

INVITATION TO BID

**Project Name: Lift Station Rehabilitation
Continuing Construction Contract 2020
WUD Project No: 20-009R**

Sealed Bids containing all the required Bid Documents will be received by the Board of County Commissioners, Palm Beach County, Florida, until **2:00 PM** on **May 20, 2020**, at the Palm Beach County Water Utilities Department, Administration Building (1st Floor Reception Desk) located at 8100 Forest Hill Boulevard, West Palm Beach, Florida. The Bid Documents received by this time will be opened the same day, **May 20, 2020**, in accordance with the Invitation to Bid and Instructions to Bidders, at or after **2:00 PM** in the Administration Building, Conference Room (Room 158).

The bids will be for furnishing all materials, labor, supervision, equipment, supplies, fees, expertise, and services necessary for the rehabilitation of wastewater submersible lift stations, including but not limited to, wetwell, valve vault and manhole repairs/replacements, emergency by-pass, force main and gravity sewer installation, force main tie-ins, gate and check valve replacements, water service line installation, control panel/RTU installation/replacement, electrical conduit installation, concrete wetwell and valve vault top slab replacement, concrete pad installation, fencing, force main grouting and abandonment, gravity sewer point repairs, road/driveway pavement restoration and force main line stop installation (refer to Schedule of Bid Prices in the contract documents for additional items). The contract is for a three year (36-month) term. The contract will be awarded to the lowest responsive and responsible bidder.

All conditions and requirements for bid submission, consideration, and award are contained in the Bid Documents. The Bid Documents will be available to download free of charge beginning April 21, 2020. Please visit Palm Beach County's Vendor Self Service page to access the Bid Documents: <https://pbcvssp.co.palm-beach.fl.us/webapp/vssp/AllSelfService>. If you have not registered with Palm Beach County's Vendor Self-Service, please register and select the appropriate commodity code(s). This will allow the County to notify you of upcoming solicitations. In addition, there may be certain documents necessary for submittal of a bid which are exempt from public disclosure. Bidders shall download and submit a Plan Holder Registration form (Bid Document attachment) to access these exempt documents. Registered Plan Holders will automatically receive notification of addenda and project updates.

The Bid Documents also may be obtained from Palm Beach County Water Utilities Department, 8100 Forest Hill Blvd., West Palm Beach, FL 33413 (hmelendez@pbcwater.com). A non-refundable service charge of \$100.00 per set of Bid Documents is required. Checks are to be made payable to "Palm Beach County Water Utilities Department." Partial sets will not be available. Bidders requiring Bid Documents mailed must provide an express mail account number to the PBCWUD Engineering Division. The bill will be charged to the recipient's account.

Bid Documents may also be examined at the following plan houses:

ConstructConnect (800) 364-2059
Dodge Data & Analytics, LLC (800) 393-6343
Construction Journal, Stuart (800) 785-5165

When Bid Documents are obtained through a plan house, Bidders must notify the Palm Beach County Water Utilities Department's Project Manager via e-mail in order to be registered to receive project addendums and communications.

Pursuant to the Palm Beach County Code Section 2-80.20 – 2-80.40, the Equal Business Opportunity (EBO) Ordinance, the County will provide contracting and subcontracting opportunities for S/M/WBEs. The following Affirmative Procurement Initiatives (APIs) apply to this project:

The SBE subcontracting goal for this project is a mandatory minimum of 20% participation. See EBO Ordinance Section 2-80.27(1)(c), of which 3% shall be among certified African American and/or Hispanic American owned firms, See EBO Ordinance Section 2-80.27(2)(b).

Explanation of goal setting committee's reasons for applying this API: The goal setting committee's reason for applying this particular API to this project was that the most recent data on the utilization of the foregoing MBEs indicates that contracts of this type have exhibited significant disparities in the utilization of these MBEs.

When a mandatory SBE or M/WBE goal applies to this solicitation, then any bid that fails to comply with the required goal shall be deemed non-responsive after the period allowed for waiver requests has lapsed. If a bidder is unable to comply with a required goal, such bidder shall submit a request for a waiver or partial waiver at least 7 days prior to the bid due date. If a bidder requests a waiver from a goal from the Office of EBO at least 7 days prior to the bid due date, then the bid due date will be extended pending the outcome of a waiver request. Additionally, if the waiver is granted the solicitation will be amended accordingly and the due date extended again. Fillable pdfs of all EBO forms can be found on the OEBO website at <http://discover.pbcgov.org/oebo/Pages/Compliance-Programs.aspx>. Also, see the EBO Ordinance and Countywide PPM CW-O-043 for further information on the County's EBO Program.

At the time of bid submission each bidder, and all identified subcontractors, must be properly certified and licensed in the State of Florida and/or Palm Beach County, as applicable, for the purpose of performing the specified work.

Bid proposals must be submitted on the forms provided by Palm Beach County and accompanied by a bid bond security in the form of a certified check, cashier's check, money order or a bid bond in favor of Palm Beach County in the amount of not less than five percent (5%) of the bid price. A public construction bond (100%) will be required of the successful bidder within 14 calendar days of notification from County. All bid documents must be submitted in sealed envelopes as described in the INSTRUCTIONS TO BIDDERS.

Bidders are invited to attend a non-mandatory pre-bid conference to be held on **May 6, 2020, at 11:00 AM**, at the address listed below. A site visit will be scheduled at the conclusion of this conference. Attendance at this pre-bid conference is recommended and encouraged.

Palm Beach County
Water Utilities Administration Building
8100 Forest Hill Blvd., Room 158
West Palm Beach, FL 33413

In accordance with F.S. 287.133 (2) (a), persons and affiliates who have been placed on the convicted vendor list may not submit bids, contract with, or perform work (as a contractor, supplier, subcontractor or consultant) with any public entity (i.e. Palm Beach County) in excess of Ten Thousand dollars (or such other amount as may be hereafter established by the Florida Division of Purchasing in accordance with F.S. 287.017) for a period of 36 months from the date of being placed on the convicted vendor list.

The Board of County Commissioners reserves the right to waive any bid irregularities, informalities, or technical deficiencies and to reject any and all bids.

END OF SECTION

PALM BEACH COUNTY
INSTRUCTIONS TO BIDDERS
WUD Project No.: 20-009R

SECTION DESCRIPTIONS

1. DEFINITIONS
2. LICENSES, BUSINESS TAX RECEIPTS, POLICY REGARDING SUBCONTRACTORS
3. BIDDER'S REPRESENTATIONS
4. BIDDING DOCUMENTS
5. BIDDING PROCEDURE
 - 5.3 EQUAL BUSINESS OPPORTUNITY PROGRAM
6. CONSIDERATION OF BIDS AND AWARD OF CONTRACT
7. TIME
8. VOLUNTARY PARTNERING
9. PUBLIC BID DISCLOSURE COMPLIANCE
10. CONSTRUCTION INCENTIVE PROGRAM
11. LIQUIDATED DAMAGES
12. LOBBYIST REGISTRATION ORDINANCE - CONE OF SILENCE
13. LIVING WAGE ORDINANCE
14. CRIMINAL HISTORY RECORDS CHECK ORDINANCE
15. DEPARTMENT SPECIFIC INSTRUCTIONS
16. PALM BEACH COUNTY OFFICE OF THE INSPECTOR GENERAL
17. NOTIFICATIONS

1.0 Definitions

1.1 Addenda are written or graphic instruments issued by the County via the Department prior to the submission of bids which modify or interpret the bidding documents by additions, deletions, clarifications, or corrections or other type of modifications. Addenda will become part of the Contract Documents when the Contract is executed. Bidders, upon receiving addenda, shall insert same into the Bidding documents and are required to acknowledge receipt of all addenda on the Bid Form.

