well	MG	daily/monthly	D/M		
Pressure or Water Level Max.	psi or ft NAVD	continuous		D/M <sup>a</sup>	D/M <sup>a</sup>
Pressure or Water Level Min.	psi or ft NAVD	continuous		D/M <sup>a</sup>	D/M <sup>a</sup>
Pressure or Water Level Avg.	psi or ft NAVD	continuous		D/M <sup>a</sup>	D/M <sup>a</sup>
pH <sup>b</sup>	standard units	grab/purge	M	M	M
Specific Conductance <sup>b</sup>	µmhos/cm	grab/purge	M	M	M
Temperature <sup>b</sup>	°C	grab/purge	M	M	M
Dissolved Oxygen <sup>b</sup>	mg/L	grab/purge		M	M
Turbidity <sup>b</sup>	NTU	grab/purge		M	M
Chloride	mg/L	grab/purge	M	M	M
Sulfate	mg/L	grab/purge	M	M	M
Total Dissolved Solids	mg/L	grab/purge	M	M	M
Nitrate + Nitrite as N	mg/L	grab/purge	M	M	M
Ammonia as N	mg/L	grab/purge	M	M	M
Total Kjeldahl Nitrogen	mg/L	grab/purge	M	M	M
Total Organic Carbon (TOC)	mg/L	grab/purge	M	M	M
Total Organic Halogens (TOX)	mg/L	grab/purge	A	A	A
Aluminum	mg/L	grab/purge	M	M	M
Ammonium	mg/L	grab/purge	M	M	M
Arsenic	mg/L	grab/purge	M	M	M
Chromium	mg/L	grab/purge	M	M	M
Fluoride	mg/L	grab/purge	M	M	M
Manganese	mg/L	grab/purge	M	M	M
Total Phosphorus	mg/L	grab/purge	M	M	M
Orthophosphate	mg/L	grab/purge	M	M	M
Bicarbonate	mg/L	grab/purge	M	M	M
Calcium	mg/L	grab/purge	M	M	M
Total Iron	mg/L	grab/purge	M	M	M
Magnesium	mg/L	grab/purge	M	M	M
Potassium	mg/L	grab/purge	M	M	M
Sodium	mg/L	grab/purge	M	M	M
Gross Alpha	pCi/L	grab/purge	M	M	M
Uranium	µg/L	grab/purge	M	M	M
Radium <sup>226</sup>	pCi/L	grab/purge	M	M	M
Radium <sup>228</sup>	pCi/L	grab/purge	M	M	M
d15N		grab/purge	Q	Q	Q
Primary & Secondary Drinking Water Standards, Source Water		grab	A		

D - Daily; M - Monthly; A - Annually <sup>a</sup> - Operational data reporting for flows, pressures and water levels: daily maximum, minimum and average from continuous reporting; monthly maximum, minimum and average (calculated from daily averages). <sup>b</sup> - Field samples Refer to the tables on page 2 above for the appropriate WACS testsite IDs to be used for reporting

- A laboratory analysis for the Primary and Secondary Drinking Water Standards of Chapter 62-550, F.A.C., shall be submitted annually after the beginning of operational testing. See the attachment to this permit for the parameters.

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- a) For facilities permitted to inject domestic wastewater, the domestic wastewater annual sample results may be the same as submitted for the domestic wastewater program if taken within the last 12 months. Primary and Secondary Drinking Water Standards of Chapter 62-550, F.A.C., not included in the domestic wastewater annual sample requirements shall be included in the same sample or in a separate sample. If not required annually for the domestic wastewater program, a separate sample shall be taken and reported for this permit. The samples shall be composite and grab samples as appropriate for the domestic wastewater program. The permittee may choose to take a combined annual sample from multiple domestic wastestreams if they are authorized for injection in this permit.
- b) For facilities permitted to inject water other than domestic wastewater, the source water samples shall not be combined with domestic wastewater samples. The samples shall be grab samples. The permittee may choose to take a combined annual sample from multiple non-domestic wastestreams if they are authorized for injection in this permit.
- c) The report should be sent to the addresses in Specific Condition VI.B.2.

For renewal of this permit, the permittee shall submit a separate laboratory analysis for each permitted injectate source.

*[62-528.425(1)(a), F.A.C.]*

5. A specific injectivity test shall be performed monthly on the injection well as required by Rule 62-528.450(3)(b)6., F.A.C. Pursuant to Rule 62-528.430(2)(d), F.A.C, the specific injectivity test shall be performed with the pumping rate to the well set at a predetermined level and reported as the specific injectivity index (gallons per minute/specific pressure). The pumping rate to be used shall be based on the expected flow, the design of the pump types, and the type of pump control used. As part of this test, the well shall be shut-in for a period of time necessary to conduct a valid observation of pressure fall-off. The specific injectivity and pressure fall-off test data shall be submitted along with the monitoring results of the injection and monitor well data. The testing may be reduced to quarterly after a minimum of six months of operational testing and with written APP Tallahassee office approval.

*[62-528.430(2)(b) and (d) and 62 528.450(3)(b)6., F.A.C.]*

6. Monitor well purging and field stabilization parameter measurement is required prior to the collection of laboratory samples for the MORs. The facility shall conduct the monitor well sampling following the monitor well sampling protocols specified in FS 2200-*Groundwater Sampling* in the DEP-SOP-001/01 Standard Operating Procedures for Field Activities. The results of the purging techniques and field stabilization parameters shall be provided on DEP Form FD 9000-24 or a

similar alternative approved by the Department, and the completed forms shall be submitted to the Department with the MORs.

- a. Calculate the volume of water in the well casing (or sample pipe if installed), and the monitoring interval. For dual-zone monitor wells, calculate the upper monitor zone volume with allowance for reduced volume due to the hollow cylinder created by the lower zone tubing. Purge until the water level has stabilized (when the well recovery rate equals the purge rate), purging a minimum of one well volume, and then collect the first set of stabilization parameters.
- b. Thereafter, collect stabilization parameters after every  $\frac{1}{4}$  well volume beyond the initial one volume.
- c. Purging shall be complete when three consecutive readings of the parameters listed below are within the following ranges<sup>[1]</sup> **and** a minimum of 1.5 well casing volumes of fluid since the beginning of purging have been evacuated from the monitor well:
  - pH:  $\pm 0.2$  Standard Units
  - Specific Conductance:  $\pm 5.0\%$  of reading
  - Temperature:  $\pm 0.2^\circ$  C
  - Dissolved Oxygen:  $\leq 20\%$  Saturation or  $\pm 0.2$  mg/L
  - Turbidity:  $\leq 20$  NTU
- d. If necessary, continue to take the above readings every additional  $\frac{1}{4}$  well volume until three consecutive readings meet the above criteria.
- e. Typical field conditions may not allow the temperature parameter to be met. If all the other purging criteria have stabilized, the sampling team leader may decide whether to collect a sample if the temperature criteria has not been met (DEP SOP FS2212 Section 3.6). Documentation as to why the sample was collected without meeting a field parameter must be recorded in the groundwater sampling log.
- f. If three consecutive  $\frac{1}{4}$  well volume readings have not reached the stabilization criteria listed above by the time the fifth well volume has been reached, the monitor well sample shall be taken, and document the reason(s) in the groundwater sampling log.
- g. If a sampling pipe is used for purging, the sampling pipe volume will substitute for the well casing volume.

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[1] Provided dissolved oxygen in the groundwater of the zone being monitored is  $\leq 20\%$  of saturation for the measured temperature and turbidity is  $\leq 20$  NTUs. This assumption holds true for groundwater in most zones of the Floridan Aquifer.

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The APP Tallahassee office will consider an alternate purging method meeting monitor well sampling protocol in FS 2200-Groundwater Sampling in the DEP-SOP-001/01 Field Sampling Procedures Manual in the case where the above procedure causes a hardship to the facility. The permittee shall request an alternate method and receive written APP Tallahassee approval before implementing it. *[62-160.210(1) and 62-528.430(2), F.A.C.]*

7. The flow from the monitoring zones during well evacuation and sampling shall not be discharged to surface waters or aquifers containing an underground source of drinking water. Waters purged from monitor wells in preparation for sampling shall be diverted to the injection wellhead via the pad drainage system, wet well, or treatment plant.  
*[62-4.030, 62-620.320, 62-520.420 and .430, F.A.C.]*

## **VII. Abnormal Events**

1. In the event the permittee is temporarily unable to comply with any of the conditions of a permit due to breakdown of equipment, power outages or destruction by hazard of fire, wind, or by other cause, the permittee of the facility shall notify the Southwest District office. *[62-528.415(4)(a), F.A.C.]*
2. Notification shall be made in person, by telephone, or by electronic mail (e-mail) within 24 hours of breakdown or malfunction to the Southwest District office.  
*[62-528.307(1)(x), F.A.C.]*
3. A written report of any noncompliance referenced in Specific Condition Number VII.1 above shall be submitted to the Southwest District office and the APP Tallahassee office within five days after its occurrence. The report shall describe the nature and cause of the breakdown or malfunction, the steps being taken or planned to be taken to correct the problem and prevent its reoccurrence, emergency procedures in use pending correction of the problem, and the time when the facility will again be operating in accordance with permit conditions.  
*[62-528.415(4)(b), F.A.C.]*

### **4. Reporting Requirements**

The permittee shall report to the Department's Southwest District office any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within five days of the time the permittee becomes aware of the circumstances. The written submission shall contain: a description of the noncompliance and its cause; the period of noncompliance including exact dates and time, and if the noncompliance has not been corrected, the anticipated time it is expected to

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continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

- a. The following shall be included as information which must be reported within 24 hours under this condition:
  - 1) Any unanticipated bypass which causes any reclaimed water or effluent to exceed any permit limitation or results in an unpermitted discharge,
  - 2) Any upset which causes any reclaimed water or the effluent to exceed any limitation in the permit,
  - 3) Violation of a maximum daily discharge limitation for any of the pollutants specifically listed in the permit for such notice, and
  - 4) Any unauthorized discharge to surface or ground waters.
- b. Oral reports as required by this subsection shall be provided as follows:
  - 1) For unauthorized releases or spills of treated or untreated wastewater reported pursuant to subparagraph (a)4. that are in excess of 1,000 gallons per incident, or where information indicates that public health or the environment will be endangered, oral reports shall be provided to the **State Watch Office Toll-Free Number** 800-320-0519, as soon as practical, but no later than 24 hours from the time the permittee becomes aware of the discharge. The permittee, to the extent known, shall provide the following information to the State Watch Office:
    - a) Name, address, and telephone number of person reporting;
    - b) Name, address, and telephone number of permittee or responsible person for the discharge;
    - c) Date and time of the discharge and status of discharge (ongoing or ceased);
    - d) Characteristics of the wastewater spilled or released (untreated or treated, industrial or domestic wastewater);
    - e) Estimated amount of the discharge;
    - f) Location or address of the discharge;
    - g) Source and cause of the discharge;
    - h) Whether the discharge was contained on-site, and cleanup actions taken to date;
    - i) Description of area affected by the discharge, including name of water body affected, if any; and
    - j) Other persons or agencies contacted
  - 2) Oral reports, not otherwise required to be provided pursuant to subparagraph b.1 above, shall be provided to the Department's Southwest

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District office within 24 hours from the time the permittee becomes aware of the circumstances.

- c. If the oral report has been received within 24 hours, the noncompliance has been corrected, and the noncompliance did not endanger health or the environment, the Department's Southwest District office shall waive the written report.

*[403.077(2)(d), F.S., 62-528.307(1)(e) and 62-528.307(1)(x), F.A.C.]*

## **5. Pollution Notification**

- a. In accordance with subsection 403.077, F.S., in the event of a reportable pollution release, an owner or operator of the installation at which the reportable pollution release occurs must provide to the department information reported to the State Watch Office within the Division of Emergency Management pursuant to any department rule, permit, order, or variance, within 24 hours after the owner's or operator's discovery of such reportable pollution release. The Department's Pollution Notice website is at <https://floridadep.gov/pollutionnotice>.
- b. If multiple parties are subject to the notification requirements based on a single reportable pollution release, a single notification made by one party in accordance with this section constitutes compliance on behalf of all parties subject to the requirement. However, if the notification is not made in accordance with this section, the department may pursue enforcement against all parties subject to the requirement.
- c. If, after providing notice pursuant to paragraph (a), the owner or operator of the installation determines that a reportable pollution release did not occur or that an amendment to the notice is warranted, the owner or operator may submit a letter to the department documenting such determination.
- d. If, after providing notice pursuant to paragraph (a), the installation owner or operator discovers that a reportable pollution release has migrated outside the property boundaries of the installation, the owner or operator must provide an additional notice to the department that the release has migrated outside the property boundaries within 24 hours after its discovery of the migration outside of the property boundaries.

*[403.077(2)(d), F.S., 62-528.307(1)(e) and 62-528.307(1)(x), F.A.C.]*

### **VIII. Emergency Disposal**

1. All applicable federal, state, and local permits must be in place to allow for any alternate discharges due to emergency or planned outage conditions.  
*[62-528.415(4)(c)1, F.A.C.]*
2. Any proposed changes in emergency disposal methods shall be submitted to the Southwest District office and the APP Tallahassee office for review and approval prior to implementation. *[62-528.415(4)(c), F.A.C.]*
3. The emergency disposal method must be fully operational in the event of planned or emergency outages of the injection well system. *[62-528.415(4)(c)2, F.A.C.]*

### **IX. Financial Responsibility**

1. The permittee shall maintain at all times the financial resources necessary to close, plug, and abandon the injection and associated monitor wells.  
*[62-528.435(9), F.A.C.]*
2. The permittee shall annually review the cost estimate for plugging and abandonment. Upon the occurrence of the plugging and abandonment cost estimate exceeding, by 10 percent or more on an annual basis, the cost estimate upon which the current financial responsibility is based, the permittee shall submit to the Department certified financial documentation necessary to amend, renew, or otherwise replace the existing financial responsibility pursuant to Rule 62-528.435(9)(b), F.A.C. and the conditions of this permit.  
*[62-528.435(9)(b), F.A.C.]*
3. In the event that the mechanism used to demonstrate financial responsibility should become insufficient or invalid for any reason, the permittee shall notify the APP Tallahassee office in writing within 14 days of such insufficiency or invalidation. The permittee shall within 90 days of said notification submit to the APP Tallahassee office for approval new financial documentation certifying either the remedy of current financial insufficiency or resolution of the financial instrument invalidation to comply with Rule 62-528.435(9)(b), F.A.C, and the conditions of this permit. *[62-528.435(9)(b), F.A.C.]*

### **General Conditions**

1. The terms, conditions, requirements, limitations, and restrictions set forth in this permit are "permit conditions" and are binding and enforceable pursuant to section 403.141, F.S. *[62-528.307(1)(a), F.A.C.]*
2. This permit is valid only for the specific processes and operations applied for and indicated in the approved drawings or exhibits. Any unauthorized deviation from the approved drawings, exhibits, specifications, or conditions of this permit may

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constitute grounds for revocation and enforcement action.

*[62-528.307(1)(b), F.A.C.]*

3. As provided in subsection 403.087(7), F.S., the issuance of this permit does not convey any vested rights or exclusive privileges. Neither does it authorize any injury to public or private property or any invasion of personal rights, nor infringement of federal, state, or local laws or regulations. This permit is not a waiver of or approval of any other Department permit that may be required for other aspects of the total project which are not addressed in this permit.  
*[62-528.307(1)(c), F.A.C.]*
4. This permit conveys no title to land, water, does not constitute State recognition or acknowledgment of title, and does not constitute authority for the use of submerged lands unless herein provided and the necessary title or leasehold interests have been obtained from the State. Only the Trustees of the Internal Improvement Trust Fund may express State opinion as to title.  
*[62-528.307(1)(d), F.A.C.]*
5. This permit does not relieve the permittee from liability for harm to human health or welfare, animal, or plant life, or property caused by the construction or operation of this permitted source, or from penalties there from; nor does it allow the permittee to cause pollution in contravention of Florida Statutes and Department rules, unless specifically authorized by an order from the Department.  
*[62-528.307(1)(e), F.A.C.]*
6. The permittee shall properly operate and maintain the facility and systems of treatment and control (and related appurtenances) that are installed and used by the permittee to achieve compliance with the conditions of this permit or are required by Department rules. This provision includes the operation of backup or auxiliary facilities or similar systems when necessary to achieve compliance with the conditions of the permit and when required by Department rules.  
*[62-528.307(1)(f), F.A.C.]*
7. The permittee, by accepting this permit, specifically agrees to allow authorized Department personnel, upon presentation of credentials or other documents as may be required by law and at reasonable times, access to the premises where the permitted activity is located or conducted to:
  - a. Have access to and copy any records that must be kept under conditions of this permit;
  - b. Inspect the facility, equipment, practices, or operations regulated or required under this permit; and
  - c. Sample or monitor any substances or parameters at any location reasonably necessary to assure compliance with this permit or Department rules.

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- d. Reasonable time will depend on the nature of the concern being investigated.  
*[62-528.307(1)(g), F.A.C.]*
8. If, for any reason, the permittee does not comply with or will be unable to comply with any condition or limitation specified in this permit, the permittee shall immediately provide the Department with the following information:
- a. A description of and cause of noncompliance; and
  - b. The period of noncompliance, including dates and times; or, if not corrected the anticipated time the noncompliance is expected to continue, and steps being taken to reduce, eliminate, and prevent the recurrence of the noncompliance. The permittee shall be responsible for any and all damages which may result and may be subject to enforcement action by the Department for penalties or for revocation of this permit.  
*[62-528.307(1)(h), F.A.C.]*
9. In accepting this permit, the permittee understands and agrees that all records, notes, monitoring data, and other information relating to the construction or operation of this permitted source which is submitted to the Department may be used by the Department as evidence in any enforcement case involving the permitted source arising under the Florida Statutes or Department rules, except where such use is proscribed by sections 403.111 and 403.73, F.S. Such evidence shall only be used to the extent it is consistent with the Florida Rules of Civil Procedure and appropriate evidentiary rules. *[62-528.307(1)(i), F.A.C.]*
10. The permittee agrees to comply with changes in Department rules and Florida Statutes after a reasonable time for compliance; provided, however, the permittee does not waive any other rights granted by Florida Statutes or Department rules.  
*[62-528.307(1)(j), F.A.C.]*
11. This permit is transferable only upon Department approval in accordance with rules 62-4.120 and 62-528.350, F.A.C. The permittee shall be liable for any non-compliance of the permitted activity until the transfer is approved by the Department. *[62-528.307(1)(k), F.A.C.]*
12. This permit or a copy thereof shall be kept at the work site of the permitted activity. *[62-528.307(1)(l), F.A.C.]*
13. The permittee shall comply with the following:
- a. Upon request, the permittee shall furnish all records and plans required under Department rules. During enforcement actions, the retention period for all records shall be extended automatically unless the Department determines that the records are no longer required.
  - b. The permittee shall hold at the facility or other location designated by this permit records of all monitoring information (including calibration and

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maintenance records and all original strip chart recordings for continuous monitoring instrumentation) required by the permit, copies of all reports required by this permit, and records of all data used to complete the application for this permit. These materials shall be retained at least three years from the date of the sample, measurement, report, or application unless otherwise specified by Department rule.

- c. Records of monitoring information shall include:
  - 1) The date, exact place, and time of sampling or measurements;
  - 2) The person responsible for performing the sampling or measurements;
  - 3) The dates analyses were performed;
  - 4) The person responsible for performing the analyses;
  - 5) The analytical techniques or methods used;
  - 6) The results of such analyses.
- d. The permittee shall furnish to the Department, within the time requested in writing, any information which the Department requests to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit.
- e. If the permittee becomes aware that relevant facts were not submitted or were incorrect in the permit application or in any report to the Department, such facts or information shall be corrected promptly.

*[62-528.307(1)(m), F.A.C.]*

14. All applications, reports, or information required by the Department shall be certified as being true, accurate, and complete. *[62-528.307(1)(n), F.A.C.]*

15. Reports of compliance or noncompliance with, or any progress reports on, requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each scheduled date.

*[62-528.307(1)(o), F.A.C.]*

16. Any permit noncompliance constitutes a violation of the Safe Drinking Water Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

*[62-528.307(1)(p), F.A.C.]*

17. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit. *[62-528.307(1)(q), F.A.C.]*

18. The permittee shall take all reasonable steps to minimize or correct any adverse impact on the environment resulting from noncompliance with this permit.

*[62-528.307(1)(r), F.A.C.]*

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19. This permit may be modified, revoked and reissued, or terminated for cause, as provided in 40 C.F.R. sections 144.39(a), 144.40(a), and 144.41 (1998). The filing of a request by the permittee for a permit modification, revocation or reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition. *[62-528.307(1)(s), F.A.C.]*
20. The permittee shall retain all records of all monitoring information concerning the nature and composition of injected fluid until five years after completion of any plugging and abandonment procedures specified under rule 62-528.435, F.A.C. The permittee shall deliver the records to the Department office that issued the permit at the conclusion of the retention period unless the permittee elects to continue retention of the records. *[62-528.307(1)(t), F.A.C.]*
21. All reports and other submittals required to comply with this permit shall be signed by a person authorized under rules 62-528.340(1) or (2), F.A.C. All reports shall contain the certification required in rule 62-528.340(4), F.A.C. *[62-528.307(1)(u), F.A.C.]*
22. The permittee shall notify the Department as soon as possible of any planned physical alterations or additions to the permitted facility. In addition, prior approval is required for activities described in rule 62-528.410(1)(h). *[62-528.307(1)(v), F.A.C.]*
23. The permittee shall give advance notice to the Department of any planned changes in the permitted facility or injection activity which may result in noncompliance with permit requirements. *[62-528.307(1)(w), F.A.C.]*
24. The permittee shall report any noncompliance which may endanger health or the environment including:
  - a. Any monitoring or other information which indicates that any contaminant may cause an endangerment to an underground source of drinking water; or
  - b. Any noncompliance with a permit condition or malfunction of the injection system which may cause fluid migration into or between underground sources of drinking water.

Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause, the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and the steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

*[62-528.307(1)(x), F.A.C.]*

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Issued this 16<sup>th</sup> day of December 2021  
State of Florida  
Department of Environmental Protection

*Cindy Fischler*

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Cindy Fischler, P.G.  
Environmental Administrator  
Aquifer Protection Program  
Division of Water Resource Management

**DEP Form FD 9000-24: GROUNDWATER SAMPLING LOG**

SITE NAME:	SITE LOCATION:
WELL NO:	SAMPLE ID:
DATE:	

**PURGING DATA**

WELL DIAMETER (inches):	TUBING DIAMETER (inches):	WELL SCREEN INTERVAL DEPTH: feet to feet	STATIC DEPTH TO WATER (feet):	PURGE PUMP TYPE OR BAILER:							
<b>WELL VOLUME PURGE: 1 WELL VOLUME = (TOTAL WELL DEPTH - STATIC DEPTH TO WATER) X WELL CAPACITY</b> (only fill out if applicable) = ( _____ feet - _____ feet ) X _____ gallons/foot = _____ gallons											
<b>EQUIPMENT VOLUME PURGE: 1 EQUIPMENT VOL. = PUMP VOLUME + (TUBING CAPACITY X TUBING LENGTH) + FLOW CELL VOLUME</b> (only fill out if applicable) = _____ gallons + ( _____ gallons/foot X _____ feet ) + _____ gallons = _____ gallons											
INITIAL PUMP OR TUBING DEPTH IN WELL (feet):		FINAL PUMP OR TUBING DEPTH IN WELL (feet):		PURGING INITIATED AT:	PURGING ENDED AT:	TOTAL VOLUME PURGED (gallons):					
TIME	VOLUME PURGED (gallons)	CUMUL. VOLUME PURGED (gallons)	PURGE RATE (gpm)	DEPTH TO WATER (feet)	pH (standard units)	TEMP. (°C)	COND. (circle units) μmhos/cm or μS/cm	DISSOLVED OXYGEN (circle units) mg/L or % saturation	TURBIDITY (NTUs)	COLOR (describe)	ODOR (describe)
<b>WELL CAPACITY</b> (Gallons Per Foot): 0.75" = 0.02; 1" = 0.04; 1.25" = 0.06; 2" = 0.16; 3" = 0.37; 4" = 0.65; 5" = 1.02; 6" = 1.47; 12" = 5.88 <b>TUBING INSIDE DIA. CAPACITY</b> (Gal./Ft.): 1/8" = 0.0006; 3/16" = 0.0014; 1/4" = 0.0026; 5/16" = 0.004; 3/8" = 0.006; 1/2" = 0.010; 5/8" = 0.016											
<b>PURGING EQUIPMENT CODES:</b> B = Bailer; BP = Bladder Pump; ESP = Electric Submersible Pump; PP = Peristaltic Pump; O = Other (Specify)											

**SAMPLING DATA**

SAMPLED BY (PRINT) / AFFILIATION:				SAMPLER(S) SIGNATURE(S):				SAMPLING INITIATED AT:		SAMPLING ENDED AT:		
PUMP OR TUBING DEPTH IN WELL (feet):				TUBING MATERIAL CODE:				FIELD-FILTERED: Y N Filtration Equipment Type:		FILTER SIZE: _____ μm		
FIELD DECONTAMINATION: PUMP Y N				TUBING Y N (replaced)				DUPLICATE: Y N				
SAMPLE CONTAINER SPECIFICATION				SAMPLE PRESERVATION (including wet ice)				INTENDED ANALYSIS AND/OR METHOD		SAMPLING EQUIPMENT CODE		SAMPLE PUMP FLOW RATE (mL per minute)
SAMPLE ID CODE	# CONTAINERS	MATERIAL CODE	VOLUME	PRESERVATIVE USED	TOTAL VOL ADDED IN FIELD (mL)	FINAL pH						
REMARKS:												
<b>MATERIAL CODES:</b> AG = Amber Glass; CG = Clear Glass; HDPE = High Density Polyethylene; LDPE = Low Density Polyethylene; PP = Polypropylene; S = Silicone; T = Teflon; O = Other (Specify)												
<b>SAMPLING EQUIPMENT CODES:</b> APP = After (Through) Peristaltic Pump; B = Bailer; BP = Bladder Pump; ESP = Electric Submersible Pump; RFPP = Reverse Flow Peristaltic Pump; SM = Straw Method (Tubing Gravity Drain); O = Other (Specify)												

**NOTES: 1. The above do not constitute all of the information required by Chapter 62-160, F.A.C.**  
 2. STABILIZATION CRITERIA FOR RANGE OF VARIATION OF LAST THREE CONSECUTIVE READINGS (SEE FS 2212, SECTION 3)  
**pH:** ± 0.2 units **Temperature:** ± 0.2 °C **Specific Conductance:** ± 5% **Dissolved Oxygen:** all readings ≤ 20% saturation (see Table FS 2200-2); optionally, ± 0.2 mg/L or ± 10% (whichever is greater) **Turbidity:** all readings ≤ 20 NTU; optionally ± 5 NTU or ± 10% (whichever is greater)

**Attachment**  
**PRIMARY AND SECONDARY DRINKING WATER STANDARDS**  
**For Injection Permit Background Water Samples and Wastestream Analyses**  
**Table Numbers are from Chapter 62-550, F.A.C.**

TABLE 1  
MAXIMUM CONTAMINANT LEVELS FOR INORGANIC COMPOUNDS

FEDERAL CONTAMINANT ID NUMBER	CONTAMINANT	MCL (mg/L)
1074	Antimony	0.006
1005	Arsenic	0.010
1010	Barium	2
1075	Beryllium	0.004
1015	Cadmium	0.005
1020	Chromium	0.1
1024	Cyanide (as free Cyanide)	0.2
1025	Fluoride	4.0
1030	Lead	0.015
1035	Mercury	0.002
1036	Nickel	0.1
1040	Nitrate	10 (as N)
1041	Nitrite	1 (as N)
	Total Nitrate and Nitrite	10 (as N)
1045	Selenium	0.05
1052	Sodium	160
1085	Thallium	0.002

TABLE 2  
MAXIMUM RESIDUAL DISINFECTANT LEVELS

FEDERAL CONTAMINANT ID NUMBER	DISINFECTANT RESIDUAL	MRDL (mg/L)
1012	Chlorine	4.0 (as Cl <sub>2</sub> )
1006	Chloramines	4.0 (as Cl <sub>2</sub> )
1008	Chlorine Dioxide	0.8 (as ClO <sub>2</sub> )

TABLE 4  
MAXIMUM CONTAMINANT LEVELS FOR VOLATILE ORGANIC CONTAMINANTS

FEDERAL CONTAMINANT ID NUMBER	CONTAMINANT & (CAS NUMBER)	MCL (mg/L)
2977	1,1-Dichloroethylene (75-35-4)	0.007
2981	1,1,1-Trichloroethane (71-55-6)	0.2
2985	1,1,2-Trichloroethane (79-00-5)	0.005
2980	1,2-Dichloroethane (107-06-2)	0.003
2983	1,2-Dichloropropane (78-87-5)	0.005
2378	1,2,4-Trichlorobenzene (120-82-1)	0.07
2990	Benzene (71-43-2)	0.001
2982	Carbon tetrachloride (56-23-5)	0.003
2380	cis-1,2-Dichloroethylene (156-59-2)	0.07
2964	Dichloromethane (75-09-2)	0.005
2992	Ethylbenzene (100-41-4)	0.7
2989	Monochlorobenzene (108-90-7)	0.1
2968	o-Dichlorobenzene (95-50-1)	0.6
2969	para-Dichlorobenzene (106-46-7)	0.075
2996	Styrene (100-42-5)	0.1
2987	Tetrachloroethylene (127-18-4)	0.003
2991	Toluene (108-88-3)	1
2979	trans-1,2-Dichloroethylene (156-60-5)	0.1
2984	Trichloroethylene (79-01-6)	0.003
2976	Vinyl chloride (75-01-4)	0.001
2955	Xylenes (total) (1330-20-7)	10

TABLE 5  
MAXIMUM CONTAMINANT LEVELS FOR SYNTHETIC ORGANIC CONTAMINANTS

FEDERAL CONTAMINANT ID NUMBER	CONTAMINANT & (CAS NUMBER)	MCL (mg/L)
2063	2,3,7,8-TCDD (Dioxin) (1746-01-6)	3 X 10 <sup>-8</sup>
2105	2,4-D (94-75-7)	0.07
2110	2,4,5-TP (Silvex) (93-72-1)	0.05
2051	Alachlor (15972-60-8)	0.002
2050	Atrazine (1912-24-9)	0.003
2306	Benzo(a)pyrene (50-32-8)	0.0002
2046	Carbofuran (1563-66-2)	0.04
2959	Chlordane (57-74-9)	0.002
2031	Dalapon (75-99-0)	0.2
2035	Di(2-ethylhexyl)adipate (103-23-1)	0.4
2039	Di(2-ethylhexyl)phthalate (117-81-7)	0.006
2931	Dibromochloropropane (DBCP) (96-12-8)	0.0002
2041	Dinoseb (88-85-7)	0.007
2032	Diquat (85-00-7)	0.02
2033	Endothall (145-73-3)	0.1
2005	Endrin (72-20-8)	0.002
2946	Ethylene dibromide (EDB) (106-93-4)	0.00002
2034	Glyphosate (1071-83-6)	0.7
2065	Heptachlor (76-44-8)	0.0004
2067	Heptachlor epoxide (1024-57-3)	0.0002
2274	Hexachlorobenzene (118-74-1)	0.001
2042	Hexachlorocyclopentadiene (77-47-4)	0.05
2010	Lindane (58-89-9)	0.0002
2015	Methoxychlor (72-43-5)	0.04
2036	Oxamyl (vydate) (23135-22-0)	0.2
2326	Pentachlorophenol (87-86-5)	0.001
2040	Picloram (1918-02-1)	0.5
2383	Polychlorinated biphenyls (PCBs)	0.0005
2037	Simazine (122-34-9)	0.004
2020	Toxaphene (8001-35-2)	0.003

**TABLE 6  
SECONDARY DRINKING WATER STANDARDS**

FEDERAL CONTAMINANT ID NUMBER	CONTAMINANT	MCL (mg/L)
1002	Aluminum	0.2
1017	Chloride	250
1022	Copper	1
1025	Fluoride	2.0
1028	Iron	0.3
1032	Manganese	0.05
1050	Silver	0.1
1055	Sulfate	250
1095	Zinc	5
1905	Color	15 color units
1920	Odor	3 (threshold odor number)
1925	pH	6.5 - 8.5
1930	Total Dissolved Solids	500
2905	Foaming Agents	0.5

**OTHER PRIMARY DRINKING WATER STANDARDS, CHAPTER 62-550**

**DISINFECTANT RESIDUALS**

DISINFECTANT RESIDUAL	MRDL
Chlorine	4.0 mg/L (as Cl <sub>2</sub> )
Chloramines	4.0 mg/L (as Cl <sub>2</sub> ).
Chlorine Dioxide	0.8 mg/L (as ClO <sub>2</sub> ).

**DISINFECTION BYPRODUCTS**

DISINFECTION BYPRODUCT	MCL
Bromate	0.010 mg/L
Chlorite	1.0 mg/L
Total Trihalomethanes (TTHM)	0.080 mg/L
Haloacetic Acids (Five) (HAA5)	0.060 mg/L

**RADIONUCLIDES**

CONTAMINANT	MCL
Combined radium226 and radium228	5 pCi/L
Gross alpha particle activity including radium226 but excluding radon and uranium	15 pCi/L
Uranium	30 ug/L

Abbreviations Used: MCL = maximum contaminant level  
 mg/L = milligrams per liter.  
 pCi/L = picoCuries per liter  
 MRDL = maximum residual disinfectant level  
 CAS Number = Chemical Abstract System Number

**FDEP Underground Injection Control Program Sample Form  
(Cores/Cuttings/Formation Water)**

**Contact:** David Paul, P.G.  
 Geological Sample Acquisition & Management Section  
 Florida Geological Survey  
 Florida Department of Environmental Protection  
 3915 Commonwealth Blvd  
 Tallahassee, FL 32399  
 Office: (850) 245-3131  
 Fax: (850) 245-3136  
[David.Paul@dep.state.fl.us](mailto:David.Paul@dep.state.fl.us)

Well Name:	
Well Type (circle one)    Class I    Class V    Exploratory    Monitoring	
Date Collected:	Date sent to FGS:
Sample type (circle one)    Core    Cuttings    Formation Water	
Preservative used — if formation water sample — (circle one) Nitric        n/a        Other (describe)	
Datum and elevation:	Sample Interval:
Elevation method (circle one) Survey    USGS Quadrangle    Other (describe)	
Sample Interval Drilling Method (circle one) Reverse Air    Mud Rotary    Sonic/Acoustic    Other (describe)	
Well Coordinates    °    '    " N /    °    '    " W	
Method (circle one)    AGPS (hand held)    DGPS (GPS survey)    Map Derived	
FDEP Permit Number:	
Facility Name:	
Permittee (owner):	
Facility Address:	
Drilling Company:	Lead Driller:
Project Geologist:	Consulting Company:

**EXHIBIT 5, PINEY POINT COUNTY-RECEIVER SERVICES AGREEMENT**

## RESOLUTION NO. R-22-165

**A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING CLOSURE OF THE PINEY POINT FACILITY AND CONSTRUCTION OF DEEP INJECTION WELL AND PRETREATMENT FACILITY; APPROVING THE FORM OF A DESIGN-BUILD AGREEMENT AND SERVICE AGREEMENT AND EXHIBITS THERETO; AUTHORIZING THE EXECUTION OF SUCH AGREEMENTS; PROVIDING THAT COUNTY OBLIGATIONS ARE SUBJECT TO AVAILABILITY AND APPROPRIATION OF FUNDS; PROVIDING FOR THE AMENDMENT AND RESTATEMENT OF RESOLUTION NO. R-22-117 IN ITS ENTIRETY; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Piney Point Phosphogypsum Stack System (the “Facility”), located at 13300 U.S. Highway 41 North, Palmetto, Manatee County (the “Property”), has posed a danger to Manatee County residents, visitors, and business owners, with the potential unplanned release of phosphogypsum stack water, and the County, pursuant to Section 125.01(k), Florida Statutes and in the furtherance of public health, safety, and welfare of County residents, has an interest in the efficient and safe closure of the Facility; and

**WHEREAS**, the State of Florida Department of Environmental Protection (“FDEP”) is the administrative agency of the State of Florida having the power and duty to protect Florida’s air and water resources and to administer and enforce the provisions of Chapter 403, Florida Statutes (F.S.), including the specific provisions for the regulation of phosphogypsum stack systems under Sections 403.4154 and 403.4555, F.S., and the additional provisions under Part I and Part IV of Chapter 402, F.S., applicable to an underground injection well, and the rules thereunder promulgated and authorized in Title 62, Florida Administrative Code (F.A.C.), and will oversee the “Closure” of the Facility, as that term is defined pursuant to 62-673.200, F.A.C.; and

**WHEREAS**, HRK Holdings, LLC is the current owner of the Facility and Property, which are the subject of a foreclosure proceeding pending in the case styled *Fortress 2020 Landco, LLC v. HRK Holdings, LLC, et. al*, Case No. 2020-CA-004459, filed in the Circuit Court of the Twelfth Judicial Circuit in and for Manatee County (the “Foreclosure Action”), and Donica Receivership Services, LLC (the “Receiver”) was appointed to act as Receiver for the Facility and to undertake Closure of the Facility through stipulation by FDEP and Court Order in the Foreclosure Action (the “Receiver’s Appointment Order”), which gives the Receiver the power to “maintain, manage and close as efficiently and expeditiously as possible the Facility in accordance with all applicable State and Federal laws” and gives the Receiver the following specific powers and authority: “(a) to provide and maintain the Facility, including making structural changes, for as long as necessary to complete closure; (b) determine which portions of the real property for the Facility are necessary for the repair, maintenance, closing and long-term care of the phosphogypsum

stack system; (c) to make extensions, expansions, repairs, replacements, and improvements to the Facility as necessary to complete closure; and (d) to enter into contracts with any public agency or private entity providing for or relating to the management, maintenance, and Closure of the Facility;” and

**WHEREAS**, the Receiver retained the services of a third-party engineer (the “Engineer”), and may retain the services of other qualified professionals, as determined at the Receiver’s discretion, whose services are to be employed at the discretion of the Receiver to provide ongoing site operations, maintenance, water management, and closure work as may be needed pursuant to the Receiver’s Appointment Order; and

**WHEREAS**, FDEP approved a “Conceptual Closure Plan” for the Facility prepared by the Engineer and submitted by the Receiver *In the Matter of: Donica Receivership Services, LLC Conceptual Closure Plan Former Piney Point Phosphogypsum Stack System*, OGC File No. 22-0468; a copy of the Conceptual Closure Plan and FDEP order approving same are attached hereto as Composite Exhibit “A;” and

**WHEREAS**, FDEP entered into DEP Contract No. MF001 (the “Funding Agreement”) with the Receiver, for the maintenance and funding of the Receiver’s work and the Conceptual Closure Plan pursuant to the Receiver’s Appointment Order; and

**WHEREAS**, the Engineer advised the County, the Receiver, and FDEP that over 400,000,000 gallons of water, depending on rainfall and closure timing conditions, must be removed from the Facility to facilitate the closure work, and that additional water must be removed to properly manage long-term process water seepage and groundwater that will continue to emanate and be collected from the Facility’s seepage collection system; and

**WHEREAS**, the Receiver, Engineer, and FDEP determined that an underground injection control well (“UIC Well”), along with a water pretreatment system (the “Water Pretreatment System”) to treat the water prior to disposal through the UIC Well, are the most effective and efficient methods to dispose of water held within the Facility; and

**WHEREAS**, the County, pursuant to Section 125.01(1), Florida Statutes, sought and obtained regulatory authorization to construct and operationally test a UIC Well on the Property, in accordance with the requirements of Chapter 62-528, F.A.C., under Department UIC Permit No. 0322708-002-UC/11 (the “UIC Permit”) as issued on December 16, 2021, for the purpose of disposing of water held within the Facility; and

**WHEREAS**, the County, pursuant to Sections 125.01 and 125.012, Florida Statutes and Resolution No. R-21-068, engaged a contractor and obtained cost estimates for completing the design and construction of the intended Water Pretreatment System which will be situated on the County’s property adjacent or near the UIC Well; and

**WHEREAS**, in order to facilitate the safe and efficient closure of the Facility and in compliance with the Conceptual Closure Plan, the County desires to enter into a “Service Agreement Related to Closure and Water Management Needs for the Piney Point Facility,

Manatee County” with the Receiver (the “Service Agreement”), pursuant to Sections 125.01 and 125.012, Florida Statutes; and

**WHEREAS**, in order to facilitate the safe and efficient closure of the Facility and pursuant to the Service Agreement, the Conceptual Closure Plan, and Sections 125.01 and 125.012, Florida Statutes, the County desires to ratify the approval of the “Design-Build Agreement No.22-TA004053CD for the Piney Point Deep Injection Well and Pretreatment Facility,” with Westra Construction Corp. and McKim & Creed, Inc. (the “Design-Build Agreement”) in accordance with Resolution No. R-20-124;and

**WHEREAS**, on June 16, 2022, the Board authorized the County Administrator and Purchasing Official to execute the Design Build Agreement and Amendment thereto in accordance with the Procedures in Resolution No. R-20-124, with the understanding that the majority of work under the Agreement will not take place unless and until a Service Agreement is approved by the Board, in order to lock in the cost of constructing the Pretreatment System, and this Resolution shall constitute the Board’s ratification and approval of the Design-Build Agreement in accordance with Resolution No. R-20-124; and

**WHEREAS**, on July 26, 2022, the Board adopted Resolution No. 22-117, approving the Service Agreement and ratifying the Design Build Agreement; and it is in the best interest of the public health, safety and welfare of the County for the Board to adopt this resolution, amending and restating Resolution No. 22-117 in its entirety to approve negotiated changes to the Service Agreement; and

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, AS FOLLOWS:**

**SECTION 1. FINDINGS.** The Board hereby makes the following findings:

1. The recitals set forth above are true and correct; and
2. The efficient and safe Closure of the Facility is in the common interest of the people of Manatee County, pursuant to Section 125.01(w), Florida Statutes; and
3. It is in the best interest of the County, and furthers the public health, safety and welfare of County residents, visitors, and business owners, to approve the form of, and authorize the execution of, the agreements, exhibits and schedules attached to this Resolution, to facilitate the Closure of the Facility.

**SECTION 2. APPROVAL OF AGREEMENTS.** The Board hereby approves the following documents (collectively, the “Agreements”):

1. The Service Agreement and its attachments substantially in the form attached hereto as Exhibit “B.”
2. The Design-Build Agreement and its exhibits substantially in the form attached

hereto as Exhibit "C."

**SECTION 3. AUTHORIZATION TO EXECUTE.** The Chair and Vice Chair of the Board of County Commissioners and the County Administrator are hereby authorized and directed to execute and deliver the Agreements, and to accept the Service Agreement executed by the Receiver substantially in the form attached hereto, with such insubstantial changes, insertions and omissions, and such exhibits thereto, as may be approved by the Chair, Vice Chair and County Administrator, the execution or acceptance thereof being conclusive evidence of such approval. In accordance with Resolution No. R-20-124, the Board hereby ratifies the approval of the Design-Build Agreement executed by Westra Construction Corp., McKim & Creed, Inc. or their affiliates, substantially in the form attached hereto, with such insubstantial changes, insertions and omissions, and such exhibits thereto, as may be approved by the County Administrator and Purchasing Official, the execution or acceptance thereof being conclusive evidence of such approval.

**SECTION 4. OBLIGATIONS SUBJECT TO AVAILABILITY OF FUNDS.** This Resolution is intended to authorize the construction and maintenance of the UIC Well and Water Pretreatment System as provided in the Agreements. The obligations of the County under the Agreements are subject to the Board of County Commissioners, on an annual basis, obtaining sufficient legally available funds, and budgeting and appropriating such funding for such purpose.

**SECTION 5. AMENDMENT AND RESTATEMENT OF RESOLUTION NO. R-22-117.** This Resolution amends and restates Resolution No. R-22-117 in its entirety, and this Resolution and the exhibits attached hereto and approved herein shall replace and supersede Resolution No. R-22-117 and the exhibits attached thereto and approved therein in their entirety. Upon the effective date hereof, all matters addressed herein shall be governed solely by the terms and provisions of this Resolution and the exhibits attached hereto and approved herein, and no term, condition, or obligation of any party set forth in this Resolution and the exhibits attached hereto and approved herein shall be conditioned upon or subject to any term, condition, or obligation of Resolution No. R-22-117 and the exhibits attached thereto and approved therein.

**SECTION 6. SEVERABILITY.** It is hereby declared to be the intention of the Board of County Commissioners that the phrases, clauses, sentences, paragraphs and sections of this Resolution, inclusive of exhibits, be deemed severable, and if any phrase, clause, sentence, paragraph or section hereof is declared unconstitutional or otherwise invalid by the valid judgment of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Resolution.

**SECTION 7. EFFECTIVE DATE.** This Resolution shall take effect immediately upon its adoption.

**DULY ADOPTED** with a quorum present and voting this 13th day of September, 2022.

**BOARD OF COUNTY COMMISSIONERS  
OF MANATEE COUNTY, FLORIDA**

By: \_\_\_\_\_  
Chairperson

ATTEST: ANGELINA COLONNESO  
CLERK OF THE CIRCUIT COURT AND COMPTROLLER

By: \_\_\_\_\_  
Deputy Clerk

**EXHIBIT "A" to Resolution R-22-165  
FDEP ORDER APPROVING CONCEPTUAL CLOSURE PLAN AND THE  
CONCEPTUAL CLOSURE PLAN**

IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT  
IN AND FOR MANATEE COUNTY, FLORIDA  
CIVIL DIVISION

FORTRESS 2020 LANDCO, LLC, a Delaware  
limited liability company, as assignee of Regions  
Bank, as successor in interest by merger of  
AmSouth Bank,

Plaintiff,

vs.

Civil Action No. 2020-CA-004459-AX

HRK HOLDINGS, LLC, a Florida limited liability  
company, ARSENAL GROUP, LLC, a Delaware  
limited liability company, WILLIAM F. HARLEY  
III, FLORIDA DEPARTMENT OF  
ENVIRONMENTAL PROTECTION,  
ARDAMAN & ASSOCIATES, INC., a Florida  
corporation, INTERNATIONAL SALT  
COMPANY, LLC, a Delaware limited liability  
company, MC WEIGHING SYSTEMS, LLC, a  
Florida limited liability company, 9079-8042  
QUEBEC, INC., a foreign corporation,  
JOHN DOE1, JANE DOE1, JOHN DOE2 and  
JANE DOE2,

Defendants.

---

**AGREED ORDER ON MOTION TO APPOINT RECEIVER**

This matter having come before the court pursuant to a Motion for Entry of Order Appointing Receiver (Motion ), filed by the Florida Department of Environmental Protection (Department) and the Department, Fortress 2020 Landco, LLC (Fortress or Plaintiff), HRK Holdings, LLC (HRK), Arsenal Group LLC (Arsenal), William F. Harley, III (Harley), Ardaman & Associates Inc. (Ardaman) (Fortress, Landco, HRK, Department, Arsenal, Harley, collectively, the Parties)<sup>1</sup> having entered into a Stipulation for Agreed Order on the Motion and this court having

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<sup>1</sup> It is noted that International Salt Company LLC (ISC), MC Weighing Systems LLC (MC), Quebec, Inc. (Quebec) have not filed an appearance or any responsive pleading in this Civil Action.

jurisdiction over the Parties and subject matter hereto and being otherwise fully advised as to the premises does hereby Grant the Motion and it is ORDERED AND ADJUDGED that the terms of the Stipulation (attached hereto as Exhibit A), entered into between the Parties are hereby adopted and incorporated as though fully set forth herein. This court retains jurisdiction to enforce the terms of the Stipulation.

DONE AND ORDERED this 25<sup>th</sup> day of Aug, 2021.

  
Circuit Judge

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing Order Appointing Receiver has been furnished by Electronic mail, this 25 day of August, 2021, to:

**DARRIN J. QUAM, ESQUIRE**  
[dquam@stearnsweaver.com](mailto:dquam@stearnsweaver.com)  
[lwade@stearnsweaver.com](mailto:lwade@stearnsweaver.com)

*Attorneys for Plaintiff Fortress 2020  
LandCo, LLC JONAH*

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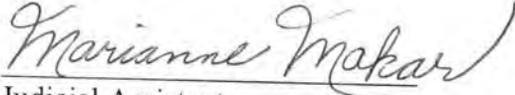
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Harley, III and HRK Holdings, LLC*

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*Attorney for Florida Department of Environmental  
Protection*

  
Judicial Assistant

**EXHIBIT “B” to Resolution R-22-165  
SERVICE AGREEMENT RELATED TO CLOSURE AND WATER  
MANAGEMENT NEEDS FOR THE PINEY POINT FACILITY,  
MANATEE COUNTY FLORIDA**

SERVICE AGREEMENT RELATED TO CLOSURE AND WATER MANAGEMENT  
NEEDS FOR THE PINEY POINT FACILITY,  
MANATEE COUNTY FLORIDA

THIS SERVICE AGREEMENT (the “Service Agreement”) is made and entered into as of the effective date set forth herein, by and between Herbert R. Donica and Donica Receivership Services, LLC, whose address is 238 E. Davis Boulevard, Suite 209, Tampa, Florida (collectively the “Receiver”), and Manatee County, a political subdivision of the State of Florida, (the “County”), (collectively, the “Parties”).

SERVICE AGREEMENT

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WHEREAS, on August 25, 2021, in Civil Action Case No. 2020-CA-004459-AX, 2020 LANDCO, LLC, v. HRK Holdings, LLC, et al., the Circuit Court of Manatee County, Florida appointed Herbert R. Donica, Esq., now operating as Donica Receivership Services, LLC, as the Receiver (“the Receiver’s Appointment Order”) for the Piney Point Phosphogypsum Stack System (the “Facility” or “Stack System”) located at 13300 U.S. Highway 41 North, Palmetto, Manatee County, Florida about eight miles north-northeast of the City of Palmetto in Manatee County, Florida and shown on **Attachment B-2** hereto, the Facility Location Map; and

WHEREAS, the Facility as used herein shall be as defined pursuant to the Receiver’s Appointment Order; and

WHEREAS, by order of the state court, pursuant to the “Receiver’s Appointment Order,” the Receiver is charged and empowered to, “maintain, manage and close as efficiently and expeditiously as possible the Facility in accordance with all applicable State and Federal laws;” and the “Receiver shall have the following specific powers and authority: (a) to provide and maintain the Facility, including making structural changes, for as long as necessary to complete closure; (b) determine which portions of the real property for the Facility are necessary for the repair, maintenance, closing and long-term care of the phosphogypsum stack system; and (c) to make extensions, expansions, repairs, replacements, and improvements to the Facility as necessary to complete closure.”; and

WHEREAS, the Receiver’s specific powers and authority to provide and maintain the Facility are granted for as long as necessary to complete closure, including the power and authority to make structural changes and improvements that are necessary for the site-specific water management plan which, in accordance with Rule 62-673.600, F. A.C., includes the management,

treatment, and disposal of ponded and pore process wastewater, both during closing activities and long-term care of the Facility; and

WHEREAS, the Receiver expects to maintain the specific powers and authorities granted pursuant to Section 3 of the Stipulation on Motion for Order Appointing Receiver through the end of the Closure Period as defined herein, after which time the Receiver expects the receivership to be terminated in accordance with the provisions of Section 4 of the Stipulation on Motion for Order Appointing Receiver; and

WHEREAS, the State of Florida Department of Environmental Protection (the “Department”) is the administrative agency of the State of Florida having the power and duty to protect Florida’s air and water resources and to administer and enforce the provisions of Chapter 403, Florida Statutes (F.S.), including the specific provisions for the regulation of phosphogypsum stack systems under Sections 403.4154 and 403.4555, F.S., and the additional provisions under Part I and Part IV of Chapter 402, F.S., applicable to an underground injection well, and the rules thereunder promulgated and authorized in Title 62, Florida Administrative Code (F.A.C.). The Parties acknowledge that the Department has regulatory jurisdiction over such matters as may be related to this Service Agreement; and

WHEREAS, the Department has entered into DEP Contract No. MF001 (the “Funding Agreement”) with the Receiver, for the maintenance and funding of the Receiver’s work pursuant to the Receiver’s Appointment Order; and

WHEREAS, the Receiver has retained the services of a third-party engineer (the “Engineer”), and may retain the services of other qualified professionals, as determined at the Receiver’s discretion, whose services are to be employed at the discretion of the Receiver to

provide ongoing site operations, maintenance, water management, and closure work as may be needed pursuant to the Receiver's Appointment Order; and

WHEREAS, the Parties have been advised by the Engineer that over 400,000,000 gallons of water, depending on rainfall and closure timing conditions, must be removed from the Facility to facilitate the closure work, and that additional water must be removed to properly manage long-term Process Water seepage and groundwater that will continue to emanate and be collected from the Facility's seepage collection system; and

WHEREAS, the Parties have determined that an underground injection control well ("UIC Well") system is the most effective and efficient method to dispose of water held within the Facility; and

WHEREAS, the Receiver will seek regulatory authorizations as may be needed from the Department for site management and closure related activities at the Facility; and

WHEREAS, the County has sought and obtained regulatory authorization to construct and operationally test a UIC Well, in accordance with the requirements of Chapter 62-528, F.A.C., under Department UIC Permit No. 0322708-002-UC/1I (the "UIC Permit") as issued on December 16, 2021, for the purpose of disposing of water held within the Facility; and

WHEREAS, the Parties have been advised of the requirement to construct a water pretreatment system (the "Water Pretreatment System") to treat the water prior to disposal through the UIC Well; and

WHEREAS, the Parties intend to situate the Water Pretreatment System on the County's property adjacent or near the UIC Well; and

WHEREAS, the County engaged a contractor and obtained cost estimates for completing the design and construction of the intended Water Pretreatment System; and

WHEREAS, the County, through its own review and those of its agents or contractors, evaluated the range of Process Water quality existing at the Facility, specifically including Process Water in lined impoundments at the Facility and Stack System seepage as collected in the Facility's buried seepage collection system, and also evaluated options for pretreatment of such Process Water; and

WHEREAS, the Receiver evaluated cost estimates provided by County for completing the design and construction of a Water Pretreatment System that would treat Process Water from the Facility prior to disposal using the UIC Well; and

WHEREAS, the Receiver's responsibilities imposed by this Service Agreement are dependent on the Parties' ability to secure and maintain all necessary permits to build and operate the UIC Well, Water Pretreatment System and any related systems; and

WHEREAS, the Parties acknowledge the Department is the administrative agency of the State of Florida having the power and duty to administer and enforce the provisions of Chapters 373, 376, and 403, F.S., and the rules promulgated thereunder, and that the Department has regulatory jurisdiction over certain matters addressed in this Service Agreement; and

WHEREAS, the Parties desire to address their respective actions related to the Facility in preparation for disposal of the Facility's Process Water and related services as may be provided pursuant to this Service Agreement, at the time before and after the County may complete construction and begin to operationally test a UIC Well pursuant to the UIC Permit, and any subsequent operational periods that may thereafter be permitted, as such actions are deemed necessary by the Parties to facilitate water removal from the Facility that is necessary for the safety of the Facility, and to allow a timely closure of the Facility pursuant to the Receiver's Appointment Order.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter contained, it is agreed as follows:

## I. PURPOSE

1. Through this Service Agreement, the Parties intend to identify and establish their respective actions at the Facility including, but not limited to, actions which are consistent with and subject to the provisions specified by the Stipulation and Receiver's Appointment Order, which are attached hereto as **Attachment A**. Certain provisions of this Service Agreement are intended to address various matters under the Receiver's authorities as outlined in **Attachment A**, among others.

2. In addition, the provisions of this Service Agreement, the attachments thereto, and any subsequent modifications, are intended to address the continued access to the Facility by the County, its contractors, and agents, in order to complete the ongoing Water Consumption Services, and to conduct any associated operation, maintenance, monitoring, and inspection activities at the Facility. Likewise, the performance by the Receiver of its work under this Service Agreement shall also be addressed herein.

3. To the extent that the County will provide Water Consumption Services as further outlined herein, this Service Agreement provides the conditions upon which the Receiver will provide funding in support of the County's Water Consumption Services.

4. During the Closure Period, the Receiver intends to continue to manage the Facility work with the Engineer to develop final construction plans that will result in the closure of the Facility. Any costs and expenses of such work on the part of the Engineer shall be borne by the Receiver.

5. This Service Agreement binds and inures to the benefit of the County, HRK and any subsequent owners, lessees, assignees, or any other person or entity in possession of the Facility during the Closure Period and the Long-Term Care Period. Further, the Department shall be deemed to be a third-party beneficiary of the provisions of Sections V, VII, X, and XI of this Service Agreement and is entitled to enforce those provisions until the expiration of Long-Term Care Period.

6. This Service Agreement shall have the same force and effect as an easement, lien or Declaration and shall be recorded and run with the land to bind any party having an interest in the Facility now or in the future until the expiration of the Long-Term Care Period. The legal description of the Facility is attached hereto as **Attachment B-1**.<sup>1</sup>

7. This Service Agreement shall be approved by the Manatee County Circuit Court and such approval shall include a motion to modify the Easement For Access And Authorization To Conduct On Site Activities (the "Access Easement"), dated August 15, 2006, recorded on August 21, 2006, in the Official Records for Manatee County, Book 02148, Pages 2930-2936, herein incorporated as **Attachment C**. The modification of the easement shall include the addition of the County and the Receiver as a parties to the Access Easement, description(s) of areas of access and egress to the Facility during the Closure Period, description(s) of areas that will be used in connection with the Water Consumption Services, description(s) of areas that will be used for flowline access corridors as described in Article V of this Agreement, extension of the easement to the expiration of the Long-Term Care Period and the exclusion of portions of the Facility from

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<sup>1</sup> Exclusive of any portions of the Facility where Plaintiff, as identified in Civil Action No. 2020-CA-004459-AX), may seek a judgment foreclosing a portion of the Facility that would be determined by the Receiver to not be necessary for the proposes of closure and long-term care of the Facility under the specific powers and authorities granted pursuant to the Receiver's Appointment Order.

the Access Easement upon foreclosure sale of those portions. The County and the Receiver shall enter into an easement to provide the Receiver access to the UIC Well and Water Pretreatment System which easement shall be binding on their successors and assigns and remain in effect for the duration of the Closure Period and the Long-Term Care Period.

## II. DEFINITIONS

8. Whenever terms listed below are used in this Service Agreement or in the appendices attached hereto and incorporated hereunder, the following definitions shall apply:

- a. "CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. § 9601 *et seq.*
- b. "Closure" shall have the meaning of such term as defined under Rule 62-673.200, F.A.C.
- c. "Closure Letter" shall mean the letter by the Department acknowledging that the phosphogypsum stack system has been closed in accordance with the procedures of Rule 62-673.620, F.A.C.
- d. "Closure Period" shall mean the period of time from the date of the Receiver's appointment (August 25, 2021) through to the official date of closing as set forth in the Department's Closure Letter as described above.
- e. "Contamination" shall have the meaning of such term as defined under Rule 62-780.200(11), F.A.C.
- f. "Day" shall mean a calendar day. In computing any period of time under this Service Agreement, where the last day would fall on a Saturday, Sunday, Federal,

or State holiday, the period shall run until the close of business of the next working day.

- g. "Department" or "DEP" shall mean the Florida Department of Environmental Protection, on behalf of the State of Florida, and any successor Departments or agencies of the State.
- h. "Effective Date" shall be the effective date of this Service Agreement as provided herein.
- i. "Environmental Law" and "Environmental Laws" shall mean any or all federal, state, and local laws, statutes, ordinances, rules, and regulations, now or hereafter in effect, and in each case as amended or supplemented from time to time, including common law or equitable claims based upon, but not limited to, theories of trespass, nuisance, or tort, including any applicable judicial order, consent decree, consent agreement, judgment, license, permit, or authorization relating to the regulation and protection of human health, safety, or the environment. The terms "Environmental Law" and "Environmental Laws" shall include, but are not limited to, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. § 9601 *et seq.*) (CERCLA); the Hazardous Material Transportation Act, as amended (42 U.S.C. § 1801 *et seq.*) (HMTA); the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. § 136 *et seq.*); the Solid Waste Disposal Act, as amended (SWDA), which is also known as the Resource Conservation and Recovery Act, as amended (42 U.S.C. § 6901 *et seq.*); the Clean Air Act, as amended (42 U.S.C. § 740 *et seq.*); the Federal Water Pollution Control Act, which is also known as the Clean Water Act, as amended

(33 U.S.C. § 1251 *et seq.*); the Toxic Substances Control Act, as amended (15 U.S.C. § 2601 *et seq.*), the Safe Drinking Water Act, as amended (42 U.S.C. §§ 300f *et seq.*), Chapters 373, 376 and 403, Florida Statutes, as amended, and any and all rules, regulations, directives, and requirements promulgated or issued thereunder, and all analogous or similar state and local counterparts, equivalents, or other similar laws, statutes, ordinances, rules, regulations, directives, or requirements. The terms "Environmental Law" and "Environmental Laws" shall include any and all future federal, state, or local laws, statutes, ordinances, rules, regulations, directives, or requirements as they may apply to the regulation and protection of employee safety, human health, or the environment, generally.

- j. "EPA" shall mean the United States Environmental Protection Agency and any successor Departments or agencies of the United States.
- k. "Facility" shall mean the entire phosphate fertilizer manufacturing complex (described as SIC code 2874 and regulated under 40 CFR Part 418) previously owned and operated by, and subsequently abandoned by the Mulberry Corporation at a location along U.S. Highway 41 approximately nine (9) miles north of the city of Palmetto in Manatee County, Florida consisting of approximately 670 contiguous acres with: (1) a Phosphogypsum Stack System; and (2) the infrastructure necessary to support management and maintenance of the Phosphogypsum Stack System. The Phosphogypsum Stack System at the Facility is comprised of old and new gypsum stacks, each incorporating two 50-foot to 70-foot high impoundments, a closed contact Process Water pond (designated south cooling pond), a closed north cooling pond, and a network of seepage, Process

Water and stormwater runoff collection ditches encompassing a total watershed of approximately 457 acres. The Facility property is located at Latitude: 27° 37' 50.71" North, and Longitude: 82° 31' 53.28" West and is shown on the map attached hereto as **Attachment B-2**.

1. "Hazardous Substances" shall be interpreted broadly to mean any and all hazardous, toxic, or harmful (or potentially harmful) substances, materials or wastes, including (i) those substances, materials and wastes listed or identified now or in the future by the United States Department of Transportation in the Table at 49 C.F.R. Section 172.101, any amendments thereto, or listed or identified by the United States Environmental Protection Agency as a hazardous substance at 40 C.F.R. Part 302, and any amendments thereto and (ii) any substances, materials or wastes that are or become regulated under any applicable Environmental Law, as amended, including any substances, materials, or waste which is or are (a) petroleum and derivatives thereof; (b) radioactive; (c) asbestos; (d) polychlorinated biphenyls; (e) defined, designated, or listed as a "hazardous substance" under the Clean Water Act, 33 U.S.C. Section 1251, et seq., or under any implementing regulations thereto; (f) defined, designated, or listed as a "hazardous waste" under the Solid Waste Disposal Act, 42 U.S.C. Section 6901, et seq., or under any implementing regulations thereto; (g) defined, designated, or listed as a "hazardous substance" under the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601, et seq., or under any implementing regulations thereto; or (h) defined, designated, or listed as a "pollutant," "pollution," "contaminant," "contamination," "hazardous substance," or "hazardous waste"

under Chapters 376 or 403, Florida Statutes, or by the Department under rules promulgated thereunder at Title 62, F.A.C., as amended.

- m. “HRK” shall mean HRK Holdings, LLC, its affiliates, including but not limited to HRK Industries, LLC, subsidiaries, and its successors and assigns. For purposes of Paragraphs 46 and 47 only, “HRK” shall also include the officers, directors, members, agents, transferees, and employees of HRK Holdings, LLC.
- n. “Long-Term Care Period” shall have the meaning of such term as used under Rule 62-673.630, F.A.C.
- o. “Paragraph” shall mean a portion of this Service Agreement identified by an Arabic numeral.
- p. “Parties” shall mean the Receiver and the County.
- q. “Phosphogypsum Stack” shall have the meaning of such term as defined under Rule 62-673.200, F.A.C.
- r. “Phosphogypsum Stack System” or “Stack System” shall have the meaning of such term as defined under Rule 62-673.200, F.A.C.
- s. “Pretreatment Discharge” means any County regulated discharge to a “Wastewater Facility” or “WWF,” as defined under Rule 62-625.200, F.A.C., specifically including any discharges ultimately to the local domestic wastewater collection system, any Manatee County domestic wastewater facility, or any underground injection control well (including but not limited to the UIC Well) subject to Chapter 62-528, F.A.C., or any other publicly owned infrastructure of Manatee County, for the purpose of removing or otherwise disposing of Process Water from the Facility.

- t. "Pretreatment Service Connection" means the water or recycled water pipe, pumping station and appurtenances, control valves and other facilities by means of which the County conveys or limits Pretreatment Discharges from the Facility to any County or Manatee County owned facilities (including but not limited to the UIC Well) for the purpose of providing Water Consumption Services.
- u. "Process Water" or "Process Wastewater" in accordance with the meaning of such term as defined under 62-673.200, F.A.C., shall mean any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product, along with any leachate or runoff from the phosphogypsum stack system.
- v. "RCRA" shall mean the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6901 *et seq.*
- w. "Release" shall be construed broadly to mean any manner of discharging, dumping, emitting, leaking, migrating, releasing, or spilling, as any such terms may be further defined in any Environmental Law, into or through any medium including groundwater, surface water, sediments, land, soil, or air.
- x. "Section" shall mean a portion of this Service Agreement identified by a Roman numeral.
- y. "Service Agreement" shall mean this Service Agreement and all appendices attached hereto.

z. "Solid Waste" shall have the meaning of such term as defined under Rule 62-701.200(113), F.A.C.

aa. "State" shall mean the State of Florida.

bb. "Water Consumption Services" shall mean any utility services used or to be used by the County in the future to manage, treat, dispose, or reuse Process Water received from the Stack System at the Facility.

### **III. SCOPE OF SERVICES TO BE PERFORMED**

9. The Receiver contracted for engineering services to support management of the Facility, and the preparation of conceptual and subsequently detailed closure plans needed pursuant to the Receiver's Appointment Order. Closure of the Phosphogypsum Stack System at the Facility under Section 403.4154, F.S. requires the removal of Process Water to enable dewatering of Process Water ponds and included soft materials at the Facility, in order for closure construction activities to commence. County successfully permitted the construction and operational testing of the UIC Well (Permit No. 0322708-002-UC/1I; WACS Facility ID: 101607) that is authorized to receive Process Water from the Facility for disposal at 3105 Buckeye Road, Palmetto, Florida 34221, Latitude: 27 37' 16.6" N; Longitude: 82 31' 42.6" W (the "UIC Well Site").

10. The Receiver shall allow and grant access to the County, its contractors, and agents, and shall provide funding support as described further herein in full consideration and compensation for the County's performance of Water Consumption Services.

11. Receiver's funding hereunder is fully contingent upon appropriations from the Legislature for such closure work, water management, and associated activities. The Receiver and County agree that, in the event that funding is not available and paid to County in the full amounts

as specified in paragraphs 30 and 31 hereunder, that County shall not be obligated to complete construction of the UIC Well or the Water Pretreatment System and the Parties will negotiate the extent, if any, to which such facilities may be constructed or such Water Consumption Services may be provided by the County.

12. The Parties agree that the scope of services hereunder include Water Consumption Services during the period of the anticipated Closure work at the Facility, and that Water Consumption Services will continue, for an unknown period of time, during the subsequent Long-Term Care Period for the Facility, subject to the requirements set forth in this Agreement. The Parties acknowledge that the Long-Term Care Period for the Facility is expected to be determined in accordance with the regulatory provisions of Chapter 62-673, F.A.C., and that Department rules specify the length of long-term care thereunder as 50 years for the purpose of calculating the long-term care portion of the associated closure costs. The Parties acknowledge that the actual required Long-Term Care Period may be more or less than a 50-year time period, depending on the applicable provisions of Chapter 62-673, F.A.C.

13. The Department shall continue to exercise regulatory control over any post-closure activities at the Facility in accordance with applicable provisions of Chapter 62-673, F.A.C. which may affect the integrity of the environmental protection measures of the closed Phosphogypsum Stack System, such as the final cover, liners, monitoring system and Process Water management and stormwater controls. In accordance with Rule 62-673.620, F.A.C., consultation with the Department is required before conducting activities at the Facility which may affect the integrity of such environmental protection measures and the Department reserves the authority to object to or prohibit activities which it may reasonably believe could result in such adverse impacts.

#### IV. ACCESS AND INFORMATION

##### A. Facility

14. The Parties acknowledge the existence of the August 15, 2006, Easement For Access And Authorization To Conduct On Site Activities (the "Access Easement"), as recorded on August 21, 2006, in the Official Records for Manatee County, Book 02148, Pages 2930-2936, herein incorporated as **Attachment C**, entered by V. John Brook as Chapter 7 Trustee in Bankruptcy for Piney Point Phosphates, Inc., providing an easement as described therein to the Department, as Grantee, with a term ending on February 28, 2065. The Parties further acknowledge that the Access Easement was to the Grantee and "and all agents, employees, contractors or subcontractors acting under the authority of GRANTEE over and across the Piney Point Site," and that such rights were assigned to the Receiver pursuant to Receiver's Appointment Order, as shown herein on **Attachment A**. The Parties further acknowledge that the Access Easement provided, "access over, across beneath and on the Piney Point Site during the term of this easement for the purposes of closing the phosphogypsum stack systems in accordance with applicable laws and regulations, to manage any and all environmental risk associated with such site identified by GRANTEE which GRANTEE deems necessary, in such manner as GRANTEE deems appropriate, and to render such phosphogypsum stacks of beneficial use," and that such grant of access and authorization to conduct site activities also applies to the Receiver in accordance with the Receiver's Appointment Order.

15. The Receiver shall, commencing on the Effective Date and extending through the end of the Closure Period, and does herewith provide legal access and authorization to conduct onsite activities pursuant to the Access Easement, to the County, its agents, and its contractors, to implement and complete actions taken pursuant to the Service Agreement for the purpose of

providing Water Consumption Services. Such access shall include, but not be limited to the following reasons warranting access to the Facility:

- a. periodic sampling of Process Water at the site, at locations deemed necessary by the County, in accordance with safety protocols as may be specified by the Receiver;
- b. inspection of pipe, pumping, control valves, and other associated infrastructure used to convey Process Water for Pretreatment Discharge to the County for Water Consumption Services;
- c. to operate, if and when needed, the designated Pretreatment Service Connection, to control, limit or temporarily suspend the Pretreatment Discharge from the Facility to the County; and
- d. any other purpose as may be requested by the County from time to time and agreed upon by the Receiver during the closure of the Facility.

B. Application and Development of Access Easements

16. The Parties agree that certain County infrastructure is expected to be developed on, over, or under portions of the Facility to provide for the conveyance of Pretreatment Discharges, and for the return of treatment residuals (treatment sludges) during the Closure Period, whereupon the conveyance of the Pretreatment Discharges is expected to continue beyond the Closure Period, throughout the ensuing Long-Term Care Period, during which Water Consumption Services are expected to continue to be needed for managing ongoing stack seepage, at reduced rates compared to the Closure Period. The Parties herein agree to work cooperatively in the development of additional access easements, or other lawful grant of access and authority for the benefit of the

County, to inspect, sample, maintain, and control any such County infrastructure, such as piping, valves, pumps, or similar apparatus, providing a Pretreatment Service Connection for the purpose of such long-term conveyance of the Pretreatment Discharges from the Facility to the County. The Receiver hereby further agrees to pursue the development of such additional access easements, or other lawful grant of access and authority as needed for the benefit of the County, in good faith and in consultation with the County, to the extent that any such access and authority may be lawfully established by the Receiver and made available to the County, prior to or upon the end of the Closure Period.

### C. Information

17. The Parties agree to provide routine informational updates, electronically via electronic mail or through telephone or internet meetings as may be convenient and scheduled, to facilitate each Party's ability to fulfill the purposes of this Service Agreement. Such requests for routine informational updates shall be provided in good faith and shall not be unreasonably withheld where such requests are related to this Service Agreement.

18. Upon the conclusion of Closure work and associated operation, maintenance and monitoring activities, the Facility shall be evaluated to determine the closure status by the Department, in accordance with procedures of Rule 62-673.620, F.A.C. Within 21 days of when the Receiver receives a letter from the Department acknowledging the closing of the phosphogypsum stack system and the Department's establishment of the official date of closing and the beginning of Long-Term Care Period (the "Closure Letter") the Receiver shall provide notification and a copy of such Closure Letter to the County. The Parties agree that prior to any transition of operational control of Pretreatment Discharges from the Receiver to any successor entity who may manage site operations during the Long-Term Care Period for the Facility, such

successor entity would be required to receive a permit, or other County authorization, regulating the allowable character, quality, and quantity for continued Pretreatment Discharges, by the successor entity, to ensure the County's ability to protect the long-term operation and maintenance interests of the County or other County owned facilities that are utilized for the purpose of providing continued Water Consumption Services during the Long-Term Care Period for the Facility.

#### **V. COUNTY'S PROCESS WATER CONSUMPTION SERVICES**

19. Subject to the terms and conditions set forth in this Agreement, the County, in exchange for funding support as outlined in Section VII, hereby agrees to provide Water Consumption Services in the following quantities (the "Minimum Service Quantities"):

- a. During the Closure Period, for Pretreatment Discharges in amounts as requested up to and including 1.0 million gallons per day (MGD) as determined by water balance projection needs provided by the Receiver, plus any additional allowance as determined available by the County for additional Pretreatment Discharges above 1.0 MGD; and
- b. During the Long-Term Care Period, for Pretreatment Discharges in annual average amounts up to and including 0.25 MGD, plus any additional allowance as determined available by the County for additional Pretreatment Discharges above 0.25 MGD, with actual annual average Pretreatment Discharges expected to steadily decline during the Long-Term Care Period following Closure.

20. The Parties agree that the Minimum Service Quantities specified herein are contingent on the funding and construction of the UIC Well and Water Pretreatment System as provided herein, and expected availability of the UIC Well, once constructed and available to

receive Pretreatment Discharges for operational testing in accordance with the UIC Permit, and any subsequent operational periods that may thereafter be permitted in accordance with Chapter 62-528, F.A.C. Further, the Parties agree that Minimum Service Quantities shall be suspended during any period when the UIC Well is not available to receive Pretreatment Discharges in the specified quantities for reasons that are beyond the control of the County, its agents, and its contractors.

21. The County agrees to design, permit and construct the UIC Well and the Water Pretreatment System, and to accept Pretreatment Discharges from the Facility, subject to the terms and conditions of this Service Agreement, to assist the Receiver and the Department in resolving the long-term issues at the Facility. The County's commitments set forth herein shall not be construed as a commitment of the County to bear responsibility for the resolution of the environmental issues at the Facility, beyond the County's commitments expressly stated herein.

22. In the event the UIC Well is not available to receive Pretreatment discharges in the specified Minimum Service Quantities for reasons that are beyond the control of the County, its agents, or its contractors, the County agrees to evaluate other options to continue to provide Water Consumption Services at a reduced quantity or rate, and to, in good faith, consider additional options to provide Water Consumption Services meeting the herein specified Minimum Service Quantities.

23. The County and the Receiver acknowledge that the availability of Water Consumption Services, in accordance with the Minimum Service Quantities as specified herein, the timing for completing planned phases of closure, and the actual amount of rainfall over areas prior to Closure may each impact the Receiver's ability to timely complete the planned closure work, and may in turn increase the chances for additional rainfall over unclosed areas and thus

increase the total volume of Process Water requiring Pretreatment Discharges pursuant to this Service Agreement. Accordingly, the Parties agree to routinely share information on updated projections for needed Pretreatment Discharges during the Closure Period.

## **VI. COOPERATIVE SITE OPERATIONS**

24. The Parties, recognizing the need to provide a suitable access corridor for flowlines expected to run from Manatee County property south of Buckeye Road, under Buckeye Road, and emerging in location within the Facility property and extending further across the Facility as needed in each case, agree to mutually develop flowline access corridors, prior to the commencement of Pretreatment Discharges, for the following:

- a. Pretreatment Discharge Flowline: to transfer Process Water primarily from the Facility for Water Consumption Services; and
- b. Return Solids Flowline: to return treatment residuals to the Facility, during the Closure Period, for disposal by the Receiver in conjunction with planned closure work; and
- c. Any additional flowlines, cables, and conduits that the Parties may identify and mutually agree is needed to provide for Water Consumption Services pursuant to this Service Agreement.

25. The Parties agree that flowline pipes passing under Buckeye Road shall be installed in appropriately sized casing to minimize the potential for leaks or spills in the vicinity of Buckeye Road stormwater drainage conveyances or ditches.

26. The Receiver agrees that during the Closure Period, the Receiver shall accept return solids from the County's pretreatment facility, at mutually agreed upon flow rates and solids

concentrations, for disposal in conjunction with the Receiver's planned closure activities. The County and Receiver agree that prior to the end of the Closure Period, the Receiver will provide County with advance notice of the date upon which the Facility will no longer be able to accept return solids from the County for disposal. Such notice shall be provided to the County at least 90 days prior to the date when return solids can no longer be accommodated at the Facility, prior to the end of the Closure Period.

27. For the purposes of the anticipated Return Solids Flowline where downstream refers to a return flow direction from the County to the Facility, the County agrees to provide a pair of valves to establish a service connection that can be operated to close and isolate upstream and downstream flows so that a flanged connecting pipe section, located between the upstream and downstream valves, may be removed to provide a short section for flowline (the "Interconnect Section") disconnects between the upstream and downstream flowline sections. The upstream valve and flanged connection shall be maintained by the County. The downstream valve and flange, and the Interconnect Section shall be maintained to County standards by the Receiver, while in use during the Closure Period. The Parties agree that such a service connection for the Return Solids Flowline shall be mutually agreed upon with regards to the County proposed design and location on the Facility. In combination, the upstream and downstream valves and flanges, shall provide an operable connection point for the Receiver whenever flowline disconnection and relocations may be necessitated at the Facility to receive return solids for disposal at various closure locations within the Facility.

28. Prior to making any changes to the Return Solids Flowline, or otherwise interrupting the availability or flow of return solids through the Return Solids Flowline, the Parties agree to coordinate any such planned stoppages to accommodate periods of maintenance, repairs,

or relocations of lines as may be needed, by either Party, for returning treatment residuals to the Facility for disposal in conjunction with the ongoing closure activities.

29. The Parties, recognizing the necessity for the County, or its agents or contractors, to maintain operational control over the conveyance of Pretreatment Discharges, or to limit or temporarily suspend the conveyance thereof, agree that a Pretreatment Service Connection shall be constructed at the Facility as follows:

- a. at an agreed upon location at the Facility suitable to receive Process Water from the lined process water sump (the “LPWS”) at the Facility; and
- b. where the access point for connecting and receiving Process Water from the LPWS shall be provided by the Receiver for the Facility, including access to and use of the existing 36-in HDPE manhole and 18-in diameter SDR 26 outlet pipe, as shown on Drawing D-1 (Access Point for Pretreatment Service Connection), incorporated herein as **Attachment D**, or another such access point as mutually agreed upon by the Parties; and
- c. on Facility land where the Receiver agrees to provide access and authorization as prescribed herein at no cost to the County; and
- d. where the County agrees to design, construct, own, and operate the Pretreatment Service Connection, in a manner consistent with providing Water Consumption Services as specified herein; and
- e. where the necessary electrical power supply for the Pretreatment Service Connection (in accordance with specifications to be defined by County), shall be provided by the Facility, at no cost to County; and

- f. where the Receiver shall provide an operable valve and flanged connection point upstream of the Pretreatment Service Connection, at a location appropriate to isolate and prevent discharge from the LPWS to the Pretreatment Service Connection during periods of maintenance or for removal of the Pretreatment Service Connection by the County; and
- g. where the County shall provide the Receiver, and its agents or contractors, and any successor operator as specified hereunder, with administrative control for notifying or otherwise securing an immediate suspension of Pretreatment Discharges by the County at the Pretreatment Service Connection, whenever deemed necessary or advisable by the Facility operator.

