CONTRACT NO. WSA C27003

NEW JERSEY WATER SUPPLY AUTHORITY

AND

«Company_Name»

FOR

ROOF REPLACEMENTS AT THE ROUND VALLEY RESERVOIR FORCEMAIN SURGE TANK AND WHITEHOUSE RELEASE STRUCTURES READINGTON & CLINTON TOWNSHIPS, HUNTERDON COUNTY NEW JERSEY

This Contract, entered into and dated , by and between the New Jersey Water Supply Authority (hereinafter called the "Authority") with an address of 1851 State Highway 31, Post Office Box 5196, Clinton, New Jersey 08809 and «Company_Name», with an address of «Company_Address»«City»«State»«Zipcode» (hereinafter called the "Contractor" or “Consultant”).

The Authority and the Contractor, in consideration of the mutual covenants hereinafter set forth, agree as follows:

ARTICLE I - SCOPE OF WORK

The Contractor shall complete all work as specified or indicated in the contract documents listed in Article II below.

The work is generally described as follows:

Roof Replacements at the Round Valley Reservoir Forcemain Surge Tank and Whitehouse Release Structures shall include furnishing all labor, materials, equipment, and appurtenances necessary to complete the specified improvements in accordance with the contract documents. The work is to be performed at two distinct sites: the Forcemain Surge Tank, located in Clinton Township, and the Whitehouse Release Structure, located in Readington Township; both in Hunterdon County, New Jersey. Two separate sets of plans and technical specifications have been prepared (one for each site) to describe the required work and are included among the contract documents. In general, the work includes, at each site, obtaining permits and coordinating inspections and permit closeout, demolishing and removing the existing roofing system, furnishing and installing a new roofing system, and performing other miscellaneous related repairs.

ARTICLE II - CONTRACT DOCUMENTS

The contract documents that comprise the entire Contract between the Authority and the Contractor concerning the work consist of the following:

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2.1 This Contract (pages XX to XX , inclusive).
2.2 Bid Bond consisting of X pages marked as Exhibit A.
2.3 Invitation for Bid consisting of X pages marked as Exhibit B.
2.4 Technical Specifications bearing the title “XXX” consisting of X pages, marked as Exhibit C.
2.5 Plans titled “XXX” consisting of X pages, marked as Exhibit D.
2.6 Contractor's bid consisting of X pages, marked as Exhibit E.
2.7 The following are issued as of the Effective Date of the Contract and are identified herein: Official NJ Prevailing Wage for «Project_County» County, attached as Exhibit F.
2.8 Addendum No. 1 to the Invitation for Bids issued on XXX consisting of X pages, marked as Exhibit G.
2.9 Addendum No. 2 to the Invitation for Bids issued on XXX consisting of X pages, marked as Exhibit H.
2.10 The following which may be delivered or issued after the Effective Date of the Contract and are not attached hereto: All written Amendments and other documents amending, modifying, or supplementing the contract documents.

There are no contract documents other than those listed above in this Article. The contract documents may only be amended, modified, or supplemented as contained herein.

ARTICLE III - AUTHORITY OF EXECUTIVE DIRECTOR

All work to be performed by the Contractor hereunder shall be subject to the approval of the Executive Director of the Authority (hereinafter referred to as the "Executive Director"), or their duly authorized representative, and all decisions pertaining to said work shall be made in the name of the Executive Director. Any dispute involving matters of fact pertaining to the scope of work or details of work to be performed or completed under the terms of the Contract shall be decided by the Executive Director, which decision shall be final in regard to the Authority's position.

ARTICLE IV - PERIOD OF PERFORMANCE

Substantial completion – One hundred and eighty (180) calendar days to complete both projects. The work at the Whitehouse Release Structure is of greater urgency and must be prioritized if work at the two sites is planned to be completed sequentially. Concurrent work at both sites is also permissible, provided the Contractor is capable of approaching the work in this manner while meeting all contract requirements. Substantial completion shall be defined as the time that both new roofing systems have been completely installed, placed into service, and deemed satisfactory by the Authority, the Engineer, and the roofing system manufacturer.

Final completion – Two hundred and ten (210) calendar days from Notice to Proceed. Final completion shall be defined as the time at which all work is complete, and all contract requirements have been satisfied, including final clean-up and provision of all warranties, documentation, and other such administrative requirements.

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ARTICLE V - CONTRACT PRICE

For services rendered and expenses incurred in the complete performance of this work in accordance with the contract documents the Authority shall pay the Contractor a lump sum and unit price amount of XXX ($) dollars. All duties, responsibilities and obligations assigned to or undertaken by the Contractor pursuant to this Contract shall be at the Contractor's own expense without change in the contract price.

ARTICLE VI - PAYMENT PROCEDURES

The Authority shall make progress payments based on the Contractor's application for payment during the performance of work as provided herein. All payment applications shall be consistent with the Contractor's submitted and Authority approved Schedule of Values for applicable Payment Items. The Contractor shall submit payment applications to the Authority on a monthly period. Payment applications may not be submitted more often than once every month.

At the end of each month during which services are performed, the Contractor shall submit a payment application, including a voucher on standard Authority form itemizing charges for the period. Subject to such analysis of each payment application and supporting documentation as the Authority may deem essential, the voucher on standard Authority form will be approved for payment by the Authority.

Within thirty (30) calendar days after receipt of an administratively complete payment application, the Authority shall pay the full amount of the voucher. However, if the Authority disputes all or any portion of the payment application, or if there is missing or incomplete information, it shall notify the Contractor of the same within fifteen (15) calendar days from the date of receipt of the payment application. The Authority shall pay any portion of the payment application not in dispute, and the parties shall immediately make every effort to settle the disputed portion of the payment application, such that payment is not delayed beyond sixty (60) calendar days. Vouchers for the last month of the fiscal year (June), shall be received within 10 calendar days of the end of the billing period.

At the end of each month the Contractor did not complete any work and does not intend to submit a voucher, they shall notify the Authority project manager in writing of such.

Payment by the Authority shall not constitute acceptance for work completed by the Contractor, nor shall it relieve the Contractor of his obligation and responsibility to correct the work determined by the Authority to be deficient. The Contractor should indicate on the last voucher to be submitted that "FINAL PAYMENT" is being requested.

Ten percent (10%) of the amount of each invoice will be withheld pending completion and acceptance of the services to be performed under this Contract. If work hereunder has been fifty percent (50%) completed as determined by the Authority, and if the character and progress of the work has been satisfactory to the Authority, in its sole discretion, the Authority may determine that as long as the character and progress of the work remains satisfactory, there will be no additional retainage on account of work completed in which case the remaining monthly payments shall be in an amount equal to one hundred percent (100%) of the work completed.

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Acceptance by the Contractor of said payments shall operate as, and shall be, a release to the Authority from all claims and liability to the Contractor for anything done or furnished for, or relating to, the work called for or to be done under and pursuant to the provisions of this Contract. The Authority reserves the right to make such audits of directly relevant records of the Contractor, as it may deem advisable, during the performance of this Contract and for three (3) years from the date of final payment.

ARTICLE VII - DEFAULT

The Authority, by written notice of default to the Contractor, may terminate the whole or any part of this contract in any one of the following circumstances:

(a) If the Contractor fails to make delivery of supplies or to perform the services within the time specified herein or any extension thereof, except for delays due to causes listed in Article IX entitled "Delays".

(b) If the Contractor fails to perform any of the other provisions of this contract, or so fails to make progress as to endanger performance of this contract in accordance with its terms, and in either of these two circumstances does not cure such failure within a period of seven (7) days (or such longer period as the Authority may authorize in writing) after receipt of notice from the Authority specifying such failure; or

(c) If the Contractor becomes insolvent or goes into liquidation or receivership or admits to the benefits of any procedure for the settlement of debts or be declared bankrupt.