1.2 A Bid Alternate Item is an amount stated in the Bid to be added to or deducted from the amount of the Base Bid if the corresponding change in the work, as described in the Bidding Documents, is accepted by the County.

1.3 The Base Bid is the sum stated in the Bid for which the Bidder offers to perform the work described in the Bidding Documents as the base, to which work may be added or from which work may be deducted for sums stated in Alternate Bid Items.

1.4 A Bid is a complete and properly signed offer to do the work or designated portion thereof, for the sums stipulated therein, submitted in accordance with the Bidding Documents. When combined with the completed, signed, sealed Attachments and required information, also referred to as Sealed Bid.

1.5 Bid Schedule – The Bidder's cost proposal for Work items.

1.6 The term Bidder means one who submits a Bid directly to the County, as distinguished from a sub-bidder who submits a bid to a Bidder.

1.7 Bid Documents or Bidding Documents include the Invitation to Bid, Instructions to Bidders, the Bid Form and Attachments, Bid Bond and Forms, the Contract conditions (General, Supplemental, and Special, if included), technical specifications, drawings, exhibits thereto and any Addenda issued prior to the date designated for receipt of bids.

1.8 The Contract Documents for bidding and execution of the awarded Work consist of the following:

1. Bidding Requirements - Invitation to Bid, Instructions to Bidders, Bid Form and Attachments, and Bid Bond
2. Contract Forms - Contract, Public Construction Bond, and Form of Guarantee
3. Contract Conditions - General Conditions, Supplemental Conditions, and Special Conditions, if included.
4. Appendices
5. Technical Specifications
6. Addenda
7. Drawings/Plans
8. Permits

9. Sealed Bid
10. Amendment(s), Work Supplement(s), Work Directive(s)
11. Required Contractor Submittals related to the Work

1.9 The term **Contractor** shall mean the person or entity who is the successful bidder and who executes a contract with Palm Beach County and who is identified in the Contract and is referred to throughout the Contract Documents. Contractor may mean the Contractor or his authorized representative, as the contract context requires.

1.10 The term **County or Owner** shall mean the Board of County Commissioners of Palm Beach County, Florida.

1.11 The term **Day or Days** shall mean a calendar day or calendar days. A calendar day begins at 12:00:00 midnight and ends 24 hours later at 11:59:59 p.m.

1.12 The term **Department** shall mean the Palm Beach County Water Utilities Department, 8100 Forest Hill Boulevard, West Palm Beach, FL 33413, Telephone No. (561) 493-6000.

1.13 **Front-end Loading** – This occurs when a Bidder submits a relatively high price on items which are normally completed, or substantially completed, in the early phases of the Work.

1.14 **Invitation for Bid (IFB)** – A competitive bid process advertised by the County requesting sealed Bids from bidders for a project with detailed specifications. A formal Bid opening is scheduled.

1.15 **Local Preference** - In accordance with the Palm Beach County Local Preference Ordinance, as amended, preference shall be given to: (1) those bidders having a permanent place of business in Palm Beach County ("County"); and, (2) those bidders having a permanent place of business in the Glades providing goods or services to be utilized in the Glades. To receive a local preference, bidders must have a permanent place of business in the County or in the Glades, as applicable, prior to the County's issuance of any solicitation.

1.16 A **Lump Sum and Unit Price Bid** is the sum stated in the Bid for which the Bidder offers to perform the work described in the Bidding Documents containing lump sum and unit price work items. For the purpose of determining the Base Bid amount on a Lump Sum and Unit Price Bid, the unit price costs multiplied by the estimated quantities contained in the Bidding Documents and the lump sum shall be added together.

1.17 **Palm Beach County** is a political subdivision of the State of Florida, as represented by its Board of County Commissioners (hereinafter called "County"). Where the word "approval" is mentioned, "approval" shall mean action by the Board of County Commissioners, or designated representative.

1.18 **S/M/WBE** -- Small, Minority and Women Owned businesses are defined consistent with the requirements of the County's Equal Business Opportunity Ordinance Section 2-80.20-Section 2-80.40 Palm Beach County Code.

1.19 **Unbalanced Bid Item** – Bid items in which the lump sum or unit prices are not in line with industry standards or averages for the items. For a Bid to be balanced, each item must carry its proportionate share of direct cost, overhead and profit.

1.20 The term **Work** as used herein refers to the construction and services required by the Contract Documents and include all labor, materials, equipment, and services provided by the Contractor to fulfill the Contractor's obligations.

1.21 **Work Authorization** is a document which, when executed by the County and Contractor, becomes a part of the Contract Documents and specifies the scope of work, duration, total price, liquidated damages, and schedule for a specific project to be constructed by Contractor in accordance with the terms of the contract document.

2.0 **Licenses, Business Tax Receipts, Policy Regarding Subcontractors**

2.1 Bidders and their proposed subcontractors of any tier regulated by the Florida Construction Industry Licensing Board or the Construction Industry Licensing Board of Palm Beach County shall be properly qualified and licensed/certified by the appropriate Board or Boards as required by Florida Statute Chapter 489, or Special Act, Laws of Florida Chapter 67-1876 prior to the time of submission of the bid. State of Florida Contractor's Registration/License or numbers or Palm Beach County Certificate Numbers must be listed at the applicable places on the Bid Form. Any bid, which is submitted by a contractor who fails to comply with this section at the time the bid is submitted, or which lists a subcontractor who is not in compliance with this section at the time the bid is submitted, shall be rejected as non-responsive.

2.2 The Contractor, subcontractors of any tier, and specialty contractors must have a valid Palm Beach County business tax receipt at the time of bid submission, except where provisions of F.S. 205.065 apply.

2.3 It is Palm Beach County's policy to discourage contractors from seeking new subcontractor or supplier pricing after the opening of bids of a County contract, which practice is sometimes known as bid or subcontractor shopping. In order to facilitate this policy, Bidders are required to identify, in the Bid Documents, the major subcontractors which Bidder, as the contractor, intends to use to perform the contract.

2.3.1 No Contractor, having been awarded any contract based upon the Contractor's response to an invitation to bid, request for proposal, request for qualifications, or other solicitation for competitive selection wherein the Contractor listed the subcontractors which the Contractor intended to use in performing such contract, shall replace any subcontractor listed in the Contractor's response to such request without having first demonstrated good cause, acceptable to the County in its sole discretion. The replacement of any S/M/WBE subcontractor shall also conform to the requirements of the County's EBO Ordinance and paragraph 5.3.10 of these Instructions to Bidders."

2.3.2 No Contractor, having been awarded any contract based upon the Contractor's response to an invitation to bid, request for proposal, request for qualifications, or other solicitation for competitive selection wherein the Contractor listed the elements of work which the Contractor intended to perform with its own forces, shall perform such work with a subcontractor without having first demonstrated good cause, acceptable to the County in its sole discretion, for utilizing such subcontractor.

2.3.3 Contractor agrees that neither the County's acceptance nor rejection of the Contractor's request to replace or add any subcontractor shall give rise to any liability of any kind on the part of the County.

2.3.4 No bidder, including subcontractors, will be considered responsible if it had recently failed to satisfactorily carry out any previous contract with Palm Beach County. Contractor shall not employ any Subcontractor, Supplier or other person or organization, whether initially or as a substitute, against whom County or Engineer may have reasonable objection.