**VII. RECEIVER'S PROCESS WATER CONSUMPTION CAPITAL FUNDING  
SUPPORT AND COST OF SERVICE**

30. Based on the Receiver's review of available options for disposal of Process Water from the Facility to provide for the efficient, effective, and environmentally sound maintenance and closure of the Facility, the Receiver agrees to reimburse the County for Water Consumption Services including costs incurred for the design, permitting and construction of the DIW and the Water Pretreatment System in the amount of \$17,187,867 (the "Reimbursed Project Costs") in accordance with the provisions of this Service Agreement. Such payment for Reimbursed Project Costs shall be provided to the County as follows:

- a. 20% of the Reimbursed Project Costs, upon receipt of a payment request including documentation indicating completion of 25% of the Water Pretreatment System construction; and

- b. an additional 25% of Reimbursed Project Costs for an aggregated 45% of Reimbursed Project Costs, upon receipt of a payment request including documentation indicating completion of 50% of the Water Pretreatment System construction; and
- c. an additional 25% of the Reimbursed Project Costs for an aggregated 70% of the Reimbursed Project Costs, upon receipt of a payment request including documentation indicating completion of 75% of the Water Pretreatment System construction; and
- d. an additional 20% of the Reimbursed Project Costs for an aggregated 90% of the Reimbursed Project Costs, upon receipt of a payment request including documentation indicating completion of 100% of the Water Pretreatment System construction; and
- e. the remainder of Reimbursed Project Costs for an aggregate of 100% of the Reimbursed Project Costs, upon receipt of a payment request including documentation indicating that Water Consumption Services commenced and initially achieved the Minimum Service Quantities specified hereunder, on average for a period of 168 hours or more.

31. The provision for initial Water Consumption Services for the estimated time during the Closure Period will require ongoing operational and maintenance costs for the portion of the operational capacity of the County's UIC Well and Water Pretreatment System that is used for Pretreatment Discharges. Accordingly, the Receiver agrees to provide payment to reimburse the County for Water Consumption Services, including reasonably expected operational and maintenance costs associated with the Pretreatment Discharges, during the Closure Period (the

“Reimbursed Closure O&M Costs”), pursuant to the present value of the costs as determined by the Schedule of Projected Treatment Cost Values, as incorporated herein as **Attachment E**. The Receiver shall pay such present value of Reimbursed Closure O&M Costs in a lump sum payment to the County upon reaching Minimum Service Quantities specified hereunder, on average for a period of 168 hours or more, in the amount of \$2,266,186.08.

32. The provision for continued Water Consumption Services for the estimated time during the Long-Term Care Period will require ongoing operational and maintenance costs for the portion of the long-term operational capacity of the County’s UIC Well and Water Pretreatment System that is used for Pretreatment Discharges. Accordingly, the County requires the Receiver to provide a pre-payment to establish funding that is needed to reimburse the County for Water Consumption Services, including reasonably expected operational and maintenance costs associated with the Pretreatment Discharges, during the Long-Term Care Period in the amount of \$6,455,423.55 (the “Reimbursed LTC O&M Costs”), which is the present value of the cost of the Long-Term Care Period as set forth in the Schedule of Projected Treatment Cost Values, as incorporated herein as **Attachment E**. The Receiver shall prepay the present value of such Reimbursed LTC O&M Costs for the Long-Term Care Period no later than 30 days after the end of the Closure Period, by depositing a lump sum in the amount of not less than \$6,455,423.55 in an interest-bearing account with the Florida Department of Financial Services (DFS) (the “Prepaid Pretreatment LTC O&M Costs Escrow Account”). The County shall submit invoices to the Department, monthly or quarterly, for payment of Water Consumption Services at agreed upon rates until the Prepaid Pretreatment LTC O&M Costs Escrow Account balance, including accrued interest, is exhausted or the end of the Long Term Care Period, whichever comes first. The Receiver and the County agree that the Department shall be considered a Party with standing in

any appropriate legal forum, in the event of, and to the extent of, any dispute related to Prepaid Pretreatment LTC O&M Costs.

33. The Receiver and County agree that the County shall only be obligated to provide continued Water Consumption Services to the extent that the funds in the Prepaid Pretreatment LTC O&M Costs Escrow Account for Reimbursed LTC O&M Costs are sufficient to cover the then reasonably expected operational and maintenance costs for ongoing Water Consumption Services by the County. The Receiver and County agree that any owner or operator of the Facility, which would be subject to Long-Term Care requirements pursuant to Rule 62-673.630, Fla. Admin. Code during the Long-Term Care Period hereunder, shall be responsible for payment of any such additional amounts as may be necessary to cover such costs for additional Water Consumption Services, beyond the amount of such costs that were prepaid by the Receiver to establish the Prepaid Pretreatment LTC O&M Costs Escrow Account. The County agrees that any such additional costs for Water Consumption Services beyond those that were prepaid by the Receiver to establish the Prepaid Pretreatment LTC O&M Costs Escrow Account shall be based upon the appropriate rate as established in the County's rate resolution for Utilities System fees at that time.

34. Upon complete execution of this Service Agreement, the Receiver shall file a Notice of Service Agreement on the property for the subject Facility in the Official Records with the Manatee County Clerk of Court. Prior to the end of the Closure Period, the Receiver further agrees to establish the interest-bearing escrow account, with the DFS pursuant to section 17.59, Fla. Stat., (herein known as the, "Prepaid Pretreatment LTC O&M Costs Escrow Account") that will be available for the purposes of establishing financial assurances to provide future funding for water management activities during the Long-Term Care Period, or for other such long-term care

obligations as may be warranted for long-term care of the Facility pursuant to Chapter 62-673, Fla. Admin. Code. The County and Receiver agree that the Receiver shall establish the Prepaid Pretreatment LTC O&M Costs Escrow Account so that it shall be used solely for the purposes of funding long-term care water management costs for Water Consumption Services, so long as such Water Consumption Services are being provided by the County. The cost for such Water Consumption Services shall be based on the values set forth in the Schedule of Projected Treatment Cost Values on Attachment E; however, the Receiver and County agree that if the applicable rates as established in the County's rate resolution for Utilities System fees, after the tenth year of the Long-Term Care Period, are greater than the rates as reflected on Attachment E, then the rates on Attachment E shall be considered to be updated to reflect such rates as established in the County's rate resolution for Utilities System fees at that time for continued Water Consumption Services by the County during the Long-Term Care Period.

35. In the event the Receiver is unwilling or unable to pay the County for the Reimbursed Project Costs, Reimbursed Closure O&M Costs, or the County does not receive payments for Water Consumption Services during the Long-Term Care Period, the County may terminate this Service Agreement. In the event that any owner or operator of the Facility during the Long-Term Care Period is unwilling or unable to pay the County the amounts required pursuant to Paragraph 33 for continued Water Consumption Services beyond that covered by the Receiver's Prepaid Pretreatment LTC O&M Costs Escrow Account, the County agrees to consult with the Department to determine whether additional financial assurance funds, established pursuant to Rule 62-673.640, Fla. Admin. Code, are available for any then needed continuation of Water Consumption Services during the Long-Term Care period. The County agrees to continue to provide any then needed continuation of Water Consumption Services during the Long-Term Care

Period, to the extent the County is reimbursed for such costs from financial assurance funds, or other appropriate funds, available and administered for such purpose by the Department in accordance with Chapter 62-673, Fla. Admin. Code, based upon the appropriate rate as established in the County's rate resolution for Utilities System fees at that time. The Receiver and the County agree that the Department shall be considered a Party with standing in any appropriate legal forum, in the event of, and to the extent of, any dispute over the terms of this Agreement as they govern the sufficiency or payment of funds to provide for any Department asserted need for continued water management and treatment to provide for public safety and environmental protection of waters of the state; however, at no time shall the County be required to provide continued Water Consumption Services during the Long-Term Care Period beyond those costs as would be paid in accordance with paragraphs 32, 33, and 34.

36. The County's obligation to proceed with construction of the Water Pretreatment System is contingent upon the Receiver receiving sufficient legally available funds to pay the Reimbursed Project Costs required pursuant to Paragraph 30, the Reimbursed Closure O&M Costs required pursuant to Paragraph 31, and the Reimbursed LTC O&M Costs pursuant to paragraph 32.

37. The County reserves the right to establish a stand-alone single purpose unit of government for the purpose of owning and operating the UIC Well and Water Pretreatment System, and to transfer the UIC Well and Water Pretreatment System to such entity, and assign this Service Agreement to such entity, without the consent of the Receiver or the Department; however, the rights and obligations of the County set forth herein shall only transfer to such entity only to the extent that such entity is capable of performing in lieu of and in equal effect as would the County. To the extent that such entity is capable and fulfills the obligations of the County

hereunder, the County shall be released from such obligations, and the Receiver shall look to such entity to fulfill such obligations.

38. This Service Agreement shall not be construed to waive or limit the right of the County, or any special purpose entity to which the County transfers and assigns this Agreement, to levy special assessments or taxes, or charge fees, in accordance with applicable law, for the purpose of funding capital, operational or maintenance costs of the UIC Well and/or Water Pretreatment System, exclusive of Water Consumption Services compensated pursuant to this Service Agreement. In no event shall any such levy, assessment, tax or charges interfere with the County's or its assignee's responsibility to provide Water Consumptions Services.

39. Notwithstanding any other provisions of this Service Agreement, the obligations undertaken by County hereunder shall not be construed to be or constitute general obligations, debts or liabilities of the County or the State of Florida or any political subdivision thereof within the meaning of the Constitution and laws of the State of Florida, but shall be payable solely in the manner and to the extent provided in this Agreement. The obligations of the County set forth herein for Water Consumption Services are subject to annual appropriation of legally available funds by the County's Board of County Commissioners.

#### **VIII. EMERGENCY RESPONSE AND OTHER SITE NOTIFICATIONS**

40. In the event of any action or occurrence during performance of the work by the respective Parties under this Service Agreement which causes or threatens a Release from the Facility that constitutes an emergency situation or may present an imminent hazard or an immediate threat to public health or welfare or the environment, the Party performing the work which causes or threatens such Release shall immediately take all appropriate action. The Party responsible shall take such actions in accordance with the applicable provisions of this Service

Agreement, including, but not limited to, taking appropriate contingency measures to notify local emergency response officials, and actions to prevent, abate or minimize such Release or endangerment caused or threatened by the Release.

41. In addition, in the event of any Release of a Hazardous Substance from the Facility in excess of the applicable reportable quantity, which is related to the performance of the work under this Service Agreement, the Party responsible for such Release shall immediately notify the State Watch Office at (850) 488-1320, the National Response Center at (800) 424-8802, and Manatee County local emergency response officials at 911. If either Party, or their respective agents or contractors, is responsible and makes the required notification, it shall submit a written report to the Department within seven (7) days after each such Release, setting forth the events that occurred and the measures taken or to be taken to mitigate any such Release or endangerment caused or threatened by the Release and to prevent the occurrence of such a Release. This reporting requirement is in addition to, and not in lieu of, any applicable reporting under Chapter 62-150 F.A.C., CERCLA § 103(c), 42 U.S.C. § 9603(c), and Section 304 of the Emergency Planning and Community Right-To-Know Act of 1986, 42 U.S.C. § 11004. For purposes of this Section the County shall be considered a responsible Party for only releases that occur directly from equipment or infrastructure installed, owned, or operated by the County.

## **IX. DISPUTE RESOLUTION**

42. The Parties shall attempt to resolve any disagreements arising under this Service Agreement expeditiously and informally. In the event of a dispute between the County and the Receiver concerning the obligations arising under this Service Agreement, or the interpretation of any of the provisions hereunder, the Parties agree to review such matter in good faith and will use their commercially reasonable best efforts to resolve any such dispute prior to termination of this

Service Agreement or filing any action or claim in litigation. In this regard, the County and the Receiver agree to follow the following procedures, all such meetings to occur at a time and place mutually agreeable to the Parties acting in good faith:

- a. Appropriate representatives for the County and the Receiver (Party Representatives) shall meet in person to discuss the dispute or controversy in question. Such meeting shall occur within fifteen (15) days after a Party has provided the other Party notice of its intent to trigger the dispute resolution procedures under this Paragraph. The Parties may mutually agree to seek input from appropriate representatives from the Department for the meeting prescribed hereunder.
- b. Should the Party Representatives be unsuccessful in resolving such dispute or controversy in person, then senior level executives and/or officials from the County and the Receiver, accompanied by counsel, shall meet in person within fifteen (15) days after the Party Representatives met to discuss the dispute or controversy in question.
- c. Should the procedures in subsections a.) and b.) prove to be unsuccessful, either Party shall have the right to pursue any remedies it may have available to it, whether at law or in equity, in Manatee County, Florida. Notwithstanding the foregoing, the Parties may mutually agree to submit the dispute to a mediator mutually retained by the parties in an effort to facilitate a resolution to the dispute without resorting to litigation.
- d. In the event of a dispute regarding performance or the obligations under this Services Agreement, the County and the Receiver shall continue without delay their

performance hereunder, except for any performance that either Party reasonably determines should be stayed.

- e. The Parties agree that the County may, with 15 days written notice to the Receiver, and without additional cost or penalty, suspend performance hereunder in the event that the Receiver fails to pay the County any amounts owed and due in accordance with this Service Agreement (other than those amounts subject to dispute by the Receiver).

43. Any agreement resolving a dispute reached by the Parties pursuant to this Section shall be in writing and shall, upon signature by both Parties, be incorporated into and become an enforceable part of this Service Agreement.

#### **X. COVENANTS NOT TO SUE AND RESERVATIONS OF RIGHTS**

44. By entering into this Service Agreement, neither of the Parties assume any liability for injuries or damages to persons or property resulting from any acts or omissions of the County or the Receiver on or off the Facility. Further, the Parties agree that any of their contractors or agents shall secure and maintain commercial general liability coverage with limits of not less than \$1,000,000 per occurrence and \$5,000,000 annual aggregate for bodily injury and property damage; comprehensive automobile liability coverage with limits of not less than \$1,000,000 combined single limit and Contractor Pollution Liability coverage with limits of not less than \$5,000,000 each occurrence and aggregate. Neither of the Parties shall be responsible for any deductible or self-insured retention of the other Party, or their respective contractors or agents. The County may perform its obligations under this Paragraph through its self-insurance program.

45. The Parties agree that nothing herein shall limit the power and authority of the Department to take, direct, or order all actions necessary to protect public health, welfare, or the environment or to prevent, abate, or minimize an actual or threatened Release of Hazardous Substances, pollutants or contaminants, or hazardous or Solid Waste on, at, or from the Facility. Further, nothing herein shall prevent either of the Parties or the Department from seeking legal or equitable relief to enforce the terms of this Service Agreement or from taking other legal or equitable action as it deems appropriate and necessary in the future pursuant to applicable provisions of Chapters 376 and 403 F.S., CERCLA, or other applicable laws. In the event of any litigation arising under the terms of this Service Agreement, each Party shall be responsible for its own attorney's fees, including appellate fees, regardless of the outcome of the litigation.

46. By entering into this Service Agreement, neither Party assumes any liability for injuries or damages to persons or property resulting from any acts or omissions of HRK. The Parties agree that the Department shall not be deemed a party to any contracts entered into by either of the Parties or its directors, officers, employees, agents, successors, representatives, assigns, contractors, or consultants in carrying out actions pursuant to this Service Agreement.

47. Nothing in this Service Agreement constitutes a satisfaction of or release of liability from any claim or cause of action against HRK or any person not a party to this Service Agreement, for any liability such person may have under Environmental Law, or common law.

## **XI. GENERAL PROVISIONS**

48. This Service Agreement may not be modified, amended, waived or terminated orally, but only by an instrument in writing signed by both Parties.

49. Unless otherwise specified, or as may be changed from time to time, all reports, notices, or any other written communications required to be submitted under this Service

Agreement shall be sent to the respective Parties, and including courtesy copies to the Department, at the following addresses by mail or e-mail (to the extent feasible):

As to the Receiver:

Donica Receivership Services, LLC  
Herbert R. Donica, sole member/manager  
238 E. Davis Blvd., Suite 209  
Tampa, Florida 33666  
Main contact: Herbert Donica  
Telephone number: 813-878-9790  
Cell number: 813-966-3096  
Fax number: 813-878-9746  
herb@donicalaw.com

As to the County:

Dr. Scott L. Hopes  
County Administrator  
Manatee County  
1112 Manatee Ave. W.  
Bradenton, FL 34205  
941-748-4501  
Scott.hopes@mymanatee.org

and

William Clague, Esq.  
County Attorney  
Manatee County  
1112 Manatee Ave. W.  
Bradenton, FL 34205  
941-745-3750  
William.clague@mymanatee.org  
and

Manatee County Utilities Director  
4410 66<sup>th</sup> Street W  
Bradenton, FL 34210  
941-792-8811

As to the Department:

John Coates  
Division of Water Resource Management  
Florida Department of Environmental Protection  
2600 Blair Stone Road, MS 3500  
Tallahassee, FL 32399-2400  
(850) 488-8217  
John.Coates@floridadep.gov

and

Phosphate Management Program Administrator  
Division of Water Resource Management  
Florida Department of Environmental Protection  
13051 N Telecom Parkway  
Temple Terrace, FL 33637-0926  
(813) 470-5909

and

Jonathan H. Alden  
Senior Assistant General Counsel  
Office of General Counsel  
Florida Department of Environmental Protection  
3900 Commonwealth Blvd., MS-35  
Tallahassee, FL 32399-3000  
(850) 245-2242  
jonathan.alden@dep.state.fl.us

50. Any Party, and the Department, may, by written notice to the other Party and the Department, change its designated notice recipient or notice address provided above.

51. Notices submitted pursuant to this Section shall be deemed submitted upon mailing or e-mailing, as provided above, unless otherwise provided in this Service Agreement or by mutual agreement of the Parties or the Department in writing.

52. The headings to the Sections hereof are for convenience of reference only and shall in no way modify, restrict or be used to construe the provisions of this Service Agreement.

53. This Service Agreement shall inure to the benefit of and bind the Parties hereto and their respective successors and assigns.

54. This Service Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original, but all of which, together, shall constitute one and the same instrument.

55. Unless otherwise specifically provided, the word “including” as used in this Service Agreement shall mean “including but not limited to”.

56. Unless otherwise specifically provided, the terms “hereof,” “hereunder” and like terms as used in the main body (*i.e.*, excluding Attachments) of this Agreement shall apply to the entirety of this Service Agreement, rather than any Paragraph, Subparagraph, section, or subsection.

57. If a court issues an order that invalidates any provision of this Service Agreement or finds that a Party has sufficient cause not to comply with one or more provisions of this Service Agreement, that Party shall remain bound to comply with all provisions of this Service Agreement not invalidated or determined to be subject to a sufficient cause or defense by the court’s order.

58. This Service Agreement and its Attachments constitute the final, complete, and exclusive agreement and understanding among the Parties with respect to the implementation of each Party’s responsibilities for the work specified under Section III of this Service Agreement. The Parties acknowledge that there are no representations, agreements, or understandings related to the other issues regarding such work other than those expressly contained in this Service Agreement. The following attachments are attached to and incorporated into this Service Agreement:

Attachment A: Stipulation and Order Appointing Receiver

Attachment B-1: Legal Description of Facility

Attachment B-2: Facility Location Map

- Attachment C: Access Easement
- Attachment D: Drawing D-1 (Access Point for Pretreatment Service Connection)
- Attachment E: Schedule of Projected Treatment Cost Values

59. The Parties agree that the terms and conditions of this Service Agreement will be enforceable by a court of competent jurisdiction in Manatee County.

60. This Agreement is solely for the benefit of the Parties hereto and no right or cause of action shall accrue, to by reason hereof, or for the benefit of any third party not a party hereto, except for the Department as described herein.

61. The Parties agree that no term or condition contained in this Service Agreement shall be construed or interpreted as: 1) denying the County or the Department any remedy or defense available to it under the laws of Florida, or 2) a waiver of sovereign immunity of the County or of the Department beyond the waiver and limitations provided in Section 768.28, F.S.; or 3) resulting in the imposition of liability on the County or on the Department for which it would not otherwise by law be responsible.

62. Within 21 days of the Effective Date of this Service Agreement, the Receiver shall record this Service Agreement, along with a Notice of Service Agreement, in the land records of Manatee County and shall provide the County and the Department with filed stamped copies of the same.

63. This Agreement including all referenced documents, constitutes the entire agreement between the parties. Terms used shall have the meanings ascribed in this Contract unless other definitions are incorporated by reference herein. No agent, representative, employee, or officer of either of the parties has authority to make, or has made, any statement, agreement, or

representation, oral or written, in connection with the Agreement which in any way can be deemed to modify, add to, detract from, or otherwise change or alter its terms and conditions. No negotiations between the parties, nor any custom or usage, shall be permitted to modify or contradict any of the terms and conditions of the Agreement. No modifications, alterations, changes, or waiver to the Agreement or any of its terms shall be valid or binding unless made in writing and signed by both parties hereto.

## **XII. EFFECTIVE DATE**

64. This Service Agreement shall be final effective as of the last date as executed below by the appropriate representatives of the Parties, and no provisions shall take legal effect sooner than such effective date.

[SIGNATURE BLOCKS ON FOLLOWING PAGE]

FOR MANATEE COUNTY

**MANATEE COUNTY, a political subdivision  
of the State of Florida**

By: Its Board of County Commissioners

By: \_\_\_\_\_  
Chairperson

Date: \_\_\_\_\_

ATTEST: Angelina Coloneso  
Clerk of the Circuit  
Courtand Comptroller

By: \_\_\_\_\_  
Deputy Clerk

FOR DONICA RECEIVERSHIP SERVICES, LLC

\_\_\_\_\_  
DATE

\_\_\_\_\_  
Herbert R. Donica, Receiver

Copies furnished to: Jonathan Alden, OGC, FDEP  
Phosphate Management Program Administrator, FDEP  
John Coates, FDEP  
William Clague, Manatee County Attorney  
Jeff Goodwin, MCUD

IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT  
IN AND FOR MANATEE COUNTY, FLORIDA  
CIVIL DIVISION

FORTRESS 2020 LANDCO, LLC, a Delaware  
limited liability company, as assignee of Regions  
Bank, as successor in interest by merger of  
AmSouth Bank,

Plaintiff,

vs.

Civil Action No. 2020-CA-004459-AX

HRK HOLDINGS, LLC, a Florida limited liability  
company, ARSENAL GROUP, LLC, a Delaware  
limited liability company, WILLIAM F. HARLEY  
III, FLORIDA DEPARTMENT OF  
ENVIRONMENTAL PROTECTION,  
ARDAMAN & ASSOCIATES, INC., a Florida  
corporation, INTERNATIONAL SALT  
COMPANY, LLC, a Delaware limited liability  
company, MC WEIGHING SYSTEMS, LLC, a  
Florida limited liability company, 9079-8042  
QUEBEC, INC., a foreign corporation,  
JOHN DOE1, JANE DOE1, JOHN DOE2 and  
JANE DOE2,

Defendants.

\_\_\_\_\_/

**STIPULATION ON FLORIDA DEPARTMENT OF ENVIRONMENTAL  
PROTECTION'S MOTION FOR ORDER APPOINTING RECEIVER**

The Florida Department of Environmental Protection's (Department) Fortress 2020 Landco, LLC (Fortress or Plaintiff), and defendants HRK Holdings, LLC (HRK), Arsenal Group LLC (Arsenal), William F. Harley, III (Harley), Ardaman & Associates Inc. (Ardaman) (Fortress, Landco, HRK, Department, Arsenal, Harley, collectively, the Parties), as evidenced by signatures of respective counsel below, hereby enter into this Stipulation on the Department's Motion for

Entry of Order Appointing Receiver and agree to Entry of Agreed Order in accordance with the following agreed terms:

**STIPULATION**

**SECTION 1.**

**APPOINTMENT OF RECEIVER AND TERM.**

Mr. Hebert R. Donica, Esq. is hereby appointed to act as Receiver (hereinafter, Receiver) for the phosphatic fertilizer processing facility located at 13300 U.S. Highway 41 North, Palmetto, Manatee County, Florida, about eight miles north-northeast of Palmetto, Manatee County, Florida (the "Facility"). The Facility is herein defined as the entire phosphogypsum stack system - comprising the phosphogypsum (or pile, or landfill), together with all pumps and the non-exclusive use of all electrical service to such pumps and other electrical machinery or equipment used in the operation of such system, the piping, ditches, drainage conveyances, water control structures, collection pools, cooling ponds, surge ponds and any other collection or conveyance systems associated with the phosphogypsum stack system and the associated stormwater management system. This definition specifically includes ponds, toe drain systems and ditches and other leachate collection systems, and existing areas used in emergency circumstances caused by rainfall events of high volume or duration for the temporary storage of process wastewater to avoid discharges to surface waters of the state, and stormwater management systems from closed portions of the phosphogypsum stack system. The Receiver shall have access to and use of such roadways, conveyances, equipment or property at the site as necessary to accomplish this Order. Receiver shall be assigned all rights conveyed to the Department under the access easement granted to the DEP by HRK recorded on August 21, 2006, in the Manatee County property records at Book 02148/Pages 2930-2936 (attached as Exhibit "A"), to accomplish his duties. For purposes of this Order the Facility shall include all personal property at or related to the Facility, including

but not limited to books and records, equipment, fixtures, furniture, accounts, general intangibles, and causes of action. The Facility shall not include property owned by third parties within the outline of the HRK property described below as of the date of entry of this Order or property later conveyed through foreclosure sale or otherwise. A legal description of the HRK real property is attached hereto as Exhibit “B”.

The Receiver shall have party in interest status in this case and shall be entitled to receive copies of all pleadings, orders or other documents subsequently filed in this matter by any Party. The term of the receivership shall begin on the date of this Order and shall continue until such time as this Court terminates the receivership. Upon termination and expiration of the receivership as provided herein, the Receiver shall be released from all further obligations to maintain and close the Facility. All Parties to this action shall cooperate in good faith with the Receiver in the carrying out of his duties set forth in this Order.

Within 20 days of this Order, the Receiver shall file in this action an Oath of Receiver.

Plaintiff has indicated it may seek a judgment foreclosing only part of the real property identified in the Complaint (Civil Action No. 2020-CA-004459-AX), and Plaintiff is not operating any part of the Facility. As such, Plaintiff consents to the Receiver using all of the real and personal property associated with the stack system for a reasonable time for the Receiver to propose a closure/maintenance plan for the real property of the Facility. The Receiver shall expeditiously determine which portions or parcels of HRK’s real property it deems necessary for the repair, maintenance, closing and long term care of the phosphogypsum stack system. Property determined unnecessary to the repair, maintenance, closure or long-term care shall not constitute part of the Facility. This is an emergency situation, and the ultimate scope of real property necessarily within

the receivership estate will be determined at a later date. The receivership estate shall extend to only the real and personal property necessary to the repair, maintenance, closure or long-term care of the Facility. To avoid unnecessary involvement in the closing of the phosphogypsum stack system, Plaintiff shall confer with Receiver to determine whether such described real property is necessary to the repair, maintenance, closure or long-term care of the Facility. The Receiver shall advise Plaintiff which portion of the real property sought to be foreclosed is not part of the closure plan or of the Facility's anticipated or existing phosphogypsum stack system repair, maintenance, monitoring, or long-term care activities, Plaintiff may release from Plaintiff's mortgage liens on property necessary to the repair, maintenance, closure or long-term care comprising the Facility. Plaintiff, the Department, and HRK, acknowledge all parties' obligations under the Initial Memorandum of Understanding (dated April 25, 2014), as amended and supplemented by Agreement to Amend and Supplement Initial Memorandum of Understanding (dated March 18, 2020) (copies of which are attached hereto as Exhibit "C"), specifically, but not limited to, Plaintiff's obligation to contribute fifty percent of post foreclosure net sale proceeds (subject to the super priority LTC carveout) to the HRK Long Term Care Escrow Account.

This appointment of a Receiver upon the Motion of Department shall not delay the prosecution of Plaintiff's Complaint in this action.

## **SECTION 2.**

### **SURRENDER OF PROPERTY, ASSETS AND FACILITIES.**

Unless specifically authorized by subsequent order of this Court, neither HRK nor any party hereto shall sell, transfer, or dispose of any property comprising the Facility. Neither HRK nor the parties hereto (and their principals, successors, assigns or agents) shall commence a voluntary or involuntary bankruptcy on behalf of or against HRK without prior permission of this Court. HRK shall surrender to the Receiver control of all real and personal property at or related

to the Facility, including but not limited to books and records, equipment, fixtures, furniture, accounts, general intangibles, causes of action (with the exception of those causes of action being adjudicated in Case No. 2013-CA-000098-O in the Ninth Judicial Circuit Court in Orange County, Florida<sup>1</sup>. The parties to that litigation shall be bound by the terms of engagement previously approved by the United States Bankruptcy Court in the HRK bankruptcy case<sup>2</sup> and of the IMOU described in Section 1 above, Ex C.), vehicles, access codes, combination lock codes, keys, login information and passwords for all computers and systems.

### **SECTION 3.**

#### **RECEIVER'S POWERS.**

Once the real and personal property associated therewith of the Facility are surrendered to the Receiver in accordance with Section 2. above, the Receiver shall notify this Court, indicate acceptance of appointment as Receiver, and commence managing the Facility until such time as provided for in Section 1. and undertake closure of Facility.

In order to effectively carry out its responsibilities under this Order, the Receiver shall have and is vested with all of the usual powers, rights and duties of a receiver and, without limitation thereof,

1) the Receiver shall have the following specific powers and authority:

(a) to provide and maintain the Facility, including making structural changes, for as long as necessary to complete closure;

(b) to make extensions, expansions, repairs, replacements, and improvements to the Facility as necessary to complete closure;

(c) to borrow or advance money, and to pledge or encumber the facilities, assets for the repayment thereof;

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<sup>1</sup> including but not limited to trial, post-trial and appellate proceedings.

<sup>2</sup> *In re HRK Holdings, LLC*, Case No. 8:12-bk-09868-KRM

(d) to enter into contracts with any public agency or any private entity providing for or relating to the management, maintenance and closure of the Facility;

(e) to accept any gifts, grants, or contributions in kind in connection with the management, operation, and closure of the Facility; to retain and pay the fees, costs, and salaries of accountants, architects, engineers, attorneys, employees, and other professional consultants as necessary or desirable in the management, maintenance, or closure of the Facility and to ensure compliance with all the provisions of the Order;

(f) to pay from the revenues or funds provided to the receivership estate all necessary and reasonable expenses in a manner designed to continue the efficient, effective, and environmentally sound maintenance and closure of the Facility, to include but not be limited to permit fees and user fees;

(g) upon termination of this receivership, as provided in Section 4 of this Order, the Receiver, with written approval from this Court, may discontinue the management, maintenance and closure of the Facility; and in Receiver's sole discretion dispose of any or all lands, personalty, assets, and revenues then remaining in the receivership estate to satisfy all outstanding obligations of the receivership. Receiver shall give due notice to all entities having an interest in assets to be disposed of prior thereto;

(h) to sue, implead, complain in any court, and seek legal or equitable relief in accordance with applicable federal, state and local laws. Receiver shall not be amenable to suit in any court without this Court's prior authorization.

(i) to apply for and obtain all necessary federal, state, and local governmental permits, certificates, licenses, or other approvals in order to manage, maintain, or close the Facility;

(j) to perform generally any other lawful acts necessary or desirable to the express powers and authority granted and imposed herein;

(k) to compromise, arbitrate or otherwise adjust claims in favor of or against the

Receiver and to agree to any rescission or modification of any contract or agreement to which Receiver or HRK is a party;

(l) to buy, sell, exchange or lease any personal or real property, publicly or privately, for cash or credit, upon the terms and conditions that Receiver deems advisable and subject to approval of the Court after the notice to the Parties and any lienholder on personal or real property and the opportunity to be heard. Any lease so made will be valid and binding for its full term - even though such lease extends beyond the full duration of the receivership;

(m) to recover reasonable attorneys' fees and costs in actions brought by or against the Receiver;

(n) to establish and maintain bank accounts in the name of the Receiver and negotiate checks, bills, notes or other instruments in payment of obligations for services rendered to the Receiver.

2) Except where contrary to law, and in addition to all other powers and rights granted herein or by applicable law, the Receiver is empowered to take any action deemed necessary to fully and properly carry out the duties of the Receiver;

3) Receiver shall provide written notice of any of his actions materially affecting the Facility to and upon request of the Parties. The Parties, upon reasonable advance notice, may review the books and records kept by the Receiver or its agents.

4) HRK and its agents and employees are ordered to deliver to the Receiver all keys and combinations to any locks required to open or gain access to any part of the Facility. Except as otherwise requested or authorized by the Receiver, the Parties, their agents, employees, representatives, and attorneys are hereby enjoined from interfering in any manner with the lawful preservation, maintenance, management or closure of the Facility by the Receiver until further order of this Court. Nothing herein shall imply any exemption of the Facility from applicable environmental laws and regulations or deprive any governmental entity of jurisdiction to enforce

such entity's police and regulatory laws, rules or ordinances administratively or judicially.

5) The Receiver is authorized and directed to preserve or obtain whatever licenses, permits or authorizations as are necessary in the preservation, maintenance, management or closure of the Facility. The Receiver is also authorized to take any action necessary to comply with any environmental or other law governing the facility. All Parties shall cooperate with the Receiver to provide any necessary information or other assistance in connection with the Receiver's efforts to obtain any necessary licenses, permits or authorizations, and to otherwise comply with any requirement of law.

6) The Receiver is hereby empowered to employ independent legal counsel to furnish legal advice to the Receiver for purposes as may be necessary during the period of Receivership. Counsel shall be paid a reasonable fee as approved by the Court;

7) Without further order of this Court, the Receiver may borrow up to \$250,000 for the performance of his duties hereunder and may issue his Certificates of Indebtedness to evidence the borrowings. The principal and interest evidenced by each certificate shall be a first lien and security interest only upon the assets of the Facility, the precise legal description of which has not yet been determined. The liens granted for any Certificate are valid and perfected by operation of this Order, and the lender is not required to file any financing statements or other notice in any public records to perfect its security interest. However, the Receiver shall, at the request of the entity lending money to the receivership, execute any document to evidence and perfect the security interest granted by this order.

8) The Receiver shall receive reasonable compensation for his services in the preservation and maintenance of the Facility from time to time in amounts to be approved by the Court.

9) Any entity furnishing water, electric, sewage, garbage, or trash removal services to HRK as to the Facility shall maintain such service and transfer any such accounts to the Receiver

unless instructed to the contrary by the Receiver. The Receiver shall pay the invoices from the utilities for services provided in the ordinary course of their business.

**SECTION 4.**

**CONTINUING JURISDICTION**

This Court shall retain jurisdiction in this cause to enter such orders or take any such action as it deems appropriate. On the date this Court enters an Order terminating this receivership, Receiver shall file notification of his discharge from his duties and termination of his authorities with this Court no later than ten (10) business days following the date of this Court's Order. Receiver may file a Motion to Withdraw and Notice of Intent to Resign on not less than sixty (60) day notice with this Court.

**SECTION 5.**

**IMMUNITY FROM LIABILITY AND VIOLATIONS**

As consideration for Receiver assuming the responsibility for the continued management, maintenance and closure of the Facility, the Receiver and his agents, employees and contractors, acting within the course and scope of receivership duties, are hereby vested with judicial immunity as an officer of the court.. This immunity shall include but not be limited to immunity from injury to persons, damage to property or property rights, or violation of any governmental law, rule, regulation, or requirement that may arise from the design, construction, operation, maintenance or closure of the Facility or extension thereof.

**SECTION 6.**

**OWNER/OPERATOR LIABILITY**

HRK as current owner and operator of the Facility shall remain liable to the extent provided by applicable law for any claims, violations, demands, penalties, suits, proceedings, actions or fees occurring prior to the appointment and acceptance by the Receiver.

**SECTION 7.**

**RECEIVER'S SEPARATION OF FUNDS**

Effective immediately upon entry of this Order, Receiver is hereby directed by this Court to establish and maintain at a bank whose deposits are insured by the Federal Deposit Insurance Corporation (FDIC) a new separate Receiver's expense account or accounts (the "Expense Account(s)") in the name of the Receiver into which the Receiver shall deposit all receipts, and from which the Receiver shall disburse regularly and punctually (to the extent available), all amounts due and payable as reasonable, necessary and proper expenses of the Receivership subject to the terms of this Order.

To the extent the Receiver expects significant funds to remain on hand for some period of time, such funds shall be placed in an insured, interest-bearing account for the benefit of the entity providing such funds to the Receiver.

Additionally, this Court hereby directs that revenues received by the Receiver from the DEP under any grant, loan or other deposit agreement, are not to be considered "revenues" of the Receiver or the receivership. Any revenues of the Receivership not expended during the term of the Receivership shall be first applied to unpaid costs and expenses of the receivership and any surplus returned to the lender/provider thereof.

Receiver may borrow funds for the duties hereunder and to pay compensation and professional fees reasonable and necessary to the receivership. Such borrowings shall be subject to Court approval and evidenced by Receiver Certificates. Receiver shall file a budget of anticipated receivership expenses, and shall apply to this Court not more frequently than monthly for payment or reimbursement of such expenses. Application for payment shall be noticed to all parties in interest not less than one week prior to any hearing thereon.

## **SECTION 8.**

### **RECEIVER'S OBLIGATIONS**

1) The Receiver in this cause is hereby directed to maintain, manage and close as efficiently and expeditiously as possible the Facility in accordance with all applicable State and Federal laws and rules as provided in this Order;

2) The Facility shall be operated, maintained and closed by the Receiver in such a manner to minimize disruption of the business operations of businesses within the perimeter of the Facility and Plaintiff's prosecution of its Complaint in this action during the term of the Receivership. In carrying out its responsibilities under this Order, the Receiver is not obligated to expend funds other than revenues of the Receivership and other funds received by the Receiver.

3) The Receiver is not required to post a bond but shall file with the Clerk of the Court within twenty days of the date of appointment as Receiver, an inventory of equipment and personalty coming into his possession at the Facility. Every three months thereafter, Receiver shall render an accounting of the amount of any funds spent, on hands or invested by the Receiver, and the manner in which the same is secured or invested, stating the balance due from or to the Receiver at the time of rendering the last account, receipts and expenditures since that time, and any additional property which shall have come into its possession since Receiver's appointment.

4) The Receiver is authorized to employ any financial institution, accounting firm or similar organization to prepare such accounting or advise the Receiver as to the preparation of the accounting.

5) The Receiver shall not permit the use of the facility for any purpose which will or might void any required policy of insurance or which would be in violation of any law or government restriction;

6) Receiver shall insure that all aspects of the Facility comply with any and all laws, regulations, orders or requirements of any Federal, State, County or Municipal Authority having appropriate jurisdiction. Receiver shall effectuate the abatement of any ongoing or imminent violations and expeditious closure of the Facility, and shall develop a closure plan (consistent with all applicable laws and rules), which plan shall be submitted to the Florida Department of Environmental Regulation pursuant to all applicable rules for review and permitting.

7) The Receiver shall, if necessary, to obtain financing and upon proper and sufficient notice to appropriate parties, seek an Order of this Court authorizing the borrowing of funds secured by a lien on the assets of the Facility. The extent and priority of such lien, if any, shall be determined by this Court at the time such debt is incurred.

8) During the pendency of this receivership, Receiver shall maintain appropriate insurance for the Receivership including any necessary public liability insurance, flood insurance, worker's compensation insurance, fire and extended coverage insurance, and burglary and theft insurance. The Receiver shall not be required to insure the Facility to the extent that it is presently insured by HRK. The Receiver is under no obligation to duplicate, maintain, replace or subsidize insurance of HRK, and HRK is required to provide information to the Receiver regarding all existing or previously maintained insurance covering the Property, the company or the company's officers and directors;

9) Loss Reports. The Receiver shall promptly file a full, written report in the next regular Receiver's report and shall list and describe any serious and material accidents, claims for damage relating to the maintenance of the Property, and any material damage or destruction to the Facility. HRK shall prepare and file any and all reports required by any insurance company in connection therewith.

This Stipulation may be signed in counterparts, and upon execution by all parties, each executed counterpart in whatever form shall be considered an original.

For FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION:

Jonathan H. Alden, Esq. Digitally signed by  
Jonathan H. Alden, Esq.  
Date: 2021.08.24  
15:17:18 -04'00'

Jonathan Alden  
Florida Bar No.: 366692

For FORTRESS 2020 LANDCO, LLC

---

Darrin Jay Quam  
Florida Bar No.: 995551

For HRK HOLDINGS, LLC,

---

Jesse Lee Ray  
Florida Bar No.:919101

For ARSENAL GROUP, LLC

---

Jesse Lee Ray  
Florida Bar No.:919101

For WILLIAM F. HARLEY III,

---

Jesse Lee Ray  
Florida Bar No.:919101

For ARDAMAN & ASSOCIATES, INC.

---

Curtis Lee Brown  
Florida Bar No.: 856312

This Stipulation may be signed in counterparts, and upon execution by all parties,  
each executed counterpart in whatever form shall be considered an original.

For FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

\_\_\_\_\_  
Jonathan Alden  
Florida Bar No.: 366692

For FORTRESS 2020 LANDCO, LLC

  
Darrin Jay Quam  
Florida Bar No.: 995551

For HRK HOLDINGS, LLC,

\_\_\_\_\_  
Jesse Lee Ray  
Florida Bar No.:919101

For ARSENAL GROUP, LLC

\_\_\_\_\_  
Jesse Lee Ray  
Florida Bar No.:919101

For WILLIAM F. HARLEY III,

\_\_\_\_\_  
Jesse Lee Ray  
Florida Bar No.:919101

For ARDAMAN & ASSOCIATES, INC.

\_\_\_\_\_  
Curtis Lee Brown  
Florida Bar No.: 856312

This Stipulation may be signed in counterparts, and upon execution by all parties, each executed counterpart in whatever form shall be considered an original.

For FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION:

\_\_\_\_\_  
Jonathan Alden  
Florida Bar No.: 366692

For FORTRESS 2020 LANDCO, LLC

\_\_\_\_\_  
Darrin Jay Quam  
Florida Bar No.: 995551

For HRK HOLDINGS, LLC,

/s/ Jesse Lee Ray  
\_\_\_\_\_  
Jesse Lee Ray  
Florida Bar No.:919101

For ARSENAL GROUP, LLC

/s/ Jesse Lee Ray  
\_\_\_\_\_  
Jesse Lee Ray  
Florida Bar No.:919101

For WILLIAM F. HARLEY III,

/s/ Jesse Lee Ray  
\_\_\_\_\_  
Jesse Lee Ray  
Florida Bar No.:919101

For ARDAMAN & ASSOCIATES, INC.

\_\_\_\_\_  
Curtis Lee Brown  
Florida Bar No.: 856312

This Stipulation may be signed in counterparts, and upon execution by all parties, each executed counterpart in whatever form shall be considered an original.

For FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION:

\_\_\_\_\_  
Jonathan Alden  
Florida Bar No.: 366692

For FORTRESS 2020 LANDCO, LLC

\_\_\_\_\_  
Darrin Jay Quam  
Florida Bar No.: 995551

For HRK HOLDINGS, LLC,

\_\_\_\_\_  
Jesse Lee Ray  
Florida Bar No.: 919101

For ARSENAL GROUP, LLC

\_\_\_\_\_  
Jesse Lee Ray  
Florida Bar No.: 919101

For WILLIAM F. HARLEY III,

\_\_\_\_\_  
Jesse Lee Ray  
Florida Bar No.: 919101

For ARDAMAN & ASSOCIATES, INC.

\_\_\_\_\_  
Curtis Lee Brown  
Florida Bar No.: 856312

# ATTACHMENT B-1

## EXHIBIT "A"

PARCEL 1 (FEE SIMPLE):

IN TOWNSHIP 33 SOUTH, RANGE 18 EAST, MANATEE COUNTY, FLORIDA:

SECTION 5: THE SW 1/4 OF SE 1/4, AND THE S 1/2 OF SW 1/4.

SECTION 6: ALL THAT PART OF SECTION 6 LYING SOUTH AND EAST OF U.S. HIGHWAY 41 LESS A TRIANGULAR PARCEL QUIT-CLAIMED BY R. B. WHISENANT, AND WIFE, AND THE BORDEN COMPANY TO HARRY E. HENDERSON, AND WIFE, UNDER DEED DATED FEBRUARY 18, 1966, FILED APRIL 8, 1966, IN OFFICIAL RECORDS BOOK 279, PAGE 270, DESCRIBED AS: BEGIN ON THE SOUTH BOUNDARY OF THE SE 1/4 OF SAID SECTION 6 AT THE NORTHWEST CORNER OF LOT 1 OF JOHN PIPLACK'S SUBDIVISION, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 2, PAGE 145, MANATEE COUNTY, FLORIDA, AND RUN SOUTH 89°14'54" EAST ALONG SAID SOUTH BOUNDARY 1334.54 FEET, THENCE NORTH 1°52'15" WEST 33 FEET, THENCE SOUTH 89°20'35" WEST 1333.43 FEET TO THE POINT OF BEGINNING.

SECTION 7:

(A) THE NE 1/4 OF NE 1/4.

(B) PART OF THEN 1/2 OF LOT 1 OF JOHN PIPLACK'S SUBDIVISION, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 2, PAGE 145, MANATEE COUNTY, FLORIDA, DESCRIBED AS: FROM THE NORTHWEST CORNER OF SAID LOT 1 RUN THENCE SOUTH 89°14'54" EAST ALONG THE NORTH BOUNDARY OF SAID LOT 1 A DISTANCE OF 1334.54 FEET TO THE POINT OF BEGINNING, FROM THE POINT OF BEGINNING CONTINUE SOUTH 89°14'54" EAST 8.59 FEET TO THE NORTHEAST CORNER OF SAID LOT 1, THENCE SOUTH 0°14'14" EAST ALONG THE EAST BOUNDARY OF SAID LOT 1 A DISTANCE OF 301.09 FEET TO A POINT 33 FEET NORTH OF THE SOUTHEAST CORNER OF SAID N 1/2 OF LOT 1, THENCE NORTH 1°52'15" WEST 301.17 FEET TO THE POINT OF BEGINNING.

(C) PART OF THEN 1/2 OF LOT 1 OF JOHN PIPLACK'S SUBDIVISION, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 2, PAGE 145, MANATEE COUNTY, FLORIDA, DESCRIBED AS: BEGIN AT THE SOUTHWEST CORNER OF SAID N 1/2 OF LOT 1 (WHICH BEGINNING POINT IS 334.24 FEET SOUTH OF THE NORTHWEST CORNER OF SAID LOT 1), RUN THENCE EASTERLY 1343.11 FEET TO THE SOUTHEAST CORNER OF SAID N 1/2 OF LOT 1, THENCE NORTHERLY ALONG THE EAST LINE OF SAID LOT 1 A DISTANCE OF 33 FEET, THENCE WESTERLY 1343.53 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

(D) THE S 1/2 OF LOT 1 OF JOHN PIPLACK'S SUBDIVISION, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 2, PAGE 145, MANATEE COUNTY, FLORIDA.

(E) LOTS 6, 7, 8, 12 AND 13 OF JOHN PIPLACK'S SUBDIVISION, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 2, PAGE 145, MANATEE COUNTY, FLORIDA.

(F) THE N 1/2 OF LOT 1 OF JOHN PIPLACK'S SUBDIVISION, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 2, PAGE 145, MANATEE COUNTY, FLORIDA, TOGETHER WITH A TRIANGULAR PARCEL OF LAND LYING IN SECTION 6, TOWNSHIP 33 SOUTH, RANGE 18 EAST, MANATEE COUNTY, FLORIDA, DESCRIBED AS FOLLOWS: BEGIN AT THE NORTHWEST CORNER OF LOT 1 OF JOHN PIPLACK'S SUBDIVISION, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 2, PAGE 145, MANATEE COUNTY, FLORIDA, AND RUN THENCE SOUTH 89°14'54" EAST ALONG SAID SOUTH LINE OF SECTION 6, SAID SOUTH LINE ALSO BEING THE NORTH LINE OF SAID LOT 1, A DISTANCE OF 1334.54 FEET, THENCE NORTH 1°52'15" WEST 33 FEET, THENCE SOUTH 89°20'35" WEST 1333.43 FEET TO THE POINT OF BEGINNING, LESS A TRIANGULAR PARCEL OF LAND LYING IN THE SAID N 1/2 OF LOT 1 DESCRIBED AS FOLLOWS: BEGIN AT THE SOUTHWEST CORNER OF SAID N 1/2 OF LOT 1 (WHICH BEGINNING POINT IS 334.24 FEET SOUTH OF THE NORTHWEST CORNER OF SAID LOT 1), RUN THENCE EASTERLY 1343.11 FEET TO THE SOUTHEAST CORNER OF SAID N 1/2 OF LOT 1, THENCE NORTHERLY ALONG THE EAST LINE OF SAID LOT 1 A DISTANCE OF 33 FEET, THENCE WESTERLY 1343.53 FEET TO THE POINT OF BEGINNING, AND LESS A TRIANGULAR PARCEL OF LAND DESCRIBED AS FOLLOWS: COMMENCE AT THE NORTHWEST CORNER OF SAID LOT 1, JOHN PIPLACK'S SUBDIVISION AS RECORDED IN PLAT BOOK 2, PAGE 145, OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA; RUN THENCE SOUTH 89°14'54" EAST ALONG THE NORTH BOUNDARY OF SAID LOT 1 A DISTANCE OF 1334.54 FEET TO THE POINT OF BEGINNING, FROM THE POINT OF BEGINNING CONTINUE SOUTH 89°14'54" EAST 8.59 FEET TO THE NORTHEAST CORNER OF SAID LOT 1, THENCE SOUTH 0°14'14" EAST ALONG THE EAST BOUNDARY OF SAID LOT 1 A DISTANCE OF 301.09 FEET TO A POINT 33 FEET NORTH OF THE SOUTHEAST CORNER OF SAID N 1/2 OF LOT 1, THENCE NORTH 1°52'15" WEST 301.17 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT THOSE PORTIONS OF (C), (D), (E) AND (F) CONVEYED TO STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION DESCRIBED IN DEEDS RECORDED IN OFFICIAL RECORDS BOOK 285, PAGE 96, OFFICIAL RECORDS BOOK 286, PAGE 370, OFFICIAL RECORDS BOOK 286, PAGE 372 AND OFFICIAL RECORDS BOOK 288, PAGE 251, PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA.

SECTION 8: THEW 1/2 OF NE 1/4, AND THE NW 1/4.

LESS AND EXCEPT THAT PORTION OF PARCEL 1 CONVEYED TO AIR PRODUCTS & CHEMICALS INC. BY THE SPECIAL WARRANTY DEED RECORDED IN OFFICIAL

RECORDS BOOK 2444, PAGE 7399, OF THE PUBLIC RECORDS OF MANATEE COUNTY

ALSO LESS AND EXCEPT THAT PORTION OF PARCEL 1 CONVEYED TO THATCHER CHEMICAL OF FLORIDA, INC. BY THE FEE SIMPLE DEED RECORDED IN OFFICIAL RECORDS BOOK 2504, PAGE 2840, OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA.

ALSO LESS AND EXCEPT THAT PORTION OF PARCEL 1 CONVEYED TO ALLIED NEW TECHNOLOGIES 2, INC. BY THE SPECIAL WARRANTY DEED RECORDED IN OFFICIAL RECORDS BOOK 2514, PAGE 7689, OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA.

ALSO LESS AND EXCEPT THAT PORTION OF PARCEL 1 CONVEYED TO MANATEE BULK STORAGE, LLC, BY THE SPECIAL WARRANTY DEED RECORDED IN OFFICIAL RECORDS BOOK 2514, PAGE 7821, OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA.

ALSO LESS AND EXCEPT THAT PORTION OF PARCEL 1 CONVEYED TO MANATEE BULK STORAGE, LLC BY SPECIAL WARRANTY DEED RECORDED IN OFFICIAL RECORDS BOOK 2514, PAGE 7815, OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA.

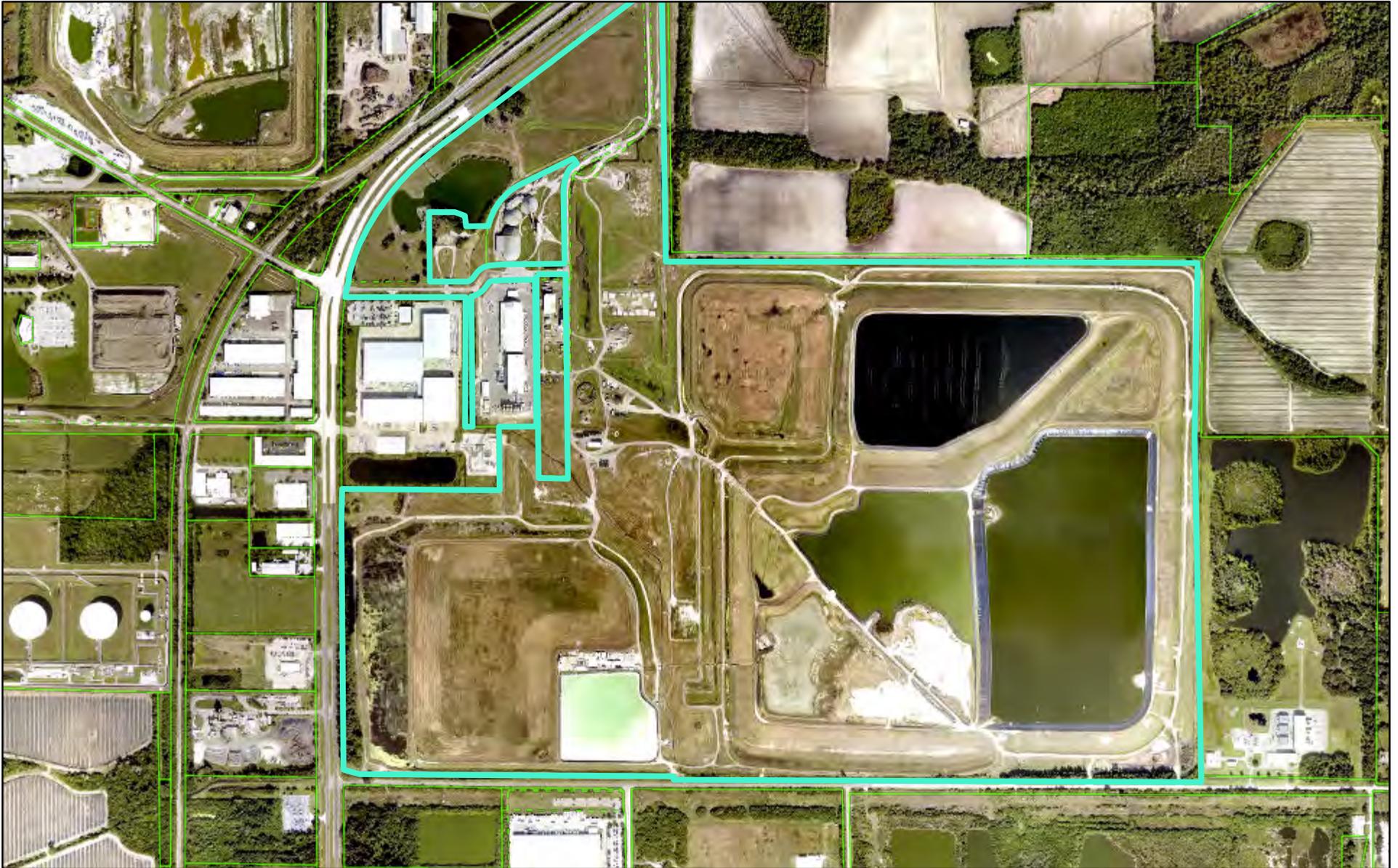
ALSO LESS AND EXCEPT THAT PORTION OF PARCEL 1 CONVEYED TO AIR PRODUCTS AND CHEMICALS, INC. BY THE WARRANTY DEED RECORDED IN OFFICIAL RECORDS BOOK 2697, PAGE 7547, OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA.

PARCEL 2 (EASEMENT):

THE EASEMENT CREATED BY EASEMENT INSTRUMENT DATED AND FILED DECEMBER 22, 1967, RECORDED IN OFFICIAL RECORDS BOOK 346, PAGE 142, MANATEE COUNTY, FLORIDA, FROM SKYWAY GROVES, INC., TO THE BORDEN COMPANY, WITH RESPECT TO THE LAND DESCRIBED BELOW:

IN TOWNSHIP 33 SOUTH, RANGE 18 EAST, MANATEE COUNTY, FLORIDA: SECTION 8: THE SE 1/4, AND THEE 1/2 OF SW 1/4.

# Attachment B - 2 Map

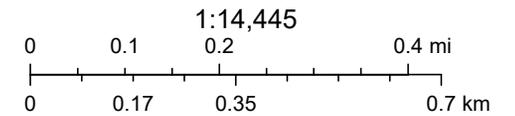


6/14/2022



This map has been compiled from the most authentic information available. The Manatee County Property Appraiser's Office makes every effort to produce and publish the most current and accurate information possible. The determinations made during compilation are for maintenance of the tax roll only and do not represent legal determinations. This map may include data and features that are owned and maintained by other government agencies and therefore we are unaware of their accuracy. No warranties, expressed or implied, are provided for the data herein.

	Parcel Search	2022	
	Parcel Lines		Red: Band_1
	Easement Lines		Green: Band_2
	Street Names		Blue: Band_3



Manatee County Property Appraiser, Sources: Esri, HERE, Garmin, FAO, NOAA, USGS, © OpenStreetMap contributors, and the GIS User Community



## ATTACHMENT C

### EASEMENT FOR ACCESS AND AUTHORIZATION TO CONDUCT ON SITE ACTIVITIES

THIS EASEMENT is made and entered into this 15 day of August, 2006, by and between V. John Brooks as Chapter 7 Trustee in Bankruptcy for Piney Point Phosphates, Inc., a Florida corporation, a debtor in the case styled: In Re Piney Point Phosphates, Inc., Case No. 01-2006-8P7, in the United States Bankruptcy Court for the Middle District of Florida, hereinafter referred to as "GRANTOR", and the Florida Department of Environmental Protection, an agency of the State of Florida, and its contractors, subcontractors, agents or licensees, hereinafter collectively referred to as "GRANTEE".

WHEREAS, GRANTOR is the owner of certain real property (the "Piney Point Site" (hereinafter more particularly described in Exhibit "A")); and

WHEREAS, GRANTEE desires a non-exclusive easement over, across beneath and on the Piney Point Site for the purpose of closing the phosphogypsum stack systems formerly operated by Piney Point Phosphates, Inc. at the Piney Point Site (the "phosphogypsum stack systems") in accordance with applicable laws and regulations, to manage any and all environmental risk associated with such site identified by GRANTEE which GRANTEE deems necessary, in such manner as GRANTEE deems appropriate, and to render such phosphogypsum stack systems of beneficial use.

NOW THEREFORE, GRANTOR, pursuant to authority granted to him by the Bankruptcy Code and having obtained any and all required approvals by the Bankruptcy Court, and in consideration of mutual covenants and agreements hereinafter contained, has granted, and by these presents does create, grant, transfer and convey a non-exclusive easement unto GRANTEE and all agents, employees, contractors or subcontractors acting under the authority of GRANTEE over and across the Piney Point Site, subject to the following terms and conditions:

1. TERM: The term of this easement shall be for a period of sixty years commencing on March 1, 2005, and ending on February 28, 2065, with no option for renewal unless sooner terminated pursuant to the provisions of this easement.

2. USE OF PROPERTY AND UNDUE WASTE: This easement shall be limited to access over, across beneath and on the Piney Point Site during the term of this easement for the purposes of closing the phosphogypsum stack systems in accordance with applicable laws and regulations, to manage any and all environmental risk associated with such site identified by GRANTEE which GRANTEE deems necessary, in such manner as GRANTEE deems appropriate, and to render such phosphogypsum stacks of beneficial use. This easement shall be non-exclusive.

GRANTOR retains the right to engage in any activities over, across, beneath or on the easement area which do not unreasonably interfere with GRANTEE'S exercise of this easement and further retains the right to grant compatible uses to third parties during the term of this easement, upon reasonable notice to GRANTEE and to any agency or authority having jurisdiction or an interest in the Piney Point Site.

GRANTEE agrees that upon termination of this easement all authorization granted herein shall cease and terminate.

3. ASSIGNMENT: This easement shall not be assigned in whole or in part to any non Agency or non governmental body without the prior written consent of the GRANTOR.

4. RIGHT OF INSPECTION: The GRANTOR, or his duly authorized agents, representatives or employees shall have the right at any and all reasonable times to inspect this easement and the works of GRANTEE in any matter pertaining to this easement.

5. COMPLIANCE WITH LAWS: GRANTEE agrees it shall be responsible for obtaining all applicable permits and complying with all applicable permits, regulations, ordinances, rules, and laws of the State of Florida or the United States or of any political subdivision or agency of either.

6. PROHIBITIONS AGAINST LIENS: Fee title to the lands underlying this easement is held by GRANTOR. GRANTEE may not lease or license use of the Piney Point site other than as appropriate or necessary in conjunction with the purposes of this easement. GRANTEE shall not do or permit anything to be done which purports to create a lien for any debt against the real property of GRANTOR including, but not limited to, mortgages or construction liens against the Piney Point Site or against any interest of GRANTOR therein.

7. PARTIAL INVALIDITY: If any term, covenant, condition or provision of this easement shall be ruled by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

8. ENTIRE UNDERSTANDING: This easement sets forth the entire understanding between the parties and shall only be amended with the prior written approval of GRANTOR.

9. TIME: Time is expressly declared to be of the essence of this easement.

10. LIABILITY: GRANTEE shall provide reasonable assistance in the investigation of injury or damage claims either for or against GRANTOR or the State of Florida pertaining to GRANTEE'S respective areas of responsibility under this easement or arising out of GRANTEE'S respective management programs or activities.

11. RECORDING OF EASEMENT: The GRANTEE, at its own expense, shall record this fully executed easement in its entirety in the public records of the county within which the easement site is located within fourteen days after receipt, and shall provide to the GRANTOR within ten days following the recordation a copy of the recorded easement in its entirety which contains the O.R. Book and Pages at which the easement is recorded.

12. TERMINATION: GRANTEE may extinguish this easement by recording a sworn statement attesting that GRANTEE has ceased all uses authorized hereunder.

13. GOVERNING LAW: This easement shall be governed by and interpreted according to the laws of the State of Florida.

14. SECTION CAPTIONS: Articles, subsections and other captions contained in this easement are for reference purposes

only and are in no way intended to describe, interpret, define or limit the scope, extent or intent of this easement or any provisions thereof.

IN WITNESS WHEREOF, the parties have caused this easement to be executed the day and year first above written.

**PINEY POINT PHOSPHATES, INC.**, a Florida corporation,

By:

*[Signature]*  
V. JOHN BROOKS, CHAPTER 7  
TRUSTEE IN BANKRUPTCY FOR  
PINEY POINT PHOSPHATES, INC.  
("GRANTOR")

*[Signature]*  
Witness

Herbert R. Duntin  
Print/Type Witness Name

*[Signature]*  
Witness

Janice N. Donica  
Print/Type Witness Name

STATE OF FLORIDA  
COUNTY OF ~~LEON~~ HILLSBOROUGH

The foregoing instrument was acknowledged before me this 15<sup>th</sup> day of August, 2006, by V. JOHN BROOKS, acting as Chapter 7 Trustee in Bankruptcy for Piney Point Phosphates, Inc., a Florida corporation, a debtor in the case styled In Re Piney Point Phosphates, Inc., Case No. 01-2006-8P7, in the U.S. Bankruptcy Court for the Middle District of Florida. He is personally known to me or produced \_\_\_\_\_ as identification.

*[Signature]*  
Notary Public, State of Florida

\_\_\_\_\_  
Print/Type Notary Name

Commission Number:

Commission Expires:



SCOTT D. LITCHFIELD  
MY COMMISSION # DD 435601  
EXPIRES: May 31, 2009  
Bonded Thru Budget Notary Services

FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION, a Florida agency,

By: Richard W. Cantrell (SEAL)

Richard W. Cantrell  
Print/Type name  
Title: Dep. Division Director  
("GRANTEE")

John A. Coates  
Witness

John A. Coates  
Print/Type Witness Name

Marjane C. Monahan  
Witness

Marjane C. Monahan  
Print/Type Witness Name

STATE OF FLORIDA  
COUNTY OF Lee

The foregoing instrument was acknowledged before me this 16<sup>th</sup> day of August, 2006, by Richard W. Cantrell as Deputy Division Director of the Florida Department of Environmental Protection, a Florida agency, on behalf of the agency. He she is personally known to me or produced \_\_\_\_\_ as identification.



Marjane C. Monahan  
Notary Public, State of Florida

Marjane C. Monahan  
Print/Type Notary Name

Commission Number: DD339295

Commission Expires: July 20, 2008

EXHIBIT "A"

LEGAL DESCRIPTION OF THE EASEMENT

## EXHIBIT "A"

PARCEL 1:

In Township 33 South, Range 18 East, Manatee County, Florida:

Section 5: The SW 1/4 of SE 1/4, and the S 1/2 of SW 1/4.

Section 6: All that part of Section 6 lying south and east of U.S. Highway 41 LESS a triangular parcel quit-claimed by R. B. Whisenant, and wife, and The Borden Company to Harry E. Henderson, and wife, under deed dated February 18, 1966, filed April 8, 1966, in Official Records Book 279, Page 270, described as: Begin on the South boundary of the SE-1/4 of said Section 6 at the Northwest corner of Lot 1 of JOHN PIPLACK'S SUBDIVISION, according to the plat thereof recorded in Plat Book 2, Page 145, Manatee County, Florida, and run South 89°14'54" East along said South boundary 1334.54 feet, thence North 1°52'15" West 33 feet, thence South 89°20'35" West 1333.43 feet to the Point of Beginning.

Section 7:

(a) The NE 1/4 of NE 1/4.

(b) Part of the N 1/2 of Lot 1 of JOHN PIPLACK'S SUBDIVISION, according to the plat thereof recorded in Plat Book 2, Page 145, Manatee County, Florida, described as: from the Northwest corner of said Lot 1 run thence South 89°14'54" East along the North boundary of said Lot 1 a distance of 1334.54 feet to the Point of Beginning, from the Point of Beginning continue South 89°14'54" East 8.59 feet to the Northeast corner of said Lot 1, thence South 0°14'14" East along the East boundary of said Lot 1 a distance of 301.09 feet to a point 33 feet North of the Southeast corner of said N 1/2 of Lot 1, thence North 1°52'15" West 301.17 feet to the Point of Beginning.

(c) Part of the N 1/2 of Lot 1 of JOHN PIPLACK'S SUBDIVISION, according to the plat thereof recorded in Plat Book 2, Page 145, Manatee County, Florida, described as: Begin at the Southwest corner of said N 1/2 of Lot 1 (which beginning point is 334.24 feet South of the Northwest corner of said Lot 1), run thence Easterly 1343.11 feet to the Southeast corner of said N 1/2 of Lot 1, thence Northerly along the East line of said Lot 1 a distance of 33 feet, thence Westerly 1343.53 feet, more or less, to the Point of Beginning.

(d) The S 1/2 of Lot 1 of JOHN PIPLACK'S SUBDIVISION, according to the plat thereof recorded in Plat Book 2, Page 145, Manatee County, Florida.

(e) Lots 6, 7, 8, 12 and 13 of JOHN PIPLACK'S SUBDIVISION, according to the plat thereof recorded in Plat Book 2, Page 145, Manatee County, Florida.

(f) The N 1/2 of Lot 1 of JOHN PIPLACK'S SUBDIVISION, according to the plat thereof recorded in Plat Book 2, Page 145, Manatee County, Florida, together with a triangular parcel of land lying in Section 6, Township 33 South, Range East, Manatee County, Florida, described as follows: Begin at the Northwest corner of Lot 1 of JOHN PIPLACK'S SUBDIVISION, according to the plat thereof recorded in Plat Book 2, Page 145, Manatee County, Florida, and run thence South 89°14'54" East along said South line of Section 6, said South line also being the North line of said Lot 1, a distance of 1334.54 feet, thence North 1°52'15" West 33 feet, thence South 89°20'35" West 1333.43 feet to the Point of Beginning, LESS a triangular parcel of land lying in the said N1/2 of Lot 1 described as follows: Begin at the Southwest corner of said N 1/2 of Lot 1 (which beginning point is 334.24 feet South of the Northwest corner of said Lot 1), run thence Easterly 1343.11 feet to the Southeast corner of said N 1/2 of Lot 1, thence Northerly along the East line of said Lot 1 a distance of 33 feet, thence Westerly 1343.53 feet to the Point of Beginning, and LESS a triangular parcel of land described as follows: Commence at the Northwest corner of said Lot 1, JOHN PIPLACK'S SUBDIVISION as

**EXHIBIT B**

recorded in Plat Book 2, Page 145, of the Public Records of Manatee County, Florida; run thence South 89°14'54" East along the North boundary of said Lot 1 a distance of 1334.54 feet to the Point of Beginning, from the Point of Beginning continue South 89°14'54" East 8.59 feet to the Northeast corner of said Lot 1, thence South 0°14'14" East along the East boundary of said Lot 1 a distance of 301.09 feet to a point 33 feet North of the Southeast corner of said N 1/2 of Lot 1, thence North 1°52'15" West 301.17 feet to the Point of Beginning.

Section 8: The W 1/2 of NE 1/4, and the NW 1/4.

PARCEL 2:

The easement interest created by easement instrument dated May 7, 1985, filed May 29, 1985, recorded in Official Records Book 1113, Page 1608, Manatee County, Florida, from Kendrick D. Williams and others to Amax Chemical Corporation, with respect to a strip of land 100 feet wide as described below:

In Township 33 South, Range 18 East, Manatee County, Florida.

Section 6: That part of the E 1/2 of SW 1/4 described as: Commence at the Southwest corner of Section 6, and run Easterly along the South boundary of Section 6, a distance of 2667.58 feet to a point on a curve, concave to the East, having a radius of 22918.32 feet and the centerline of the southbound lane of U.S. Highway 41 (State Road 45); thence along said curve with a tangent bearing of North 00°02'36" East, run Northerly along said centerline through a central angle of 00°12'17" a distance of 81.87 feet; thence North 00°14'53" East along said centerline a distance of 653.63 feet to the P.C. of a curve, concave to the Southeast, having a radius of 1909.86 feet; thence along said curve through a central angle of 10°22'34", and along said centerline a distance of 345.87 feet, having a chord of 345.40 feet bearing North 05°16'00" East; thence North 79°32'43" West, a distance of 68.00 feet to a point on a curve concave to the Southeast having a radius of 1977.86 feet; thence along said curve through a central angle of 00°34'46", a distance of 20.00 feet, having a chord of 20.00 feet bearing South 10°09'54" West, to a Florida Department of Transportation right-of-way monument; thence continue along said curve and the Westerly right-of-way line of U.S. Highway 41 (State Road 45) being said curve, having a radius of 1977.86 feet, through a central angle of 03°21'53", a distance of 116.15 feet, having a chord of 116.13 feet bearing South 08°11'34" West, to the Point of Beginning; thence continue along said right-of-way curve, having a radius of 1977.86 feet and being the Westerly right-of-way line of U.S. Highway 41 (State Road 45) through a central angle of 02°53'55", a distance of 100.06 feet, having a chord of 100.05 feet bearing South 05°03'40" West; thence North 86°39'10" West, a distance of 638.51 feet to a point on the Easterly right-of-way line of the railroad of Seaboard System Railroad, Inc., said right-of-way line being a curve, concave to the Southeast, having a radius of 2774.01 feet; thence Northeasterly along said right-of-way line through a central angle of 02°18'48" and along said curve a distance of 112.00 feet, having a chord of 111.99 feet bearing North 30°06'08" East, thence South 86°39'10" East, a distance of 591.09 feet to the Point of Beginning.

PARCEL 3:

The easement created by easement instrument dated and filed December 22, 1967, recorded in Official Records Book 346, Page 142, Manatee County, Florida, from Skyway Groves, Inc., to The Borden Company, with respect to the land described below:

In Township 33 South, Range 18 East, Manatee County, Florida.

Section 8: The SE 1/4, and the E 1/2 of SW 1/4.

# EXHIBIT C

Page 1 of 3

## Initial Memorandum of Understanding Summary of Terms and Conditions

- Introduction:** This document references certain documents and defined terms agreed to by the Parties prior to this Agreement. For consistency purposes, those terms have the same meanings as previously outlined in such foundational documents including, but not limited to: Consent Order, Administrative Order and Settlement Agreement. This agreement does not amend, modify or alter the foundational documents, or other final agency actions.
- Purpose:** To summarize the framework, general terms and conditions by which Parties have agreed to address the funding of the LTC Trust Fund from the future sales of the Property by HRK and to confirm the Funding Obligation ("Agreement").
- Parties:** HRK Holdings, LLC and HRK Industries, LLC (collectively, "HRK" or "Debtors"); Regions Bank ("Regions") and State of Florida Department of Environmental Protection ("Department" or "FDEP").
- Background:** HRK is in the process of developing and submitting its Plan of Reorganization ("Plan"), which is predicated on the continued sale of all or portions the Property. In order to obtain additional post-petition financing to implement the Plan, Regions has required the Parties agree to the Purpose. As an inducement, Regions is willing to modify its first priority to the application of such net sales proceeds in order to fund the HRK Long Term Care Trust Fund ("LTC Trust Fund").
- Additionally, Regions and HRK believe it is necessary to quantify and memorialize the Funding Obligation in order to generate additional interest in the sale of smaller land tracts ("Retail Sale") or a comprehensive sale of the unsold portions of the Property ("Bulk Sale"). It is HRK's expectation that HRK will remain responsible for the long-term care of the Stack System, as it is not currently believed that another party will purchase the Stack System or assume HRK's responsibilities under the Consent Order, Administrative Order, Settlement Agreement, and Florida Laws and Rules. As such, the funding of the LTC Trust Fund in the amount of the Funding Obligation will provide the Department with assurance that funds will be available to provide long-term care for the Stack System and will allow for the sale of the remaining portions of the Property.
- Effective Date:** The last date by which any of the Parties execute the Agreement.
- Funding Obligation:** For purposes of this Agreement, the term "Funding Obligation" shall be defined as \$15,000,000.00, provided however, the Parties agree to revisit the amount of the Funding Obligation based upon the final determined estimate of HRK's approved Long Term Care Plan. Under no circumstance will the Funding Obligation be in excess of \$15,000,000.00 ("LTC Trust Fund Threshold"). Notwithstanding any provision to the contrary contained in the LTC Consent Order clerked March 17, 2014, the Funding Obligation as used herein shall apply only to the deposit of Property Sale Proceeds Split (defined below) and the Ardaman Litigation Proceeds Split (defined below).

**Regions Exposure:** Regions has previously provided certain financial instruments on behalf of HRK to satisfy partial initial financial assurances required by the Department. Those financial instruments include:

- (i) An irrevocable, standby letter of credit in the amount of \$1,650,000 ("Standby LC"), and
- (ii) A line of credit with the maximum availability of up to \$2,500,000 ("LTCTF LOC"), which currently has an outstanding balance of \$0.

**LTC Carveout:** Upon any future sale of all or a portion of the Property or receipt by Regions of proceeds from the Ardaman Litigation (as defined below), a portion of the cash proceeds will be deposited directly into the LTC Trust Fund to be used to satisfy the Funding Obligation ("Long Term Care Carveout"). A condition to the transfer of the LTC Carveout to the LTC Trust Fund is the delivery of certain documents and other assurances to the future purchaser of Property regarding the release of any environmental liability prior to the closing of a sale of Property, including a covenant not to sue, if and when requested ("FIDEP Relief Documents"). The amount of the LTC Carveout from each sale of Property will depend upon the conditions of such sale, as discussed below:

- (i) from the net proceeds of all future real property sales, the first dollars will be paid to Regions to satisfy all DIP loans or additional advances made after April 21, 2014, but not to exceed one million one hundred fifty thousand dollars (\$1,150,000) plus any additional amounts agreed to by the parties and authorized by the bankruptcy court in the future;
- (ii) thereafter, the net proceeds of the sale will be split 50/50 between Regions and the LTC Trust Fund (the "Property Sale Proceeds Split"), until Regions indebtedness has been paid in full.

In addition to the Property Sale Proceeds Split, Regions will pay fifty cents of every dollar it receives from the proceeds of HRK's lawsuit against Ardaman & Associates, Inc., and others, which lawsuit is currently pending in the Ninth Judicial Circuit, in and for Orange County, Florida, under case number 2013-CA-98-O (the "Ardaman Litigation") to the LTC Trust Fund up to the amount of the Funding Obligation (the "Ardaman Litigation Proceeds Split").

**Regions Exposure Reduction:**

In connection with the LTC Carveout, should the sum of the LTC Trust Fund Balance and the Regions Exposure ("LTC Trust Fund Security") exceed the Funding Obligation, the Regions Exposure will be reduced in an amount equal to the excess of the Funding Obligation. Regions will have the discretion to reduce such exposure through the cancellation of capacity/availability under the LTCTF LOC, the demand for release of the Standby LC or a combination of both.

Upon meeting the Funding Obligation by depositing the LTC Carveout into the LTC Trust Fund, any remaining Regions Exposure will be eliminated, cancelled and/or released.

The foregoing summary of terms and conditions are acceptable to the Parties, as evidenced by the signatures below. Parties understand and will immediately undertake to document the aforementioned Agreement in a formal settlement agreement to be signed by the Parties. Final terms of the Agreement may also be included in the Plan and or the Order confirming the Plan.

HRK Holdings, LLC

By: John T. [Signature]  
As its: CEO  
(Print Title)

Date: 4/23/14

HRK Industries, LLC

By: John T. [Signature]  
As its: CEO  
(Print Title)

Date: 4/23/14

Regions Bank

By: \_\_\_\_\_  
As its: \_\_\_\_\_  
(Print Title)

Date: \_\_\_\_\_

State of Florida Department of Environmental Protection

By: \_\_\_\_\_  
As its: \_\_\_\_\_  
(Print Title)

Date: \_\_\_\_\_

The foregoing summary of terms and conditions are acceptable to the Parties, as evidenced by the signatures below. Parties understand and will immediately undertake to document the aforementioned Agreement in a formal settlement agreement to be signed by the Parties. Final terms of the Agreement may also be included in the Plan and or the Order confirming the Plan.

HRK Holdings, LLC

By: \_\_\_\_\_

As its: \_\_\_\_\_  
(Print Title)

Date: \_\_\_\_\_

HRK Industries, LLC

By: \_\_\_\_\_

As its: \_\_\_\_\_  
(Print Title)

Date: \_\_\_\_\_

Regions Bank

By: William P. Cannon

As its: William P. Cannon  
(Print Title)

Date: 4/27/14

State of Florida Department of Environmental Protection

By: \_\_\_\_\_

As its: \_\_\_\_\_  
(Print Title)

Date: \_\_\_\_\_

The foregoing summary of terms and conditions are acceptable to the Parties, as evidenced by the signatures below. Parties understand and will immediately undertake to document the aforementioned Agreement in a formal settlement agreement to be signed by the Parties. Final terms of the Agreement may also be included in the Plan and or the Order confirming the Plan.

HRK Holdings, LLC

By: \_\_\_\_\_  
As its: \_\_\_\_\_  
(Print Title)

Date: \_\_\_\_\_

HRK Industries, LLC

By: \_\_\_\_\_  
As its: \_\_\_\_\_  
(Print Title)

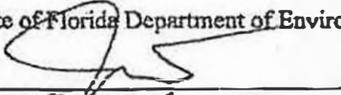
Date: \_\_\_\_\_

Regions Bank

By: \_\_\_\_\_  
As its: \_\_\_\_\_  
(Print Title)

Date: \_\_\_\_\_

State of Florida Department of Environmental Protection

By:   
As its: Deputy Secretary  
(Print Title)

Date: 4/25/14

## **Agreement to Amend and Supplement Initial Memorandum of Understanding**

This Agreement between Regions Bank (Regions) and the Florida Department of Environmental Protection (Department) (collectively the Parties), amends and supplements the covenants and obligations as between and among the Parties arising from the Initial Memorandum of Understanding, entered into by the Parties as well as HRK Holdings, LLC and HRK Industries, LLC. (collectively HRK), on or about April 25, 2014, and approved by the United States Bankruptcy Court for the Middle District of Florida (Bankruptcy Court), in HRK's bankruptcy case number 12-9868 (Bankruptcy Case) as subsequently amended (IMU).

The Parties acknowledge the terms and enforceability of the IMU, and the good and valuable consideration for the following amended and supplemental terms between them. The terms and conditions of this Agreement are not intended to and shall not affect the rights and obligations of HRK under the IMU.