In each and every instance stated above, the performance bond shall become payable to the Authority and the Authority may procure, upon such terms and in such a manner as the Authority may deem appropriate, supplies or services the same as or similar to those so terminated, and the Authority may proceed to avail itself of any and all appropriate remedies. If, after notice of termination of the contract under this provision, it is determined for any reason that the Contractor was not in default, the contract shall be equitably adjusted to compensate for such termination and the contract modified accordingly. The rights provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

ARTICLE VIII - TERMINATION OF CONTRACT FOR CONVENIENCE

The Authority may, at any time and without cause, terminate this contract in whole or in part, specifying the extent to which performance of work under the contract is terminated and the date on which such termination becomes effective, provided written notice has been issued to the Contractor five (5) days prior to such proposed termination date.

Promptly after the effective date of termination, the Contractor shall submit its claims and be paid for all costs incurred prior to the termination that are approved by the Authority. In the event of termination and subject to the terms as set forth herein, any monies paid by the Authority that exceed the value of the Contractor's claim as set out above shall be refunded to the Authority within thirty (30) days after conclusion of the termination settlement.

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ARTICLE IX - DELAYS

The Contractor shall not be liable for delays in performance of its obligations, and the date on which the Contractor's obligations are to be fulfilled shall be extended, without penalty or liquidated damages, for a period of time caused by the delay when the delay was due to causes beyond the Contractor's control and not due to its fault or negligence, which include, but are not limited to, the following:

(a) Acts of God, unforeseeable circumstances, sustained inclement weather conditions, acts (including delay or failure to act) of any governmental authority, fires, strikes, labor stoppages, sabotage and interruptions of essential services and supplies such as electricity, natural gas, fuels, and water.

(b) Inability due to causes beyond the Contractor's reasonable control to timely obtain necessary and proper labor, materials, components, facilities or transportation when such items cannot reasonably be obtained from another source.

Partial failure of performance due to any of the aforementioned causes shall not in itself terminate the Contract or excuse any failure by the Contractor to resume all obligations once the cause for the delay is no longer valid pursuant to this clause. Typical weather-related downtime for construction projects in and around the State of New Jersey shall not be grounds for a delay.

In the event the Contractor is affected in the performance of its obligations by any of the aforementioned causes, the Contractor shall give the Authority prompt written notice within five (5) days of that fact, together with satisfactory evidence substantiating that said cause prevents performance, as well as a declaration specifying the steps being taken by the Contractor to remove such cause(s) of non-performance and to minimize its affects, and the Contractor shall continue the performance of its other obligations under this Contract. In the event the delay extends for a period exceeding (2) weeks, the Contractor and the Authority shall negotiate a postponement or termination of this Contract. The Authority shall have the right to defer the beginning or to suspend the whole or any part of the work herein contracted to be done whenever, in the opinion of the Executive Director, it may be necessary or expedient for the Authority, so to do, and if the Contractor is delayed in the completion of the work by act, neglect, or default of the Authority, or the Engineer, as defined in Article XXX or any other Contractor employed by the Authority, upon the work, or by changes ordered in the work, or by strikes, lockouts, fire, unusual delay by common carriers, unavoidable casualties, or any case beyond the Contractor's control, or by any cause which the Executive Director shall decide to justify the delay, then for all such delays and suspensions the Contractor shall be allowed one day in addition to the time herein stated for each and every day of such delay so caused in the completion of the work specified in Article I, the same to be determined by the Executive Director, and a similar allowance of extra time will be made for such other delays as the Executive Director may find to have been caused by the Authority. No such extension shall be made for anyone or more of such delays unless within ten (l0) days after the beginning of such delay a written request for additional time shall be filed with the Executive Director. Apart from extension of time, no payment or allowance of any kind shall be made to the Contractor as compensation for damages on account of hindrance or delay from any cause in the progress of the work, whether such delay be avoidable or unavoidable.

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The Contractor shall not be entitled to any damages or extra compensation from the Authority on account of any work performed by the Authority or any other Contractor or the Engineer, or any other party, or by reason of any delays whatsoever, whether caused by the Authority or any other party, including but not limited to delays mentioned in this Contract.

ARTICLE X - LIQUIDATED DAMAGES

The Authority and the Contractor recognize that time is of the essence under this contract and that the Authority will suffer financial loss if the work is not completed within the time specified in Article IV hereof, plus any extensions thereof allowed in accordance with Article IX. The parties also recognize the delays, expenses and difficulties involved in proving in a legal proceeding the actual loss suffered by the Authority if the work is not completed on time.

Accordingly, instead of requiring any such proof, the Authority and the Contractor agree that as liquidated damages for delay, but not as a penalty, the Contractor shall pay the Authority **Two hundred ($200.00) dollars** for each calendar day that expires after the time specified in Article IV for substantial completion, or an approved extension thereof for substantial completion, until the work is substantially complete. After substantial completion, if the Contractor shall neglect, refuse, or fail to complete the remaining work and offer the entire project for Final Acceptance within the time specified in Article IV, or any proper extension thereof granted by the Authority, the Contractor shall pay the Authority **One hundred ($100.00) dollars** for each calendar day that expires after the time specified in Article IV for completion and readiness for final acceptance.

ARTICLE XI - FINAL ACCEPTANCE

Acceptance of the work as complete will be based upon a thorough inspection by Authority personnel and their designated representatives. Any deficiencies found shall be noted by the Authority and corrected by the Contractor at the earliest possible time. Processing of the Contractor's invoice for payment shall be delayed until all deficiencies, if any, are corrected.

ARTICLE XII - GUARANTEE

The Contractor warrants that work performed under this Contract conforms to the Contract requirements and is free of any defect of equipment, material or design furnished, or workmanship performed by the Contractor or any of his Subcontractors or suppliers at any time. Such Guarantee shall continue for a period of one (1) year from the date of acceptance of the work. Under this Guarantee, the Contractor shall remedy at his own expense any such failure to conform and/or any defect. In addition, the Contractor shall remedy at his own expense any damage to Authority owned or controlled real or personal property, when that damage is the result of the Contractor's failure to conform to Contract requirements or any such defect of equipment, material, workmanship, or design. The Contractor shall also restore any work damaged in fulfilling the terms of this Article. The Contractor's guarantee with respect to work repaired or replaced hereunder will run for one (1) year from the date of such repair or replacement.

The Authority shall notify the Contractor in writing within a reasonable time after the discovery of any failure, defect, or damage.

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Should the Contractor fail to remedy any failure, defect or damage described above within a reasonable time after receipt of notice thereof, the Authority shall have the right to replace, repair, or otherwise remedy such failure, defect, or damage at the Contractor's expense.

ARTICLE XIII - NONDISCRIMINATION/AFFIRMATIVE ACTION PROVISIONS

During the performance of this contract, the Contractor agrees as follows:

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal employment opportunity shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

The contractor or subcontractor will send to each labor union, with which it has a collective bargaining agreement, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer, pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

When hiring or scheduling workers in each construction trade, the contractor or subcontractor agrees to make good faith efforts to employ minority and women workers in each construction trade consistent with the targeted employment goal prescribed by N.J.A.C. l7:27-7.2; provided, however, that the Dept. of LWD, Construction EEO Monitoring Program, may, in its discretion, exempt a contractor or subcontractor from compliance with the good faith procedures prescribed by the following provisions, A, B, and C, as long as the Dept. of LWD, Construction EEO Monitoring Program is satisfied that the contractor or subcontractor is employing workers 14 provided by a union which provides evidence, in accordance with standards prescribed by the Dept. of LWD, Construction EEO Monitoring Program, that its percentage of active “card carrying” members who are minority and women workers is equal to or greater than the targeted employment goal established in accordance with N.J.A.C. 17:27-7.2. The contractor or subcontractor agrees that a good faith effort shall include compliance with the following procedures:

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(A) If the contractor or subcontractor has a referral agreement or arrangement with a union for a construction trade, the contractor or subcontractor shall, within three business days of the contract award, seek assurances from the union that it will cooperate with the contractor or subcontractor as it fulfills its affirmative action obligations under this contract and in accordance with the rules promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et. seq., as supplemented and amended from time to time and the Americans with Disabilities Act. If the contractor or subcontractor is unable to obtain said assurances from the construction trade union at least five business days prior to the commencement of construction work, the contractor or subcontractor agrees to afford equal employment opportunities minority and women workers directly, consistent with this chapter. If the contractor's or subcontractor's prior experience with a construction trade union, regardless of whether the union has provided said assurances, indicates a significant possibility that the trade union will not refer sufficient minority and women workers consistent with affording equal employment opportunities as specified in this chapter, the contractor or subcontractor agrees to be prepared to provide such opportunities to minority and women workers directly, consistent with this chapter, by complying with the hiring or scheduling procedures prescribed under (B) below; and the contractor or subcontractor further agrees to take said action immediately if it determines that the union is not referring minority and women workers consistent with the equal employment opportunity goals set forth in this chapter.