3.0 Bidder's Representations

3.1 Each Bidder by making its Bid represents that:

3.1.1 Bidder has satisfied itself, by personal examination of the location of the proposed Work and by thorough examination of the Bid Documents, that Bidder understands all requirements of the Work. In addition, Bidder has, to the extent Bidder determined to be necessary, satisfied itself regarding the accuracy of the estimate of the quantities of the Work to be done; and shall not at any time after the submission of a Bid dispute or complain of such estimate nor the nature or amount of Work to be performed. Bidder is familiar with, and certifies that all work shall comply with all Federal, State and Local laws, ordinances, rules and regulations that in any way affect the cost, progress or performance of the Work. Failure of a Bidder to be familiar with applicable laws, ordinances, rules and regulations will in no way relieve Bidder from the responsibility of complying with the applicable laws, ordinances, rules and regulations.

3.1.2 The County will make copies of such reports and drawings that are referenced in the Bid Documents available to any Bidder on request. Those reports and drawings are not part of the Contract Documents, but the Bidder is entitled to review the technical data contained therein for general information purposes only. County does not represent that the conditions reflected in such reports and drawings are the conditions which contractor will experience, but are based on best information available to the County.

3.1.3 Bidder assumes responsibility for having determined to its satisfaction, prior to the submission of its Bid, the conformation of the ground, the character and quality of the substrata, the types and quantity of materials to be encountered, the nature of the groundwater conditions, the character of equipment and facilities needed preliminary to and during the execution of the Work, the general and local conditions and all other matters which can in any way affect the Work of this Project. The prices established for the Work to be done will reflect all costs pertaining to the Work.

3.1.4 By submission of its Bid, each Bidder affirms that it has, at its own expense, performed any additional examinations, investigations, explorations, tests, or studies and obtained any additional information and data which pertain to the physical conditions (surface, subsurface and underground utilities) at or contiguous to the Site or otherwise, prior to Bidding which may affect the cost, progress or performance of the Work and which the Bidder deems necessary to determine its Bid for performing the Work in accordance with the time, price, and other terms and conditions of the Bid Documents and/or it has satisfied itself with respect to such conditions and it shall make no claims against the County or the Engineer if on carrying out the Work it finds that the actual conditions do not conform to those indicated.

3.1.5 On request, the County will provide each Bidder access to the Site to conduct such investigations and tests, as each Bidder deems necessary for submission of its Bid. Bidder shall schedule such access in advance with the County by contacting the Department. Upon completion of such additional field investigations and tests, each Bidder shall completely restore disturbed areas to a condition equal to or better than the conditions which existed prior to performance of the additional field investigations and tests.

3.1.6 The lands upon which the Work is to be performed, rights-of-way, and easements for access thereto and other lands designated for use by the Contractor in performing the Work are identified in the Bid Documents. All additional lands and access thereto required for temporary construction facilities or storage of materials, equipment and supplies are to be provided by the Contractor. Easements for permanent structures or permanent changes in existing structures are to be obtained and paid for by the County, unless otherwise provided in the Contract Documents.

3.1.7 The submission of a Bid will constitute an incontrovertible representation by the Bidder that the Bidder has complied with every requirement of these Instructions to Bidders, that, without exception, the Bid is premised upon performing the Work required by the Bid Documents and that such means, methods, techniques, sequences, or procedures of construction as may be indicated in or required by the Bid Documents are sufficient in scope and detail to indicate and convey an understanding of all terms and conditions for performance of the Work.

3.1.8 The Bidder shall not be entitled to any additional compensation or time extensions based upon alleged differing conditions that in the opinion of the Engineer and/or the County should have been reasonably anticipated by the Bidder.

3.1.9 The Bidder understands and agrees that the quantities of work or material stated in unit price items are supplied only to give an indication of the general scope of the Work and the County does not expressly or by implication agree that the actual quantity of the Work or material will correspond therewith. The County reserves the right after award to increase or decrease the quantity of any unit price item of the bid quantity, without a change in the unit price, and reserves the right to delete any bid item, in its entirety, or to add additional bid items up to and including an aggregate total amount not to exceed fifteen percent (15%) of the contract price.

3.1.10 Scrutinized Companies

As provided in F.S. 287.135, by entering into this Contract or performing any work in furtherance hereof, the CONTRACTOR certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the Scrutinized Companies that boycott Israel List, or is engaged in a boycott of Israel, pursuant to F.S. 215.4725.

When contract value is greater than \$1 million: As provided in F.S. 287.135, by entering into this Contract or performing any work in furtherance hereof, the CONTRACTOR certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the Scrutinized Companies With Activities in Sudan List or Scrutinized Companies With Activities in The Iran Petroleum Energy Sector List created pursuant to F.S. 215.473 or is engaged in business operations in Cuba or Syria.

If the County determines, using credible information available to the public, that a false certification has been submitted by CONTRACTOR, this Contract may be terminated and a civil penalty equal to the greater of \$2 million or twice the amount of this Contract shall be imposed, pursuant to F.S. 287.135. Said certification must also be submitted at the time of Contract renewal, if applicable.

3.2 As provided in Florida Statute 287.133(2)(a) 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 bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in FF.S. 287.017 for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list. By entering into this contract or performing any work in furtherance hereof, the contractor certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the 36 months immediately preceding the date hereof. This notice is required by F.S. 287.133 (3) (a).

3.3 The undersigned does hereby declare that it is the only person or persons interested in said Bid; that it is a genuine Bid not made in the interest of or on behalf of any undisclosed person, firm or corporation and is not submitted in conformity with any agreement or rules of any group, association, organization or corporation; that it is made without any connection with any person submitting another Bid for the same Contract; that this Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid; that the Bid is in all respects fair and without collusion, fraud, or mental reservations; that no official of the County or any person in the employ of the County is directly or indirectly interested in said Bid or in the supplies of Work to which it relates, or in any portion of the profits thereof; and that Bidder has not sought by collusion to obtain for itself any advantage over any other Bidder or over the County.

3.4 Local Preference

3.4.1. In accordance with the Palm Beach County Local Preference Ordinance (Sec. 2-80.44), a preference will be given to Bidders having a permanent place of business in Palm Beach County. Local preference means that if the lowest responsive, responsible Bidder is a regional or non-local business, then all bids received from responsive, responsible local Bidders are decreased by 5%, to a maximum of \$100,000 difference. The original bid amount is not changed; the 5% decrease is calculated only for the purposes of determining local preference.

3.4.1.1 Glades Local Preference (Sec. 2-80.44.1): in addition, if the project is located in the Glades area as defined in the Ordinance, a preference will be given to Bidders having a permanent place of business in the Glades area or to a local bidder who utilizes a Glades subcontractor(s) by a minimum of 15% of the total bid price. This preference takes precedence over the preference in Paragraph 3.4.1. If the lowest responsive, responsible Bidder is a non-Glades business, then all bids received from responsive, responsible Glades Bidders are decreased by 5%, to a maximum of \$100,000 difference. If the lowest responsive, responsible Bidder is a non-Glades business, then all bids received from responsive, responsible non-Glades, local Bidders that utilize Glades subcontractors for a minimum of 15% are decreased by 3%, and for a minimum of 30% are decreased by 4%, to a maximum of \$100,000 difference. The original bid amount is not changed; the decrease is calculated only for the purposes of determining the Glades local preference.

3.4.2. To receive a local preference, a business must have a permanent place of business in existence prior to the County's Issuance of this Invitation for Bid. A permanent place of business means that the business' headquarters is located in Palm Beach County or for the Glades preference in the Glades area; or, the business has a permanent office or other site in Palm Beach County or Glades area where the business will produce a substantial portion of the goods or services to be purchased.