### **Premises:**

1. Regions is the successor to AmSouth Bank, which issued its irrevocable standby letter of credit for the benefit of HRK payable to the Department in the sum of \$1,650,000 (the Letter of Credit), and which Letter of Credit is outstanding and currently subject to demand by the Department.
2. By the terms of the IMU, the Parties and HRK agreed that a portion of proceeds from the sale of HRK's real property and from litigation commenced by HRK against Ardaman and Associates, et al in the Ninth Judicial Circuit, in and for Orange County, Florida, case number 2013-CA-98-O (the Ardaman Litigation), which are security for Region's claims, would be deposited into the HRK Long-Term Care (LTC) Trust Fund (the proportions of such allocation, and a super-priority for certain debt to Regions are more particularly described in the LTC Carveout provisions of the IMU).
3. On August 16, 2015 (Doc. No. 889), HRK's plan of reorganization (the Plan) was confirmed by the Bankruptcy Court, which Plan adopted and re-affirmed the terms of the IMU.
4. On August 24, 2016, the Department, HRK, and Regions entered into the Multi Party Escrow Agreement, which agreement established the Long-Term Care Escrow Account with the State of Florida Department of Financial Services (LTC Escrow Account) to replace and carry out the purposes of the HRK LTC Trust Fund, in accordance with the August 1, 2016, Substitution Agreement Among HRK Holdings, LLC, HRK Industries, LLC, Regions Bank and Florida Department of Environmental Protection For Replacement of Standby Trust Fund with Florida Department of Financial Services Escrow Account.
5. HRK has been unable to meet the funding obligations imposed by statute, rule and Administrative Agreement to establish financial responsibility for the Piney Point Phosphogypsum stack system (Piney Point).

6. HRK has been unable to fund site management operations at Piney Point, as required by statute, rule and Administrative Agreements. As a result, commencing in May 2019 and monthly since then, the Department has been compelled to authorize distributions from the LTC Escrow Account to meet HRK's ongoing obligations of site management and process water management.
7. The Department has advised Regions of the need and Department's intent to supplement the funds in the LTC Escrow Account from Letter of Credit proceeds and has entered into discussions with Regions with regard to the timing and scale of such demand(s).

### Forbearance Agreement

The Parties agree as follows:

The Department shall forbear from making immediate demand on the Letter of Credit and shall forbear from doing so until not sooner than March 1, 2020 (the Commencement Date) - provided the following terms are met:

- A. Upon the Commencement Date, provided no prior demand has been made as a result of a default arising or existing under this Agreement, Regions shall make, and the Department shall accept, monthly installments of \$45,834 as partial payments on the Letter of Credit, continuing for 36 successive months, which amounts Regions shall deposit directly into the LTC Escrow Account (without setoff or delay).
- B. Following March 1, 2020, the effective date of this Agreement, and until the full \$1,650,000 currently available under the Letter of Credit has been funded by Regions into the LTC Escrow Account pursuant to Paragraph A. above, all proceeds otherwise payable to Regions pursuant to its pre and post-petition first lien positions encumbering HRK assets and under the terms of the IMU from HRK asset sales, settlements or transactions and/or received by Regions from the sale of all or any of its credit facilities outstanding to HRK, shall be deposited by Regions into the HRK LTC Escrow Account. All amounts deposited by Regions into the LTC Escrow Account pursuant to this Paragraph, including all periodic payments made by Regions under Paragraph A. above, shall be credited in full against Regions' then remaining liability under the Letter of Credit up to the total amount remaining due thereunder.
- C. In the event Regions elects to assign all or any of its currently due HRK credit facilities and liens securing same to a special purpose entity (SPE) established by Regions for that purpose, that SPE shall remain bound by the terms of the IMU and will be entitled to receive the remaining \$868,000 due under the super priority LTC Carveout provided for thereunder, subject to the provisions of Paragraph B. above.
- D. Regions may in the future and in its sole discretion, elect to unconditionally release its liens encumbering the stack system portion of the HRK real estate at Piney Point

securing the currently due HRK credit facilities and thereafter foreclose upon the remaining non stack system HRK real estate at Piney Point, all without the further consent of or opposition/objection by the Department.

- E. The remaining rights, obligations and covenants of the Parties under the IMU shall remain unaltered, including the right of Regions to receive the remaining portion of the super priority LTC Carveout in the amount of \$868,000, subject to the provisions of Paragraph B. above.
- F. Any further sale or transfer by Regions of HRK's debt to Regions, or the security or collateral therefore, shall be conditioned and contingent upon any subsequent buyer assuming the terms of the IMU, including the LTC Carveout provisions thereof, and this Agreement, and the immediate funding of any remaining balance of the Letter of Credit to the LTC Escrow.

The foregoing terms and conditions are acceptable to the Parties, as evidenced by the signatures below. The Parties understand and will undertake to draft, execute and record such further documentation as either shall reasonably request. Further documentation notwithstanding, the Parties agree to the terms hereof, and that they have received adequate consideration thereof.

Regions Bank

By:   
(Print) William P. Carnob

As its: SVP  
(print title)

Date: 3/16/2020

State of Florida Department of Environmental Protection

By:   
(Print) John A. Carter

As its: Main & Records Program Director  
(Print title)

Date: 3/18/2020

IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT  
IN AND FOR MANATEE COUNTY, FLORIDA  
CIVIL DIVISION

FORTRESS 2020 LANDCO, LLC, a Delaware  
limited liability company, as assignee of Regions  
Bank, as successor in interest by merger of  
AmSouth Bank,

Plaintiff,

vs.

Civil Action No. 2020-CA-004459-AX

HRK HOLDINGS, LLC, a Florida limited liability  
company, ARSENAL GROUP, LLC, a Delaware  
limited liability company, WILLIAM F. HARLEY  
III, FLORIDA DEPARTMENT OF  
ENVIRONMENTAL PROTECTION,  
ARDAMAN & ASSOCIATES, INC., a Florida  
corporation, INTERNATIONAL SALT  
COMPANY, LLC, a Delaware limited liability  
company, MC WEIGHING SYSTEMS, LLC, a  
Florida limited liability company, 9079-8042  
QUEBEC, INC., a foreign corporation,  
JOHN DOE1, JANE DOE1, JOHN DOE2 and  
JANE DOE2,

Defendants.

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**AGREED ORDER ON MOTION TO APPOINT RECEIVER**

This matter having come before the court pursuant to a Motion for Entry of Order Appointing Receiver (Motion ), filed by the Florida Department of Environmental Protection (Department) and the Department, Fortress 2020 Landco, LLC (Fortress or Plaintiff), HRK Holdings, LLC (HRK), Arsenal Group LLC (Arsenal), William F. Harley, III (Harley), Ardaman & Associates Inc. (Ardaman) (Fortress, Landco, HRK, Department, Arsenal, Harley, collectively, the Parties)<sup>1</sup> having entered into a Stipulation for Agreed Order on the Motion and this court having

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<sup>1</sup> It is noted that International Salt Company LLC (ISC), MC Weighing Systems LLC (MC), Quebec, Inc. (Quebec) have not filed an appearance or any responsive pleading in this Civil Action.

jurisdiction over the Parties and subject matter hereto and being otherwise fully advised as to the premises does hereby Grant the Motion and it is ORDERED AND ADJUDGED that the terms of the Stipulation (attached hereto as Exhibit A), entered into between the Parties are hereby adopted and incorporated as though fully set forth herein. This court retains jurisdiction to enforce the terms of the Stipulation.

DONE AND ORDERED this 25<sup>th</sup> day of Aug. 2021.

  
Circuit Judge

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing Order Appointing Receiver has been furnished by Electronic mail, this 25 day of August, 2021, to:

**DARRIN J. QUAM, ESQUIRE**  
[dquam@stearnsweaver.com](mailto:dquam@stearnsweaver.com)  
[lwade@stearnsweaver.com](mailto:lwade@stearnsweaver.com)

*Attorneys for Plaintiff Fortress 2020  
LandCo, LLC JONAH*

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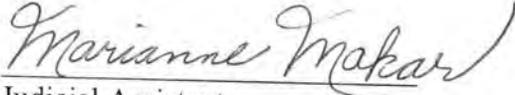
*Attorneys for Defendant, Ardaman &  
Associates, Inc.*

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*Attorney for Arsenal Group, LLC, William F.  
Harley, III and HRK Holdings, LLC*

**JONATHAN H. ALDEN, ESQUIRE**  
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[anne.willis@floridadep.gov](mailto:anne.willis@floridadep.gov)

*Attorney for Florida Department of Environmental  
Protection*

  
Judicial Assistant

**PARCEL 1 (FEE SIMPLE):**

IN TOWNSHIP 33 SOUTH, RANGE 18 EAST, MANATEE COUNTY, FLORIDA:

SECTION 5: THE SW 1/4 OF SE 1/4, AND THE S 1/2 OF SW 1/4.

SECTION 6: ALL THAT PART OF SECTION 6 LYING SOUTH AND EAST OF U.S. HIGHWAY 41 LESS A TRIANGULAR PARCEL QUIT-CLAIMED BY R. B. WHISENANT, AND WIFE, AND THE BORDEN COMPANY TO HARRY E. HENDERSON, AND WIFE, UNDER DEED DATED FEBRUARY 18, 1966, FILED APRIL 8, 1966, IN OFFICIAL RECORDS BOOK 279, PAGE 270, DESCRIBED AS: BEGIN ON THE SOUTH BOUNDARY OF THE SE 1/4 OF SAID SECTION 6 AT THE NORTHWEST CORNER OF LOT 1 OF JOHN PIPLACK'S SUBDIVISION, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 2, PAGE 145, MANATEE COUNTY, FLORIDA, AND RUN SOUTH 89°14'54" EAST ALONG SAID SOUTH BOUNDARY 1334.54 FEET, THENCE NORTH 1°52'15" WEST 33 FEET, THENCE SOUTH 89°20'35" WEST 1333.43 FEET TO THE POINT OF BEGINNING.

SECTION 7:

(A) THE NE 1/4 OF NE 1/4.

(B) PART OF THE N 1/2 OF LOT 1 OF JOHN PIPLACK'S SUBDIVISION, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 2, PAGE 145, MANATEE COUNTY, FLORIDA, DESCRIBED AS: FROM THE NORTHWEST CORNER OF SAID LOT 1 RUN THENCE SOUTH 89°14'54" EAST ALONG THE NORTH BOUNDARY OF SAID LOT 1 A DISTANCE OF 1334.54 FEET TO THE POINT OF BEGINNING, FROM THE POINT OF BEGINNING CONTINUE SOUTH 89°14'54" EAST 8.59 FEET TO THE NORTHEAST CORNER OF SAID LOT 1, THENCE SOUTH 0°14'14" EAST ALONG THE EAST BOUNDARY OF SAID LOT 1 A DISTANCE OF 301.09 FEET TO A POINT 33 FEET NORTH OF THE SOUTHEAST CORNER OF SAID N 1/2 OF LOT 1, THENCE NORTH 1°52'15" WEST 301.17 FEET TO THE POINT OF BEGINNING.

(C) PART OF THE N 1/2 OF LOT 1 OF JOHN PIPLACK'S SUBDIVISION, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 2, PAGE 145, MANATEE COUNTY, FLORIDA, DESCRIBED AS: BEGIN AT THE SOUTHWEST CORNER OF SAID N 1/2 OF LOT 1 (WHICH BEGINNING POINT IS 334.24 FEET SOUTH OF THE NORTHWEST CORNER OF SAID LOT 1), RUN THENCE EASTERLY 1343.11 FEET TO THE SOUTHEAST CORNER OF SAID N 1/2 OF LOT 1, THENCE NORTHERLY ALONG THE EAST LINE OF SAID LOT 1 A DISTANCE OF 33 FEET, THENCE WESTERLY 1343.53 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

(D) THE S 1/2 OF LOT 1 OF JOHN PIPLACK'S SUBDIVISION, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 2, PAGE 145, MANATEE COUNTY, FLORIDA.

(E) LOTS 6, 7, 8, 12 AND 13 OF JOHN PIPLACK'S SUBDIVISION, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 2, PAGE 145, MANATEE COUNTY, FLORIDA.

(F) THE N 1/2 OF LOT 1 OF JOHN PIPLACK'S SUBDIVISION, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 2, PAGE 145, MANATEE COUNTY, FLORIDA, TOGETHER WITH A TRIANGULAR PARCEL OF LAND LYING IN SECTION 6, TOWNSHIP 33 SOUTH, RANGE 18 EAST, MANATEE COUNTY, FLORIDA, DESCRIBED AS FOLLOWS: BEGIN AT THE NORTHWEST CORNER OF LOT 1 OF JOHN PIPLACK'S SUBDIVISION, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 2, PAGE 145, MANATEE COUNTY, FLORIDA, AND RUN THENCE SOUTH 89°14'54" EAST ALONG SAID SOUTH LINE OF SECTION 6, SAID SOUTH LINE ALSO BEING THE NORTH LINE OF SAID LOT 1, A DISTANCE OF 1334.54 FEET, THENCE NORTH 1°52'15" WEST 33 FEET, THENCE SOUTH 89°20'35" WEST 1333.43 FEET TO THE POINT OF BEGINNING, LESS A TRIANGULAR PARCEL OF LAND LYING IN THE SAID N 1/2 OF LOT 1 DESCRIBED AS FOLLOWS: BEGIN AT THE SOUTHWEST CORNER OF SAID N 1/2 OF LOT 1 (WHICH BEGINNING POINT IS 334.24 FEET SOUTH OF THE NORTHWEST CORNER OF SAID LOT 1), RUN THENCE EASTERLY 1343.11 FEET TO THE SOUTHEAST CORNER OF SAID N 1/2 OF LOT 1, THENCE NORTHERLY ALONG THE EAST LINE OF SAID LOT 1 A DISTANCE OF 33 FEET, THENCE WESTERLY 1343.53 FEET TO THE POINT OF BEGINNING, AND LESS A TRIANGULAR PARCEL OF LAND DESCRIBED AS FOLLOWS: COMMENCE AT THE NORTHWEST CORNER OF SAID LOT 1, JOHN PIPLACK'S SUBDIVISION AS RECORDED IN PLAT BOOK 2, PAGE 145, OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA; RUN THENCE SOUTH 89°14'54" EAST ALONG THE NORTH BOUNDARY OF SAID LOT 1 A DISTANCE OF 1334.54 FEET TO THE POINT OF BEGINNING, FROM THE POINT OF BEGINNING CONTINUE SOUTH 89°14'54" EAST 8.59 FEET TO THE NORTHEAST CORNER OF SAID LOT 1, THENCE SOUTH 0°14'14" EAST ALONG THE EAST BOUNDARY OF SAID LOT 1 A DISTANCE OF 301.09 FEET TO A POINT 33 FEET NORTH OF THE SOUTHEAST CORNER OF SAID N 1/2 OF LOT 1, THENCE NORTH 1°52'15" WEST 301.17 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT THOSE PORTIONS OF (C), (D), (E) AND (F) CONVEYED TO STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION DESCRIBED IN DEEDS RECORDED IN OFFICIAL RECORDS BOOK 285, PAGE 96, OFFICIAL RECORDS BOOK 286, PAGE 370, OFFICIAL RECORDS BOOK 286, PAGE 372 AND OFFICIAL RECORDS BOOK 288, PAGE 251, PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA.

SECTION 8: THE W 1/2 OF NE 1/4, AND THE NW 1/4.

LESS AND EXCEPT THAT PORTION OF PARCEL 1 CONVEYED TO AIR PRODUCTS & CHEMICALS INC. BY THE SPECIAL WARRANTY DEED RECORDED IN OFFICIAL RECORDS BOOK 2444, PAGE 7399, OF THE PUBLIC RECORDS OF MANATEE COUNTY

ALSO LESS AND EXCEPT THAT PORTION OF PARCEL 1 CONVEYED TO THATCHER CHEMICAL OF FLORIDA, INC. BY THE FEE SIMPLE DEED RECORDED IN OFFICIAL RECORDS BOOK 2504, PAGE 2840, OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA.

ALSO LESS AND EXCEPT THAT PORTION OF PARCEL 1 CONVEYED TO ALLIED NEW TECHNOLOGIES 2, INC. BY THE SPECIAL WARRANTY DEED RECORDED IN OFFICIAL RECORDS BOOK 2514, PAGE 7689, OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA.

ALSO LESS AND EXCEPT THAT PORTION OF PARCEL 1 CONVEYED TO MANATEE BULK STORAGE, LLC, BY THE SPECIAL WARRANTY DEED RECORDED IN OFFICIAL RECORDS BOOK 2514, PAGE 7821, OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA.

ALSO LESS AND EXCEPT THAT PORTION OF PARCEL 1 CONVEYED TO MANATEE BULK STORAGE, LLC BY SPECIAL WARRANTY DEED RECORDED IN OFFICIAL RECORDS BOOK 2514, PAGE 7815, OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA.

ALSO LESS AND EXCEPT THAT PORTION OF PARCEL 1 CONVEYED TO AIR PRODUCTS AND CHEMICALS, INC. BY THE WARRANTY DEED RECORDED IN OFFICIAL RECORDS BOOK 2697, PAGE 7547, OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA.

**PARCEL 2 (EASEMENT):**

THE EASEMENT CREATED BY EASEMENT INSTRUMENT DATED AND FILED DECEMBER 22, 1967, RECORDED IN OFFICIAL RECORDS BOOK 346, PAGE 142, MANATEE COUNTY, FLORIDA, FROM SKYWAY GROVES, INC., TO THE BORDEN COMPANY, WITH RESPECT TO THE LAND DESCRIBED BELOW:

IN TOWNSHIP 33 SOUTH, RANGE 18 EAST, MANATEE COUNTY, FLORIDA:

SECTION 8: THE SE 1/4, AND THE E 1/2 OF SW 1/4.

Parcel ID: 591400209

**EASEMENT FOR ACCESS AND AUTHORIZATION TO  
CONDUCT ON SITE ACTIVITIES**

THIS EASEMENT is made and entered into this 15 day of August, 2006, by and between V. John Brooks, as Chapter 7 Trustee in Bankruptcy for Piney Point Phosphates, Inc., a Florida corporation, a debtor in the case styled: In Re Piney Point Phosphates, Inc., Case No. 01-2006-8P7, in the United States Bankruptcy Court for the Middle District of Florida, hereinafter referred to as "GRANTOR", and the Florida Department of Environmental Protection, an agency of the State of Florida, and its contractors, subcontractors, agents or licensees, hereinafter collectively referred to as "GRANTEE".

WHEREAS, GRANTOR is the owner of certain real property (the "Piney Point Site" (hereinafter more particularly described in Exhibit "A")); and

WHEREAS, GRANTEE desires a non-exclusive easement over, across beneath and on the Piney Point Site for the purpose of closing the phosphogypsum stack systems formerly operated by Piney Point Phosphates, Inc. at the Piney Point Site (the "phosphogypsum stack systems") in accordance with applicable laws and regulations, to manage any and all environmental risk associated with such site identified by GRANTEE which GRANTEE deems necessary, in such manner as GRANTEE deems appropriate, and to render such phosphogypsum stack systems of beneficial use.

NOW THEREFORE, GRANTOR, pursuant to authority granted to him by the Bankruptcy Code and having obtained any and all required approvals by the Bankruptcy Court, and in consideration of mutual covenants and agreements hereinafter contained, has granted, and by these presents does create, grant, transfer and convey a non-exclusive easement unto GRANTEE and all agents, employees, contractors or subcontractors acting under the authority of GRANTEE over and across the Piney Point Site, subject to the following terms and conditions:

1. TERM: The term of this easement shall be for a period of sixty years commencing on March 1, 2005, and ending on February 28, 2065, with no option for renewal unless sooner terminated pursuant to the provisions of this easement.

2. USE OF PROPERTY AND UNDUE WASTE: This easement shall be limited to access over, across beneath and on the Piney Point Site during the term of this easement for the purposes of closing the phosphogypsum stack systems in accordance with applicable laws and regulations, to manage any and all environmental risk associated with such site identified by GRANTEE which GRANTEE deems necessary, in such manner as GRANTEE deems appropriate, and to render such phosphogypsum stacks of beneficial use. This easement shall be non-exclusive.

GRANTOR retains the right to engage in any activities over, across, beneath or on the easement area which do not unreasonably interfere with GRANTEE'S exercise of this easement and further retains the right to grant compatible uses to third parties during the term of this easement, upon reasonable notice to GRANTEE and to any agency or authority having jurisdiction or an interest in the Piney Point Site.

GRANTEE agrees that upon termination of this easement all authorization granted herein shall cease and terminate.

3. ASSIGNMENT: This easement shall not be assigned in whole or in part to any non Agency or non governmental body without the prior written consent of the GRANTOR.

4. RIGHT OF INSPECTION: The GRANTOR, or his duly authorized agents, representatives or employees shall have the right at any and all reasonable times to inspect this easement and the works of GRANTEE in any matter pertaining to this easement.

5. COMPLIANCE WITH LAWS: GRANTEE agrees it shall be responsible for obtaining all applicable permits and complying with all applicable permits, regulations, ordinances, rules, and laws of the State of Florida or the United States or of any political subdivision or agency of either.

6. PROHIBITIONS AGAINST LIENS: Fee title to the lands underlying this easement is held by GRANTOR. GRANTEE may not lease or license use of the Piney Point site other than as appropriate or necessary in conjunction with the purposes of this easement. GRANTEE shall not do or permit anything to be done which purports to create a lien for any debt against the real property of GRANTOR including, but not limited to, mortgages or construction liens against the Piney Point Site or against any interest of GRANTOR therein.

7. PARTIAL INVALIDITY: If any term, covenant, condition or provision of this easement shall be ruled by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

8. ENTIRE UNDERSTANDING: This easement sets forth the entire understanding between the parties and shall only be amended with the prior written approval of GRANTOR.

9. TIME: Time is expressly declared to be of the essence of this easement.

10. LIABILITY: GRANTEE shall provide reasonable assistance in the investigation of injury or damage claims either for or against GRANTOR or the State of Florida pertaining to GRANTEE'S respective areas of responsibility under this easement or arising out of GRANTEE'S respective management programs or activities.

11. RECORDING OF EASEMENT: The GRANTEE, at its own expense, shall record this fully executed easement in its entirety in the public records of the county within which the easement site is located within fourteen days after receipt, and shall provide to the GRANTOR within ten days following the recordation a copy of the recorded easement in its entirety which contains the O.R. Book and Pages at which the easement is recorded.

12. TERMINATION: GRANTEE may extinguish this easement by recording a sworn statement attesting that GRANTEE has ceased all uses authorized hereunder.

13. GOVERNING LAW: This easement shall be governed by and interpreted according to the laws of the State of Florida.

14. SECTION CAPTIONS: Articles, subsections and other captions contained in this easement are for reference purposes

only and are in no way intended to describe, interpret, define or limit the scope, extent or intent of this easement or any provisions thereof.

IN WITNESS WHEREOF, the parties have caused this easement to be executed the day and year first above written.

PINEY POINT PHOSPHATES, INC., a Florida corporation,

By:

*[Signature]*  
V. JOHN BROOKS, CHAPTER 7 TRUSTEE IN BANKRUPTCY FOR PINEY POINT PHOSPHATES, INC. ("GRANTOR")

*[Signature]*  
Witness

*Monica M. Davison*  
Print/Type Witness Name

*Janice N. Donica*  
Witness

*Janice N. Donica*  
Print/Type Witness Name

STATE OF FLORIDA  
COUNTY OF ~~LEON~~ HILLSBOROUGH

The foregoing instrument was acknowledged before me this 15<sup>th</sup> day of August, 2006, by V. JOHN BROOKS, acting as Chapter 7 Trustee in Bankruptcy for Piney Point Phosphates, Inc., a Florida corporation, a debtor in the case styled *In Re Piney Point Phosphates, Inc.*, Case No. 01-2006-8P7, in the U.S. Bankruptcy Court for the Middle District of Florida. He is personally known to me or produced \_\_\_\_\_ as identification.

*Scott D. Litchfield*  
Notary Public, State of Florida

Print/Type Notary Name

Commission Number:

Commission Expires:

 SCOTT D. LITCHFIELD  
MY COMMISSION # DD 435601  
EXPIRES: May 31, 2009  
Bonded Thru Budget Notary Services

FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION, a Florida agency,

By: Richard W. Cantrell (SEAL)

Richard W. Cantrell  
Print/Type name  
Title: Dep. Division Director  
("GRANTEE")

John A. Coates  
Witness

John A. Coates  
Print/Type Witness Name

Marjane C. Monahan  
Witness

Marjane C. Monahan  
Print/Type Witness Name

STATE OF FLORIDA  
COUNTY OF Lee

The foregoing instrument was acknowledged before me this 16<sup>th</sup> day of August, 2006, by Richard W. Cantrell as Deputy Division Director of the Florida Department of Environmental Protection, a Florida agency, on behalf of the agency.  He/she is personally known to me or produced \_\_\_\_\_ as identification.



Marjane C. Monahan  
Notary Public, State of Florida

Marjane C. Monahan  
Print/Type Notary Name

Commission Number: DD339295

Commission Expires: July 20, 2008

EXHIBIT "A"

LEGAL DESCRIPTION OF THE EASEMENT

EXHIBIT "A"

## PARCEL 1:

In Township 33 South, Range 18 East, Manatee County, Florida:

Section 5: The SW 1/4 of SE 1/4, and the S 1/2 of SW 1/4.

Section 6: All that part of Section 6 lying south and east of U.S. Highway 41 LESS a triangular parcel quit-claimed by R. B. Whisenant, and wife, and The Borden Company to Harry E. Henderson, and wife, under deed dated February 18, 1966, filed April 8, 1966, in Official Records Book 279, Page 270, described as: Begin on the South boundary of the SE-1/4 of said Section 6 at the Northwest corner of Lot 1 of JOHN PIPLACK'S SUBDIVISION, according to the plat thereof recorded in Plat Book 2, Page 145, Manatee County, Florida, and run South 89°14'54" East along said South boundary 1334.54 feet, thence North 1°52'15" West 33 feet, thence South 89°20'35" West 1333.43 feet to the Point of Beginning.

Section 7:

(a) The NE 1/4 of NE 1/4.

(b) Part of the N 1/2 of Lot 1 of JOHN PIPLACK'S SUBDIVISION, according to the plat thereof recorded in Plat Book 2, Page 145, Manatee County, Florida, described as: from the Northwest corner of said Lot 1 run thence South 89°14'54" East along the North boundary of said Lot 1 a distance of 1334.54 feet to the Point of Beginning, from the Point of Beginning continue South 89°14'54" East 8.59 feet to the Northeast corner of said Lot 1, thence South 0°14'14" East along the East boundary of said Lot 1 a distance of 301.09 feet to a point 33 feet North of the Southeast corner of said N 1/2 of Lot 1, thence North 1°52'15" West 301.17 feet to the Point of Beginning.

(c) Part of the N 1/2 of Lot 1 of JOHN PIPLACK'S SUBDIVISION, according to the plat thereof recorded in Plat Book 2, Page 145, Manatee County, Florida, described as: Begin at the Southwest corner of said N 1/2 of Lot 1 (which beginning point is 334.24 feet South of the Northwest corner of said Lot 1), run thence Easterly 1343.11 feet to the Southeast corner of said N 1/2 of Lot 1, thence Northerly along the East line of said Lot 1 a distance of 33 feet, thence Westerly 1343.53 feet, more or less, to the Point of Beginning.

(d) The S 1/2 of Lot 1 of JOHN PIPLACK'S SUBDIVISION, according to the plat thereof recorded in Plat Book 2, Page 145, Manatee County, Florida.

(e) Lots 6, 7, 8, 12 and 13 of JOHN PIPLACK'S SUBDIVISION, according to the plat thereof recorded in Plat Book 2, Page 145, Manatee County, Florida.

(f) The N 1/2 of Lot 1 of JOHN PIPLACK'S SUBDIVISION, according to the plat thereof recorded in Plat Book 2, Page 145, Manatee County, Florida, together with a triangular parcel of land lying in Section 6, Township 33 South, Range East, Manatee County, Florida, described as follows: Begin at the Northwest corner of Lot 1 of JOHN PIPLACK'S SUBDIVISION, according to the plat thereof recorded in Plat Book 2, Page 145, Manatee County, Florida, and run thence South 89°14'54" East along said South line of Section 6, said South line also being the North line of said Lot 1, a distance of 1334.54 feet, thence North 1°52'15" West 33 feet, thence South 89°20'35" West 1333.43 feet to the Point of Beginning, LESS a triangular parcel of land lying in the said N1/2 of Lot 1 described as follows: Begin at the Southwest corner of said N 1/2 of Lot 1 (which beginning point is 334.24 feet South of the Northwest corner of said Lot 1), run thence Easterly 1343.11 feet to the Southeast corner of said N 1/2 of Lot 1, thence Northerly along the East line of said Lot 1 a distance of 33 feet, thence Westerly 1343.53 feet to the Point of Beginning, and LESS a triangular parcel of land described as follows: Commence at the Northwest corner of said Lot 1, JOHN PIPLACK'S SUBDIVISION as

recorded in Plat Book 2, Page 145, of the Public Records of Manatee County, Florida; run thence South 89°14'54" East along the North boundary of said Lot 1 a distance of 1334.54 feet to the Point of Beginning, from the Point of Beginning continue South 89°14'54" East 8.59 feet to the Northeast corner of said Lot 1, thence South 0°14'14" East along the East boundary of said Lot 1 a distance of 301.09 feet to a point 33 feet North of the Southeast corner of said N 1/2 of Lot 1, thence North 1°52'15" West 301.17 feet to the Point of Beginning.

Section 8: The W 1/2 of NE 1/4, and the NW 1/4.

PARCEL 2:

The easement interest created by easement instrument dated May 7, 1985, filed May 29, 1985, recorded in Official Records Book 1113, Page 1608, Manatee County, Florida, from Kendrick D. Williams and others to Amax Chemical Corporation, with respect to a strip of land 100 feet wide as described below:

In Township 33 South, Range 18 East, Manatee County, Florida.

Section 6: That part of the E 1/2 of SW 1/4 described as: Commence at the Southwest corner of Section 6, and run Easterly along the South boundary of Section 6, a distance of 2667.58 feet to a point on a curve, concave to the East, having a radius of 22918.32 feet and the centerline of the southbound lane of U.S. Highway 41 (State Road 45); thence along said curve with a tangent bearing of North 00°02'36" East, run Northerly along said centerline through a central angle of 00°12'17" a distance of 81.87 feet; thence North 00°14'53" East along said centerline a distance of 653.63 feet to the P.C. of a curve, concave to the Southeast, having a radius of 1909.86 feet; thence along said curve through a central angle of 10°22'34", and along said centerline a distance of 345.87 feet, having a chord of 345.40 feet bearing North 05°16'00" East; thence North 79°32'43" West, a distance of 68.00 feet to a point on a curve concave to the Southeast having a radius of 1977.86 feet; thence along said curve through a central angle of 00°34'46", a distance of 20.00 feet, having a chord of 20.00 feet bearing South 10°09'54" West, to a Florida Department of Transportation right-of-way monument; thence continue along said curve and the Westerly right-of-way line of U.S. Highway 41 (State Road 45) being said curve, having a radius of 1977.86 feet, through a central angle of 03°21'53", a distance of 116.15 feet, having a chord of 116.13 feet bearing South 08°11'34" West, to the Point of Beginning; thence continue along said right-of-way curve, having a radius of 1977.86 feet and being the Westerly right-of-way line of U.S. Highway 41 (State Road 45) through a central angle of 02°53'55", a distance of 100.06 feet, having a chord of 100.05 feet bearing South 05°03'40" West; thence North 86°39'10" West, a distance of 638.51 feet to a point on the Easterly right-of-way line of the railroad of Seaboard System Railroad, Inc., said right-of-way line being a curve, concave to the Southeast, having a radius of 2774.01 feet; thence Northeasterly along said right-of-way line through a central angle of 02°18'48" and along said curve a distance of 112.00 feet, having a chord of 111.99 feet bearing North 30°06'08" East, thence South 86°39'10" East, a distance of 591.09 feet to the Point of Beginning.

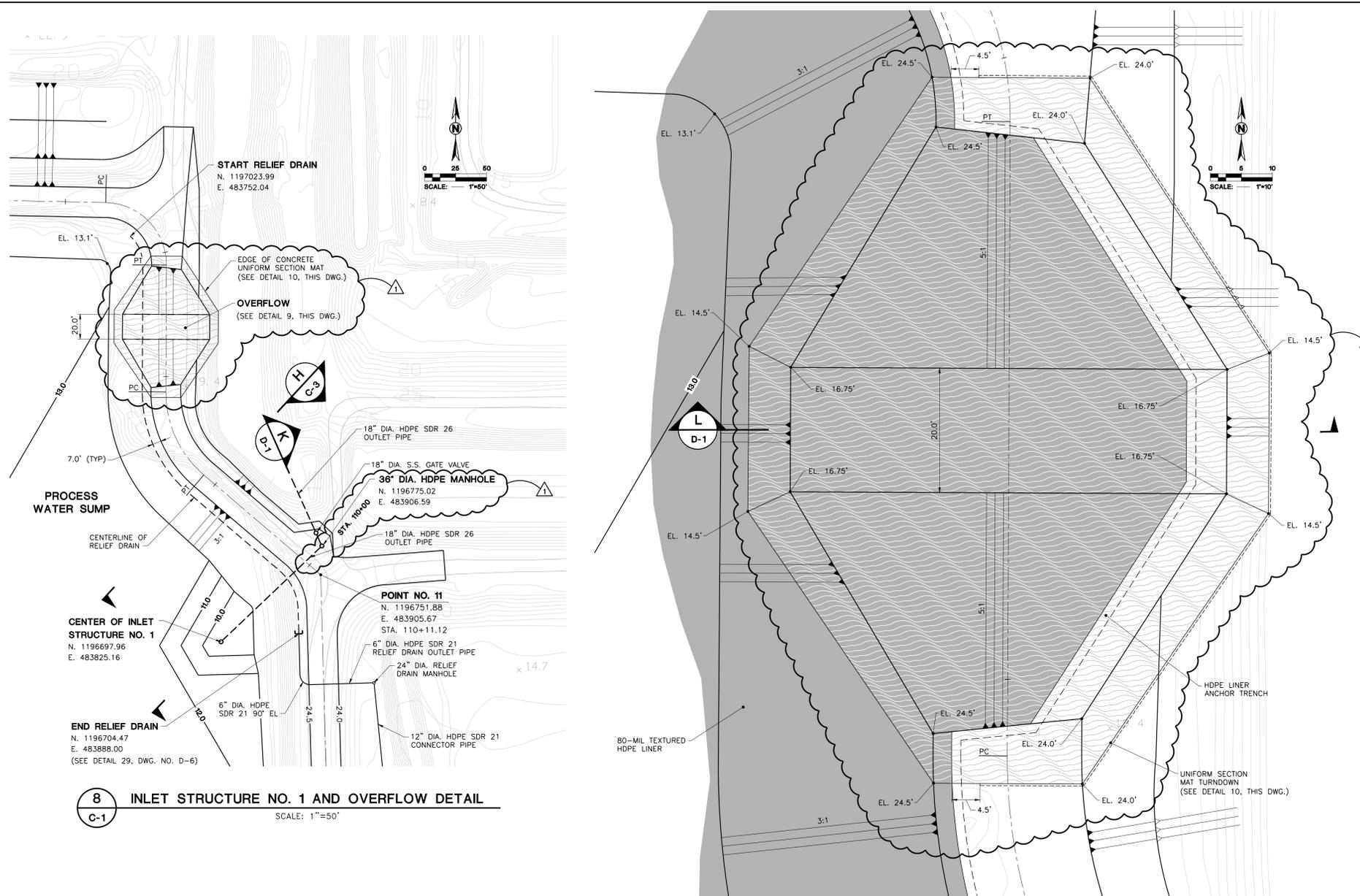
PARCEL 3:

The easement created by easement instrument dated and filed December 22, 1967, recorded in Official Records Book 346, Page 142, Manatee County, Florida, from Skyway Groves, Inc., to The Borden Company, with respect to the land described below:

In Township 33 South, Range 18 East, Manatee County, Florida.

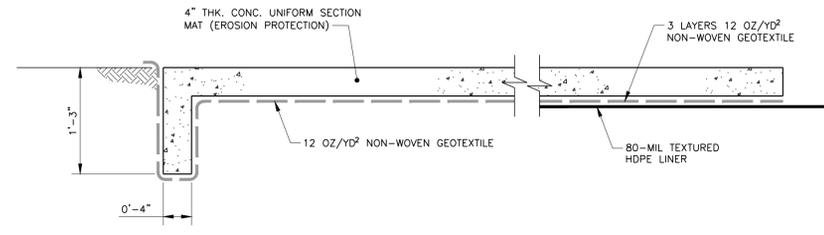
Section 8: The SE 1/4, and the E 1/2 of SW 1/4.

# ATTACHMENT D

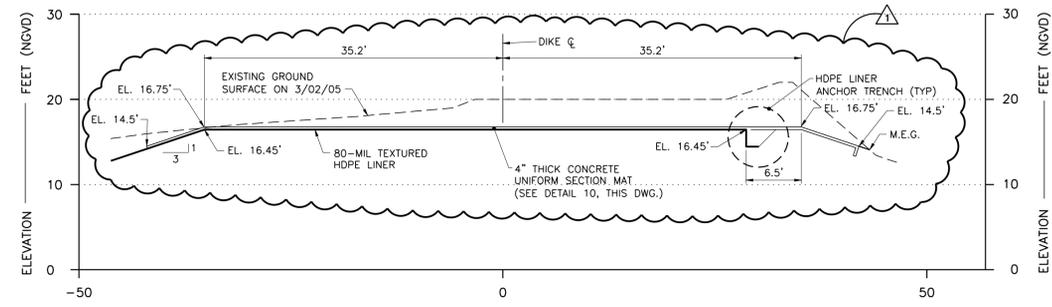


**8** INLET STRUCTURE NO. 1 AND OVERFLOW DETAIL  
SCALE: 1"=50'

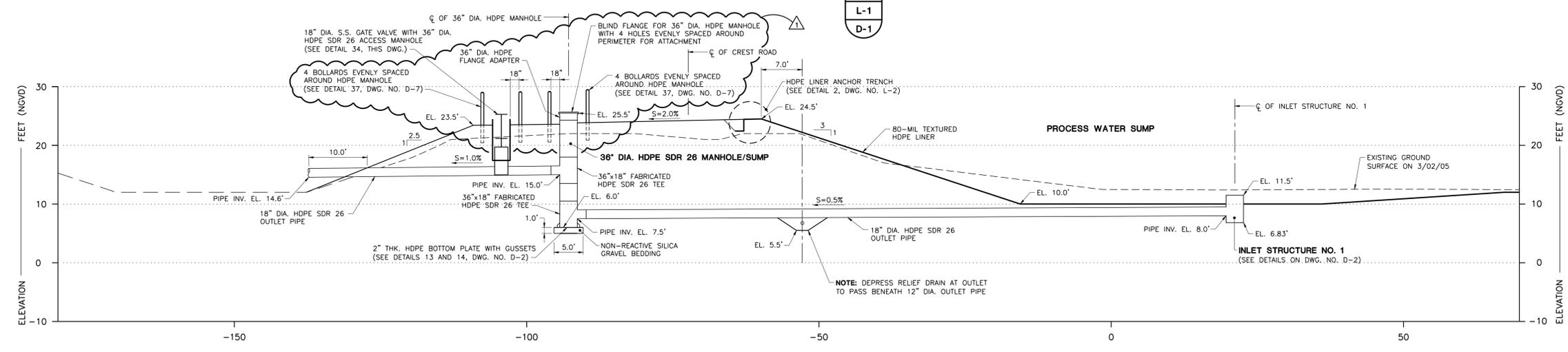
**9** OVERFLOW DETAIL  
SCALE: 1"=10'



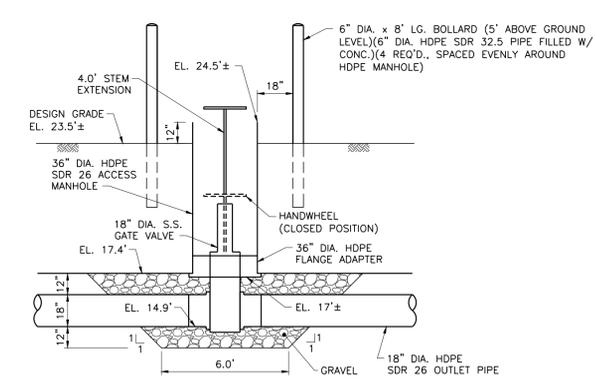
**10** CONCRETE UNIFORM SECTION MAT DETAIL  
SCALE: 1"=1'-0"



**L** OVERFLOW CROSS SECTION  
SCALE: 1"=10'



**K** OUTLET PIPE PROFILE  
SCALE: 1"=10'



**34** GATE VALVE ACCESS MANHOLE DETAIL  
N.T.S.

T:\Corporation\04-100A\01-SCM-5\_Compartment Closure\REV\10-SCM-5-REV1-01.dwg 7/11/2012 3:06:26 PM richard.diamond

REVISION	DATE	DESCRIPTION	APPR'D	REVISION	DATE	DESCRIPTION	APPR'D
1	04/21/06	MODIFIED PROCESS WATER SUMP OVERFLOW ISSUED FOR CONSTRUCTION	RJW				
0	01/09/06						

**Ardaman & Associates, Inc.**  
Geotechnical, Environmental and Materials Consultants  
8008 S. Orange Ave., Orlando, FL 32809  
TEL 407/855-3860 FAX 407/859-8121 C.A.N. 5950

**Florida**  
Department of Environmental Protection  
and Louis J. Timchak, Jr. - Receiver

GYPSUM STACK SYSTEM CLOSURE  
SCP - SOUTH COMPARTMENT  
PINEY POINT FACILITY  
MANATEE COUNTY, FLORIDA

**INLET STRUCTURE NO. 1 DETAILS**

DRAWING NO.  
**D-1**

# ATTACHMENT E

**Manatee County  
Wastewater System - Deep Injection Well Rate**

**Summary of Estimated Discounted Cash Flow From Rates**

Start Date: 1/1/2023  
 Inflation Rate, Annual: 2.5% <= Per Ardaman, Consistent with CPI Projections By Congressional Budget Office  
 Discount Rate, Annual: 3.5% <= County Cost to Borrow  
 Periods In Rate: 12 <= Monthly Periods  
 Closure Period: 2 years, prior to the commencement of the long-term care (LTC) period  
 Projected Closure Period Volume, MGal: 594  
 Average treatment Rate, during Closure, gpd: 813,699 Average Treatment Rate, first two years of service, assuming total projected volume (594 MGal) is treated  
 Closure Cost Rate: 3.89 Effective treatment cost, per 1,000 gal., to recover operational funds  
 LTC treatment cost, Period 1: 9.63 Effective treatment cost, per 1,000 gal., to recover operational funds during LTC Period 1  
 LTC treatment cost, Period 2: 5.20 2022 cost basis for LTC water treatment rate, after first 10 years of LTC (after Closure Period)  
 LTC Period 2 delay, LTC Years: 10 Time period, during LTC, for starting LTC treatment cost, for Period 2  
 LTC Treatment Years: 50 years (Treatment Years = LTC period, following Closure Period)

Reimbursed Closure O&M Costs:	\$ 2,266,186.08	Present Value Treatment Cost, During Closure Period
Reimbursed LTC O&M Costs:	\$ 6,455,423.56	Present Value Treatment Cost, During LTC Period
Present Value Total:	\$ 8,721,609.63	
Rounded Present Value Total:	\$ 8,721,610.00	

Per Ardaman and Receiver:

- 1.) Current seepage rate is < 200,000 gpd
- 2.) Assumed seepage rate decline would be asymptotic, and linear decline over estimates the expected volume of seepage over time. The actual treatment rate, and the total projected LTC treatment volume, is expected to be less than projected herein.

Line No.	Month	Month/Year	Volume Water, Gal - Per Table 2	Rate For Service - Adjusted for Inflation	Inflated Cost Water Removal, \$	Cumulative Monthly Value of Cost of Service	Cumulative Annual Value of Cost of Service	Present Value Water Removal, \$	Cumulative		Project Year
									Value of Cost of Service	Present Value of Cost of Service	
1	0	1/1/2023	25,224,669	\$ 3.89	\$ 98,123.96	\$ 98,123.96		98,123.96	\$ 98,123.96		
2	1	2/1/2023	22,783,572		88,628.10	186,752.06		88,370.35	186,494.31		
3	2	3/1/2023	25,224,669		98,123.96	284,876.02		97,554.07	284,048.38		
4	3	4/1/2023	24,410,970		94,958.67	379,834.69		94,132.61	378,180.99		
5	4	5/1/2023	25,224,669		98,123.96	477,958.66		96,987.48	475,168.47		
6	5	6/1/2023	24,410,970		94,958.67	572,917.33		93,585.89	568,754.36		
7	6	7/1/2023	25,224,669		98,123.96	671,041.29		96,424.19	665,178.55		
8	7	8/1/2023	25,224,669		98,123.96	769,165.25		96,143.77	761,322.32		
9	8	9/1/2023	24,410,970		94,958.67	864,123.93		92,771.77	854,094.09		
10	9	10/1/2023	25,224,669		98,123.96	962,247.89		95,585.37	949,679.46		
11	10	11/1/2023	24,410,970		94,958.67	1,057,206.56		92,232.96	1,041,912.42		
12	11	12/1/2023	25,224,669		98,123.96	1,155,330.53	\$ 1,155,330.53	95,030.22	1,136,942.65	\$ 1,136,942.65	1
13	12	1/1/2024	25,224,669	\$ 3.99	100,646.43	1,255,976.95		97,189.69	1,234,132.33		
14	13	2/1/2024	23,597,271		94,153.11	1,350,130.07		90,654.98	1,324,787.31		
15	14	3/1/2024	25,224,669		100,646.43	1,450,776.50		96,625.22	1,421,412.53		
16	15	4/1/2024	24,410,970		97,399.77	1,548,176.27		93,236.34	1,514,648.87		
17	16	5/1/2024	25,224,669		100,646.43	1,648,822.69		96,064.03	1,610,712.89		
18	17	6/1/2024	24,410,970		97,399.77	1,746,222.46		92,694.83	1,703,407.72		
19	18	7/1/2024	25,224,669		100,646.43	1,846,868.89		95,506.10	1,798,913.82		
20	19	8/1/2024	25,224,669		100,646.43	1,947,515.32		95,228.35	1,894,142.17		
21	20	9/1/2024	24,410,970		97,399.77	2,044,915.09		91,888.46	1,986,030.62		
22	21	10/1/2024	25,224,669		100,646.43	2,145,561.52		94,675.27	2,080,705.89		
23	22	11/1/2024	24,410,970		97,399.77	2,242,961.29		91,354.78	2,172,060.67		
24	23	12/1/2024	25,224,669		100,646.43	2,343,607.72	\$ 2,343,607.72	94,125.40	2,266,186.08	\$ 2,266,186.08	2
25	24	1/1/2025	5,580,000	\$ 9.63	53,735.40	2,397,343.12		50,107.66	2,316,293.74		
26	25	2/1/2025	5,003,786		48,186.46	2,445,529.58		44,802.66	2,361,096.40		
27	26	3/1/2025	5,500,169		52,966.63	2,498,496.21		49,103.93	2,410,200.33		
28	27	4/1/2025	5,284,633		50,891.01	2,549,387.23		47,042.48	2,457,242.81		
29	28	5/1/2025	5,421,756		52,211.51	2,601,598.74		48,122.76	2,505,365.57		
30	29	6/1/2025	5,209,426		50,166.77	2,651,765.51		46,103.68	2,551,469.25		
31	30	7/1/2025	5,344,736		51,469.81	2,703,235.32		47,163.62	2,598,632.86		
32	31	8/1/2025	5,306,740		51,103.91	2,754,339.23		46,692.15	2,645,325.01		
33	32	9/1/2025	5,099,113		49,104.46	2,803,443.70		44,734.83	2,690,059.84		
34	33	10/1/2025	5,231,763		50,381.88	2,853,825.57		45,765.09	2,735,824.93		
35	34	11/1/2025	5,027,202		48,411.95	2,902,237.52		43,847.79	2,779,672.72		
36	35	12/1/2025	5,158,117		49,672.67	2,951,910.19	\$ 2,951,910.19	44,858.81	2,824,531.53	\$ 2,824,531.53	3
37	36	1/1/2026	5,121,786	\$ 9.87	50,552.03	3,002,462.21		45,520.18	2,870,051.72		
38	37	2/1/2026	4,593,607		45,338.90	3,047,801.11		40,707.23	2,910,758.95		
39	38	3/1/2026	5,050,093		49,844.42	3,097,645.53		44,622.33	2,955,381.28		
40	39	4/1/2026	4,852,960		47,898.72	3,145,544.24		42,755.77	2,998,137.06		
41	40	5/1/2026	4,979,673		49,149.38	3,194,693.62		43,744.56	3,041,881.62		
42	41	6/1/2026	4,785,420		47,232.09	3,241,925.71		41,915.86	3,083,797.48		
43	42	7/1/2026	4,910,504		48,466.68	3,290,392.39		42,886.40	3,126,683.88		
44	43	8/1/2026	4,876,382		48,129.89	3,338,522.28		42,464.54	3,169,148.42		
45	44	9/1/2026	4,686,352		46,254.30	3,384,776.58		40,691.03	3,209,839.45		
46	45	10/1/2026	4,809,047		47,465.30	3,432,241.88		41,634.95	3,251,474.40		
47	46	11/1/2026	4,621,771		45,616.88	3,477,858.75		39,897.21	3,291,371.61		
48	47	12/1/2026	4,742,909		46,812.51	3,524,671.26	\$ 3,524,671.26	40,823.86	3,332,195.47	\$ 3,332,195.47	4
49	48	1/1/2027	4,710,281	\$ 10.12	47,668.05	3,572,339.31		41,449.05	3,373,644.52		
50	49	2/1/2027	4,225,240		42,759.43	3,615,098.74		37,072.71	3,410,717.24		
51	50	3/1/2027	4,645,897		47,016.47	3,662,115.22		40,645.05	3,451,362.28		
52	51	4/1/2027	4,465,291		45,188.75	3,707,303.97		38,951.40	3,490,313.68		
53	52	5/1/2027	4,582,656		46,376.47	3,753,680.44		39,858.93	3,530,172.61		
54	53	6/1/2027	4,404,636		44,574.92	3,798,255.36		38,199.14	3,568,371.75		
55	54	7/1/2027	4,520,538		45,747.84	3,844,003.20		39,090.28	3,607,462.03		
56	55	8/1/2027	4,489,894		45,437.72	3,889,440.92		38,712.38	3,646,174.41		
57	56	9/1/2027	4,315,667		43,674.55	3,933,115.48		37,101.97	3,683,276.38		
58	57	10/1/2027	4,429,423		44,825.76	3,977,941.24		37,969.19	3,721,245.57		
59	58	11/1/2027	4,257,669		43,087.61	4,021,028.85		36,390.77	3,757,636.33		
60	59	12/1/2027	4,370,027		44,224.67	4,065,253.52	\$ 4,065,253.52	37,242.47	3,794,878.81	\$ 3,794,878.81	5
61	60	1/1/2028	4,340,725	\$ 10.37	45,013.32	4,110,266.84		37,796.37	3,832,675.18		
62	61	2/1/2028	4,033,512		41,827.52	4,152,094.36		35,019.21	3,867,694.39		
63	62	3/1/2028	4,282,904		44,413.71	4,196,508.07		37,076.31	3,904,770.69		
64	63	4/1/2028	4,117,141		42,694.75	4,239,202.82		35,537.68	3,940,308.37		

Line No.	Month	Month/Year	Volume Water, Gal-Per Table 2	Rate For Service - Adjusted For Inflation	Inflated Cost Water Removal, \$	Cumulative Monthly Value of Cost of Service	Cumulative Annual Value of Cost of Service	Present Value Water Removal, \$	Cumulative Monthly Present Value of Cost of Service	Cumulative Annual Present Value of Cost of Service	Project Year		
65	64	5/1/2028	4,226,109		43,824.75	4,283,027.57		36,372.17	3,976,680.54				
66	65	6/1/2028	4,062,669		42,129.88	4,325,157.45		34,863.83	4,011,544.36				
67	66	7/1/2028	4,170,324		43,246.26	4,368,403.71		35,683.59	4,047,227.95				
68	67	8/1/2028	4,142,803		42,960.87	4,411,364.58		35,345.02	4,082,572.97				
69	68	9/1/2028	3,982,770		41,301.32	4,452,665.90		33,880.85	4,116,453.82				
70	69	10/1/2028	4,088,497		42,397.71	4,495,063.61		34,679.11	4,151,132.92				
71	70	11/1/2028	3,930,684		40,761.19	4,535,824.81		33,243.56	4,184,376.48				
72	71	12/1/2028	4,035,155		41,844.56	4,577,669.37	\$	4,577,669.37	34,027.87	4,218,404.35	\$	4,218,404.35	6
73	72	1/1/2029	4,008,841	\$	10.63	42,613.98	4,620,283.34	34,552.78	4,252,957.13				
74	73	2/1/2029	3,597,332		38,239.64	4,658,522.99		30,915.76	4,283,872.88				
75	74	3/1/2029	3,956,914		42,061.99	4,700,584.98		33,907.13	4,317,780.02				
76	75	4/1/2029	3,804,481		40,441.63	4,741,026.61		32,506.11	4,350,286.13				
77	76	5/1/2029	3,905,909		41,519.81	4,782,546.43		33,275.68	4,383,561.80				
78	77	6/1/2029	3,755,562		39,921.62	4,822,468.05		31,901.77	4,415,463.58				
79	78	7/1/2029	3,855,810		40,987.26	4,863,455.30		32,658.08	4,448,121.66				
80	79	8/1/2029	3,831,095		40,724.54	4,904,179.84		32,354.38	4,480,476.05				
81	80	9/1/2029	3,683,807		39,158.87	4,943,338.71		31,020.03	4,511,496.08				
82	81	10/1/2029	3,782,325		40,206.11	4,983,544.82		31,756.99	4,543,253.07				
83	82	11/1/2029	3,637,031		38,661.64	5,022,206.46		30,448.27	4,573,701.34				
84	83	12/1/2029	3,734,420		39,696.89	5,061,903.35	\$	5,061,903.35	31,172.67	4,604,874.01	\$	4,604,874.01	7
85	84	1/1/2030	3,710,788	\$	10.90	40,447.59	5,102,350.95	31,669.81	4,636,543.82				
86	85	2/1/2030	3,330,525		36,302.72	5,138,653.67		28,341.78	4,664,885.60				
87	86	3/1/2030	3,664,155		39,939.29	5,178,592.95		31,090.19	4,695,975.78				
88	87	4/1/2030	3,523,693		38,408.25	5,217,001.21		29,811.42	4,725,787.21				
89	88	5/1/2030	3,618,349		39,440.01	5,256,441.21		30,523.22	4,756,310.43				
90	89	6/1/2030	3,479,760		37,929.39	5,294,370.60		29,268.76	4,785,579.18				
91	90	7/1/2030	3,573,357		38,949.59	5,333,320.20		29,968.61	4,815,547.79				
92	91	8/1/2030	3,551,162		38,707.66	5,372,027.86		29,695.85	4,845,243.64				
93	92	9/1/2030	3,415,320		37,226.99	5,409,254.85		28,476.84	4,873,720.48				
94	93	10/1/2030	3,507,363		38,230.26	5,447,485.11		29,159.25	4,902,879.73				
95	94	11/1/2030	3,373,312		36,769.11	5,484,254.21		27,963.23	4,930,842.96				
96	95	12/1/2030	3,464,342		37,761.33	5,522,015.54	\$	5,522,015.54	28,634.31	4,959,477.27	\$	4,959,477.27	8
97	96	1/1/2031	3,443,119	\$	11.17	38,459.64	5,560,475.18	29,079.02	4,988,556.28				
98	97	2/1/2031	3,090,916		34,525.53	5,595,000.71		26,028.55	5,014,584.84				
99	98	3/1/2031	3,401,239		37,991.84	5,632,992.55		28,558.49	5,043,143.32				
100	99	4/1/2031	3,271,528		36,542.97	5,669,535.52		27,389.48	5,070,532.80				
101	100	5/1/2031	3,360,103		37,532.35	5,707,067.87		28,049.23	5,098,582.03				
102	101	6/1/2031	3,232,074		36,102.27	5,743,170.13		26,902.01	5,125,484.04				
103	102	7/1/2031	3,319,697		37,081.02	5,780,251.16		27,550.98	5,153,035.03				
104	103	8/1/2031	3,299,765		36,858.37	5,817,109.53		27,305.91	5,180,340.94				
105	104	9/1/2031	3,174,203		35,455.84	5,852,565.37		26,190.49	5,206,531.43				
106	105	10/1/2031	3,260,431		36,419.01	5,888,984.38		26,823.72	5,233,355.15				
107	106	11/1/2031	3,136,477		35,034.45	5,924,018.83		25,728.91	5,259,084.06				
108	107	12/1/2031	3,221,795		35,987.45	5,960,006.28	\$	5,960,006.28	26,351.92	5,285,435.98	\$	5,285,435.98	9
109	108	1/1/2032	3,202,736	\$	11.45	36,671.32	5,996,677.60	26,774.60	5,312,210.58				
110	109	2/1/2032	2,978,437		34,103.10	6,030,780.70		24,827.06	5,337,037.64				
111	110	3/1/2032	3,165,125		36,240.68	6,067,021.38		26,306.50	5,363,344.14				
112	111	4/1/2032	3,045,068		34,866.03	6,101,887.41		25,235.06	5,388,579.20				
113	112	5/1/2032	3,128,182		35,817.68	6,137,705.10		25,848.45	5,414,427.64				
114	113	6/1/2032	3,009,636		34,460.33	6,172,165.43		24,796.57	5,439,224.21				
115	114	7/1/2032	3,091,895		35,402.20	6,207,567.64		25,400.22	5,464,624.44				
116	115	8/1/2032	3,073,994		35,197.24	6,242,764.87		25,179.72	5,489,804.16				
117	116	9/1/2032	2,957,664		33,865.26	6,276,630.13		24,156.38	5,513,960.55				
118	117	10/1/2032	3,038,670		34,792.77	6,311,422.90		24,745.81	5,538,706.36				
119	118	11/1/2032	2,923,784		33,477.33	6,344,900.23		23,740.98	5,562,447.35				
120	119	12/1/2032	3,003,973		34,395.49	6,379,295.73	\$	6,379,295.73	24,321.18	5,586,768.52	\$	5,586,768.52	10
121	120	1/1/2033	2,986,856	\$	11.73	35,035.83	6,414,331.55	24,701.91	5,611,470.43				
122	121	2/1/2033	2,682,483		31,465.53	6,445,797.08		22,120.10	5,633,590.60				
123	122	3/1/2033	2,953,080		34,639.63	6,480,436.71		24,280.73	5,657,871.32				
124	123	4/1/2033	2,841,694		33,333.07	6,513,769.78		23,296.94	5,681,168.27				
125	124	5/1/2033	2,919,903		34,250.46	6,548,020.24		23,868.50	5,705,036.77				
126	125	6/1/2033	2,809,874		32,959.82	6,580,980.06		22,902.28	5,727,939.05				
127	126	7/1/2033	2,887,315		33,868.21	6,614,848.26		23,465.04	5,751,404.09				
128	127	8/1/2033	2,871,239		33,679.63	6,648,527.90		23,266.53	5,774,670.62				
129	128	9/1/2033	2,763,200		32,412.33	6,680,940.23		22,325.93	5,796,996.55				
130	129	10/1/2033	2,839,516		33,307.52	6,714,247.75		22,875.83	5,819,872.38				
131	130	11/1/2033	2,732,773		32,055.43	6,746,303.18		21,951.86	5,841,824.24				
132	131	12/1/2033	2,808,356		32,942.01	6,779,245.19	\$	6,779,245.19	22,493.39	5,864,317.63	\$	5,864,317.63	11
133	132	1/1/2034	2,792,984	\$	12.03	33,599.59	6,812,844.78	22,875.68	5,887,193.31				
134	133	2/1/2034	2,508,935		30,182.48	6,843,027.27		20,489.44	5,907,682.75				
135	134	3/1/2034	2,762,650		33,234.68	6,876,261.95		22,495.82	5,930,178.57				
136	135	4/1/2034	2,659,051		31,988.38	6,908,250.33		21,589.26	5,951,767.83				
137	136	5/1/2034	2,732,855		32,876.25	6,941,126.58		22,123.96	5,973,891.79				
138	137	6/1/2034	2,630,474		31,644.61	6,972,771.19		21,233.20	5,995,124.99				
139	138	7/1/2034	2,703,590		32,524.18	7,005,295.37		21,759.92	6,016,884.91				
140	139	8/1/2034	2,689,152		32,350.50	7,037,645.87		21,580.78	6,038,465.69				
141	140	9/1/2034	2,588,558		31,140.36	7,068,786.23		20,713.09	6,059,178.77				
142	141	10/1/2034	2,660,663		32,007.77	7,100,794.00		21,228.13	6,080,406.91				
143	142	11/1/2034	2,561,234		30,811.64	7,131,605.64		20,375.41	6,100,782.32				
144	143	12/1/2034	2,632,679		31,671.13	7,163,276.77	\$	7,163,276.77	20,882.87	6,121,665.19	\$	6,121,665.19	12
145	144	1/1/2035	2,618,874	\$	6.99	18,305.93	7,181,582.70	12,035.21	6,133,700.39				
146	145	2/1/2035	2,353,077		16,448.01	7,198,030.71		10,782.27	6,144,482.67				
147	146	3/1/2035	2,591,633		18,115.51	7,216,146.23		11,840.85	6,156,323.51				
148	147	4/1/2035	2,495,026		17,440.24	7,233,586.46		11,366.31	6,167,689.83				
149	148	5/1/2035	2,564,875		17,928.48	7,251,514.94		11,650.53	6,179,340.36				
150	149	6/1/2035	2,469,363		17,260.85	7,268,775.79		11,184.06	6,190,524.42				
151	150	7/1/2035	2,538,593		17,744.76	7,286,520.55		11,464.18	6,201,988.60				
152	151	8/1/2035	2,525,627		17,654.13	7,304,174.68		11,372.46	6,213,361.06				
153	152	9/1/2035	2,431,720		16,997.72	7,321,172.41		10,917.76	6,224,278.82				
154	153	10/1/2035	2,500,042		17,475.29	7,338,647.70		11,191.87	6,235,470.69				
155	154	11/1/2035	2,407,181		16,826.19	7,355,473.89		10,744.82	6,246,215.51				
156	155	12/1/2035	2,474,911		17,299.6								

Line No.	Month	Month/Year	Volume Water, Gal-Per Table 2	Rate For Service - Adjusted for Inflation	Inflated Cost Water Removal, \$	Cumulative Monthly Value of Cost of Service	Cumulative Annual Value of Cost of Service	Present Value Water Removal, \$	Cumulative Monthly Present Value of Cost of Service	Cumulative Annual Present Value of Cost of Service	Project Year
161	160	5/1/2036	2,414,019		17,308.51	7,458,486.92		10,861.36	6,311,332.21		
162	161	6/1/2036	2,324,675		16,667.92	7,475,154.84		10,428.95	6,321,761.17		
163	162	7/1/2036	2,390,415		17,139.28	7,492,294.12		10,692.69	6,332,453.86		
164	163	8/1/2036	2,378,772		17,055.79	7,509,349.91		10,609.66	6,343,063.52		
165	164	9/1/2036	2,290,869		16,425.53	7,525,775.44		10,187.89	6,353,251.42		
166	165	10/1/2036	2,355,794		16,891.05	7,542,666.49		10,446.16	6,363,697.57		
167	166	11/1/2036	2,268,831		16,267.52	7,558,934.01		10,031.28	6,373,728.86		
168	167	12/1/2036	2,333,225		16,729.22	7,575,663.24	\$ 7,575,663.24	10,285.99	6,384,014.85	\$ 6,384,014.85	14
169	168	1/1/2037	2,322,091	\$ 7.35	17,067.37	7,592,730.61		10,463.38	6,394,478.23		
170	169	2/1/2037	2,087,406		15,342.44	7,608,073.04		9,378.53	6,403,856.76		
171	170	3/1/2037	2,300,121		16,905.89	7,624,978.93		10,304.19	6,414,160.95		
172	171	4/1/2037	2,215,434		16,283.44	7,641,262.37		9,895.94	6,424,056.89		
173	172	5/1/2037	2,278,540		16,747.27	7,658,009.64		10,148.23	6,434,205.11		
174	173	6/1/2037	2,194,736		16,131.31	7,674,140.96		9,746.55	6,443,951.66		
175	174	7/1/2037	2,257,343		16,591.47	7,690,732.43		9,995.43	6,453,947.09		
176	175	8/1/2037	2,246,886		16,514.61	7,707,247.04		9,920.19	6,463,867.28		
177	176	9/1/2037	2,164,377		15,908.17	7,723,155.21		9,528.11	6,473,395.39		
178	177	10/1/2037	2,226,251		16,362.95	7,739,518.16		9,772.00	6,483,167.38		
179	178	11/1/2037	2,144,585		15,762.70	7,755,280.86		9,386.15	6,492,553.54		
180	179	12/1/2037	2,205,983		16,213.97	7,771,494.83	\$ 7,771,494.83	9,626.79	6,502,180.33	\$ 6,502,180.33	15
181	180	1/1/2038	2,195,984	\$ 7.53	16,535.76	7,788,030.59		9,789.29	6,511,969.62		
182	181	2/1/2038	1,974,519		14,868.13	7,802,898.72		8,776.44	6,520,746.07		
183	182	3/1/2038	2,176,253		16,387.18	7,819,285.90		9,644.99	6,530,391.06		
184	183	4/1/2038	2,096,632		15,787.64	7,835,073.54		9,265.09	6,539,656.15		
185	184	5/1/2038	2,156,872		16,241.25	7,851,314.79		9,503.58	6,549,159.74		
186	185	6/1/2038	2,078,044		15,647.67	7,866,962.45		9,129.62	6,558,289.35		
187	186	7/1/2038	2,137,836		16,097.91	7,883,060.36		9,364.99	6,567,654.35		
188	187	8/1/2038	2,128,445		16,027.19	7,899,087.55		9,296.74	6,576,951.09		
189	188	9/1/2038	2,050,779		15,442.36	7,914,529.91		8,931.46	6,585,882.55		
190	189	10/1/2038	2,109,914		15,887.65	7,930,417.56		9,162.27	6,595,044.82		
191	190	11/1/2038	2,033,005		15,308.53	7,945,726.09		8,802.62	6,603,847.44		
192	191	12/1/2038	2,091,711		15,750.59	7,961,476.68	\$ 7,961,476.68	9,030.48	6,612,877.92	\$ 6,612,877.92	16
193	192	1/1/2039	2,082,732	\$ 7.72	16,078.69	7,977,555.36		9,191.78	6,622,069.70		
194	193	2/1/2039	1,873,139		14,460.63	7,992,016.00		8,242.74	6,630,312.44		
195	194	3/1/2039	2,065,012		15,941.89	8,007,957.89		9,060.65	6,639,373.09		
196	195	4/1/2039	1,989,939		15,362.33	8,023,320.22		8,705.86	6,648,078.95		
197	196	5/1/2039	2,047,607		15,807.53	8,039,127.75		8,932.10	6,657,011.05		
198	197	6/1/2039	1,973,246		15,233.46	8,054,361.21		8,582.69	6,665,593.74		
199	198	7/1/2039	2,030,511		15,675.55	8,070,036.76		8,806.08	6,674,399.82		
200	199	8/1/2039	2,022,078		15,610.44	8,085,647.20		8,744.00	6,683,143.82		
201	200	9/1/2039	1,948,761		15,044.43	8,100,691.63		8,402.45	6,691,546.28		
202	201	10/1/2039	2,005,435		15,481.96	8,116,173.59		8,621.67	6,700,167.95		
203	202	11/1/2039	1,932,799		14,921.21	8,131,094.79		8,285.23	6,708,453.17		
204	203	12/1/2039	1,989,088		15,355.76	8,146,450.56	\$ 8,146,450.56	8,501.73	6,716,954.90	\$ 6,716,954.90	17
205	204	1/1/2040	1,981,024	\$ 7.91	15,669.90	8,162,120.46		8,650.42	6,725,605.32		
206	205	2/1/2040	1,845,740		14,599.80	8,176,720.26		8,036.24	6,733,641.56		
207	206	3/1/2040	1,965,111		15,544.03	8,192,264.29		8,531.09	6,742,172.66		
208	207	4/1/2040	1,894,123		14,982.51	8,207,246.80		8,199.00	6,750,371.66		
209	208	5/1/2040	1,949,480		15,420.39	8,222,667.19		8,414.08	6,758,785.74		
210	209	6/1/2040	1,879,132		14,863.93	8,237,531.12		8,086.87	6,766,872.61		
211	210	7/1/2040	1,934,127		15,298.95	8,252,830.07		8,299.34	6,775,171.95		
212	211	8/1/2040	1,926,553		15,239.04	8,268,069.10		8,242.79	6,783,414.74		
213	212	9/1/2040	1,857,142		14,689.99	8,282,759.10		7,922.71	6,791,337.45		
214	213	10/1/2040	1,911,607		15,120.81	8,297,879.91		8,131.35	6,799,468.80		
215	214	11/1/2040	1,842,807		14,576.61	8,312,456.52		7,815.90	6,807,284.69		
216	215	12/1/2040	1,896,927		15,004.69	8,327,461.21	\$ 8,327,461.21	8,022.04	6,815,306.73	\$ 6,815,306.73	18
217	216	1/1/2041	1,889,685	\$ 8.11	15,325.34	8,342,786.56		8,169.64	6,823,476.37		
218	217	2/1/2041	1,700,329		13,789.67	8,356,576.22		7,329.62	6,830,805.99		
219	218	3/1/2041	1,875,394		15,209.44	8,371,785.67		8,060.77	6,838,866.76		
220	219	4/1/2041	1,808,074		14,663.48	8,386,449.15		7,748.82	6,846,615.58		
221	220	5/1/2041	1,861,356		15,095.60	8,401,544.75		7,953.97	6,854,569.54		
222	221	6/1/2041	1,794,611		14,554.30	8,416,099.05		7,646.45	6,862,215.99		
223	222	7/1/2041	1,847,568		14,983.78	8,431,082.83		7,849.19	6,870,065.18		
224	223	8/1/2041	1,840,766		14,928.62	8,446,011.44		7,797.55	6,877,862.73		
225	224	9/1/2041	1,774,863		14,394.14	8,460,405.58		7,496.52	6,885,359.25		
226	225	10/1/2041	1,827,344		14,819.76	8,475,225.34		7,695.74	6,893,054.99		
227	226	11/1/2041	1,761,990		14,289.74	8,489,515.08		7,398.92	6,900,453.91		
228	227	12/1/2041	1,814,160		14,712.84	8,504,227.92	\$ 8,504,227.92	7,595.84	6,908,049.75	\$ 6,908,049.75	19
229	228	1/1/2042	1,807,656	\$ 8.31	15,021.62	8,519,249.54		7,732.70	6,915,782.46		
230	229	2/1/2042	1,626,900		13,519.54	8,532,769.08		6,939.23	6,922,721.69		
231	230	3/1/2042	1,794,822		14,914.97	8,547,684.05		7,633.21	6,930,354.90		
232	231	4/1/2042	1,730,797		14,382.93	8,562,066.97		7,339.51	6,937,694.41		
233	232	5/1/2042	1,782,216		14,810.21	8,576,877.19		7,535.58	6,945,229.99		
234	233	6/1/2042	1,718,706		14,282.45	8,591,159.64		7,245.91	6,952,475.90		
235	234	7/1/2042	1,769,833		14,707.31	8,605,866.95		7,439.76	6,959,915.66		
236	235	8/1/2042	1,763,725		14,656.55	8,620,523.50		7,392.52	6,967,308.18		
237	236	9/1/2042	1,700,972		14,135.07	8,634,658.58		7,108.76	6,974,416.93		
238	237	10/1/2042	1,751,671		14,556.38	8,649,214.96		7,299.35	6,981,716.29		
239	238	11/1/2042	1,689,410		14,039.00	8,663,253.96		7,019.44	6,988,735.72		
240	239	12/1/2042	1,739,831		14,457.99	8,677,711.95	\$ 8,677,711.95	7,207.91	6,995,943.63	\$ 6,995,943.63	20
241	240	1/1/2043	1,733,990	\$ 8.52	14,773.59	8,692,485.54		7,343.83	7,003,287.46		
242	241	2/1/2043	1,560,956		13,299.34	8,705,784.88		6,591.76	7,009,879.22		
243	242	3/1/2043	1,722,464		14,675.39	8,720,460.28		7,252.64	7,017,131.87		
244	243	4/1/2043	1,661,398		14,155.11	8,734,615.38		6,975.17	7,024,107.04		
245	244	5/1/2043	1,711,142		14,578.93	8,749,194.32		7,163.13	7,031,270.17		
246	245	6/1/2043	1,650,539		14,062.60	8,763,256.91		6,889.34	7,038,159.51		
247	246	7/1/2043	1,700,022		14,484.19	8,777,741.10		7,075.24	7,045,234.75		
248	247	8/1/2043	1,694,536		14,437.45	8,792,178.55		7,031.90	7,052,266.65		
249	248	9/1/2043	1,634,612		13,926.90	8,806,105.45		6,763.51	7,059,030.16		
250	249	10/1/2043	1,683,711		14,345.22	8,820,450.67		6,946.40	7,065,976.56		
251	250	11/1/2043	1,624,230		13,838.44	8,834,289.11		6,681.51	7,072,658.08		
252	251	12/1/2043	1,673,078		14,254.62	8,848,543.73	\$ 8,848,543.73	6,862.44	7,079,520.52	\$ 7,079,520.52	21
253	252	1/1/2044	1,667,833	\$ 8.73	14,560.18	8,863,103.91		6,989.16	7,086,509.68		
254	253	2/1/2044	1,555,367		13,578.36	8,876,682.26		6,498.91	7,093,008.59		
255	254	3/1/2044	1,657,482		14,469.8						

Line No.	Month	Month/Year	Volume Water, Gal-Per Table 2	Rate For Service - Adjusted For Inflation	Inflated Cost Water Removal, \$	Cumulative Monthly Value of Cost of Service	Cumulative Annual Value of Cost of Service	Present Value Water Removal, \$	Cumulative Monthly Present Value of Cost of Service	Cumulative Annual Present Value of Cost of Service	Project Year
257	256	5/1/2044	1,647,314		14,381.05	8,919,493.04		6,823.22	7,113,379.97		
258	257	6/1/2044	1,589,321		13,874.77	8,933,367.81		6,563.87	7,119,943.84		
259	258	7/1/2044	1,637,328		14,293.87	8,947,661.68		6,742.47	7,126,686.31		
260	259	8/1/2044	1,632,401		14,250.86	8,961,912.54		6,702.63	7,133,388.94		
261	260	9/1/2044	1,575,018		13,749.91	8,975,662.45		6,448.21	7,139,837.15		
262	261	10/1/2044	1,622,679		14,165.99	8,989,828.44		6,624.02	7,146,461.17		
263	262	11/1/2044	1,565,694		13,668.50	9,003,496.94		6,372.81	7,152,833.97		
264	263	12/1/2044	1,613,130		14,082.63	9,017,579.57	\$ 9,017,579.57	6,546.79	7,159,380.76	\$ 7,159,380.76	22
265	264	1/1/2045	1,608,419	\$ 8.95	14,395.35	9,031,974.92		6,672.71	7,166,053.47		
266	265	2/1/2045	1,448,549		12,964.51	9,044,939.44		5,991.99	7,172,045.47		
267	266	3/1/2045	1,599,124		14,312.16	9,059,251.59		6,595.62	7,178,641.08		
268	267	4/1/2045	1,543,101		13,810.75	9,073,062.34		6,346.04	7,184,987.12		
269	268	5/1/2045	1,589,993		14,230.44	9,087,292.78		6,519.87	7,191,506.99		
270	269	6/1/2045	1,534,344		13,732.37	9,101,025.15		6,273.38	7,197,780.37		
271	270	7/1/2045	1,581,024		14,150.17	9,115,175.32		6,445.44	7,204,225.80		
272	271	8/1/2045	1,576,600		14,110.57	9,129,285.89		6,408.71	7,210,634.51		
273	272	9/1/2045	1,521,498		13,617.41	9,142,903.30		6,166.74	7,216,801.25		
274	273	10/1/2045	1,567,869		14,032.43	9,156,935.72		6,336.20	7,223,137.46		
275	274	11/1/2045	1,513,124		13,542.46	9,170,478.19		6,097.18	7,229,234.64		
276	275	12/1/2045	1,559,293		13,955.67	9,184,433.86	\$ 9,184,433.86	6,264.95	7,235,499.59	\$ 7,235,499.59	23
277	276	1/1/2046	1,555,063	\$ 9.18	14,275.48	9,198,709.34		6,389.88	7,241,889.46		
278	277	2/1/2046	1,400,786		12,859.21	9,211,568.55		5,739.20	7,247,628.66		
279	278	3/1/2046	1,546,714		14,198.84	9,225,767.39		6,318.66	7,253,947.32		
280	279	4/1/2046	1,492,835		13,704.22	9,239,471.61		6,080.81	7,260,028.14		
281	280	5/1/2046	1,538,514		14,123.56	9,253,595.18		6,248.66	7,266,276.79		
282	281	6/1/2046	1,484,970		13,632.03	9,267,227.20		6,013.65	7,272,290.44		
283	282	7/1/2046	1,530,460		14,049.62	9,281,276.83		6,179.84	7,278,470.28		
284	283	8/1/2046	1,526,487		14,013.15	9,295,289.98		6,145.87	7,284,616.16		
285	284	9/1/2046	1,473,434		13,526.13	9,308,816.10		5,915.02	7,290,531.18		
286	285	10/1/2046	1,518,646		13,941.17	9,322,757.27		6,078.79	7,296,609.97		
287	286	11/1/2046	1,465,914		13,457.09	9,336,214.36		5,850.66	7,302,460.63		
288	287	12/1/2046	1,510,944		13,870.47	9,350,084.83	\$ 9,350,084.83	6,012.84	7,308,473.47	\$ 7,308,473.47	24
289	288	1/1/2047	1,507,145	\$ 9.41	14,182.24	9,364,267.07		6,130.11	7,314,603.58		
290	289	2/1/2047	1,357,891		12,777.76	9,377,044.83		5,506.98	7,320,110.56		
291	290	3/1/2047	1,499,648		14,111.69	9,391,156.52		6,064.19	7,326,174.75		
292	291	4/1/2047	1,447,693		13,622.79	9,404,779.31		5,837.07	7,332,011.82		
293	292	5/1/2047	1,492,284		14,042.39	9,418,821.70		5,999.36	7,338,011.19		
294	293	6/1/2047	1,440,630		13,556.33	9,432,378.02		5,774.86	7,343,786.05		
295	294	7/1/2047	1,485,050		13,974.33	9,446,352.35		5,935.61	7,349,721.66		
296	295	8/1/2047	1,481,482		13,940.75	9,460,293.10		5,904.13	7,355,625.78		
297	296	9/1/2047	1,430,270		13,458.84	9,473,751.94		5,683.46	7,361,309.24		
298	297	10/1/2047	1,474,441		13,874.49	9,487,626.42		5,841.94	7,367,151.18		
299	298	11/1/2047	1,423,516		13,395.29	9,501,021.71		5,623.77	7,372,774.94		
300	299	12/1/2047	1,467,524		13,809.40	9,514,831.12	\$ 9,514,831.12	5,780.76	7,378,555.71	\$ 7,378,555.71	25
301	300	1/1/2048	1,464,112	\$ 9.64	14,114.04	9,528,945.16		5,891.11	7,384,446.81		
302	301	2/1/2048	1,366,490		13,172.96	9,542,118.12		5,482.32	7,389,929.13		
303	302	3/1/2048	1,457,379		14,049.14	9,556,167.26		5,829.96	7,395,759.08		
304	303	4/1/2048	1,407,153		13,564.95	9,569,732.21		5,612.67	7,401,371.75		
305	304	5/1/2048	1,450,766		13,985.38	9,583,717.59		5,769.80	7,407,141.55		
306	305	6/1/2048	1,400,810		13,503.81	9,597,221.40		5,554.91	7,412,696.46		
307	306	7/1/2048	1,444,270		13,922.76	9,611,144.16		5,710.60	7,418,407.06		
308	307	8/1/2048	1,441,065		13,891.87	9,625,036.03		5,681.36	7,424,088.42		
309	308	9/1/2048	1,391,506		13,414.12	9,638,450.14		5,470.02	7,429,558.43		
310	309	10/1/2048	1,434,742		13,830.91	9,652,281.05		5,623.58	7,435,182.01		
311	310	11/1/2048	1,385,441		13,355.65	9,665,636.70		5,414.54	7,440,596.55		
312	311	12/1/2048	1,428,530		13,771.03	9,679,407.73	\$ 9,679,407.73	5,566.71	7,446,163.26	\$ 7,446,163.26	26
313	312	1/1/2049	1,425,466	\$ 9.88	14,083.60	9,693,491.34		5,676.51	7,451,839.77		
314	313	2/1/2049	1,284,775		12,693.57	9,706,184.91		5,101.36	7,456,941.13		
315	314	3/1/2049	1,419,419		14,023.86	9,720,208.78		5,619.60	7,462,560.73		
316	315	4/1/2049	1,370,745		13,542.96	9,733,751.74		5,411.11	7,467,971.84		
317	316	5/1/2049	1,413,480		13,965.18	9,747,716.92		5,563.58	7,473,535.42		
318	317	6/1/2049	1,365,049		13,486.68	9,761,203.60		5,357.33	7,478,892.75		
319	318	7/1/2049	1,407,646		13,907.55	9,775,111.15		5,508.44	7,484,401.19		
320	319	8/1/2049	1,404,768		13,879.11	9,788,990.26		5,481.19	7,489,882.38		
321	320	9/1/2049	1,356,693		13,404.13	9,802,394.39		5,278.21	7,495,160.60		
322	321	10/1/2049	1,399,089		13,823.00	9,816,217.39		5,427.33	7,500,587.92		
323	322	11/1/2049	1,351,246		13,350.31	9,829,567.71		5,226.49	7,505,814.42		
324	323	12/1/2049	1,393,511		13,767.89	9,843,335.60	\$ 9,843,335.60	5,374.29	7,511,188.71	\$ 7,511,188.71	27
325	324	1/1/2050	1,390,759	\$ 10.13	14,088.39	9,857,423.99		5,483.41	7,516,672.12		
326	325	2/1/2050	1,253,706		12,700.05	9,870,124.04		4,928.67	7,521,600.78		
327	326	3/1/2050	1,385,329		14,033.38	9,884,157.42		5,430.27	7,527,031.06		
328	327	4/1/2050	1,338,049		13,554.43	9,897,711.85		5,229.69	7,532,260.75		
329	328	5/1/2050	1,379,995		13,979.35	9,911,691.21		5,377.95	7,537,638.70		
330	329	6/1/2050	1,332,933		13,502.61	9,925,193.82		5,179.44	7,542,818.13		
331	330	7/1/2050	1,374,756		13,926.28	9,939,120.10		5,326.42	7,548,144.55		
332	331	8/1/2050	1,372,172		13,900.10	9,953,020.20		5,300.94	7,553,445.49		
333	332	9/1/2050	1,325,429		13,426.60	9,966,446.80		5,105.48	7,558,550.97		
334	333	10/1/2050	1,367,072		13,848.44	9,980,295.23		5,250.57	7,563,801.53		
335	334	11/1/2050	1,320,538		13,377.05	9,993,672.28		5,057.09	7,568,858.63		
336	335	12/1/2050	1,362,062		13,797.69	10,007,469.96	\$ 10,007,469.96	5,200.94	7,574,059.57	\$ 7,574,059.57	28
337	336	1/1/2051	1,359,591	\$ 10.38	14,112.55	10,021,582.52		5,304.16	7,579,363.73		
338	337	2/1/2051	1,225,805		12,723.86	10,034,306.37		4,768.31	7,584,132.04		
339	338	3/1/2051	1,354,714		14,061.93	10,048,368.31		5,254.44	7,589,386.48		
340	339	4/1/2051	1,308,685		13,584.15	10,061,952.46		5,061.15	7,594,447.62		
341	340	5/1/2051	1,349,924		14,012.21	10,075,964.67		5,205.45	7,599,653.07		
342	341	6/1/2051									