(B) If good faith efforts to meet targeted employment goals have not or cannot be met for each construction trade by adhering to the procedures of (A) above, or if the contractor does not have a referral agreement or arrangement with a union for a construction trade, the contractor or subcontractor agrees to take the following actions:

(1) To notify the public agency compliance officer, the Dept. of LWD, Construction EEO Monitoring Program, and minority and women referral organizations listed by the Division pursuant to N.J.A.C. 17:27-5.3, of its workforce needs, and request referral of minority and women workers;

(2) To notify any minority and women workers who have been listed with it as awaiting available vacancies;

(3) Prior to commencement of work, to request that the local construction trade union refer minority and women workers to fill job openings, provided the contractor or subcontractor has a referral agreement or arrangement with a union for the construction trade;

(4) To leave standing requests for additional referral to minority and women workers with the local construction trade union, provided the contractor or subcontractor has a referral agreement or arrangement with a union for the construction trade, the State Training and Employment Service and other approved referral sources in the area;

(5) If it is necessary to lay off some of the workers in a given trade on the construction site, layoffs shall be conducted in compliance with the equal employment opportunity and nondiscrimination standards set forth in this regulation, as well as with applicable Federal and State court decisions;

(6) To adhere to the following procedure when minority and women workers apply or are referred to the contractor or subcontractor:

(i) The contactor or subcontractor shall interview the referred minority or women worker.

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(ii) If said individuals have never previously received any document or certification signifying a level of qualification lower than that required in order to perform the work of the construction trade, the contractor or subcontractor shall in good faith determine the qualifications of such individuals. The contractor or subcontractor shall hire or schedule those individuals who satisfy appropriate qualification standards in conformity with the equal employment opportunity and non-discrimination principles set forth in this chapter. However, a contractor or subcontractor shall determine that the individual at least possesses the requisite skills, and experience recognized by a union, apprentice program or a referral agency, provided the referral agency is acceptable to the Dept. of LWD, Construction EEO Monitoring Program. If necessary, the contractor or subcontractor shall hire or schedule minority and women workers who qualify as trainees pursuant to these rules. All of the requirements, however, are limited by the provisions of (C) below.

(iii) The name of any interested women or minority individual shall be maintained on a waiting list; and shall be considered for employment as described in (i) above, whenever vacancies occur. At the request of the Dept. of LWD, Construction EEO Monitoring Program, the contractor or subcontractor shall provide evidence of its good faith efforts to employ women and minorities from the list to fill vacancies.

(iv) If, for any reason, said contractor or subcontractor determines that a minority individual or a woman is not qualified or if the individual qualifies as an advanced trainee or apprentice, the contractor or subcontractor shall inform the individual in writing of the reasons for the determination, maintain a copy of the determination in its files, and send a copy to the public agency compliance officer and to the Dept. of LWD, Construction EEO Monitoring Program.

(7) To keep a complete and accurate record of all requests made for the referral of workers in any trade covered by the contract, on forms made available by the Dept. of LWD, Construction EEO Monitoring Program and submitted promptly to the Dept. of LWD, Construction EEO Monitoring Program upon request.

(C) The contractor or subcontractor agrees that nothing contained in (B) above shall preclude the contractor or subcontractor from complying with the union hiring hall or apprenticeship policies in any applicable collective bargaining agreement or union hiring hall arrangement, and, where required by custom or agreement, it shall send journeymen and trainees to the union for referral, or to the apprenticeship program for admission, pursuant to such agreement or arrangement. However, where the practices of a union or apprenticeship program will result in the exclusion of minorities and women or the failure to refer minorities and women consistent with the targeted county employment goal, the contractor or subcontractor shall consider for employment persons referred pursuant to (B) above without regard to such agreement or arrangement; provided further, however, that the contractor or subcontractor shall not be required to employ women and minority advanced trainees and trainees in numbers which result in the employment of advanced trainees and trainees as a percentage of the total workforce for the construction trade, which percentage significantly exceeds the apprentice to journey worker ratio specified in the applicable collective bargaining agreement, or in the absence of a collective bargaining agreement, exceeds the ratio established by practice in the area for said construction trade. Also, the contractor or subcontractor agrees that, in implementing the procedures of (B) above, it shall, where applicable, employ minority and women workers residing within the geographical jurisdiction of the union.

After notification of award, but prior to signing a construction contract, the contractor shall submit to the public agency compliance officer and the Dept. of LWD, Construction EEO Monitoring Program an initial

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project workforce report (Form AA-201) electronically provided to the public agency by the Dept. of LWD, Construction EEO Monitoring Program, through its website, for distribution to and completion by the contractor, in accordance with N.J.A.C. 17:27-7. The contractor also agrees to submit a copy of the Monthly Project Workforce Report [Form AA-202] once a month thereafter for the duration of this contract to the Dept. of LWD, Construction EEO Monitoring Program, and to the public agency compliance officer.

The contractor agrees to cooperate with the public agency in the payment of budgeted funds, as is necessary, for on-the-job and/or off-the job programs for outreach and training of minorities and women.

(D) The contractor and its subcontractors shall furnish such reports or other documents to the Dept. of LWD, Construction EEO Monitoring Program as may be requested by the Dept. of LWD, Construction EEO Monitoring Program from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Dept. of LWD, Construction EEO Monitoring Program for conducting a compliance investigation pursuant to N.J.A.C. 17:27-1.1 et seq.

ADDITIONAL NONDISCRIMINATION/AFFIRMATIVE ACTION PROVISIONS FOR CONSTRUCTION CONTRACTS

It is the policy of the Authority that its contracts should create a workforce that reflects the diversity of the State of New Jersey. Therefore, contractors engaged by the Authority to perform under a construction contract shall put forth a good faith effort to engage in recruitment and employment practices that further the goal of fostering equal opportunities to minorities and women. The contractor must demonstrate to the Authority's satisfaction that a good faith effort was made to ensure that minorities and women have been afforded equal opportunity to gain employment under the Authority's contract with the contractor. Payment may be withheld from a contractor's contract for failure to comply with these provisions. Evidence of a "good faith effort" includes, but is not limited to: 1. The Contractor shall recruit prospective employees through the State Job bank website, managed by the Department of Labor and Workforce Development, available online at http://NJ.gov/JobCentralNJ; 2. The Contractor shall keep specific records of its efforts, including records of all individuals interviewed and hired, including the specific numbers of minorities and women; 3. The Contractor shall actively solicit and shall provide the Authority with proof of solicitations for employment, including but not limited to advertisements in general circulation media, professional service publications and electronic media; and 4. The Contractor shall provide evidence of efforts described at 2 above to the Authority no less frequently than once every 12 months. 5. The Contractor shall comply with the requirements set forth at N.J.A.C. 17:27- 1.1 et seq. To ensure successful implementation of the Executive Order and Law, state agencies, independent authorities and colleges and universities must forward an Initial Project Workforce Report (AA-201) for any projects funded with ARRA money to the Dept. of LWD, Construction EEO Monitoring Program immediately upon notification of award but prior to execution of the contract.

ARTICLE XIV – DIANE B. ALLEN EQUAL PAY ACT

Pursuant to N.J.S.A. 34:11-56.14(b), any employer, regardless of the location of the employer, who enters into a contract with a public body to perform any public work for the public body shall provide to the Commissioner of the New Jersey Department of Labor and Workforce Development, through certified payroll records required pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.), information regarding the gender, race, job title, occupational category, and rate of total compensation of every employee of the employer employed in the State in connection with the contract. The employer shall provide the

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commissioner, throughout the duration of the contract or contracts, with an update to the information whenever payroll records are required to be submitted pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.).