3.4.3 A valid business tax receipt issued by the Palm Beach County Tax Collector will be used to verify that the business had a permanent place of business prior to the issuance of this Invitation for Bid. The name and address on the business tax receipt must be the same name and address that is included in the bid submitted to Palm Beach County. A Palm Beach County business tax receipt is required unless specifically exempted by law. In lieu of a Palm Beach County business tax receipt, the business' current business tax receipt issued to the business should be included in the response.

3.4.4 The Bidder must submit the attached Certification of Business Location and/or "Certification of Business Location – Glades Subcontractor" as applicable along with a copy of the Bidder's/subcontractor's business tax receipt at the time of bid submission. Failure to submit the certification shall cause the Bidder to not receive a local or Glades local preference. Palm Beach County may require a Bidder to provide additional information for clarification purposes at any time prior to the award of the contract.

3.5 A local business or a Glades business or a local business utilizing Glades Contractors receiving a preference under the Palm Beach County Equal Business Opportunity Ordinance and the Equal Business Opportunity Program Policies and Procedures ("EBO Program and EBO PPM") for a particular purchase shall not be eligible to receive a local preference as established under this Local Preference Code for that same purchase. In case of any inconsistency between the provisions of the Local Preference Code and Chapter 2, Article III, Division 2, Part C of this Code and EBO PPM, Chapter 2, Article III, Division 2, Part C of this Code and EBO PPM shall take precedence

3.6 Commercial Non-Discrimination. The Bidder represents and warrants that it will comply with the County's Commercial Nondiscrimination Policy as described in Resolution 2017-1770 as amended. As part of such compliance, the Bidder shall not discriminate on the basis of race, color, national origin, religion, ancestry, sex, age, marital status, familial status, sexual orientation, gender identity or expression, disability, or genetic information in the solicitation, selection, hiring or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall the Bidder retaliate against any person for reporting instances of such discrimination. The Bidder shall provide equal opportunity for subcontractors, vendors and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the County's relevant marketplace in Palm Beach County. The Bidder understands and agrees that a material violation of this clause shall be considered a material breach of any resulting contract and may result in termination of the contract, disqualification or debarment of the Bidder from participating in County contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.

All subcontractor agreements shall include a commercial non-discrimination clause.

3.7 VSS Registration Required. A Bidder must register in the County's Vendor Self Service ("VSS") at <https://pbcvssp.co.palm-beach.fl.us/webapp/vssp/AltSelfService> in order to bid on County contracts. If Bidder intends to use subcontractors, Bidder must also ensure that all subcontractors are registered as vendors in VSS. All subcontractor agreements must include a contractual provision requiring that the subcontractor register in VSS. County will not finalize a contract award until a contractor has certified that the contractor and all of its subcontractors are registered in VSS.

4.0 Bidding Documents

4.1 Copies

4.1.1 Bidders may obtain complete sets of the Bidding Documents by methods as indicated in the Invitation to Bid.

4.1.2 Bidders shall use complete sets of Bidding Documents in preparing Bids; the County assumes no responsibility for errors or misinterpretations resulting from the use of incomplete or illegible sets of Bidding Documents.

4.1.3 The County, by making copies of the Bidding Documents available on the above terms, does so only for the purpose of obtaining Bids on the work and does not confer a license or grant for any other use. All information contained in the Bidding Documents is the sole property of the County and any unauthorized use is prohibited by law.

4.2 Interpretation or Correction of Bidding Documents

4.2.1 Bidders shall promptly notify the County in writing of any ambiguity, inconsistency or error, which is discoverable upon examination of the Bidding Documents or of the site and local conditions.

4.2.2 Bidders requiring clarification or interpretation of the Bidding Documents shall make a written request which shall reach the Department at the name and address listed in the Invitation to Bid at least ten calendar days prior to the date for receipt of Bids. Bidders requesting clarification or interpretation of the Bidding Documents shall supply the Department with all information requested by the Department which the Department requires to issue a clarification or interpretation. A bidder finding discrepancies, errors, and/or omissions or having doubt as to the intent of the technical portions of the Bid Documents, or having questions relative to bidding requirements, bidder qualifications and contract award shall at once notify the Department. The Department, in its sole discretion, shall determine if a clarification or interpretation of the Bidding Documents is required.

4.2.3 Any interpretation, clarification, correction, or change of the Bidding Documents will be made only by Addendum. Written instructions regarding discrepancies, omissions or unclear intents shall be sent to all Bidders who have received bid documents from Palm Beach County. Interpretations, corrections or changes to the Bidding Documents made in any other manner will not be binding, and Bidders shall not rely upon such interpretations, corrections and changes.

4.2.4 Governing Order of Contract Documents - The Contract Documents include various divisions, sections and conditions which are essential parts for the work to be provided by the successful Bidder. A requirement occurring in one is as binding as though occurring in all. They are intended to be complementary and to describe and provide for a complete work. In case of discrepancy, the following precedence will govern the interpretation of the Contract Documents prior to award of the contract.

1. Contract
2. Addenda
3. Instructions to Bidders
4. Special Conditions
5. Supplemental General Conditions
6. General Conditions
7. Technical Specifications/Drawings/Plans
8. Bid Documents

After award, Work Authorizations, Work Supplements, supplemental agreements, and revisions to plans and specifications will take precedence over any of the above. In case of discrepancy among technical specifications, drawings, and plans, the most restrictive requirements shall govern. Detailed plans shall have precedence over general plans. In the event that any conflicts cannot be resolved by reference to this Governing Order of Contract Documents provision, then County shall resolve the conflict in any manner which is acceptable to County and which comports with the overall intent of the Contract Documents.

4.2.5 Whenever reference is made to actions being performed with respect to dates and times set forth in the Invitation to Bid, such reference shall always be interpreted as including, by inference, "or as may be modified by pre-bid addenda".

4.3 Addenda

4.3.1 Addenda will be mailed, delivered, e-mailed, or faxed to all who are known by the Department to have received a complete set of Bidding Documents.

4.3.2 Copies of Addenda will be made available for inspection at the Department where Bidding Documents are on file for that purpose.

4.3.3 No Addenda will be issued later than five work days prior to the date for receipt of Bids except an Addendum withdrawing the request for Bids, one which includes postponement of the date for receipt of Bids, one whose content is limited to the listing of additional approved manufacturers and substitutions, or one which contains minor clarifications or changes.

4.3.4 Prior to submission of its Bid, each Bidder shall ascertain that it has received all Addenda issued. The Bidder shall acknowledge receipt of all addenda by completing the acknowledgment space provided on the Bid Form.

5.0 Bidding Procedure

5.1 Form and Style of Bids

5.1.1 Bids shall be submitted on forms furnished by the County. Changes or additions to the Bid, recapitulations or changes in the work bid upon, alternative proposals, or any other modifications of the Bid Form, Attachments to the Bid Form, or the Bid Documents, which are not specifically called for in the Bid Documents may result in the County's rejection of the bid as non-responsive to the Invitation to Bid.

5.1.2 All blanks on the Bid Form and enclosures to the Bid Form shall be filled in by typed text or manually printed in ink.

5.1.3 In the event there are unit price bid items provided in the Bid Form and the "amount" indicated for a unit price bid item does not equal the product of the unit price and quantity, the unit price shall govern and the amount will be corrected accordingly. In the event there is more than one bid item in the Bid Form and the total indicated therein does not agree with the sum of the prices bid for the individual items, the prices bid on the individual items shall govern and the total for the schedule will be corrected accordingly. Where so indicated by the make-up of the Bid Form, sums shall be expressed in both words and figures, and in case of discrepancy between the two, the amount written in words shall govern.