Line No.	Month	Month/Year	Volume Water, Gal-Per Table 2	Rate For Service - Adjusted For Inflation	Inflated Cost Water Removal, \$	Cumulative Monthly Value of Cost of Service	Cumulative Annual Value of Cost of Service	Present Value Water Removal, \$	Cumulative Monthly Present Value of Cost of Service	Cumulative Annual Present Value of Cost of Service	Project Year
353	352	5/1/2052	1,322,918		14,075.85	10,241,269.76		5,049.49	7,659,911.99		
354	353	6/1/2052	1,278,189		13,599.94	10,254,869.69		4,864.58	7,664,776.57		
355	354	7/1/2052	1,318,693		14,030.89	10,268,900.58		5,004.13	7,669,780.70		
356	355	8/1/2052	1,316,608		14,008.71	10,282,909.29		4,981.69	7,674,762.39		
357	356	9/1/2052	1,272,138		13,535.54	10,296,444.84		4,799.43	7,679,561.82		
358	357	10/1/2052	1,312,495		13,964.94	10,310,409.78		4,937.29	7,684,499.11		
359	358	11/1/2052	1,268,192		13,493.57	10,323,903.35		4,756.76	7,689,255.86		
360	359	12/1/2052	1,308,454		13,921.96	10,337,825.30	\$	4,893.50	7,694,149.36	\$	30
361	360	1/1/2053	1,306,461	\$	10.91	14,253.49	10,352,078.80	4,995.46	7,699,144.83		
362	361	2/1/2053	1,178,245		12,854.66	10,364,933.45		4,492.11	7,703,636.94		
363	362	3/1/2053	1,302,528		14,210.58	10,379,144.04		4,951.50	7,708,588.43		
364	363	4/1/2053	1,258,633		13,731.69	10,392,875.73		4,770.72	7,713,359.16		
365	364	5/1/2053	1,298,665		14,168.43	10,407,044.16		4,908.14	7,718,267.30		
366	365	6/1/2053	1,254,928		13,691.27	10,420,735.43		4,729.05	7,722,996.35		
367	366	7/1/2053	1,294,870		14,127.03	10,434,862.46		4,865.38	7,727,861.72		
368	367	8/1/2053	1,292,998		14,106.61	10,448,969.07		4,844.21	7,732,705.93		
369	368	9/1/2053	1,249,493		13,631.97	10,462,601.04		4,667.61	7,737,373.54		
370	369	10/1/2053	1,289,304		14,066.31	10,476,667.35		4,802.32	7,742,175.86		
371	370	11/1/2053	1,245,950		13,593.32	10,490,260.67		4,627.34	7,746,803.20		
372	371	12/1/2053	1,285,676		14,026.72	10,504,287.39	\$	4,760.99	7,751,564.19	\$	31
373	372	1/1/2054	1,283,886	\$	11.18	14,353.84	10,518,641.24	4,857.85	7,756,422.05		
374	373	2/1/2054	1,158,036		12,946.85	10,531,588.08		4,368.93	7,760,790.98		
375	374	3/1/2054	1,280,354		14,314.35	10,545,902.44		4,816.35	7,765,607.34		
376	375	4/1/2054	1,237,366		13,833.75	10,559,736.18		4,641.11	7,770,248.44		
377	376	5/1/2054	1,276,884		14,275.57	10,574,011.75		4,775.41	7,775,023.85		
378	377	6/1/2054	1,234,038		13,796.55	10,587,808.29		4,601.74	7,779,625.59		
379	378	7/1/2054	1,273,476		14,237.47	10,602,045.76		4,735.00	7,784,360.59		
380	379	8/1/2054	1,271,795		14,218.67	10,616,264.43		4,715.00	7,789,075.59		
381	380	9/1/2054	1,229,157		13,741.98	10,630,006.41		4,543.67	7,793,619.26		
382	381	10/1/2054	1,268,478		14,181.58	10,644,187.99		4,675.38	7,798,294.64		
383	382	11/1/2054	1,225,975		13,706.40	10,657,894.39		4,505.59	7,802,800.23		
384	383	12/1/2054	1,265,219		14,145.15	10,672,039.54	\$	4,636.29	7,807,436.52	\$	32
385	384	1/1/2055	1,263,612	\$	11.46	14,480.99	10,686,520.53	4,732.56	7,812,169.08		
386	385	2/1/2055	1,139,888		13,063.11	10,699,583.65		4,256.77	7,816,425.85		
387	386	3/1/2055	1,260,440		14,444.64	10,714,028.28		4,693.27	7,821,119.12		
388	387	4/1/2055	1,218,266		13,961.33	10,727,989.61		4,523.04	7,825,642.16		
389	388	5/1/2055	1,257,324		14,408.93	10,742,398.54		4,654.47	7,830,296.63		
390	389	6/1/2055	1,215,277		13,927.08	10,756,325.62		4,485.74	7,834,782.37		
391	390	7/1/2055	1,254,263		14,373.86	10,770,699.48		4,616.18	7,839,398.54		
392	391	8/1/2055	1,252,754		14,356.56	10,785,056.03		4,597.21	7,843,995.76		
393	392	9/1/2055	1,210,894		13,876.85	10,798,932.88		4,430.68	7,848,426.43		
394	393	10/1/2055	1,249,774		14,322.41	10,813,255.29		4,559.64	7,852,986.07		
395	394	11/1/2055	1,208,037		13,844.10	10,827,099.39		4,394.55	7,857,380.62		
396	395	12/1/2055	1,246,848		14,288.88	10,841,388.27	\$	4,522.55	7,861,903.17	\$	33
397	396	1/1/2056	1,245,404	\$	11.75	14,633.50	10,856,021.77	4,618.15	7,866,521.32		
398	397	2/1/2056	1,163,717		13,673.68	10,869,695.44		4,302.69	7,870,824.01		
399	398	3/1/2056	1,242,555		14,600.03	10,884,295.47		4,580.83	7,875,404.84		
400	399	4/1/2056	1,201,113		14,113.08	10,898,408.55		4,415.17	7,879,820.01		
401	400	5/1/2056	1,239,757		14,567.15	10,912,975.70		4,543.97	7,884,363.98		
402	401	6/1/2056	1,198,429		14,081.54	10,927,057.24		4,379.72	7,888,743.69		
403	402	7/1/2056	1,237,009		14,534.85	10,941,592.10		4,507.56	7,893,251.25		
404	403	8/1/2056	1,235,653		14,518.92	10,956,111.02		4,489.53	7,897,740.78		
405	404	9/1/2056	1,194,493		14,035.29	10,970,146.31		4,327.36	7,902,068.13		
406	405	10/1/2056	1,232,977		14,487.48	10,984,633.79		4,453.79	7,906,521.92		
407	406	11/1/2056	1,191,927		14,005.14	10,998,638.93		4,292.98	7,910,814.90		
408	407	12/1/2056	1,230,349		14,456.60	11,013,095.53	\$	4,418.48	7,915,233.38	\$	34
409	408	1/1/2057	1,229,053	\$	12.04	14,797.80	11,027,893.33	4,509.61	7,919,742.99		
410	409	2/1/2057	1,108,952		13,351.78	11,041,245.11		4,057.10	7,923,800.09		
411	410	3/1/2057	1,226,494		14,766.99	11,056,012.10		4,474.08	7,928,274.17		
412	411	4/1/2057	1,185,709		14,275.93	11,070,288.04		4,312.72	7,932,586.90		
413	412	5/1/2057	1,223,982		14,736.74	11,085,024.77		4,438.99	7,937,025.89		
414	413	6/1/2057	1,183,299		14,246.92	11,099,271.69		4,278.96	7,941,304.85		
415	414	7/1/2057	1,221,513		14,707.02	11,113,978.71		4,404.30	7,945,709.15		
416	415	8/1/2057	1,220,296		14,692.36	11,128,671.07		4,387.12	7,950,096.27		
417	416	9/1/2057	1,179,763		14,204.35	11,142,875.42		4,229.07	7,954,325.34		
418	417	10/1/2057	1,217,893		14,663.43	11,157,538.85		4,353.05	7,958,678.39		
419	418	11/1/2057	1,177,459		14,176.60	11,171,715.45		4,196.29	7,962,874.68		
420	419	12/1/2057	1,215,533		14,635.01	11,186,350.46	\$	4,319.38	7,967,194.06	\$	35
421	420	1/1/2058	1,214,368	\$	12.34	14,985.30	11,201,335.77	4,409.90	7,971,603.96		
422	421	2/1/2058	1,095,807		13,522.25	11,214,858.02		3,967.78	7,975,571.74		
423	422	3/1/2058	1,212,071		14,956.95	11,229,814.97		4,376.00	7,979,947.74		
424	423	4/1/2058	1,171,875		14,460.94	11,244,275.91		4,218.57	7,984,166.31		
425	424	5/1/2058	1,209,814		14,929.10	11,259,205.01		4,342.48	7,988,508.79		
426	425	6/1/2058	1,169,710		14,434.23	11,273,639.24		4,186.32	7,992,695.12		
427	426	7/1/2058	1,207,597		14,901.75	11,288,540.99		4,309.35	7,997,004.47		
428	427	8/1/2058	1,206,504		14,888.26	11,303,429.25		4,292.93	8,001,297.40		
429	428	9/1/2058	1,166,535		14,395.05	11,317,824.29		4,138.64	8,005,436.04		
430	429	10/1/2058	1,204,346		14,861.63	11,332,685.92		4,260.36	8,009,696.40		
431	430	11/1/2058	1,164,466		14,369.51	11,347,055.43		4,107.31	8,013,803.70		
432	431	12/1/2058	1,202,226		14,835.47	11,361,890.90	\$	4,228.16	8,018,031.87	\$	36
433	432	1/1/2059	1,201,181	\$	12.65	15,194.94	11,377,085.84	4,318.02	8,022,349.88		
434	433	2/1/2059	1,084,001		13,712.62	11,390,798.45		3,885.45	8,026,235.33		
435	434	3/1/2059	1,199,117		15,168.83	11,405,967.29		4,285.56	8,030,520.89		
436	435	4/1/2059	1,159,451		14,667.06	11,420,634.34		4,131.75	8,034,652.64		
437	436	5/1/2059	1,197,091		15,143.20	11,435,777.54		4,253.47	8,038,906.11		
438	437	6/1/2059	1,157,507		14,642.47	11,450,420.01		4,100.86	8,043,006.98		
439	438	7/1/2059	1,195,100		15,118.01	11,465,538.02		4,221.74	8,047,228.71		
440	439	8/1/2059	1,194,118		15,105.59	11,480,643.61		4,206.00	8,051,434.71		
441	440	9/1/2059	1,154,656		14,606.40	11,495,250.01		4,055.18	8,055,489.89		
442	441	10/1/2059	1,192,180		15,081.08	11,510,331.09		4,174.78	8,059,664.67		
443	442	11/1/2059	1,152,797		14,582.89	11,524,913.97		4,025.13	8,063,689.81		
444	443	12/1/2059	1,190,276		15,057.00	11,539,970.97	\$	4,143.91	8,067,833.72	\$	37
445	444	1/1/2060	1,189,337	\$	12.97	15,425.71	11,555,396.67	4,233.04	8,072,066.76		
446	445	2/1/2060	1,111,735		14,419.21	11,569,815.88		3,945.33	8,076,012.09		
447	446	3/1/2060	1,187,484		15,401.67	11,585,217.55		4,201.90	8,080,213.99		
448	447	4/1/2060	1,148,294		14,893.37	11,600,110.92		4,051.41	8,084		

Line No.	Month	Month/Year	Volume Water, Gal-Per Table 2	Rate For Service - Adjusted For Inflation	Inflated Cost Water Removal, \$	Cumulative Monthly Value of Cost of Service	Cumulative Annual Value of Cost of Service	Present Value Water Removal, \$	Cumulative Monthly Present Value of Cost of Service	Cumulative Annual Present Value of Cost of Service	Project Year
449	448	5/1/2060	1,185,664		15,378.07	11,615,488.99		4,171.09	8,088,436.48		
450	449	6/1/2060	1,146,548		14,870.73	11,630,359.72		4,021.75	8,092,458.24		
451	450	7/1/2060	1,183,876		15,354.88	11,645,714.59		4,140.61	8,096,598.85		
452	451	8/1/2060	1,182,995		15,343.44	11,661,058.03		4,125.49	8,100,724.34		
453	452	9/1/2060	1,143,988		14,837.52	11,675,895.55		3,977.86	8,104,702.20		
454	453	10/1/2060	1,181,254		15,320.87	11,691,216.42		4,095.50	8,108,797.70		
455	454	11/1/2060	1,142,318		14,815.87	11,706,032.28		3,948.99	8,112,746.69		
456	455	12/1/2060	1,179,545		15,298.69	11,721,330.98	\$ 11,721,330.98	4,065.82	8,116,812.51	\$ 8,116,812.51	38
457	456	1/1/2061	1,178,701	\$ 13.29	15,664.94	11,736,995.92		4,151.05	8,120,963.56		
458	457	2/1/2061	1,063,879		14,138.95	11,751,134.87		3,735.78	8,124,699.34		
459	458	3/1/2061	1,177,037		15,642.82	11,766,777.69		4,121.11	8,128,820.46		
460	459	4/1/2061	1,138,274		15,127.66	11,781,905.35		3,973.80	8,132,794.26		
461	460	5/1/2061	1,175,403		15,621.10	11,797,526.45		4,091.49	8,136,885.75		
462	461	6/1/2061	1,136,706		15,106.82	11,812,633.28		3,945.28	8,140,831.03		
463	462	7/1/2061	1,173,797		15,599.76	11,828,233.04		4,062.17	8,144,893.20		
464	463	8/1/2061	1,173,005		15,589.24	11,843,822.28		4,047.62	8,148,940.82		
465	464	9/1/2061	1,134,407		15,076.26	11,858,898.54		3,903.05	8,152,843.87		
466	465	10/1/2061	1,171,442		15,568.47	11,874,467.01		4,018.75	8,156,862.62		
467	466	11/1/2061	1,132,907		15,056.34	11,889,523.35		3,875.25	8,160,737.87		
468	467	12/1/2061	1,169,907		15,548.06	11,905,071.41	\$ 11,905,071.41	3,990.18	8,164,728.05	\$ 8,164,728.05	39
469	468	1/1/2062	1,169,150	\$ 13.62	15,923.82	11,920,995.23		4,074.72	8,168,802.77		
470	469	2/1/2062	1,055,328		14,373.57	11,935,368.79		3,667.34	8,172,470.11		
471	470	3/1/2062	1,167,655		15,903.46	11,951,272.26		4,045.88	8,176,515.98		
472	471	4/1/2062	1,129,275		15,380.73	11,966,652.99		3,901.51	8,180,417.50		
473	472	5/1/2062	1,166,187		15,883.47	11,982,536.46		4,017.32	8,184,434.82		
474	473	6/1/2062	1,127,867		15,361.55	11,997,898.01		3,874.02	8,188,308.84		
475	474	7/1/2062	1,164,745		15,863.83	12,013,761.84		3,989.05	8,192,297.90		
476	475	8/1/2062	1,164,034		15,854.14	12,029,615.98		3,975.02	8,196,272.92		
477	476	9/1/2062	1,125,802		15,333.43	12,044,949.41		3,833.29	8,200,106.21		
478	477	10/1/2062	1,162,630		15,835.02	12,060,784.43		3,947.17	8,204,053.38		
479	478	11/1/2062	1,124,456		15,315.09	12,076,099.52		3,806.47	8,207,859.84		
480	479	12/1/2062	1,161,252		15,816.25	12,091,915.77	\$ 12,091,915.77	3,919.59	8,211,779.44	\$ 8,211,779.44	40
481	480	1/1/2063	1,160,571	\$ 13.96	16,201.58	12,108,117.35		4,003.41	8,215,782.85		
482	481	2/1/2063	1,047,649		14,625.18	12,122,742.53		3,603.37	8,219,386.22		
483	482	3/1/2063	1,159,229		16,182.84	12,138,925.37		3,975.56	8,223,361.77		
484	483	4/1/2063	1,121,194		15,651.87	12,154,577.24		3,833.93	8,227,195.70		
485	484	5/1/2063	1,157,911		16,164.44	12,170,741.68		3,947.97	8,231,143.68		
486	485	6/1/2063	1,119,930		15,634.22	12,186,375.90		3,807.37	8,234,951.04		
487	486	7/1/2063	1,156,616		16,146.36	12,202,522.26		3,920.65	8,238,871.69		
488	487	8/1/2063	1,155,977		16,137.44	12,218,659.71		3,907.09	8,242,778.78		
489	488	9/1/2063	1,118,075		15,608.33	12,234,268.03		3,767.99	8,246,546.78		
490	489	10/1/2063	1,154,717		16,119.85	12,250,387.88		3,880.16	8,250,426.94		
491	490	11/1/2063	1,116,866		15,591.45	12,265,979.33		3,742.06	8,254,169.00		
492	491	12/1/2063	1,153,479		16,102.56	12,282,081.89	\$ 12,282,081.89	3,853.49	8,258,022.49	\$ 8,258,022.49	41
493	492	1/1/2064	1,152,868	\$ 14.31	16,497.54	12,298,579.43		3,936.53	8,261,959.02		
494	493	2/1/2064	1,077,923		15,425.08	12,314,004.51		3,669.92	8,265,628.95		
495	494	3/1/2064	1,151,662		16,480.29	12,330,484.80		3,909.58	8,269,538.52		
496	495	4/1/2064	1,113,937		15,940.43	12,346,425.23		3,770.51	8,273,309.03		
497	496	5/1/2064	1,150,479		16,463.35	12,362,888.58		3,882.87	8,277,191.91		
498	497	6/1/2064	1,112,801		15,924.18	12,378,812.77		3,744.79	8,280,936.70		
499	498	7/1/2064	1,149,316		16,446.71	12,395,259.47		3,856.42	8,284,793.12		
500	499	8/1/2064	1,148,742		16,438.50	12,411,697.97		3,843.29	8,288,636.40		
501	500	9/1/2064	1,111,136		15,900.35	12,427,598.32		3,706.66	8,292,343.06		
502	501	10/1/2064	1,147,610		16,422.30	12,444,020.62		3,817.20	8,296,160.26		
503	502	11/1/2064	1,110,050		15,884.81	12,459,905.43		3,681.53	8,299,841.79		
504	503	12/1/2064	1,146,498		16,406.39	12,476,311.82	\$ 12,476,311.82	3,791.35	8,303,633.14	\$ 8,303,633.14	42
505	504	1/1/2065	1,145,949	\$ 14.67	16,811.08	12,493,122.90		3,873.57	8,307,506.71		
506	505	2/1/2065	1,034,560		15,177.00	12,508,299.89		3,486.88	8,310,993.60		
507	506	3/1/2065	1,144,867		16,795.20	12,525,095.09		3,847.44	8,314,841.03		
508	507	4/1/2065	1,107,419		16,245.84	12,541,340.93		3,710.77	8,318,551.80		
509	508	5/1/2065	1,143,804		16,779.60	12,558,120.53		3,821.54	8,322,373.34		
510	509	6/1/2065	1,106,399		16,230.88	12,574,351.41		3,685.82	8,326,059.16		
511	510	7/1/2065	1,142,759		16,764.28	12,591,115.69		3,795.88	8,329,855.04		
512	511	8/1/2065	1,142,244		16,756.72	12,607,872.41		3,783.13	8,333,638.17		
513	512	9/1/2065	1,104,904		16,208.93	12,624,081.35		3,648.82	8,337,286.99		
514	513	10/1/2065	1,141,228		16,741.81	12,640,823.16		3,757.81	8,341,044.80		
515	514	11/1/2065	1,103,928		16,194.63	12,657,017.79		3,624.42	8,344,669.23		
516	515	12/1/2065	1,140,229		16,727.16	12,673,744.95	\$ 12,673,744.95	3,732.72	8,348,401.94	\$ 8,348,401.94	43
517	516	1/1/2066	1,139,736	\$ 15.04	17,141.63	12,690,886.58		3,814.09	8,352,216.03		
518	517	2/1/2066	1,028,998		15,476.13	12,706,362.72		3,433.49	8,355,649.52		
519	518	3/1/2066	1,138,764		17,127.01	12,723,489.73		3,788.70	8,359,438.22		
520	519	4/1/2066	1,101,566		16,567.55	12,740,057.28		3,654.28	8,363,092.50		
521	520	5/1/2066	1,137,809		17,112.65	12,757,169.93		3,763.54	8,366,856.03		
522	521	6/1/2066	1,100,650		16,553.78	12,773,723.71		3,630.04	8,370,486.07		
523	522	7/1/2066	1,136,872		17,098.55	12,790,822.26		3,738.59	8,374,224.66		
524	523	8/1/2066	1,136,409		17,091.59	12,807,913.85		3,726.20	8,377,950.87		
525	524	9/1/2066	1,099,307		16,533.57	12,824,447.42		3,594.07	8,381,544.93		
526	525	10/1/2066	1,135,496		17,077.86	12,841,525.28		3,701.59	8,385,246.52		
527	526	11/1/2066	1,098,431		16,520.40	12,858,045.68		3,570.35	8,388,816.87		
528	527	12/1/2066	1,134,599		17,064.37	12,875,110.05	\$ 12,875,110.05	3,677.18	8,392,494.05	\$ 8,392,494.05	44
529	528	1/1/2067	1,134,157	\$ 15.41	17,477.35	12,892,587.40		3,755.22	8,396,249.27		
530	529	2/1/2067	1,024,003		15,779.89	12,908,367.30		3,380.64	8,399,629.91		
531	530	3/1/2067	1,133,284		17,463.90	12,925,831.20		3,730.54	8,403,360.45		
532	531	4/1/2067	1,096,309		16,894.13	12,942,725.32		3,598.33	8,406,958.78		
533	532	5/1/2067	1,132,426		17,450.69	12,960,176.01</					

Line No.	Month	Month/Year	Volume Water, Gal - Per Table 2	Rate For Service - Adjusted for Inflation	Inflated Cost Water Removal, \$	Cumulative Monthly Value of Cost of Service	Cumulative Annual Value of Cost of Service	Present Value Water Removal, \$	Cumulative Monthly Present Value of Cost of Service	Cumulative Annual Present Value of Cost of Service	Project Year
545	5/1/2068	5/1/2068	1,127,592		17,815.95	13,167,880.34		3,653.69	8,453,947.04		
546	6/1/2068	6/1/2068	1,090,850		17,235.43	13,185,115.77		3,524.35	8,457,471.39		
547	7/1/2068	7/1/2068	1,126,835		17,803.99	13,202,919.76		3,630.03	8,461,101.42		
548	8/1/2068	8/1/2068	1,126,462		17,798.10	13,220,717.86		3,618.27	8,464,719.70		
549	9/1/2068	9/1/2068	1,089,767		17,218.31	13,237,936.18		3,490.23	8,468,209.92		
550	10/1/2068	10/1/2068	1,125,726		17,786.46	13,255,722.64		3,594.91	8,471,804.83		
551	11/1/2068	11/1/2068	1,089,060		17,207.15	13,272,929.79		3,467.71	8,475,272.54		
552	12/1/2068	12/1/2068	1,125,002		17,775.04	13,290,704.83	\$ 13,290,704.83	3,571.73	8,478,844.27	\$ 8,478,844.27	46
553	1/1/2069	1/1/2069	1,124,646	\$ 16.19	18,208.01	13,308,912.84		3,648.09	8,482,492.37		
554	2/1/2069	2/1/2069	1,015,489		16,440.77	13,325,353.61		3,284.44	8,485,776.80		
555	3/1/2069	3/1/2069	1,123,941		18,196.61	13,343,550.23		3,624.64	8,489,401.44		
556	4/1/2069	4/1/2069	1,087,349		17,604.18	13,361,154.41		3,496.43	8,492,897.87		
557	5/1/2069	5/1/2069	1,123,250		18,185.41	13,379,339.82		3,601.37	8,496,499.24		
558	6/1/2069	6/1/2069	1,086,686		17,593.44	13,396,933.26		3,474.00	8,499,973.24		
559	7/1/2069	7/1/2069	1,122,570		18,174.42	13,415,107.68		3,578.29	8,503,551.53		
560	8/1/2069	8/1/2069	1,122,235		18,168.99	13,433,276.67		3,566.81	8,507,118.34		
561	9/1/2069	9/1/2069	1,085,713		17,577.69	13,450,854.36		3,440.70	8,510,559.04		
562	10/1/2069	10/1/2069	1,121,574		18,158.28	13,469,012.65		3,544.01	8,514,103.05		
563	11/1/2069	11/1/2069	1,085,079		17,567.42	13,486,580.07		3,418.72	8,517,521.76		
564	12/1/2069	12/1/2069	1,120,925		18,147.77	13,504,727.84	\$ 13,504,727.84	3,521.38	8,521,043.15	\$ 8,521,043.15	47
565	1/1/2070	1/1/2070	1,120,604	\$ 16.60	18,602.03	13,523,329.86		3,599.03	8,524,642.18		
566	2/1/2070	2/1/2070	1,011,872		16,797.07	13,540,126.93		3,240.37	8,527,882.55		
567	3/1/2070	3/1/2070	1,119,972		18,591.53	13,558,718.47		3,576.11	8,531,458.66		
568	4/1/2070	4/1/2070	1,083,542		17,986.79	13,576,705.26		3,449.73	8,534,908.38		
569	5/1/2070	5/1/2070	1,119,351		18,581.22	13,595,286.48		3,553.37	8,538,461.75		
570	6/1/2070	6/1/2070	1,082,946		17,976.90	13,613,263.38		3,427.80	8,541,889.56		
571	7/1/2070	7/1/2070	1,118,741		18,571.09	13,631,834.48		3,530.81	8,545,420.36		
572	8/1/2070	8/1/2070	1,118,440		18,566.10	13,650,400.58		3,519.59	8,548,939.95		
573	9/1/2070	9/1/2070	1,082,072		17,962.40	13,668,362.98		3,395.24	8,552,335.20		
574	10/1/2070	10/1/2070	1,117,846		18,556.24	13,686,919.22		3,497.29	8,555,832.49		
575	11/1/2070	11/1/2070	1,081,503		17,952.94	13,704,872.16		3,373.75	8,559,206.23		
576	12/1/2070	12/1/2070	1,117,262		18,546.56	13,723,418.72	\$ 13,723,418.72	3,475.16	8,562,681.40	\$ 8,562,681.40	48
577	1/1/2071	1/1/2071	1,116,975	\$ 17.01	18,999.74	13,742,418.46		3,549.73	8,566,231.13		
578	2/1/2071	2/1/2071	1,008,623		17,156.67	13,759,575.13		3,196.06	8,569,427.19		
579	3/1/2071	3/1/2071	1,116,407		18,990.08	13,778,565.21		3,527.32	8,572,954.50		
580	4/1/2071	4/1/2071	1,080,123		18,372.88	13,796,938.09		3,402.75	8,576,357.25		
581	5/1/2071	5/1/2071	1,115,849		18,980.59	13,815,918.69		3,505.08	8,579,862.33		
582	6/1/2071	6/1/2071	1,079,588		18,363.78	13,834,282.47		3,381.31	8,583,243.64		
583	7/1/2071	7/1/2071	1,115,301		18,971.27	13,853,253.74		3,483.01	8,586,726.65		
584	8/1/2071	8/1/2071	1,115,031		18,966.67	13,872,220.42		3,472.04	8,590,198.69		
585	9/1/2071	9/1/2071	1,078,803		18,350.44	13,890,570.86		3,349.46	8,593,548.15		
586	10/1/2071	10/1/2071	1,114,498		18,957.60	13,909,528.46		3,450.22	8,596,998.37		
587	11/1/2071	11/1/2071	1,078,291		18,341.74	13,927,870.19		3,328.43	8,600,326.80		
588	12/1/2071	12/1/2071	1,113,974		18,948.69	13,946,818.89	\$ 13,946,818.89	3,428.57	8,603,755.37	\$ 8,603,755.37	49
589	1/1/2072	1/1/2072	1,113,715	\$ 17.44	19,423.19	13,966,242.08		3,504.21	8,607,259.58		
590	2/1/2072	2/1/2072	1,041,623		18,165.91	13,984,407.98		3,267.84	8,610,527.42		
591	3/1/2072	3/1/2072	1,113,205		19,414.30	14,003,822.28		3,482.26	8,614,009.68		
592	4/1/2072	4/1/2072	1,077,052		18,783.79	14,022,606.07		3,359.37	8,617,369.05		
593	5/1/2072	5/1/2072	1,112,704		19,405.56	14,042,011.63		3,460.48	8,620,829.53		
594	6/1/2072	6/1/2072	1,076,571		18,775.41	14,060,787.04		3,338.37	8,624,167.89		
595	7/1/2072	7/1/2072	1,112,212		19,396.98	14,080,184.02		3,438.86	8,627,606.75		
596	8/1/2072	8/1/2072	1,111,970		19,392.75	14,099,576.77		3,428.11	8,631,034.86		
597	9/1/2072	9/1/2072	1,075,867		18,763.12	14,118,339.89		3,307.16	8,634,342.02		
598	10/1/2072	10/1/2072	1,111,491		19,384.40	14,137,724.28		3,406.73	8,637,748.75		
599	11/1/2072	11/1/2072	1,075,407		18,755.10	14,156,479.39		3,286.55	8,641,035.30		
600	12/1/2072	12/1/2072	1,111,020		19,376.19	14,175,855.58	\$ 14,175,855.58	3,385.51	8,644,420.81	\$ 8,644,420.81	50
601	1/1/2073	1/1/2073	1,113,715	\$ 17.87	19,423.19	14,195,278.77		3,383.85	8,647,804.66		
602	2/1/2073	2/1/2073	1,041,623		18,165.91	14,213,444.68		3,155.61	8,650,960.27		
603	3/1/2073	3/1/2073	1,113,205		19,414.30	14,232,858.98		3,362.66	8,654,322.93		
604	4/1/2073	4/1/2073	1,077,052		18,783.79	14,251,642.76		3,243.99	8,657,566.92		
605	5/1/2073	5/1/2073	1,112,704		19,405.56	14,271,048.32		3,341.63	8,660,908.54		
606	6/1/2073	6/1/2073	1,076,571		18,775.41	14,289,823.73		3,223.71	8,664,132.25		
607	7/1/2073	7/1/2073	1,112,212		19,396.98	14,309,220.71		3,320.75	8,667,453.00		
608	8/1/2073	8/1/2073	1,111,970		19,392.75	14,328,613.46		3,310.37	8,670,763.37		
609	9/1/2073	9/1/2073	1,075,867		18,763.12	14,347,376.58		3,193.57	8,673,956.94		
610	10/1/2073	10/1/2073	1,111,491		19,384.40	14,366,760.97		3,289.72	8,677,246.67		
611	11/1/2073	11/1/2073	1,075,407		18,755.10	14,385,516.08		3,173.67	8,680,420.34		
612	12/1/2073	12/1/2073	1,111,020		19,376.19	14,404,892.27	\$ 14,404,892.27	3,269.23	8,683,689.57	\$ 8,683,689.57	51
613	1/1/2074	1/1/2074	1,113,715	\$ 18.32	19,423.19	14,424,315.46		3,267.63	8,686,957.20		
614	2/1/2074	2/1/2074	1,041,623		18,165.91	14,442,481.37		3,047.23	8,690,004.43		
615	3/1/2074	3/1/2074	1,113,205		19,414.30	14,461,895.67		3,247.17	8,693,251.60		
616	4/1/2074	4/1/2074	1,077,052		18,783.79	14,480,679.45		3,132.57	8,696,384.17		
617	5/1/2074	5/1/2074	1,112,704		19,405.56	14,500,085.01		3,226.86	8,699,611.03		
618	6/1/2074	6/1/2074	1,076,571		18,775.41	14,518,860.42		3,112.99	8,702,724.02		
619	7/1/2074	7/1/2074	1,112,212		19,396.98	14,538,257.40		3,206.70	8,705,930.71		
620	8/1/2074	8/1/2074	1,111,970		19,392.75	14,557,650.15		3,196.67	8,709,127.39		
621	9/1/2074	9/1/2074	1,075,867		18,763.12	14,576,413.27		3,083.89	8,712,211.28		
622	10/1/2074	10/1/2074	1,111,491		19,384.40	14,595,797.66		3,176.74	8,715,388.01		
623	11/1/2074	11/1/2074	1,075,407		18,755.10	14,614,552.77		3,064.67	8,718,452.68		
624	12/1/2074	12/1/2074	1,111,020		19,376.19	14,633,928.96	\$ 14,633,928.96	3,156.95	8,721,609.63	\$ 8,721,609.63	52
Totals:			1,726,500,537		14,633,929			8,721,610			

**EXHIBIT "C" to Resolution R-22-165  
DESIGN-BUILD AGREEMENT NO. 22-TA004053CD**

**DESIGN-BUILD AMENDMENT TO AGREEMENT NO. 22-TA004053CD**

This Amendment (“Amendment”) is incorporated into the accompanying Design Build Agreement for Piney Point Deep Injection Well Pretreatment Facility, dated as of June 16, 2022 (the “Agreement”), by and between Manatee County, a political subdivision of the State of Florida, referred to herein as “Owner”, and the firms Westra Construction Corp., a Florida For Profit Corporation, (License # CGC062888) and McKim & Creed, Inc. a North Carolina corporation, both registered and licensed to do business in the State of Florida, collectively both firms are referred to herein as “Design-Builder”.

The Owner and Design-Builder hereby amend the Agreement as follows:

**TABLE OF ARTICLES**

- I CONTRACT SUM**
- II CONTRACT TIME**
- III INFORMATION UPON WHICH AMENDMENT IS BASED**
- IV DESIGN-BUILDER’S PERSONNEL, CONTRACTORS AND SUPPLIERS**
- V COST OF THE WORK**

**ARTICLE I  
CONTRACT SUM**

**1.1 Contract Sum.** The Owner shall pay the Design-Builder the Contract Sum in current funds for the Design-Builder’s performance of the Contract after the execution of this Amendment. The Contract Sum shall be one of the following and shall not include compensation the Owner paid the Design-Builder for Work performed prior to execution of this Amendment:

- Stipulated Sum, in accordance with Section 1.2 below**
- Cost of the Work plus the Design-Builder’s Fee, in accordance with Section 1.3 below
- Cost of the Work plus the Design-Builder’s Fee with a Guaranteed Maximum Price, in accordance with Section 1.4 below

*(Based on the selection above, complete Section 1.2, 1.3 or 1.4 below.)*

## 1.2 Stipulated Sum.

- A. The Stipulated Sum shall be **Seventeen Million, Nine Hundred Thousand** dollars and **Zero** cents (**\$17,900,000.00**), subject to authorized adjustments as provided in the Design-Build Documents.
- B. The Stipulated Sum is based upon the following alternates, if any, which are described in the Design-Build Documents and are hereby accepted by the Owner:  
*None.*
- C. Unit prices, if any: None

## 1.3 Cost of the Work Plus Design-Builder's Fee. **NOT APPLICABLE**

- A. The Cost of the Work is as defined in Article V, Cost of the Work.
- B. The Design-Builder's Fee:

## 1.4 Cost of the Work Plus Design-Builder's Fee With a Guaranteed Maximum Price. **NOT APPLICABLE**

- A. The Cost of the Work is as defined in Article V, Cost of the Work.
- B. The Design-Builder's Fee:
- C. Guaranteed Maximum Price. The Sum of the Cost of the Work and the Design-Builder's Fee is guaranteed by the Design-Builder not to exceed \_\_\_\_ dollars (\$\_\_\_\_), subject to additions and deductions for changes in the work as provided in the Design-Build Documents. Costs that would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Design-Builder without reimbursement by the Owner.
- D. Itemized Statement of the Guaranteed Maximum Price. Provided below is an itemized statement of the Guaranteed Maximum Price organized by trade categories, allowances, contingencies, alternates, the Design-Builder's Fee, and other items that comprise the Guaranteed Maximum Price.
- E. The Guaranteed Maximum Price is based on the following alternates, if any, which are described in the Design-Build Documents and are hereby accepted by the Owner:
- F. Unit prices, if any:
- G. Assumptions, if any, on which the Guaranteed Maximum Price is based:

## 1.5 Payments.

### A. Progress Payments.

- (1) Based upon Applications for Payment submitted to the Owner by the Design-Builder, the Owner shall make progress payments on account of the Contract Sum to the Design-Builder as provided below and elsewhere in the Design-Build Documents.
- (2) The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:
- (3) With each Application for Payment where the Contract Sum is based upon the Cost of the Work, or the Cost of the Work with a Guaranteed Maximum Price, the Design-Builder shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner to demonstrate that cash disbursements already made by the Design-Builder on account of the Cost of the Work equal or exceed (1) progress payments already received by the Design-Builder, less (2) that portion of those payments attributable to the Design-Builder's Fee; plus (3) payrolls for the period covered by the present Application for Payment.
- (4) With each Application for Payment where the Contract Sum is based upon a Stipulated Sum or Cost of the Work with a Guaranteed Maximum Price, the Design-Builder shall submit the most recent schedule of values in accordance with the Design-Build Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. Compensation for design services, if any, shall be shown separately. Where the Contract Sum is based on the Cost of the Work with a Guaranteed Maximum Price, the Design-Builder's Fee shall be shown separately. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Owner may require. This schedule of values, unless objected to by the Owner, shall be used as a basis for reviewing the Design-Builder's Applications for Payment.
- (5) In taking action on the Design-Builder's Applications for Payment, the Owner shall be entitled to rely on the accuracy and completeness of the information furnished by the Design-Builder and shall not be deemed to have made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Sections 1.5.A(3) or 1.5.A(4), or other supporting data; to have made exhaustive or continuous on-site inspections; or to have made examinations to ascertain how or for what purposes the Design-Builder has used amounts previously paid. Such examinations, audits and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

- (6) Except with the Owner's prior approval, the Design-Builder shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

B. Progress Payments-Stipulated Sum.

- (1) Applications for Payment where the Contract Sum is based upon a Stipulated Sum shall indicate the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

- (2) Subject to other provisions of the Design-Builder Documents, the amount of each progress payment shall be computed as follows:

- .1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of five percent (5%). Pending final determination of costs to the Owner of changes in the work, amounts not in dispute shall be included as provided in Section 6.6 of the Agreement;

- .2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), supported by paid receipts, less retainage of five percent (5%);

- .3 Subtract the aggregate of previous payments made by the Owner; and

- .4 Subtract amounts, if any, the Owner has withheld or nullified, as provided in Section 9.5 of the Agreement.

- (3) The progress payment amount determined in accordance with Section 1.5.B(2) shall be further modified under the following circumstances:

- .1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to the full amount of the Contract Sum, less such amounts as the Owner shall determine for incomplete Work, retainage applicable to such work and unsettled claims; and

- .2 Add, if final completion of the Work is thereafter materially delayed through no fault of the Design-Builder, any additional amounts payable in accordance with Section 9.10 of the Agreement.

C. Progress Payments-Cost of the Work Plus a Fee.

- (1) Where the Contract Sum is based upon the Cost of the Work plus a fee without a Guaranteed Maximum Price, Applications for Payment shall show the Cost of the Work actually incurred by the Design-Builder through the end of the period covered by the Application for Payment and for which Design-Builder has made or intends to make actual payment prior to the next Application for Payment.
- (2) Subject to other provisions of the Design-Build Documents, the amount of each progress payment shall be computed as follows:
  - .1 Take the Cost of the Work as described in Section 1.5C. (1) above;
  - .2 Add the Design-Builder's Fee, less retainage of five percent (5%). The Design-Builder's Fee shall be computed upon the Cost of the Work described in the preceding Section 1.5.C(2).1 at the rate stated in Section 1.3.B; or if the Design-Builder's Fee is stated as a fixed sum in that Section, an amount which bears the same ratio to that fixed-sum Fee as the Cost of the Work in that Section bears to a reasonable estimate of the probable Cost of the Work upon its completion;
  - .3 Subtract retainage of five percent (5%) from that portion of the Work that the Design-Builder self-performs;
  - .4 Subtract the aggregate of previous payments made by the Owner;
  - .5 Subtract the shortfall, if any, indicated by the Design-Builder in the documentation required by Section 1.5.A(4) or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and
  - .6 Subtract amounts, if any, for which the Owner has withheld or withdrawn a Certificate of Payment as provided in the Section 9.5 of the Agreement.
- (3) The Owner and Design-Builder shall agree upon (1) a mutually acceptable procedure for review and approval of payments to the Architect, Consultants, and Contractors and (2) the percentage of retainage held on agreements with the Architect, Consultants, and Contractors, and the Design-Builder shall execute agreements in accordance with those terms.

D. Progress Payments-Cost of the Work Plus a Fee with a Guaranteed Maximum Price.

- (1) Applications for Payment where the Contract Sum is based upon the Cost of the Work Plus a Fee with a Guaranteed Maximum Price shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1)

the percentage of that portion of the Work which has actually been completed; or (2) the percentage obtained by dividing (a) the expense that had actually been incurred by the Design-Builder on account of that portion of the Work for which the Design-Builder has made or intends to make actual payment prior to the next Application for Payment by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

- (2) Subject to other provisions of the Design-Build Documents, the amount of each progress payment shall be computed as follows:
  - .1 Take that portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values. Pending final determination of costs to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 6.6 of the Agreement.
  - .2 Add that portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), supported by paid receipts;
  - .3 Add the Design-Builder's Fee, less retainage of five percent (5%). The Design-Builder's Fee shall be computed upon the Cost of the Work at the rate stated in Section 1.4.B or, if the Design-Builder's Fee is stated as a fixed sum in that Section, shall be an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;
  - .4 Subtract retainage of five percent (5%) from that portion of the Work that the Design-Builder self-performs;
  - .5 Subtract the aggregate of previous payments made by the Owner;
  - .6 Subtract the shortfall, if any, indicated by the Design-Builder in the documentation required by Section 1.5.A(4) to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and
  - .7 Subtract amounts, if any, for which the Owner has withheld or nullified a payment as provided in Section 9.5 of the Agreement.
- (3) The Owner and Design-Builder shall agree upon (1) a mutually acceptable procedure for review and approval of payments to the Architect, Consultants, and Contractors and (2) the percentage of retainage held on agreements with the

Architect, Consultants, and Contractors, and the Design-Builder shall execute agreements in accordance with those terms.

E. Reduction or limitation of retainage.

Upon completion of at least fifty percent (50%) of the Work, as determined by the Owner, the Owner may reduce to two and one-half percent (2.5%) the amount of retainage withheld from each subsequent progress payment.

F. Final Payment.

- (1) Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Design-Builder not later than 30 days after the Design-Builder has fully performed the Agreement and the requirements of Section 9.10 of the Agreement have been satisfied, except for the Design-Builder's responsibility to correct non-conforming Work discovered after final payment or to satisfy other requirements, if any, which extend beyond final payment.
- (2) If the Contract Sum is based on the Cost of the Work, the Owner's auditors will review and report in writing on the Design-Builder's final accounting within 30 days after the Design-Builder delivers the final accounting to the Owner. Based upon the Cost of the Work the Owner's auditors report to be substantiated by the Design-Builder's final accounting, and provided the other conditions of Section 9.10 of the Agreement have been met, the Owner will, within seven days after receipt of the written report of the Owner's auditors, either issue a final Certificate for Payment, or notify the Design Builder in writing of the reasons for withholding a certificate as provided in Section 9.5.A of the Agreement.

## ARTICLE II CONTRACT TIME

**2.1 Contract Time.** Contract Time is the period of time, including authorized adjustments, for Substantial Completion of the Work.

**2.2 Substantial Completion.** The Design-Builder shall achieve Substantial Completion of the Work not later than four hundred (400) calendar days from the date of this Agreement subject to adjustments of the Contract Time as provided in the Design-Build Documents. The Design-Builder's failure to achieve Substantial Completion within the Contract Time will result in the Design-Builder being liable for payment to Owner of liquidated damages as set forth in Section 8.2.C of the Agreement.

**ARTICLE III  
INFORMATION UPON WHICH AMENDMENT IS BASED**

**3.1 Documents.** The Contract Sum and Contract Time set forth in this Amendment are based on the following:

Document	Title	Date	Pages
	<b>Piney Point Deep Well Injection Pretreatment Facility Design-Build Proposal-Revision 3;</b>		<b>13 pages, included as Exhibit "1".</b>

A. The Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
<b>NONE</b>			

B. The Specifications:

Section	Title	Date	Pages
<b>See Construction Plans</b>			

C. The Drawings:

Number	Title	Date
	<b>Piney Point Deep Injection Well Pretreatment Project, County Project 6107400;</b>	<b>Dated November 2021</b>

D. The Sustainability Plan, if any: **None**

E. Other identifying information: **None**

F. Allowances and Contingencies:

- .1 Allowances- **None**
- .2 Contingencies- \$712,131.00 Owner's Contingency to be used only with Owners written approval.

G. Design-Builder's assumptions and clarifications: **See Exhibit "1".**

- H. Deviations from the Owner's Criteria as adjusted by a Modification: **None**
- I. To the extent the Design-Builder shall be required to submit any additional Submittals to the Owner for review, indicate any such submission below:

**ARTICLE IV  
DESIGN-BUILDER'S PERSONNEL, CONTRACTORS AND SUPPLIERS**

**4.1 Personnel.** The Design-Builder's key personnel are identified below:

- .1 Superintendent – Cole Skinner
- .2 Project Manager – Bob Huffmyer
- .3 Others- Project Engineer: Phil Locke

**4.2 Consultants, Contractors.** The Design-Builder shall retain the following Consultants, Contractors and suppliers, identified below:

- 1. B.L. Smith, Inc. (Electrical)  
29252 US Highway 27  
Dundee, FL 33838
- 2. Sandhoff Construction Company (Concrete)  
2107 8th Street West  
Palmetto, FL 34221
- 3. Allstate Directional Drilling, Inc. (Horizontal directional drilling)  
7282 55<sup>th</sup> Ave East Suite #171  
Bradenton, FL 34203

**ARTICLE V  
COST OF THE WORK**

**5.1 Costs To Be Reimbursed as Part of the Agreement.**

- A. Labor Cost. Wages of construction workers directly employed by the Design-Builder to perform the construction of the Work at the site or, with the Owner's prior approval, at off-site workshops.

- B. With the Owner's prior approval, wages or salaries of the Design-Builder's supervisory and administrative personnel when stationed at the site.
  - (1) Wages and salaries of the Design-Builder's supervisory or administrative personnel engaged at factories, workshops or on the road, in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work.
  - (2) Costs paid or incurred by the Design-Builder for taxes, insurance, contributions, assessments and benefits required by law or collective bargaining agreements and, for personnel not covered by such agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Section 5.1.A.
  - (3) Bonuses, profit sharing, incentive compensation and any other discretionary payments paid to anyone hired by the Design-Builder or paid to the Architect/Engineer or any Consultant, Contractor or supplier, with the Owner's prior approval.
- C. Contract Costs. Payments made by the Design-Builder to the Architect, Consultants, Contractors and suppliers in accordance with the requirements of their subcontracts.
- D. Costs of Materials and Equipment Incorporated in the Completed Construction.
  - (1) Costs, including transportation and storage, of materials and equipment incorporated or to be incorporated in the completed construction.
  - (2) Costs of materials described in the preceding Section 5.1.D(1) in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work or, at the Owner's option, shall be sold by the Design-Builder. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.
- E. Costs of Other Materials and Equipment, Temporary Facilities and Related Items.
  - (1) Costs of transportation, storage, installation, maintenance, dismantling and removal of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Design-Builder at the site and fully consumed in the performance of the Work. Costs of materials, supplies, temporary facilities, machinery, equipment and tools that are not fully consumed shall be based on the cost or value of the item at the time it is first used on the Project site less the value of the item when it is no longer used at

the Project site. Costs for items not fully consumed by the Design-Builder shall mean fair market value.

- (2) Rental charges for temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Design-Builder at the site and costs of transportation, installation, minor repairs, dismantling and removal. The total rental cost of any Design-Builder owned item may not exceed the purchase price of any comparable item. Rates of Design-Builder-owned equipment and quantities of equipment shall be subject to the Owner's prior approval.
- (3) Costs of removal of debris from the site of the Work and its proper and legal disposal.
- (4) Costs of document reproduction, electronic communications, postage and parcel delivery charges, dedicated data and communications service, teleconferences, Project websites, extranets and reasonable petty cash expenses of the site office.
- (5) Costs of materials and equipment suitably stored off the site at a mutually acceptable location, with the Owner's prior approval.

F. Miscellaneous Costs.

- (1) Premiums for that portion of insurance and bonds required by the Design-Build Documents that can be directly attributed to the Agreement and, with the Owner's prior approval, self-insurance costs for either full or partial amounts of the coverages required by the Design-Build Documents.
- (2) Sales, use or similar taxes imposed by a governmental authority that are related to the Work and for which the Design-Builder is liable.
- (3) Fees and assessments for the building permit and for other permits, licenses and inspections which the Design-Builder is required by the Design-Build Documents to pay.
- (4) Fees of laboratories for tests required by the Design-Build Documents, except those related to defective or nonconforming Work for which reimbursement is excluded by Section 11.2 of the Agreement or by other provisions of the Design-Build Documents, and which do not fall within the scope of Section 5.1.F(3).
- (5) Royalties and license fees paid for the use of particular design, process or product required by the Design-Build Documents; the cost of defending suits or claims for infringement of patent rights arising from such requirement of the Design-Build Documents; and payments made in accordance with legal judgments against the Design-Builder resulting from such suits or claims and payments of settlements made with the Owner's consent. However, such costs of legal defenses, judgments and settlements shall not be included in the calculation of the Design-Builder's Fee

or subject to the Guaranteed Maximum Price. If such royalties, fees and costs are excluded pursuant to Section 3.1.O of the Agreement or other provisions of the Design-Build Documents, then they shall not be included in the Cost of the Work.

- (6) With the Owner's prior written approval, costs for electronic equipment and software directly related to the Work.
- (7) Deposits lost for causes other than the Design-Builder's negligence or failure to fulfill a specific responsibility in the Design-Build Documents.
- (8) With the Owner's prior written approval, legal, mediation and arbitration costs, including attorney's fees, other than those arising from the disputes between the Owner and Design-Builder, reasonably incurred by the Design-Builder after the execution of the Agreement and in the performance of the Work.
- (9) With the Owner's prior written approval, expenses incurred in accordance with the Design-Builder's standard written personnel policy for relocation, and temporary living allowances of, the Design-Builder's personnel required for the Work.
- (10) That portion of the reasonable expenses of the Design-Builder's supervisory or administrative personnel incurred while traveling in discharge of duties connected with the Work.

G. Other Costs and Emergencies.

- (1) Other costs incurred in the performance of the Work if, and to the extent, approved in advance in writing by the Owner.
- (2) Costs incurred in taking action to prevent threatened damage, injury or loss in case of an emergency affecting the safety of persons and property.
- (3) Costs of repairing or correcting damaged or nonconforming Work executed by the Design-Builder, Contractors or suppliers, provided that such damaged or nonconforming Work was not caused by negligence or failure to fulfill a specific responsibility of the Design-Builder and only to the extent that the cost of repair or correction is not recovered by the Design-Builder from insurance, sureties, Contractors, suppliers, or others.

H. Related Party Transactions.

- (1) The term "related party" shall mean a parent, subsidiary, affiliate or other entity having common ownership or management with the Design-Builder; any entity in which any stockholder in, or management employee of, the Design-Builder owns any interest in excess of ten percent in the aggregate; or any person or entity which has the right to control the business or affairs of the Design-Builder. The term "related party" includes any member of the immediate family of any person identified above.

- (2) If any of the costs to be reimbursed arise from a transaction between the Design-Builder and a related party, the Design-Builder shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction, then the cost incurred shall be included as a cost to be reimbursed, and the Design-Builder shall procure the Work, equipment, goods or service from the related party, as a Contractor, according to the terms of Section 5.4. If the Owner fails to authorize the transaction, the Design-Builder shall procure the Work, equipment, goods or service from some person or entity other than a related party according to the terms of Section 5.4.

**5.2 Costs Not to Be Reimbursed.** The Cost of the Work shall not include the items listed below:

- A. Salaries and other compensation of the Design-Builder's personnel stationed at the Design-Builder's principal office or offices other than the site office, except as specifically provided in Section 5.1.B;
- B. Expenses of the Design-Builder's principal office and offices other than the site offices;
- C. Overhead and general expenses, except as may be expressly included in Section 5.1;
- D. The Design-Builder's capital expenses, including interest on the Design-Builder's capital employed for the Work;
- E. Except as provided in Section 5.1.G(3), costs due to the negligence or failure of the Design-Builder, Contractors and suppliers or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable to fulfill a specific responsibility of the Agreement;
- F. Any cost not specifically and expressly described in Section 5.1; and
- G. Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded.

**5.3 Discounts, Rebates, and Refunds.**

- A. Cash discounts obtained on payments made by the Design-Builder shall accrue to the Owner if (1) before making the payment, the Design-Builder included them in an Application for Payment and received payment from the Owner, or (2) the Owner has deposited funds with the Design-Builder with which to make payments; otherwise, cash discounts shall accrue to the Design-Builder. Trade discounts, rebates, refunds and amounts received from sales of surplus materials and

equipment shall accrue to the Owner, and the Design-Builder shall make provisions so that they can be obtained.

- B. Amounts that accrue to the Owner in accordance with Section 5.3.A shall be credited to the Owner as a deduction from the Cost of the Work.

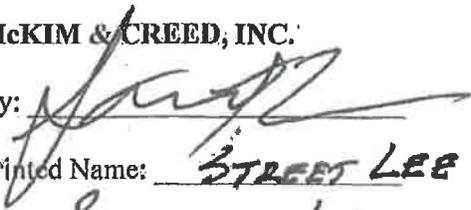
#### **5.4 Other Agreements.**

- A. When the Design-Builder has provided a Guaranteed Maximum Price, and a specific bidder (1) is recommended to the Owner by the Design-Builder; (2) is qualified to perform that portion of the Work; and (3) has submitted a bid that conforms to the requirements of the Design-Build Documents without reservations or exceptions, but the Owner requires that another bid be accepted, then the Design-Builder may require that a Change Order be issued to adjust the Guaranteed Maximum Price by the difference between the bid of the person or entity recommended to the Owner by the Design-Builder and the amount of the subcontract or other agreement actually signed with the person or entity designated by the Owner.
- B. Agreements between the Design-Builder and Contractors shall conform to the applicable payment provisions of the Design-Build Documents, and shall not be awarded on the basis of cost plus a fee without the prior consent of the Owner. If an agreement between the Design-Builder and a Contractor is awarded on a cost plus a fee basis, the Design-Builder shall provide in the agreement for the Owner to receive the same audit rights with regard to the Cost of the Work performed by the Contractor as the Owner receives with regard to the Design-Builder in Section 5.5, below.
- C. The agreements between the Design-Builder and Architect, Contractors and other Consultants identified in the Agreement shall be in writing. These agreements shall be promptly provided to the Owner upon the Owner's written request.

**5.5 Accounting Records.** The Design-Builder shall keep full and detailed records and accounts related to the Cost of the Work and exercise such controls as may be necessary for proper financial management under the Agreement and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice be afforded access to, and shall be permitted to audit and copy, the Design-Builder's records and accounts, including complete documentation supporting accounting entities, books, correspondence, instructions, drawings, receipts, subcontracts, Contractor's proposals, purchase orders, vouchers, memoranda and other data relating to the Agreement. The Design-Builder shall preserve these records for a period of three years after final payment, or for such longer periods as may be required by law.

**WHEREFORE, the parties hereto have entered into this Amendment as of the date last executed below.**

**McKIM & CREED, INC.**

By: 

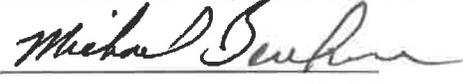
Printed Name: STREET LEE

Title: PRESIDENT & CEO

Date: 6/10/22

**and**

**WESTRA CONSTRUCTION CORP.**

By: 

Printed Name: MICHAEL BECKENS

Title: PRESIDENT

Date: 6-10-22

**and**

**MANATEE COUNTY, a political subdivision  
of the State of Florida**

By: 

Printed Name: Jacob Erickson, MBA, CPPO, NIGP-  
CPP

Title: Purchasing Official

Date: Jun 16, 2022

**EXHIBIT "1"**

**Piney Point Deep Well Injection Pretreatment Facility Design-Build Proposal - Revision 3**



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McKim & Creed, Inc.  
1365 Hamlet Ave., Clearwater, FL 33756

Westra Construction Corp.  
P.O. Box 1149, Palmetto, FL 34220

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221920

June 2, 2022

Mr. Jeff Goodwin  
Deputy Director - Utilities  
Manatee County Utilities Dept.  
4410 66<sup>th</sup> Street West  
Bradenton, FL 34210

Email: [jeff.goodwin@mymanatee.org](mailto:jeff.goodwin@mymanatee.org)

Re: Manatee County, FL  
Piney Point Deep Well Injection Pretreatment Facility Design-Build Proposal –  
Revision 3

Dear Mr. Goodwin:

McKim & Creed, Inc. and Westra Construction Corp., hereafter referred to as the DESIGN-BUILDER, are pleased to provide Manatee County with this Design-Build proposal to complete design engineering services, procure equipment, construct the new facilities, and commission the industrial pretreatment system related to the Piney Point Deep Injection Well project in Manatee County, Florida.

**Project Understanding**

The Piney Point phosphate plant, located in Manatee County, Florida, was first constructed in 1966 to produce phosphate, a key ingredient in fertilizer. The plant was shut down in 1999 and has since then been managed by many various companies, the EPA, and the Florida Department of Environmental Protection (FDEP). Currently the site is under the management of a court appointed Receiver.

The proposed Piney Point Deep Injection Well and Treatment System project is needed to protect public health and safety, local infrastructure, and the environment. Catastrophic failure of the ponds would result in flooding, significant damage to local infrastructure, public safety and health risks, and environmental damage to Tampa Bay and surrounding areas. Since the stored water has a low pH and includes nitrogen, phosphorous, ammonia, suspended solids, dissolved solids, and other constituents, environmental concerns include fish kills, algal growth, and increased potential for red tide. The County has agreed to construct a DIW well to dispose of the stored (bulk) water and water collected by an underdrain system beneath the stacks. The water from the site will be treated prior to injection into the well to avoid chemical or physical plugging of the injection zone. Since

time is of the essence, the DESIGN-BUILDER plans on having the treatment system in operation no later than 400 calendar days after notice to proceed on this proposal.

Prior to injection, the water needs to be treated to remove constituents and material that could plug or scale the spaces in the aquifer. The treatment process generally includes mixing, chemical treatment, clarification, and filtration. After treatment, the water will flow through a backup filter designed to remove microscopic particles and the water will then be pumped into the DIW. The treatment plant will include open top tanks, an enclosed building to house electrical gear, pumps, controls and a restroom, and a covered structure to protect chemical storage tanks. The specific approach to operational staffing for the proposed facility is yet to be determined. However, it is anticipated that a licensed operator will visit the site at least 2-3 times per week for inspection and routine maintenance activities.

Since the stored water constituents will vary over time, the treatment system utilizes modular components so that processes can be added, adjusted, or removed as necessary. This approach provides the County with the ability to quickly adapt over time to meet treatment needs. The system will be automated and will allow for remote monitoring. The site location and proposed treatment system are shown in the proposal design documents that have been developed and are included in Appendix C. A pump station and pipeline connecting to the POTW is included and will allow for system bypass.

McKim & Creed has previously completed an alternatives analysis for the project and has been developing the permitting and design documents for the project under a separate work authorization from Manatee County. In parallel with those tasks, DESIGN-BUILDER has developed this proposal.

#### **Scope of Work**

Upon contract approval, DESIGN-BUILDER will continue engineering efforts to prepare final design and construction documents that will be utilized for procurement of equipment and field installation as noted in the following sections. The design and project intent is as outlined in this scope and depicted on the attached drawings and the pricing provided is based on the Scope of Work defined by these documents. The anticipated installation schedule for the project is included with this proposal in Appendix B.

#### Influent Wastewater Quality

The following influent wastewater quality shown in Table 1 was developed based on the information provided to us by FDEP and Manatee County along with samples taken on site by McKim & Creed and has been used as the basis for design:

Property	Units	Influent
Flow	GPM	701.4
pH	SU	9.80
TSS	mg/L	30
TDS	mg/L	10,400
TN	mg/L	60
Ammonia	mg/L	45.1
TKN	mg/L	51.5
TP	mg/L	0.5
Ortho P	mg/L	1.5
Calcium	mg/L	102
Chloride	mg/L	3,800
Sulfate	mg/L	2,915
Aluminum	mg/L	0.1
Iron	mg/L	34
Manganese	mg/L	<0.01

Table 1 – Treatment Plant Influent Wastewater Characteristics

Note: It is understood that the wastewater characteristics will change as the ponds are dewatered. Depending on the nature of the contaminants in the wastewater, additional chemical dosing measures (including pH adjustment and/or coagulant addition) and on site solids dewatering may be required. These additional capabilities have not been included at this time, but space has been allocated on site to allow for these changes in the future if needed.

#### Treated Effluent Quality

The following treated effluent water quality shown in Table 2 is anticipated following equipment startup and stabilization of the treatment system, based on the influent wastewater flow and quality outlined above.

Property	Units	Required Effluent
pH	SU	< 6.0
TSS	mg/L	< 5
TDS	mg/L	NA
TN	mg/L	NA
Ammonia	mg/L	NA
TKN	mg/L	NA
TP	mg/L	< 10
Ortho P	mg/L	< 30
Calcium	mg/L	< 550
Chloride	mg/L	NA
Sulfate	mg/L	NA
Aluminum	mg/L	< 0.5
Iron	mg/L	< 0.5
Manganese	mg/L	< 0.5

Table 2 – Treatment Plant Effluent Water Characteristics

POTW Pipeline Connection and Connection for Future Forcemain

The County has identified the need to have the ability to divert flow from Piney Point to the POTW. It is assumed that the peak diverted flow would be approximately 150,000 gpd. Based on conversations and correspondence with the County, the diverted flow would connect to an existing 10-inch forcemain located on the east side of the US41 and Buckeye Rd. intersection. The tie-in pressure will be provided by the County prior to design and is assumed to be approximately 70 psi. The diverted flow will be transferred to the POTW connection via a 6 inch HDPE forcemain that will connect to an existing 10 inch forcemain located at the NE corner of the US41/Buckeye Rd intersection. The LPWS Transfer Pumps will be utilized to feed this pipeline connection.

Additionally, DESIGN-BUILDER has included a connection to tie into a future forcemain. This work includes providing the ability for the County to install a 12 inch forcemain to transfer approximately 700 gpm of water treated at the Piney Point pretreatment system to the IW-2 at the NRWRF. This will include yard piping, valves, footprint for a future transfer pump station, and 12 inch stub out to the westerly ROW of Bud Rhoden Rd.

General

*Design & Documentation*

The equipment design is based on the use of vendor’s standard design, equipment, engineering submittals, materials of construction, QA/QC procedures, and documentation where no other standards or specifications were provided. Engineering deliverables are anticipated to be submitted as Issued for Information only; if approvals are required, the schedule will be impacted. Final drawings and O&M manuals will be

provided upon completion of the project. The following table lists the project documentation that is included with the proposed treatment system:

Drawing Number	Drawing Title	Revision No	Revision Description	Revision Date
G01	Cover Sheet and Index		Final Site Plan	11/4/2021
G02	Civil General Notes	A	Final Site Plan	11/2/2021
C01	Project Location Map and Overall Piping Plan	A	Issued for Permitting	2/11/2022
C02	Existing Conditions, Removal Plan, and Erosion Control Plan	C	Issued for Permitting	2/11/2022
C03	Site Layout and Piping Plan	B	Issued for Permitting	2/16/2022
C04	North Piping Plan	A	Final Site Plan	10/20/2021
C05	Pretreatment Facilities Site Layout and Piping Plan	B	Issued for Permitting	2/16/2022
C06	Site Grading and Drainage Plan	A	Final Site Plan	10/20/2021
C07	Civil Details	B	Issued for Permitting	1/10/2022
C08	Civil Details	A	Issued for Permitting	11/12/2021
C09	Sanitary Forcemain Piping Plan & Profile	A	Final Site Plan	10/20/2021
C10	Buckeye Rd HDD Pipe Crossing Plan & Profile	B	Issued for Permitting	2/11/2022
C11	Civil Details	A	Final Site Plan	10/20/2021
C12	Standard Details	A	Final Site Plan	10/20/2021
C13	Standard Details	A	Final Site Plan	10/20/2021
C14	Grading Match Point Sections	A	Final Site Plan	10/20/2021
L-01	Tree/Understory Removal Plan	A	Final Site Plan	11/2/2021
L-02	Landscape Plan	A	Final Site Plan	11/2/2021
L-03	Technical Maintenance Plan	A	Final Site Plan	11/2/2021
L-04	Planting Details	A	Final Site Plan	11/2/2021
L-05	Planting Specifications	A	Final Site Plan	11/2/2021
L-06	Planting Specifications	A	Final Site Plan	11/2/2021
LT01	Lighting Photometric Plan	A	Final Site Plan	10/28/2021
LT02	Fixture Illumination Plots and Details I	A	Final Site Plan	10/28/2021
LT03	Fixture Illumination Plots and Details II	A	Final Site Plan	11/2/2021
A20.0	Architectural Floor Plan	A	Proposal Issue - Not for Construction	10/8/2021
A20.1	Architectural Elevations	A	Proposal Issue - Not for Construction	10/8/2021
A20.2	Architectural Rendering	A	Proposal Issue - Not for Construction	10/8/2021
A30.1	Architectural Plan	A	Proposal Issue - Not for Construction	10/8/2021
A30.2	Architectural Section	A	Proposal Issue - Not for Construction	10/8/2021
G00.1	Site General Arrangement	A	Proposal Issue - Not for Construction	10/8/2021
G00.2	Process Flow Diagram	A	Proposal Issue - Not for Construction	10/8/2021
G10.0	Tank Area General Arrangement and Section	A	Proposal Issue - Not for Construction	10/8/2021
G10.1	Tank Area Rendering	A	Proposal Issue - Not for Construction	10/8/2021
G20.0	Operations Building General Arrangement	A	Proposal Issue - Not for Construction	10/8/2021
G30.0	Chemical Area General Arrangement	A	Proposal Issue - Not for Construction	10/8/2021
I00.2	P&ID - Influent Transfer Pump Station	A	Proposal Issue - Not for Construction	10/8/2021
I00.3	P&ID - Primary Settling Tanks	A	Proposal Issue - Not for Construction	10/8/2021
I00.4	P&ID - Mix Tanks	A	Proposal Issue - Not for Construction	10/8/2021
I00.5	P&ID - Clarifier Transfer Pumps	A	Proposal Issue - Not for Construction	10/8/2021
I00.6	P&ID - Process Clarifiers	A	Proposal Issue - Not for Construction	10/8/2021
I00.7	P&ID - Fuzzy Filters	A	Proposal Issue - Not for Construction	10/8/2021
I00.8	P&ID - Wash Water Tank	A	Proposal Issue - Not for Construction	10/8/2021
I00.9	P&ID - Clean Water Tanks	A	Proposal Issue - Not for Construction	10/8/2021
I00.10	P&ID - Clarifier Sludge Pumps	A	Proposal Issue - Not for Construction	10/8/2021
I00.11	P&ID - Sludge Recirculation Pumps	A	Proposal Issue - Not for Construction	10/8/2021
I00.12	P&ID - Sludge Discharge Pumps	A	Proposal Issue - Not for Construction	10/8/2021
I00.13	P&ID - Injection Charge Pumps	A	Proposal Issue - Not for Construction	10/8/2021
I00.14	P&ID - Injection Pumps	A	Proposal Issue - Not for Construction	10/8/2021
I00.15	P&ID - Building Sump	A	Proposal Issue - Not for Construction	10/8/2021
I00.16	P&ID - Filter Blowers	A	Proposal Issue - Not for Construction	10/8/2021
I00.17	P&ID - Sodium Hypochlorite System	A	Proposal Issue - Not for Construction	10/8/2021
I00.18	P&ID - Hydrochloric Acid System	A	Proposal Issue - Not for Construction	10/8/2021
I00.19	P&ID - Polymer Dosing System	A	Proposal Issue - Not for Construction	10/8/2021
E00.1	Electrical General Notes and Abbreviations		Preliminary - Not for Construction	10/7/2021
E00.2	Electrical Symbols and Abbreviations I		Preliminary - Not for Construction	10/7/2021
E00.3	Electrical Symbols and Abbreviations II		Preliminary - Not for Construction	10/7/2021
E01.0	Electrical Site Plan		Proposal Issue - Not for Construction	10/7/2021
E02.0	WWTP Single Line Diagram		Proposal Issue - Not for Construction	10/7/2021
E02.1	LPWS Pump Station Single Line Diagram		Proposal Issue - Not for Construction	10/7/2021
E02.2	Electrical Tables and Schedules I		Preliminary - Not for Construction	10/7/2021
E02.3	Electrical Tables and Schedules II		Preliminary - Not for Construction	10/7/2021
E03.0	Electrical Building Plan		Preliminary - Not for Construction	10/7/2021
E03.1	Injection Well and WWTP Area Electrical Plan		Preliminary - Not for Construction	10/7/2021

#### *General Coordination with Key Stakeholders*

Scope includes general coordination including attending weekly virtual meetings with key stakeholders related to the current and proposed operations, proposed close-out plans, and delineation of responsibilities at the Piney Point site. Also includes data collection, review and transfer related to coordination with the County, Receiver, and site close-out Consultant (Ardaman and Associates). Coordination on location of proposed pumping systems, pipe routing, mitigating solids transfer from LPWS to the Piney Point treatment plant.

#### Treatment Process

The proposed treatment process will provide cost-effective, reliable treatment of the wastewater and produce a treated effluent stream suitable for injection in the DIW and is depicted in the proposal design documents included in Appendix C. The scope of supply included in this proposal is as depicted on these drawings.

#### Equipment Installation

DESIGN-BUILDER is responsible for a complete installation including start up and commissioning of the system. Included in this scope is the system as shown on the attached proposal design documents included in Appendix C.

#### Substantial Completion

Upon notification of Substantial Completion by DESIGN-BUILDER, Manatee County will provide water, utilities, operations, maintenance, and operational consumables needed during start-up and testing within five (5) days of DESIGN-BUILDER's request, assuming utilities are connected and online. Upon completion of hydro test and dry check out for the system, DESIGN-BUILDER will issue two (2) documents:

1. Certificate of Substantial Completion
2. Notice of Readiness for Facility Acceptance Test

Both documents noted above require signature by both parties (Manatee County and DESIGN-BUILDER) before commencement of Performance Test.

#### Performance Test

Performance of the treatment system will be demonstrated by a 24-hour performance test to be completed while the DESIGN-BUILDER commissioning representative is on site. DESIGN-BUILDER shall notify Manatee County when the facility is ready for such demonstration test. The demonstration test must be commenced within thirty (30) days of notification, or any balance of the contract value not paid will be released to DESIGN-BUILDER. Manatee County or Designee will operate and monitor the system throughout the duration of the test and will be responsible for providing all test water, waste disposal, power, insurance, and security. Any disruption to the test for reasons beyond the control of the DESIGN-BUILDER shall not be considered a failure of the test and shall cause the demonstration test to be suspended until the disruption is cured. Once operation has been re-commenced, the test will reconvene at that point in time when the disruption was encountered. Criteria for the Performance Test are listed below.

- a. Ensure system operates at designed rate as noted in Table 1. This test will consist of 24 hours of continuous flow at the design flow rate.
- b. Ensure effluent meets the following:
  - i. Produce treated effluent water quality Table 2 included in the proposal.

Upon completion of the performance test, a Certificate of Final Completion will be issued.

#### Meetings

Site visits will be performed at the request of Manatee County to support the urgency of the project. DESIGN-BUILDER will be available for conference calls as needed for the duration of the project.

#### Assumptions/Clarifications/Exclusions

1. Design will be completed utilizing Industry Standards for these types of facilities. Pricing of all systems is based on standard equipment from pre-selected vendors with standard engineering submittal packages.
2. Free and unrestricted access to the site will be required during installation and commissioning support activities.
3. DESIGN-BUILDER is responsible for construction power, security of equipment and tools, and onsite storage facilities (if necessary).
4. DESIGN-BUILDER is responsible for One Call.
5. DESIGN-BUILDER personnel and sub-contractors to utilize Hard Hats, Safety Glasses, Steel Toe Boots and Hi-Viz Safety Vests as the PPE for the project.
6. DESIGN-BUILDER has not included any special inspections, requirements or related fees for county, state, or local regulatory authorities.
7. DESIGN-BUILDER will coordinate with the power utility to establish new service drop to the site. Additionally, DESIGN-BUILDER will work to coordinate the work, but the schedule for this is in utility provider's control. Any schedule impacts due to the utility provider will result in subsequent schedule relief for DESIGN-BUILDER. Utility company costs have also been excluded. DESIGN-BUILDER has assumed that utility drop will be within 100 feet of electrical service connection.
8. DESIGN-BUILDER has excluded all cost if rock is encountered during pipeline (trench or drill) or facility installation.
9. DESIGN-BUILDER assumed that all spoils can be disposed of on-site.
10. DESIGN-BUILDER has excluded risk for unknown subsurface conditions.
11. DESIGN-BUILDER assumes that all easements, ROWs, and other rights of ingress and egress necessary to perform the work will be in place prior to mobilization and will not be unduly delayed or denied by Manatee County.
12. DESIGN-BUILDER excludes the x-ray for welding of pipe.
13. DESIGN-BUILDER has assumed that water for drills can be pulled from a local source at no cost.
14. DESIGN-BUILDER has assumed that mud from drills can be disposed in the ROW or locally within 10 miles from project location.
15. DESIGN-BUILDER excludes the relocation of, or delays, resulting from third party utilities.
16. DESIGN-BUILDER excludes demolition of existing facilities, disposal and remediation of existing site conditions, contaminated soils.
17. DESIGN-BUILDER excludes temporary pumping and piping systems if required due to impacts outside of our control.

18. DESIGN-BUILDER excludes a permanent generator. A manual transfer switch will be provided to allow for a temporary generator to be connected to the system if required at any time.
19. DESIGN-BUILDER excludes site security personnel during construction. If security personnel are deemed to be required by DESIGN-BUILDER or Manatee County, the cost will be adjusted accordingly.
20. DESIGN-BUILDER excludes thermal and/or stress analysis of the piping.
21. DESIGN-BUILDER excludes the following electrical related studies and devices:
  1. ARC flash study
  2. Switchgear coordination study
  3. UPS backup or surge protection devices for instrumentation and equipment
  4. Transient voltage surge protection devices
22. DESIGN-BUILDER excludes select backfill over pipe
23. DESIGN-BUILDER has included Sales and Use Tax on all materials at 7%.
24. DESIGN-BUILDER will inspect and maintain equipment under this scope until substantial completion (or beneficial use) is accomplished.
25. Design-build proposal pricing is valid for 30 days. Due to current market conditions, the proposal is conditioned upon the ability of DESIGN-BUILDER to complete the scope of work at present prices for materials, and at the existing scale of wages for labor. If DESIGN-BUILDER is, at any time or for any reason, unable to complete the above described scope of work at present prices for material, or at the existing scale of wages for labor, or if DESIGN-BUILDER is unable to procure promptly as and when needed, labor and material required for this scope of work, then, and in any such event, the Contract Sum, time of completion, and/or contract requirements shall be equitably adjusted by Change Order. A change in price of material, equipment, or energy will be considered significant when the price of an item increases 5% between the date of this proposal and the date of applicable work.
26. Current vendor quoted lead times on electrical switchgear is 79 weeks. Switchgear vendors have indicated that once a purchase order is issued, they will be able to reduce the lead times to a shorter time frame. The schedule included in Appendix B is based on a 40 week lead time for the gear. If gear cannot be procured and delivered to the site within 40 weeks, schedule relief related to the switchgear installation will be provided up to 79 weeks with no liquidated damages incurred by DESIGN-BUILDER.
27. The schedule of values attached to this proposal may not be used for selection of scope services.
28. Operations and maintenance support after commissioning is not included in this scope but can be provided on a per diem basis.
29. Water required for start-up, commissioning, and performance testing will be supplied by Manatee County.
30. DESIGN-BUILDER has not included consumables for startup or operations of the facilities.
31. Spare parts are not included in this pricing. A recommended spare parts list with pricing will be provided with the O&M manuals.
32. Drawings will be provided as AutoCAD 2D drawings for the deliverables and will utilize English standard units.
33. All of DESIGN-BUILDER's deliverables will be transmitted as electronic submittals through County's e-Builder system.
34. DESIGN-BUILDER standards will be used as the basis of design, drawings, tagging, and all other scope included in this proposal.
35. Any other services not specifically outlined in this Scope of Work or on the attached drawings are excluded.

**Schedule**

DESIGN-BUILDER has developed this proposal using the schedule included in Appendix B and will complete the scope of work described herein within 400 days of notice to proceed.

**Project Fee**

DESIGN-BUILDER has included a project schedule of values in Appendix A that details out the cost buildup to engineer, procure, construct, and commission the treatment system noted in this scope. DESIGN-BUILDER understands the payment terms in the contract and will provide our invoices to Manatee County in a timely fashion; however, if payment is not received per the contract, DESIGN-BUILDER reserves the right to stop work until such payment is received.

DESIGN-BUILDER proposes to do the work included in this scope for a lump sum of \$17,187,867 as outlined in the schedule of values included in Appendix A.