Information regarding the Diane B. Allen Equal Pay Act and its requirements may be obtained from the New Jersey Department of Labor and Workforce Development (LWD) web site at: https://nj.gov/labor/equalpay/equalpay.html. LWD forms may be obtained from the online web site at: https://nj.gov/labor/forms_pdfs/equalpayact/MW-562withoutfein.pdf.

ARTICLE XV – AMERICANS WITH DISABILITIES ACT (EQUAL OPPORTUNITY FOR INDIVIDUALS WITH DISABILITIES)

The Contractor and the Authority do hereby agree that the provision of Title II of the Americans With Disabilities Act of 1990 (the "Act") (42 U.S.C. 12101 et seq.), which prohibits discrimination on the basis of disability by public entities in all services, programs, and activities provided or made available by public entities, and the rules and regulations promulgated pursuant thereunto, are made a part of this Contract. In providing any aid, benefit, or service on behalf of the Authority pursuant to this Contract, the Contractor agrees that the performance shall be in strict compliance with the Act. In the event that the Contractor, its agents, servants, employees, or subcontractors violate or are alleged to have violated the Act during the performance of this Contract, the Contractor shall defend the Authority in any action or administrative proceeding commenced pursuant to this Act. The Contractor shall indemnify, protect, and save harmless the Owner, its agents, servants and employees from and against any and all suits, claims, losses, demands or damages of whatever kind or nature arising out of or claimed to arise out of the alleged violation. The Contractor shall, at its own expense, appear, defend and pay any and all charges for legal services and any and all costs and other expenses arising from such action or administrative proceeding or incurred in connection therewith. In any and all complaints brought pursuant to the Authority's grievance procedure, the Contractor agrees to abide by any decision of the Authority which is rendered pursuant to said grievance procedure. If any action or administrative proceeding results in an award of damages against the Authority or if the Authority incurs any expenses to cure a violation of the Act which has been brought pursuant to its grievance procedure, the Contractor shall satisfy and discharge the same at its own expense.

The Authority shall, as soon as practicable after a claim has been made against it, give written notice thereof to the Contractor along with full and complete particulars of the claim. If any action or administrative proceeding is brought against the Authority or any of its agents, servants, and employees, the Authority shall expeditiously forward or have forwarded to the Contractor every demand, complaint, notice, summons, pleading or other process received by the Authority or its representatives.

It is expressly agreed and understood that any approval by the Authority of the services provided by the Contractor pursuant to this Contract will not relieve the Contractor of the obligation to comply with the Act and to defend, indemnify, protect, and save harmless the Authority pursuant to this Paragraph.

It is further agreed and understood that the Authority assumes no obligation to indemnify or save harmless the Contractor, its agents, servants, employees and subcontractors for any claim which may arise out of their performance of this Contract. Furthermore, the Contractor expressly understands and agrees that the provisions of this indemnification clause shall in no way limit the Contractor's obligations assumed in this Contract, nor shall in no way limit the Contractor's obligations assumed in this Contract,

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nor shall they be construed to relieve the Contractor from any liability, nor preclude the Authority from taking any other actions available to it under any other provisions of this Contract or otherwise at law.

ARTICLE XVI - BUSINESS CERTIFICATION

Pursuant to N.J.S.A. 52:32-44, the Authority is prohibited from entering into a contract with an entity unless the bidder/proposer/contractor, and each subcontractor that is required by law to be named in a bid/proposal/contract has a valid Business Registration Certificate on file with the Division of Revenue and Enterprise Services within the Department of the Treasury.

Prior to contract award or authorization, the Contractor shall provide the Authority with its proof of business

registration and that of any named subcontractor(s).

Subcontractors named in a bid or other proposal shall provide proof of business registration to the bidder, who in turn, shall provide it to the Authority prior to the time a contract, purchase order, or other contracting document is awarded or authorized.

During the course of contract performance:

(1) the Contractor shall not enter into a contract with a subcontractor unless the subcontractor first provides the Contractor with a valid proof of business registration.
(2) the Contractor shall maintain and submit to the Authority a list of subcontractors and their addresses that may be updated from time to time.
(3) the Contractor and any subcontractor providing goods or performing services under the contract, and each of their affiliates, shall collect and remit to the Director of the Division of Taxation in the Department of the Treasury, the use tax due pursuant to the Sales and Use Tax Act, (N.J.S.A. 54:32B-1 et seq.) on all sales of tangible personal property delivered into the State. Any questions in this regard can be directed to the Division of Taxation at (609) 292-6400. Form NJ-REG can be filed online at http://www.state.nj.us/treasury/revenue/busregcert.shtml.

Before final payment is made under the contract, the contractor shall submit to the Authority a complete and accurate list of all subcontractors used and their addresses.

Pursuant to N.J.S.A. 54:49-4.1, a business organization that fails to provide a copy of a business registration as required, or that provides false business registration information, shall be liable for a penalty of $25 for each day of violation, not to exceed $50,000, for each proof of business registration not properly provided under a contract with a contracting agency.

Emergency Purchases or Contracts:
For purchases of an emergent nature, the contractor shall provide its Business Registration Certificate within two weeks from the date of purchase or execution of the contract or prior to payment for goods or services, whichever is earlier.

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ARTICLE XVII - CONTRACT REMAINING VALID

If any provision of this contract is determined to be ineffective or invalid under the laws of the State of New Jersey, all other provisions shall remain effective and valid, provided the purpose of the remaining valid and effective provisions is not frustrated.

ARTICLE XVIII - WAIVER OF BREACH

The failure of either party, at any time, to require performance by the other party, of any provision of this contract, shall in no way affect the full right to require such performance at any time thereafter. The waiver by either party of a breach of any provision of this contract does not constitute a waiver of any succeeding breach, of the same or any other such provision, nor shall it constitute a waiver of the provision itself.

ARTICLE XIX - ASSIGNMENT

This contract shall not be transferred or assigned to any other individual, firm, partnership or corporation without the prior written consent of the Authority. Unless specifically stated in any written consent by the Authority, no assignment will release or discharge the assignor from any duty or responsibility under this contract. Money due or to become due the Contractor shall not be assigned, unless with the consent of the Authority, but nothing herein contained shall be construed to hinder, prevent or affect an assignment by the Contractor for the benefit of his creditors made pursuant to the statutes of the State of New Jersey.

ARTICLE XX - APPLICABLE LAW

This contract shall be construed according to the laws of the State of New Jersey, insofar as existence of the contract as a binding Contract and matters concerning performance or breach thereof are concerned. Any legal action will be brought in the courts within the State of New Jersey.

ARTICLE XXI - AMENDMENTS

This contract may be modified or amended only by a written instrument executed by the Authority and the Contractor.

ARTICLE XXII - NOTICES

Notice, as may be required hereunder, shall be deemed to be duly served if delivery is made to an individual or member of the firm or entity or to an officer of the corporation for whom it was intended. This includes delivery by courier or registered or certified mail, or email to the business address cited in the contract documents.

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ARTICLE XXIII- INDEMNIFICATION

The Contractor shall assume all risk of and responsibility for, and agrees to indemnify, defend and save harmless the State of New Jersey (including the New Jersey Water Supply Authority, and the Department of Environmental Protection); and any of their departments, divisions, councils, bureaus, or other agencies or subdivisions, as the case may be from and against, any and all claims, demands, suits, actions, recoveries, judgment and costs and expenses in connection therewith on account of the loss of life, property or injury or damage to the person, body or property of any person or persons whatsoever, resulting from the performance of the Project or through the negligence of the Contractor or through any improper or defective machinery, implements or appliances used by the Contractor in the Project, or through any act or omission on the part of the Contractor or his agents, employees or servants, which shall arise from or result directly or indirectly from the work and/or materials supplied under this contract. This indemnification obligation is not limited by, but is in addition to, the insurance obligations contained in this Contract.

In any and all claims against the Authority or its employees by any employees of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the Indemnification obligation under this Article shall not be limited in any way as to the amount or type of damages, compensation or benefits payable by or for the Contractor or any Subcontractor under Workers' Compensation Acts, Disability Benefit Acts, or other Employee Benefit Acts.