5.1.4 Any interlineation, alteration or erasure must be initialed, in ink, by the signer of the Bid Form.

5.1.5 All requested Bid Alternate Items shall be bid. If no change in the Base Bid is required, enter "No Change."

5.1.6 The Bidder shall provide on Attachment No. 4 to the Bid Form, the names and license or certificate numbers of major subcontractors who will perform that portion of work which will be performed by subcontractors. A major subcontractor is one that is expected to perform more than 5% of the dollar amount of the bid or as listed on Attachment No. 4 to the bid form by the Engineer.

5.1.7 Each page of the Bid Form and Attachments to the Bid Form shall include, where requested, the legal name of the Bidder. The Bid Form shall also contain a statement whether the Bidder is a sole proprietor, a partnership, a corporation, or some other legal entity, and shall be signed by the person or persons legally authorized to bind the Bidder to a contract.

5.1.8 In the event a Bid is submitted by two or more Bidders as a joint venture, such Bid shall be submitted in strict accordance with all applicable laws of the State of Florida, State Contractor License Law, and Rules and Regulations of the State Contractor's Board. The joint venture and all legal

entities comprising the joint venture shall be jointly and severally liable and shall be required to submit and sign the Bid Form, execute the Bid Bond as listed Principals, and, if awarded the Contract, shall be required to execute the Contract (and any Work Authorizations) and Public Construction Bond as listed Principals and provide insurance evidencing the joint venture and all legal entities as the insured.

5.1.9 No person, firm or corporation shall be allowed to submit, or have an interest in, more than one Bid for the same work unless alternate bids are specifically called for. A person, firm or corporation that has submitted a subbid to a Bidder is not, however, disqualified from submitting a subbid or quoting prices to other Bidders or submitting a prime Bid.

5.1.10 The following forms, together, comprises a Bid and must be submitted at the times identified in 5.4:

BID DOCUMENTS (Due May 20, 2020 by 2:00 PM)

BID FORM	
ATTACHMENT NO. 1	BID BOND
ATTACHMENT NO. 2	OFFICE OF EQUAL BUSINESS OPPORTUNITY - SCHEDULE 1 and SCHEDULE 2
ATTACHMENT NO. 3	CERTIFICATION OF BUSINESS LOCATION
ATTACHMENT NO. 4	LIST OF MAJOR SUBCONTRACTORS
ATTACHMENT NO. 5	TRENCH SAFETY

Omission of any of these attachments from the bid submission, or failure to properly complete any portion of the required forms, or failure to deliver the attachments at or before the times specified in paragraph 5.4 may be cause to reject the entire Bid.

5.2 Bid Security, Project Bonds, Insurance, and Indemnity

5.2.1 Each Bid shall be accompanied by a BID SECURITY (in the form of, at Bidder's option, cashier's check, certified check, money order or Bid Bond in favor of the County) in the amount of at least five percent (5%) of the bid price pledging that the Bidder will within fourteen (14) days after Notification from County, enter into a contract with the County on the terms stated in its Bid and will furnish bonds as described hereunder covering the faithful performance of the Contract and the payment of all obligations arising thereunder. Should the Bidder refuse to enter into such Contract or fail to furnish the required bonds and insurance, the amount of the bid security shall be forfeited to the County as liquidated damages, not as penalty. If a Bidder fails to execute a Contract for the project, the Bidder may be suspended or debarred from bidding on future projects for a period of two (2) years, in accordance with the Palm Beach County Purchasing Ordinance. The County may further pursue any and all remedies available against the Contractor for damages resulting from its failure to enter into a contract.

5.2.2 The bid bond shall be written on the Bid Bond form, included as part of the Bidding Documents, and the attorney-in-fact who executes the bond on behalf of the surety must be licensed to do business in the State of Florida and shall affix to the bond a certified and current copy of his power of attorney. If a bid bond is submitted on a form other than that provided, such submission shall result in the bid being declared non-responsive. Checks and money orders shall be made payable to Palm Beach County Board of County Commissioners.

5.2.3 The County will have the right to retain the bid security of Bidders to whom an award is being, or may be, considered until either (a) the Contract has been executed and the bonds and

insurance have been furnished, or (b) the specified time has elapsed so that Bids may be withdrawn, or (c) all Bids have been rejected.

5.2.4 Bond Requirements

The bond requirements may be waived where permissible under applicable law.

5.2.4.1 The Bidder shall furnish bonds covering the faithful performance of the Contract and the payment of all obligations arising thereunder in such form and amount as the County may prescribe. Bonds may be secured through the Bidder's usual sources provided the Surety must be authorized to do business in the State of Florida.

5.2.4.2 Prior to execution of a Contract, and not later than fourteen (14) calendar days after Notification from County, the successful Bidder shall furnish contract bonds to the Department, on the forms provided in the bidding documents, as follows:

1. Public Construction Bond in the Amount of 100% of the Contract Price.
2. Form of Guarantee

Such Public Construction Bond shall incorporate by reference all of the terms and conditions of the Contract Documents, including but not limited to the Contractor and Surety's obligation for liquidated damages as well as Surety's acknowledgment regarding any and all provisions addressing or regarding "no damages for delay", as provided for in the General Conditions.

5.2.4.3 The Surety Company, in addition to the above requirements, shall be currently listed with the United States Department of Treasury for an amount greater than the contract amount. The Contractor, at the time of his execution of the contract, shall provide, with his Contract Bonds, a copy of the Surety Company's current valid Certificate of Authority issued by the United States Department of the Treasury under SS 31, U.S.C. 9304-9308.

5.2.4.4 The bonds and guarantees shall be written on the forms included in the Contract Documents provided by the Department.

5.2.4.5 The Bidder shall require the attorney-in-fact who executes the required bonds on behalf of the Surety to affix thereto a certified and current copy of his Power of Attorney, reflecting his/her authority as Power of Attorney, which must be valid in the State of Florida.

5.2.4.6 As soon as possible after award of the Work Authorization, successful bidder shall deliver to County a certified copy of the recorded Public Construction Bond or, when applicable, the recorded Payment and Performance bonds. **No payment will be made for work performed under any Work Authorization until a certified copy of the appropriate bond(s) has been delivered to County.**

5.2.5 Insurance Requirements - Prior to execution of a Contract and not later than fourteen (14) calendar days after Notification from County, the successful Bidder shall furnish to the Department certificates of insurance evidencing the existence of current valid, and binding insurance policies for the limits and coverage in accordance with the requirements delineated in the General Conditions, where such insurance is to be provided by Contractor, or as otherwise modified within the Contract Documents, together with a declaration of deductible amounts applicable to each type of insurance provided, acceptable to County.

5.3 Equal Business Opportunity Program.

5.3.1 Policy It is the policy of the Board of County Commissioners of Palm Beach County, Florida, (the Board) that all segments of its business population, including, but not limited to, small, local, minority and women owned businesses, have an equitable opportunity to participate in the County's procurement process, prime contract and subcontract opportunities. To that end, the Board adopted an Equal Business Opportunity Ordinance which is codified in Sections 2-80.20 through 2-80.30 (as may be amended) of the Palm Beach County Code, (EBO Ordinance) which sets forth the County's requirements for the EBO program, and which is incorporated into and made a part of this solicitation. A bidder must comply with the requirements contained in this section for a bidder to be deemed responsive to the solicitation requirements. The provisions of the EBO Ordinance are applicable to this solicitation, and shall have precedence over the provisions of this solicitation in the event of a conflict.