Invoices will be issued by the 10<sup>th</sup> of each month based on the contract schedule of values and percent complete. The proposal is based on the mutually agreed upon Terms and Conditions between Manatee County and DESIGN-BUILDER

Should you have any questions concerning the Design-Build proposal, please don't hesitate to contact us.

Sincerely,



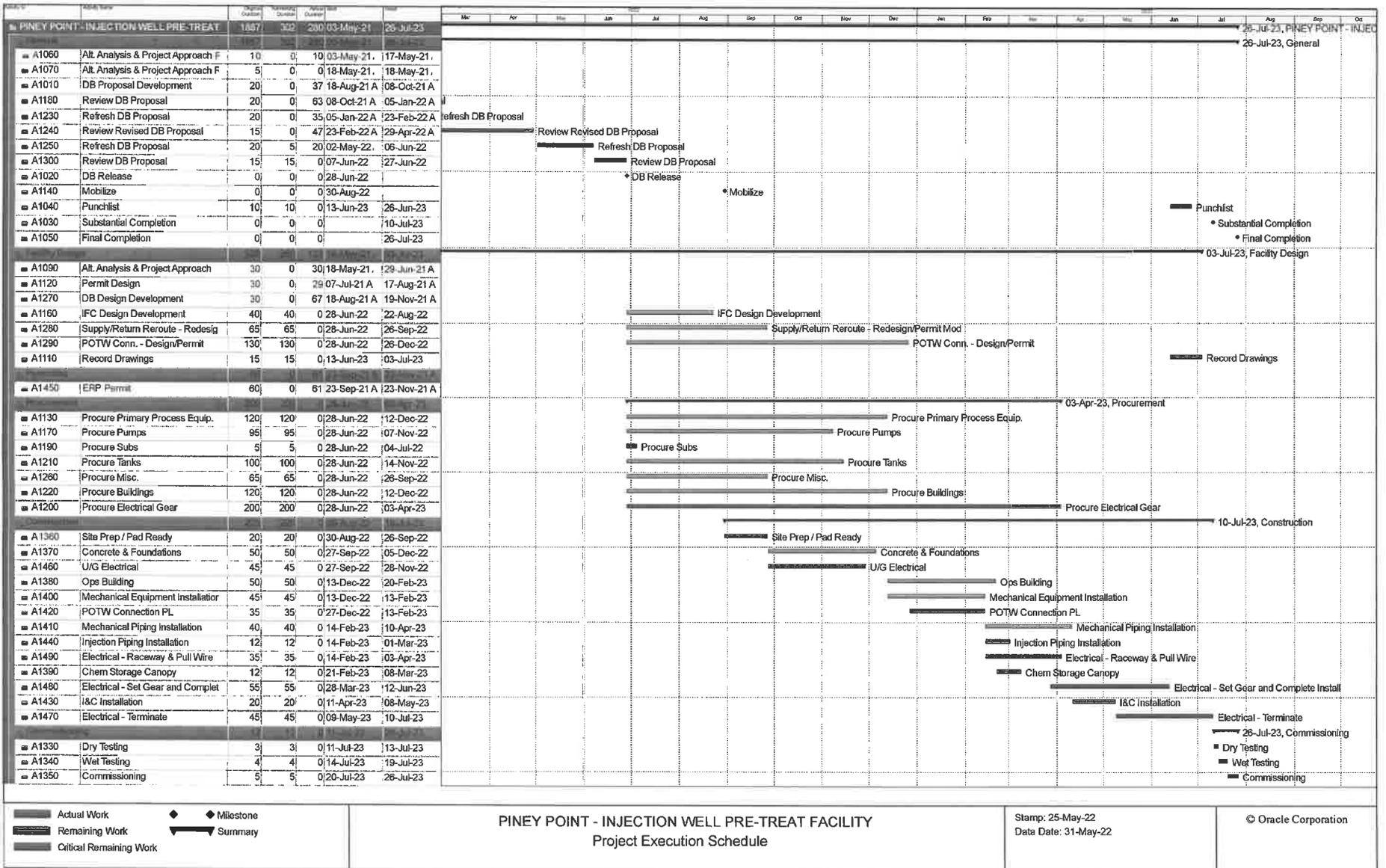
Street Lee, P.E.  
President & CEO  
McKim & Creed, Inc.

Cc: Mike Beukema, Westra Const.  
Jeff Streitmatter, Manatee County  
Anthony Benitez, Manatee County  
Chris Daley, Manatee County

Appendix A:  
Design Build Schedule of Values

<b>PINEY POINT PRETREATMENT SYSTEM</b>	
<b>SCHEDULE OF VALUES</b>	
<b>ITEM DESCRIPTION</b>	<b>AMOUNT</b>
Engineering - Final Design	\$ 485,000
Engineering - Construction Support	\$ 264,000
Project Coordination	\$ 93,600
Contract Admin - PM, Const. Admin & Procurement	\$ 361,000
Process Mechanical Equipment	\$ 4,414,221
Electrical and Controls Equipment	\$ 1,728,032
General Conditions / Mob / Demob	\$ 628,500
Site Work, E&S Controls, Clearing & Grubbing	\$ 682,795
Concrete Foundations & Flatwork	\$ 575,000
Anchorage Requirement	\$ 45,000
Operations / Pump / Controls Building	\$ 520,000
Chemical Storage Canopy	\$ 78,000
Elevated Walkway, Stairs & Grating	\$ 583,000
Mechanical Equipment Installation	\$ 442,100
Facility Piping & Valves Installation	\$ 1,420,000
Site Utility Mechanical Installation	\$ 1,612,130
Facility Electrical / I&C Installation	\$ 1,999,900
<b>SUB TOTAL - PRETREATMENT SYSTEM</b>	<b>\$ 15,932,278</b>
POTW Connection Engineering	\$ 217,728
POTW Connection Permitting	\$ 100,800
POTW Connection Installation	\$ 937,063
<b>SUB TOTAL - POTW PIPELINE &amp; PS</b>	<b>\$ 1,255,591</b>
<b>LUMP SUM TOTAL</b>	<b>\$ 17,187,869</b>

Appendix B:  
Design Build Schedule



**EXHIBIT "2"**  
**PUBLIC CONSTRUCTION BOND**

PERFORMANCE AND PAYMENT BOND  
(Public Work)  
In compliance with F.S. Chapter 255.05(1)(a)

BOND NO.: Bond No. 107618596

CONTRACTOR NAME: Westra Construction Corp. & McKim & Creed, Inc.

CONTRACTOR ADDRESS: 1263 12th Avenue East      1365 Hamlet Ave.  
Palmetto, FL 34221      Clearwater, FL33756

CONTRACTOR PHONE NO.: (941) 723-1611

SURETY COMPANY: Travelers Casualty and Surety Company of America One  
Tower Square  
Hartford, CT 06183      (860) 277-0111

SURETY AGENT: M. E. Wilson Company, LLC  
7264 Kyle Court  
Sarasota, FL 34240      (941)999-1900

OWNER NAME: Manatee County

OWNER ADDRESS: 1112 Manatee Avenue West  
Bradenton, FL 34205

OWNER PHONE NO.: (941) 749-3074

OBLIGEE NAME: (If contracting  
entity is different from the owner,  
the contracting public entity) n/a

OBLIGEE ADDRESS: n/a

OBLIGEE PHONE NO.: n/a

BOND AMOUNT: \$17,900,000.00

CONTRACT NO.: (if applicable) 22-TA004053CD

DESCRIPTION OF WORK: Design-Build Services for Piney Point Deep Well Injection  
Pretreatment Facility

PROJECT ADDRESS: US 41 & Buckeye Road in Manatee, County, Florida

LEGAL DESCRIPTION: US 41 & Buckeye Road in Manatee, County, Florida

FRONT PAGE

All other Bond page(s) are deemed subsequent to this page regardless of any page number(s) that may be pre-printed thereon.

**MANATEE COUNTY GOVERNMENT, PUBLIC CONSTRUCTION BOND**  
NUMBER 107618596

BY THIS BOND,

We Westra Construction Corp. and McKim & Creed, Inc., (Name of Contractor),  
(Westra) (McKim & Creed, Inc.)

located at 1263 12th Avenue East, Palmetto, FL 34221 and 1365 Hamlet Ave., Clearwater, FL33756 (Address) as

Principal and Travelers Casualty and Surety Company of America, (Name of Surety)

a corporation whose address is One Tower Square, Hartford, CT 06183

are bound to Manatee County, a political subdivision of the State of Florida, herein called County, in the sum of \$17,900,000.00, for payment of which we bind ourselves, our heirs, personal representatives, successors, and assigns, jointly and severally.

THE CONDITIONS OF THIS BOND is that if Principal:

1. Performs Agreement No. 22-TA004053CD, (Agreement) between Principal and County for construction of Design-Build Services for Piney Point Deep Well Injection Pretreatment Facility, the Agreement being made a part of this bond by reference, at the times and in the manner prescribed in the Agreement; and
2. Promptly makes payments to all claimants, as defined in Section 255.05(1), Florida Statutes, supplying Principal with labor, materials, or supplies, used directly or indirectly by Principal in the prosecution of the Work provided for in the Agreement; and
3. Pays County all losses, damages, expenses, costs, and attorney's fees, including appellate proceedings, that County sustains because of a default by Principal under the Agreement; and
4. Performs the guarantee of all Work and materials furnished under the Agreement for the time specified in the Agreement, 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 Section 255.05(2), Florida Statutes.

Any changes in or under the Agreement documents and compliance or noncompliance with any formalities connected with the Agreement, or the changes, do not affect Surety's obligation under this bond.

DATED ON June 16, 2022

**CONTRACTOR AS PRINCIPAL**

Company Name: Westra Construction Corp. (Print Name)

Signature: Michael Beukema

Printed Name and Title: MICHAEL BEUKEMA, PRESIDENT

Date: \_\_\_\_\_

(Corporate Seal)

**CONTRACTOR AS PRINCIPAL**

Company Name: McKin & Creed, Inc. (Print Name)

Signature: [Signature]

Printed Name and Title: STREET LEE, PRESIDENT & CEO

Date: \_\_\_\_\_

(Corporate Seal)

**SURETY**

Company Name: Travelers Casualty and Surety Company of America (Print Name)

Signature: [Signature]

Printed Name and Title: Anthony T. Papa, Jr., Attorney-in-Fact and Licensed Florida Resident Agent/A199806

Date: \_\_\_\_\_

(Corporate Seal)

SURETY AGENT OR BROKER Company

Name: M. E. Wilson Company, LLC (Print Name)

Address: 7264 Kyle Court, Sarasota, FL 34240

Telephone: (941) 999-1900

Email: mpapa@mewilson.com

Licensed Florida Insurance Agent?  Yes  No

License No.: A199806

State of: Florida

County of: Sarasota

City of: Sarasota



**Travelers Casualty and Surety Company of America**  
**Travelers Casualty and Surety Company**  
**St. Paul Fire and Marine Insurance Company**

**POWER OF ATTORNEY**

**KNOW ALL MEN BY THESE PRESENTS:** That Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company are corporations duly organized under the laws of the State of Connecticut (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint **Anthony T. Papa Jr.** of **SARASOTA Florida**, their true and lawful Attorney-in-Fact to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

**IN WITNESS WHEREOF**, the Companies have caused this instrument to be signed, and their corporate seals to be hereto affixed, this 3rd day of February, 2017.



State of Connecticut

City of Hartford ss.

By:   
 Robert L. Raney, Senior Vice President

On this the 3rd day of February, 2017, before me personally appeared Robert L. Raney, who acknowledged himself to be the Senior Vice President of Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

In Witness Whereof, I hereunto set my hand and official seal.

My Commission expires the 30th day of June, 2021



  
 Marie C. Tetreault, Notary Public

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company, which resolutions are now in full force and effect, reading as follows:

**RESOLVED**, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her; and it is

**FURTHER RESOLVED**, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

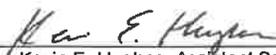
**FURTHER RESOLVED**, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

**FURTHER RESOLVED**, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any Power of Attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

I, **Kevin E. Hughes**, the undersigned, Assistant Secretary of Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company, do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which remains in full force and effect.

Dated this \_\_\_\_\_ day of \_\_\_\_\_



  
 Kevin E. Hughes, Assistant Secretary

**To verify the authenticity of this Power of Attorney, please call us at 1-800-421-3880.**  
**Please refer to the above-named Attorney-in-Fact and the details of the bond to which the power is attached.**



**M.E. WILSON**

ESTABLISHED 1891

RISK MANAGEMENT • INSURANCE  
BENEFITS • BONDS

June 10, 2022

Manatee County  
1112 Manatee Avenue West  
Bradenton, FL 34205

Re Westra Construction Corp.  
Performance and Payment Bond No. 107618596  
Project: Design-Build Services for Piney Point Deep Well Injection Pretreatment Facility  
Bond Amount: \$17,900,000.00

Dear Sir or Madam:

Enclosed is the Performance and Payment Bond for the above-referenced project, which we have executed with the dates left blank, as the contract has not been executed.

This is your authorization to enter the contract date on the bonds and to use the date of execution on the bonds and Powers of Attorney.

Thank you

Sincerely,

TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA

Anthony T. Papa, Jr.  
Attorney-in-Fact and Licensed  
Florida Resident Agent/A199806

ATP/ss

Enclosures

**TRAVELERS**

**Travelers Casualty and Surety Company of America  
Travelers Casualty and Surety Company  
St. Paul Fire and Marine Insurance Company**

**POWER OF ATTORNEY**

**KNOW ALL MEN BY THESE PRESENTS:** That Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company are corporations duly organized under the laws of the State of Connecticut (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint **Anthony T. Papa Jr.** of **SARASOTA Florida**, their true and lawful Attorney-in-Fact to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

**IN WITNESS WHEREOF**, the Companies have caused this instrument to be signed, and their corporate seals to be hereto affixed, this **3rd day of February, 2017**.



State of Connecticut

City of Hartford ss.

By: *Robert L. Raney*  
Robert L. Raney, Senior Vice President

On this the **3rd day of February, 2017**, before me personally appeared **Robert L. Raney**, who acknowledged himself to be the Senior Vice President of Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

**In Witness Whereof**, I hereunto set my hand and official seal.

My Commission expires the **30th day of June, 2021**



*Marie C. Tetreault*  
Marie C. Tetreault, Notary Public

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company, which resolutions are now in full force and effect, reading as follows:

**RESOLVED**, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her, and it is

**FURTHER RESOLVED**, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

**FURTHER RESOLVED**, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

**FURTHER RESOLVED**, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any Power of Attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

I, **Kevin E. Hughes**, the undersigned, Assistant Secretary of Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company, do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which remains in full force and effect.

Dated this **10th** day of **June**, **2022**



*Kevin E. Hughes*  
Kevin E. Hughes, Assistant Secretary

**To verify the authenticity of this Power of Attorney, please call us at 1-800-421-3880.  
Please refer to the above-named Attorney-in-Fact and the details of the bond to which the power is attached.**

DESIGN-BUILD AGREEMENT NO. 22-TA004053CD

*for*

PINEY POINT DEEP INJECTION WELL  
PRETREATMENT FACILITY

*between*

MANATEE COUNTY (AS OWNER)

*and*

WESTRA CONSTRUCTION CORP.

*and*

MCKIM & CREED, INC,  
(AS DESIGN-BUILDER)

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**DESIGN-BUILD AGREEMENT NO. 22-TA004053CD  
FOR  
PINEY POINT DEEP INJECTION WELL PRETREATMENT FACILITY**

**THIS AGREEMENT** (“Agreement”) is made and entered into by and between Manatee County, a political subdivision of the State of Florida, referred to herein as “Owner”, and the firms Westra Construction Corp., a Florida For Profit Corporation, (License # CGC062888) and McKim & Creed, Inc. a North Carolina corporation, both registered and licensed to do business in the State of Florida, collectively both firms are referred to herein as “Design-Builder”, for the following project: **PINEY POINT DEEP INJECTION WELL PRETREATMENT FACILITY**.

**WHEREAS**, the Owner intends to design, engineer and construct **PINEY POINT DEEP INJECTION WELL PRETREATMENT FACILITY**, the improvements being hereinafter referred to and defined as the “Project”; and

**WHEREAS**, Owner desires Design-Builder to provide the professional design, architectural, engineering and construction management services requisite to the implementation of the Project, and

**WHEREAS**, this Agreement is a result of Resolution No. R-21-068, approved by the Manatee County Board of County Commissioners on April 6, 2021.

**NOW THEREFORE**, the Owner and the Design-Builder, in consideration of the mutual covenants hereinafter set forth, the sufficiency of which is hereby acknowledged, agree as follows:

**ARTICLE I  
GENERAL PROVISIONS**

**1.1 Owner’s Criteria.** This Agreement is based on the criteria set forth in this Section 1.1, hereinafter referred to as the “Owner’s Criteria”.

A. Owner’s Program. The Owner’s program for the Project:

*Owner’s program set forth under separate Agreement, included as Exhibit F.*

B. Owner’s Design Requirements. The Owner’s design requirements for the Project and related documentation:

*Owner’s design requirements set forth under separate Agreement, included as Exhibit F.*

C. Physical Characteristics. The Project’s physical characteristics:

*See Exhibit F.*

D. Budget. The Owner's budget for the Work to be provided by the Design-Builder is set forth below:

*The Owner's budget for the design and construction of the Piney Point Deep Well Injection Pretreatment Facility is Sixteen Million, One Hundred Forty Three Thousand, One Hundred Fifteen Dollars and Zero Cents (\$16,143,115.00).*

E. Milestones. The Owner's design and construction milestone dates:

- (1) Design phase milestone dates: 100% design to be completed under Design Build Amendment
- (2) Phased completion dates: Unknown at time of execution
- (3) Substantial Completion dates: 300 calendar days from NTP
- (4) Other milestone dates:

F. Architect/Engineer, Consultants and Contractors. The Owner requires the Design-Builder to retain the necessary Architect/Engineer, Consultants and Contractors at the Design-Builder's cost. The Architect/Engineer and any Consultants performing design services shall be selected in accordance with the process set forth in Section 287.055, Florida Statutes.

G. Additional Criteria. Additional Owner's Criteria upon which the Agreement is based: None

H. Laws and Regulations. The Design-Builder shall confirm that the information included in the Owner's Criteria complies with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities. If the Owner's Criteria conflicts with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Design-Builder shall notify the Owner of the conflict.

I. Criteria Changes. If there is a change in the Owner's Criteria, the Owner and the Design-Builder shall execute a Modification in accordance with Article VI.

J. Digital Transmissions. If Instruments of Service or any other information or documentation is to be transmitted in digital form, the parties shall endeavor to establish necessary protocols governing such transmissions.

## **1.2 Project Team.**

A. Owner's Representative. The Owner identifies the following representative in accordance with Section 7.1.A:

*Anthony Benitez, PE, Project Engineer II  
1022 26<sup>th</sup> Avenue East  
Bradenton, FL 34208  
Email: anthony.benitez@mymanatee.org*

B. Reviewers. The person or entities, in addition to the Owner's representative, who are required to review the Design-Builder's Submittals are as follows:

*Jeff Goodwin, Deputy Director  
4410 66<sup>th</sup> Street West  
Bradenton, FL 34210  
Email: jeff.goodwin@mymanatee.org*

C. Consultants. The Owner will retain the following consultants and separate contractors: None

D. Design-Builder's Representative. The Design-Builder identifies the following representative in accordance with Section 3.1.B:

*Street Lee, McKim & Creed  
1365 Hamlet Avenue  
Clearwater, FL 33756  
Email: slee@mckimcreed.com*

E. Changes to Representatives. Neither the Owner's nor the Design-Builder's representative shall be changed without ten (10) days' written notice to the other party.

**1.3 Dispute Resolution.** Claims, disputes or other matters in question between the parties to this Agreement shall be resolved as provided in Article XVII hereof.

**1.4 Definitions.** For purposes of this Agreement, the following terms shall have the following meanings.

A. Acceptance: The acceptance of the Project into the Owner's operating public infrastructure.

B. Application for Payment: The form accepted by the Owner's Representative which is to be used by Design-Builder in requesting progress or final payments and which is to include such supporting documentation as is required by the Design-Build Documents.

C. Architect/Engineer: The Architect/Engineer is the person or entity providing design services for the Design-Builder for all or a portion of the work, and is lawfully licensed to practice architecture or engineering in the State of Florida. The Architect/Engineer is referred to throughout the Design-Build Documents as if singular in number.

D. Certificate for Payment: The form approved and accepted by the Owner, which is to be used by the Owner in approving progress payments or final payment.

E. Change Order: A written order signed by the Owner and the Design-Builder authorizing a change in the Project Plans and/or Specifications and, if necessary, a corresponding adjustment in the Contract Sum and/or Contract Time, pursuant to Article VI.

F. Consultant: A Consultant is a person or entity providing professional services for the Design-Builder for all or a portion of the Work, and is referred to throughout the Design-Build Documents as if singular in number. A Consultant shall be lawfully licensed to provide the required professional services in the State of Florida.

G. Contractor: A Contractor is a person or entity performing all or a portion of the construction, required in connection with the Work, for the Design-Builder. A Contractor shall be lawfully licensed in the State of Florida. The Contractor is referred to throughout the Design-Build Documents as if singular in number and means a Contractor or an authorized representative of the Contractor.

H. Days: Calendar days except when specified differently. When time is referred to in the Design-Build Documents by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or legal holiday, such day will be omitted from the computation.

I. Defective: When modifying the term "Work", referring to Work that is unsatisfactory, faulty or deficient, or does not conform to the Design-Build Documents, or that does not meet the requirements of any inspection, reference standard, test or approval referred to in the Design-Build Documents, or that has been damaged prior to Owner's Representative approval of final payment (unless responsibility for the protection thereof has been assumed by Owner).

J. Design-Build Amendment: The Design-Build Amendment is the amendment to this Agreement to be executed pursuant to Section 4.4.C., hereof, accepting the Design-Builder's Proposal and setting forth the Contract Sum or guaranteed maximum price, and the Contract Time and Substantial Completion Date.

K. Design-Build Documents: The Design-Build Documents consist of this Agreement between Owner and Design-Builder and its attached Exhibits (hereinafter, the "Agreement"), other documents listed in this Agreement, and Modifications issued after execution of this Agreement. The Design-Build Documents shall not be construed to create a contractual relationship of any kind between any persons or entities other than the Owner and the Design-Builder.

L. Design-Builder: The Design-Builder is the firm identified in the preamble of this Agreement, and is referred to throughout the Design-Build Documents as if singular in number. The term "Design-Builder" means the Design-Builder or the Design-Builder's authorized representative.

M. Design-Builder's Proposal: The proposal to be prepared by Design-Builder and submitted to Owner pursuant to and in accordance with Section 4.4 of this Agreement.

N. Field Directive: A written order issued by the Owner or Design-Builder which orders minor changes in the Work, but which does not involve a change in the Contract Sum or the Contract Time.

O. Final Completion Date: The date upon which the Project is fully constructed and all Work required on the Project and Project Site is fully performed as verified in writing by the Owner's Representative.

P. Force Majeure: Those conditions constituting excuse from performance as described in and subject to the conditions set forth in Article XIV.

Q. Instruments of Service: Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Design-Builder, Contractor(s), Architect/Engineer and Consultant(s) under their respective agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, digital models and other similar materials.

R. Modification: A Modification is (1) a written amendment to the Agreement signed by both parties, including the Design-Build Amendment, (2) a Change Order, or (3) a Work Directive Change.

S. Notice to Proceed: Written notice by Owner (after execution of the Design-Build Amendment) to the Design-Builder fixing the date on which the Contract Time will commence to run and on which Design-Builder shall start to perform (ten (10) days from date of such notice) its obligations under the Design-Build Documents.

T. Owner: Manatee County, a political subdivision of the State of Florida.

U. Owner's Representative: The Deputy Director, Project Management, Public Works Department, or such other individual designated by the County Administrator, from time to time, pursuant to written notice in accordance with the Design-Build Documents.

V. Payment and Performance Bond: The Payment and Performance Bond security posted pursuant to Section 3.1.S to guarantee payment and performance by the Design-Builder of its obligations hereunder.

W. Procurement Ordinance: The Manatee County Procurement Code, Chapter 2-26 of the Manatee County Code of Laws, as amended from time to time.

X. Progress Report: A report to Owner that includes all information required pursuant to the Design-Build Documents and submitted in accordance with Section 3.1.J, hereof.

Y. Project: The total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by Owner and by separate contractors. For the purposes of the Design-Build Documents, the term Project shall include all areas of proposed improvements and all areas which may reasonably be judged to have an impact on the Project.

Z. Project Costs: The costs incurred by the Design-Builder to plan, construct and equip the Project and included within, and paid as a component of, the Contract Sum.

AA. Project Manager: Bob Huffmyer, the Design-Builder's primary representative or such other individual designated by Design-Builder, subject to the prior written consent of Owner.

BB. Project Plans and Specifications: The one hundred percent (100%) construction drawings and specifications, and any changes, supplements, amendments or additions thereto approved by the Owner, which shall also include any construction drawings and final specifications required for the repair or construction of the Project, as provided herein.

CC. Project Schedule: The schedule and sequence of events for the commencement, progression and completion of the Project, developed pursuant to Section 3.1.K, as such schedule may be amended as provided herein.

DD. Project Site: The site depicted in the Project Plans and Specifications, inclusive of all rights of way, temporary construction easements or licensed or leased sovereign lands.

EE. Punch List Completion Date: The date set forth in the Certificate of Substantial Completion when all previously incomplete or unsatisfactory items, as identified by the Design-Builder, the Architect/Engineer and/or the Owner shall be completed by the Design-Builder in a competent and workmanlike manner.

FF. Purchasing Official: The individual designated to serve as the Manatee County Purchasing Official pursuant to the Procurement Ordinance.

GG. Submittal: A submittal is any submission to the Owner for review and approval demonstrating how the Design-Builder proposes to conform to the Design-Build Documents for those portions of the Work for which the Design-Build Documents require Submittals. Submittals include, but are not limited to, shop drawings, product data, and samples. Submittals are not Design-Build Documents unless incorporated into a Modification.

HH. Substantial Completion and Substantially Complete: The stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Design-Build Documents so that the Owner can occupy or utilize the Work for its intended use; provided, however, that as a condition precedent to Substantial Completion, the Owner has received all certificates of occupancy or completion and other permits, approvals, licenses, and other documents from any governmental authority which are necessary for the beneficial occupancy of the Project.

II. Substantial Completion Date: The date on which the Project is required to be Substantially Complete, as evidenced by (i) the Owner's signature on a Certificate of Substantial Completion, (ii) written Acceptance of the Project by the Owner, and (iii) approvals of any other authority as may be necessary or otherwise required.

JJ. Unit Price Work: Work to be paid for on the basis of unit prices.

KK. Work: The term "Work" means the design, construction, and related services required to fulfill the Design-Builder's obligations under the Design-Build Documents, whether completed or partially completed, and includes all labor, materials, equipment and services provided or to be provided by the Design-Builder. The Work may constitute the whole or a part of the Project.

LL. Work Directive Change: A written directive to Design-Builder, issued on or after the effective date of the Agreement and signed by Owner's Representative, ordering an addition, deletion or revision in the Work, or responding to differing or unforeseen physical conditions under which the Work is to be performed or responding to emergencies.

## ARTICLE II COMPENSATION AND PROGRESS PAYMENTS

### **2.1 Compensation for Work Performed Prior to Execution of Design-Build Amendment.**

A. Timing and Rate. Unless otherwise agreed in writing pursuant to a Modification, payments for Work performed prior to execution of the Design-Build Amendment shall be made monthly. For the Design-Builder's performance of Work prior to the execution of the Design-Build Amendment, the Owner shall compensate the Design-Builder as follows:

*Design-Builder is being paid a not-to-exceed amount of \$498,967.00 under a separate Agreement, included as Exhibit F, for design and pre-construction services.*

B. Hourly Rates. The hourly billing rates for services of the Design-Builder and the Design-Builder's Architect/Engineer, Consultants and Contractors, if any, are set forth below.

*Hourly Rates of design professionals are included in Exhibit F.*

### **2.2 Compensation for Reimbursable Expenses Prior to Execution of Design-Build Amendment.**

A. Reimbursable Expenses. Reimbursable expenses are in addition to compensation set forth in Section 2.1.A and 2.1.B and include expenses, directly related to the Project, incurred by the Design-Builder and the Design-Builder's Architect/Engineer, Consultants, and Contractors, as follows:

- (1) Transportation and authorized out-of-town travel and subsistence;
- (2) Dedicated data and communication services, teleconferences, Project web sites, and extranets;
- (3) Fees paid for securing approval of authorities having jurisdiction over the Project;
- (4) Printing, reproductions, plots, standard form documents;
- (5) Postage, handling and delivery;
- (6) Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- (7) Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner;
- (8) All taxes levied on professional services and on reimbursable expenses; and
- (9) Other Project-related expenditures, if authorized in advance by the Owner.

B. Administrative Fee. For Reimbursable expenses, the compensation shall be the expenses the Design-Builder and the Design-Builder's Architect/Engineer, Consultants and Contractor incurred, plus an administrative fee of Percent (0%) of the expenses incurred.

C. Records. Records of Reimbursable Expenses and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times for a period of two (2) years following execution of the Design-Build Amendment or termination of this Agreement, whichever occurs first.

**2.3 Contract Sum and Payment for Work Performed After Execution of Design-Build Amendment.** For the Design-Builder's performance of the Work after execution of the Design-Build Amendment, the Owner shall pay to the Design-Builder the Contract Sum in current funds as agreed in the Design-Build Amendment.

**2.4 Local Government Prompt Payment Act.** Payments shall be made by Owner in accordance with the requirements of Section 218.735, Florida Statutes.

### **ARTICLE III GENERAL REQUIREMENTS OF THE WORK**

#### **3.1 General.**

A. Licensing Requirements. The Design-Builder shall comply with any applicable licensing requirements in the State of Florida.

B. Design-Builder Representative. The Design-Builder shall designate in writing a representative who is authorized to act on the Design-Builder's behalf with respect to the Project (the Design-Builder's "authorized representative").

C. Compliance with Design-Build Documents. The Design-Builder shall perform the Work in accordance with the Design-Build Documents. The Design-Builder shall not be relieved of the obligation to perform the Work in accordance with the Design-Build Documents by the activities, tests, inspections or approvals of the Owner.

D. Compliance with Applicable Laws. The Design-Builder shall perform the Work in compliance with applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities. If the Design-Builder performs Work contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Design-Builder shall assume responsibility for such Work and shall bear the costs attributable to correction.

E. Violations. Neither the Design-Builder nor any Contractor, Consultant, or Architect shall be obligated to perform any act which they believe will violate any applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities. If the Design-Builder determines that implementation of any instruction received from the Owner, including those in the Owner's Criteria, would cause a violation of any applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Design-Builder shall notify the Owner in writing. Upon verification by the Owner that a change to the Owner's Criteria is required to remedy the violation, the Owner and the Design-Builder shall execute a Modification in accordance with Article VI.

F. Acts or Omissions. The Design-Builder shall be responsible to the Owner for acts and omissions of the Design-Builder's employees, Architect/Engineer, Consultants, Contractors, and their agents and employees, and other persons or entities performing portions of the Work.

G. Periodic Meetings. The Design-Builder shall schedule and conduct periodic meetings with the Owner to review matters such as procedures, progress, coordination, and scheduling of the Work.

H. Qualified and Licensed Professionals. When applicable law requires that services be performed by licensed professionals, the Design-Builder shall provide those services through qualified, licensed professionals. The Owner understands and agrees that the services of the Design-Builder's Architect/Engineer and the Design-Builder's other Consultants are performed in the sole interest of, and for the exclusive benefit of, the Design-Builder.

I. Permits and Approvals. The Design-Builder, with the assistance of the Owner, shall prepare and file documents required to obtain necessary permits and approvals of governmental authorities having jurisdiction over the Project.

J. Progress Reports. The Design-Builder shall keep the Owner informed of the progress and quality of the Work. Monthly, or otherwise as agreed to by the Owner and Design-Builder, the Design-Builder shall submit written Progress Reports to the Owner, showing estimated percentages of completion and other information identified below:

- (1) Work completed for the period;
- (2) Project schedule status;
- (3) Submittal schedule and status report, including a summary of outstanding Submittals;
- (4) Responses to requests for information to be provided by the Owner;
- (5) Approved Change Orders and Change Directives;

- (6) Pending Change Order and Change Directive status reports;
- (7) Tests and inspection reports;
- (8) Status report of Work rejected by the Owner;
- (9) Status of Claims previously submitted in accordance with Article XVII;
- (10) Cumulative total of the Cost of the Work to date including the Design-Builder's compensation and Reimbursable Expenses, if any;
- (11) Current Project cash-flow and forecast reports; and
- (12) Additional information as agreed to by the Owner and Design-Builder.

In addition, where the Contract Sum is the Cost of the Work with or without a Guaranteed Maximum Price, the Design-Builder shall include the following additional information in its Progress Reports:

- (1) Design-Builder's work force report;
- (2) Equipment utilization report; and
- (3) Cost summary, comparing actual costs to updated cost estimates.

K. Design-Builder's Schedules. The Design-Builder, promptly after execution of this Agreement, shall prepare and submit for the Owner's information a schedule for the Work. The schedule, including the time required for design and construction, shall not exceed time limits current under the Design-Build Documents, shall be revised at appropriate intervals as required by the conditions of the Work and Project, shall be related to the entire Project to the extent required by the Design-Build Documents, shall provide for expeditious and practicable execution of the Work, and shall include allowances for periods of time required for the Owner's review and for approval of submissions by authorities having jurisdiction over the Project. The Design-Builder shall perform the Work in general accordance with the most recent schedules submitted to the Owner.

L. Certifications. Upon the Owner's written request, the Design-Builder shall obtain from the Architect/Engineer Consultants, and Contractors, and furnish to the Owner, certifications with respect to the documents and services provided by the Architect/Engineer, Consultants, and Contractors (a) that, to the best of their knowledge, information and belief, the documents or services to which the certifications relate (i) are consistent with the Design-Build Documents, except to the extent specifically identified in the certificate, and (ii) comply with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities governing the design of the Project, and (b) that the Owner and its consultants shall be entitled to rely upon the accuracy of the representations and statements contained in the certifications. The Design-Builder's Architect/Engineer, Consultants, and Contractors shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of their services.

M. Design-Builder's Submittals.

- (1) Prior to submission of any Submittals, the Design-Builder shall prepare a Submittal schedule, and shall submit the schedule for the Owner's approval. The Owner's approval shall not unreasonably be delayed or withheld. The Submittal schedule shall (i) be coordinated with the Design-Builder's

schedule provided in Section 3.1.K, (ii) allow the Owner reasonable time to review Submittals, and (iii) be periodically updated to reflect the progress of the Work. If the Design-Builder fails to submit a Submittal schedule, the Design-Builder shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of Submittals.

- (2) By providing Submittals the Design-Builder represents to the Owner that it has (i) reviewed and approved them, (ii) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (iii) checked and coordinated the information contained within such Submittals with the requirements of the Work and of the Design-Build Documents.
- (3) The Design-Builder shall perform no portion of the Work for which the Design-Build Documents require Submittals until the Owner has approved the respective Submittal.
- (4) The Work shall be in accordance with approved Submittals except that the Design-Builder shall not be relieved of its responsibility to perform the Work consistent with the requirements of the Design-Build Documents. The Work may deviate from the Design-Build Documents only if the Design-Builder has notified the Owner in writing of a deviation from the Design-Build Documents at the time of the Submittal and a Modification is executed authorizing the identified deviation. The Design-Builder shall not be relieved of responsibility for errors or omissions in Submittals by the Owner's approval of the Submittals.
- (5) All professional design services or certifications to be provided by the Design-Builder, including all drawings, calculations, specifications, certifications, shop drawings and other Submittals, shall contain the signature and seal of the licensed design professional preparing them. Submittals related to the Work designed or certified by the licensed design professionals, if prepared by others, shall bear the licensed design professional's written approval. The Owner and its consultants shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals.

N. Warranty. The Design-Builder warrants to the Owner that materials and equipment furnished under the Contract will be of good quality and new unless the Design-Build Documents require or permit otherwise. The Design-Builder further warrants that the construction will conform to the requirements of the Design-Build Documents and will be free from defects, except for those inherent in the quality of the Work or otherwise expressly permitted by the Design-Build Documents. Work, materials, or equipment not conforming to these requirements shall be considered defective. The Design-Builder's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Design-Builder, improper or

insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Owner, the Design-Builder shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

O. Royalties, Patents and Copyrights.

- (1) The Design-Builder shall pay all royalties and license fees.
- (2) The Design-Builder shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and its separate contactors and consultants harmless from loss on account thereof, but shall not be responsible for such defense or loss when a particular design, process or product of a particular manufacturer or manufacturers is required by the Owner, or where the copyright violations are required in the Owner's Criteria. However, if the Design-Builder has reason to believe that the design, process or product required in the Owner's Criteria is an infringement of a copyright or a patent, the Design-Builder shall be responsible for such loss unless such information is promptly furnished to the Owner. If the Owner receives notice from a patent or copyright owner of an alleged violation of a patent or copyright, attributable to the Design-Builder, the Owner shall give prompt written notice to the Design-Builder.

P. Indemnification.

- (1) To the fullest extent permitted by law, the Design-Builder shall indemnify and hold harmless the Owner, its officers, agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorney's fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, but only to the extent caused by the negligent acts or omissions of the Design-Builder, a subcontractor or anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Section 3.1.P.
- (2) The Design-Builder's duty to indemnify and hold harmless the Owner in P. (1) above shall extend to fines, penalties and costs incurred by the Owner as related to any enforcement action taken by local, state, regional or federal regulatory entities. The Owner may deduct any of such fines, penalties and costs as described in this subsection from any unpaid amounts then or thereafter due the Design-Builder. Any of such fines, penalties and costs not so deducted from any unpaid amounts due the Design-Builder shall be

payable to the Owner at the demand of the Owner, together with interest from the date of the demand at the maximum allowable rate.

- (3) In claims against any person or entity indemnified under this Section 3.1.P by an employee of the Design-Builder, a subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under Section 3.1.P(1) shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Design-Builder or a subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.
- (4) With respect to design, engineering and architectural services, the Design-Builder shall indemnify and hold harmless the Owner and its officers, agents and employees, from liabilities, damages, losses, and costs, including, but not limited to reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the Design-Builder, its design professionals and other persons employed or utilized by the Design-Builder in the performance of this Agreement, including without limitation, defects in design, or errors or omissions of the Design-Builder that result in material cost increases to the Owner.

The Design-Builder may defend the Owner in any action, lawsuit mediation or arbitration arising from the alleged negligence, recklessness or intentionally wrongful conduct of the Design-Builder and other persons employed or utilized by the Design-Builder in the performance of the Work. So long as Design-Builder, through its own counsel, performs its obligation to defend the Owner pursuant to this Section, Design-Builder shall not be required to pay the Owner's costs associated with the Owner's participation in the defense

Q. Contingent Assignment of Agreements. Each agreement for a portion of the Work is assigned by the Design-Builder to the Owner, provided that:

- (1) assignment is effective only after termination of the Agreement by the Owner for cause, pursuant to Sections 16.1 D or 16.2 B, and only for those agreements that the Owner accepts by written notification to the Design-Builder and the Architect/Engineer, Consultants, and Contractors whose agreements are accepted for assignment; and
- (2) assignment is subject to the prior rights of the surety, if any, obligated under bond.

When the Owner accepts the assignment of an agreement, the Owner assumes the Design-Builder's rights and obligations under the assigned agreement. Upon such assignment, if the Work has been suspended for more than thirty (30) days, the compensation under the assigned agreement shall be equitably adjusted for increases in cost resulting from the suspension. Upon such assignment to the Owner under this Section 3.1.Q, the Owner may further assign the agreement to

a successor design-builder or other entity. If the Owner assigns the agreement to a successor design-builder or other entity, the Owner shall nevertheless remain legally responsible for all of the successor design-builder's or other entity's obligations under this agreement.

R. Design-Builder's Insurance. If and to the extent required by the RFP, the Design-Builder shall furnish insurance coverage for (but not necessarily limited to) workers' compensation, commercial general liability, professional liability, auto liability, excess liability, and builder's risk. The Design-Builder shall furnish to the Owner all appropriate policies and Certificate(s) of Insurance as set forth in Exhibit C.

S. Payment and Performance Bond. Prior to the construction commencement date, the Design-Builder shall obtain, for the benefit of and directed to the Owner, a Payment and Performance Bond satisfying the requirements of Section 255.05, Florida Statutes, covering the faithful performance by the Design-Builder of its obligations under the Design-Build Documents, including but not limited to the construction of the Project on the Project site and the payment of all obligations arising thereunder, including all payments to the Architect/Engineer, Contractors, Consultants, laborers, and materialmen. The surety selected by the Design-Builder to provide the Payment and Performance Bond shall be approved by the Owner prior to the issuance of such Bond, which approval shall not be unreasonably withheld or delayed provided that the surety is rated A or better by Best's Key Guide, latest edition. For Changes in the Work that result in an increase in the Contract Sum, Owner reserves the right to require the Design-Builder to secure and deliver additive riders to the Payment and Performance bond.

#### **ARTICLE IV WORK PRIOR TO EXECUTION OF THE DESIGN-BUILD AMENDMENT**

##### **4.1 General.**

A. Information Submitted. Any information submitted by the Design-Builder, and any interim decisions made by the Owner, shall be for facilitating the design process and shall not modify the Owner's Criteria unless the Owner and Design-Builder execute a Modification.

B. Advice and Recommendations. The Design-Builder shall advise the Owner on proposed site use and improvements, selections of materials, and building systems and equipment. The Design-Builder shall also provide the Owner with recommendations, consistent with the Owner's Criteria, on constructability, availability of materials and labor, time requirements for procurement, installation and construction, and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions.

##### **4.2 Evaluation of the Owner's Criteria.**

A. Meetings. The Design-Builder shall schedule and conduct meetings with the Owner and any other necessary individuals or entities to discuss and review the Owner's

Criteria as set forth in Section 1.1. The Design-Builder shall thereafter again meet with the Owner to discuss a preliminary evaluation of the Owner's Criteria. The preliminary evaluation shall address possible alternative approaches to design and construction of the Project and include the Design-Builder's recommendations, if any, with regard to accelerated or fast-track scheduling, procurement, or phased construction. The preliminary evaluation shall consider cost information, constructability, and procurement and construction scheduling issues.

B. Report. After the Design-Builder meets with the Owner and presents the preliminary evaluation, the Design-Builder shall provide a written report to the Owner, summarizing the Design-Builder's evaluation of the Owner's Criteria. The report shall also include:

- (1) allocations of program functions, detailing each function and their square foot areas;
- (2) a preliminary estimate of the cost of the Work, and, if necessary, recommendations to adjust the Owner's Criteria to conform to the Owner's budget;
- (3) a preliminary schedule, which shall include proposed design milestones; dates for receiving additional information from, or for work to be completed by, the Owner, anticipated date for the Design-Builder's Proposal, and dates of periodic design review sessions with the Owner; and
- (4) the following: None

C. Review. The Owner shall review the Design-Builder's written report and, if acceptable, provide the Design-Builder with written consent to proceed to the development of the preliminary design as described in Section 4.3. The consent to proceed shall not be construed to modify the Owner's Criteria unless the Owner and Design-Builder execute a Modification.

#### **4.3 Preliminary Design.**

A. Submittal. Upon the Owner's issuance of a written consent to proceed under Section 4.2.C, the Design-Builder shall prepare and submit a preliminary design to the Owner. The preliminary design shall include a report identifying any deviations from the Owner's Criteria, and shall include the following:

- (1) confirmation of the allocations of program functions;
- (2) site plan;
- (3) building plans, sections and elevations;
- (4) structural systems;
- (5) selections of major building systems, including but not limited to mechanical, electrical and plumbing systems; and
- (6) outline of specifications or sufficient drawing notes describing construction materials.

The preliminary design may include some combination of physical study models, perspective sketches, or digital modeling.

B. Review. The Owner shall review the preliminary design and, if acceptable, provide the Design-Builder with written consent to proceed to development of the Design-Builder's Proposal. The preliminary design shall not modify the Owner's Criteria unless the Owner and Design-Builder execute a Modification.

#### **4.4 Design-Builder's Proposal.**

A. Submittal. Upon the Owner's issuance of a written consent to proceed under Section 4.3.B, the Design-Builder shall prepare and submit the Design-Builder's Proposal to the Owner. The Design-Builder's Proposal shall include the following:

- (1) a list of the preliminary design documents and other information, including the Design-Builder's clarifications, assumptions and deviations from the Owner's Criteria, upon which the Design-Builder's Proposal is based;
- (2) the proposed Contract Sum, including the compensation method and, if based upon the cost of the Work plus a fee, a written statement of estimated cost organized by trade categories, allowances, contingencies, Design-Builder's fee, and other items that comprise the Contract Sum;
- (3) the proposed date the Design-Builder shall achieve Substantial Completion;
- (4) an enumeration of any qualifications and exclusions, if applicable;
- (5) a list of the Design-Builder's key personnel, Contractors and suppliers; and
- (6) the date on which the Design-Builder's Proposal expires.

B. Local Conditions. Submission of the Design-Builder's Proposal shall constitute a representation by the Design-Builder that it has visited the site and become familiar with local conditions under which the Work is to be completed.

C. Design-Build Amendment. If the Owner and Design-Builder agree on a Design-Builder's Proposal, the Owner and Design-Builder shall execute the Design-Build Amendment setting forth the terms of the agreement.

### **ARTICLE V WORK FOLLOWING EXECUTION OF THE DESIGN-BUILD AMENDMENT**

#### **5.1 Construction Documents.**

A. Preparation; Consistency. Upon the execution of the Design-Build Amendment, the Design-Builder shall prepare Construction Documents. The Construction Documents shall establish the quality levels of materials and systems required. The Construction Documents shall be consistent with the Design-Build Documents.

B. Owner Review. The Design-Builder shall provide the Construction Documents to the Owner for the Owner's information. If the Owner discovers any deviations

between the Construction Documents and the Design-Build Documents, the Owner shall promptly notify the Design-Builder of such deviations in writing. The Construction Documents shall not modify the Design-Build Documents unless the Owner and Design-Builder execute a Modification. The failure of the Owner to discover any such deviations shall not relieve the Design-Builder of the obligation to perform the Work in accordance with the Design-Build Documents.

## **5.2 Construction.**

A. Commencement. Except as permitted in Section 5.2.B, construction shall not commence prior to execution of the Design-Build Amendment.

B. Pre-Amendment Commencement. If the Owner and Design-Builder agree in writing, construction may proceed prior to the execution of the Design-Build Amendment. However, such authorization shall not waive the Owner's right to reject the Design-Builder's Proposal reflected in the Design-Build Amendment.

C. Supervision and Control. The Design-Builder shall supervise and direct the Work, using the Design-Builder's best skill and attention. The Design-Builder shall be solely responsible for, and have control over, construction means, methods, techniques, sequences and procedures, and for coordinating all portions of the Work under the Agreement, unless the Design-Build Documents give other specific instructions concerning these matters.

D. Inspection. The Design-Builder shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

## **5.3 Labor and Materials.**

A. Design-Builder to Provide. Unless otherwise provided in the Design-Build Documents, the Design-Builder shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services, necessary for proper execution and completion of the Work, whether temporary or permanent, and whether or not incorporated or to be incorporated in the Work.

B. Substitutions. When a material or system is specified in the Design-Build Documents, the Design-Builder may make substitutions only in accordance with Article VI.

C. Management of Employees. The Design-Builder shall enforce strict discipline and good order among the Design-Builder's employees and other persons carrying out the Work. The Design-Builder shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

**5.4 Taxes.** The Design-Builder shall pay applicable sales, consumer, use and similar taxes, for the Work provided by the Design-Builder, that are legally enacted when the Design-Build Amendment is executed, whether or not yet effective or merely scheduled to go into effect.

**5.5 Permits, Fees, Notices and Compliance with Laws.**

A. Permits. Unless otherwise provided in the Design-Build Documents, the Design-Builder shall secure and pay for the building permit as well as any other permits, fees, licenses, and inspections by government agencies, necessary for proper execution of the Work and Substantial Completion of the Project.

B. Unanticipated Site Conditions. If, during the Work, the Design-Builder encounters human remains, or recognizes the existence of burial markers, archaeological sites, or wetlands, not indicated in the Design-Build Documents, the Design-Builder shall immediately suspend any operations that would affect them and shall notify the Owner. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Design-Builder shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article VI.

**5.6 Allowances.**

A. Allowances. The Design-Builder shall include in the Contract Sum all allowances stated in the Design-Build Documents. Items covered by allowances shall be supplied for such amounts, and by such persons or entities as the Owner may direct, but the Design-Builder shall not be required to employ persons or entities to whom the Design-Builder has reasonable objection. Unless otherwise provided in the Design-Build Documents,

- (1) allowances shall cover the cost to the Design-Builder of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- (2) the Design-Builder's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts, shall be included in the Contract Sum but not in the allowances; and
- (3) whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (i) the difference between actual costs and the allowances under Section 5.6.A.(1) and (ii) changes in Design-Builder's costs under Section 5.6.A.(2).

B. Owner Selections. The Owner shall make selections of materials and equipment with reasonable promptness, for allowances requiring Owner selection.

### **5.7 Key Personnel, Contractors and Suppliers.**

A. Identification. Except for those persons or entities already identified or required in the Design-Build Amendment, the Design-Builder, as soon as practicable after execution of the Design-Build Amendment, shall furnish in writing to the Owner the names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each principal portion of the Work. The Owner may reply within fourteen (14) days to the Design-Builder in writing stating (1) whether the Owner has reasonable objection to any such proposed person or entity or (2) that the Owner requires additional time for review. Failure of the Owner to reply within the 14-day period shall constitute notice of no reasonable objection.

B. Owner Objections. The Design-Builder shall not employ personnel, or contract with Contractors or suppliers to whom the Owner has made reasonable and timely objection. If the Owner has reasonable objection to a person or entity proposed by the Design-Builder, the Design-Builder shall propose another to whom the Owner has no reasonable objection. If the rejected person or entity was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute person or entity's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Design-Builder has acted promptly and responsively in submitting names as required.

C. Changes. If the Design-Builder changes any of the personnel, Contractors or suppliers identified in the Design-Build Amendment, the Design-Builder shall notify the Owner and provide the name and qualifications of the new personnel, Contractor or supplier. The Owner may reply within fourteen (14) days to the Design-Builder in writing, stating (1) whether the Owner has reasonable objection to the proposed personnel, Contractor or supplier or (2) that the Owner requires additional time to review. Failure of the Owner to reply within the 14-day period shall constitute notice of no reasonable objection.

**5.8 Documents and Submittals at the Site.** The Design-Builder shall maintain at the site for the Owner one copy of the Design-Build Documents and a current set of the Construction Documents, in good order and marked currently to indicate field changes and selections made during construction, and one copy of approved Submittals. The Design-Builder shall deliver these items to the Owner in accordance with Section 9.10.B as a record of the Work as constructed.

**5.9 Use of Site.** The Design-Builder shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Design-Build Documents, and shall not unreasonably encumber the site with materials or equipment.

**5.10 Cutting and Patching.** The Design-Builder shall not cut, patch, or otherwise alter fully or partially completed construction by the Owner or a separate contractor except with written consent of the Owner and of such separate contractor. Such consent shall not be unreasonably withheld. The Design-Builder shall not unreasonably withhold from the Owner or a separate contractor the Design-Builder's consent to cutting or otherwise altering the Work.

**5.11 Cleanliness.**

A. Cleanliness. The Design-Builder shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Agreement. At completion of the Work, the Design-Builder shall remove waste materials, rubbish, tools, construction equipment, machinery and surplus materials from and about the Project Site.

B. Reimbursement to Owner. If the Design-Builder fails to clean up as provided in the Design-Build Documents, the Owner may do so and Owner shall be entitled to offset its costs incurred against payments to the Design-Builder.

**5.12 Access to Work.** The Design-Builder shall provide the Owner and its separate contractors and consultants access to the Work in preparation and progress wherever located. The Design-Builder shall notify the Owner regarding Project safety criteria and programs, which the Owner, and its contractors and consultants, shall comply with while at the site.

**5.13 Construction by Owner or by Separate Contractors.**

- A. Owner's Right to Perform Construction and to Award Separate Contracts.
- (1) The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with the portions of the Project, or other construction or operations on the site, under terms and conditions identical or substantially similar to this Contract, including those terms and conditions related to insurance and waiver of subrogation. The Owner shall notify the Design-Builder promptly after execution of any separate contract. If the Design-Builder claims that delay or additional cost is involved because of such action by the Owner, the Design-Builder shall make a Claim as provided in Article XVII.
  - (2) When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term, "Design-Builder" in the Design-Build Documents in each case shall mean the individual or entity that executes each separate agreement with the Owner.
  - (3) The Owner shall provide for coordination of the activities of the Owner's own forces, and of each separate contractor, with the Work of the Design-Builder, who shall cooperate with them. The Design-Builder shall participate with other separate contractors and the Owner in reviewing their

construction schedules. The Design-Builder shall make any revisions to the construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Design-Builder, separate contractors and the Owner until subsequently revised.

- (4) Unless otherwise provided in the Design-Build Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or separate contractors, the Owner shall be deemed to be subject to the same obligations, and to have the same rights, that apply to the Design-Builder under the Agreement.

#### **5.14 Mutual Responsibility.**

A. Coordination of Site Uses. The Design-Builder shall afford the Owner and separate contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Design-Builder's construction and operations with theirs as required by the Design-Build Documents.

B. Reporting of Discrepancies or Defects. If part of the Design-Builder's Work depends upon construction or operations by the Owner or a separate contractor, the Design-Builder shall, prior to proceeding with that portion of the Work, prepare a written report to the Owner, identifying apparent discrepancies or defects in the construction or operations by the Owner or separate contractor that would render it unsuitable for proper execution and results of the Design-Builder's Work. Failure of the Design-Builder to report shall constitute an acknowledgment that the Owner's or separate contractors' completed or partially completed construction is fit and proper to receive the Design-Builder's Work, except as to defects not then reasonably discoverable.

C. Costs. The Design-Builder shall reimburse the Owner for costs the Owner incurs that are payable to a separate contractor because of the Design-Builder's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Design-Builder for costs the Design-Builder incurs because of a separate contractor's delays, improperly timed activities, damage to the Work or defective construction.

D. Damages. The Design-Builder shall promptly remedy damage the Design-Builder wrongfully causes to completed or partially completed construction or to property of the Owner or separate contractors as provided in Section 10.2.E.

E. Cutting and Patching by Owner. The Owner and each separate contractor shall have the same responsibilities for cutting and patching the Work as the Design-Builder has with respect to the construction of the Owner or separate contractors in Section 5.10.

**5.15 Owner's Right to Clean Up.** If a dispute arises among the Design-Builder, separate contractors and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and will allocate the cost among those responsible.

## **ARTICLE VI CHANGES IN THE WORK**

**6.1 General.** Changes in the Work may be accomplished after execution of the Agreement, and without invalidating the Contract, by Change Order, Work Directive Change or order for a minor change in the Work, subject to the limitations stated in this Article VI and elsewhere in the Design-Build Documents. A Change Order or Work Directive Change shall be based upon agreement among the Owner and Design-Builder; an order for a minor change in the Work may be issued by the Design-Builder alone. Changes in the Work shall be performed under applicable provisions of the Design-Build Documents, and the Design-Builder shall proceed promptly, unless otherwise provided in the Change Order, Work Directive Change or order for a minor change in the Work.

**6.2 Minor Changes in the Work.** The Owner or Design-Builder shall have authority to order minor changes in the Work not involving adjustment in the Contract Sum or extension of the Contract Time and not inconsistent with the intent of the Design-Build Documents. Such change will be effected by written order signed by the Design-Builder and shall be binding on the Owner and Design-Builder. The Design-Builder shall abide by and perform such minor changes. Such changes shall be effected by a Field Directive or a Work Directive Change. Documentation of changes shall be determined by the construction team, and displayed monthly in the progress reports. Because such changes shall not affect the Contract Sum to be paid to the Design-Builder, they shall not require a Change Order pursuant to Section 6.6.

**6.3 Emergencies.** In any emergency affecting the safety of persons or property, the Design-Builder shall act at its discretion to prevent threatened damage, injury, or loss. Any increase in the Contract Sum or extension of time claimed by the Design-Builder because of emergency Work shall be determined as provided in Section 6.6. However, whenever practicable, the Design-Builder shall obtain verbal concurrence of the Owner's authorized representative where the act will or may affect the Contract Sum or Contract Time.

**6.4 Concealed Conditions.** If the Design-Builder encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Design-Build Documents or (2) unknown physical conditions of an unusual nature, that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Design-Build Documents, the Design-Builder shall promptly provide notice to the Owner before conditions are disturbed and in no event later than ten (10) days after first observance of the conditions. The Owner will promptly investigate such conditions and, if the Owner determines that they differ materially and cause an increase or decrease in the Design-Builder's cost of, or time required for, performance of any part of the Work, will recommend an equitable adjustment in the Contract Sum or Contract Time, or both. If the Owner determines that the conditions at the site are not materially different from those indicated in the Design-Build Documents and that no change in the terms of the Contract is justified, the Owner shall promptly notify the Design-Builder in writing, stating the reasons. If Design-Builder disputes the Owner's determination or recommendation, it may proceed as provided in Article XVII.

**6.5 Change Orders; Adjustments to Contract Sum.**

The increase or decrease in the Contract Sum resulting from a change authorized pursuant to the Design-Build Documents shall be determined:

- (1) By mutual acceptance of a lump sum amount properly itemized and supported by sufficient substantiating data, to permit evaluation by the Owner; or
- (2) By unit prices stated in the Agreement or subsequently agreed upon; or
- (3) By any other method mutually agreeable to Owner and Design-Builder.

If Owner and Design-Builder are unable to agree upon increases or decreases in the Contract Sum and the Design-Builder certifies that the work needs to be commenced prior to any such agreement, the Design-Builder, provided it receives a written Change Order signed by or on behalf of the Owner, shall promptly proceed with the Work involved. The cost of such Work shall then be determined on the basis of the reasonable expenditures of those performing the Work attributed to the change. However, in the event a Change Order is issued under these conditions, the Owner will establish an estimated cost of the Work and the Design-Builder shall not perform any Work whose cost exceeds that estimated without prior written approval by the Owner. In such case, the Design-Builder shall keep and present in such form as the Owner may prescribe an itemized accounting, together with appropriate supporting data of the increase in overall costs of the Project. The amount of any decrease in the Contract Sum to be allowed by the Design-Builder to the Owner for any deletion or change which results in a net decrease in costs will be the amount of the actual net decrease.

**6.6 Unit Prices.** If unit prices are stated in the Design-Build Documents or subsequently agreed upon, and if the quantities originally contemplated are so changed in a proposed Change Order that application of the agreed unit prices to the quantities of Work proposed will cause substantial inequity to the Owner or Design-Builder, the applicable unit prices and Contract Sum shall be equitably adjusted.

**6.7 Owner-Initiated Changes.** Without invalidating the Agreement and without notice to any Surety, Owner may, at any time, order additions, deletions or revisions in the Work. These will be authorized by a written amendment, a Field Directive, a Change Order, or a Work Directive Change, as the case may be. Upon receipt of any such document, Design-Builder shall promptly proceed with the Work involved which will be performed under the applicable conditions of the Design-Build Documents (except as otherwise specifically provided). A Work Directive Change may not change the Contract Sum or the Contract Time; but is evidence that the parties expect that the change directed or documented by a Work Directive Change will be incorporated in a subsequently issued Change Order following negotiations by the parties as to its effect, if any, on the Contract Sum or Contract Time.

**6.8 Unauthorized Work.** Design-Builder shall not be entitled to an increase in the Contract Sum or an extension of the Contract Time with respect to any Work performed that is not required by the Design-Build Documents.

**6.9 Defective Work.** Owner and Design-Builder shall execute appropriate Change Orders (or written amendments) covering changes in the Work which are ordered by Owner because of Defective Work, or which may be required because of acceptance of Defective Work, without adjustment to the Contract Sum.

**6.10 Estimates for Changes.** At any time Owner may request a quotation from Design-Builder for a proposed change in the Work. Within twenty-one (21) calendar days after receipt, Design-Builder shall submit a written and detailed proposal for an increase or decrease in the Contract Sum or Contract Time for the proposed change. Owner shall have twenty-one (21) calendar days after receipt of the detailed proposal to respond in writing. The proposal shall include an itemized estimate of all costs and time for performance that will result directly or indirectly from the proposed change. Unless otherwise directed, itemized estimates shall be in sufficient detail to reasonably permit an analysis by Owner of all material, labor, equipment, subcontracts, overhead costs and fees, and shall cover all Work involved in the change, whether such Work was deleted, added, changed or impacted. Notwithstanding the request for quotation, Design-Builder shall carry on the Work and maintain the progress schedule. Delays in the submittal of the written and detailed proposal will be considered non-prejudicial.

**6.11 Form of Proposed Changes.** The form of all submittals, notices, Change Orders and other documents permitted or required to be used or transmitted under the Design-Build Documents shall be determined by the Owner. Standard Owner forms shall be utilized.

**6.12 Changes to Contract Time.** The Contract Time may only be changed pursuant to a Change Order or a written amendment to the Design-Build Documents. Any claim for an extension or shortening of the Contract Time shall be based on written notice delivered by the party making the claim to the other party. Notice of the extent of the claim with supporting data shall be delivered within fifteen (15) days from detection or beginning of such occurrence and shall be accompanied by the claimant's written statement that the adjustment claimed is the entire adjustment to which the claimant has reason to believe it is entitled because of the occurrence of said event. The Contract Time will be extended in an amount equal to time lost due to delays beyond the control of Design-Builder. Such delays shall include, but not be limited to, acts or neglect by Owner or others performing additional Work; or to fires, floods, epidemics, abnormal weather conditions or acts of God. Failure to deliver a written notice of claim within the requisite 15-day period shall constitute a waiver of the right to pursue said claim.

## ARTICLE VII OWNER'S RIGHTS AND RESPONSIBILITIES

### 7.1 General.

A. Authority of Owner's Representative. The Owner shall designate in writing a representative (the Owner's "authorized representative") who shall have express authority to bind the Owner with respect to all Project matters requiring the Owner's approval or authorization.

B. Owner Decisions. The Owner shall render decisions in a timely manner and in accordance with Design-Builder's schedule agreed to by the Owner.

## 7.2 Information and Services Required of the Owner.

A. Promptness. The Owner shall furnish information or services required of the Owner by the Design-Build Documents with reasonable promptness.

B. Inspections and Reports. The Owner shall provide, to the extent under the Owner's control and if not required by the Design-Build Documents to be provided by the Design-Builder, the results and reports of prior tests, inspections or investigations conducted for the Project involving structural or mechanical systems, chemical, air and water pollution, hazardous materials, or environmental and subsurface conditions, and information regarding the presence of pollutants at the Project site. Upon receipt of a written request from the Design-Builder, the Owner shall also provide surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site under the Owner's control.

C. Land Uses. The Owner shall promptly obtain easements, zoning variances, and legal authorizations or entitlements regarding site utilization where essential to the execution of the Project.

D. Cooperation; Permitting. The Owner shall cooperate with the Design-Builder in securing building and other permits, licenses and inspections.

E. Reliance Upon Reports. The services, information, surveys and reports required to be provided by the Owner under this Agreement, shall be furnished at the Owner's expense, and except as otherwise specifically provided in this Agreement or elsewhere in the Design-Build Documents or to the extent the Owner advises the Design-Builder to the contrary in writing, the Design-Builder shall be entitled to rely upon the accuracy and completeness thereof. In no event shall the Design-Builder be relieved of its responsibility to exercise proper precautions relating to the safe performance of the Work.

F. Notice of Defects. If the Owner observes or otherwise becomes aware of a fault or defect in the Work or non-conformity with the Design-Build Documents, the Owner shall give prompt written notice thereof to the Design-Builder.

G. Communications. Except as otherwise provided in the Design-Build Documents or when direct communications have been specially authorized, the Owner shall communicate through the Design-Builder with persons or entities employed or retained by the Design-Builder.

H. Subsurface Conditions. Unless required by the Design-Build Documents to be provided by the Design-Builders, the Owner shall, upon request from the Design-Builder, furnish the services of geotechnical engineers or other consultants for investigation of subsurface, air and water conditions when such services are reasonably necessary to properly carry out the design services furnished by the Design-Builder. In such event, the Design-Builder shall specify the services required. Such services may include, but are not limited to, test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, ground erosion and resistivity tests, and necessary operations for anticipating subsoil conditions. The

services of geotechnical engineer(s) or other consultants shall include preparation and submission of all appropriate reports and professional recommendations.

### **7.3 Submittals.**

A. Review of Submittals. The Owner shall review and approve or take other appropriate action on Submittals. Review of Submittals is not conducted for determining the accuracy and completeness of other details, such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, or for determining that the Submittals are in conformance with the Design-Build Documents, all of which remain the responsibility of the Design-Builder as required by the Design-Build Documents. The Owner's action will be taken in accordance with the submittal schedule approved by the Owner. In the absence of an approved submittal schedule, the Owner shall accomplish the review of submittals and return same to Design-Builder within fourteen (14) days. The Owner's review of Submittals shall not relieve the Design-Builder of the obligations under Sections 3.1.M, 3.1.N, and 5.2.C. The Owner's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Owner, of any construction means, methods, techniques, sequences or procedures. The Owner's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

B. Notice of Non-Conformance. Upon review of the Submittals required by the Design-Build Documents, the Owner shall notify the Design-Builder of any non-conformance with the Design-Build Documents the Owner discovers.

**7.4 Site Visits; Limitations.** Visits to the site by the Owner shall not be construed to create an obligation on the part of the Owner to make onsite inspections to check the quality or quantity of the Work. The Owner shall neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, because these are solely the Design-Builder's rights and responsibilities under the Design-Build Documents.

**7.5 Design-Builder Performance; Limitations.** The Owner shall not be responsible for the Design-Builder's failure to perform the Work in accordance with the requirements of the Design-Build Documents. The Owner shall not have control over or charge of, and will not be responsible for acts or omissions of the Design-Builder, Architect/Engineer, Consultants, Contractors, or their agents or employees, or any other persons or entities performing portions of the Work for the Design-Builder.

**7.6 Rejection of Work.** The Owner has the authority to reject Work that does not conform to the Design-Build Documents. The Owner shall have authority to require inspection or testing of the Work, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Owner nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Owner to the Design-Builder, the Architect/Engineer, Consultants, Contractors, material and equipment suppliers, their agents or employees, or other persons or entities performing portions of the Work.

**7.7 Completion Dates.** The Owner shall determine the date or dates of Substantial Completion in accordance with Section 9.8 and the date of final completion in accordance with Section 9.10.

**7.8 Owner's Right to Stop Work.** If the Design-Builder fails to correct Work which is not in accordance with the requirements of the Design-Build Documents as required by Section 11.2 or persistently fails to carry out Work in accordance with the Design-Build Documents, the Owner may issue a written order to the Design-Builder to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Design-Builder or any other person or entity.

**7.9 Owner's Right to Carry Out the Work.** If the Design-Builder defaults or neglects to carry out the Work in accordance with the Design-Build Documents and fails within a ten-day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such deficiencies. In such case, an appropriate Change Order shall be issued deducting from payments then or thereafter due the Design-Builder the reasonable cost of correcting such deficiencies. If payments then or thereafter due the Design-Builder are not sufficient to cover such amounts, the Design-Builder shall pay the difference to the Owner. Notwithstanding any other provisions in the Design-Build Documents to the contrary, the Owner shall be entitled to bring a direct action in the Circuit Court to recover such costs.

**7.10 Governmental Body.** The Design-Builder recognizes that the Owner is a governmental body with certain procedural requirements to be satisfied. The Design-Builder has and will make reasonable allowance in its performance of services for such additional time as may be required for approvals and decisions by the Owner and any other necessary government agency.

**7.11 Pre-Completion Acceptance.** The Owner shall have the right to take possession of and use any completed portions of the Work, although the time for completing the entire Work or such portions may not have expired, but such taking possession and use shall not be deemed an acceptance of any Work not completed in accordance with the Design-Build Documents.

**7.12 Ownership and Use of Drawings, Specifications and Other Instruments of Service.**

- (1) The Design-Builder and the Design-Builder's Consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Project Plans and Specifications, and will retain all common law, statutory and other reserved rights, including copyrights. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with this Project is not to be construed as publication in derogation of the Design-Builder's and the Design-Builder's Consultants' reserved rights.
- (2) The Design-Builder, Contractors and material or equipment suppliers are authorized to use and reproduce the drawings and specifications provided to them solely and exclusively for execution of the Work. All copies made

under this authorization shall bear the copyright notice, if any, shown on the Project Plans and Specifications or other Instruments of Service. Notwithstanding the reserved rights set forth in Section 7.12(1), the Owner shall have the right at all times to use the Design-Builder's and the Design-Builder's Consultants Instruments of Service in execution of the Work. The Owner's rights of usage shall survive any termination of this Agreement pursuant to Article XVI. The Design-Builder, Contractors, and material or equipment suppliers may not use the drawings or specifications on other projects or for additions to this Project outside the scope of the Work without the specific written consent of the Owner.

## **ARTICLE VIII TIME**

### **8.1 Progress and Completion.**

A. Time Limits. Time limits are of the essence in this Agreement. By executing the Design-Build Amendment, the Design-Builder confirms that the Contract Time is a reasonable period for performing the Work.

B. Insurance. The Design-Builder shall not, except by agreement of the Owner in writing, commence the Work prior to the effective date of insurance required by this Agreement. The Contract Time shall not be adjusted because of the Design-Builder's failure to obtain insurance required under this Agreement.

C. Substantial Completion. The Design-Builder shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

### **8.2 Delays and Extensions of Time.**

A. Owner Delays. If the Design-Builder is delayed at the time in the commencement or progress of the Work by an act or neglect of the Owner or of a consultant or separate contractor employed by the Owner, or by changes ordered in the Work by the Owner, or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Design-Builder's control, or by delay authorized by the Owner pending resolution pursuant to Article XVII hereof, or by other causes that the Owner determines may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Owner may determine.

B. Claims for Delay. Claims relating to time shall be made in accordance with applicable provisions of Article XVII.

C. Liquidated Damages for Delay. Time is of the essence in the Design-Build Documents and all obligations thereunder. If the Design-Builder fails to achieve Substantial Completion of the Work within the Contract Time and as otherwise required by the Design-Build Documents, the Owner shall be entitled to retain or recover from the Design-Builder, as liquidated

damages and not as a penalty, the sum of \$1,778.00 per calendar day, commencing upon the first day following expiration of the Contract Time and continuing until the actual date of Substantial Completion. Such liquidated damages are hereby agreed to be a reasonable estimate of damages the Owner will incur because of delayed completion of the Work. The Owner may deduct liquidated damages as described in this paragraph from any unpaid amounts then or thereafter due the Design-Builder under this Agreement. Any liquidated damages not so deducted from any unpaid amounts due the Design-Builder shall be payable to the Owner at the demand of the Owner, together with interest from the date of the demand at the maximum allowable rate.

## ARTICLE IX PAYMENT APPLICATIONS AND PROJECT COMPLETION

**9.1 Contract Sum.** The Contract Sum shall be stated in the Design-Build Amendment.

**9.2 Schedule of Values.** Where the Contract Sum is based on a stipulated sum or guaranteed maximum price, the Design-Builder, prior to the first Application for Payment after execution of the Design-Build Amendment, shall submit to the Owner a schedule of values allocating the entire Contract Sum to the various portions of the Work and prepared in such form and supported by such data to substantiate its accuracy as the Owner may require. This schedule, unless objected to by the Owner, shall be used as a basis for reviewing the Design-Builder's Applications for Payment.

**9.3 Applications for Payment.**

A. Submittal: Requirements. At least ten (10) days before the date established for each progress payment, the Design-Builder shall submit to the Owner an itemized Application for Payment for completed portions of the Work. The application shall be notarized, if required, and supported by data substantiating the Design-Builder's right to payment as the Owner may require, such as copies of requisitions from the Architect/Engineer, Consultants, Contractors, and material suppliers, and shall reflect retainage if provided for in the Design-Build Documents.

- (1) As provided in Section 6.6, Applications for Payment may include requests for payment because of changes in the Work that have been promptly authorized by Work Directive Changes, or by interim determinations of the Owner but not yet included in Change Orders.
- (2) Applications for Payment shall not include requests for portions of the Work for which the Design-Builder does not intend to pay the Architect/Engineer Consultant, Contractor, and material supplier, or other persons or entities providing services or work for the Design-Builder, unless such Work has been performed by others whom the Design-Builder intends to pay.

B. Payments for Services Provided. Unless otherwise provided in the Design-Build Documents, payments shall be made for services provided as well as materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If

approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Design-Builder with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise to protect the Owner's interest, and shall include the costs of applicable insurance, storage and transportation to the site for such materials and equipment stored off the site.

C. Warranties. The Design-Builder warrants that title to all Work, other than Instruments of Service, covered by an Application for Payment will pass to the Owner no later than the time of payment. The Design-Builder further warrants that, upon submittal of an Application for Payment, all Work for which a Certificate for Payment has been previously issued and payments received from the Owner shall, to the best of the Design-Builder's knowledge, information and belief, be free and clear of liens, claims, security interests or encumbrances in favor of the Design-Builder, Architect/Engineer, Consultants, Contractors, material suppliers, or other persons or entities entitled to make a claim by reason of having provided labor, materials and equipment relating to the Work.

**9.4 Certificates for Payment.** The Owner shall, within seven days after receipt of the Design-Builder's Application for Payment, issue to the Design-Builder a Certificate for Payment indicating the amount the Owner determines is properly due, and notify the Design-Builder in writing of the Owner's reasons for withholding certification in whole or in part as provided in Section 9.5.A.

#### **9.5 Decisions to Withhold Certification.**

A. Grounds. The Owner may withhold a Certificate for Payment in whole or in part to the extent reasonably necessary to protect the Owner due to the Owner's determination that the Work has not progressed to the point indicated in the Design-Builder's Application for Payment, or the quality of the Work is not in accordance with the Design-Build Documents. If the Owner is unable to certify payment in the amount of the Application, the Owner will notify the Design-Builder as provided in Section 9.4. If the Design-Builder and Owner cannot agree on a revised amount, the Owner will promptly issue a Certificate for Payment for the amount that the Owner deems to be due and owing. The Owner may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued to such extent as may be necessary to protect the Owner from loss for which the Design-Builder is responsible because of:

- (1) defective Work, including design and construction, not remedied;
- (2) third party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to the Owner is provided by the Design-Builder;
- (3) failure of the Design-Builder to make payments properly to the Architect/Engineer Consultants, Contractors or others, for services, labor, materials or equipment;
- (4) reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- (5) damage to the Owner or a separate contractor;

- (6) reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- (7) repeated failure to carry out the Work in accordance with the Design-Build Documents.

B. Cure. When the above reasons for withholding certification are removed, certification will be made for amounts previously withheld.

C. Issuance of Joint Checks. If the Owner withholds certification for payment under Section 9.5.A(3), the Owner may, at its sole option, issue joint checks to the Design-Builder or any Consultants, Contractor, material or equipment suppliers, or other persons or entities providing services or work for the Design-Builder to whom the Design-Builder failed to make payment for Work properly performed or material or equipment suitably delivered.

## **9.6 Progress Payments.**

A. Payment. After the Owner has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Design-Build Documents.

B. Payments by Design-Builder. The Design-Builder shall pay each Architect/Engineer Consultant, Contractor, and other person or entity providing services or work for the Design-Builder no later than the time period required by applicable law, but in no event more than ten days after receipt of payment from the Owner the amount to which the Architect/Engineer Consultant, Contractor, and other person or entity providing services or work for the Design-Builder is entitled, reflecting percentages actually retained from payments to the Design-Builder on account of the portion of the Work performed by the Architect/Engineer, Consultant, Contractor, and other person or entity. The Design-Builder shall, by appropriate agreement with each Architect/Engineer, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder, require each Architect/Engineer, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder to make payments to subcontractors in a similar manner.

C. Requests for Information. The Owner will, on request and if practicable, furnish to the Architect/Engineer, a Consultant, Contractor, and other person or entity providing services or work for the Design-Builder, information regarding percentages of completion or amounts applied for by the Design-Builder and action taken by the Owner on account of portions of the Work done by such Architect/Engineer, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder.

D. Evidence of Payment by Design-Builder. The Owner has the right to request written evidence from the Design-Builder that the Design-Builder has properly paid the Architect/Engineer Consultants, Contractors, and other persons or entities providing services or work for the Design-Builder, amounts paid by the Owner to the Design-Builder for the Work. If the Design-Builder fails to furnish such evidence within seven (7) days, the Owner shall have the right to contact the Architect/Engineer Consultants and Contractors to ascertain whether they have

been properly paid. The Owner shall have no obligation to pay or to see to the payment of money to a Consultant or Contractor, except as may otherwise be required by law.

E. Payments to Suppliers. Design-Builder payments to material and equipment suppliers shall be treated in a manner similar to that provided in Sections 9.6.B, 9.6.C and 9.6.D.

F. Acceptance of Work. A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Design-Build Documents.

**9.7 Failure of Payment.** If the Owner does not issue a Certificate for Payment, through no fault of the Design-Builder, within the time required by the Design-Build Documents, then the Design-Builder may, upon seven additional days' written notice to the Owner, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Design-Builder's reasonable costs of shut-down, delay and start-up.

#### **9.8 Substantial Completion.**

A. Substantial Completion Defined. Substantial Completion shall be as defined in Section 1.4. The date of Substantial Completion is the date certified by the Owner in accordance with this Section 9.8.

B. List of Corrections. When the Design-Builder considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Design-Builder shall prepare and submit to the Owner a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Design-Builder to complete all Work in accordance with the Design-Build Documents.

C. Inspections: Corrections. Upon receipt of the Design-Builder's list, the Owner shall make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Owner's inspection discloses any item, whether or not included on the Design-Builder's list, which is not sufficiently complete in accordance with the Design-Build Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Design-Builder shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Owner. In such case, the Design-Builder shall then submit a request for another inspection by the Owner to determine Substantial Completion.

D. Certificate of Substantial Completion. When the Work or designated portion thereof is substantially complete, the Design-Builder will prepare for the Owner's signature a Certificate of Substantial Completion that shall, upon the Owner's signature, establish the date of Substantial Completion, establish responsibilities of the Owner and Design-Builder for security, maintenance, heat, utilities, damage to the Work and insurance, and fix the Punch List Completion Date. Warranties required by the Design-Build Documents shall commence on the

date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

E. Submittal; Acceptance. The Certificate of Substantial Completion shall be submitted by the Design-Builder to the Owner for written acceptance of responsibilities assigned to it in the Certificate. Upon the Owner's acceptance, and consent of surety, if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Design-Build Documents.

### **9.9 Partial Occupancy or Use.**

A. Right of Owner. The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Design-Builder, provided such occupancy or use is authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Design-Builder have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Design-Build Documents. When the Design-Builder considers a portion substantially complete, the Design-Builder shall prepare and submit a list to the Owner as provided under Section 9.8.B. Consent of the Design-Builder to partial occupancy or use shall not be unreasonably withheld. The state of the progress of the Work shall be determined by written agreement between the Owner and Design-Builder.

B. Inspection. Immediately prior to such partial occupancy or use, the Owner and Design-Builder shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

C. Occupancy Shall Not Constitute Acceptance. Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Design-Build Documents.

### **9.10 Final Completion and Final Payment.**

A. Timely Inspection. Upon receipt of the Design-Builder's written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Owner will promptly make such inspection. When the Owner finds the Work acceptable under the Design-Build Documents and the Agreement fully performed, the Owner will, subject to Section 9.10.B, promptly issue a final Certificate for Payment.

B. Conditions of Final Payment. Neither final payment nor any remaining retained percentage shall become due until the Design-Builder submits to the Owner:

- (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work, for which the Owner or the Owner's

- property might responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied;
- (2) a certificate evidencing that insurance required by the Design-Build Documents to remain in force after final payment is currently in effect;
  - (3) a written statement that the Design-Builder knows of no substantial reason that the insurance will not be renewable to cover the period required by the Design-Build Documents;
  - (4) consent of surety, if any, to final payment;
  - (5) as-built drawings and an as-constructed record copy of the Design-Build Documents, marked to indicate field changes and selections made during construction;
  - (6) all warranty documentation, manufacturer's warranties, product data, maintenance and operations manuals (including parts and technical manuals), and all schematics and handbooks; and
  - (7) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, or releases and waivers of liens, security interests, or encumbrances, arising out of the Agreement, to the extent and in such form as may be designated by the Owner.