ARTICLE XXIV - CHANGES AND EXTRA WORK

The Executive Director may, at any time, by written order, and without notice to sureties, issue additional instructions to clarify the scope of services prescribed under this Contract without additional cost to the Authority. If substantial changes are made in the scope of work defined under this contract, however, which changes result in substantial reworking of the material completed causing the Contractor extra expense, or if the Executive Director shall request additional work to be performed not included in the Technical Specifications hereto, the Contractor shall be entitled to just compensation for the reasonable cost of the added work and expense in the amount agreed to by the Executive Director, but not to exceed actual incurred expenses, exclusive of overhead and administrative costs, together with an allowance of ten percent (10%) for overhead and administrative costs and an allowance of ten percent (10%) for profit, not to be compounded.

For added work and expenses incurred by the Contractor for work performed by the Subcontractor(s), the amount subject to reimbursement shall not exceed actual expenses incurred by the Subcontractor, exclusive of overhead and administrative costs, together with an allowance for the Subcontractor of ten percent (10%) for overhead and administrative costs, and an allowance of ten percent (10%) for profit, not to be compounded. Under these circumstances, the Contractor is entitled to a total, single allowance of five percent (5%), compounded on the above twenty percent (10% and 10%), inclusive of overhead, administrative costs, and profit, regardless of the number of tiers of subcontractors involved in the work. No additional percentage mark-up for any additional tiers of subcontractors beyond one will be allowed. The Contractor shall carry on with all other undisputed work and adhere to the progress schedule during any negotiations required hereunder.

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Notice in writing of any claim for adjustments under this Article must be given to the Executive Director promptly (within 5 days) after the occurrence of the event giving rise to the claim and stating the general nature of the claim. Any notice given shall contain a written statement that the amount claimed covers all known amounts (direct, indirect and consequential) within 45 days of the written order to which the Contractor feels it is entitled as a result of the occurrence of said event.

The Contractor shall not be entitled to additional compensation for revisions that the Executive Director finds necessary or desirable because of neglect or mistakes in judgment for which the Contractor is responsible. It is specifically understood and agreed that no added or extra work of any type will be performed without prior certification in writing thereof from the Executive Director.

No claim by the Contractor pursuant to this Article will be allowed if asserted after final payment under this contract.

The Contractor shall promptly and before such conditions are disturbed, notify the Authority/Engineer in writing of differing site conditions: i.e., subsurface or latent physical conditions at the site differing materially from those indicated in the contract, or unknown physical conditions at the site, differing materially from those ordinarily encountered and generally recognized. The Authority shall promptly investigate the conditions. If the Authority finds that conditions materially differ and will cause an increase or decrease in the Contractor's cost or the time required to perform, the Authority shall make an adjustment and modify the contract in accordance with the terms set forth within this section.

Where less than the entire Contract is performed as a result of the Authority's determination for a reduction in scope, then: (1) for each lump sum, or unit price bid item satisfactorily completed by the Contractor, the Contractor will be paid the lump sum, or unit price designated for that bid item; (2) for each lump sum, or unit price bid item which has been partially completed the Contractor will be paid a percentage of the lump sum, or unit price equal to the percentage of work satisfactorily completed.
Any claim by the Contractor for an extension in the Contract time shall be based on written notice delivered to the Authority and the Engineer within five (5) days of the occurrence of the event-giving rise to the claim. Notice of the extent of the claim with detailed supporting data shall be delivered within forty-five (45) days of such occurrence. The Contract time will be extended in an amount equal to time lost due to any delay that both could not have anticipated by the Contractor and beyond the control of Contractor if a claim is made. No extension shall be made where the delay is caused by the fault or negligence of the Contractor, or the performance would have been so suspended, delayed or interrupted by any other cause, and therefore should have been anticipated. An extension of Contract time shall not entitle the Contractor to additional compensation. A uniform change order document shall be used for handling contract changes that affect contract price or contract time. For supplemental instruction and minor changes not involving a change in contract price or contract time, a field order may be used.

ARTICLE XXV – INSURANCE

The Contractor shall procure and maintain at its own expense, for the full duration of the Contract unless noted otherwise, liability insurance for damages imposed by law and assumed under Contract, of the kinds and in the amounts hereinafter provided, from insurance companies admitted or approved to do business in the State of New Jersey. By submitting a bid in response to the Authority IFB, the Contractor expressly agreed that any insurance protection required herein or by the Contract shall in no way limit the Contractor's obligations assumed in the Contract and shall not be construed to relieve the Contractor from liability in excess of such coverage nor shall it preclude the Authority from taking such other actions

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as are available to it under other provisions of the Contract or otherwise in law or equity. The insurance shall provide the minimum coverages and limits set forth below. Amendments to the Insurance Requirements may be made at the discretion of the Authority.

The Contractor shall not proceed on any work under this Contract until all required insurance coverage is obtained and bound and the appropriate Certificate(s) of Insurance have been approved by the Authority.

A. Workers' Compensation
   1. Full benefits under New Jersey Statute.
   2. If there is any part of the Work which requires the Contractor or any of the Contractor's personnel or subcontractors or any of the subcontractor's personnel to comply with the U.S. Longshoremen's and Harbor Workers' Act, Jones Act, Admiralty Laws, or the Federal Employers' Liability Act, the Workers' Compensation policy will provide insurance coverage in a form and with limits which are adequate to comply with these requirements on an actual or 'if any' basis.

B. Employers' Liability
   1. $1,000,000 - Each Accident
   2. $1,000,000 Disease – Each Employee
   3. $1,000,000 Disease – Policy Limit

C. Commercial Automobile Liability
   1. Commercial Automobile Liability Insurance in comprehensive form that shall protect the Contractor and anyone who may incur vicarious liability for the conduct of the insured, against all claims for injuries to members of the public and damage to property of others arising from the use of motor vehicles(s) and shall cover operations on and off the site of all motor vehicles licensed for highway use, whether they are owned, non-owned, or hired.
   2. The Combined Single Limit for Bodily Injury and Property Damage Liability shall not be less than $1,000,000 each accident, or as otherwise required to satisfy the underlying limit requirements of the Contractor's umbrella liability insurance.
   3. If hauling contaminants/pollutants, Contractor must adhere to Sections 29 and 30 of the Motor Carrier Act of 1980 and shall include coverage Form MCS-90 and broadened pollution coverage under ISO Form CA 99 48 or equivalent. Alternatively, the broadened pollution coverage requirement may be satisfied through the Contractor's Pollution Insurance if it clearly covers transit risk.

D. Commercial General Liability
   1. The policy shall cover all claims for damages for bodily injury, personal injury, including accidental death, as well as from claims for property damage, which may arise out of operations performed in connection with the Contract.
   2. The policy should be occurrence based and provide coverage at least as broad as the standard ISO form including coverage against Explosion (X), Subsidence or Collapse (C) & Underground Damage (U). No exclusions or limitations shall exist for work performed by subcontractors.
   3. The policy should also include coverage for Contractual Liability related to this contract.
   4. Contractor shall maintain liability coverage for Products and Completed Operations for a minimum of five (5) years beyond the duration of the Contract.

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5. Limits of Liability shall not be less than:
    1. Bodily Injury and Property Damage Liability, Per Occurrence: $1,000,000, Annual Aggregate Per Project/Location: $2,000,000.
    2. Personal and Advertising Injury: $1,000,000.
    3. Products and Completed Operations Aggregate: $2,000,000.

E. Drone Liability Insurance

If applicable to the Work, Contractor or any applicable subcontractors shall maintain unmanned aerial vehicle (i.e. drone) liability insurance with a limit no less than $1,000,000 each occurrence for bodily injury and property damage liability.

F. Watercraft/Marine Liability Insurance

If applicable to the Work, Contractor or any applicable subcontractors will maintain Watercraft/Marine Liability or Protection & Indemnity (liability) insurance that provides no less than $1,000,000 each occurrence for combined liability coverage for bodily injury and property damage. This limit may be met by any combination of primary and excess policies.