5.3.2 Affirmative Procurement Initiatives (APIs). The APIs approved for this solicitation, including any applicable SBE or MWBE goals, are set out on the Bid Form which is incorporated herein by reference. Any bid that fails to comply with the API requirements stated in this solicitation after the period allowed for waiver requests has lapsed shall be deemed non-responsive.

5.3.3 API Waiver Requests/Good Faith Efforts. If Bidder is unable to comply with the API requirements as set forth in this solicitation, such Bidder shall submit a request for a waiver or partial waiver at least (7) days prior to the bid due date as stated in the solicitation. *If a bidder requests a waiver from an API from the Office of EBO at least 7 days prior to the bid due date, then the bid due date will be extended pending the outcome of a waiver request. Additionally, if the waiver is granted, the solicitation will be amended accordingly and the due date extended again.*

Such waiver request shall include specified documentation that demonstrates satisfactory Good Faith Efforts (as defined below) were undertaken by Bidder to comply with the requirements as described under the selected API. The Good Faith Effort waiver request shall be reviewed by the Office of EBO within seven (7) days of receipt. The bid due date will be extended during this review period. If the Office of EBO determines that adequate Good Faith Efforts have been demonstrated by the Bidder to warrant a partial or total waiver of the API, then the solicitation shall be amended accordingly to reflect the partial or total waiver, and any bids received by the County in the interim shall be returned unopened. The amended solicitation shall then be advertised to all prospective Bidders and the bid due date extended. However, if the Office of EBO determines that the Bidder failed to submit documentation sufficient to demonstrate that Good Faith Efforts were undertaken by the Bidder to support its waiver or partial waiver request, the request for waiver or partial waiver shall be denied, and the solicitation shall remain unchanged. In the event of an adverse waiver or partial waiver request decision, the Bidder shall have the right to request reconsideration of the adverse decision by the Director of the EBO Office, and if still aggrieved, shall be subsequently entitled to the process for an appeal to a Special Master as referenced in Section 2.-80.28 (b) of the EBO Ordinance. The solicitation due date shall be extended pending the EBO Director reconsideration and Special Master appeal process if requested.

Good Faith Efforts means documentation of the Bidder's intent to comply with the applicable APIs, including, but not limited to, the following: (1) documentation as stated in the solicitation reflecting the Bidder's commitment to comply with SBE or MWBE goals as established by the Office of EBO for a particular contract; or (2) documentation of efforts made toward achieving EBO program goals (e.g., solicitations of bids/proposals/qualification statements from all qualified SBE firms or MWBE firms listed in the Office of EBO's directory of certified SBE or MWBE firms; correspondence from qualified SBE or MWBE firms documenting their unavailability to perform SBE or MWBE contracts; documentation of efforts to subdivide work into smaller quantities for subcontracting purposes to enhance opportunities for SBE or MWBE firms; documentation of a Prime Contractor's posting of a bond covering the work of SBE or MWBE subcontractors; documentation of efforts to assist SBE or MWBE firms with obtaining financing, bonding or insurance required by the Bidder; and documentation of consultations with trade associations and consultants that represent the interests of SBE and/or MWBEs in order to identify

qualified and available SBE or M/WBE subcontractors). Scoring of Good Faith Efforts documentation and administrative determinations regarding the adequacy of such Good Faith Efforts is the responsibility of the Office of EBO.

5.3.4 Bid Submission Documentation. S/M/WBE bidders, bidding as prime contractors, are advised that they must complete Schedule 1 listing the Work to be performed by their own workforce as well as the Work to be performed by any subcontractor, including S/M/WBE subcontractors. Failure to include this information on Schedule 1 will result in the participation by the S/M/WBE prime bidders own workforce NOT being counted towards meeting the S/M/WBE goal. This requirement applies even if the S/M/WBE contractor intends to perform 100% of the Work with their own workforce.

All Bidders are required to submit with their bid the appropriate EBO schedules in order to be deemed responsive to this solicitation. EBO documentation to be submitted is as follows:

5.3.4.1 Schedule 1 - List of Proposed Contractor/Consultant and Subcontractor/Subconsultant Participation. A completed Schedule 1 shall list the names of all subcontractors, including S/M/WBE subcontractors, intended to be used in performance of the contract, if awarded. This schedule shall also be used if an S/M/WBE prime bidder is utilizing any subcontractors.

5.3.4.2 Schedule 2 - Letter of Intent. A Schedule 2 for each subcontractor, including each S/M/WBE subcontractor, listed on Schedule 1, shall be completed and executed by the proposed subcontractor. The type of Work to be performed by each subcontractor and the dollar value or percentage shall also be specified. Additional copies may be made as needed. A completed Schedule 2 is a binding agreement between the prime contractor and the subcontractor and should be treated as such.

Completed and submitted EBO forms are incorporated into and made a part of the Contract Documents.

5.3.5 S/M/WBE Certification. Only those firms certified by Palm Beach County at the time of bid opening shall be counted toward the established S/M/WBE goal. Upon receipt of a complete application, **IT TAKES UP TO NINETY (90) DAYS TO BECOME CERTIFIED AS AN S/M/WBE WITH PALM BEACH COUNTY.** It is the responsibility of the bidder to confirm the certification of any proposed S/M/WBE; therefore, it is recommended that bidders visit the on-line S/M/WBE Directory at <http://discover.pbcgov.org/oebo/Pages/Vendor-Directory.aspx> to verify S/M/WBE certification.

5.3.6 Counting S/M/WBE Participation.

Once a firm is determined to be an eligible S/M/WBE according to the Palm Beach County certification procedures, the Prime may count toward its S/M/WBE goals only that portion of the total dollar value of a contract performed by the S/M/WBE.

The Prime may count toward its S/M/WBE goal a portion of the total dollar value of a contract with a joint venture, eligible under the standards for certification, equal to the percentage of the ownership and control of the S/M/WBE partner in the joint venture.

The Prime may count toward its S/M/WBE goal the entire expenditures for materials and equipment purchased by an S/M/WBE subcontractor, provided that the S/M/WBE subcontractor has the responsibility for the installation of the purchased materials and equipment.

The Prime may count the entire expenditure to an S/M/WBE manufacturer (i.e., a supplier/distributor that produces goods from raw materials or substantially alters the goods before resale).

The Prime may count sixty percent (60%) of its expenditure to S/M/WBE suppliers/distributors that are not manufacturers.

The Prime may count toward its S/M/WBE goal second and third tiered S/M/WBE subcontractors, provided that the Prime submits a completed Schedule 2 form for each S/M/WBE subcontractor.

The Prime may only count towards its S/M/WBE goal the goods and services in which the SBE is certified.

A certified S/M/WBE Prime may count toward the established goal the goods and services in which it performs with its own work force. The Prime S/M/WBE shall submit a completed Schedule 1 and 2.

5.3.7 S/M/WBE Participation. Bidder represents and warrants that Bidder will meet the S/M/WBE participation percentages submitted in its bid with the subcontractors contained on Schedules 1 and 2 and at the dollar values specified. Bidder agrees to provide any additional information requested by the County to substantiate participation.

5.3.8 Post Bid Waiver Request. After submission of a bid, if Bidder, through no fault of its own, is unable to meet the S/M/WBE participation specified in its bid, then Bidder must immediately seek substitute S/M/WBEs to fulfill the requirements and obtain the approval of the EBO Director. If, after reasonable Good Faith Efforts, the Bidder is unable to find an acceptable substitute S/M/WBE, a post-bid opening waiver may be requested. The request shall document the reasons for the Bidder's inability to meet the goal requirement. In the event the Bidder is found not to have performed Good Faith Efforts in its attempt to find a suitable substitute for the initial S/M/WBE proposed utilization, one (1) or more of the penalties and sanctions as set forth in Section 5.3.12 herein may be imposed by the EBO Office.