C. Delay; Partial Payment. If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Design-Builder or by issuance of Change Orders affecting final completion, the Owner shall, upon application by the Design-Builder, and without terminating the Agreement, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Design-Build Documents, and if bonds have been furnished, the written consent of surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Design-Builder to the Owner prior to issuance of payment. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

D. Waiver of Owner Claims. The making of final payment shall constitute a waiver of Claims by the Owner except those arising from:

- (1) claims arising out of the Agreement and unsettled;
- (2) failure of the Work to comply with the requirements of the Design-Build Documents; and
- (3) terms of special warranties required by the Design-Build Documents.

E. Waiver of Design-Builder Claims. Acceptance of final payment by the Design-Builder shall constitute a waiver of Claims by the Design-Builder except those previously made in writing and identified by the Design-Builder as unsettled at the time of final Application for Payment.

**ARTICLE X  
PROTECTION OF PERSONS AND PROPERTY**

**10.1 Safety Precautions and Programs.** The Design-Builder shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Agreement.

**10.2 Safety of Persons and Property.**

A. Prevention. The Design-Builder shall be responsible for precautions for the safety of, and reasonable protection to prevent damage, injury or loss to:

- (1) employees on the Work and other persons who may be affected thereby;
- (2) the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Design-Builder or the Architect/Engineer, Consultants, or Contractors, or other person or entity providing services or work for the Design-Builder; and
- (3) other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, or structures and utilities not designed for removal, relocation or replacement during construction.

B. Compliance with Laws and Regulations. The Design-Builder shall comply with, and give notices required by, applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property, or their protection from damage, injury or loss.

C. Safeguards. The Design-Builder shall implement, erect, and maintain, as required by existing conditions and performance of the Agreement, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations, and notifying owners and users of adjacent sites and utilities of the safeguards and protections.

D. Hazardous Materials. When use of storage of explosives or other hazardous materials or equipment, or unusual methods, are necessary for execution of the Work, the Design-Builder shall exercise utmost care, and carry on such activities under supervision of properly qualified personnel.

E. Remedy of Damages and Losses. The Design-Builder shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Design-Build Documents) to property referred to in Sections 10.2.A(2) and 10.2.A(3), caused in whole or in part by the Design-Builder, the Architect/Engineer, a consultant, a Contractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Design-Builder is responsible under Sections 10.2.A(2) and 10.2.A(3), except damage or loss attributable to acts or omissions of the Owner or anyone directly or indirectly employed by the Owner or by anyone for whose acts the Owner may be liable. The foregoing obligations of the Design-Builder are in addition to the Design-Builder's obligations under Section 3.1.P.

F. Safety Officer. The Design-Builder shall designate a responsible member of the Design-Builder's organization, at the site, whose duty shall be the prevention of accidents. This person shall be the Design-Builder's superintendent unless otherwise designated by the Design-Builder in writing to the Owner.

G. Loading of Construction Site. The Design-Builder shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

H. Injury or Damage to Person or Property. If the Owner or Design-Builder suffers injury or damage to person or property because of an act or omission of the other, or of others for whose acts such party is legally responsible, written notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding twenty one (21) days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

### **10.3 Hazardous Materials.**

A. Design-Builder Responsibility. The Design-Builder is responsible for compliance with any requirements included in the Design-Build Documents regarding hazardous materials. If the Design-Builder encounters a hazardous material or substance not addressed in the Design-Build Documents, and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Design-Builder, the Design-Builder shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner in writing.

B. Owner Responsibility. Upon receipt of the Design-Builder's written notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Design-Builder and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Design-Build Documents, the Owner shall furnish in writing to the Design-Builder the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of such materials or substances or who are to perform the task of removal or safe containment of such materials or substances. The Design-Builder will promptly reply to the Owner in writing stating whether or not the Design-Builder has reasonable objection to the persons or entities proposed by the Owner. If the Design-Builder has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Design-Builder has no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Design-Builder. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased in the amount of the Design-Builder's reasonable additional costs of shut-down, delay and start-up.

C. Indemnity by Owner. To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Design-Builder, the Architect/Engineer Consultants, and Contractors, and employees of any of them, from and against claims, damages, losses and

expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area, if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.A and has not been rendered harmless, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to, or destruction of, tangible property (other than the Work itself), except to the extent that such damage, loss or expense is due to the fault or negligence of the party seeking indemnity. If, without negligence on the part of the Design-Builder, the Design-Builder is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Design-Build Documents, the Owner shall also indemnify the Design-Builder for all cost and expense thereby incurred.

D. Limitations on Indemnity. The Owner shall not be responsible under this Section 10.3 for materials or substances the Design-Builder brings to the site unless such materials or substances are required by the owner's Criteria. The Owner shall be responsible for materials or substances required by the Owner's Criteria, except to the extent of the Design-Builder's fault or negligence in the use and handling of such materials or substances.

E. Indemnity by Design-Builder. The Design-Builder shall indemnify the Owner for the cost and expense the Owner incurs (1) for remediation of a material or substance the Design-Builder brings to the site and negligently handles, or (2) where the Design-Builder fails to perform its obligations under Section 10.3.A, except to the extent that the cost and expense are due to the Owner's fault or negligence.

**10.4 Emergencies.** In an emergency affecting safety of persons or property, the Design-Builder shall act, at the Design-Builder's discretion, to prevent threatened damage, injury or loss.

## ARTICLE XI UNCOVERING AND CORRECTION OF WORK

**11.1 Uncovering of Work.** The Owner may request to examine a portion of the Work that the Design-Builder has covered to determine if the work has been performed in accordance with the Design-Build Documents. If such Work is in accordance with the Design-Build Documents, the Owner and Design-Builder shall execute a Change Order to adjust the Contract Time and Contract Sum, as appropriate. If such Work is not in accordance with the Design-Build Documents, the costs of uncovering and correcting the Work shall be at the Design-Builder's expense and the Design-Builder shall not be entitled to a change in the Contract Time unless the condition was caused by the Owner or a separate contractor in which event the Owner shall be responsible for payment of such costs and the Contract Time will be adjusted as appropriate.

### **11.2 Correction of Work.**

A. Duty to Correct Work. The Design-Builder shall promptly correct Work rejected by the Owner or failing to conform to the requirements of the Design-Build Documents, whether discovered before or after Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for any design consultant employed by

the Owner whose expenses and compensation were made necessary thereby, shall be at the Design-Builder's expense.

B. After Substantial Completion.

- (1) In addition to the Design-Builder's obligations under Section 3.1.N, if, within three years after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.A, or by terms of an applicable special warranty required by the Design-Build Documents, any of the Work is found not to be in accordance with the requirements of the Design-Build Documents, the Design-Builder shall correct it promptly after receipt of written notice from the Owner to do so unless the Owner has previously given the Design-Builder a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the three-year period for correction of the Work, if the Owner fails to notify the Design-Builder and give the Design-Builder an opportunity to make the correction, the Owner waives the rights to require correction by the Design-Builder and to make a claim for breach of warranty. If the Design-Builder fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner, the Owner may correct it in accordance with Section 7.9.
- (2) The three-year period for correction of Work shall not be extended by corrective Work performed by the Design-Builder pursuant to this Section 11.2.

C. Removal of Uncorrected Work. The Design-Builder shall remove from the site portions of the Work that are not in accordance with the requirements of the Design-Build Documents and are neither corrected by the Design-Builder nor accepted by the Owner.

D. Cost of Damage to Construction. The Design-Builder shall bear the cost of correcting destroyed or damaged construction of the Owner or separate contractors, whether completed or partially completed, caused by the Design-Builder's correction or removal of Work that is not in accordance with the requirements of the Design-Build Documents.

E. No Limitation on Obligation to Correct Work. Nothing contained in this Section 11.2 shall be construed to establish a period of limitation with respect to other obligations the Design-Builder has under the Design-Build Documents. Establishment of the three-year period for correction of Work as described in Section 11.2.B relates only to the specific obligation of the Design-Builder to correct the Work, and has no relationship to the time within which the obligation to comply with the Design-Build Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Design-Builder's liability with respect to the Design-Builder's obligation other than specifically to correct the Work.

**11.3 Acceptance of Nonconforming Work.** If the Owner prefers to accept Work that is not in accordance with the requirements of the Design-Build Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

## **ARTICLE XII ACCOUNTING RECORDS; OWNERSHIP OF DOCUMENTS**

**12.1 Accounting Records.** Records of expenses pertaining to all services performed shall be kept in accordance with generally accepted accounting principles and procedures.

**12.2 Inspection and Audit.** The Design-Builder's records shall be open to inspection and subject to examination, audit, and/or reproduction during normal working hours by the Owner's agents or authorized representatives to the extent necessary to adequately permit evaluation and verification of any invoices, payments or claims submitted by the Design-Builder or any of its payees during the performance of the Work. These records shall include, but not be limited to, accounting records, written policies and procedures, Subcontractor files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, Change Order files (including documentation covering negotiated settlements), and any other supporting evidence necessary to substantiate charges related to the Design-Build Documents. They shall also include, but not be limited to, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with the Design-Build Documents. For the purpose of such audits, inspections, examinations and evaluations, the Owner's agents or authorized representatives shall have access to said records from the effective date of this Agreement, for the duration of Work, and until three (3) years after the date of final payment by the Owner to the Design-Builder pursuant to the Design-Build Documents.

**12.3 Access.** The Owner's agents or authorized representatives shall have access to the Design-Builder's facilities and all necessary records to conduct audits in compliance with this Article. The Owner's agents or authorized representatives shall give the Design-Builder reasonable advance notice of intended inspections, examinations, and/or audits.

**12.4 Ownership of Documents.** Upon completion of the Work or termination of this Agreement, all records, documents, tracings, plans, specifications, maps, evaluations, reports, transcripts and other technical data, other than working papers, prepared or developed by the Design-Builder under the Design-Build Documents, shall be delivered to and become the property of the Owner. The Design-Builder at its own expense may retain copies for its files and internal use.

**ARTICLE XIII  
PUBLIC CONTRACT LAWS**

**13.1 Equal Opportunity Employment.**

A. Employment. The Design-Builder shall not discriminate against any employee or applicant for employment because of race, creed, sex, color, national origin, disability or age, and will take affirmative action to ensure that all employees and applicants are afforded equal employment opportunities without discrimination because of race, creed, sex, color, national origin, disability or age. Such action will be taken with reference to, but shall not be limited to, recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff or termination, rates of training or retraining, including apprenticeship and on-the-job training.

B. Participation. No person shall, on the grounds of race, creed, sex, color, national origin, disability or age, be excluded from participation in, be denied the proceeds of, or be subject to discrimination in the performance of this Agreement.

**13.2 Immigration Reform and Control Act of 1986.** Design-Builder acknowledges that it is responsible for complying with the provisions of the Immigration Reform and Control Act of 1986, located at 8 U.S.C. Section 1324, et seq., and regulations relating thereto. Failure to comply with the above statutory provisions shall be considered a material breach and shall be grounds for immediate termination of this Agreement.

**13.3 No Conflict of Interest.** The Design-Builder warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Design-Builder to solicit or secure the Design-Build Documents, and that it has not paid or agreed to pay any person, company, corporation, individual, or firm other than a bona fide employee working solely for the Design-Builder, any fee, commission, percentage, gift or any other consideration, contingent upon or resulting from the award or making of this Agreement.

A. No Interest in Business Activity. By accepting award of this Agreement, the Design-Builder, which shall include its directors, officers and employees, represents that it presently has no interest in and shall acquire no interest in any business or activity which would conflict in any manner with the performance of services required hereunder, including without limitation as described in the Design-Builder's own professional ethical requirements. An interest in a business or activity which shall be deemed a conflict includes but is not limited to direct financial interest in any of the material and equipment manufacturers, suppliers, distributors, or contractors who will be eligible to supply material and equipment for the Project for which the Design-Builder is furnishing its services required hereunder.

B. No Appearance of Conflict. The Design-Builder shall not knowingly engage in any contractual or professional obligations that create an appearance of a conflict of interest with respect to the services provided pursuant to the Design-Build Documents. The Design-Builder has provided the Affidavit of No Conflict, incorporated into the Agreement as Exhibit "B", as a material inducement for Owner entering into this Agreement. If, in the sole discretion of the County Administrator or designee, a conflict of interest is deemed to exist or arise during the term of this Agreement, the County Administrator or designee may terminate this

Agreement, effective upon the date so stated in a written notice of termination, without penalty to the Owner.

**13.4 Truth in Negotiations.** By execution of the Design-Build Documents, the Design-Builder certifies to truth-in-negotiations and that wage rates and other factual unit costs supporting the compensation are accurate, complete and current at the time of contracting. Further, the original Contract Sum and any additions thereto shall be adjusted to exclude any significant sums where the Owner determines the Contract Sum was increased due to inaccurate, incomplete or non-current wage rates and other factual unit costs. Such adjustments must be made within one (1) year after final payment to the Design-Builder.

**13.5 Public Entity Crimes.** The Design-Builder is directed to the Florida Public Entity Crimes Act, Section 287.133, Florida Statutes, specifically section (2)(a), and the Owner's requirement that the Design-Builder comply with it in all respects prior to and during the term of this Agreement.

#### **ARTICLE XIV FORCE MAJEURE, FIRE OR OTHER CASUALTY**

##### **14.1 Force Majeure.**

A. Unavoidable Delays. Delays in any performance by any party contemplated or required hereunder due to fire, flood, sinkhole, earthquake or hurricane, acts of God, unavailability of materials, equipment or fuel, war, declaration of hostilities, revolt, civil strife, altercation or commotion, strike, labor dispute, or epidemic, archaeological excavation, lack of or failure of transportation facilities, or any law, order, proclamation, regulation, or ordinance of any government or any subdivision thereof, or for any other similar cause to those enumerated, beyond the reasonable control and which with due diligence could not have been reasonably anticipated, shall be deemed to be events of Force Majeure and any such delays shall be excused. In the event such party is delayed in the performance of any Work or obligation pursuant to the Design-Build Documents for any of the events of Force Majeure stated in this Section 14.1, the date for performance required or contemplated by the Design-Build Documents shall be extended by the number of calendar days such party is actually delayed

B. Concurrent Design-Builder Delays. If a delay is caused for any reason provided in 14.1.A. or as a result of an extension of time provided by Change Order, and during the same time period a delay is caused by Design-Builder, the date for performance shall be extended as provided in 14.1.A. but only to the extent the time is or was concurrent.

C. Notice: Mitigation. The party seeking excuse for nonperformance based on Force Majeure shall give written notice to the Owner, if with respect to the Design-Builder, or to the Design-Builder, if with respect to the Owner, specifying its actual or anticipated duration. Each party seeking excuse from nonperformance based on Force Majeure shall use its best efforts to rectify any condition causing a delay and will cooperate with the other party, except that neither party shall be obligated to incur any unreasonable additional costs and expenses to overcome any loss of time that has resulted.

**14.2 Casualty; Actions by Owner and Design-Builder.** During the construction period, if the Project or any part thereof shall have been damaged or destroyed, in whole or in part, the Design-Builder shall promptly make proof of loss; and Owner and Design-Builder shall proceed promptly to collect, or cause to be collected, all valid claims which may have arisen against insurers or others based upon such damage or destruction. The Design-Builder shall diligently assess the damages or destruction and shall prepare an estimate of the cost, expenses, and other charges, including normal and ordinary compensation to the Design-Builder, necessary for reconstruction of the Project substantially in accordance with the Design-Build Documents. Within fifteen (15) days following satisfaction of the express conditions described in subsections (1), (2) and (3) below, the Design-Builder covenants and agrees diligently to commence reconstruction and to complete the reconstruction or repair of any loss or damage by fire or other casualty to the Project to substantially the same size, floor area, cubic content, and general appearance as prior to such loss or damage:

- (1) Receipt by the Owner or the trustee of the proceeds derived from collection of all valid claims against insurers or others based upon such damage or destruction, and receipt of other sums from any source such that the funds necessary to pay the Project cost and any additions to the Project cost necessitated for repair or reconstruction are available;
- (2) Written agreement executed by the Design-Builder and the Owner, by amendment to the Design-Build Documents or otherwise, authorizing and approving the repair or reconstruction and any additions to the Project cost necessitated thereby, including any required adjustment to the Contract Sum; and
- (3) Final approval by the Owner of the Design-Build Documents for such repair or reconstruction and issuance of any required building permits.

**14.3 Approval of Plans and Specifications.** The Owner agrees to approve the plans and specifications for such reconstruction or repair if the reconstruction or repair contemplated by such plans and specifications is economically feasible, and will restore the Project, or the damaged portion thereof, to substantially the same condition as prior to such loss or damage, and such plans and specifications conform to the applicable laws, ordinances, codes, and regulations. The Owner agrees that all proceeds of any applicable insurance or other proceeds received by the Owner or the Design-Builder as a result of such loss or damage shall be used for payment of the costs, expenses, and other charges of the reconstruction or repair of the Project.

**14.4 Notice of Loss or Damage.** The Design-Builder shall promptly give the Owner written notice of any significant damage or destruction to the Project, defined as loss or damage which it is contemplated by Design-Builder will increase the Contract Sum or extend the Substantial Completion Date, stating the date on which such damage or destruction occurred, the then expectations of Design-Builder as to the effect of such damage or destruction on the use of the Project, and the then proposed schedule, if any, for repair or reconstruction of the Project. Loss or damage which the Design-Builder determines will not affect the Contract Sum or Substantial

Completion Date will be reported to Owner immediately, and associated corrective actions will be undertaken without delay.

## **ARTICLE XV REPRESENTATIONS, WARRANTIES AND COVENANTS**

**15.1 Representations and Warranties of Design-Builder.** The Design-Builder represents and warrants as follows:

The Design-Builder consists of an engineering firm organized under the laws of the State of North Carolina and a construction company organized under the laws of the State of Florida, authorized to transact business in the State of Florida, with Michael Kenneth Beukema as the primary qualifying agent. Design-Builder has all requisite power and authority to carry on its business as now conducted, to own or hold its properties, and to enter into and perform its obligations hereunder and under each instrument to which it is or will be a party, and is in good standing in the State of Florida.

Each Contract Document to which the Design-Builder is or will be a party constitutes, or when entered into will constitute, a legal, valid, and binding obligation of the Design-Builder enforceable against the Design-Builder in accordance with the terms thereof, except as such enforceability may be limited by applicable bankruptcy, insolvency, or similar laws from time to time in effect which affect creditors' rights generally and subject to usual equitable principles in the event that equitable remedies are involved.

There are no pending or, to the knowledge of the Design-Builder, threatened actions or proceedings before any court or administrative agency, within or without the State of Florida, against the Design-Builder or any partner, officer, or agent of the Design-Builder which question the validity of any document contemplated hereunder, or which are likely in any case, or in the aggregate, to materially adversely affect the consummation of the transactions contemplated hereunder, or materially adversely affect the financial condition of the Design-Builder.

The Design-Builder has filed or caused to be filed all federal, state, local, or foreign tax returns, if any, which were required to be filed by the Design-Builder, and has paid, or caused to be paid, all taxes shown to be due and payable on such returns or on any assessments levied against the Design-Builder.

Neither Design-Builder nor any agent or person employed or retained by Design-Builder has acted fraudulently or in bad faith or in violation of any statute or law in the procurement of this Agreement.

The Design-Builder shall timely fulfill or cause to be fulfilled all of the terms and conditions expressed herein which are within the control of the Design-Builder or which are the responsibility of the Design-Builder to fulfill. The Design-Builder shall be solely responsible for the means and methods of construction.

It is recognized that neither the Design-Builder nor the Owner has control over the cost of labor, materials, or equipment, over a Contractor's methods of determining bid prices, or over competitive bidding, market, or negotiating conditions.

During the term of the Design-Build Documents, and the period of time that the obligations of the Design-Builder under the Design-Build Documents shall be in effect, the Design-Builder shall cause to occur and to continue to be in effect those instruments, documents, certificates, and events contemplated by the Design-Build Documents that are applicable to, and the responsibility of, the Design-Builder.

The Design-Builder shall assist and cooperate with the Owner and shall accomplish the construction of the Project in accordance with the Design-Build Documents and the Project Plans and Specifications, and will not knowingly violate any laws, ordinances, rules, regulations, or orders that are or will be applicable thereto.

The Design-Builder warrants and guarantees to Owner that all construction will be in accordance with the Design-Build Documents and will not be defective, and that Owner, representatives of Owner and governmental agencies with jurisdictional interests will have access to the Work at reasonable times for their observation, inspecting and testing. Design-Builder shall give Owner timely notice of readiness of the Work for all required approvals and shall assume full responsibility, including costs, in obtaining required tests, inspections, and approval certifications and/or acceptance, unless otherwise stated by Owner.

If any Work (including Work of others) that is to be inspected, tested, or approved is covered without written concurrence of Owner, it must, if requested by Owner, be uncovered for observation. Such uncovering shall be at Design-Builder's expense unless Design-Builder has given Owner timely notice of Design-Builder's intention to cover the same and Owner has not acted with reasonable promptness in response to such notice. Neither observations by Owner nor inspections, tests, or approvals by others shall relieve Design-Builder from Design-Builder's obligations to perform the Work in accordance with the Design-Build Documents.

If the Work is defective, or Design-Builder fails to supply sufficient skilled workers, or suitable materials or equipment, or fails to furnish or perform the Work in such a way that the completed Work will conform to the Design-Build Documents, Owner may order Design-Builder to stop the Work, or any portion thereof and terminate payments to the Design-Builder until the cause for such order has been eliminated. Design-Builder shall bear all direct, indirect and consequential costs for satisfactory reconstruction or removal and replacement with non-defective Work, including, but not limited to fees and charges of Owner's consultants, attorneys and other professionals and any additional expenses experienced by Owner due to delays to others performing additional Work and an appropriate deductive Change Order shall be issued. Design-Builder shall further bear the responsibility for maintaining the schedule and shall not be entitled to an extension of the Contract Time or the recovery of delay damages due to correcting or removing defective Work.

If Design-Builder fails within seven (7) days after written notice to correct defective Work, or fails to perform the Work in accordance with the Design-Build Documents, or fails to comply with any other provision of the Design-Build Documents, Owner may correct and remedy any

such deficiency to the extent necessary to complete corrective and remedial action. Owner may exclude Design-Builder from all or part of the site, take possession of all or part of the Work, Design-Builder's tools, construction equipment and machinery at the site or for which Owner has paid Design-Builder but which are stored elsewhere. All direct and indirect costs of Owner in exercising such rights and remedies will be charged against Design-Builder in an amount approved as to reasonableness by Owner and a Change Order will be issued incorporating the necessary revisions.

**15.2 Representations of the Owner.** To the extent permitted by law, the Owner represents to the Design-Builder that each of the following statements is presently true and accurate:

The Owner is a validly existing political subdivision of the State of Florida.

The Owner has all requisite governmental power and authority to carry on its business as now conducted and to perform its obligations under the Design-Build Documents and each Contract Document contemplated hereunder to which it is or will be a party.

The Design-Build Documents and each document contemplated hereby to which the Owner is or will be a party constitutes, or when entered into will constitute, a legal, valid, and binding obligation of the Owner enforceable against the Owner in accordance with the terms thereof, except as such enforceability may be limited by applicable bankruptcy, insolvency, or similar laws from time to time in effect which affect creditors' rights generally, and subject to usual equitable principles in the event that equitable remedies are involved.

There are no pending or, to the knowledge of the Owner, threatened actions or proceedings before any court or administrative agency against the Owner which question the validity of the Design-Build Documents or any document contemplated hereunder, or which are likely in any case or in the aggregate to materially adversely affect the consummation of the transactions contemplated hereunder or the financial or corporate condition of the Owner.

The Owner shall use due diligence to timely fulfill or cause to be fulfilled all of the conditions expressed in the Design-Build Documents which are within the control of the Owner or which are the responsibility of the Owner to fulfill.

During the pendency of the Work and while the obligations of the Owner under the Design-Build Documents shall be in effect, the Owner shall cause to occur and to continue to be in effect and take such action as may be necessary to enforce those instruments, documents, certificates and events contemplated by the Design-Build Documents that are applicable to and the responsibility of the Owner.

The Owner shall assist and cooperate with the Design-Builder in accomplishing the construction of the Project in accordance with the Design-Build Documents and the Project Plans and Specifications, and will not knowingly violate any laws, ordinances, rules, regulations, orders, contracts, or agreements that are or will be applicable thereto or, to the extent permitted by law, enact or adopt any resolution, rule, regulation, or order, or approve or enter into any contract or agreement, including issuing any bonds, notes, or other forms of indebtedness, that will result in

the Design-Build Documents or any part thereof, or any other instrument contemplated by and material to the timely and effective performance of a party's obligations hereunder, to be in violation thereof.

## ARTICLE XVI TERMINATION OR SUSPENSION

### 16.1 Termination or Suspension Prior to Execution of the Design-Build Amendment.

A. Design-Builder Suspension of Services. If the Owner fails to make payments to the Design-Builder in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Design-Builder's option, cause for suspension of performance of services under this Agreement. If the Design-Builder elects to suspend the Work, the Design-Builder shall give seven (7) days' written notice to the Owner before suspending the Work. In the event of a suspension of the Work, the Design-Builder shall have no liability to the Owner for delay or damage caused by the suspension of the Work. Before resuming the Work, the Design-Builder shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Design-Builder's Work. The Design-Builder's compensation for, and time to complete, the remaining Work shall be equitably adjusted.

B. Owner Suspension. If the Owner suspends the Project, the Design-Builder shall be compensated for the Work performed prior to notice of such suspension. When the Project is resumed, the Design-Builder shall be compensated for expenses incurred in the interruption and resumption of the Design-Builder's Work. The Design-Builder's compensation for, and time to complete, the remaining Work shall be equitably adjusted.

C. Termination by Design-Builder for Suspension. If the Owner suspends the Project for more than ninety (90) cumulative days for reasons other than the fault of the Design-Builder, the Design-Builder may terminate this Agreement by giving not less than seven (7) days' written notice.

D. Termination for Cause. Either party may terminate this Agreement upon not less than seven (7) days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

E. Owner Termination for Convenience. The Owner may terminate this Agreement upon not less than seven (7) days' written notice to the Design-Builder for the Owner's convenience and without cause.

F. Compensation to Design-Builder. In the event of termination not the fault of the Design-Builder, the Design-Builder shall be compensated for Work properly performed prior to termination, together with Reimbursable Expenses then due and any other expenses directly attributable to termination for which the Design-Builder is not otherwise compensated. In no event shall the Design-Builder's compensation under this Section 16.1.F be greater than the compensation set forth in Section 2.1.

**16.2 Termination or Suspension Following Execution of the Design-Build Amendment.**

A. Termination by the Design-Builder.

- (1) The Design-Builder may terminate the Agreement if the Work is stopped for a period of thirty (30) consecutive days through no act or fault of the Design-Builder, the Architect/Engineer a consultant, or a Contractor, or their agents or employees, or any other persons or entities performing portions of the Work under direct or indirect contract with the Design-Builder, for any of the following reasons:
  - i. Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
  - ii. An act of government, such as a declaration of national emergency that requires all Work to be stopped; or
  - iii. Because the Owner has not issued a Certificate for Payment and has not notified the Design-Builder of the reason for withholding certification as provided in Section 9.5.A, or because the Owner has not made payment on a Certificate of Payment within the time stated in the Design-Build Documents.
- (2) The Design-Builder may terminate the Agreement if, through no act or fault of the Design-Builder, the Architect/Engineer a consultant, a Contractor, or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Design-Builder, repeated suspensions, delays or interruptions of the entire Work by the Owner as described in Section 16.3. constitute in the aggregate more than one hundred percent (100%) of the total number of days scheduled for completion, or one hundred and twenty (120) days in any 365-day period, whichever is less.
- (3) If one of the reasons described in Section 16.2.A(1) or 16.2.A(2) exists, the Design-Builder may, upon seven (7) days' written notice to the Owner, terminate the Agreement and recover from the Owner payment for Work executed, costs incurred by reason of such termination, and damages.
- (4) If the Work is stopped for a period of sixty (60) consecutive days through no act or fault of the Design-Builder or any other persons or entities performing portions of the Work under contract with the Design-Builder because the Owner has repeatedly failed to fulfill the Owner's obligations under the Design-Build Documents with respect to matters important to the progress of the Work, the Design-Builder may, upon seven (7) additional days' written notice to the Owner, terminate the Agreement and recover from the Owner as provided in Section 16.2.A(3).

B. Termination by the Owner for Cause.

- (1) The Owner may terminate the Agreement if the Design-Builder:
  - i. Fails to submit the Design-Builder's Proposal by the date required by this Agreement, or if no date is indicated, within a reasonable time consistent with the date of Substantial Completion;
  - ii. Repeatedly refuses or fails to supply an Architect/Engineer or enough properly skilled Consultants, Contractors, or workers or proper materials;
  - iii. Fails to make payment to the Architect/Engineer, Consultants, or Contractors for services, materials or labor in accordance with their respective agreements with the Design-Builder;
  - iv. Repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
  - v. Is otherwise guilty of substantial breach of a provision of the Design-Build Documents.
  
- (2) When any of the above reasons exist, the Owner may without prejudice to any other rights or remedies of the Owner and after giving the Design-Builder and the Design-Builder's surety, if any, seven (7) days' written notice, terminate employment of the Design-Builder and may, subject to any prior rights of the surety:
  - i. Exclude the Design-Builder from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Design-Builder;
  - ii. Accept assignment of the Architect/Engineer, Consultant and Contractor agreements pursuant to Section 3.1.Q; and
  - iii. Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Design-Builder, the Owner shall furnish to the Design-Builder a detailed accounting of the costs incurred by the Owner in finishing the Work.
  
- (3) When the Owner terminates the Agreement for one of the reasons stated in this Section 16.2.B, the Design-Builder shall not be entitled to receive further payment until the Work is finished.
  
- (4) If the unpaid balance of the Contract Sum exceeds costs of finishing the Work and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Design-Builder. If such costs and damages exceed the unpaid balance, the Design-Builder shall pay the difference to the Owner. The obligation for such payments shall survive termination of the Agreement. Notwithstanding any other provisions of the Design-Build Documents to the contrary, Owner shall have the right to bring a direct action in the Circuit Court to recover such costs and damages.

### **16.3 Suspension by the Owner for Convenience.**

A. Right to Suspend. The Owner may, without cause, order the Design-Builder in writing to suspend, delay or interrupt the Work in whole or in part for such period of time as the Owner may determine.

B. Adjustment to Contract Time. The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay or interruption as described in this Section 16.3. No adjustment shall be made to the extent that:

- (1) Performance is, was or would have been so suspended, delayed or interrupted by another cause for which the Design-Builder is responsible; or
- (2) An equitable adjustment is made or denied under another provision of the Agreement.

### **16.4 Termination by the Owner for Convenience.**

A. Right to Terminate. The Owner may, at any time, terminate the Agreement for the Owner's convenience and without cause.

B. Obligation of Design-Builder Upon Termination. Upon receipt of written notice from the Owner of such termination for the Owner's convenience, the Design-Builder shall:

- (1) Cease operations as directed by the Owner in the notice;
- (2) Take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
- (3) Except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing Project agreements, including agreements with the Architect/Engineer, Consultants, Contractors, and purchase orders, and enter into no further Project agreements and purchase orders.

C. Compensation. In case of such termination for the Owner's convenience, the Design-Builder shall be entitled to receive payment for Work properly executed, and costs incurred by reason of such termination.

## **ARTICLE XVII CLAIMS AND DISPUTE RESOLUTION**

### **17.1 Claims.**

A. Definition. For purposes of this Agreement, a "claim" shall mean a demand or assertion by one of the parties seeking, as a matter of right, payment of money, or other relief with respect to the terms of the Agreement. The term "claim" also includes other disputes and

matters in question between the Owner and Design-Builder arising out of or relating to the Agreement. The responsibility to substantiate Claims shall rest with the party making the claim.

B. Owner to Decide Disputes. The Owner shall reasonably decide all questions and disputes, of any nature whatsoever, that may arise in the execution and fulfillment of the services provided for under the Design-Build Documents, in accordance with the Procurement Ordinance.

C. Finality. The decision of the Owner upon all claims, questions, disputes and conflicts shall be final and conclusive, and shall be binding upon all parties to the Design-Build Documents, subject to judicial review as provided in Section 17.1.F below.

D. No Damages for Delay. If at any time Design-Builder is delayed in the performance of Design-Builder's responsibilities under the Design-Build Documents as the result of a default or failure to perform in a timely manner by Owner or Owner's agents or employees, Design-Builder shall not be entitled to any damages except for compensation specifically authorized in Article II. Design-Builder's sole remedy will be a right to extend the time for performance. Nothing herein shall preclude Design-Builder from any available remedy against any responsible party other than Owner. Design-Builder shall be responsible for liquidated damages for delay pursuant to Section 8.2.C of this Agreement.

E. Permitted Claims Procedure. Where authorized or permitted under the Design-Build Documents, all claims for additional compensation by Design-Builder, extensions of time affecting the Substantial Completion Date, for payment by the Owner of costs, damages or losses due to casualty, force majeure, Project site conditions or otherwise, shall be governed by the following:

- (1) All claims must be submitted as a request for Change Order in the manner as provided in Article VI.
- (2) The Design-Builder must submit a notice of claim to Owner's authorized representative within fifteen (15) days of when the Design-Builder was or should have been aware of the fact that an occurrence was likely to cause delay or increased costs. Failure to submit a claim within the requisite 15-day period shall constitute a waiver of the right to pursue said claim.
- (3) Within twenty (20) days of submitting its notice of claim, the Design-Builder shall submit to the Owner's authorized representative its request for Change Order, which shall include a written statement of all details of the claim, including a description of the Work affected.
- (4) After receipt of a request for Change Order, the Owner's authorized representative shall deliver to the Contractor, within twenty (20) days after receipt of request, its written response to the claim.
- (5) In the event the Owner and Design-Builder are unable to agree on the terms of a Change Order, the Owner shall have the option to instruct the Design-Builder to proceed with the Work. In that event, the Owner shall agree to

pay for those parts of the Work, the scope and price of which are not in dispute. The balance of the disputed items in the order to proceed will be resolved after completion of the Work, based upon completed actual cost.

- (6) The rendering of a decision by Owner with respect to any such claim, dispute or other matter (except any which have been waived by the making or acceptance of final payment) will be a condition precedent to any exercise by Owner or Design-Builder of such right or remedies as either may otherwise have under the Design-Build Documents or by laws or regulations in respect of any such claim, dispute or other matter.

F. Contract Claims and Disputes. After completion of the process set forth in Section 17.1.E above, any unresolved dispute under this Agreement shall be decided by the Purchasing Official in accordance with Section 2-26-63 of the Manatee County Code of Laws, subject to an administrative hearing process as provided in Section 2-26-64. The decision of the Board of County Commissioners in accordance with Section 2-26-64 of the Manatee County Code of Laws shall be the final and conclusive County decision subject to exclusive judicial review in circuit court by a petition for certiorari.

G. Claims for Consequential Damages. The Design-Builder and Owner waive claims against each other for consequential damages arising out of or relating to this Agreement. This mutual waiver includes:

- (1) Damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons, unless such damages or losses are covered by insurance placed by the Contractor; and
- (2) Damages incurred by the Design-Builder for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article XVI. Nothing contained in this Section 17.1.G shall be deemed to preclude assessment of liquidated direct damages, when applicable, in accordance with the requirements of the Design-Build Documents.

#### **ARTICLE XVIII MISCELLANEOUS PROVISIONS**

**18.1 Governing Law; Venue.** This Agreement shall be governed by the laws of the State of Florida. Venue for any petition for writ of certiorari or other court action allowed by this Agreement shall be in the Circuit Court of the Twelfth Judicial Circuit in and for Manatee County, Florida.

**18.2 Successors and Assigns.** The Owner and Design-Builder, respectively, bind themselves, their partners, successors, assigns and legal representatives to the covenants,

agreements and obligations contained in the Design-Build Documents. Except as provided in Section 3.2.Q, neither party to the Agreement shall assign the Agreement as a whole without written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Agreement.

**18.3 Headings and Captions.** The headings and captions of articles, sections and paragraphs used in this Agreement are for convenience of reference only and are not intended to define or limit their contents, nor are they to affect the construction of or to be taken into consideration in interpreting this Agreement.

**18.4 Severability.** The provisions of this Agreement are declared by the parties hereto to be severable. In the event any term or provision of this Agreement shall be held invalid by a court of competent jurisdiction, such invalid term or provision should not affect the validity of any other term or provision hereof; and all such terms and provisions hereof shall be enforceable to the fullest extent permitted by law as if such invalid term or provision had never been part of this Agreement. However, if any term or provision of this Agreement is held to be invalid due to the scope or extent thereof, then, to the extent permitted by law, such term or provision shall be automatically deemed modified in order that it may be enforced to the maximum scope and extent permitted by law.

**18.5 Attorney's Fees and Costs.** In any claim dispute procedure or litigation arising from this Agreement, each party hereto shall be solely responsible for paying its attorney's fees and costs.

**18.6 Relationship of the Parties.** The Design-Builder accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to exercise the Design-Builder's best skill and judgment in furthering the interests of the Owner; to perform all of the Work in a good and workmanlike manner; to furnish efficient construction administration, management services and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests.

**18.7 Notices.** All notices, comments, consents, objections, approvals, waivers, and elections under this Agreement shall be in writing and shall be given only by hand delivery for which a receipt is obtained, or certified mail, prepaid with confirmation of delivery requested, or by electronic mail with delivery confirmation. All such communications shall be addressed to the applicable addressees set forth below or as any party may otherwise designate in the manner prescribed herein.

To the Owner:

Manatee County Public Works Department  
Attn: Anthony Benitez, Project Engineer II  
1022 26<sup>th</sup> Avenue East  
Bradenton, FL 34208  
Email: Anthony.benitez@mymanatee.org

To the Design-Builder:

McKim & Creed, Inc.  
Attn: Street Lee\_  
1365 Hamlet Avenue  
Clearwater, FL 33756  
Email: slee@mckimcreed.com

And

Westra Construction Corporation  
Attn: Mike Beukema  
1263 12<sup>th</sup> Avenue East  
Palmetto, FL 34221  
Email: mike@westraconst.com

Notices, comments, consents, objections, approvals, waivers, and elections shall be deemed given when received by the party for whom such communication is intended at such party's address herein specified, or such other physical address or email address as such party may have substituted by notice to the other.

**18.8 Public Records Law.** The Design-Builder shall comply with the Florida Public Records Act (Chapter 119, Florida Statutes), and shall:

- A. Keep and maintain public records required by the Owner to perform the services called for in this Agreement.
- B. Upon request from the Owner's custodian of public records, provide the Owner 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, Florida Statutes or as otherwise provided by law.
- C. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Agreement and following completion of this Agreement if the Design-Builder does not transfer the records to the Owner.
- D. Upon completion of this Agreement, transfer, at no cost, to the Owner all public records in possession of the Design-Builder or keep and maintain such public records. If the Design-Builder transfers all public records to the Owner upon completion of the Agreement, the Design-Builder shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Design-Builder keeps and maintains public records upon completion of the Agreement, the Design-Builder shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Owner, upon request from the Owner's custodian of public records, in a format that is compatible with the information technology systems of the Owner.

**IF THE DESIGN-BUILDER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE DESIGN-BUILDER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE OWNER'S CUSTODIAN OF PUBLIC**

RECORDS AT 941-748-4501, Ext. 5845;  
DEBBIE.SCACCIANOCE@MYMANATEE.ORG; POST OFFICE BOX 1000,  
BRADENTON, FLORIDA 34206.

**18.9 Exhibits.** Exhibits to this Agreement are as follows:

Exhibit A—Design-Build Amendment

Exhibit B—Affidavit of No Conflict

Exhibit C—Certificate(s) of Insurance

Exhibit D—Payment and Performance Bond

Exhibit E—Standard Forms

1—Application for Payment

2—Certificate of Substantial Completion

3—Final Reconciliation / Warranty / Affidavit

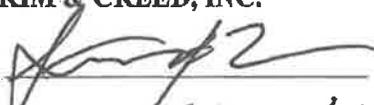
4—Change Order

Exhibit F- Owner's Program and Design Criteria, Work Assignment No. MC-27  
with McKim & Creed, Inc.

**18.10 Counterparts.** This Agreement may be executed in any number of counterparts and by the parties hereto on separate counterparts, each of which when so executed and delivered shall be an original but such counterparts together shall constitute one and the same instrument.

*WHEREFORE, the parties hereto have executed this Agreement as of the date last executed below.*

**McKIM & CREED, INC.**

By: 

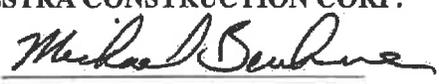
Printed Name: STUART LEE

Title: PRESIDENT & CEO

Date: 3/11/22

And

**WESTRA CONSTRUCTION CORP.**

By: 

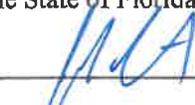
Printed Name: MICHAEL BEUKEMA

Title: PRES

Date: 3.11.22

and

**MANATEE COUNTY**, a political subdivision  
of the State of Florida

By: 

Printed Name: Jacob Erickson, MBA, CPPO, NIGP-  
CPP

Title: Purchasing Official

Date: June 16, 2022

EXHIBIT "A"  
DESIGN-BUILD AMENDMENT

**EXHIBIT A  
DESIGN-BUILD AMENDMENT**

This Amendment ("Amendment") is incorporated into the accompanying Design Build Agreement for \_\_\_\_\_, dated as of \_\_\_\_ (the "Agreement"), by and between Manatee County, a political subdivision of the State of Florida, referred to herein as "Owner", and the firm of \_\_\_\_\_, incorporated in the State of \_\_\_\_\_ and registered and licensed to do business in the State of Florida (License # \_\_\_\_\_), referred to herein as "Design-Builder"

The Owner and Design-Builder hereby amend the Agreement as follows:

**TABLE OF ARTICLES**

- I CONTRACT SUM**
- II CONTRACT TIME**
- III INFORMATION UPON WHICH AMENDMENT IS BASED**
- IV DESIGN-BUILDER'S PERSONNEL, CONTRACTORS AND SUPPLIERS**
- V COST OF THE WORK**

**ARTICLE I  
CONTRACT SUM**

**1.1 Contract Sum.** The Owner shall pay the Design-Builder the Contract Sum in current funds for the Design-Builder's performance of the Contract after the execution of this Amendment. The Contract Sum shall be one of the following and shall not include compensation the Owner paid the Design-Builder for Work performed prior to execution of this Amendment:

*(Check the appropriate box.)*

- Stipulated Sum, in accordance with Section 1.2 below
- Cost of the Work plus the Design-Builder's Fee, in accordance with Section 1.3 below
- Cost of the Work plus the Design-Builder's Fee with a Guaranteed Maximum Price, in accordance with Section 1.4 below

*(Based on the selection above, complete Section 1.2, 1.3 or 1.4 below.)*

**1.2 Stipulated Sum.**

- A. The Stipulated Sum shall be \_\_\_\_ dollars (\$\_\_\_\_), subject to authorized adjustments as provided in the Design-Build Documents.
- B. The Stipulated Sum is based upon the following alternates, if any, which are described in the Design-Build Documents and are hereby accepted by the Owner:  
*(State the numbers or other identification of accepted alternates. If the Owner is permitted to accept other alternates subsequent to the execution of this Amendment, attach a schedule of such other alternates showing the change in Stipulated Sum for each and the deadline by which the alternate must be accepted.)*
- C. Unit prices, if any:  
*(Identify item, state the unit price, and state any applicable quantity limitations.)*

Item	Units and Limitations	Price per Unit (\$0.00)
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**1.3 Cost of the Work Plus Design-Builder's Fee.**

- A. The Cost of the Work is as defined in Article V, Cost of the Work.
- B. The Design-Builder's Fee:  
*(State a lump sum, percentage of Cost of the Work or other provision for determining the Design-Builder's Fee, and the method for adjustment to the Fee for changes in the Work.)*

**1.4 Cost of the Work Plus Design-Builder's Fee With a Guaranteed Maximum Price.**

- A. The Cost of the Work is as defined in Article V, Cost of the Work.
- B. The Design-Builder's Fee:  
*(State a lump sum, percentage of Cost of the Work or other provision for determining the Design-Builder's Fee, and the method for adjustment to the Fee for changes in the Work.)*
- C. Guaranteed Maximum Price. The Sum of the Cost of the Work and the Design-Builder's Fee is guaranteed by the Design-Builder not to exceed \_\_\_\_ dollars (\$\_\_\_\_), subject to additions and deductions for changes in the work as provided

in the Design-Build Documents. Costs that would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Design-Builder without reimbursement by the Owner.

*(Insert specific provisions if the Design-Builder is to participate in any savings.)*

D. Itemized Statement of the Guaranteed Maximum Price. Provided below is an itemized statement of the Guaranteed Maximum Price organized by trade categories, allowances, contingencies, alternates, the Design-Builder's Fee, and other items that comprise the Guaranteed Maximum Price.  
*(Provide information below or reference an attachment.)*

E. The Guaranteed Maximum Price is based on the following alternates, if any, which are described in the Design-Build Documents and are hereby accepted by the Owner:

*(State the numbers or other identification of accepted alternates. If the Owner is permitted to accept other alternates subsequent to the execution of this Amendment, attach a schedule of such other alternates showing the change in the Cost of the Work and Guaranteed Maximum Price for each and the deadline by which the alternate must be accepted.)*

F. Unit prices, if any:

*(Identify item, state the unit price, and state any applicable quantity limitations.)*

Item	Units and Limitations	Price per Unit (\$0.00)
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G. Assumptions, if any, on which the Guaranteed Maximum Price is based:

## 1.5 Payments.

A. Progress Payments.

- (1) Based upon Applications for Payment submitted to the Owner by the Design-Builder, the Owner shall make progress payments on account of the Contract Sum to the Design-Builder as provided below and elsewhere in the Design-Build Documents.
- (2) The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:
- (3) With each Application for Payment where the Contract Sum is based upon the Cost of the Work, or the Cost of the Work with a Guaranteed Maximum Price, the Design-Builder shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner to demonstrate that cash disbursements already made by the Design-Builder on account of the Cost of the Work equal or exceed (1) progress payments already received by the Design-Builder, less (2) that portion of those payments attributable to the Design-Builder's Fee; plus (3) payrolls for the period covered by the present Application for Payment.
- (4) With each Application for Payment where the Contract Sum is based upon a Stipulated Sum or Cost of the Work with a Guaranteed Maximum Price, the Design-Builder shall submit the most recent schedule of values in accordance with the Design-Build Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. Compensation for design services, if any, shall be shown separately. Where the Contract Sum is based on the Cost of the Work with a Guaranteed Maximum Price, the Design-Builder's Fee shall be shown separately. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Owner may require. This schedule of values, unless objected to by the Owner, shall be used as a basis for reviewing the Design-Builder's Applications for Payment.
- (5) In taking action on the Design-Builder's Applications for Payment, the Owner shall be entitled to rely on the accuracy and completeness of the information furnished by the Design-Builder and shall not be deemed to have made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Sections 1.5.A(3) or 1.5.A(4), or other supporting data; to have made exhaustive or continuous on-site inspections; or to have made examinations to ascertain how or for what purposes the Design-Builder has used amounts previously paid. Such examinations, audits and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.
- (6) Except with the Owner's prior approval, the Design-Builder shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

B. Progress Payments-Stipulated Sum.

- (1) Applications for Payment where the Contract Sum is based upon a Stipulated Sum shall indicate the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.
- (2) Subject to other provisions of the Design-Builder Documents, the amount of each progress payment shall be computed as follows:
  - .1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of five percent (5%). Pending final determination of costs to the Owner of changes in the work, amounts not in dispute shall be included as provided in Section 6.6 of the Agreement;
  - .2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), supported by paid receipts, less retainage of five percent (5%);
  - .3 Subtract the aggregate of previous payments made by the Owner; and
  - .4 Subtract amounts, if any, the Owner has withheld or nullified, as provided in Section 9.5 of the Agreement.
- (3) The progress payment amount determined in accordance with Section 1.5.B(2) shall be further modified under the following circumstances:
  - .1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to the full amount of the Contract Sum, less such amounts as the Owner shall determine for incomplete Work, retainage applicable to such work and unsettled claims; and

Add, if final completion of the Work is thereafter materially delayed through no fault of the Design-Builder, any additional amounts payable in accordance with Section 9.10 of the Agreement.

C. Progress Payments-Cost of the Work Plus a Fee.

- (1) Where the Contract Sum is based upon the Cost of the Work plus a fee without a Guaranteed Maximum Price, Applications for Payment shall show the Cost of the Work actually incurred by the Design-Builder through the end of the period covered by the Application for Payment and for which Design-Builder has made or intends to make actual payment prior to the next Application for Payment.
- (2) Subject to other provisions of the Design-Build Documents, the amount of each progress payment shall be computed as follows:
  - .1 Take the Cost of the Work as described in Section 1.5C.(1) above;
  - .2 Add the Design-Builder's Fee, less retainage of five percent (5%). The Design-Builder's Fee shall be computed upon the Cost of the Work described in the preceding Section 1.5.C(2).1 at the rate stated in Section 1.3.B; or if the Design-Builder's Fee is stated as a fixed sum in that Section, an amount which bears the same ratio to that fixed-sum Fee as the Cost of the Work in that Section bears to a reasonable estimate of the probable Cost of the Work upon its completion;
  - .3 Subtract retainage of five percent (5%) from that portion of the Work that the Design-Builder self-performs;
  - .4 Subtract the aggregate of previous payments made by the Owner;
  - .5 Subtract the shortfall, if any, indicated by the Design-Builder in the documentation required by Section 1.5.A(4) or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and
  - .6 Subtract amounts, if any, for which the Owner has withheld or withdrawn a Certificate of Payment as provided in the Section 9.5 of the Agreement.
- (3) The Owner and Design-Builder shall agree upon (1) a mutually acceptable procedure for review and approval of payments to the Architect, Consultants, and Contractors and (2) the percentage of retainage held on agreements with the Architect, Consultants, and Contractors, and the Design-Builder shall execute agreements in accordance with those terms.

D. Progress Payments-Cost of the Work Plus a Fee with a Guaranteed Maximum Price.

- (1) Applications for Payment where the Contract Sum is based upon the Cost of the Work Plus a Fee with a Guaranteed Maximum Price shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed; or (2) the percentage obtained by dividing (a) the expense that had actually been incurred by the Design-Builder on account of that portion of the Work for which

the Design-Builder has made or intends to make actual payment prior to the next Application for Payment by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

- (2) Subject to other provisions of the Design-Build Documents, the amount of each progress payment shall be computed as follows:
  - .1 Take that portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values. Pending final determination of costs to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 6.6 of the Agreement.
  - .2 Add that portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), supported by paid receipts;
  - .3 Add the Design-Builder's Fee, less retainage of five percent (5%). The Design-Builder's Fee shall be computed upon the Cost of the Work at the rate stated in Section 1.4.B or, if the Design-Builder's Fee is stated as a fixed sum in the Section, shall be an amount that bears the same ratio to that fixed-sum as the Cost of the Work bears to a reasonable estimate of the probable Cost of the work upon its completion;
  - .4 Subtract retainage of five percent (5%) from that portion of the Work that the Design-Builder self-performs;
  - .5 Subtract the aggregate of previous payments made by the Owner;
  - .6 Subtract the shortfall, if any, indicated by the Design-Builder in the documentation required by Section 1.5.A(4) to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and
  - .7 Subtract amounts, if any, for which the Owner has withheld or nullified a payment as provided in Section 9.5 of the Agreement.
- (3) The Owner and Design-Builder shall agree upon (1) a mutually acceptable procedure for review and approval of payments to the Architect, Consultants, and Contractors and (2) the percentage of retainage held on agreements with the Architect, Consultants, and Contractors, and the Design-Builder shall execute agreements in accordance with those terms.

E. Reduction or limitation of retainage.

Upon completion of at least fifty percent (50%) of the Work, as determined by the Owner, the Owner may reduce to two and one-half percent (2.5%) the amount of retainage withheld from each subsequent progress payment.

F. Final Payment.

- (1) Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Design-Builder not later than 30 days after the Design-Builder has fully performed the Agreement and the requirements of Section 9.10 of the Agreement have been satisfied, except for the Design-Builder's responsibility to correct non-conforming Work discovered after final payment or to satisfy other requirements, if any, which extend beyond final payment.
- (2) If the Contract Sum is based on the Cost of the Work, the Owner's auditors will review and report in writing on the Design-Builder's final accounting within 30 days after the Design-Builder delivers the final accounting to the Owner. Based upon the Cost of the Work the Owner's auditors report to be substantiated by the Design-Builder's final accounting, and provided the other conditions of Section 9.10 of the Agreement have been met, the Owner will, within seven days after receipt of the written report of the Owner's auditors, either issue a final Certificate for Payment, or notify the Design-Builder in writing of the reasons for withholding a certificate as provided in Section 9.9.A of the Agreement.

**ARTICLE II  
CONTRACT TIME**

**2.1 Contract Time.** Contract Time is the period of time, including authorized adjustments, for Substantial Completion of the Work.

**2.1 Substantial Completion.** The Design-Builder shall achieve Substantial Completion of the Work not later than \_\_\_ ( ) days from the date of this Agreement, or as follows:

*(Insert number of calendar days. Alternately, a calendar date may be used when coordinated with the date of commencement. If appropriate, insert requirements for earlier Substantial Completion of certain portions of the Work.)*

**Portion of Work**

**Substantial Completion Date**

subject to adjustments of the Contract Time as provided in the Design-Build Documents. The Design-Builder's failure to achieve Substantial Completion within the Contract Time will result in the Design-Builder being liable for payment to Owner of liquidated damages as set forth in Section 8.2.C of the Agreement.

**ARTICLE III  
INFORMATION UPON WHICH AMENDMENT IS BASED**

**3.1 Documents.** The Contract Sum and Contract Time set forth in this Amendment are based on the following:

Document	Title	Date	Pages
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A. The Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
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B. The Specifications:

*(Either list the specifications here or refer to an exhibit to this Amendment.)*

Section	Title	Date	Pages
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C. The Drawings:

*(Either list the drawings here or refer to an exhibit to this Amendment.)*

Number	Title	Date
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D. The Sustainability Plan, if any:

*(If the Owner identified a Sustainable Objective in the Owner's Criteria, identify the document or documents that comprise Sustainability Plan by title, date and*

*number of pages, and include other identifying information. The Sustainability Plan identifies and describes the Sustainable Objectives; the targeted Sustainable Measures; implementation strategies selected to achieve the Sustainable Measures; the Owner's and Design-Builder's role and responsibilities associated with achieving the Sustainable Measures; the specific details about design reviews; testing or metrics to verify achievement of each Sustainable Measure; and the Sustainability Documentation required for the Project.)*

Title	Date	Pages
E. Other identifying information:		
F. Allowances and Contingencies: <i>(Identify any agreed upon allowances and contingencies, including a statement of their basis.)</i>		
.1 Allowances		
.2 Contingencies		
G. Design-Builder's assumptions and clarifications:		
H. Deviations from the Owner's Criteria as adjusted by a Modification:		
I. To the extent the Design-Builder shall be required to submit any additional Submittals to the Owner for review, indicate any such submission below:		

**ARTICLE IV**  
**DESIGN-BUILDER'S PERSONNEL, CONTRACTORS AND SUPPLIERS**

**4.1 Personnel.** The Design-Builder's key personnel are identified below:  
*(Identify name, title and contact information.)*

- .1 Superintendent
- .2 Project Manager
- .3 Others

**4.2 Consultants, Contractors.** The Design-Builder shall retain the following Consultants, Contractors and suppliers, identified below:

*(List name, discipline, address and other information.)*

**ARTICLE V  
COST OF THE WORK**

**5.1 Costs To Be Reimbursed as Part of the Agreement.**

- A. Labor Cost. Wages of construction workers directly employed by the Design-Builder to perform the construction of the Work at the site or with the Owner's prior approval, at off-site workshops.
- B. With the Owner's prior approval, wages or salaries of the Design-Builder's supervisory and administrative personnel when stationed at the site.  
*(If it is intended that the wages or salaries of certain personnel stationed at the Design-Builder's principal or other offices shall be included in the Cost of the Work, identify below the personnel to be included, whether for all or only part of their time, and the rates at which their time will be charged to the Work.)*

**Person included/Status (full-time/part-time)/Rate(\$0.00)/Rate(unit of time)**

- (1) Wages and salaries of the Design-Builder's supervisory or administrative personnel engaged at factories, workshops or on the road, in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work.
- (2) Costs paid or incurred by the Design-Builder for taxes, insurance, contributions, assessments and benefits required by law or collective bargaining agreements and, for personnel not covered by such agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Section 5.1.A.
- (3) Bonuses, profit sharing, incentive compensation and any other discretionary payments paid to anyone hired by the Design-Builder or paid to the Architect/Engineer or any Consultant, Contractor or supplier, with the Owner's prior approval.

- C. Contract Costs. Payments made by the Design-Builder to the Architect, Consultants, Contractors and suppliers in accordance with the requirements of their subcontracts.
- D. Costs of Materials and Equipment Incorporated in the Completed Construction.
- (1) Costs, including transportation and storage, of materials and equipment incorporated or to be incorporated in the completed construction.
  - (2) Costs of materials described in the preceding Section 5.1.D(1) in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work or, at the Owner's option, shall be sold by the Design-Builder. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.
- E. Costs of Other Materials and Equipment, Temporary Facilities and Related Items.
- (1) Costs of transportation, storage, installation, maintenance, dismantling and removal of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Design-Builder at the site and fully consumed in the performance of the Work. Costs of materials, supplies, temporary facilities, machinery, equipment and tools that are not fully consumed shall be based on the cost or value of the item at the time it is first used on the Project site, less the value of the item when it is no longer used at the Project site. Costs for items not fully consumed by the Design-Builder shall mean fair market value.
  - (2) Rental charges for temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Design-Builder at the site and costs of transportation, installation, minor repairs, dismantling and removal. The total rental cost of any Design-Builder owned item may not exceed the purchase price of any comparable item. Rates of Design-Builder owned equipment and quantities of equipment shall be subject to the Owner's prior approval.
  - (3) Costs of removal of debris from the site of the Work and its proper and legal disposal.
  - (4) Costs of document reproduction, electronic communications, postage and parcel delivery charges, dedicated data and communications service, teleconferences, Project websites, extranets and reasonable petty cash expenses of the site office.
  - (5) Costs of materials and equipment suitably stored off the site at a mutually acceptable location, with the Owner's prior approval.
- F. Miscellaneous Costs.

- (1) Premiums for that portion of insurance and bonds required by the Design-Build Documents that can be directly attributed to the Agreement and, with the Owner's prior approval, self-insurance costs for either full or partial amounts of the coverages required by the Design-Build Documents.
- (2) Sales, use or similar taxes imposed by a governmental authority that are related to the Work and for which the Design-Builder is liable.
- (3) Fees and assessments for the building permit and for other permits, licenses and inspections which the Design-Builder is required by the Design-Build Documents to pay.
- (4) Fees of laboratories for tests required by the Design-Build Documents, except those related to defective or nonconforming Work for which reimbursement is excluded by Section 11.2 of the Agreement or by other provisions of the Design-Build Documents, and which do not fall within the scope of Section 5.1.F(3).
- (5) Royalties and license fees paid for the use of particular design, process or product required by the Design-Build Documents; the cost of defending suits or claims for infringement of patent rights arising from such requirement of the Design-Build Documents; and payments made in accordance with legal judgments against the Design-Builder resulting from such suits or claims and payments of settlements made with the Owner's consent. However, such costs of legal defenses, judgments and settlements shall not be included in the calculation of the Design-Builder's Fee or subject to the Guaranteed Maximum Price. If such royalties, fees and costs are excluded pursuant to Section 3.1.O of the Agreement or other provisions of the Design-Build Documents, then they shall not be included in the Cost of the Work.
- (6) With the Owner's prior written approval, costs for electronic equipment and software directly related to the Work.
- (7) Deposits paid for causes other than the Design-Builder's negligence or failure to fulfill a specific responsibility in the Design-Build Documents.
- (8) With the Owner's prior written approval, legal, mediation and arbitration costs, including attorney's fees, other than those arising from the disputes between the Owner and Design-Builder, reasonably incurred by the Design-Builder after the execution of the Agreement and in the performance of the Work.
- (9) With the Owner's prior written approval, expenses incurred in accordance with the Design-Builder's standard written personnel policy for relocation, and temporary living allowances of, the Design-Builder's personnel required for the Work.
- (10) That portion of the reasonable expenses of the Design-Builder's supervisory or administrative personnel incurred while traveling in discharge of duties connected with the Work.

G. Other Costs and Emergencies.

- (1) Other costs incurred in the performance of the Work if, and to the extent, approved in advance in writing by the Owner.
- (2) Costs incurred in taking action to prevent threatened damage, injury or loss in case of an emergency affecting the safety of persons and property.
- (3) Costs of repairing or correcting damaged or nonconforming Work executed by the Design-Builder, Contractors or suppliers, provided that such damaged or nonconforming Work was not caused by negligence or failure to fulfill a specific responsibility of the Design-Builder and only to the extent that the cost of repair or correction is not recovered by the Design-Builder from insurance, sureties, Contractors, suppliers, or others.

H. Related Party Transactions.

- (1) The term "related party" shall mean a parent, subsidiary, affiliate or other entity having common ownership or management with the Design-Builder; any entity in which any stockholder in, or management employee of, the Design-Builder owns any interest in excess of ten percent in the aggregate; or any person or entity which has the right to control the business or affairs of the Design-Builder. The term "related party" includes any member of the immediate family of any person identified above.
- (2) If any of the costs to be reimbursed arise from a transaction between the Design-Builder and a related party, the Design-Builder shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction, then the cost incurred shall be included as a cost to be reimbursed and the Design-Builder shall procure the Work, equipment, goods or service from the related party, as a Contractor, according to the terms of Section 5.1. If the Owner fails to authorize the transaction, the Design-Builder shall procure the Work, equipment, goods or service from some person or entity other than a related party according to the terms of Section 5.4.

**5.2 Costs Not to Be Reimbursed.** The Cost of the Work shall not include the items listed below:

- A. Salaries and other compensation of the Design-Builder's personnel stationed at the Design-Builder's principal office or offices other than the site office, except as specifically provided in Section 5.1.B;
- B. Expenses of the Design-Builder's principal office and offices other than the site offices;
- C. Overhead and general expenses, except as may be expressly included in Section 5.1;

- D. The Design-Builder's capital expenses, including interest on the Design-Builder's capital employed for the Work;
- E. Except as provided in Section 5.1.G(3), costs due to the negligence or failure of the Design-Builder, Contractors and suppliers or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable to fulfill a specific responsibility of the Agreement;
- F. Any cost not specifically and expressly described in Section 5.1; and
- G. Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded.

### **5.3 Discounts, Rebates, and Refunds.**

- A. Cash discounts obtained on payments made by the Design-Builder shall accrue to the Owner if (1) before making the payment, the Design-Builder included them in an Application for Payment and received payment from the Owner, or (2) the Owner has deposited funds with the Design-Builder with which to make payments; otherwise, cash discounts shall accrue to the Design-Builder. Trade discounts, rebates, refunds and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the Design-Builder shall make provisions so that they can be obtained.
- B. Amounts that accrue to the Owner in accordance with Section 5.3.A shall be credited to the Owner as a deduction from the Cost of the Work.

### **5.4 Other Agreements.**

- A. When the Design-Builder has provided a Guaranteed Maximum Price, and a specific bidder (1) is recommended to the Owner by the Design-Builder; (2) is qualified to perform that portion of the Work; and (3) has submitted a bid that conforms to the requirements of the Design-Build Documents without reservations or exceptions, but the Owner requires that another bid be accepted, then the Design-Builder may require that a Change Order be issued to adjust the Guaranteed Maximum Price by the difference between the bid of the person or entity recommended to the Owner by the Design-Builder and the amount of the subcontract or other agreement actually signed with the person or entity designated by the Owner.
- B. Agreements between the Design-Builder and Contractors shall conform to the applicable payment provisions of the Design-Build Documents, and shall not be awarded on the basis of cost plus a fee without the prior consent of the Owner. If an agreement between the Design-Builder and a Contractor is awarded on a cost plus a fee basis, the Design-Builder shall provide in the agreement for the Owner

to receive the same audit rights with regard to the Cost of the Work performed by the Contractor as the Owner receives with regard to the Design-Builder in Section 5.5, below.

- C. The agreements between the Design-Builder and Architect, Contractors and other Consultants identified in the Agreement shall be in writing. These agreements shall be promptly provided to the Owner upon the Owner's written request.

**5.5 Accounting Records.** The Design-Builder shall keep full and detailed records and accounts related to the Cost of the Work and exercise such controls as may be necessary for proper financial management under the Agreement and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice be afforded access to, and shall be permitted to audit and copy, the Design-Builder's records and accounts, including complete documentation supporting accounting entities, books, correspondence, instructions, drawings, receipts, subcontracts, Contractor's proposals, purchase orders, vouchers, memoranda and other data relating to the Agreement. The Design-Builder shall preserve these records for a period of three years after final payment, or for such longer periods as may be required by law.

*WHEREFORE, the parties hereto have entered into this Amendment as of the date last executed below.*

\_\_\_\_\_  
Name of Design-Builder

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**MANATEE COUNTY**, a political subdivision  
of the State of Florida

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**SAMPLE AMENDMENT**

**EXHIBIT B**  
**AFFIDAVIT OF NO CONFLICT**

**Exhibit/Attachment No. B AFFIDAVIT OF NO CONFLICT**

STATE OF FLORIDA

COUNTY OF PINELLAS

BEFORE ME, the undersigned authority, this day personally appeared

STREET LEE [Insert Name], as

CHIEF EXECUTIVE OFFICER [Insert Title] of

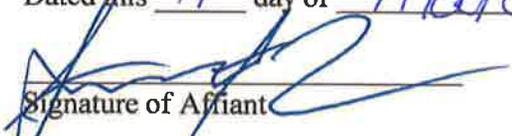
MCKIM & CREED INC [Insert Company Name],

with full authority to bind, (hereinafter referred to as Company) who being first duly sworn,  
deposes and says that Company:

- (a) Is not currently engaged and will not become engaged in any obligations, undertakings or contracts that will require Company to maintain an adversarial role against the County or that will impair or influence the advice, recommendations or quality of work provided to the County; and
- (b) Has provided full disclosure of all potentially conflicting contractual relationships and full disclosure of contractual relationships deemed to raise a question of conflict(s); and
- (c) Has provided full disclosure of prior work history and qualifications that may be deemed to raise a possible question of conflict(s).

Affiant makes this Affidavit for the purpose of inducing Manatee County, a political subdivision of the State of Florida, to enter into this Agreement No. 22-TA004053CD

Dated this 11 day of March, 20 22.

Signature of Affiant 

The foregoing instrument was sworn to and acknowledged before me this 11 day of

March, 20 22 by Street Lee, as CEO

of Mckim & Creed. He / she is personally known to me or has produced \_\_\_\_\_

as identification.

  
Notary Public, State of Florida at Large

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

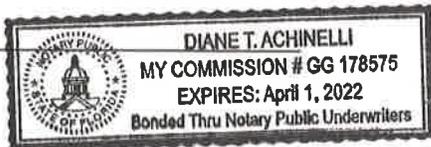


EXHIBIT C  
CERTIFICATE(S) OF INSURANCE



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

3/11/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer any rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> <b>McGriff Insurance Services</b> <b>Post Office Box 13941</b> <b>Durham, NC 27709</b> <b>919 281-4500</b>	<b>CONTACT NAME: NC Certificate Team</b>	
	<b>PHONE (A/C, No, Ext): 919 281-4500</b>	<b>FAX (A/C, No): 8887468761</b>
<b>E-MAIL ADDRESS: NCCertificateTeam@McGriff.com</b>		
<b>INSURER(S) AFFORDING COVERAGE</b>		<b>NAIC #</b>
<b>INSURER A : Valley Forge Insurance Company</b>		<b>20508</b>
<b>INSURER B : Continental Insurance Company</b>		<b>35289</b>
<b>INSURER C : American Casualty Co of Reading PA</b>		<b>20427</b>
<b>INSURER D : Continental Casualty Company</b>		<b>20443</b>
<b>INSURER E :</b>		
<b>INSURER F :</b>		

<b>COVERAGES</b>	<b>CERTIFICATE NUMBER:</b>	<b>REVISION NUMBER:</b>
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THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY CLAIMS-MADE <input type="checkbox"/> OCCUR <input checked="" type="checkbox"/> GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC OTHER:			7015339793	09/05/2021	09/05/2022	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$100,000 MED EXP (Any one person) \$15,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000 \$
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS ONLY			7015339776	09/05/2021	09/05/2022	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> EXCESS LIAB OCCUR <input checked="" type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$10000			7015339809	09/05/2021	09/05/2022	EACH OCCURRENCE \$10,000,000 AGGREGATE \$10,000,000 \$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> Y <input checked="" type="checkbox"/> N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	7015339762	09/05/2021	09/05/2022	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
D	Leased/Rented Equ			7015399847	09/05/2021	09/05/2022	\$1,000,000 Limit

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
**Project: 22-TA004053CD PINEY POINT DEEP INJECTION WELL PRETREATMENT FACILITY**  
**Manatee County, a Political Subdivision of the State of Florida is named as Additional Insured's regarding the General Liability and Auto Liability if required by written/executed contract. Waiver of Subrogation applies to the General Liability, Auto Liability and Workers Compensation if required by contract where permitted by law. Thirty (30) days notice of cancellation except for non-payment of premium (See Attached Descriptions)**

<b>CERTIFICATE HOLDER</b>  <b>Manatee County, a Political Subdivision of the State of Florida</b> <b>Attn: Risk Management Division</b> <b>1112 Manatee Ave W, Ste 969</b> <b>Bradenton, FL 34205</b>	<b>CANCELLATION</b>  SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  <b>AUTHORIZED REPRESENTATIVE</b> 
--	---

## DESCRIPTIONS (Continued from Page 1)

applies on the General Liability, Auto Liability, and Workers Compensation policies if required by contract.



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

3/11/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Scott Insurance - Raleigh 2501 Blue Ridge Road Suite 250 Raleigh NC 27607	<b>CONTACT NAME:</b> Toni Dyer <b>PHONE (A/C. No. Ext):</b> 919.341.0746 <b>E-MAIL ADDRESS:</b> tdyer@scottins.com		<b>FAX (A/C. No.):</b> 434.455.1469
	<b>INSURER(S) AFFORDING COVERAGE</b>		
<b>INSURED</b> McKim & Creed, Inc. 1730 Varsity Drive Venture IV Building, Suite 500 Raleigh NC 27606-2689	MCKI&CR-01	<b>INSURER A:</b> Berkley Assurance Company (A+)	
		<b>INSURER B:</b>	
		<b>INSURER C:</b>	
		<b>INSURER D:</b>	
		<b>INSURER E:</b>	
		<b>INSURER F:</b>	

**COVERAGES**

CERTIFICATE NUMBER: 1525540184

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	<b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	<b>UMBRELLA LIAB</b> <input type="checkbox"/> OCCUR <b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> Y/N <input checked="" type="checkbox"/> N/A (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below						PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	Professional Liability			PCAB-5015353-0921	9/5/2021	9/5/2022	Each Claim/Aggregate \$5M / \$10M
A	Contractors Pollution Liab			PCAB-5015353-0921	9/5/2021	9/5/2022	Each Claim/Aggregate \$5M / \$10M

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

RE: Agreement No. 22-TA004053CD, Piney Point Deep Injection Well Pretreatment Facility

**CERTIFICATE HOLDER**

Manatee County BCC  
 Attn: Records Manager  
 1112 Manatee Avenue  
 Bradenton FL 34205

**CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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EXHIBIT D

PAYMENT AND PERFORMANCE BOND

(TO BE INCLUDED UPON EXECUTION OF THE DESIGN-BUILD AMENDMENT)

EXHIBIT E  
STANDARD FORMS

<b>APPLICATION FOR PAYMENT</b>	Request No.: _____ Project No.: _____
Project: _____	Purchase Order No.: _____
From: _____ To: _____	County Bid No.: _____
	Consultant: _____

CONTRACT PAYMENT SUMMARY					
Original Contract Amount:				\$	-
Change Order(s):				\$	-
Change order summary:					
Number	Date Approved	Additive	Deductive		
SUBTOTALS:		\$	-	\$	-
Net change order subtotal (Additive less Deductive):				\$	-
Current Contract Amount (CCA): (Original Amount + Change Order(s))				\$	-
	Previous Status	Total WIP			
Value of the Work in Place (WIP)	\$	-	\$	-	
Value of Stored Materials	\$	-	\$	-	
Total Earned (\$ and % of CCA)	\$	-	\$	-	
Retainage (\$ and % of CCA)	\$	-	\$	-	
Net Earned (Total earned minus retainage)				\$	-
TOTAL PREVIOUS PAYMENTS				\$	-
AMOUNT DUE THIS PAYMENT (Net Earned minus Previous Payments)				\$	-

CONTRACTOR'S AFFIDAVIT OF NOTICE	
<p>CERTIFICATE: The undersigned CONTRACTOR certifies that all items and amounts shown on this Application for Payment are on account of work performed, materials supplied and/or materials stored on site and paid for by Contractor in accordance with the Contract Documents with due consideration for previous Payment(s), if any, received by the Contractor from the County, and that the Amount Due this Payment shown is now due.</p>	
<p><b>NOTARY:</b></p> <p>State of Florida, County of _____</p> <p>Sworn to (or affirmed) and subscribed before me this _____ day of _____ by _____</p> <p style="text-align: center;">(Name of person giving notice)</p> <p>_____ (Signature of Notary Public - State of Florida) Print, Type or Stamp Commissioned Name of Notary Public:</p> <p>Personally Known _____ or Produced Identification _____ Type of Identification Produced: _____</p>	<p><b>CONTRACTOR:</b></p> <p>_____ Name of person authorized to sign Affidavit of Notice</p> <p>_____ TITLE</p> <p>_____ Contractor name, address and telephone no.:</p> <p>_____ _____ _____</p>

VERIFICATION, RECOMMENDATION, CONCURRENCES AND APPROVALS		
	(Signatures)	(Date)
Quantities verified by:	_____	_____
Consultant/Engineer:	_____	_____
Project Management:	_____	_____
Department Head:	_____	_____
Payment approved by the Board of County Commissioners:	_____	_____
Attested to by the Clerk of Circuit Court:	_____	_____



**FINAL RECONCILIATION, WARRANTY PERIOD DECLARATION  
AND CONTRACTOR'S AFFIDAVIT**

Project Title: \_\_\_\_\_

Date Submitted: \_\_\_\_\_

Contractor Data:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Project No: \_\_\_\_\_

Warranty (months): \_\_\_\_\_

This Final Reconciliation is for the work performed for Manatee County by the above named contractor, hereinafter called CONTRACTOR, pursuant to the contract dated \_\_\_\_\_ as amended, and acts as an addendum thereto.

It is agreed that all quantities and prices in the attached Final Pay Estimate No. \_\_\_\_\_ are correct and that the amount of \$ \_\_\_\_\_ including retainage is due to the CONTRACTOR, that no claims are outstanding as between the parties, and that the above stated sum represents the entirety of monies owed the CONTRACTOR.

It is further agreed that the warranty period for CONTRACTOR'S work pursuant to the Contract is from \_\_\_\_\_ to \_\_\_\_\_

As (title) \_\_\_\_\_ for CONTRACTOR, I have authority to bind said CONTRACTOR, and as such make this final reconciliation, declaration and affidavit for the purpose of inducing Manatee County to make final payment to CONTRACTOR for work done at/upon \_\_\_\_\_ under said contract:

CONTRACTOR has paid all social security and withholding taxes accrued in connection with the construction project.

CONTRACTOR has paid all workers' compensation and other insurance premiums incurred in connection with this construction project.

CONTRACTOR has paid for all required permits in connection with this construction project.

All laborers, material, men, suppliers, subcontractors and service professionals who worked for and/or supplied materials, equipment and/or services to the CONTRACTOR under this construction contract have been paid in full.

\_\_\_\_\_  
(Affiant Signature)

NOTARY:

State of Florida, County of \_\_\_\_\_, Sworn to (or affirmed) and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by \_\_\_\_\_ ( person giving notice ).

Signature of Notary Public - State of Florida: \_\_\_\_\_

Print, Type or Stamp Commissioned Name of Notary Public: \_\_\_\_\_

Personally Known  or Produced Identification

Type of Identification Produced \_\_\_\_\_

# CONTRACT CHANGE ORDER

(for Total Contract Adjusted Amount Greater than \$1,000,000)

**PROJECT:** \_\_\_\_\_

**Change Order No.:** \_\_\_\_\_

**Contract Amount  
(Present Value)** \_\_\_\_\_

**Project Number:** \_\_\_\_\_

NO. OF ITEM	DESCRIPTION OF ITEM AND CHANGE	DECREASE	INCREASE

BY EXECUTION OF THIS CHANGE ORDER THE CONTRACTOR AGREES THAT ALL CLAIMS FOR ADDITIONAL CONTRACT TIME AND FEES FOR THE ITEMS IN THIS CHANGE ORDER HAVE BEEN SATISFIED.

	<b>TOTAL DECREASE:</b>	<b>TOTAL INCREASE:</b>
--	------------------------	------------------------

<p><b>Contractor:</b> _____</p> <p><b>Address:</b> _____</p> <p><b>City / State:</b> _____</p> <p><b>Contractor Signature:</b> _____ <b>Date:</b> _____</p>	<p>THE NET CHANGE OF ADJUSTS THE CURRENT CONTRACT AMOUNT FROM _____ TO _____ CALENDAR DAYS ARE ADDED TO THE SCHEDULE WHICH CHANGES THE FINAL COMPLETION DATE TO MONTH DAY, YEAR</p>
---	---

### RECOMMENDATION, CONCURRENCES AND APPROVALS

	SIGNATURES	DATE
<b>Consultant / Engineer:</b>	_____	_____
<b>Project Manager:</b>	_____	_____
<b>Division Manager:</b>	_____	_____
<b>Manatee County Purchasing:</b>	_____	_____
<p><b>Project Management Division Manager</b></p> <p><b>Purchasing Official</b></p> <p>Authority to execute this contract per Manatee County Code, Chapter 2-26, and per the delegation by the County Administrator effective 1/26/2009</p>		

**JUSTIFICATION FOR CHANGE**

**Change Order No :**

**Project Number:**

**1. NECESSITY FOR CHANGE:**



2. Is change an alternate bid? (If yes, explain)

3. Does change substantially alter the physical size of the project? (If yes, explain)

4 Effect of this change on other "Prime" contractors?

5 Has the Surety and insurance company been notified, if applicable? **CONTRACTOR RESPONSIBILITY**

EXHIBIT "F"

OWNER'S PROGRAM AND DESIGN-

WORK ASSIGNMENT NO. MC-27 WITH MCKIM & CREED, INC.



**WORK ASSIGNMENT NUMBER: MC-27**  
**CHANGE ORDER NO. 1**  
**PINEY POINT INJECTION WELL PRE-TREATMENT PROJECT**  
**PHASE 2 ENGINEERING SERVICES**  
**AGREEMENT NUMBER: 17-0523JE**  
**DATE: November 9, 2021**

Pursuant to the Manatee COUNTY, Florida, Agreement No. 17-0523JE for Utility Architectural/Engineering Services entered into by and between the **MANATEE COUNTY, FLORIDA**, a political subdivision of the State of Florida, hereinafter referred to as the "COUNTY" and **McKIM & CREED INC.**, hereinafter referred to as the "CONSULTANT", a determination has been made by the COUNTY that there is a need for the performance of, or rendering of services by the CONSULTANT of a certain "Work Assignment" under the purview of said Agreement, and the CONSULTANT is hereby authorized to perform or render the particular services of work described as follows:

**TITLE OF THE PROJECT: PINEY POINT INJECTION WELL PRE-TREATMENT PROJECT - PHASE 2 ENGINEERING SERVICES**

**PHASES AND/OR TASKS OF PROFESSIONAL SERVICES AUTHORIZED:**

CONSULTANT shall perform tasks as more specifically detailed in attached SCOPE OF SERVICES, Tasks 3 through 6. This work assignment shall remain in effect until the completion of the project.

Compensation to the CONSULTANT for rendering all the identified services and products shall not exceed the amounts set forth as follows:

<b>TASK</b>	<b>DESCRIPTION</b>	<b>TOTAL</b>
	Original Cost for Work Assignment MC-27	\$204,320
<b>Task Description – Change Order No. 1</b>		
<b>3</b>	Project Administration & Meetings	\$56,669
<b>4</b>	Site Data Collection & Reports	\$95,065
<b>5</b>	Permitting	\$99,752
<b>6</b>	Cost Estimate and Design-Build Proposal Development	\$43,163
	Total for Change Order No. 1	\$294,648
	Revised Total Fee for Work Assignment MC-27	\$498,967

The budget for the Piney Point Deep Injection Well Pretreatment System design and construction is approximately \$9,700,000. Any modification to the project resulting in increases to prior budgets or potential overruns shall be communicated to the County, in writing prior to initiation of work, for approval by the Contract Manager.