Specific Provisions:

1. All policies shall be issued by insurance carriers with an AM Best rating of at least (A) and financial size category of at least VIII and are licensed and authorized to conduct business in the State of New Jersey.
2. All insurance policies shall apply on a primary and noncontributory basis, and with the exceptions of A and B, shall name the following listed entities as additional insureds for both ongoing and completed operations: “New Jersey Water Supply Authority and its officers and employees”. The contract number, C27003, should also be listed on the certificate of insurance. There should be no cross suits exclusion on the policy.
3. To the fullest extent permitted by law Contractor hereby waives all rights of recovery against the Authority, its officers, agents, or employees for any loss, damage or injury self-insured, insured or required to be insured above including loss related to insufficient limits maintained by Contractor or loss due to deductibles or self-insured retentions maintained by Contractor. Contractor shall also require a waiver of subrogation on all of its insurance policies in favor of the parties specified in item 1 above.
4. The Contractor shall submit proof(s) of insurance to the Authority for all insurance required under this section in the form of Certificate(s) of Insurance and shall attach relevant endorsements evidencing the required terms. All the policies of insurance so required to be purchased and maintained (and certificates or other evidence thereof) shall contain a provision or endorsement that the coverage afforded will not be cancelled, materially changed or renewal refused until at least thirty (30) days prior written notice has been given to the Authority by mail, except for ten (10) days cancellation due to nonpayment of premiums.
5. All deductibles and self-insured retentions must be disclosed and are subject to approval by the Authority. The Contractor shall be responsible for the payment of any deductible or self-insured retention.
6. Upon request, Contractor shall furnish the Authority with a complete copy of each policy, including all endorsements, required by the Contract.
7. The Authority’s approval or failure to disapprove insurance furnished by Contractor shall

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not release or limit Contractor from full responsibility for liability for damage and accidents.

8. Contractor's failure to procure or maintain the insurance required by this Section during the entire term of the Contract shall constitute a material breach of this Contract under which the Authority may immediately suspend or terminate this Contract or, at its discretion, procure or renew such insurance to protect the Authority's interest and pay any and all premiums in connection herewith, and withhold or recover all monies so paid from the Contractor.

Subcontractors

1. Subcontractors must maintain, at minimum, the following coverages:

   A. Workers' Compensation
      1. Full benefits under New Jersey Statute.
      2. If there is any part of the Work which requires the Contractor or any of the Contractor's personnel or subcontractors or any of the subcontractor's personnel to comply with the U.S. Longshoremen's and Harbor Workers' Act, Jones Act, Admiralty Laws, or the Federal Employers' Liability Act, the Workers' Compensation policy will provide insurance coverage in a form and with limits which are adequate to comply with these requirements on an actual or 'if any' basis.

   B. Employers' Liability
      1. $1,000,000 Each Accident
      2. $1,000,000 Disease – Each Employee
      3. $1,000,000 Disease – Policy Limit

   C. Commercial Automobile Liability –
      1. Commercial Automobile Liability Insurance covering all owned and non-owned/hired vehicles used in performance of services under this contract. The Combined Single Limit for Bodily Injury and Property Damage shall not be less than $1,000,000 each accident.

   D. Commercial General Liability -
      1. Limits of Liability shall not be less than shown below and form shall be Occurrence basis via CG0001 or equivalent:

         a. Bodily Injury and Property Damage Liability, Per Occurrence: $1,000,000, Annual Aggregate Per Project/Location: $2,000,000.
         b. Personal and Advertising Injury: $1,000,000.
         c. Products and Completed Operations Aggregate: $2,000,000.

2. The primary Contractor shall be responsible for verification and written certification of all subcontractors' insurance coverage required for the Contract. The Authority reserves the right to request that the primary contractor provide copies of insurance certificates for all contractors and subcontractors.

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ARTICLE XXVI - WORKING HOURS

This project includes work at two distinct sites: the "Whitehouse Release Structure" and the "Surge Tank." The Whitehouse Release Structure is located on Block 21.12, Lot 46.01, Readington Township, Hunterdon County, New Jersey. The street address is 21 Railroad Avenue, Whitehouse Station, NJ 08889.

The Surge Tank is located on Block 88, Lot 12, Clinton Township, Hunterdon County, New Jersey. The street address (just across the street from site) is 4 Red School House Road, Lebanon, NJ 08833.

All work shall be conducted during the Authority's regular business hours (7:30 AM – 4:30 PM, Monday – Friday, with State Holidays off) unless otherwise approved by the Authority Project Manager. Requests to work beyond these hours on any given day shall be evaluated on a case-by-case basis. All such requests shall be provided with sufficient notice for the Authority to coordinate staffing.

It is the Contractor's responsibility to adhere to any local laws or ordinances that may govern or restrict the performance of such work.

ARTICLE XXVII - PREVAILING WAGE

The New Jersey Prevailing Wage Act, N.J.S.A. 34:11-56.25 et seq., as amended, is hereby made a part of every contract entered into on behalf of the New Jersey Water Supply Authority, except those contracts which are not within the contemplation of the Act. The Contractor's signature on this Contract is its guarantee that neither it nor any subcontractors it might employ to perform the work covered by this proposal are listed or are on record in the Office of the Commissioner, Department of Labor and Industry, as one who has failed to pay prevailing wages in accordance with the provisions of this Act.

1. Public Works Contractor Registration Act- The New Jersey Public Works Contractor Registration Act requires all contractors, subcontractors and lower tier subcontractors who bid on or engage in any contract for public work defined in N.J.S.A. 34:11-56.-26 be first registered with the New Jersey Department of Labor and Workforce Development. Per P.L. 2023, c.138, the Contractor shall register online at https://www.nj.gov/labor/wageandhour/prevailing-rates/njwagehub.shtml.

2. Payroll Certification for Public Works Projects (for Contractor and Sub-Contractors Use for Weekly and Final Certification)-defined in N.J.A.C. 12:60-2.1 and 6.1 of the Prevailing Wage Act requires that certified payroll records must be submitted to the Authority, by all contractors and sub-contractors, for each employee on the Project within ten (10) days of the payment of wages. Per P.L. 2023, c.138 (N.J.S.A. 34:11-56.29), the Contractor shall also submit certified payroll records online at https://www.nj.gov/labor/wageandhour/prevailing-rates/njwagehub.shtml each payroll period within 10 days of the date on which the wages were paid to a worker.

Attached hereto and incorporated herein is(are) the Department of Labor and Workforce Development prevailing wage determination(s) for the locality and craft(s) that will be employed in the performance of work under this contract. It is hereby stipulated that each individual who performs work under this contract shall be paid not less than the prevailing wage rate to which that worker is entitled under the New Jersey Prevailing Wage Act, as reflected in the appropriate Department of Labor and Workforce Development prevailing wage determination.

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The Contractor agrees that all workers employed in the performance of this Contract shall be paid wages not less than the prevailing wage rate of the NJ Prevailing Wage for Hunterdon County, see web determination's online website at https://lwd.state.nj.us/labor/wagehour/content/pwage.html,
Confirmation No.: XXX

In the event it is found that any worker employed by the contractor or any subcontractor covered by this contract has been paid a rate of wages less than the prevailing wage rate required to be paid by this contract, the public body [the Authority], the lessee to whom the public body is leasing a property or premises or the lessor from whom the public body is leasing or will be leasing a property or premises may terminate the contractor's or subcontractor's right to proceed with the work, or such part of the work as to which there has been a failure to pay required wages, and to prosecute the work to completion or otherwise. The contractor and his sureties shall be liable to the public body, any lessee to whom the public body is leasing a property or premises, or to any lessor from whom the public body is leasing or will be leasing a property or premises for any excess costs occasioned by the termination of the contractor's or subcontractor's right to proceed with the work, or such part of the work as to which there has been a failure to pay required wages. The Contractor and its sureties shall be liable to the Authority for any excess costs occasioned hereby.