5.3.9 Responsibilities after Contract Award. The successful Bidder shall submit the following forms with each pay application:

5.3.9.1 Schedule 3 – S/M/WBE Activity Form. This form shall be submitted by the prime contractor with each payment application when S/M/WBE subcontractors are utilized in the performance of the contract. This form shall contain the names of all S/M/WBE subcontractors, specify the subcontracted dollar amount for each subcontractor approved change orders, revised S/M/WBE contract amount, amount drawn this period, amount drawn to date, and payments to date issued to subcontractors. This form is intended to be utilized on all non-professional services contracts.

5.3.9.2 Schedule 4 – Subcontractor Payment Certification, Including S/M/WBEs. A Schedule 4 for each subcontractor, including each S/M/WBE, shall be completed and signed by each subcontractor, including each S/M/WBE, after receipt of payment from the prime. The prime shall submit this Schedule 4 with each payment application submitted to the County to document payment issued to a subcontractor in the performance of the Contract.

The successful bidder shall submit an S/M/WBE Activity Form (Schedule 3) and Subcontractor Payment Certification Forms (Schedule 4) with each payment application. Failure to provide these forms may result in a delay in processing payment or disapproval of the Invoice until they are submitted. The S/M/WBE Activity Form (Schedule 3) is to be filled out by the Prime Contractor and the Subcontractor Payment Certification Form (Schedule 4) is to be executed by each subcontractor to verify receipt of payment.

Upon letter notification by the County that the payment tracking system is automated, the prime contractor is required to input all subcontractor payment information directly into the County's contract information system prior to submitting a payment application.

5.3.10 S/M/WBE Substitutions after Contract Award. After contract award, the successful bidder will only be permitted to replace a certified S/M/WBE subcontractor who is unwilling or unable to perform. Such substitution must be done with other certified S/M/WBEs in order to maintain the S/M/WBE percentages submitted with the bid. Requests for substitutions must be submitted to the Department issuing the bid and the EBO Office for approval. Any desired change in the S/M/WBE participation schedule shall be approved in advance by the Office of EBO and shall indicate the Prime Contractor's Good Faith Efforts to substitute another certified S/M/WBE Subcontractor (as appropriate) to perform the work. Any desired changes (including substitutions or termination and self-performance) must be approved in writing in advance by the Office of EBO. Upon receiving approval of substitution for the S/M/WBE subcontractor, the Prime must submit a completed and signed Schedule 2 by the proposed S/M/WBE subcontractor. Subcontractors shall specify the type of Work to be performed, the cost or percentage shall also be specified. In the event the Prime Contractor is found not to have performed Good Faith Efforts in its attempt to find a suitable a substitute for the initial S/M/WBE proposed utilization, one (1) or more of the penalties and sanctions as set forth in Section 5.3.12 herein may be imposed by the EBO Office.

5.3.11 Change Orders and Modifications. If the County's issuance of an alternate or change order on a project results in changes in the scope of Work to be performed by a S/M/WBE subcontractor listed at bid opening, the Prime must submit a modified, completed and signed Schedule 2 that specifies the revised scope of Work to be performed by the S/M/WBE, along with the price and /or percentage.

5.3.12 EBO Program Compliance, Enforcement, Penalties. Under the EBO Ordinance, the Office of EBO is required to implement and monitor S/M/WBE utilization during the term of any contract resulting from this solicitation. It is the County's policy that S/M/WBEs shall have the maximum feasible opportunity to participate in the performance of County contracts. All Bidders are required to comply with the EBO Ordinance and are expected to comply with the APIs applicable to this solicitation, as well as the S/M/WBE utilization proposed by a Bidder in its Bid, as the utilization plan and APIs are automatically incorporated into and made a material component of any resulting Contract.

All Bidders are required to comply with the EBO Ordinance and are expected to comply with the APIs applicable to this solicitation, as well as the S/M/WBE utilization proposed by a Bidder in its Bid, as the utilization plan and APIs are a material component of any resulting Contract.

The EBO Office and the Department shall have the right to request and review Contractor's books and records to verify Contractor's compliance with the Contract, adherence to the EBO Program and its Bid. The EBO Office and the Department shall have the right to interview subcontractors and workers at the work site to determine Contract compliance. Contractor shall retain all books and records pertaining to this Contract, including, but not limited to, subcontractor payment records, for four (4) years after project completion date, or such longer time as may be required in other provisions of this Contract, and make such records available for inspection in Palm Beach County by the EBO Office and the County at any reasonable time during the four (4) years.

The Director of the Office of EBO or designee may require such reports, information, and documentation from Contractor as are reasonably necessary to determine compliance with the EBO Ordinance requirements. Contractor shall correct all noncompliance issues within 15 calendar days of a written notice of noncompliance by the contracting department or the EBO Office. If the Contractor does not resolve the non-compliance within 15 days of receipt of written notice of non-compliance, then the Director of the Office of EBO or designee may impose upon the non-complying party any or all of the following penalties:

- a. Suspension of contract;
- b. Withholding of funds;
- c. Termination of contract based upon a material breach of contract pertaining to EBO Program compliance;

- d. Suspension or Debarment of a respondent or bidder, contractor or other business entity from eligibility for providing goods or services to the County for a period not to exceed three (3) years; and
- e. Liquidated damages equal to the difference in dollar value of S/M/WBE participation as committed to in the contract, and the dollar value of S/M/WBE participation as actually achieved.

5.4 Timing of Submission of Bid Documents

5.4.1 The following Bid Documents must be submitted by the date and time specified for the submission of bids in the Invitation to Bid. Submission of these documents after the date or time specified in the Invitation for Bid will result in the documents being rejected and returned to the bidder:

1. Bid Form
2. Bid Bond - Attachment No. 1 To Bid Form
3. Office of Equal Business Opportunity – Schedule 1 and Schedule 2 of Attachment No. 2 To Bid Form
4. Certification of Business Location – Attachment No. 3 To Bid Form
5. List of Major Subcontractors - Attachment No. 4 To Bid Form
6. Trench Safety - Attachment No. 5 To Bid Form

5.4.2 The list of S/M/WBE subcontractors to be used on the subject contract must be included with the Bid Documents using Attachment No. 2, OEBO *Schedule 1 – List of Proposed Contractor/Consultant and Subcontractor/Subconsultant Participation* and OEBO *Schedule 2 – Letter of Intent*.

The Bidder shall provide, on Schedule No. 1 of Attachment No. 2 to the Bid Form, the firm name of the proposed Contractor and each subcontractor listed. Receipt of this form by the County does not imply or grant approval for the use of any subcontractor. The Contractor is completely responsible for ensuring that all subcontractors performing work pursuant to this contract are licensed and otherwise qualified.

To be responsive to the SBE requirements a bidder must meet the stated goal.

5.5 Submission of Bids

5.5.1 The Bid Documents (Due May 20, 2020 by 2:00 PM) package shall be enclosed in a sealed opaque envelope addressed as follows:

WUD Project No.: 20-009R
Contractor's Bid Documents for Lift Station Rehabilitation Continuing Construction Contract 2020
Water Utilities Department
Administration Building
8100 Forest Hill Boulevard
West Palm Beach, Florida 33413

No responsibility will be attached to the County for premature opening of or failure to open a bid not properly identified. If the bid is sent by mail, the sealed envelope shall be enclosed in a separate mailing with the notation "SEALED BID ENCLOSED" on the face thereof.

5.5.2 Bids, including those sent by mail, must be received and deposited at the designated location prior to the time and date for receipt of Bids indicated in the Invitation to Bid, or any extension thereof made by Addendum. Bids received after the time and date for receipt of Bids will be returned unopened.