COUNTY may authorize in writing, in advance, adjustments in the compensation for specific tasks



established above, provided such adjustments do not exceed the maximum compensation authorized for this Work Assignment. Partial compensation may be requested monthly for unit prices and actual hours incurred, but not to exceed the percentage of the tasks completed. The Work Assignment start date will be the date of authorization by the COUNTY and will remain in effect through the completion of Task 3 through Task 6 outlined herein and accepted by the COUNTY.



**WORK ASSIGNMENT NUMBER: MC-27  
CHANGE ORDER NO. 1  
PINEY POINT INJECTION WELL PRE-TREATMENT PROJECT  
PHASE 2 ENGINEERING DESIGN  
AGREEMENT NUMBER: 17-0523JE  
DATE: NOVEMBER 9, 2021**

CONSULTANT agrees to perform or render services in accordance with the Agreement 17-0523JE for Utility Architecture / Engineering Services and this Work Assignment.

McKim & Creed, Inc.  
1365 Hamlet Avenue  
Clearwater, Florida 33756

By: 

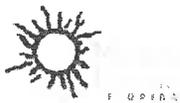
Street Lee, PE  
President of Engineering

**MANATEE COUNTY, a political  
Subdivision of the State of Florida**

By: Jacob Erickson, Digitally signed by Jacob Erickson, MBA, CPPO,  
MBA, CPPO, NIGP-CPP  
NIGP-CPP Date: 2021.11.17 11:41:27 -05'00'

Jacob Erickson, MBA CPPO, NIGP-CPP  
Procurement Official

Date: November 17, 2021



**McKim & Creed, Inc.**  
**Summary of Task Descriptions**  
**Piney Point Injection Well Pre-Treatment Project**  
**Phase 2 Engineering Design**  
**Change Order No. 1**  
**Work Assignment No. MC-27**  
**November 9, 2021**

**PROJECT DESCRIPTION**

The Piney Point phosphate plant, located in Manatee County, Florida, was first constructed in 1966 to produce phosphate, a key ingredient in fertilizer. The plant was shut down in 1999 and has since then been managed by many various companies, the EPA, and the Florida Department of Environmental Protection (FDEP).

On March 25, 2021, leaks were discovered in one of the ponds (NGS-S). This pond contains water with concentrations of nitrogen, phosphorous, ammonia, suspended solids, dissolved solids, and other constituents. Additionally, there are relatively high concentrations of aluminum, iron, and sulfate in addition to a relatively low pH between 3.8 and 5.9. Due to the potential near-term hazards of overtopping and/or possible embankment failure, controlled releases to surface water were begun recently to reduce the potential for catastrophic failure.

The FDEP has determined that the best long-term solution to mitigate the water storage issue is to construct a deep injection well (DIW) and discharge water to a DIW. Manatee County commissioners have voted to begin the process of installing an injection well to allow for disposal of the water from the ponds. This DIW is expected to allow for the injection of 1 million gallons per day (MGD) of contaminated water. This injection rate will be maintained until the water from the ponds are removed. During the withdrawal of contaminated water from the ponds, and once the ponds are emptied, it will be necessary to continue to treat and inject approximately 0.22 MGD of leachate.

The intent of the County is to have the new treatment and pumping facility, as well as the DIW, operational no later than June 1, 2022 to allow for water to be treated and injected prior to the next rainy season.

The Consultant has completed work for Phase 1 (Task 1 and Task 2) and has developed preliminary documents that will be used as a general basis of design. This phase of the project includes site investigations such as survey and wetland boundaries, work needed to obtain site information and permits, develop cost estimates and information needed to commence development of a guaranteed maximum price (GMP) for the new facility. The intent is that this work transitions into 60-percent design and then into to a Design/Build contract that will include final design, construction, and start-up of the treatment facilities.



## SCOPE OF SERVICES

The scope of work for Phase 2 of the project is as follows:

### **TASK 3: Project Administration and Meetings**

The Consultant will perform general management services including scheduling, correspondence, monthly status reports and project schedule updates. Consultant will conduct weekly meetings with the design group to discuss and summarize weekly activities. The Consultant will also attend weekly conference calls with the County, the DIW hydrogeologist, and other key stakeholders. It is anticipated that the weekly meetings with the County will run approximately to December 17, 2021. The Task also includes site meetings needed to progress design and permitting activities. These meetings will serve to provide input, update on progress, and allow for discussion and feedback from the County and FDEP.

### **TASK 4: Site Data Collection and Reports**

The Consultant will perform and coordinate activities needed for site data collection. This work is needed to obtain information needed for site design and permitting. The Consultant will also coordinate activities related to the DIW permitting and construction.

Items included in this task are as follows:

- A. Site Survey – Includes survey needed to identify boundaries of proposed ditch crossings, wetland limits, and to assist the County to obtain utility easements.
- B. Wetland and Protected Species Environmental Survey – Includes work needed for County and FDEP environmental permitting.
- C. Geotechnical Engineering and Report – Work includes soil borings and analyses needed for site drainage, building/structure design, and pipe installed via horizontal directional drill.
- D. DIW Geochemical Evaluation – Work includes modeling and water chemistry analysis. The results will help determine treatment plant processes needed to ensure treated water can be injected while minimizing future maintenance requirements.
- E. Drainage Analysis and Report – Results obtained from the geotechnical work will be used to design and permit the plant site drainage system.
- F. Deep Injection Well Coordination – Assist County and well driller for permitting and geochemical evaluations.

### **TASK 5: Permitting**

The Consultant will develop permit application packages, issue payment for application



fees, and respond to up to two (2) RFIs from the respective permitting agencies.

This task includes permitting work as follows:

- A. FDEP Environmental Resource Permit (ERP)
- B. Manatee County Industrial Wastewater Discharge Permit
- C. FDEP Generic Permit for Stormwater Discharge Associated with Industrial Activity (MSGP)
- D. Manatee County Final Site Plan Approval
- E. Manatee County Building Permits
- F. FDEP Public Water Supply (PWS) Permits
- G. FDEP Wastewater Collection/Transmission System
- H. Florida Power and Light (FPL) Easement Consent Use Agreement

Since exact permitting fees are undetermined, a \$10,000 permitting allowance is included.

**TASK 6: Cost Estimate and Design/Build Proposal Development**

This phase of the project will further advance the preliminary cost estimate and project implementation schedule. Also, this task includes development of the contract and procurement documentation required for purchasing and ordering long lead time equipment so purchase orders could be placed expeditiously once the Design/Build contract is in place.

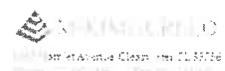
**COMPENSATION**

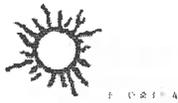
The cost proposal for Tasks 3 through 6 of this phased authorization is provided in Exhibit 1 and is based on the hourly rates as established in Exhibit "B" to the Agreement for Architectural Engineering Services.

**SCHEDULE**

This schedule is based on several tasks being performed concurrently, assumes a 2-week review by Manatee County for each submittal, and assumes no delays between phases of work. The Work Assignment start date will be the date of the authorization of the Work Assignment by Manatee County. This Work Assignment will remain in effect through the completion of the Scope of Work. A Project Schedule will be submitted to the County with the first phase of work.

<u>Description</u>	<u>Completion Weeks Following NTP</u>
Project Initiation	1
Site Data Collection and Reports	5
Permitting	12
Cost Estimate and Design-Build Proposal	16





## OTHER CONSIDERATIONS

1. Project Initiation and Administration tasks and fees are based on the period between preliminary design completion and work included to obtain permits and to develop the Design/Build Agreement.
2. It is understood that the County will assist with FDEP coordination and permitting activities.
3. Manatee County Right-of-Way (ROW) Use Permit will be obtained during construction.
4. County will help coordinate permitting activities on the property formally owned by HRK Holdings, Inc.
5. It is understood that the Manatee County Planning Department will provide comments/questions for the FSP application within two (2) weeks of application submission. The County will schedule a review meeting approximately three (3) days following the receipt of comments.



**PINEY POINT INJECTION WELL PRE-TREATMENT PROJECT**

**PROJECT NUMBER:**

**AGREEMENT NUMBER: 17-0523JE**

**WORK ASSIGNMENT NUMBER: MC-27**

**DATE: MAY 17, 2021**

Pursuant to the Manatee COUNTY, Florida, Agreement No. 17-0523JE for Utility Architectural/Engineering Services entered into by and between the MANATEE COUNTY, FLORIDA, a political subdivision of the State of Florida, hereinafter referred to as the "COUNTY" and McKIM & CREED INC., hereinafter referred to as the "CONSULTANT", a determination has been made by the COUNTY that there is a need for the performance of, or rendering of services by the CONSULTANT of a certain "Work Assignment" under the purview of said Agreement, and the CONSULTANT is hereby authorized to perform or render the particular services of work described as follows:

**TITLE OF THE PROJECT: PINEY POINT INJECTION WELL PRE-TREATMENT PROJECT**

**PHASES AND/OR TASKS OF PROFESSIONAL SERVICES AUTHORIZED:**

CONSULTANT shall perform tasks as more specifically detailed in attached SCOPE OF SERVICES, Tasks 1 through 6. This work assignment shall remain in effect until the completion of the project.

Compensation to the CONSULTANT for rendering all the identified services and products shall not exceed \$204,320.00. Compensation for the tasks shall not exceed the amounts set forth as follows:

DESCRIPTION	TOTAL
<b>Task 1: Project Initiation &amp; Administration</b>	\$60,932.00
<b>Task 2: Alternatives Analysis and Project Approach</b>	\$143,388.00
<b>Task 3: Phased Systems Engineering</b>	TBD
<b>Task 4: Equipment Procurement</b>	TBD
<b>Task 5: Construction</b>	TBD
<b>Task 6: Startup, Commissioning, and Operational Support</b>	TBD
<b>ENGINEERING TOTAL COST</b>	<b>\$204,320.00</b>

COUNTY may authorize in writing, in advance, adjustments in the compensation for specific tasks established above, provided such adjustments do not exceed the maximum compensation authorized for this Work Assignment. Partial compensation may be requested monthly for unit prices and actual hours incurred, but not to exceed the percentage of the tasks completed. The Work Assignment start date will be the date of authorization by the COUNTY and will remain in effect through the completion of the Task 2 outlined herein and accepted by the COUNTY.



**PINEY POINT INJECTION WELL PRE-TREATMENT PROJECT**

**PROJECT NUMBER:**

**AGREEMENT NUMBER: 17-0523JE**

**WORK ASSIGNMENT NUMBER: MC-27**

**DATE: MAY 17, 2021**

CONSULTANT agrees to perform or render services in accordance with the Agreement 17-0523JE for Utility Architecture / Engineering Services and this Work Assignment.

McKim & Creed, Inc.  
1365 Hamlet Avenue  
Clearwater, Florida 33756

By:   
\_\_\_\_\_

Street Lee, PE  
President of Engineering

**MANATEE COUNTY, a political  
Subdivision of the State of Florida**

By: Jacob Erickson, MBA, CPPO, NIGP-CPP  
CPPO, NIGP-CPP  
Digitally signed by Jacob Erickson, MBA, CPPO, NIGP-CPP  
Date: 2021.05.19 14:56:48 -04'00'

May 19, 2021

\_\_\_\_\_  
Jacob Erickson, MBA CPPO, NIGP-CPP  
Procurement Official



**McKim & Creed, Inc.**  
**Summary of Task Descriptions**  
**Piney Point Injection Well Pre-Treatment Project**  
**Manatee County**  
**Work Assignment No. MC-27**  
**May 17, 2021**

**PROJECT DESCRIPTION**

The Piney Point phosphate plant, located in Manatee County, Florida, was first constructed in 1966 to produce phosphate, a key ingredient in fertilizer. The plant was shut down in 1999 and has since then been managed by many various companies, the EPA, and the Florida Department of Environmental Protection (FDEP). Currently the plant is owned and managed by HRK Holdings.

There are three primary ponds where there is water containing constituents of concern, which include the New Northern Gypsum Stack North (NGS-N), New Northern Gypsum Stack South (NGS-S), and the Lined Process Water Sump (LPWS). Additionally, the site has an underdrain system under phosphogypsum stacks and pond embankments which collect leachate and directs it to the LPWS pond. Further, all of these open storage systems collect rainwater during rain events.

Furthermore, the site includes two additional ponds, Old Gypsum Stack North (OGS-N) and Old Gypsum Stack South (OGS-S), which contain dredged material from nearby Bishop Harbor and Tampa Bay. During rain events, these dredgings and saltwater have the ability to overflow into NGS-S.

On March 25, 2021, leaks were discovered in NGS-S. This pond contains water with concentrations of nitrogen, phosphorous, ammonia, suspended solids, dissolved solids, and other constituents. Additionally, there are relatively high concentrations of aluminum, iron, and sulfate in addition to a relatively low pH between 3.8 and 5.9. Due to the potential near-term hazards of overtopping and/or possible embankment failure, controlled releases to surface water were begun recently to reduce the potential for catastrophic failure.

The FDEP has determined that the best long-term solution to mitigate the water storage issue is to construct a deep injection well (DIW) and discharge water to a DIW. Manatee County commissioners have voted to begin the process of installing an injection well to allow for disposal of the water from the ponds. This DIW is expected to allow for the injection of 1 million gallons per day (MGD) of contaminated water. This injection rate will be maintained until the water from the ponds are removed. During the withdrawal of contaminated water from the ponds, and once the ponds are emptied, it will be necessary to continue to treat and inject approximately 0.22 MGD of leachate that is collected in the LPWS.

If this water is injected without treatment, there is concern that solids in the water will plug the spaces in the injectable area of the target injection formation reducing the capacity of the DIW system below



target levels. Exacerbating this potential for plugging the well are certain dissolved materials in the water. Calcium, sulfate, phosphorous, and other dissolved constituents can scale in the piping and well formation over time, reducing the ability to inject water into the DIW. As such, it will be necessary to treat the pond and leachate water before injection.

The intent of the County is to have the new treatment and pumping facility, as well as the DIW, operational no later than June 1, 2022 to allow for water to be treated and injected prior to the next rainy season.

## SCOPE OF SERVICES

The Consultant recommends approaching this project utilizing a progressive design build approach. This approach will allow for acceleration of the overall project schedule while still maintaining adequate stop gates to ensure all stakeholders have a firm understanding of project phases and treatment system requirements throughout the project development and execution phases. Under the progressive design build approach, the Consultant will manage subcontracts for facility construction, procure facility equipment, work directly on site with stakeholders throughout construction, startup and commission, and operation the system. The Consultant recommends the following tasks:

### **TASK 1: Project Initiation & Administration**

The Consultant will develop project documents and filing systems for the project that will include; project set-up, project schedule, project management plan, QA/QC plan, safety plan (for engineering services only), hard and electronic file systems and conduct an internal kick-off meeting with design team. Following project setup, a Project Kick-Off Meeting will be held with the County to discuss the overall project approach. Consultant will prepare the meeting agenda and a detailed schedule for the kick-off meeting and site visit. Key team members will be identified and procedures for communication and data collection will be established. Information needed for the development of project deliverables will be identified. Meeting minutes will be prepared by Consultant and distributed to meeting attendees. The Consultant will attend weekly progress conference calls with the stakeholder group to update on weekly activities. The Consultant will also attend weekly meetings with the stakeholder group to discuss and summarize weekly activities. The Consultant will provide written monthly status reports of the progress of this scope of work to accompany monthly invoices and administer the project.

### **TASK 2: Alternatives Analysis and Project Approach**

During the kick-off meeting with the County, which is identified in Task 1, the Consultant will evaluate the existing operations at Piney Point. Items that will be discussed in the kickoff meeting include, but are not limited to:

1. Confirmation of the project understanding
2. Existing operations and site constraints



3. Data requirements, including water quality for the various ponds
4. Project goals
5. Permit requirements
6. Stakeholder requirements

Based on the information obtained from the kickoff meeting, the Consultant will review water quality provided for each pond and work with the County, FDEP and facility Owner to determine how the existing ponds will be dewatered. The Consultant will also review information from the DIW located at the County's NWRf to determine preliminary water quality requirements for injection. Consultant will partner with a geochemical engineer to better understand the target injection zone of the well to allow for proper treatment prior to injection into the formation.

It will be necessary to understand or develop how bulk water (upper relatively clean layers) will be removed from the pond and solids will be managed during dewatering of interstitial water (lower layers of water containing settled and partially settled solids). This understanding will allow for optimization of the treatment system for water that will contain fewer suspended solids (bulk water) and for water that contains more solids (interstitial water). It will also be necessary to review solids management from dredged pond material and solid residuals generated from the water treatment process. Siting of the treatment equipment, materials of construction, power availability, and associated high level balance of plant treatment system requirements will be reviewed and agreed upon with the County.

The Consultant will review treatment equipment for select constituents and develop a treatment process train for selected conditions. It is anticipated that various treatment methods will be required for various stages over the life of the remedial program. As such, it is anticipated different modular systems will be developed for the various stages of dewatering the ponds when compared to the long-term leachate water treatment system.

#### **A. Alternatives Analysis**

The Consultant will review existing FDEP, County, and other's water quality data for the existing facility including historical data. The Consultant will make recommendations on additional sampling that should be completed to inform the Consultant to aid with any recommendations on sample analysis that should be completed during the dewatering process. As the ponds are dewatered, the composition of the water quality will change. Therefore, being able to anticipate and observe changing field conditions to adjust the treatment system becomes an important component for a successful injection program.

The Consultant will evaluate and recommend proven treatment technologies to process the water in accordance with the findings of the data review. The conceptual solution development will consider pros, cons, applicability to the problems, physical constraints



at hand, and possible operational and maintenance considerations. One preferred solution will be identified and presented.

#### **B. Deep Injection Well Permitting**

Consultant will review the application for the Class I Injection Well Construction and Testing Permit compiled by ASRUS, Inc. for aspects related to engineering scope of work. Consultant will assume Engineer of Record for the permit. Consultant will support application process led by ASRUS and assist in Requests for Additional Information pertaining to the engineering elements and review construction records and construction activities in support of ASRUS.

#### **C. Water Balance**

The Consultant will conduct a water balance of the pond systems to evaluate the impact of rainfall, evaporation, and recharging over the expected duration of the pretreatment system and DIW. The water balance will allow the Consultant to better understand treatment flow rates, durations, and equipment sizing as it relates to drawing down the ponds. A technical memorandum will summarize the findings.

#### **D. Process Flow Diagram (PFD)**

The Consultant will develop the basic process flow diagram(s) for the recommended process solution. Preliminary process calculations will be performed, and design criteria developed to determine the ratings and capacities for applicable process components, e.g., reaction tanks, dewatering equipment, filtration equipment, pumping equipment and chemical feed systems. The PFD will depict the interconnection of the various components.

#### **E. General Arrangement Drawings (GA)**

The Consultant will prepare general arrangement drawing(s) of the recommended improvements. The general arrangement drawing(s) will show the intended spatial location of the major process equipment. The general arrangement drawing will establish physical size and the unit process equipment, pumping systems and piping locations in relation to the existing ponds and the proposed DIW.

#### **F. Site Utilities Review**

The Consultant will develop and review information available on the necessary treatment system utility support requirements. These include electrical power, communications, potable water (if necessary), sewer (if necessary), management of treatment residuals, chemical feed systems, compressed air, natural gas, road access, or other utilities required for operation of the treatment system.

#### **G. Opinion of Probable Cost and Preliminary Project Schedule**

The Consultant will develop design and construction cost opinions once the conceptual recommendations are developed and presented as defined by the work completed. The



cost opinions will be based on factors and multipliers developed by the project principals, material and equipment pricing from suppliers and manufacturers, and historical cost data on equipment purchases and construction/installation contracts. The cost opinion will include estimates for major process components as well as civil, mechanical, and electrical construction, instrumentation and control hardware and software, and professional engineering and project management services. The capital cost estimate will reflect the anticipated turnkey installation cost of the project to a plus or minus 30% level. Additionally, the Consultant will develop a preliminary milestone type project schedule for designing, constructing, and commissioning the project.

### **TASK 3: Phased Systems Engineering**

The Consultant will approach engineering with a phased approach consistent with the progressive design build delivery model. The scope and fee for this engineering support task (i.e., Task 3) will be developed during Task 2, and upon selection of an approach, updated scope and budget will be provided for prior authorization of the phased engineering tasks.

To kick off the Phased Engineering Support Task, the process and functional design are firmed up during the initial phase of this task and the basis of design is set. Governing documents for the project are developed, including the PFD, GA, single line, and site plans. Preliminary piping and instrumentation diagrams (P&ID's) and a functional description are also developed during this phase to start detailing out the equipment, piping, and controls for the facility. The cost opinion is updated and the contingency is lowered based on the level of detail developed. Also, the schedule is updated to reflect any adjustments that need to be made due to equipment procurement, permitting requirements, etc. Additionally, equipment vendors will be identified and contacted as this package has sufficient detail to get equipment quotes to allow for identification of any potential long lead equipment that may need an early release to maintain project schedule. Also, contractors will be identified and contacted to begin constructability reviews and the development of more detailed installation estimates. Additionally, regulatory agencies will be engaged to understand permitting or agency driven requirements are understood and incorporated into the project.

Feedback from the initial discussions with vendors contractors, and regulatory agencies will be incorporated into the design as a more detailed engineering documents are developed.

Next, the process design deliverables (PFDs, GAs, P&IDs), and site/civil/concrete design are further developed complete level, piping and electrical routings are laid out to facilitate identifying piping and utility corridors, and in general, the basis of the MEP design set.



At this point in the project, the engineering is developed to a level that has sufficient detail to get firm construction bids with the understanding that the project will progress utilizing a design-build delivery. At the completion of the design phase, a firm priced design build proposal is developed to complete the project, including final design, equipment procurement, construction, startup, and commissioning.

**TASK 4: Equipment Procurement**

Following a progressive design build approach, the Consultant would procure all equipment and materials required for installation on the project. This phase of work would be initiated in parallel to the design being developed with vendor contacts occurring during the initial portion of the design phase and continuing through design. This would include early releases for long lead equipment to maintain project schedule as identified during engineering and discussions with equipment vendors. The Consultant would manage the purchase orders, expediting of all materials, on site material receiving, and coordination between the vendors and site.

**TASK 5: Construction**

Following a progressive design build approach, the Consultant would serve as general contractor for the project and would write subcontracts associated with the above ground facilities required for storage, treatment, and pumping. Contractors for work required on site would be engaged throughout the engineering of the project and pricing would be developed in coordination with these efforts. As engineering progresses and contractors are engaged in the estimating process, contingencies from budgetary pricing efforts will be reduced and pricing will be firmed up with the intention of releasing contractors in a phased approach once adequate engineering has been completed. This design build approach allows for early contractor input to value engineering efforts, constructability reviews, and overall project delivery. Responsibility for subcontractors and overall construction coordination would be managed by the Consultant's construction manager on site. A complete design build proposal detailing out the scope, schedule, and pricing will be developed in parallel as sufficient detail is developed in the design.

**TASK 6: Start Up, Commissioning, and Operational Support**

The Consultant will develop a startup plan that will be used to aid in commissioning the facility. The startup plan will include details regarding how to start and test various equipment components and what test procedures should be implemented. Using this plan, the Consultant will start up and commission the system prior to turning it over to the County for day-to-day operations. A detailed scope and fee will be developed for this task along with the design build proposal.

As the system transitions into normal operation, the Consultant can continue to provide ongoing operational support. Support services can include on site reviews of equipment and performance, ongoing SCADA support, and modifications to the system as needed as water quality changes. To support this, the Consultant recommends partnering with a



chemical supplier to lead a regular sampling plan and to provide input on chemical feed requirements to maintain system and injection integrity. Because a modular system may be the recommended alternative, this ongoing support will include adding or reducing treatment processes as needed based on water quality.

## COMPENSATION

The cost proposal for Tasks 1 and 2 of this phased authorization is provided in Exhibit 1 and is based on the hourly rates as established in Exhibit "B" to the Agreement for Architectural Engineering Services. Future tasks will be authorized as the scope is defined for these elements of the project, generally following the scope outline presented herein for Tasks 3 through 6.

## SCHEDULE

This schedule is based on several tasks being performed concurrently, assumes a 2-week review by Manatee County for each submittal, and assumes no delays between phases of work. The Work Assignment start date will be the date of the authorization of the Work Assignment by Manatee County. This Work Assignment will remain in effect through the completion of the construction, certification, and acceptance of the project by Manatee County. Individual line items are subject to change as the project develops based on schedule or project needs, but the intent is to hold the startup and commissioning completion barring a significant change. A Project Schedule will be submitted to the County with the first phase of work.

<u>Description</u>	<u>Completion Weeks Following NTP</u>
Project Initiation	1
<b>Alternatives Analysis and Project Approach</b>	<b>6</b>
Phased Engineering Support	
Preliminary Design	12
DB Design Development	20
Equipment Procurement	
Purchase Orders Issued for Major Equipment	16
Equipment On Site	32
Construction	
Notice to Proceed (Construction)	26
Substantial Completion	46
Startup and Commissioning	50



## OTHER CONSIDERATIONS

1. Project Initiation and Administration tasks and fees are based on 6-week period for first project phase.
2. The County will provide existing pond, structures, piping, electrical systems, and/or site drawings in PDF or AutoCAD where available, including a current site survey.
3. The County will provide available water quality data.
4. Permitting of proposed work has not been included in this scope of work but a scope and fee will be developed for these services in future task authorizations.
5. Geotechnical or subsurface investigations are not included in this initial scope but a scope and fee will be developed for these services as part of Task 3.
6. The Consultant's deliverables will be transmitted as electronic submittals with hard copies printed of specific items as requested. Drawing files will be transmitted in both PDF and AutoCAD electronic formats.

EXHIBIT 1 - HOURS AND COST ESTIMATE  
PINEY POINT INJECTION WELL PRE-TREATMENT PROJECT  
WA 27  
MANATEE COUNTY, FL

<b>Summary: Piney Point Injection Well Pretreatment WA - 27</b>	
<b>Description</b>	<b>TOTAL PROJECT</b>
Task 1: Project Initiation and Administration	\$50,932
Task 2: Alternatives Analysis and Project Approach	\$143,388
Task 3: Phased Systems Engineering	\$0
Task 4: Equipment Procurement	\$0
Task 5: Construction	\$0
Task 6: Startup, Commissioning, and Operational Support	\$0
<b>TOTAL COSTS</b>	<b>\$204,320</b>

EXHIBIT 1 - HOURS AND COST ESTIMATE  
 PINEY POINT INJECTION WELL PRE-TREATMENT PROJECT  
 WA 27  
 MANATEE COUNTY, FL

Task 1: Project Initiation and Administration		\$225	\$190	\$200	\$140	\$150	\$105	\$100	\$85	\$145	\$80	\$130	\$95	---	---
TASK	Description	Project Principal	Project Manager	Sr. Project Engineer	Project Engineer	Sr. Design Engineer	Senior Designer	Sr. CADD Technician	CADD Technician	Sr. Project Scientist	Admin Assistant	Sr. Const Manager	Construction Inspector	Total Man-hours	TOTAL PROJECT
A	Project Initiation & Administration	6	42	4	4		4				30			90	\$13,510
B	Kickoff Meeting	12	12	12	12						4			52	\$9,360
C	Weekly Calls (Assume two (2) 1.5 hour weekly calls for 6 weeks)	8	18	18	12	4	4	4	4	4	6	12	12	106	\$16,020
D	Site / in-person meetings (Assume one (1) meeting per week for 6-weeks)	12	24	24	14	4	4			8	6	10	12	118	\$19,120
E														0	\$0
F														0	\$0
G														0	\$0
H														0	\$0
----	<b>Total Man-hours</b>	38	96	58	42	8	12	4	4	12	46	22	24	366	----
----	<b>Total Man-hour Cost</b>	\$8,550	\$18,240	\$11,600	\$5,880	\$1,200	\$1,260	\$400	\$340	\$1,740	\$3,680	\$2,860	\$2,280	----	\$58,000
----	<b>Other Direct Costs</b>														\$2,900
----	<b>TOTAL COSTS</b>														\$60,932

EXHIBIT 1 - HOURS AND COST ESTIMATE  
 PINEY POINT INJECTION WELL PRE-TREATMENT PROJECT  
 WA 27  
 MANATEE COUNTY, FL

Task 2: Alternatives Analysis and Project Approach		\$225 ✓	\$190 ✓	\$200 ✓	\$140 ✓	\$150 ✓	\$105 ✓	\$100 ✓	\$65 ✓	\$145 ✓	\$80 ✓	\$130 ✓	\$85 ✓	-----	-----
TASK	Description	Project Principal	Project Manager	Sr. Project Engineer	Project Engineer	Sr. Design Engineer	Senior Designer	Sr CADD Technician	CADD Technician	Sr. Project Scientist	Admin Assistant	Sr. Const. Manager	Construction Inspector	Total Man-hours	TOTAL PROJECT
A	Alternatives Analysis	4	16	40	40	16	0	0	0	0	2	0	0	118	\$20,100
B	Deep Injection Well Permitting	8	4	40	40	20	8	0	0	16	4	0	0	140	\$22,840
C	Water Balance	4	8	20	24	48	0	0	0	8	2	0	0	114	\$18,300
D	Process Flow Diagram (PFD)	4	8	16	24	16	16	0	8	0	0	0	0	92	\$13,740
E	General Arrangement Drawings (GA)	4	8	8	16	8	40	8	0	0	0	0	0	92	\$12,460
F	Site Utilities Review	4	4	16	8	16	0	0	0	0	0	4	4	56	\$9,280
G	Opinion of Probable Cost and Preliminary Project Schedule	4	16	16	16	40	0	0	0	0	2	20	20	134	\$20,040
-----	<b>Total Man-hours</b>	32 ✓	64 ✓	156 ✓	168 ✓	164 ✓	54 ✓	8 ✓	8 ✓	24 ✓	10 ✓	24 ✓	24 ✓	746	-----
-----	<b>Total Man-hour Cost</b>	\$7,200 ✓	\$12,160 ✓	\$31,200 ✓	\$23,520 ✓	\$24,600 ✓	\$6,720 ✓	\$800 ✓	\$680 ✓	\$3,480 ✓	\$800 ✓	\$3,120 ✓	\$2,270 ✓	-----	\$116,560 ✓
-----	<b>Other Direct Costs</b>														\$5,828
-----	<b>Subcontract Allowance - Geochemist</b>														\$21,000
-----															(\$20,000 + \$1,000 McKim & Creed administrative fee)
-----	<b>TOTAL COSTS</b>														\$143,388

**APPROVED** in Open Session  
**6/16/2022**

Manatee County Board of County  
Commissioners



**Board of County Commissioners**  
**June 16, 2022 - Land Use Meeting**

**SUBJECT**

**APPROVAL OF DESIGN-BUILD AGREEMENT AND AMENDMENT FOR  
PRETREATMENT FACILITIES FOR PINEY POINT DEEP INJECTION WELL  
(\$17,900,000) WITH LIMITATIONS**

**Category**

REGULAR

**Briefings**

None

**Contact and/or Presenter Information**

Presenter: William Clague, County Attorney

**Action Requested**

I move to authorize the County Administrator and Purchasing Official to execute the Design-Build Agreement and Amendment thereto in accordance with the Procedures in Resolution No. 20-124, with the understanding that the majority of work under the Agreement will not take place unless and until a Service Agreement is approved by the Board.

**Enabling/Regulating Authority**

Manatee County Procurement Ordinance, Ch. 2-26, Manatee County Code of Ordinance;  
Resolution No. R-20-124 (Recess)

**Background Discussion**

- The County is in the process of negotiating a Service Agreement with the Receiver for the Piney Point site to provide for funding of the construction and operation of a Deep Injection Well (DIW) to dispose of polluted water in the stacks. Staff anticipates that the Service Agreement will be available for Board review and approval at the conclusion of the Board's Summer Recess.
- Staff has negotiated a Design-Build Agreement and Amendment thereto to provide for the design and construction of the pretreatment facility that is an essential component of the DIW project. In order to lock in the price of construction of the pretreatment

facility against cost inflation, staff needs to execute the Agreement and Amendment during the Summer Recess, with the understanding that majority of work will not proceed until the Service Agreement is in place.

- Resolution No. R-20-124 (Recess Resolution) provides that purchasing contracts may be executed administratively during the Summer Recess. Because the Recess Resolution has exclusions for new construction and engineering services, Board authorization is required to execute the Agreement and Amendment under the procedures stated in the Recess Resolution. If the Board approves the agenda item, the Agreement and Amendment will come back to the Board for approval on the Recess Agenda after the conclusion of the Summer Recess.

**Attorney Review**

Other (Requires explanation in field below)

**Other (if applicable)**

CAO Item

**Reviewing Attorney**

Clague

**Instructions to Board Records**

**Cost and Funds Source Account Number and Name**

**Amount and Frequency of Recurring Costs**

**EXHIBIT 6, PINEY POINT WATER QUALITY TREATABILITY STUDY**

# Manatee County, FL

## Piney Point Injection Well Pretreatment Project Manatee County, Florida

Alternatives Analysis and Project Approach  
June 29, 2021



McKim & Creed, Inc.  
1635 Hamlet Avenue  
Clearwater, FL 33756

## 1.0 Project Overview

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The Piney Point phosphate plant, located in Manatee County, Florida, was constructed in 1966 to produce phosphate, a key ingredient in fertilizer. The plant was shut down in 1999 and has since then been managed by many various companies, the EPA, and the Florida Department of Environmental Protection (FDEP). Currently the plant is owned by HRK Holdings.

There are three primary ponds at the plant site including the New Gypsum Stack North (NGS-N), New Gypsum Stack South (NGS-S), and the Lined Process Water Sump (LPWS). An underdrain system under the phosphogypsum stacks and pond embankments collects leachate and directs it to Structure #1 where it is pumped to the LPWS pond.

Two other ponds on site, Old Gypsum Stack North (OGS-N) and Old Gypsum Stack South (OGS-S), contain dredged material from nearby Bishop Harbor and Tampa Bay. These dredgings and salt water can overflow into NGS-S during rain events. Since OGS-N has recently received process water from NGS-S, OGS-N is considered it a process containing pond at this point. OGS-S has been mostly drained and is considered out of service.

On March 25, 2021, leaks were discovered in NGS-S. This pond contains water with concentrations of nitrogen, phosphorous, ammonia, suspended solids, dissolved solids, and other material. Additionally, there are relatively high concentrations of aluminum, iron, and sulfate in the pond and the water has a relatively low pH ranging from 3.8 to 5.9. The ponds have been filling with collected leachate and stormwater runoff. To prevent catastrophic failure to the pond structures, controlled discharges have been released to Port Manatee.

Around the site, un-impacted stormwater is collected in a series of ditches and is directed to various stormwater outfalls labeled 001, 002, and 003. During the referenced leak, there were discharges of material from one of these stormwater outfalls. Since the liner was repaired, these stormwater discharge outfalls have been compliant. As such, no modification of the proposed stormwater management system should be necessary.

The Florida Department of Environmental Protection (FDEP) has determined that the best long-term solution to mitigate the water storage issue is to inject the water into a proposed deep injection well (DIW). This well is expected to allow for the injection of 1 million gallons per day (MGD) of water to drain the impacted ponds. Once drained, the FDEP will begin their closeout activities designed to prevent impounding of stormwater on site in the future. Additionally, it will be necessary to continue to treat the approximately 0.22 MGD of leachate for up to 50-years. This treated water will continue to be injected to the DIW to maintain the water balance.

If pond water or leachate is injected without treatment, the solids in the water will eventually plug the spaces in the DIW and prevent water from being injected. Exacerbating this potential for plugging, the untreated water contains calcium, sulfate, phosphorous, and other dissolved constituents that can scale the piping and well formation over time, reducing the rate of which the water can be injected into the well. As such, it will be necessary to treat the pond and leachate water before injection.

## 2.0 Deep Injection Well

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The use of injection wells for disposal of waste streams is common in Florida. Manatee County, for example, owns and operates three injection wells. The Piney Point water is not acceptable for

long-term discharges to surface water bodies. However, it is appropriate and permitted by the FDEP and Environmental Protection Agency (EPA) for disposal into the deep, high saline injection zone proposed. The anticipated injection capacity of the proposed DIW is 1 million gallons per day (MGD). Construction of the injection well will be performed under the direction and oversight of the Aquifer Protection Program of the FDEP.

### **3.0 Water Balance**

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Since the Piney Point phosphate plant is no longer in operation, water currently enters the ponds from two main sources: stormwater and groundwater. The impounded water leaves the site through natural evaporation off the pond surfaces and evaporation through a spray irrigation system installed in NGS-N. The proposed DIW will provide another means for water to leave the site, as the current means of removing water from the system are not sufficient to drain the ponds and allow for closure activities to take place.

Stormwater inflows include rainfall that lands within the impoundments, their sloped areas, and any tributary areas that flow to the ponds. For this facility, only a small area immediately around the ponds flows into the ponds. Since monthly rainfall varies considerably, rainfall values used to develop stormwater flows were monthly average rainfall amounts from the National Oceanic and Atmospheric Administration (NOAA).

For this review, it was assumed that NGS-N, NGS-S, and OGS-N would be receiving stormwater that would require processing. While it may be possible to eliminate an individual pond's stormwater contribution once it is drained, doing so will likely be tied to the closure plan. Therefore, it was assumed that pond stormwater contribution would extend until the ponds are drained and closure activities commence.

Groundwater is collected through a series of underdrain pipes underneath the existing gypsum stacks. This water is directed primarily to Structure #1, which serves as a pump station to transfer water to the LPWS pond.. Another amount of groundwater flows to Structure #2 (located near Structure #1) and then flows from Structure #2 to Structure #1 by gravity. Currently, this pond is used for adjusting the pH to approximately 8.5 to allow for precipitation of calcium phosphate. Additionally, sodium hypochlorite is added to oxidize the ammonia to nitrate, a much less toxic form of nitrogen.

Some water is naturally evaporated off the top of each of the ponds. This natural evaporation varies per month and, when combined with the average stormwater amount received, provides either a net gain in water, or net drop in water volume for the ponds, depending on the month of the year. The monthly rainfall and evaporation values are shown in **Table 1**.

**Table 1: Average Monthly Rainfall and Evaporation - Tampa Area**

Month	Average Rainfall (IN) +	Monthly Evaporation (IN)++	Net Water Balance (IN)
January	2.23	3.14	-0.91
February	2.81	3.48	-0.67
March	3.03	4.8	-1.77
April	2.03	5.22	-3.19
May	2.1	5.65	-3.55
June	6.68	4.96	1.72
July	7.07	5.05	2.02
August	7.77	4.91	2.86
September	6.3	4.1	2.2
October	2.26	3.88	-1.62
November	1.55	3.15	-1.6
December	2.47	2.88	-0.41
TOTAL	46.3	51.22	-4.92

+ SOURCE: NOAA RAINFALL DATA, TAMPA

++ SOURCE: W. ABTEW ET. AL., EVAPOTRANSPIRATION ESTIMATION FOR SOUTH FLORIDA - JANUARY 2003

Water treated in the LPWS pond is pumped to the NGS-N pond. A recirculation pump then drives water from NGS-N through a series of water spray heads floating on the pond's surface. Combined with the sun and wind, this process results in a net forced evaporation rate of 150,000 to 200,000 gallons per day.

The three ponds to be drained, NGS-N, NGS-S, and OGS-N, have a combined maximum volume of approximately 902 million gallons (MG). However, the NGS-S pond has been drained down to make repairs and to reduce the stress on the repaired sections of the pond liner. NGS-S is assumed to currently hold only 220 MG of its 488 MG maximum capacity. Water was pumped from NGS-S to NSG-N and OGS-N as well as drained through processing, and therefore the NGS-N and OGS-N ponds are assumed to be full. LPWS will be a process management pond and is not currently scheduled to be drained as part of this project. However, since it is connected to the system and cannot be overtopped, stormwater flowing into this pond must still be accounted for. A summary of the pond areas and volumes is provided in **Table 2**.

**Table 2: Pond Area and Volumes**

Pond	Area (acres)	Maximum Volume (MG)	Current Volume (MG)	Estimated Volume (MG)
NGS-N	36.2	242	242	
NGS-S	72.7	488	220	
OGS-N	35.6	172	172	
LPWS	11.8	--	--	
TOTAL	158	902	634	

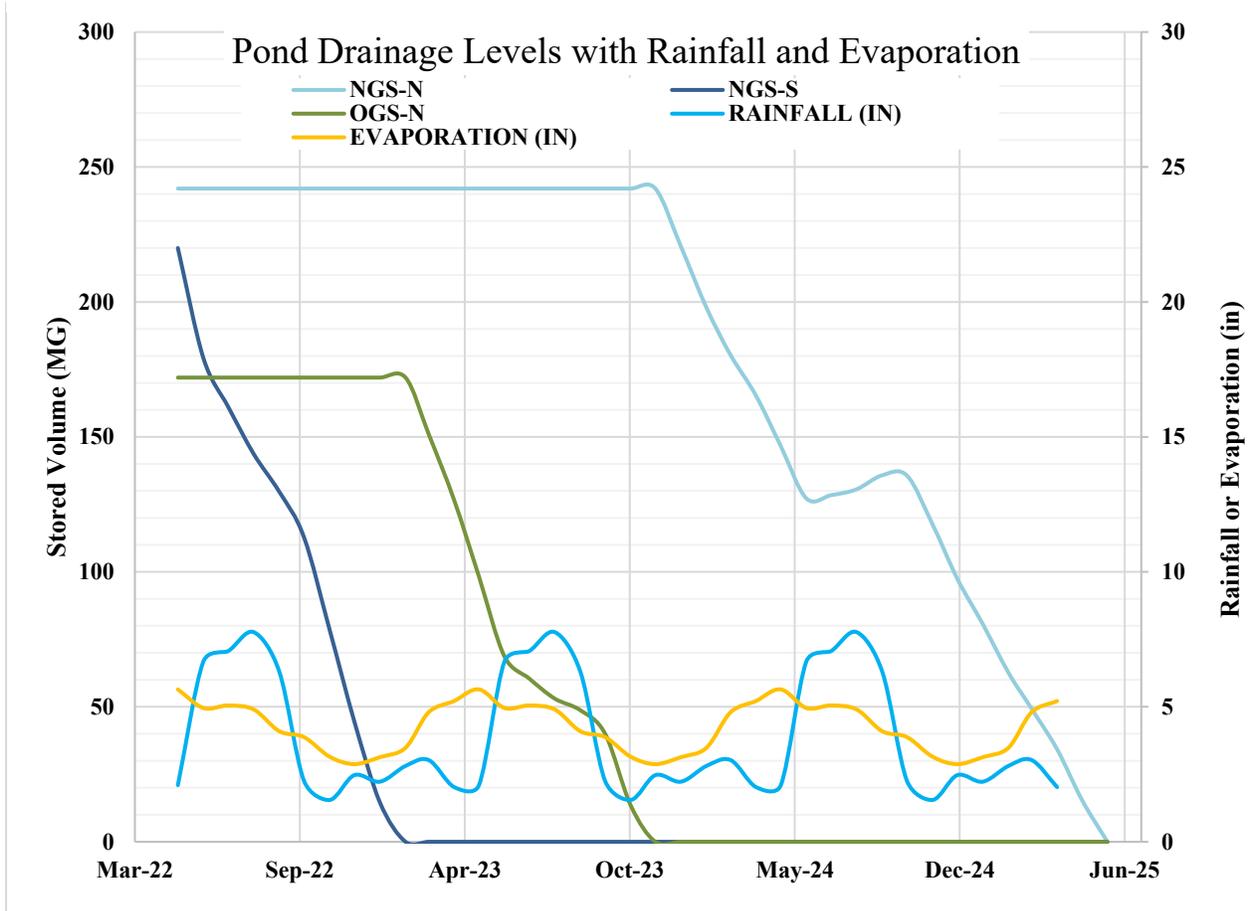
The combined DIW flow of 1 MGD, natural evaporation, and forced evaporation, can remove between 0.41 and 1.31 MG per day from the system. Since forced evaporation optimizes and accounts for evaporation out of NGS-N, natural evaporation is not accounted for from that pond. The net water balance per month in terms of daily flow and monthly flow volume are provided in **Table 3**.

**Table 3: Net Water Balance Calculation Results**

Month	Water Balance per Day (MG)	Water Balance per Month (MG)
January	1.03	31.94
February	0.99	27.84
March	1.1	33.97
April	1.29	38.72
May	1.32	40.77
June	0.6	18.06
July	0.56	17.48
August	0.45	14
September	0.56	16.84
October	1.11	34.26
November	1.13	33.96
December	0.97	30.07
<b>TOTAL</b>	<b>--</b>	<b>337.91</b>

Beginning with NGS-S, moving on to OGS-N, and finally draining NGS-N, it is estimated that it will take two to three years to drain the ponds. The predicted level of each pond, stormwater rate, and evaporation rate are presented in **Figure 1**.

**Figure 1: Pond Drainage Rate**



The referenced drainage rates and durations do not account for any hurricanes and assume typical weather patterns. Wetter years will increase the time to drain the ponds while drier years will reduce the drainage time. For example, a storm resulting in 24-inches of rainfall over the site during the drainage operation would require approximately three months of extra facility operation to remove the excess stormwater (assumes no storm surge impacts).

#### 4.0 Treatment Approach

The water from the surface of the Piney Point ponds appears to be clear and contain few suspended solids. However, the content of the water is primarily dissolved. This is primarily salinity from seawater, the result of dredging over the years, and dissolved materials from mining operations. The bottom of each pond contains considerable solids that can be suspended in solution. Suspended solid materials, when injected into the well, can clog the DIW pores and restrict or even completely block flow for disposal. In addition, dissolved materials, when exposed to elevated temperatures and pressures in the well, can result with deposits on the sides of the casing pipe and formation, and reduce or block flow of water for disposal.

Therefore, it will be necessary to treat the water to remove the suspended material, reduce the amount of certain dissolved materials, and control the water quality to prevent other dissolved

materials from scaling in the well formation. Additionally, biological growth in the well can further inhibit the disposal of water in the formation.

The influent water quality provided for selected parameters are presented in **Table 4**. As shown, sampling data has been provided for some of the ponds and Structure #1 but not from OGS-N. Based on discussions during a site visit with the County and FDEP on June 7, 2021, it is understood the water quality of OGS-N is similar to that of NGS-S.

**Table 4: Influent Water Quality Data**

Property	Units	NGS-N	NGS-S	LPWS	Structure 1
pH	SU	4.83	4	4.34	5.29
TSS	mg/L	20	8	144	104
TDS	mg/L	6,850	14,000	4,610	5,310
TN	mg/L	310	230	180	230
Ammonia	mg/L	290	210	180	230
TKN	mg/L	310	230	180	230
TP	mg/L	350	160	260	340
Ortho P	mg/L	360	150	240	320
Calcium	mg/L	488	293	478	548
Chloride	mg/L	850	5900	460	400
Sulfate	mg/L	3700	3500	2700	3000
Aluminum	mg/L	0.998	0.109	3.65	4.67
Iron	mg/L	0.32	0.1	6.9	40.7
Manganese	mg/L	0.67	0.169	0.604	0.801

The primary constituents of concern for directly plugging the well are Total Suspended Solids (TSS), calcium, and phosphorous. TSS are proposed to be removed using a clarification and filtration process. Phosphorus can cause scaling through calcium phosphate scaling. To combat this, phosphorous is proposed to be removed using a chemical precipitation reaction process installed upstream of the clarifier and filter. Ferric chloride will be added to the water and be allowed to react with the water. Following reaction and clarification, filtration will be used to remove a substantial amount of iron, aluminum, and manganese.

The use of ferric chloride will have the side benefit of reducing the scaling potential by removing alkalinity from the water. To keep the pH from going too low from chemical addition, it will be necessary to add sodium hydroxide to raise pH as necessary. Removing phosphorus in this way will create a sludge that won't readily leach out phosphorus if the pH approaches neutral conditions.

Sodium hypochlorite will also be dosed to break point ammonia and ensure that a small chlorine residual can be maintained down the well bore to prevent the growth of biological parameters. Ammonia will consume any chlorine residual and therefore will not allow for a chlorine residual to exist. A high enough ammonia concentration could be disinfecting in itself; however, a number of micro-organisms can thrive under 2,000 mg/L of ammonia.

Calcium and sulfate scaling is a concern, particularly when injecting the treated water under pressure and at the elevated temperatures seen underground. However, removing the calcium through softening will create a large volume of solids and consume a large amount of chemicals. The alternate means of managing calcium sulfate scaling is to keep the pH of the injected water under 6.

To evaluate this, the water quality of each pond and the worst-case scenario of each pond were run through the Langelier Saturation Index (LSI). If the LSI is positive, particularly if over 1.0, the water will likely scale. If the LSI is negative, the water be corrosive. It is proposed to keep the water at a slightly LSI value to inhibit scale formation in the proposed DIW. Water quality parameters and calculation LSI values are presented in **Table 5**.

**Table 5: Langelier Saturation Index for Injected Water**

Property	NGS-N	NGS-S	LPWS	Struct 1	Worst
pH	6	6	6	6	6
TDS (mg/L)	6850	14000	4610	5310	14000
Ca (mg/L as CaCO <sub>3</sub> )	488	293	478	548	548
Alkalinity (mg/L as CaCO <sub>3</sub> )*	634	381	621	712	712
Temperature (oC)	45	45	45	45	45
<b>LSI</b>	<b>-0.21</b>	<b>-0.69</b>	<b>-0.21</b>	<b>-0.1</b>	<b>-0.14</b>

\*Calculated based on Ca Multiplier

To minimize solids, scaling parameters, and biological growth, the proposed treatment system's effluent water are presented in **Table 6**. Because of the complex nature of the water from the ponds, it is recommended to complete some simple jar testing to calculate the chemical dosing for ferric chloride, sodium hydroxide, sodium hypochlorite, and polymer. This jar testing will also help establish the rate of settling for the pond solids.

**Table 6: Treatment Plant Effluent Quality**

Property	Units	Treated Effluent
pH	SU	< 6.0
TSS	mg/L	< 5
TDS	mg/L	NA
TN	mg/L	NA
Ammonia	mg/L	< 1.0
TKN	mg/L	NA
TP	mg/L	< 10
Ortho P	mg/L	< 30
Calcium	mg/L	< 550
Chloride	mg/L	NA
Sulfate	mg/L	NA
Aluminum	mg/L	< 0.5
Iron	mg/L	< 0.5
Manganese	mg/L	< 0.5

Various unit processes will be used to in the treatment system. These will each be designed to be modular, flexible, and be able to adapt to the changing water quality in the ponds, changing conditions as the ponds are drained, and be able to accommodate process changes that may be required but cannot be anticipated at this time.

The proposed unit processes are presented on the Process Flow Diagram (PFD included in **Appendix A**. Water will be delivered through pumps located in each pond, designed by others, and will arrive at the proposed treatment plant site by an HDPE pipe. It is proposed to provide two trains of approximately 60% full flow capacity each. This way one train can be removed from service for maintenance and the dewatering operation can continue. This will be true of all unit processes and pumps, so that there is at least one spare moving piece of equipment is available in case the primary unit needs maintenance or repair.

The first unit process is a primary settling tank. This tank is designed to drop out larger solids, such as sand, debris, and other such materials. From here, the water will be dosed with ferric sulfate, sodium hypochlorite, and sodium hydroxide and will be pumped to a mix tank. These materials will mix for approximately 30 minutes in the mix tank before the water is pumped to a process clarifier.

The process clarifier is proposed as an inclined plate clarifier designed to allow for the settling of solids. A small amount of polymer will be added directly ahead of the clarifier where it will be blended in a small mixing zone. Water will flow slowly up through the plates. Along the way solid material, including precipitated solids generated in the reaction tank, will drop out and settle at the bottom of the clarifier. Clear water will flow out the top.

Clarifier effluent will flow by gravity to a continuously backwashed filter. This kind of filter has a cross flow of water and slowly moving sand media bed. The filtered water flows out of the filter while the backwash is returned to the mix tank so that solids can be removed in the clarifier.

Following the filter, the water will be collected in a clean water storage tank. Water from the clean water storage tank will be pumped by a charge pump through a bag filter and will provide the suction pressure necessary for the proposed DIW pump to operate. The charge pump filter bag serves as a means of protecting the downstream injection pump. At this point, the pH of the water will also be adjusted using an acid stream to ensure that pH is low enough to prevent scaling in the well. The injection pump will then bring the surface pressure of the water up to 300 psi so the flow of 1 MGD can be injected in the DIW.

Solids will be removed from the process by pumping the solids out of the clarifier sludge hopper to a sludge holding tank. This tank will be designed to hold solids before they are pumped to a disposal location, located on the exiting gypsum stack. This disposal site and conveyance to it will be developed in the future. The goal is to allow the solids to collect and for the water component of the solids to drain back into a pond or structure #1 for re-treatment and disposal by the proposed DIW.

Each piece of process equipment will include instruments designed to provide information for current process conditions, automation capabilities, and to provide additional system resilience. Flow will be monitored between major unit processes using flow meters. Each tank will have its level monitored by at least one instrument. Water quality parameters monitored will include turbidity, conductivity, and pH. Sample taps will be provided to allow for the sampling of water in between processes.

The pumps and smaller treatment equipment will be located in a building. An electrical room and control room in the building will be provided with HVAC controls. A bathroom will also be included in the building. Major tanks and unit processes will be located on pads outside the building. Chemicals will be stored in bulk tanks in their own dedicated secondary containment area. A sun and rain shield will be installed over top of the chemical storage area. Chemical pumps will be located in and near the chemical feed tanks.

## **5.0 Site Plan and Permitting**

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The proposed DIW and treatment plant site includes approximately 6.309 acres. The existing ditch areas are anticipated to be jurisdictional wetlands based on similar conditions identified during adjacent parcel development activities. Wetland field verification and delineation activities will be performed following the County's purchase of the site. To determine preliminary impacts, it is assumed that that wetland boundaries will match the surveyed top of bank limits. The estimated wetland disturbance area is 2,500 sq ft for culvert replacement and drive construction activities. There will be some fill in the wetland in the area upstream of the existing culvert for the drive construction, and there will be cut activities downstream of the new culvert that will create additional ditch areas.

The proposed DIW will be constructed at the northwest part of the site, while the treatment system will be constructed at the eastern part of the site. The footprint of the DIW, once constructed, will approximately 200 square feet. The proposed roadway will use #57 stone to minimize stormwater impacts. The site roadway is also designed to minimize potential wetland impacts. Site grading and drainage design will result with no adverse impacts to adjacent / downstream properties.

Ingress/egress is provided via Scale Avenue and through marked roads withing the HRK property (refer to Drawing C01). Potable water will be provided via a proposed 2-inch connection to the County's existing 24-inch ductile iron water main along the west side of US 41. Sanitary sewer service will be provided with a 2-inch forcemain via a connection to the County's existing 10-inch PVC force main located on the east side of US 41. Please refer to **Appendix B** for preliminary site drawings.

The FEMA Base Flood Elevation for the project area is 8.0 feet (NAVD88) per the current Map 12081C0018E dated March 17, 2014. The project area is located in the Manatee County Coastal Planning Area (CPA) and this type of land use (waste treatment plant) is not allowed per code because of potential flooding impacts and damages. County Development Review staff suggested that it may be possible to allow construction in the CPA by approval of a resolution noting that it is for the public good and does not have negative impacts. Because of the flooding concerns related to the CPA zoning land uses, it is recommended that the finished floor elevations for structures and slabs in the treatment plant area be constructed at 14.5 feet.

## **6.0 Estimated Design Build Costs and Schedule**

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Based on the information presented, M&C has developed a budgetary estimate and schedule to permit, design, procure equipment, construct, and commission the treatment facility. Note that the estimate and schedule are both based on utilizing a design build project delivery approach. This approach will allow permitting and design to progress in parallel while integrating key stakeholders into the project early in the schedule. Value engineering and constructability reviews will be incorporated prior to finalizing design. Long lead equipment and materials will be identified and released early to ensure timely delivery. All of these activities will help to expedite the overall project schedule to allow for an operational system no later than June 1, 2022, as shown in the schedule included in **Appendix C**. The budgetary estimate to complete the project is approximately \$9.7M and **Appendix D** provides a breakdown of the budgetary cost estimate.

This estimate was developed utilizing the following assumptions and clarifications:

1. M&C scope, pricing, and milestone schedule are based on Preliminary Process Flow Diagram and General Arrangement drawings issued by M&C on June 26, 2021.
2. Design-Build level engineering package including equipment submittals, detailed site layout, civil design, mechanical design, and electrical/controls design is included.
3. Procurement of equipment related to M&C scope is included.
4. Engineering, Project Management, and Administrative support throughout design and construction is included.
5. Construction Oversight for 6-month construction duration is included.
6. Startup and commissioning for a 3-week duration overlapping with construction completion/demobilization is included.
7. O&M support for 6 months (4 days per month with every other month including one on site meeting) is included.
8. Freight of M&C supplied equipment is included.
9. All piping, valves, instrumentation, electrical conduit, wiring, and any other appurtenances outside of the treatment plant boundaries are excluded unless specifically noted otherwise.

10. Injection well piping from the injection pumps housed in the treatment system to the well head is included. This piping stops at a valve at the well head.
11. Water transfer pumps from ponds to pretreatment facility as well as all piping from ponds to pretreatment facility are excluded.
12. Pretreated water transfer pumps and piping for discharge to POTW are excluded from M&C scope of work.
13. Supply of the following equipment by M&C is included:
  - a. Two (2) Primary Settling Tanks; 21,000 gallons; cone bottom type.
  - b. Two (2) Mix Tanks; 21,000 gallons.
  - c. Two (2) Mix Tank Mixers.
  - d. Two (2) Clarifier Transfer Pumps; horizontal centrifugal; common skid mounted with suction/discharge isolation valves and discharge pressure indicators; each pump rated for 700 GPM @ 50' TDH; 480V, 20HP TEFC motors, NEMA 12 VFD.
  - e. Two (2) Lamella Clarifier Systems with Drop-In Clarifier Assembly and flash/floc mixers.
  - f. Two (2) Sludge Transfer Pumps (AODD)
  - g. One (1) Sludge Holding Tank; 21,000 gallons.
  - h. Two (2) Sludge Discharge Pumps
  - i. Two (2) Dynasand Filters; capacity 700 GPM each.
  - j. One (1) Clean Water Tank; 21,000 gallons.
  - k. Two (2) Injection Charge Pumps; horizontal centrifugal; common skid mounted with suction/discharge isolation valves and discharge pressure indicators; each pump rated for 700 GPM @ 50' TDH; 480V, 20HP TEFC motors, NEMA 12 VFD.
  - l. Two (2) Bag Filters; 700 GPM capacity each.
  - m. Two (2) Injection Well Pumps; positive displacement; each pump rated for 700 GPM @ 300 PSI; 480V, 200 HP TEFC motors, NEMA 12 VFD
  - n. One (1) Sodium Hypochlorite Storage Tank (10,000 gallons) and chemical dosing system.
  - o. One (1) Sodium Hydroxide Storage Tank (1,000 gallons) and chemical dosing system.
  - p. One (1) Hydrochloric Acid Storage Tank (1,000 gallons) and chemical dosing system.
  - q. One (1) Building Sump Pump to be located in Building Sump.
  - r. One (1) Grinder Pump Station for building sewage handling.
14. Design will be based on shallow foundations/slab on grade. The use of piles is not anticipated and, as such, are not included
15. Geotechnical evaluations and underground utility locate are included.
16. A backup power generator system is included
17. Access roads to the site are by others.
18. Dewatering design & solids handling after Sludge Discharge Pumps, along with any associated equipment, (including Geotubes) is not included.
19. M&C is responsible for control system design.
20. The design is based on the use of standard design, equipment, engineering submittals, and materials of construction, QA/QC procedures, and documentation where no other standards or specifications were provided. Engineering deliverables shall be the following: Documents as they are released shall be reviewed in over-the-shoulder reviews with the intent that

stakeholders are to provide all comments during the design for inclusion into the final design. Cut sheets of equipment shall be provided when they are identified in the design.

21. Design for this facility is based on industry standards for disposal well facilities. Where applicable, Manatee County standard details will be used.
22. All deliverables will be transmitted as electronic submittals in .pdf format. AutoCAD files will be provided upon request and completion of the project.
23. Payment and performance bonds are excluded.
24. McKim & Creed excludes special drawings or specifications for specific bid packages beyond what has been identified in this scope of work.
25. McKim & Creed excludes utility company charges or coordination, unless otherwise stated above.
26. McKim & Creed excludes communications to the site and assumes existing can be utilized.
27. Thermal and/or stress analysis of piping is not included.
28. A separate specification book will not be required. Performance specifications will be included on the contract documents.
29. Piping Line List, Valve List, Instrument List, Conduit and Cable Schedules are not included.
30. Drawings will be provided as 2D drawings for the deliverables.
31. Cathodic protection is not expected to be required and is excluded from this scope.
32. Groundwater dewatering design (sheeting, slurry walls, pumping) is not included.
33. Any other services not specifically outlined in this Scope of Work are excluded.
34. PPE required for this site is Hard Hats, Safety Glasses and Steel Toe Boots.
35. Any other services not specifically outlined in M&C's scope of work are excluded.
36. Scope and pricing are based on mutually agreed upon terms and conditions between McKim & Creed and Manatee County.

## **7.0 Summary and Recommendations**

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Based on the data presented, treating and disposing of the water from the three major ponds at Piney Point in a deep injection well can be accomplished in an expedited fashion that will allow the site to dispose of 1 MGD from the various sources. The water balance confirms that this disposal rate will allow the site to operate in a net negative water balance, thus dewatering the ponds within 2-3 years after the system is placed into operation. The proposed treatment system will remove nearly all suspended solids and select fouling parameters. The preliminary treatment system design provides flexibility in treating water quality variations that will be seen during the dewatering operations.

Next steps recommended by M&C include validating the conceptual treatment approach by collecting additional pond water samples, underdrain water samples, and data from existing treatment processes on site. Jar testing to determine the settling rate and chemical dosing for the proposed treatment process is also recommended as part of the conceptual design validation phase. This additional information is needed to complete the project mass balance and developing the system Process and Instrumentation Diagrams (P&IDs).

Following and during the validation phase additional work will take place with respect to the site design, establishing utility routing and completing initial permitting steps. From this point detailed

design can begin to further develop the treatment facilities structural design, process mechanical design, electrical design, communications protocols, and controls design.

To maintain the project schedule, these next phases should begin immediately. Owner comments, recommendations, and site input should also be incorporated into the design as early as possible in these next phases of the design.







**BOUNDARY SURVEY WITH LIMITED TOPOGRAPHY PROVIDED BY MANATEE COUNTY PROPERTY MANAGEMENT DEPARTMENT SURVEY DIVISION.**

**COUNTY SURVEYOR NOTES:**

- UNLESS NOTED, LOCATIONS LIMITED TO - OBSERVABLE, ABOVE GROUND IMPROVEMENTS, NO UNDERGROUND IMPROVEMENTS HAVE BEEN LOCATED EXCEPT THOSE SHOWN HEREON. SOME FEATURES MAY BE EXAGGERATED FOR CLARITY. DIMENSIONS SHOWN SUPERSIDE SCALED DIMENSIONS.
- A TITLE SEARCH WAS NOT COMPLETED. THIS SURVEY DOES NOT CERTIFY OR WARRANT: TITLE, ZONING, EASEMENTS, OR FREEDOM OF ENCUMBRANCES.
- SUBJECT TO EASEMENTS, DEDICATIONS AND RESTRICTIONS OF RECORD NOT PROVIDED TO THE SURVEYOR AND MAPPER, NO OTHER INSTRUMENTS OF RECORD, RIGHTS-OF-WAY AND/OR OWNERSHIP ARE KNOWN BY, OR WERE FURNISHED THIS SURVEYOR EXCEPT AS SHOWN HEREON.
- THE BASIS OF BEARINGS FOR THIS SURVEY IS THE SOUTHERLY BOUNDARY LINE OF ORS 2444, PAGE 7399, WHICH BEARS S89°14'31"E (GRID). DERIVED USING REAL TIME KINEMATICS METHODS AND THE FLORIDA DEPARTMENT OF TRANSPORTATION'S PERMANENT REFERENCE NETWORK. THE DATUM FOR THE VALUES IS THE NORTH AMERICAN DATUM 1983 (2011 ADJUSTMENT) FLORIDA WEST ZONE. THE PUBLISHED VALUES OF "CONNECTICUT" (OPUS PID DM6244) AND "MOOSE" (OPUS PID AB315) WERE USED TO VALIDATE THE PRODUCT COORDINATES. HOWEVER, THESE VALUES ARE NOT TO BE CONSIDERED GEODETIC CONTROL.
- THE ELEVATIONS SHOWN HEREON ARE BASED ON "CONNECTICUT" (NGS PID DM6244), ELEVATION 10.72 FEET, NORTH AMERICAN VERTICAL DATUM 1988 (NAVD88), AND "DELMARE" (NGS PID DM6245), ELEVATION 25.05 FEET NORTH AMERICAN VERTICAL DATUM 1988 (NAVD88).

**UTILITY LOCATIONS**

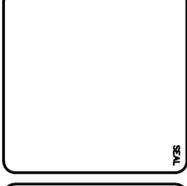
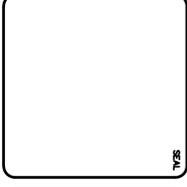
**UTILITY LOCATION NOTES:**

- SUBSURFACE UTILITY LOCATIONS ARE SHOWN BASED ON COUNTY GIS INFORMATION, FOOT RECORD DRAWINGS AND RELATED SURFACE FEATURES LOCATED DURING TOPOGRAPHIC DATA COLLECTION.
- ALL BURIED FACILITIES SHALL BE FIELD VERIFIED PRIOR TO EXCAVATION.

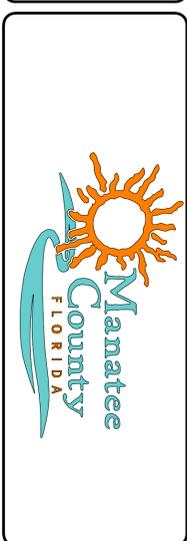
**EROSION CONTROL NOTES**

- ALL TEMPORARY EROSION CONTROL MEASURES SHALL BE INSTALLED PRIOR TO ANY EARTH MOVING ACTIVITIES.
- BARRIER FENCING SHALL BE INSTALLED TO PROTECT ALL WETLANDS AND VEGETATED AREAS SCHEDULE TO REMAIN FROM DISTURBANCE BY CONSTRUCTION EQUIPMENT AND SITATION FLOWS.
- INSTALL DITCH CHECK DAMS TO PROTECT EXISTING DITCH AREAS DOWNSTREAM OF GRADING AND CULVERT ACTIVITIES.

REVISION	DESCRIPTION	DATE
1	CONCEPT LAYOUTS	JUNE 2021



**MCKIM & CREED**  
 1365 Hamlet Avenue  
 Clearwater, Florida 33756  
 Phone: (727)442-7196, Fax: (727)461-3827  
 CA LIC No. 29988  
 www.mckimcreed.com



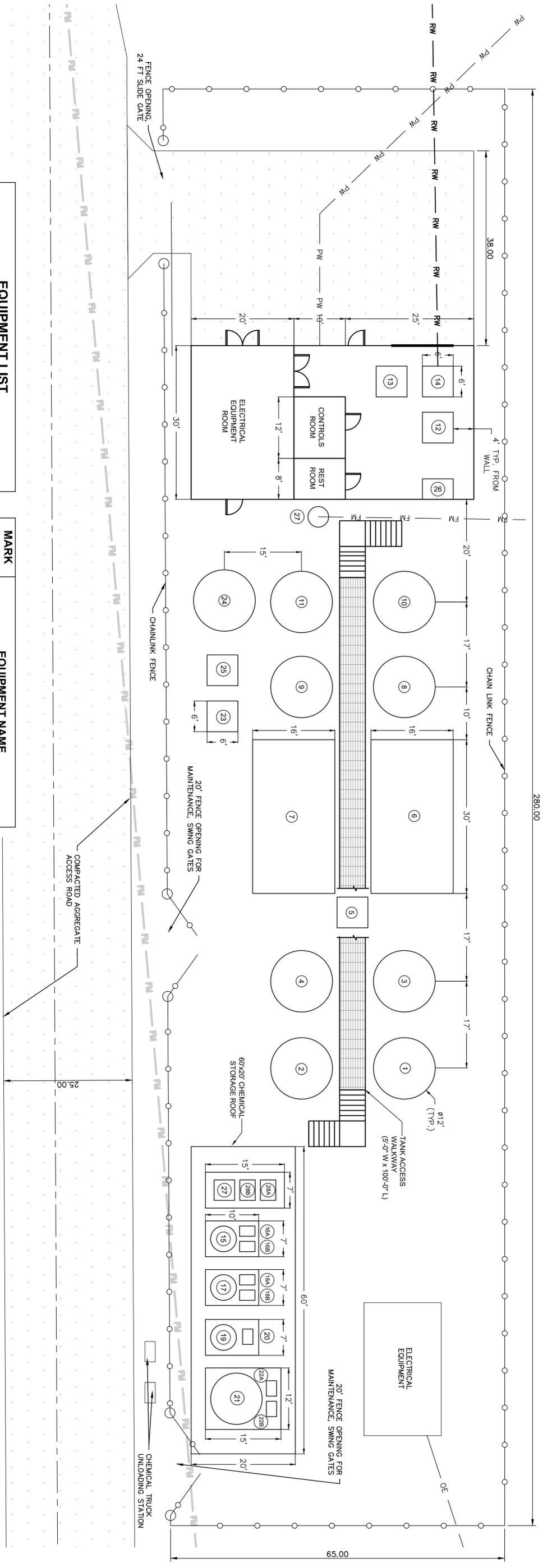
**PINEY POINT DEEP INJECTION WELL  
 PRETREATMENT PROJECT**  
 CIVIL  
 EXISTING CONDITIONS

**DATE:** JUNE 2021  
**MOE PROJ.#:** 1024-0197  
**DESIGNED:** CSP  
**CHECKED:** XXX  
**PROJ. MGR:** TLW

**SCALE:**  
 HORIZONTAL: AS SHOWN  
 VERTICAL: V.A.  
**PLANNING NUMBER:** C02  
**REGION:** A

**STATUS:** NOT FOR CONSTRUCTION





MARK NO.	EQUIPMENT NAME
1	PRIMARY SETTLING TANK A
2	PRIMARY SETTLING TANK B
3	MIX TANK A
4	MIX TANK B
5	CLARIFIER TRANSFER PUMPS A/B
6	PROCESS CLARIFIER A
7	PROCESS CLARIFIER B
8	DYNASAND FILTER A
9	DYNASAND FILTER B
10	CLEAN WATER TANK A
11	CLEAN WATER TANK B
12	INJECTION CHARGE PUMPS A/B
13	BACK-UP BAG FILTERS A/B

MARK NO.	EQUIPMENT NAME
14	INJECTION PUMPS A/B
15	CAUSTIC STORAGE TANK
16	CAUSTIC DOSING PUMP SKID
17	FERRIC CHLORIDE STORAGE TANK
18	FERRIC CHLORIDE DOSING SKID
19	HYDROCHLORIC ACID STORAGE TANK
20	HYDROCHLORIC ACID DOSING SKID
21	SODIUM HYPOCHLORITE STORAGE TANK
22	SODIUM HYPOCHLORITE DOSING SKID
23	SLUDGE TRANSFER PUMPS A/B
24	SLUDGE HOLDING TANK
25	SLUDGE DISCHARGE PUMPS A/B
26	BUILDING SUMP (4'X6')
27	GINDER PUMP STATION

PRETREATMENT FACILITIES  
ENLARGED PLAN DETAIL  
SCALE : 1"=10'

NO.	DESCRIPTION	DATE
1	CONCEPT LAYOUTS	JUNE 2021
	REVISIONS	

SCALE	SCALE
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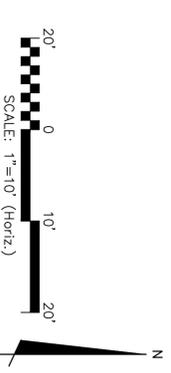
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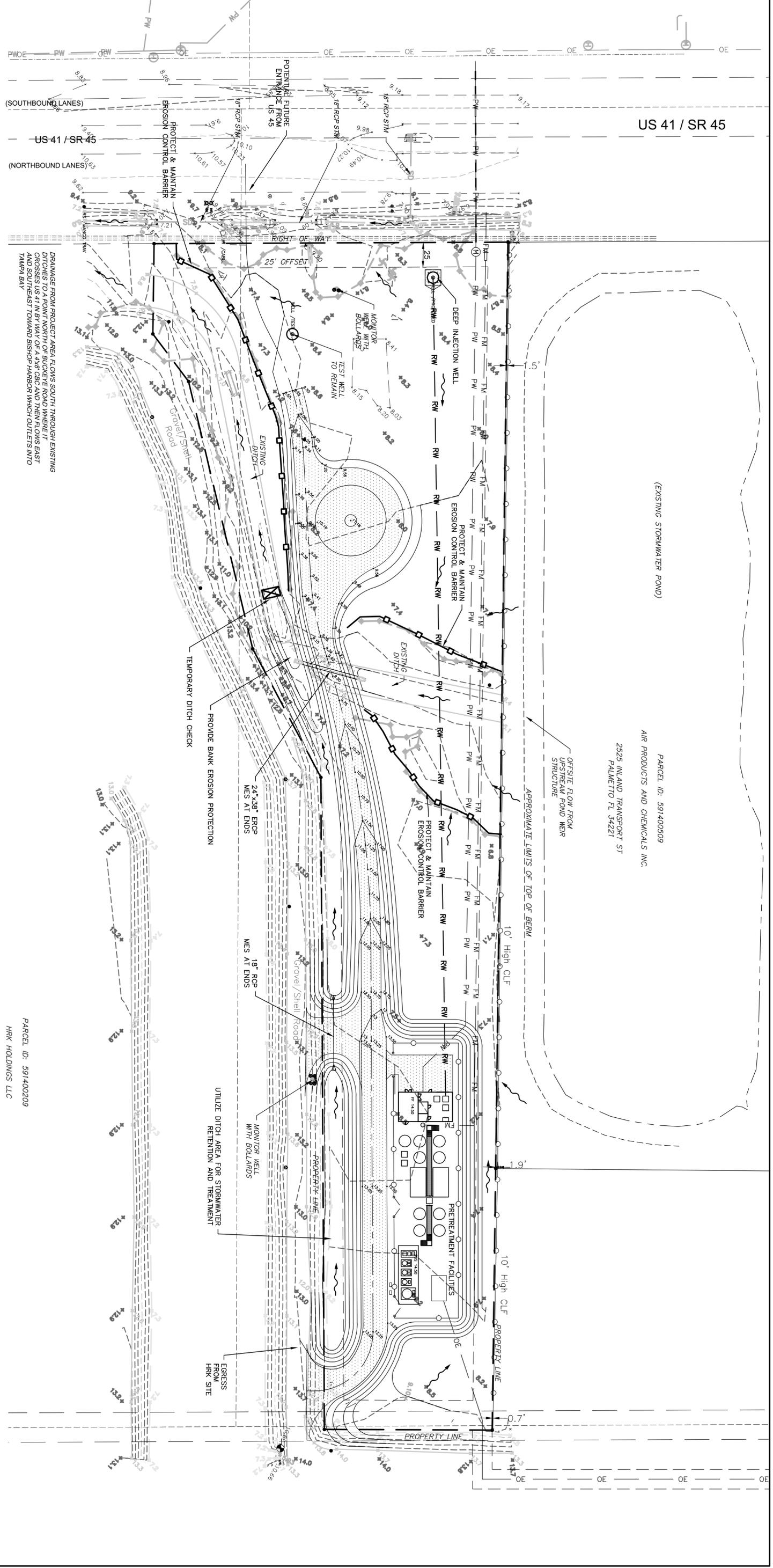
Manatee  
County  
FLORIDA

PINEY POINT DEEP INJECTION WELL  
PRETREATMENT PROJECT  
CIVIL  
ENLARGED PRE-TREATMENT  
SITE LAYOUT DETAIL

DATE: JUNE 2021	SCALE: HORIZONTAL: AS SHOWN	PROJECT NUMBER: C04
DATE: 1024-0197	SCALE: VERTICAL: NA	REVISION: A
DESIGNED: XXX		
CHECKED: XXX		
PROJ. MGR: TLW		

STATUS: NOT FOR CONSTRUCTION 30% SUBMITTAL





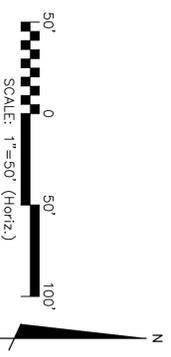
US 41 / SR 45

(EXISTING STORMWATER POND)

PARCEL ID: 591400509  
 AIR PRODUCTS AND CHEMICALS INC.  
 2525 INLAND TRANSPORT ST  
 PALMETTO FL 34221

**SITE GRADING & DRAINAGE PLAN**

SCALE : 1"=50'



NO.	DESCRIPTION	DATE
1	CONCEPT LAYOUTS	JUNE 2021
	REVISIONS	

SCALE	SCALE
-------	-------

**McKIM & CREED**  
 1365 Hamlet Avenue  
 Clearwater, Florida 33756  
 Phone: (727)442-7196, Fax: (727)461-3827  
 CA LIC No. 29988  
 www.mckimcreed.com

**Manatee County FLORIDA**

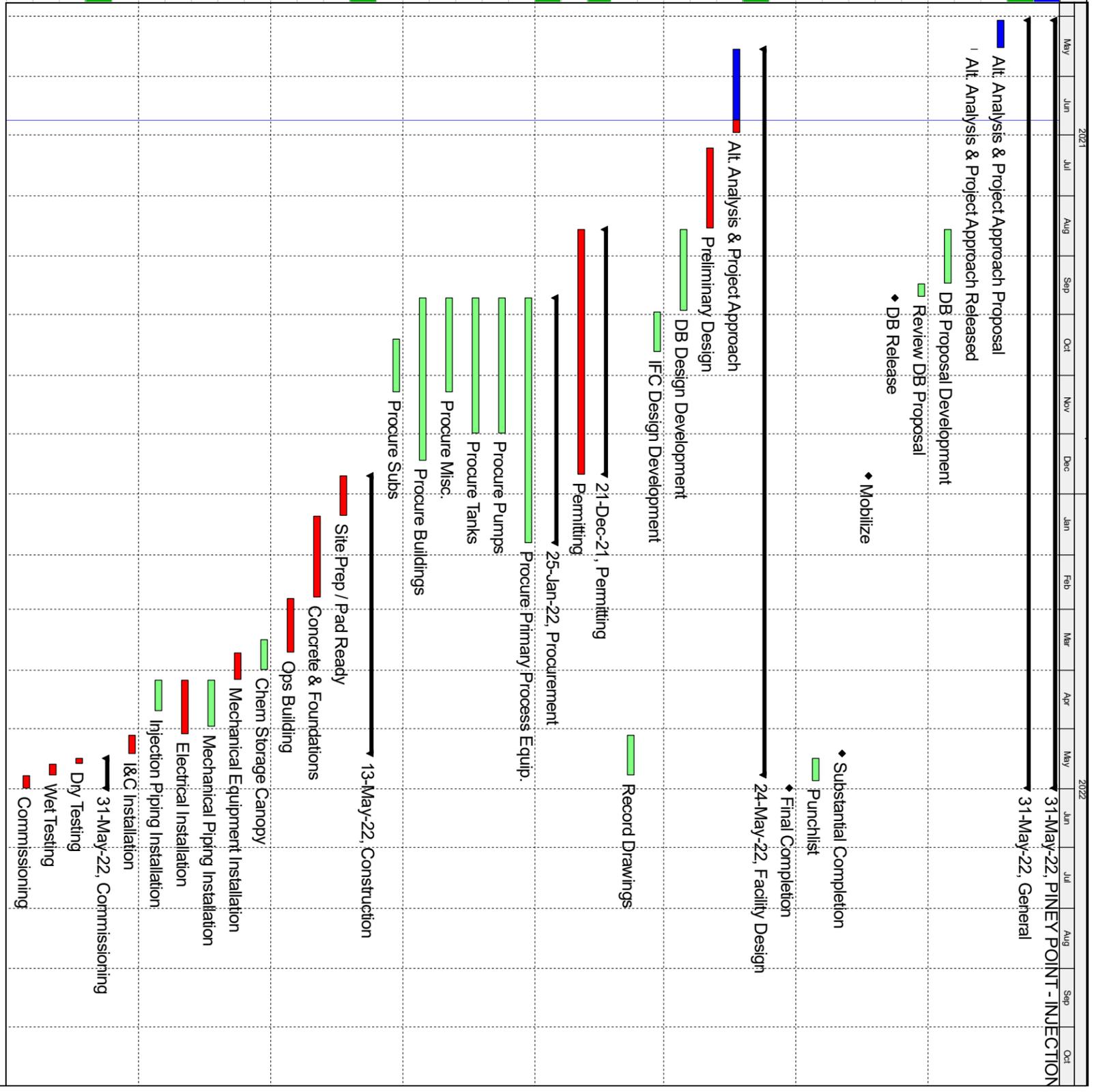
**PINEY POINT DEEP INJECTION WELL  
 PRETREATMENT PROJECT**  
 CIVIL  
**SITE GRADING & DRAINAGE PLAN**