ARTICLE XXVIII – SUBCONTRACTING

N.J.A.C. 17:13-4 et seq. and Executive Order 71 mandate that if the Contractor proposes to utilize a subcontractor(s), the Contractor must make a good faith effort to award a goal of 25 percent (25%) of the dollar value of its contract to New Jersey-based, Division of Revenue-Small Business Enterprise Unit-registered businesses as follows: with regard to goods and services contracts at least 10 percent (10%) shall be awarded to small businesses whose gross revenues do not exceed $500,000; at least an additional 15 percent (15%) shall be awarded to the additional categories of small businesses whose revenues do not exceed $12 million or the applicable Federal revenue standards established at 13 CFR 121.201, incorporated herein by reference, whichever is higher. In regard to design and construction contracts, a goal of 25 percent (25%) of the total dollar value of its contract to either prime contractors or subcontractors that qualify as small businesses with revenues that do not exceed the annual revenue standards established at 13 CFR 121.201.

Pursuant to N.J.A.C. 17:14-1.1 et seq., if Consultants propose to utilize a subconsultant(s), the Consultant

must make a good faith to meet the set-aside subcontracting targets of awarding a total of three percent (3%) of the value of the contract to eligible registered disabled veteran owned businesses.

Should the Contractor propose to utilize a subcontractor(s) to fulfill any of its obligations, the Contractor shall be responsible for the subcontractor's(s): (a) performance; (b) compliance with all the terms and conditions of the contract; and (c) compliance with the requirements of all applicable laws.

The Contractor must provide to the Authority a detailed description of services to be provided by each subcontractor, referencing the applicable Section or Subsection of the IFB.

The Contractor shall provide to the Authority detailed resumes for each subcontractor's management, supervisory and other key personnel that demonstrate knowledge, ability and experience relevant to that part of the work, which the subcontractor is designated to perform.

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The Contractor shall provide to the Authority documented experience to demonstrate that each subcontractor has successfully performed work on contracts of a similar size and scope to the work that the subcontractor is designated to perform in the Contractor's proposal. Given the specialty nature of the contract work, and the requirement for bidders to be prequalified, the Authority reserves the right to reject any proposed subcontractor who cannot demonstrate such experience or who cannot meet the security requirements dictated by Articles XXXII and XXXIII hereof.

Invoices presented to the Authority for payment must include verifiable information as to the payments made to each of the eligible subcontractor(s) during the period covered by the prime Contractor's invoice. The reported payments shall be exclusive of any mark-up, fees, overhead and profit to the prime Contractor.

The Contractor agrees to enter and maintain current payment and contract data for subcontractors per the instructions given by the New Jersey Office of Diversity and Inclusion within the Department of the Treasury.

ARTICLE XXIX – RESTRICTIONS ON POLITICAL CONTRIBUTIONS

Pay to Play Prohibitions: pursuant to N.J.S.A. 19:44A-20.13 et seq. (P.L. 2005, c. 51), and specifically, N.J.S.A. 19:44A-20.21, it shall be a breach of the terms of the contract for the business entity to:

A. Make or solicit a contribution in violation of the statute;
B. Knowingly conceal or misrepresent a contribution given or received;
C. Make or solicit contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution;
D. Make or solicit any contribution on the condition or with the agreement that it will be contributed to a campaign committee or any candidate of holder of the public office of Governor or Lieutenant Governor, or to any State or county party committee;
E. Engage or employ a lobbyist or consultant with the intent or understanding that such lobbyist or consultant would make or solicit any contribution, which if made or solicited by the business entity itself, would subject that entity to the restrictions of the Legislation;
F. Fund contributions made by third parties, including consultants, attorneys, family members, and employees;
G. Engage in any exchange of contributions to circumvent the intent of the Legislation; or
H. Directly or indirectly through or by any other person or means, do any act which would subject that entity to the restrictions of the legislation.

Political Contribution Disclosure: the contractor is advised of its responsibility to file an annual disclosure statement on political contributions with the New Jersey Election Law Enforcement Commission (ELEC), pursuant to N.J.S.A. 19:44A-20.27 (P.L. 2005, c. 271, 3 as amended) if in a calendar year the contractor receives one (1) or more contracts valued at $50,000 or more. It is the contractor's responsibility to determine if filing is necessary. Failure to file can result in the imposition of penalties by ELEC. Additional information about this requirement is available from ELEC by calling 1 (888) 313-3532 or on the internet at http://www.elec.state.nj.us/.

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ARTICLE XXX - ENGINEER

The Project has been designed by Mott MacDonald, who is herein after called Engineer and who is to act as the Authority's representative, assume all duties and responsibilities not otherwise limited by this Contract and have the rights and authority assigned to the Engineer in the Contract Documents in connection with completion of the work in accordance with Contract Documents.

ARTICLE XXXI - SAFETY

The Contractor shall take all necessary precautions and provide all necessary safeguards to prevent personal injury and property damage. The Contractor shall provide protection for all persons including, but not limited to, his employees and employees of other contractors or subcontractors; members of the public; and employees, agents and representatives of the Authority, the Engineer, and regulatory agencies that may be on or about the Worksite. The Contractor shall provide protection for all public and private property including, but not limited to, structures, pipes, and utilities, above and below ground.

The Contractor shall provide and maintain all necessary safety equipment such as fences, barriers, signs, lights, walkways, guards and fire prevention and firefighting equipment and shall take such other action as is required to fulfill his obligations under this subsection. Contractor shall also comply with all safety-related requirements included in the Technical Specifications.

The Contractor shall comply with all applicable Federal, State and local laws, ordinances, rules and regulations and lawful orders of all authorities having jurisdiction for the safety of persons and protection of property.

The Contractor shall designate a responsible member of his organization at the worksite whose primary duty shall be the prevention of accidents. All Contractor personnel, and Authority personnel, and the Engineer shall have the authority to take immediate action to temporarily suspend operations deemed unsafe or if hazardous conditions present, and to enforce safety precautions and programs.

ARTICLE XXXII - SECURITY

Throughout the duration of the contract, contractors, their agents, subcontractors and representatives must maintain security protocols established by the Authority while working in and around secured areas. Contractors will coordinate job site access on a daily basis with the Authority assigned Project manager. Buildings, pumping stations, vaults, chambers, towers or fenced and gated areas that are normally locked, must not be left open and unattended.

The Contractor shall adequately secure and protect its own tools, equipment, materials and supplies. The Authority assumes no liability for any damage, theft or negligent injury to the Contractor's property.

The Contractor shall comply with all Authority field controls at the site prior to the start of service/construction. If the Contractor detects or suspects an error in the field controls, the Contractor shall immediately notify the Authority and shall suspend any related work until any discrepancy is resolved.

The Contractor shall further comply with security measures as detailed in the Technical Specifications, set forth in Part IV-Technical Specifications.

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ARTICLE XXXIII - CONTRACT PROVISIONS ENSURING SECURITY OF AUTHORITY STRUCTURES AND PROCESSES

Pursuant to N.J.S.A. 47:1A-1 et seq., the Authority may exempt information from disclosure under the Open Public Records Act, N.J.S.A. 47:1A-1 et seq. if disclosure could result in a security risk. Certain information received, maintained, or created by the Contractor in fulfilling its contractual obligations may be subject to this exemption.

ARTICLE XXXIV – RECORD RETENTION

Pursuant to N.J.A.C. 17:44-2.2, the Contractor shall maintain all documentation related to products, transactions or services under this contract for a period of five (5) years from the date of final payment. Such records shall be made available to the New Jersey Office of the State Comptroller upon request.

ARTICLE XXXV – THE WORKER & COMMUNITY RIGHT TO KNOW ACT

The provision of N.J.S.A. 34:5A-1 et seq., which requires the labeling of all containers of hazardous substances are applicable to this contract. Therefore, all goods offered for purchase or utilized by the Contractor in its performance of services must be labeled in compliance with the provisions of the Act.

ARTICLE XXXVI - STANDARDS PROHIBITING CONFLICTS OF INTEREST

The following prohibitions on Contractor activities shall apply to all contracts or purchase agreements made with the Authority, pursuant to Executive Order No. 189 (1988):

a) No vendor shall pay, offer to pay, or agree to pay, either directly or indirectly, any fee, commission, compensation, gift, gratuity, or other thing of value of any kind to any Authority officer or employee, as defined by N.J.S.A. 52:13D-13b and e, in the Authority with which such vendor transacts or offers or proposes to transact business, or to any member of the immediate family, as defined by N.J.S.A. 52:13D-13i, of any such officer or employee, or partnership, firm or corporation with which they are employed or associated, or in which such officer or employee has an interest within the meaning of N.J.S.A. 52:13D-13G;

b) The solicitation of any fee, commission, compensation, gift, gratuity or other thing of value by any Authority officer or employee from any Authority vendor shall be reported in writing forthwith by the vendor to the Attorney General and the Executive commission on Ethical Standards, now known as the State Ethics Commission;

c) No vendor may, directly, or indirectly, undertake any private business, commercial or entrepreneurial relationship with, whether or not pursuant to employment, contract or other agreement, express or implied, or sell any interest in such vendor to, any Authority officer of employee having any duties or responsibilities in connection with the purchase, acquisition or sale of any property or service by or to the Authority thereof, or with any person, firm or entity with which he is employed or associated or in which he has an interest within the meaning of N.J.S.A. 52:13D-13G. Any relationships subject to this provision shall be reported in writing forthwith to the Executive Commission on Ethical Standards, now known as the State Ethics Commission, which may grant a waiver of this restriction upon application of the Authority officer or employee upon a finding that the present or proposed relationship does not present the potential, actuality or appearance of a conflict of interest;

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d) No vendor shall influence, or attempt to influence or cause to be influenced, any Authority officer or employee in his official capacity in any manner which might tend to impair the objectivity or independence of judgment of said officer or employee;

e) No vendor shall cause or influence, or attempt to cause or influence, any Authority officer or employee to use, or attempt to use, his official position to secure unwarranted privileges or advantages for the vendor or any other person; and

f) the provisions cited above in a through e shall not be construed to prohibit an Authority officer or employee from receiving gifts from or contracting with vendors under the same terms and conditions as are offered or made available to members of the general public promulgate under paragraph c.

ARTICLE XXXVII – USE TAX COLLECTION

The Contractor or subcontractor and each of their affiliates shall collect and remit to the Director of Division of Taxation in the Department of the Treasury the use tax due on all their sales of tangible personal property delivered into New Jersey.

ARTICLE XXXVIII - SET-OFF FOR STATE TAX

The Contractor is advised that pursuant to N.J.S.A. 54:49-19, effective January 1, 1996, and notwithstanding any provision of the law to the contrary, whenever any taxpayer, partnership or S corporation under contract to provide goods or services or construction projects to the State of New Jersey or its agencies or instrumentalities, including the legislative and judicial branches of State government, is entitled to payment for those goods or services at the same time a taxpayer, partner or shareholder of that entity is indebted for any State tax, the Director of the Division of Taxation shall seek to set off so much of that payment as shall be necessary to satisfy the indebtedness. The amount set-off shall not allow for the deduction of any expense or other deductions which might be attributable to the taxpayer, partner, or shareholder subject to set-off under this Act.

The Director of the Division of Taxation shall give notice of the set-off to the taxpayer, partner or shareholder and provide an opportunity for a hearing within 30 days of such notice under the procedures for protests established under R.S. 54:49-18. No request for conference, protest, or subsequent appeal to the Tax Court from any protest shall stay the collection of the indebtedness. Interest that may be payable by the State, pursuant to P.L. 1987, c. 184 (c. 52:32-32 et seq.) to the taxpayer shall be stayed.

ARTICLE XXXIX - DEBARMENT

Pursuant to state law any natural person, company, firm, association, corporation, or other entity prohibited, or “debarred,” from contracting with the federal government agencies, shall also be prohibited from contracting for public work in the state of New Jersey. This prohibition also extends to any affiliate organization(s) held by or subject to the control of an entity of that prohibited person or entity.

Prior to awarding a contract for public work a contracting agency must obtain written certification from the contracting person or entity through the form included with this contract, attesting to their non-debarment from contracting with federal government agencies.

NOT FOR SIGNATURE

The Contractor may be debarred, suspended, or disqualified from this Contract if the Contractor commits any of the acts listed in N.J.A.C. 7:1D-2.2.

ARTICLE XL – DISPUTES

Contractor shall carry on the work and maintain the progress schedule during all disputes or disagreements with the Authority. No work shall be delayed or postponed pending resolution of any disputes or disagreements, except as Contractor and Authority may otherwise agree in writing or except as pursuant to Article IX entitled 'Delays'.

Unless otherwise provided in the Contract, all claims, disputes and other matters in question between the Authority and the Contractor arising out of, or relating to, this Contract or the breach of it will proceed as follows:

A) The Contractor must submit all requests for extra time and compensation, claims, and disputes to the Executive Director of the Authority within a reasonable timeframe pursuant to Article XXIV entitled 'Changes and Extra Work'.

B) The Contractor shall initially submit any questions, concerns, disputes, claims and requests to the Project Engineer or Chief Engineer of the Authority.

C) Failing informal resolution through the Project Engineer and Chief Engineer, the Contractor shall submit the matter to the Executive Director for informal administrative proceedings.

D) The conduct of any informal resolution or administrative proceeding shall not stay the operation of the statute of limitation for claims contained in the Contractual Liability Act N.J.S.A. 59:13-5.

E) In the event that any claim or dispute arises during the performance of the Contract, the Contractor shall, unless otherwise ordered by the Authority, continue to perform the Contract and any Change Orders pending final resolution of the claim or dispute.

Decisions on disagreement shall proceed as follows:

The Chief Engineer will be the initial interpreter of the requirements of the Contract Documents and judge the acceptability of the Work thereunder. Claims and disputes between the Contractor and the Authority relating to the acceptability of the Work or the interpretation of the requirements of the Contract Documents pertaining to the execution and progress of the Work shall be referred initially to the Chief Engineer in writing with a request for a formal decision in accordance with this paragraph, which the Executive Director will render in writing within a reasonable time. Written notice of each such claim or dispute shall be delivered by the claimant to the Chief Engineer within a reasonable time of the occurrence of the event giving rise thereto and written supporting data will be submitted to the Chief Engineer within further reasonable time of such occurrence unless the Chief Engineer allows additional time to ascertain more accurate data. In their capacity as interpreter and judge, the Chief Engineer and Executive Director will not show partiality and will exercise good faith when acting in such capacity.

NOT FOR SIGNATURE

ARTICLE XLI – BUY AMERICAN

The Contractor is advised that pursuant to N.J.S.A. 52:32-1, if manufactured or farm products will be provided under this contract, they shall be manufactured or produced in the United States whenever available, and the Contractor shall be required to so certify.

ARTICLE XLII - EFFECTIVE DATE OF CONTRACT

The contract time will commence to run on the date indicated in the Notice to Proceed. If no Notice to Proceed is given, contract time will commence to run on the thirtieth (30th) calendar day after the contract has been signed by both the Authority and the Contractor. A Notice to Proceed may be given at any time within thirty (30) calendar days after both parties have signed the Contract.

ARTICLE XLIII - ENTIRE CONTRACT

Provisions contained herein or incorporated herein by reference constitute the entire contract and supersede all previous written communications between the parties hereto with respect to the subject matter hereof.

It is the intent of the Technical Specifications and Drawings to describe a complete Project (or part thereof) to be constructed in accordance with the Contract Documents. Any work that may reasonably be inferred from the Technical Specifications and/or Drawings as being required to produce the intended result shall be supplied whether or not it is specifically called for, at no additional cost to the Authority.

NOT FOR SIGNATURE

Contract No. WSA C27003

IN WITNESS WHEREOF, the New Jersey Water Supply Authority and «Company_Name» have caused this contract to be executed by their duly authorized officers or representatives as of the day and year first written above.

NEW JERSEY WATER SUPPLY AUTHORITY

By: _____
Marc Brooks, Executive Director
Dated: _____

«Company_Name»

By: _____

Name Typed: _____

Title: _____

Dated: _____

Reviewed and Approved As to Form:

Jennifer Davenport

Attorney General for the State of New Jersey

By: _____
Jonathan Allen
Deputy Attorney General

NOT FOR SIGNATURE