DATE:	JUNE 2021	SCALE:	HORIZONTAL: AS SHOWN	PROJECT NUMBER
DATE:	1024-0197	SCALE:	VERTICAL: NA	
DESIGNED:	XXX	PROJECT NUMBER	<b>C05</b>	
CHECKED:	XXX		A	
PROJ. MGR:	TJW	NOT FOR CONSTRUCTION		

PARCEL ID: 591400209  
 HRK HOLDINGS LLC  
 13300 US 41 N  
 PALMETTO FL 34221

APPENDIX C - PRELIMINARY PROJECT SCHEDULE

Activity ID	Activity Name	Original Duration	Remaining Duration	Start	Finish
<b>PINEY POINT - INJECTION WELL PRE-TREAT FACILITY</b>					
<b>General</b>		1587	245	03-May-21	31-May-22
A1060	Alt. Analysis & Project Approach Proposal	10	0	03-May-21	17-May-21
A1070	Alt. Analysis & Project Approach Released	5	0	18-May-21	18-May-21
A1010	DB Proposal Development	20	20	18-Aug-21	14-Sep-21
A1180	Review DB Proposal	5	5	15-Sep-21	21-Sep-21
A1020	DB Release	0	0	22-Sep-21	
A1140	Mobilize	0	0	22-Dec-21	
A1030	Substantial Completion	0	0		13-May-22
A1040	Punchlist	10	10	16-May-22	27-May-22
A1050	Final Completion	0	0		31-May-22
<b>Facility Design</b>		240	240	18-May-21	24-May-22
A1090	Alt. Analysis & Project Approach	30	5	18-May-21	29-Jun-21
A1120	Preliminary Design	30	30	07-Jul-21	17-Aug-21
A1270	DB Design Development	30	30	18-Aug-21	28-Sep-21
A1160	IFC Design Development	15	15	29-Sep-21	19-Oct-21
A1110	Record Drawings	15	15	04-May-22	24-May-22
<b>Permitting</b>		90	90	18-Aug-21	21-Dec-21
A1450	Permitting	90	90	18-Aug-21	21-Dec-21
<b>Procurement</b>		90	90	22-Sep-21	25-Jan-22
A1130	Procure Primary Process Equip.	90	90	22-Sep-21	25-Jan-22
A1170	Procure Pumps	50	50	22-Sep-21	30-Nov-21
A1210	Procure Tanks	50	50	22-Sep-21	30-Nov-21
A1260	Procure Misc.	35	35	22-Sep-21	09-Nov-21
A1220	Procure Buildings	60	60	22-Sep-21	14-Dec-21
A1190	Procure Subs	20	20	13-Oct-21	09-Nov-21
<b>Construction</b>		103	103	22-Dec-21	13-May-22
A1360	Site Prep / Pad Ready	15	15	22-Dec-21	11-Jan-22
A1370	Concrete & Foundations	30	30	12-Jan-22	22-Feb-22
A1380	Ops Building	20	20	23-Feb-22	22-Mar-22
A1390	Chem Storage Canopy	12	12	16-Mar-22	31-Mar-22
A1400	Mechanical Equipment Installation	10	10	23-Mar-22	05-Apr-22
A1410	Mechanical Piping Installation	18	18	06-Apr-22	29-Apr-22
A1420	Electrical Installation	20	20	06-Apr-22	03-May-22
A1440	Injection Piping Installation	12	12	06-Apr-22	21-Apr-22
A1430	I&C Installation	8	8	04-May-22	13-May-22
<b>Commissioning</b>		12	12	16-May-22	31-May-22
A1330	Dry Testing	3	3	16-May-22	18-May-22
A1340	Wet Testing	4	4	19-May-22	24-May-22
A1350	Commissioning	5	5	25-May-22	31-May-22



**PINEY POINT - INJECTION WELL PRE-TREAT FACILITY**

Project Execution Schedule

Conceptual

Stamp: 23-Jun-21  
Data Date: 23-Jun-21

© Oracle Corporation

**APPENDIX D - PRELIMINARY OPINION OF PROBABLE CONSTRUCTION COST**

<b>Piney Point - Injection Well Pre-Treat Facility - OPCC</b>		Subtotal
<b>M&amp;C LABOR</b>	Engineering	\$ 551,250
	DB Services	\$ 446,250
	Permitting	\$ 68,250
	Subconsultants / Misc.	\$ 105,000
<b>EQUIPMENT</b>	Primary Settling Tank (A/B)	\$ 74,900
	Mix Tank (A/B)	\$ 58,850
	Mix Tank Mixers (A/B)	\$ 14,713
	Clarifier Transfer Pumps (A/B)	\$ 20,063
	Process Clarifier (A/B)	\$ 538,605
	Dynasand Filter (A/B)	\$ 647,350
	Clean Water Tank (A/B)	\$ 58,850
	Injection Charge Pumps (A/B)	\$ 75,443
	Back Up Bag Filters (A/B)	\$ 42,800
	Injection Well Pumps (A/B)	\$ 529,650
	Caustic Storage Tank	\$ 2,006
	Caustic Dosing Pump Skid	\$ 14,713
	Ferric Chloride Storage Tank	\$ 2,006
	Ferric Chloride Dosing Skid	\$ 14,713
	Sodium Hypo Storage Tank	\$ 16,050
	Sodium Hypo Dosing Skid	\$ 22,738
	Hydrochloric Acid Storage Tank	\$ 2,006
	Hydrochloric Acid Dosing Pump Skid	\$ 7,356
	Polymer Blending & Dosing System	\$ 21,400
	Sludge Transfer Pumps (A/B)	\$ 9,363
	Sludge Holding Tank	\$ 58,850
	Sludge Discharge Pumps (A/B)	\$ 22,738
	Building Sump (4'x6')	\$ 3,344
	Building Sump Pump	\$ 1,137
	Grinder Pump Lift Station	\$ 20,063
	Injection Piping	\$ 30,094
	Generator (500 KW)	\$ 468,125
	Automatic Transfer Switch	\$ 80,250
	Facility Electrical Equipment	\$ 334,375
	Instrumentation	\$ 66,875
	Facility PLC & Comms	\$ 80,250
	Freight	\$ 56,250
<b>CONSTRUCTION</b>	Site Work, E&S Controls, Clearing & Grubbing	\$ 1,250,000
	Concrete Foundations & Flatwork	\$ 382,500
	Anchorage Requirement	\$ 31,250
	Operations / Pump / Controls Building	\$ 112,500
	Chemical Storage Canopy	\$ 45,000
	Mechanical Equipment Installation	\$ 206,250
	Facility Piping & Valves Installation	\$ 500,000
	Facility Electrical Installation	\$ 750,000
	I&C Installation	\$ 156,250
	Injection Piping Installation	\$ 21,875
	Commissioning	\$ 31,250

**ESTIMATED COSTS \$ 8,053,547**

**RECOMMENDED CONTINGENCY (20%) \$ 1,610,709**

**TOTAL BUDGETARY COSTS \$ 9,664,256**



**EXHIBIT 7, PINEY POINT TREATMENT PLANT PLANS AND SCHEMATICS**

**EXHIBIT 8, PINEY POINT INJECTION WELL MOR'S**

**NOTE: THESE EXHIBITS ARE UPLOADED AS SEPARATE DOCUMENTS ON THE PROCUREMENT PAGE OF THE COUNTY WEBSITE WITH THE SOLICITATION DOCUMENT AND ARE AVAILABLE FOR DOWNLOAD.**

**EXHIBIT 9, PINEY POINT PROJECTED WATER BALANCE NOV. 23**

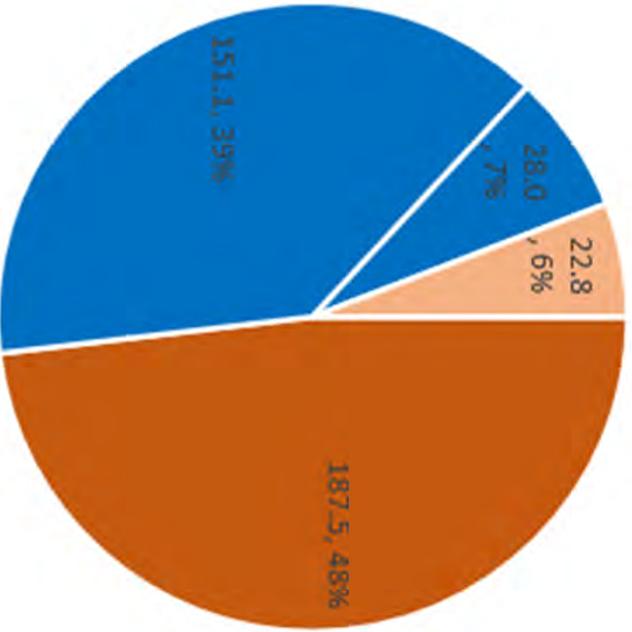


June 2, 2022

221930

Mr. Jeff Goodwin  
Deputy Director - Utilities  
Manatee County Utilities Dept.  
4410 04th Street West  
Bradenton, FL 34209  
Email: [jeff.goodwin@manateecounty.com](mailto:jeff.goodwin@manateecounty.com)

## Pond Inventory as of 3/1/22 (389 MG)



- NGS-N ("untreated")
- NGS-S ("Treated")
- OGS-N ("treated")
- LPWS (~10 Ac)

"treated"	179.1 MG	49%
"untreated"	210.3 MG	51%

### Influent Wastewater Quality

The following influent wastewater quality shown in Table 1 was developed based on the information provided to us by FDEP and Manatee County along with samples taken on site by McKim & Creed and has been used as the basis for design:

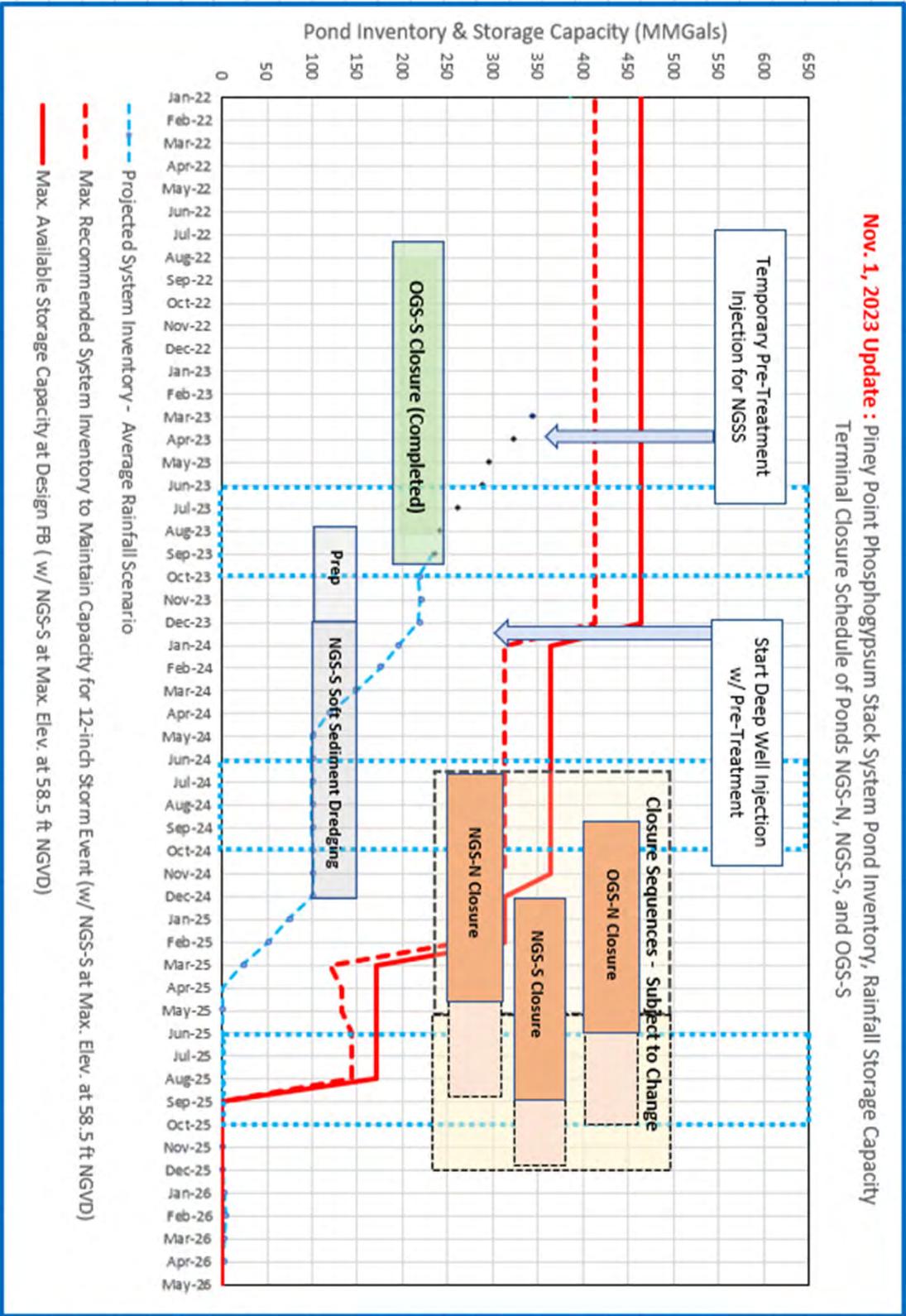
Property	Units	Influent
Flow	GPM	701.4
pH	SU	9.80
TSS	mg/L	30
TDS	mg/L	10,400
TN	mg/L	60
Ammonia	mg/L	45.1
TKN	mg/L	51.5
TP	mg/L	0.5
Ortho P	mg/L	1.5
Calcium	mg/L	102
Chloride	mg/L	3,800
Sulfate	mg/L	2,915
Aluminum	mg/L	0.1
Iron	mg/L	34
Manganese	mg/L	<0.01

Table 1 – Treatment Plant Influent Wastewater Characteristics

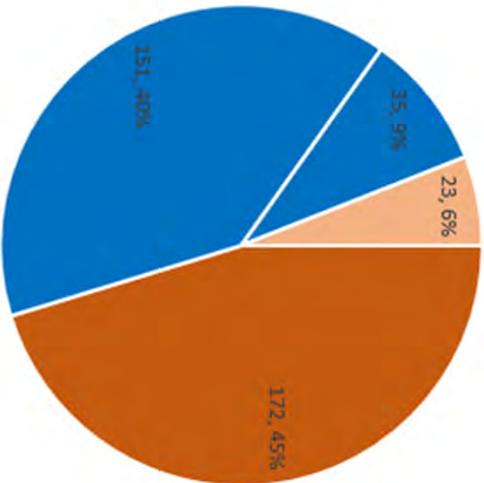
Property	Units	Required Effluent
pH	SU	< 6.0
TSS	mg/L	< 5
TDS	mg/L	NA
TN	mg/L	NA
Ammonia	mg/L	NA
TKN	mg/L	NA
TP	mg/L	< 10
Ortho P	mg/L	< 30
Calcium	mg/L	< 550
Chloride	mg/L	NA
Sulfate	mg/L	NA
Aluminum	mg/L	< 0.5
Iron	mg/L	< 0.5
Manganese	mg/L	< 0.5

Table 2 – Treatment Plant Effluent Water Characteristics

**Nov. 1, 2023 Update:** Piney Point Phosphogypsum Stack System Pond Inventory, Rainfall Storage Capacity  
 Terminal Closure Schedule of Ponds NGS-N, NGS-S, and OGS-S



### Pond Inventory as of 9/1/22 (380 MG)

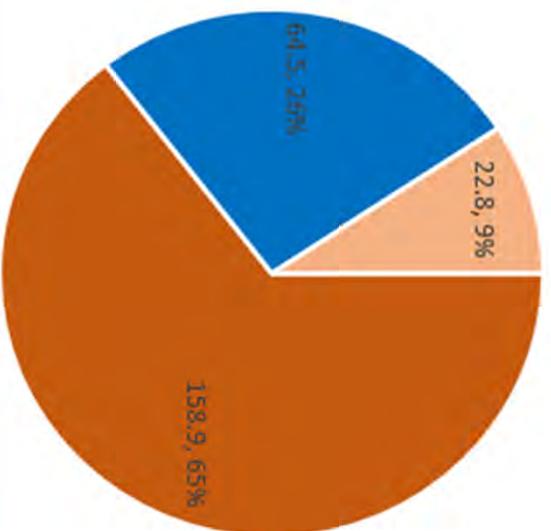


"treated"	185.3 MG	49%
"untreated"	195.0 MG	51%

- NGS-N ("untreated")
- NGS-S ("treated")
- OGS-N ("treated")
- LPWS (~10 Ac)

Property	Units	Date: 09/08/2022				Seepage	Tot. Blend
		NGS-N ("untreated")	OGS-N ("treated")	NGS-S ("treated")	LPWS ("untreated")		
Volume	MG	150.5	34.8	172.2	22.8	x	380
pH	SU	NA	NA	NA	NA	NA	NA
TSS	mg/L	9.8	NA	37.8	NA	NA	NA
TDS	mg/L	NA	NA	NA	NA	NA	NA
TN	mg/L	376	NA	13.7	NA	NA	NA
Ammonia	mg/L	NA	NA	NA	NA	NA	NA
TKN	mg/L	375	NA	13.7	NA	NA	NA
TP	mg/L	233	NA	5.53	NA	NA	NA
Ortho P	mg/L	NA	NA	NA	NA	NA	NA
Calcium	mg/L	NA	NA	NA	NA	NA	NA
Chloride	mg/L	NA	NA	NA	NA	NA	NA
Sulfate	mg/L	3,259	NA	2,908	NA	NA	NA
Aluminum	UG/L	238	NA	61.5	NA	NA	NA
Iron	UG/L	29	NA	36.8	NA	NA	NA
Manganese	UG/L	256	NA	15.6	NA	NA	NA
NA = Not Available							
Lab Results from BENCHMARK Lab							

**Total Pond Inventory as of 11/1/23 BEFORE Blending (246 MG)**

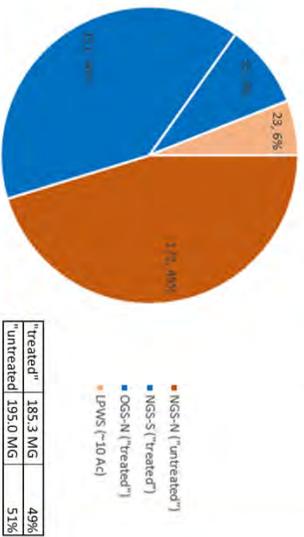


- NGS-N ("untreated")
- NGS-S ("Treated")
- LPWS (~10 Ac)

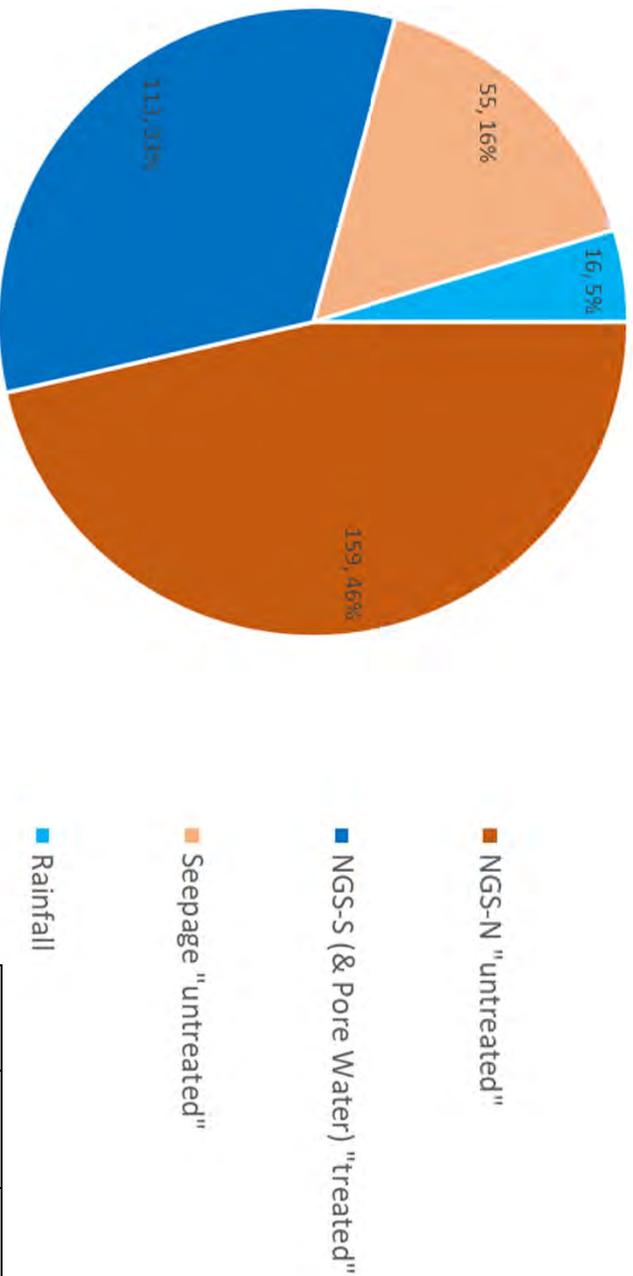
"treated"	64.5 MG	26%
"untreated"	181.7 MG	74%

Note: 108.5 MG Injected by Temp. Pre-Treatment System

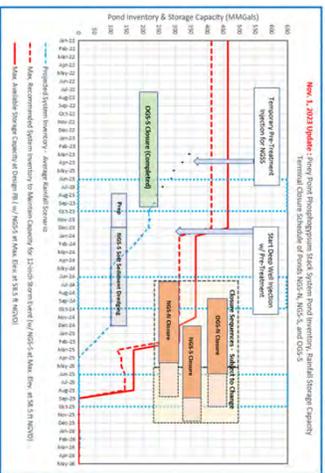
## Total UIC Injection During Closure (Dec. 1st/23-May 1st/25 of 343 MG) @ Normal Rainfall & 70 GPM Seepage Rate



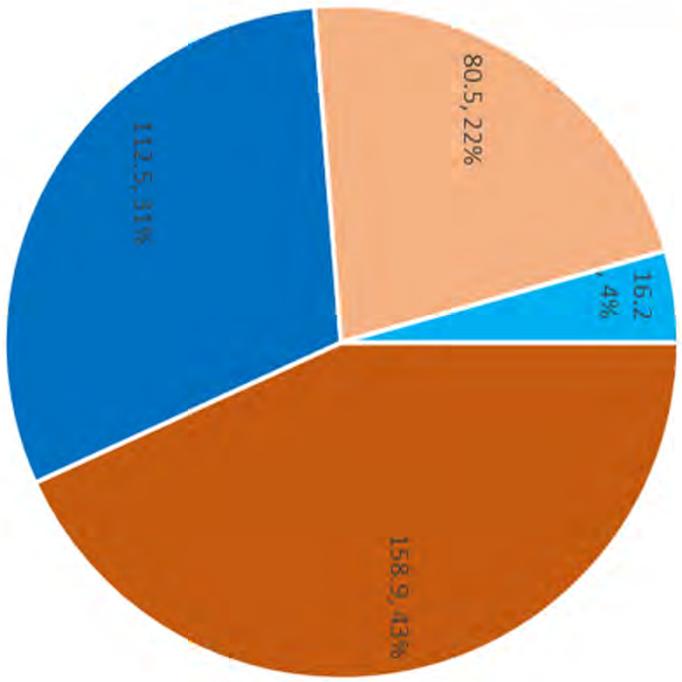
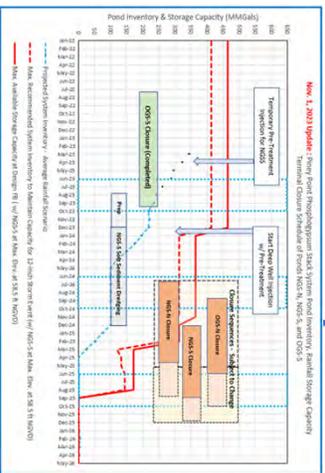
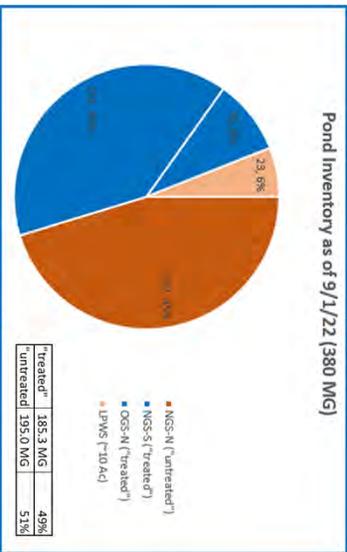
Pond Inventory as of 9/1/22 (380 MG)



Category	Volume (MG)	Percentage
"treated"	128.7	26%
"untreated"	213.9	74%



# Total UIC Injection of 369 MG During Closure (Dec. 1st/23-May 1st/25) @ Normal Rainfall & 102 GPM Seepage Rate



■ NGS-N "Untreated"	16.2 MG	4%
■ NGS-S (& Pore Water) "Treated"	158.9 MG	43%
■ Seepage "Untreated"	80.5 MG	22%
■ Rainfall	112.5 MG	31%

"treated"	128.7 MG	26%
"untreated"	239.4 MG	74%

**EXHIBIT 10, PINEY POINT SITE PICTURES WEEK OF 12-4-23**



Photo No. 1  
Chemical dosing pump mechanically complete and hydrotested.



Photo No. 2  
Conductors terminated and tested for injection well pumps.



Photo No. 3  
Clarifier transfer pumps aligned, rotation checked and reassembled.



Photo No. 4  
Hydrochloric acid fume scrubber installed and filled.



Photo No. 5  
Automated valves powered, programmed and communicating with PLC.

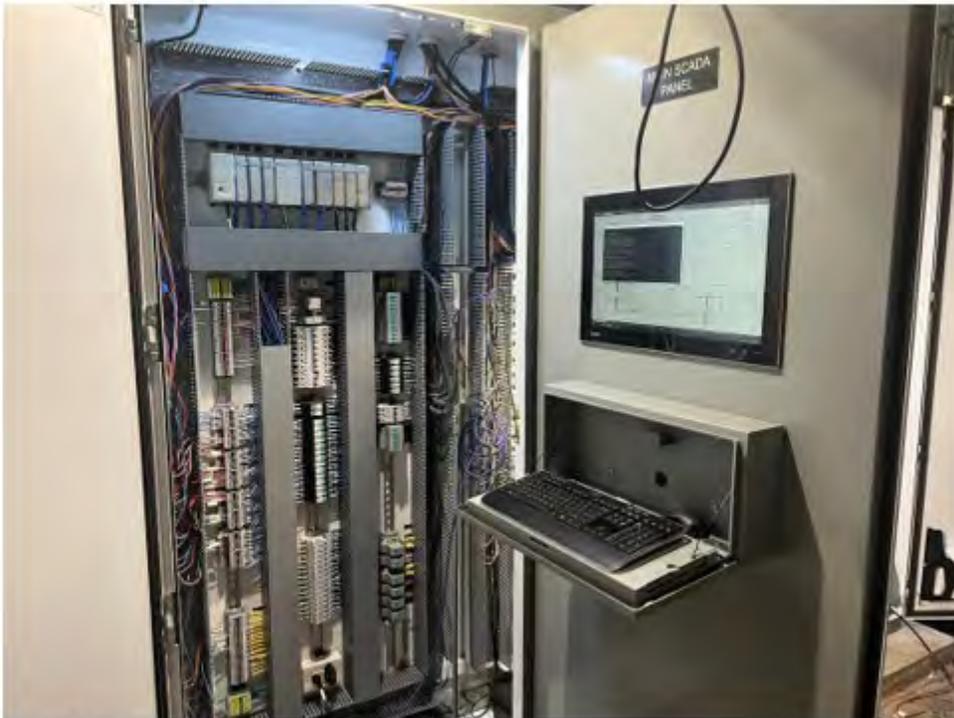


Photo No. 6  
PLC powered and communication checkout in progress.

**EXHIBIT 11, SAMPLE AGREEMENT**



**AGREEMENT No. [number]**

**[TITLE]**

**between**

**MANATEE COUNTY  
(COUNTY)**

**and**

**[CONTRACTOR NAME]  
(CONTRACTOR)**

**SAMPLE**

**AGREEMENT FOR [TITLE]**

**THIS AGREEMENT** is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ (“Effective Date”), by and between **MANATEE COUNTY**, a political subdivision of the State of Florida, (“**COUNTY**”), with offices located at 1112 Manatee Avenue West, Bradenton, Florida 34205, and [**COMPANY NAME**], a [enter the state of incorporation/organization and identify if it is a corporation/company/limited liability corporation, etc.], (“**CONTRACTOR**”) with offices located at [address], and duly authorized to conduct business in the State of Florida. COUNTY and CONTRACTOR are collectively referred to as the “Parties” and individually as “Party.”

**WHEREAS**, CONTRACTOR engages in the business of [title]; and

**WHEREAS**, COUNTY has determined that it is necessary, expedient and in the best interest of COUNTY to retain CONTRACTOR to render the non-professional services described in this Agreement; and

**WHEREAS**, [this Agreement is a result of CONTRACTOR'S submission of a proposal/bid in response to Request for Proposal/Invitation for Bid No. number and COUNTY thereafter conducted a competitive selection process OR this Agreement is a sole source/single source contract] in accordance with the Manatee County Procurement Code.

**NOW, THEREFORE**, the COUNTY and CONTRACTOR, in consideration of the mutual covenants, promises, and representations contained herein, the sufficiency of which is hereby acknowledged, the Parties hereto agree as follows:

**ARTICLE 1. SCOPE OF SERVICES**

CONTRACTOR shall provide non-professional services as described in **Exhibit A**, Scope of Services (“Services”). “Task” as used in this Agreement, refers to particular categories/groupings of Services specified in **Exhibit A**.

**ARTICLE 2. EXHIBITS INCORPORATED**

This Agreement consists of primary contract and [number] exhibits, which are as follows:

- Exhibit A** Scope of Services
- Exhibit B** Fee Rate Schedule
- Exhibit C** Affidavit of No Conflict
- Exhibit D** Insurance and Bond Requirements

These Exhibits are attached hereto and are incorporated into this Agreement. In the event of a conflict between the terms and conditions provided in the Articles of this Agreement and any Exhibit, the provisions contained within these Articles shall prevail unless the Exhibit specifically states that it shall prevail.

### **ARTICLE 3. AGREEMENT TERM**

- A. This Agreement shall commence on the Effective Date and remain in force for an initial term of [number of years], unless terminated by COUNTY pursuant to Article 10.
- B. COUNTY reserves the right to extend the initial term of [number years] for an additional [number], [number]-year periods.

### **ARTICLE 4. COMPENSATION**

- A. CONTRACTOR shall be compensated for the Services and all expenditures incurred in providing the Services.
- B. The fee rates specified in **Exhibit B** shall be the total compensation for the Services and shall contain all applicable costs, to include salaries, office operation, transportation, equipment, overhead, general and administrative, incidental expenses, fringe benefits and operating margin.

### **ARTICLE 5. INVOICES AND TIME OF PAYMENT**

- A. Subject to the provisions of this Agreement, COUNTY shall pay CONTRACTOR for the Services at a rate of compensation according to the deliverable payment schedule stated in **Exhibit B**.
- B. COUNTY shall approve of all invoices prior to payment.
- C. COUNTY shall have forty-five (45) days from the receipt of an invoice seeking payment of fees or costs to either pay the invoice, or notify CONTRACTOR that the deliverable, or any part thereof, is unacceptable.
- D. COUNTY shall have the right to retain from any payment due CONTRACTOR under this Agreement, an amount sufficient to satisfy any amount of liquidated damages due and owing to COUNTY by CONTRACTOR on any other Agreement between CONTRACTOR and COUNTY.
- E. All costs of providing the Services shall be the responsibility of CONTRACTOR.
- F. Any dispute between COUNTY and CONTRACTOR with regard to the Services or CONTRACTOR'S invoice shall be resolved pursuant to the dispute resolution procedures established by Manatee County Procurement Code and Article 12 of this Agreement.

### **ARTICLE 6. RESPONSIBILITIES OF CONTRACTOR**

- A. CONTRACTOR shall appoint an Agent with respect to the Services to be performed by

CONTRACTOR pursuant to this Agreement. CONTRACTOR'S Agent shall have the authority to make representations on behalf of CONTRACTOR, receive information, and interpret and define the needs of CONTRACTOR and make decisions pertinent to the Services. CONTRACTOR'S Agent shall have the right to designate other employees of CONTRACTOR to serve in his or her absence. CONTRACTOR reserves the right to designate a different agent, provided that COUNTY is given advance written notice thereof.

- B. CONTRACTOR shall perform the Services in accordance with the terms and conditions of this Agreement.
- C. CONTRACTOR shall ensure that all employees assigned to render the Services are duly qualified, registered, licensed or certified to provide the Services required.
- D. CONTRACTOR shall be responsible for collecting all existing data required for the successful completion of each Task.
- E. CONTRACTOR shall not engage in any obligations, undertakings, contracts or professional obligations that create a conflict of interest, or even an appearance of a conflict of interest, with respect to the Services. CONTRACTOR attests to this via an Affidavit of No Conflict, **Exhibit C**.
- F. CONTRACTOR shall be entitled to rely upon information provided from COUNTY. Information may include, but is not limited to, additional services, consultations, investigations, and reports necessary for the execution of CONTRACTOR'S work under this Agreement. CONTRACTOR shall be fully responsible for verifying, to the extent practicable, documents and information provided by COUNTY and identifying any obvious deficiencies concerning the documents and information provided. CONTRACTOR shall notify COUNTY of any errors or deficiencies noted in such information provided and assist, to the extent practicable, COUNTY in the identification and resolution of same. CONTRACTOR agrees to incorporate the provisions of this paragraph in any subcontract into which it might enter with reference to the work performed under this Agreement.
- G. CONTRACTOR shall be responsible for the professional quality and technical accuracy of the Services and any other services furnished by CONTRACTOR under this Agreement. CONTRACTOR shall, without additional compensation, correct or revise any errors or deficiencies in the Services.
- H. CONTRACTOR shall maintain an adequate and competent staff of professionally qualified persons during the term of this Agreement for the purpose of rendering the required Services hereunder. CONTRACTOR shall not sublet, assign or transfer any Services without prior written consent of COUNTY.
- I. COUNTY may require in writing that CONTRACTOR remove from the Services any of CONTRACTOR'S personnel that COUNTY determines to be incompetent, careless or otherwise objectionable. No claims for an increase in compensation or agreement term based on COUNTY'S use of this provision will be valid.

- J. CONTRACTOR understands and agrees that this is a firm fixed price contract and that there shall be no allowances or reimbursement for any cost whatsoever except as otherwise explicitly provided in this Agreement. CONTRACTOR agrees to fulfill its obligations under this Agreement, regardless of cost, for the sole and sufficient compensation stated in Exhibit B with no expectation of additional compensation. COUNTY will not be obligated to pay CONTRACTOR any amount in excess of the firm fixed price specified in Exhibit B.

#### **ARTICLE 7. RESPONSIBILITIES OF COUNTY**

- A. COUNTY shall, through its County Administrator, appoint an individual to serve as County Representative. The County Representative shall have the authority to transmit instructions, receive information, interpret and define the policy of COUNTY and make decisions pertinent to the Services. COUNTY reserves the right to designate a different County Representative, provided that CONTRACTOR is given advance written notice thereof.
- B. COUNTY shall make available, at no cost to CONTRACTOR, information relative to the project that is useful in the performance of the Services.
- C. COUNTY shall provide prompt notice to CONTRACTOR whenever COUNTY observes or otherwise becomes aware of any defect in the performance of the Services.
- D. COUNTY shall give careful and reasonable consideration to the findings and recommendations of CONTRACTOR and shall respond and issue notices to proceed in a timely manner.
- E. COUNTY personnel shall be available on a time-permitting basis, where required and necessary to assist CONTRACTOR. The availability and necessity of said personnel to assist CONTRACTOR shall be at the discretion of COUNTY.
- F. COUNTY shall perform the responsibilities enumerated in this Article at no cost to CONTRACTOR.

#### **ARTICLE 8. COUNTY'S PROJECT MANAGER**

The Project Manager shall be appointed to represent COUNTY in all technical matters pertaining to and arising from the Services and performance of this Agreement. The Project Manager shall have the following responsibilities:

- A. The examination of all reports, sketches, drawings, estimates, proposals, and any other documents provided by CONTRACTOR.
- B. Providing CONTRACTOR written decisions of COUNTY'S approval or disapproval of these documents within a reasonable time.
- C. Transmission of instructions, receipt of information, and interpretation of COUNTY policies and decisions with respect to matters pertinent to the performance of the Services.

- D. Provide CONTRACTOR with prompt written notice whenever COUNTY observes, or otherwise becomes aware of, any defects or changes necessary in the Services.

## **ARTICLE 9. COUNTY OWNERSHIP OF WORK PRODUCT**

The Parties agree that COUNTY shall have exclusive ownership of all reports, documents, designs, ideas, materials, reports, concepts, plans, creative works, and other work product developed for or provided to COUNTY in connection with this Agreement, and all patent rights, copyrights, trade secret rights and other intellectual property rights relating thereto (collectively “the Intellectual Property”). CONTRACTOR hereby assigns and transfers all rights in the Intellectual Property to COUNTY. CONTRACTOR further agrees to execute and deliver such assignments and other documents as COUNTY may later require to perfect, maintain and enforce COUNTY’S rights as sole owner of the Intellectual property, including all rights under patent and copyright law.

## **ARTICLE 10. TERMINATION OF AGREEMENT**

### **A. TERMINATION FOR CAUSE:**

1. COUNTY shall have the right, by written notice to CONTRACTOR, to terminate this Agreement, in whole or in part, for failure to substantially comply with the terms and conditions of this Agreement, to include:
  - a. Failure to provide Services that comply with the specifications herein or that fail to meet COUNTY’S performance standards;
  - b. Failure to perform the Services within the time specified in this Agreement; or
  - c. Work that is at a rate that disrupts the overall performance of this Agreement.
2. Prior to termination for default, COUNTY shall provide adequate written notice to CONTRACTOR, affording CONTRACTOR the opportunity to cure the deficiencies or to submit a specific plan to resolve the deficiencies within ten (10) days (or the period specified in the notice) after receipt of the notice. Failure to adequately cure the deficiency shall result in termination action.
3. Such termination may also result in suspension or debarment of CONTRACTOR in accordance with Manatee County’s Procurement Ordinance, Chapter 2-26. CONTRACTOR shall be liable for any damage to COUNTY resulting from CONTRACTOR’S default of the Agreement.
4. In the event of termination of this Agreement, CONTRACTOR shall be liable for any damage to COUNTY resulting from CONTRACTOR’S default of this Agreement. This liability includes any increased costs incurred by COUNTY in completing performance under this Agreement.
5. In the event of termination by COUNTY for any cause, CONTRACTOR shall not have any right or claim against COUNTY for lost profits or compensation for lost opportunities. After a receipt of COUNTY’S Notice of Termination and except as

otherwise directed by COUNTY, CONTRACTOR shall:

- a. Stop the Services on the date and to the extent specified;
- b. Terminate and settle all orders and subcontracts relating to the performance of the terminated Services;
- c. Transfer all work in process, completed work, and other materials related to the terminated Services as directed by COUNTY; and
- d. Continue and complete all parts of the Services that have not been terminated.

**B. TERMINATION WITHOUT CAUSE:**

COUNTY may terminate this Agreement, in whole or in part, without cause. COUNTY shall provide CONTRACTOR a written "Notice of Intent to Terminate" thirty (30) days prior to the date of termination. If this Agreement is terminated by the COUNTY without cause, CONTRACTOR shall be entitled to payment for all Services performed to the satisfaction of the COUNTY and all expenses incurred under this Agreement prior to termination, less any costs, expenses or damages due to the failure of the CONTRACTOR to properly perform pursuant to this Agreement. CONTRACTOR shall not be entitled to any other compensation, including anticipated profits on unperformed Services.

**ARTICLE 11. TRANSITION SERVICES UPON TERMINATION**

Upon termination or expiration of this Agreement, CONTRACTOR shall cooperate with COUNTY to assist with the orderly transfer of the Services provided by CONTRACTOR to COUNTY. Prior to termination or expiration of this Agreement, COUNTY may require CONTRACTOR to perform and, if so required, CONTRACTOR shall perform, certain transition services necessary to shift the Services to another provider or to COUNTY itself as described below (the "Transition Services"). The Transition Services may include but shall not be limited to:

- A. Working with COUNTY to jointly develop a mutually agreed upon Transition Services plan to facilitate the termination of the Services;
- B. Executing the Transition Services plan activities;
- C. Answering questions regarding the Services on an as-needed basis; and
- D. Providing such other reasonable Services needed to effectuate an orderly transition to a new service provider or to COUNTY.

**ARTICLE 12. DISPUTE RESOLUTION**

- A. Disputes shall be resolved in accordance with the Manatee County Purchasing Code (Chapter 2-26 of the Manatee County Code of Ordinances). Any dispute resolution constituting a material change in this Agreement shall not be final until an amendment to this Agreement has been approved and executed by the County Purchasing Official.
- B. CONTRACTOR agrees it must exhaust all dispute resolution procedures set forth in Manatee

County's Procurement Code prior to instituting any action in state or federal court or before any administrative agency or tribunal.

### **ARTICLE 13. COMPLIANCE WITH LAWS**

All Services rendered or performed by CONTRACTOR pursuant to the provisions of this Agreement shall be in compliance with all applicable local, state and federal laws and ordinances. CONTRACTOR shall have and keep current at all times during the term of this Agreement all licenses and permits as required by law.

### **ARTICLE 14. NON-DISCRIMINATION**

CONTRACTOR shall not discriminate against any employee or applicant for employment because of race, color, sex, creed, national origin, disability or age, and will take affirmative action to ensure that all employees and applicants are afforded equal employment opportunities. Such action will be taken with reference to, but shall not be limited to, recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff or termination, rates of training or retraining (including apprenticeship and on-the-job training).

### **ARTICLE 15. MAINTENANCE OF RECORDS; AUDITS; LICENSES**

- A. CONTRACTOR shall maintain records, accounts, property records, and personnel records in accordance with generally accepted accounting principles, as deemed necessary by COUNTY to assure proper accounting of funds and compliance with the provisions of this Agreement.
- B. CONTRACTOR shall provide COUNTY with information, reports, records and documents required by this Agreement, by COUNTY ordinances, rules or procedures, or as needed by COUNTY to monitor and evaluate CONTRACTOR'S performance. Such materials shall also be made available to COUNTY upon request for auditing purposes. Inspection or copying will occur during normal business hours, and as often as COUNTY may deem necessary. COUNTY shall have the right to obtain and inspect any audit pertaining to the performance of this Agreement or CONTRACTOR made by any local, state or federal agency. To the extent such materials are in the possession of a third party, CONTRACTOR must obtain them from that third party, or certify in writing to COUNTY why it was unable to do so. CONTRACTOR shall retain all records and supporting documents related to this Agreement in accordance with all applicable laws, rules and regulations, and, at a minimum, retain all records and supporting documents related to this Agreement, except duplicate copies or drafts, for at least three (3) years after the termination date.
- C. CONTRACTOR shall obtain any licenses required to provide the Services and maintain full compliance with any licensure requirements. Copies of reports provided to or by any licensing or regulatory agency shall be forwarded to COUNTY within ten (10) days of receipt by CONTRACTOR. CONTRACTOR shall immediately notify COUNTY if the required licenses of any of its principles or agents working on this Agreement are terminated, suspended, revoked or are otherwise invalid and/or are no longer in good standing.

## **ARTICLE 16. PUBLIC RECORDS**

Pursuant to Florida Statutes §119.0701, to the extent CONTRACTOR is performing services on behalf of COUNTY, CONTRACTOR shall:

- A. Keep and maintain public records that would ordinarily be required by COUNTY to perform the service.
- B. Upon request from COUNTY'S custodian of public records, provide COUNTY 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, Florida Statutes, or as otherwise provided by law.
- C. Ensure that public records that are exempt or confidential from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Agreement and following completion of this Agreement if CONTRACTOR does not transfer the records to COUNTY.
- D. Upon completion of this Agreement, transfer, at no cost, to COUNTY all public records in possession of CONTRACTOR or keep and maintain public records required by COUNTY to perform the service. If CONTRACTOR transfers any public records to COUNTY upon completion of this Agreement, CONTRACTOR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If CONTRACTOR keeps and maintains public records upon completion of this Agreement, CONTRACTOR shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to COUNTY, upon request from COUNTY'S custodian of public records, in a format that is compatible with the information technology systems of COUNTY.

**IF CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO COUNTY'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:**

**Phone: 941.742.5845**

**Email: [lacy.pritchard@mymanatee.org](mailto:lacy.pritchard@mymanatee.org)**

**Mail or hand delivery:**

**Attn: Records Manager**

**1112 Manatee Avenue West**

**Bradenton, FL 34205**

## ARTICLE 17. INDEMNIFICATION

- A. Each Party shall defend, indemnify, save and hold harmless the other, its officers, employees and agents, from any and all third-party claims, liabilities, loss, or cause of action for property damage or bodily injury, including death, arising out of any negligent actions or omissions of the indemnifying Party, its agents, officers, employees or agents in the performance of this Agreement, including without limitation, defects in design, or errors or omissions that result in material cost increases to the indemnified Party. Such indemnification shall include, but not be limited to, the payment of all valid claims, losses, and judgements of any nature whatsoever in connection therewith and the payment of all related fees and costs, including attorneys' fees, incurred by the indemnified Party in connection with the indemnifying Party's activities arising out of the performance of this Agreement. This indemnification obligation shall not be construed to negate, abridge or reduce any other rights or remedies which otherwise may be available to an indemnified Party or person described in this paragraph or deemed to affect the rights, privileges and immunities of COUNTY as set forth in Section 768.28, Florida Statutes.
- B. CONTRACTOR will indemnify, defend, save and hold harmless the COUNTY, its officers, and employees all third-party claims, liabilities, loss, or cause of action that the Services constitutes an infringement of any third-party intellectual property right(s), unless such claim is based on COUNTY'S wrongful or illegitimate use of the Services. The foregoing states the entire liability of CONTRACTOR and the sole and exclusive remedy for COUNTY with respect to any third-party claim of infringement, misappropriation of intellectual property rights. Such indemnification shall include, but not be limited to, the payment of all valid claims, losses, and judgments of any nature whatsoever in connection therewith and the payment of all related fees and costs, including attorneys' fees.

## ARTICLE 18. NO WAIVER OF SOVEREIGN IMMUNITY

Nothing herein shall be interpreted as a waiver by COUNTY of its rights, including the limitations of the waiver of immunity as set forth in Section 768.28, Florida Statutes, or any other applicable statutes or ordinances. COUNTY expressly reserves these rights to the full extent allowed by law.

## ARTICLE 19. INSURANCE

- A. CONTRACTOR shall, at its own cost and expense, acquire and maintain (and cause any subcontractors, representatives, or agents to acquire and maintain) insurance policies that comply with the Insurance Requirements, attached as **Exhibit D**, during the term of this Agreement, to include any renewal terms.
- B. Certificates of Insurance and copies of policies evidencing the insurance coverage specified in **Exhibit D** shall be filed with the Purchasing Official before the Effective Date of this Agreement. The required certificates shall identify the type of policy, policy number, date of expiration, amount of coverage, companies affording coverage, shall refer specifically to the title of this Agreement, and shall name Manatee County as an additional insured. No changes shall be made to the insurance coverage without prior written approval by COUNTY'S Risk Management Division.

- C. Insurance shall remain in force for at least three (3) years after completion of the Services in the amounts and types of coverage as required by **Exhibit D**, including coverage for all Services completed under this Agreement.
- D. If the initial insurance expires prior to the termination of this Agreement, renewal Certificates of Insurance and required copies of policies shall be furnished by CONTRACTOR and delivered to the Purchasing Official thirty (30) days prior to the date of their expiration.

**ARTICLE 20. SOLICITATION OF AGREEMENT**

CONTRACTOR warrants that it has not employed or retained any company or person other than a bona fide employee working solely for CONTRACTOR to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person other than an employee working solely for CONTRACTOR, any fee, commission, percentage, brokerage fee, gift, contingent fee, or any other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, COUNTY shall have the right to annul this Agreement without liability, or at its discretion, to deduct from the Agreement price or consideration or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gifts, or contingent fee.

**ARTICLE 21. ASSIGNMENT AND SUBCONTRACTING**

CONTRACTOR shall not assign or transfer any right or duty under this Agreement to any other Party without the prior written consent of COUNTY. In the event CONTRACTOR asserts it is necessary to utilize the services of third parties to perform any of the Services, CONTRACTOR shall first obtain prior written approval of COUNTY.

Approval to utilize any third party shall not relieve CONTRACTOR from any direct liability or responsibility to COUNTY pursuant to the provisions of this Agreement, or obligate COUNTY to make any payments other than payments due to CONTRACTOR as outlined in this Agreement. All terms and conditions of this Agreement shall extend to and be binding on any approved purchaser, assignee, or other successor in interest.

Assignment, pledging, sale, transfer or encumbering of any interest or rights under this Agreement, to anyone other than the CONTRACTOR, without the prior written consent of the COUNTY, shall be grounds for immediate termination of this Agreement.

**ARTICLE 22. CERTIFICATION OF NON-PAYMENT OF COMMISSION OR GIFT**

CONTRACTOR warrants that it has not employed or retained any company or person other than a bona fide employee working solely for CONTRACTOR to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person other than an employee working solely for CONTRACTOR, any fee, commission, percentage, brokerage fee, gift, contingent fee, or any other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, COUNTY shall have the right to annul this Agreement, without liability or at its discretion to deduct from the agreement price consideration or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gifts, or contingent fee.

**ARTICLE 23. KEY PERSONNEL**

The following key personnel shall be the COUNTY primary contacts assigned to this Agreement by CONTRACTOR:

[Enter Name, Title]

CONTRACTOR shall notify the COUNTY in writing within ten (10) business days of any changes to the key personnel.

**ARTICLE 24. SUB-CONTRACTORS**

If CONTRACTOR receives written approval from the COUNTY to use the services of a sub-contractor(s), CONTRACTOR shall utilize the fees specified in **Exhibit B** for any subcontractors utilized in the provision of the Services.

**ARTICLE 25. LIABILITY FOR NEGLIGENCE.**

To the fullest extent allowed by law, the individuals performing the Services pursuant to this Agreement shall be personally liable for negligent acts or omissions. To the fullest extent allowed by law, CONTRACTOR shall likewise be liable for negligent acts or omissions in the performance of the Services.

**ARTICLE 26. NOTICES**

All notices, requests and authorizations provided for herein shall be in writing and shall be delivered by hand or mailed through the U.S. Mail addressed as follows:

To COUNTY: Manatee County Government  
[Division/Department]  
Attn: [Name]  
[Address]  
[City/State/Zip]  
Phone: (41) [number]  
Email: [email]

To CONTRACTOR: [Company Name]  
Attn: [Title of Contact person]  
[name]  
[Address]  
[City/State/Zip]  
Phone: ([area code) [number]  
Email: [email]

**ARTICLE 27. RELATIONSHIP OF PARTIES**

The relationship of CONTRACTOR to COUNTY shall be that of an independent contractor. Nothing herein contained shall be construed as vesting or delegating to CONTRACTOR or any of the officers, employees, personnel, agents, or sub-contractors of CONTRACTOR any rights, interest or status as an employee of COUNTY. COUNTY shall not be liable to any person, firm

or corporation that is employed by Agreements or provides goods or services to CONTRACTOR in connection with this Agreement or for debts or claims accruing to such parties. CONTRACTOR shall promptly pay, discharge or take such action as may be necessary and reasonable to settle such debts or claims.

#### **ARTICLE 28. NO CONFLICT**

By accepting award of this Agreement, CONTRACTOR, which shall include its directors, officers and employees, represents that it presently has no interest in and shall acquire no interest in any business or activity which would conflict in any manner with the performance of duties or Services required hereunder.

#### **ARTICLE 29. ETHICAL CONSIDERATIONS**

CONTRACTOR recognizes that in rendering the Services, CONTRACTOR is working for the residents of Manatee County, Florida, subject to public observation, scrutiny and inquiry; and based upon said recognition CONTRACTOR shall, in all of its relationships with COUNTY pursuant to this Agreement, conduct itself in accordance with all of the recognized applicable ethical standards set by any related national societies, and the reasonable traditions to perform the Services. CONTRACTOR shall be truthful in its communications with COUNTY personnel regarding matters pertaining to this Agreement and the Services rendered to COUNTY.

#### **ARTICLE 30. PUBLIC ENTITY CRIMES**

CONTRACTOR has been made aware of the Florida Public Entity Crimes Act, Florida Statutes § 287.133, specifically section 2(a), and COUNTY'S requirement that CONTRACTOR comply with it in all respects prior to and during the term of this Agreement.

#### **ARTICLE 31. TAXES**

COUNTY is exempt from Federal Excise and State Sales Taxes (F.E.T. Exemption Certificate No. 59-78-0089K; FL Sales Tax Exemption Certificate No. 51-02-027548-53C). Therefore, CONTRACTOR is prohibited from charging or imposing any sales or service taxes. Nothing herein shall affect CONTRACTOR'S normal tax liability.

CONTRACTOR shall be responsible for payment of federal, state, and local taxes which may be imposed upon CONTRACTOR under applicable law to the extent that CONTRACTOR is responsible for the payment of same under applicable law.

#### **ARTICLE 32. FORCE MAJEURE**

Neither Party shall be considered in default in performance of its obligations hereunder to the extent that performance of such obligations or any of them is delayed or prevented by Force Majeure.

Force Majeure shall include, but not be limited to, hostility, revolution, civil commotion, strike, epidemic, accident, fire, flood, wind, earthquake, hurricane, explosion, lack of or failure of transportation facilities, any law, proclamation, regulation, ordinance or other act of government, or any act of God or any cause whether of the same or different nature, existing or future;

provided that the cause, whether or not enumerated in this Article, is beyond the control and without the fault or negligence of the Party seeking relief under this Article.

### **ARTICLE 33. GOVERNING LAW, JURISDICTION AND VENUE**

This Agreement shall be governed by the laws of the State of Florida. Any action filed regarding this Agreement will be filed only in Manatee County, Florida, or if in Federal Court, the Middle District of Florida, Tampa Division.

### **ARTICLE 34. ATTORNEY FEES**

In the event of any litigation arising under the terms of this Agreement, each Party shall be responsible for their own attorney's fees, including appellate fees, regardless of the outcome of the litigation.

### **ARTICLE 35. PATENT AND COPYRIGHT RESPONSIBILITY**

Any material or design specified by CONTRACTOR or supplied by CONTRACTOR pursuant to this Agreement shall not knowingly infringe any patent or copyright, and CONTRACTOR shall be solely responsible for securing any necessary licenses required for patented or copyrighted material utilized by CONTRACTOR in the performance of the Services.

### **ARTICLE 36. AMENDMENTS**

This Agreement and Exhibits referenced herein constitute the entire Agreement between the Parties with respect to subject matter and mutually agree that no verbal agreements, representations, warranties or other understandings affecting the same exist. No amendment hereof shall be effective until and unless reduced to writing and executed by the Parties. The Parties shall execute any additional documents that may be necessary to implement and carry out the intent of this Agreement.

### **ARTICLE 37. SEVERABILITY**

It is understood and agreed by the Parties hereto that if any part, term, or provision of this Agreement is held to be illegal or in conflict with any law, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if this Agreement did not contain the particular part, term or provision held to be invalid.

### **ARTICLE 38. LEGAL REFERENCES**

All references to statutory sections or chapters shall be construed to include subsequent amendments to such provisions, and to refer to the successor provision of any such provision. References to "applicable law" and "general law" shall be construed to include provisions of local, state and federal law, whether established by legislative action, administrative rule or regulation, or judicial decision.

### **ARTICLE 39. HEADINGS, CONSTRUCTION**

The Parties agree that they have each participated in the drafting of this Agreement and that the rules with respect to construing ambiguities against the drafter of a contract shall not apply in

any action or litigation regarding this Agreement. All articles and descriptive headings of paragraphs of this Agreement are inserted for convenience only and shall not affect the construction or interpretation hereof.

**ARTICLE 40. TIME**

For purposes of computing any period of number of days hereunder for notices or performance of ten (10) days or less, Saturdays, Sundays and holidays shall be excluded, unless otherwise stated.

**ARTICLE 41. E-VERIFY**

The CONTRACTOR, and any subcontractor thereof, shall register with and use the E-Verify system to verify the work authorization status of all new employees of the CONTRACTOR or subcontractor. The CONTRACTOR hereby represents and warrants that it has, and shall remain throughout the duration of this Agreement, registered with, and uses and shall continue to use, the E-Verify system. The CONTRACTOR shall not enter into any contract with a subcontractor for services hereunder unless such subcontractor also has registered with and uses the E-Verify system. If the CONTRACTOR enters into a contract with a subcontractor, the subcontractor shall provide the CONTRACTOR with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. The CONTRACTOR shall maintain a copy of such affidavit for the duration of this Agreement.

Pursuant to Section 488.095(5)(c)3, Florida Statutes, the COUNTY is authorized to terminate this Agreement if it has a good faith belief that the CONTRACTOR has knowingly violated Section 448.09(1), Florida Statutes, regarding the employment of someone not authorized to work by the immigration laws of the United States, the U.S. Attorney General, or the Secretary of the Department of Homeland Security. Such termination action is not considered a breach of contract.

**ARTICLE 42. FUNDS FOR IDENTIFICATION DOCUMENTS**

No funds provided by the COUNTY pursuant to this Agreement shall be used for the purpose of issuing an identification card or document to an individual who does not provide proof of lawful presence in the United States.

**ARTICLE 43. AUTHORITY TO EXECUTE**

Each of the Parties hereto covenants to the other Party that it has lawful authority to enter into this Agreement.

*Remainder of page intentionally left blank*

**IN WITNESS WHEREOF**, the Parties hereto have caused this Agreement to be duly executed effective as of the date set forth above.

**CONTRACTOR NAME**

BY: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**MANATEE COUNTY, a political subdivision  
of the State of Florida**

\_\_\_\_\_  
Jacob Erickson, MBA, CPPO, NIGP-CPP  
Purchasing Official

Date: \_\_\_\_\_

**SAMPLE**

**IN WITNESS WHEREOF**, the Parties have caused this Agreement to be duly executed effective as of the date set forth above.

**COMPANY**

BY: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**MANATEE COUNTY, FLORIDA**  
**By: Its Board of County Commissioners**

BY: \_\_\_\_\_  
Chairperson

Date: \_\_\_\_\_

ATTEST: ANGELINA COLON NESO  
CLERK OF THE CIRCUIT COURT AND COMPTROLLER

BY: \_\_\_\_\_  
Deputy Clerk

**SAMPLE**

**EXHIBIT A, SCOPE OF SERVICES**

**SAMPLE**

**EXHIBIT B, FEE RATE SCHEDULE**

**1. FEES**

Fees for the goods and services detailed in this Agreement shall be as indicated in this Exhibit B.

**2. ESCALATION/DE-ESCALATION**

<Contractor/Supplier> fees for <type of good/service> shall remain firm for a minimum of <years/months> after execution of the Agreement. Any escalation or de-escalation in pricing thereafter will be based on the <identify the index source, index name, and the index number> change in most recent 12- month period. No more than price increase is allowed in a month period.

[Remainder of page intentionally left blank]

**SAMPLE**

**EXHIBIT C, AFFIDAVIT OF NO CONFLICT**

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

BEFORE ME, the undersigned authority, this day personally appeared [INSERT NAME] \_\_\_\_\_  
\_\_\_\_\_, as [INSERT TITLE] \_\_\_\_\_ of  
[INSERT CONTRACTOR NAME] \_\_\_\_\_, (hereinafter  
"CONTRACTOR") with full authority to bind CONTRACTOR, who being first duly sworn,  
deposes and says that CONTRACTOR:

- (a) Is not currently engaged and will not become engaged in any obligations, undertakings or contracts that will require CONTRACTOR to maintain an adversarial role against the County or that will impair or influence the advice, recommendations or quality of work provided to the County; and
- (b) Has provided full disclosure of all potentially conflicting contractual relationships and full disclosure of contractual relationships deemed to raise a question of conflict(s); and
- (c) Has provided full disclosure of prior work history and qualifications that may be deemed to raise a possible question of conflict(s).

Affiant makes this Affidavit for the purpose of inducing Manatee County, a political subdivision of the State of Florida, to enter into this Agreement No. \_\_\_\_\_ for \_\_\_\_\_

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

CONTRACTOR Signature \_\_\_\_\_

The foregoing instrument was sworn to and acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, by [NAME] \_\_\_\_\_, as [TITLE] \_\_\_\_\_ of [CONTRACTOR] \_\_\_\_\_. He / She is personally known to me or has produced \_\_\_\_\_ [TYPE OF IDENTIFICATION] as identification.

\_\_\_\_\_  
Notary Signature  
Commission No. \_\_\_\_\_

## **EXHIBIT D, INSURANCE AND BOND REQUIREMENTS**

The CONTRACTOR will not commence work under the resulting Agreement until all insurance coverages indicated by an "X" herein have been obtained. The CONTRACTOR shall obtain and submit to the Procurement Division within ten (10) calendar days from the date of notice of intent to award, at its expense, the following minimum amounts of insurance (inclusive of any amounts provided by an umbrella or excess policy): Work under this Agreement cannot commence until all insurance coverages indicated herein have been obtained on a standard ACORD form (inclusive of any amounts provided by an umbrella or excess policy):

### ***Automobile Liability Insurance Required Limits***

Coverage must be afforded under a per occurrence policy form including coverage for all owned, hired and non-owned vehicles for bodily injury and property damage of not less than:

- \$1,000,000 Combined Single Limit; OR
- \$ 500,000 Bodily Injury and \$500,000 Property Damage
- \$10,000 Personal Injury Protection (No Fault)
- \$500,000 Hired, Non-Owned Liability
- \$10,000 Medical Payments

*This policy shall contain severability of interests' provisions.*

### ***Commercial General Liability Insurance Required Limits (Per Occurrence form only; claims-made form is not acceptable)***

Coverage shall be afforded under a per occurrence policy form, policy shall be endorsed and name 'Manatee County, a political subdivision of the State of Florida' as an Additional Insured, and include limits not less than:

- \$1,000,000 Single Limit Per Occurrence
- \$2,000,000 Aggregate
- \$1,000,000 Products/Completed Operations Aggregate
- \$1,000,000 Personal and Advertising Injury Liability
- \$50,000 Fire Damage Liability
- \$10,000 Medical Expenses and
- \$1,000,000, Third Party Property Damage
- \$            Project Specific Aggregate (Required on projects valued at over \$10,000,000)

*This policy shall contain severability of interests' provisions.*

### ***Employer's Liability Insurance***

Coverage limits of not less than:

- \$100,000 Each Accident
- \$500,000 Disease Each Employee
- \$500,000 Disease Policy Limit

**Worker's Compensation Insurance**

**US Longshoremen & Harbor Workers Act**

**Jones Act Coverage**

Coverage limits of not less than:

- Statutory workers' compensation coverage shall apply for all employees in compliance with the laws and statutes of the State of Florida and the federal government.
- If any operations are to be undertaken on or about navigable waters, coverage must be included for the US Longshoremen & Harbor Workers Act and Jones Act.

Should 'leased employees' be retained for any part of the project or service, the employee leasing agency shall provide evidence of Workers' Compensation coverage and Employer's Liability coverage for all personnel on the worksite and in compliance with the above Workers' Compensation requirements. NOTE: Workers' Compensation coverage is a firm requirement. Elective exemptions are considered on a case-by-case basis and are approved in a very limited number of instances.

**Aircraft Liability Insurance Required Limits**

Coverage shall be afforded under a per occurrence policy form, policy shall be endorsed and name 'Manatee County a political subdivision of the state of Florida' as an Additional Insured, and include limits not less than:

- \$ Each Occurrence Property and Bodily Injury with no less than \$100,000 per passenger each occurrence or a \$500,000 limit.
- \$ General Aggregate

**Un-Manned Aircraft Liability Insurance (Drone)**

Coverage shall be afforded under a per occurrence policy form, policy shall be endorsed and name 'Manatee County a political subdivision of the State of Florida' as an Additional Insured, and include limits not less than:

- \$ Each Occurrence Property and Bodily Injury; Coverage shall specifically include operation of Unmanned Aircraft Systems (UAS), including liability and property damage.
- \$ General Aggregate

**Installation Floater Insurance**

When the contract or agreement **does not** include construction of, or additions to, above ground building or structures, but does involve the installation of machinery or equipment, Installation Floater Insurance shall be afforded under a per occurrence policy form, policy shall be endorsed and name "Manatee County, a political subdivision of the State of Florida" as an Additional Insured, and include limits not less than:

- 100% of the completed value of such addition(s), building(s), or structure(s)

Professional Liability and/or Errors and Omissions (E&O) Liability Insurances  
Coverage shall be afforded under either an occurrence policy form or a claims-made policy form. If the coverage form is on a claims-made basis, then coverage must be maintained for a minimum of three years from termination of date of the contract. Limits must not be less than:

- \$ 1,000,000 Bodily Injury and Property Damage Each Occurrence
- \$ 2,000,000 General Aggregate

**Builder's Risk Insurance**

When the contract or agreement includes the construction of roadways and/or the addition of a permanent structure or building, including the installation of machinery and/or equipment, Builder's Risk Insurance shall be afforded under a per occurrence policy form, policy shall be endorsed and name "Manatee County, a political subdivision of the State of Florida" as an Additional Insured, and include limits not less than:

- An amount equal to 100% of the completed value of the project, or the value of the equipment to be installed
- The policy shall not carry a self-insured retention/deductible greater than \$10,000

Coverage shall be for all risks and include, but not be limited to, storage and transport of materials, equipment, supplies of any kind whatsoever to be used on or incidental to the project, theft coverage, and Waiver of Occupancy Clause endorsement, where applicable.

**Cyber Liability Insurance**

Coverage shall comply with Florida Statute 501.171 shall be afforded under a per occurrence policy form, policy shall be endorsed and name 'Manatee County, a political subdivision of the State of Florida' as an Additional Insured, and include limits not less than:

- \$ Security Breach Liability
- \$ Security Breach Expense Each Occurrence
- \$ Security Breach Expense Aggregate
- \$ Replacement or Restoration of Electronic Data
- \$ Extortion Threats
- \$ Business Income and Extra Expense
- \$ Public Relations Expense

NOTE: Policy must not carry a self-insured retention/deductible greater than \$25,000.

**Hazardous Materials Insurance (As Noted Below)**

Hazardous materials include all materials and substances that are currently designated or defined as hazardous by the law or rules of regulation by the State of Florida or federal government. All coverage shall be afforded under either an occurrence policy form or a claims-made policy form, and the policy shall be endorsed and name 'Manatee County, a political subdivision of the State of Florida' as an Additional Insured. If the coverage form is on a claims-made basis, then coverage must be maintained for a minimum of three years from termination of date of the contract. Limits must not be less than:

**Pollution Liability**

Amount equal to the value of the contract, subject to a \$1,000,000 minimum, for Bodily Injury and Property Damage to include sudden and gradual release, each claim and aggregate.

**Asbestos Liability (If handling within scope of Contract)**

Amount equal to the value of the contract, subject to a \$1,000,000 minimum, for Bodily Injury and Property Damage to include sudden and gradual release, each claim and aggregate.

**Disposal**

When applicable, CONTRACTOR shall designate the disposal site and furnish a Certificate of Insurance from the disposal facility for Environmental Impairment Liability Insurance covering liability.

- Amount equal to the value of the contract, subject to a \$1,000,000 minimum, for Liability for Sudden and Accidental Occurrences, each claim and an aggregate.
- Amount equal to the value of the contract, subject to a \$1,000,000 minimum, for Liability for Non-Sudden and Accidental Occurrences, each claim and an aggregate.

**Hazardous Waste Transportation Insurance**

CONTRACTOR shall designate the hauler and have the hauler furnish a Certificate of Insurance for Automobile Liability insurance with Endorsement MCS-90 for liability arising out of the transportation of hazardous materials. A identification number shall be provided.

All coverage shall be afforded under either an occurrence policy form or a claims-made policy form and the policy shall be endorsed to name "Manatee County, a political subdivision of the State of Florida" as an Additional Insured. If the coverage form is on a claims-made basis, then coverage must be maintained for a minimum of three years from termination of date of the contract. Limits must not be less than:

- Amount equal to the value of the contract, subject to a \$1,000,000 minimum, per accident.

**Liquor Liability Insurance**

Coverage shall be afforded under a per occurrence policy form, policy shall be endorsed and name "Manatee County, a political subdivision of the State of Florida" as an Additional Insured, and include limits not less than:

- \$1,000,000 Each Occurrence and Aggregate

**Garage Keeper's Liability Insurance**

Coverage shall be required if the maintenance, servicing, cleaning or repairing of any County motor vehicles is inherent or implied within the provision of the contract.

Coverage shall be afforded under a per occurrence policy form, policy shall be endorsed and name "Manatee County, a political subdivision of the State of Florida" as an Additional Insured, and include limits not less than:

- Property and asset coverage in the full replacement value of the lot or garage.

**Bailee's Customer Liability Insurance**

Coverage shall be required for damage and/or destruction when County property is temporarily under the care or custody of a person or organization, including property that is on, or in transit to and from the person or organization's premises. Perils covered should include fire, lightning, theft, burglary, robbery, explosion, collision, flood, earthquake and damage or destruction during transportation by a carrier.

Coverage shall be afforded under a per occurrence policy form, policy shall be endorsed and name "Manatee County, a political subdivision of the State of Florida" as an Additional Insured, and include limits not less than:

- Property and asset coverage in the full replacement value of the County asset(s) in the CONTRACTOR'S care, custody and control.

**Hull and Watercraft Liability Insurance**

Coverage shall be afforded under a per occurrence policy form, policy shall be endorsed and name "Manatee County, a political subdivision of the State of Florida" as an Additional Insured, and include limits not less than:

- \$ Each Occurrence
- \$ General Aggregate
- \$ Fire Damage Liability
- \$10,000 Medical Expense, and
- \$ Third Party Property Damage
- \$ Project Specific Aggregate (Required on projects valued at over \$10,000,000)

**Other [Specify]**

**REQUIRED BONDS**

**Bid Bond**

A Bid Bond in the amount of \$\_\_\_\_\_ or \_\_\_\_% of the total offer. Bid bond shall be submitted with the sealed response and shall include project name, location, and / or address and project number. In lieu of the bond, the bidder may file an alternative form of security in the amount of \$\_\_\_\_\_ or \_\_\_\_% of the total offer. in the form of a money order, a certified check, a cashier's check, or an irrevocable letter of credit issued to Manatee County. NOTE: A construction project over \$200,000 requires a Bid Bond in the amount of 5% of the total bid offer.

**Payment and Performance Bond**

A Payment and Performance Bond shall be submitted by Successful Bidder for 100% of the

award amount and shall be presented to Manatee County within ten (10) calendar days of issuance of the notice of intent to award. NOTE: A construction project over \$200,000 requires a Payment and Performance Bond.

## ***I. INSURANCE REQUIREMENTS***

### **THE POLICIES ARE TO CONTAIN, OR BE ENDORSED TO CONTAIN, THE FOLLOWING PROVISIONS:**

#### **Commercial General Liability and Automobile Liability Coverages**

- a. **“Manatee County, a Political Subdivision of the State of Florida,” is to be named as an Additional Insured in respect to:** Liability arising out of activities performed by or on behalf of the CONTRACTOR, his agents, representatives, and employees; products and completed operations of the CONTRACTOR, or automobiles owned, leased, hired or borrowed by the CONTRACTOR. The coverage shall contain no special limitation(s) on the scope of protection afforded to the COUNTY, its officials, employees or volunteers.

In addition to furnishing a Certificate of Insurance, the CONTRACTOR shall provide the endorsement that evidences Manatee COUNTY being listed as an Additional Insured. This can be done in one of two ways: (1) an endorsement can be issued that specifically lists “Manatee County, a Political Subdivision of the State of Florida,” as Additional Insured; or, (2) an endorsement can be issued that states that all Certificate Holders are Additional Insured with respect to the policy.

- b. The CONTRACTOR'S insurance coverage shall be primary insurance with respect to the COUNTY, its officials, employees and volunteers. Any insurance or self-insurance maintained by the COUNTY, its officials, employees or volunteers shall be in excess of CONTRACTOR'S insurance and shall be non-contributory.
- c. The insurance policies must be on an occurrence form.

#### **Workers' Compensation and Employers' Liability Coverages**

The insurer shall agree to waive all rights of subrogation against the COUNTY, its officials, employees and volunteers for losses arising from work performed by the CONTRACTOR for the COUNTY.

## ***II. General Insurance Provisions Applicable To All Policies:***

- a. Prior to the execution of contract, or issuance of a Purchase Order, and then annually upon the anniversary date(s) of the insurance policy's renewal date(s) for as long as this contract remains in effect, CONTRACTOR shall furnish the COUNTY with a

Certificate(s) of Insurance (using an industry accepted certificate form, signed by the Issuer, with applicable endorsements, and containing the solicitation or contract number, and title or description) evidencing the coverage set forth above and naming "Manatee County, a Political Subdivision of the State of Florida" as an Additional Insured on the applicable coverage(s) set forth above.

- b. If the policy contains an aggregate limit, confirmation is needed in writing (letter, email, etc.) that the aggregate limit has not been eroded to procurement representative when supplying Certificate of Insurance.

In addition, when requested in writing from the COUNTY, CONTRACTOR will provide the COUNTY with a certified copy of all applicable policies. The address where such certificates and certified policies shall be sent or delivered is as follows:

**Manatee County, a Political Subdivision of the State of Florida**  
**Attn: Risk Management Division**  
**1112 Manatee Avenue West, Suite 969**  
**Bradenton, FL 34205**

- c. The project's solicitation number and title shall be listed on each certificate.
- d. CONTRACTOR shall provide thirty (30) days written notice to the Risk Manager of any cancellation, non-renewal, termination, material change, or reduction in coverage of any insurance policies to procurement representative including solicitation number and title with all notices.
- e. CONTRACTOR agrees that should at any time CONTRACTOR fail to meet or maintain the required insurance coverage(s) as set forth herein, the COUNTY may terminate this contract.
- f. The CONTRACTOR waives all subrogation rights against COUNTY, a Political Subdivision of the State of Florida, for all losses or damages which occur during the contract and for any events occurring during the contract period, whether the suit is brought during the contract period or not.
- g. The CONTRACTOR has sole responsibility for all insurance premiums and policy deductibles.
- h. It is the CONTRACTOR'S responsibility to ensure that his agents, representatives and subcontractors comply with the insurance requirements set forth herein. CONTRACTOR shall include his agents, representatives, and subcontractors working on the project or at the worksite as insured under its policies, or CONTRACTOR shall furnish separate certificates and endorsements for each agent, representative, and subcontractor working on the project or at the worksite. All coverages for agents, representatives, and subcontractors shall be subject to all of the requirements set forth to the procurement representative.

- i. All required insurance policies must be written with a carrier having a minimum A.M. Best rating of A- FSC VII or better. In addition, the COUNTY has the right to review the CONTRACTOR's deductible or self-insured retention and to require that it be reduced or eliminated.
- j. CONTRACTOR understands and agrees that the stipulated limits of coverage listed herein in this insurance section shall not be construed as a limitation of any potential liability to the COUNTY, or to others, and the COUNTY'S failure to request evidence of this insurance coverage shall not be construed as a waiver of CONTRACTOR'S obligation to provide and maintain the insurance coverage specified.
- k. CONTRACTOR understands and agrees that the COUNTY does not waive its immunity and nothing herein shall be interpreted as a waiver of the COUNTY'S rights, including the limitation of waiver of immunity as set forth in Florida Statutes 768.28, or any other statutes, and the COUNTY expressly reserves these rights to the full extent allowed by law.
- l. No award shall be made until the Procurement Division has received the Certificate of Insurance in accordance with this section.

### **III. BONDING REQUIREMENTS**

**Bid Bond/Certified Check.** By submitting a proposal, the CONTRACTOR agrees should its proposal be accepted, **to execute the Form of Agreement and present the same to COUNTY for approval within ten (10) calendar days after notice of intent to award.** The CONTRACTOR further agrees that failure to execute and deliver said form of Agreement **within ten (10) calendar days** will result in damages to COUNTY and as guarantee of payment of same a **bid bond/certified check** shall be enclosed within the submitted sealed proposal in the amount of five (5%) percent of the total amount of the proposal. The CONTRACTOR further agrees that in case the CONTRACTOR fails to enter into an Agreement, as prescribed by COUNTY, the bid bond/certified check accompanying the proposal shall be forfeited to COUNTY as agreed liquidated damages. If COUNTY enters into an agreement with a CONTRACTOR, or if COUNTY rejects any and/or all proposals, accompanying bond will be promptly returned.

**Payment and Performance Bonds.** Prior to commencing work, the CONTRACTOR shall obtain, for the benefit of and directed to COUNTY, a Payment and Performance Bond satisfying the requirements of Section 255.05, Florida Statutes, covering the faithful performance by the CONTRACTOR of its obligation under the Contract Documents, including but not limited to the construction of the project on the project site and the payment and obligations arising thereunder, including all payments to Subcontractors, laborers, and materialmen. The surety selected by the CONTRACTOR to provide the Payment and Performance Bond shall be approved by COUNTY prior to issuance of such Bond, which approval shall not be unreasonably withheld or delayed provided that surety is rated A- or better by Best's Key Guide, latest edition.

Failure to provide the required bonds on the prescribed form may result in CONTRACTOR being deemed nonresponsive. Bonds must be in the form prescribed in Section 255.05, Florida Statutes, and must not contain notice, demand or other terms and conditions, including **informal** pre-claim meetings, not provided for in Section 255.05, Florida Statutes.

Bonds shall be in an amount equal to 100% of the contract price issued by a duly authorized and nationally recognized surety company, authorized to do business in the State of Florida, satisfactory to COUNTY. Surety shall be rated as "A-" or better by Best's Key Guide, latest edition. **The** attorney-in-fact who signs the bonds must file with the bonds, a certificate and effective dated copy of power-of-attorney. Payment and Performance Bonds shall be issued to "Manatee County, a political subdivision of the State of Florida", **within ten (10) calendar days after issuance of notice of intent to award.**

In addition, pursuant to Section 255.05(1)(b), Florida Statutes, prior to commencing work, the CONTRACTOR shall be responsible and bear all costs associated to record the Payment and Performance Bond with the Manatee County Clerk of the Circuit Court. A certified copy of said recording shall be furnished to the Procurement Division upon filing. Pursuant to Section 255.05(1)(b), Florida Statutes, COUNTY will make no payment to the CONTRACTOR until the CONTRACTOR has complied with this paragraph.

Furnishing Payment and Performance Bonds shall be requisite for execution of an Agreement with COUNTY. Said Payment and Performance Bonds will remain in force for the duration of this Agreement with the premiums paid by the CONTRACTOR. Failure of the CONTRACTOR to execute such Agreement and to supply the required bonds shall be just cause for cancellation of the award. COUNTY may then contract with the next lowest, responsive and responsible CONTRACTOR or re-advertise this RFP.

Failure of COUNTY at any time to receive performance by the CONTRACTOR of any provisions set out in the resulting Agreement will in no way affect the right of COUNTY, thereafter, to enforce those provisions.

*Remainder of page intentionally left blank*

**CONTRACTOR’S INSURANCE STATEMENT**

**THE UNDERSIGNED** has read and understands the aforementioned insurance and bond requirements of this Agreement and shall provide the insurance and bonds required by this section within ten (10) days from the date of notice of intent to award.

Date: \_\_\_\_\_

Contractor’s Name: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_

Printed Name/Title: \_\_\_\_\_

Insurance Agency: \_\_\_\_\_

Agent Name: \_\_\_\_\_

Agent Phone: \_\_\_\_\_

Surety Agency: \_\_\_\_\_

Surety Name: \_\_\_\_\_

Surety Phone: \_\_\_\_\_

**SAMPLE**

*Please return this completed and signed statement with your agreement.*