5.5.3 The Bidder shall assume full responsibility for timely delivery at the location designated for receipt of Bids.

5.5.4 Oral, telephonic, fax, e-mail, or telegraphic Bids are invalid and will not receive consideration.

5.6 Modification or Withdrawal of Bid

5.6.1 A Bid may not be modified, withdrawn, or canceled by the Bidder for the period after opening of Bids as stipulated on the Bid Form and each Bidder so agrees in submitting his Bid.

5.6.2 Prior to the time and date designated for submission of the Bid Documents, any Bid submitted may be modified or withdrawn by notice to the party receiving Bids at the place and prior to the time designated for submission of the Bid Documents. Such notice shall be in writing over the signature of the Bidder and received by the Department before the date and time set for submission of the Bid Documents; and it shall be worded so as not to reveal the amount of the original Bid.

5.6.3 Withdrawn Bids may be resubmitted up to the time designated for the submission of the Bid Documents provided that the resubmitted bid is fully in conformance with these Instructions to Bidders.

5.6.4 Bid security shall be in an amount sufficient for the Bid as modified or resubmitted.

6.0 Consideration of Bids and Award of Contract

6.1 Opening of Bids - The Bids received on time will be opened publicly and will be read aloud at the time and location specified.

6.2 Rejection of Bids - The Board of Palm Beach County Commissioners reserves the right to reject any and all Bids, and/or to re-advertise, to waive any irregularities, informalities or technicalities therein, to negotiate Contract terms with the successful Bidder, to disregard all non-conforming, non-responsive, unbalanced or conditional Bids, or to accept any Bid which in the County's sole judgment will best serve the public interest. County reserves the right to cancel the award of any Contract at any time before the execution of said Contract by all parties without any liability against the County. In consideration of the County's evaluation of submitted Bids, the Bidder, by submitting its Bid, expressly waives any claim to damages or legal remedy, of any kind whatsoever, in the event the County exercises its rights provided for in this subsection.

6.3 Award of Contract

6.3.1 Award will be made to the lowest, responsive, responsible Bidder. To be considered responsive, the Bid must conform in all respects to the conditions of the Invitation to Bid, to the Instructions to Bidders, Palm Beach County Code Sections 2-51 through 2-54, as amended and to

Florida law. To demonstrate qualifications to perform the Work, each Bidder must be prepared to submit within two (2) days of the County's request, the Post Bid Information Identified in Appendix B to the General Conditions. Each Bidder must, upon request, provide evidence that, as of the date of execution of the contract, Bidder, and the listed subcontractors, were qualified to do business in the State of Florida and Palm Beach County.

6.3.2 Bid tabulations with recommended awardees, will be posted at the location where bids were opened, for review by interested parties, prior to award by the Board of County Commissioners, and will remain posted for a minimum period of five (5) business days. All bidders will receive a copy of the bid posting by e-mail or fax. Failure to file a protest to the Director of Purchasing during the 5-day period following initial posting shall constitute a waiver of proceedings under Chapter 2, Article II, Section 2-55 of the Palm Beach County Code.

6.3.3 The County of Palm Beach, in accordance with Title VII of the Civil Rights Act of 1964, affirmatively ensures that in any contract entered into pursuant to the Invitation to Bid, any SBE will be afforded full opportunity to submit bids and will not be discriminated against on the grounds of race, color, or national origin in consideration of award.

6.3.4 The dollar amount for award of this Contract shall be the Total Base Bid for the items noted on the Bid Form. Palm Beach County reserves the option to award or re-bid alternates in any sequence or at any time deemed to be in the best interest of the County.

6.3.4.1 The amounts for each bid alternate shall constitute an ongoing and open offer and the prices stated in the bid proposal shall be maintained for a minimum period of one year, or the duration of the contract whichever is shorter. If the County opts to accept an alternate within the time frame identified above but after the time at which such activity fits into the Contractor's approved schedule so as to cause a time or monetary impact, the cost of the alternate can be adjusted accordingly. However, in no instance shall the Contractor be entitled to extend home office overhead costs as a result of the County exercising this option.

6.3.5 Bids which are determined by the County to be unbalanced bids or which contain unbalanced line item pricing when compared to competitor's bids for the same item and standard industry prices, and which significantly deviate from the County's determination of acceptable line item pricing, may be rejected by the County in accordance with established County procedures. The County has a formal, written policy against front end loaded projects. A copy of this policy is available upon request.

6.4 Disqualification of Bidders - Any of the following causes is considered sufficient to disqualify a Bidder, and reject its proposal.

1. Interest by the same person in more than one bid as a bidder.
2. Collusion among or between bidders.
3. Unbalanced bids; that is bids in which the price bid is out of all proportion to the other bids received.
4. Lack of responsibility on the part of the Bidders. (For example, no bidder would be considered responsible if it had recently failed to satisfactorily carry out any previous contract with Palm Beach County).
5. Lack of experience or capital on the part of the Bidder. Evidence of experience, ability, financial standing and machinery available may be required of any bidder.
6. Substantial evidence of bad character or dishonesty.
7. Lack of current applicable certification and/or license for the purpose of performing the specified work.
8. Any cause listed under Section 2-56 of the Palm Beach County Code as amended.

9. History of unsuccessful claims asserted by Bidder against public owners in the State of Florida, such as to establish a trend of improperly asserted claims.
10. An incomplete bid.
11. Using a different bid bond form or incomplete bid surety.
12. Any other cause which, as a matter of law renders the Bid non-responsive or non-responsive.

7.0 Time - Time is of the essence in all contract documents. The successful Bidder, shall enter into a Contract with the County, shall commence the work to be performed under the Contract on the date set by the County in the written notice to proceed, and shall continue the work with due diligence and shall agree to complete the entire work as specified in the Bid Form.

8.0 Voluntary Partnering - The objective of partnering is to establish a partnership charter and action plan between the County and Contractor to identify and achieve reciprocal goals. This partnership will not change the legal relationship of the parties to the Contract nor relieve either party from any of the terms of the Contract. This partnership will be bilateral in make-up and only if participation is desired by the Contractor. Any cost associated with developing this partnership must be agreed to by both parties, in writing and will be shared equally.

If both the County and Contractor agree to partnering, the County's representative and the Contractor's representative will meet and plan a partnering development seminar/team building workshop. At this planning session, arrangements will be made to select a facilitator, determine workshop attendees, and develop an agenda and location. Participants shall include the Architect/Engineer and key project personnel, representatives of the subcontractors, utilities, regulatory agencies and others will be invited. Management personnel consisting of the Director-level head of the Division or Department and a Corporate Officer or other person representing ownership of the Contractor, and of the Architect/Engineer of Record shall also participate in the partnering workshop and its implementation.

Follow-up workshops may be held throughout the duration of the Contract as agreed to by the County and Contractor.

9.0 Public Bid Disclosure Compliance - All fees including, but not limited to, certificate of occupancy permit fees and inspection fees payable by the Contractor to the County by virtue of this project will be waived by the County. Permits and fees which are required by the State of Florida or any state agency or by any other governmental agency are not waived. The requirement that all contractors and subcontractors of any tier be properly licensed or certified is not waived and no fees required to be paid by any contractor or subcontractor related to licensing and certification are being waived. All contractors and subcontractors, identified in the bid documents, who work in trades required to be licensed or certified by the Palm Beach County Construction Industry Licensing Board are required to have such licenses or certificates in place at the time of bid submission.

10.0 Cost Savings Incentive - The Costs Savings Incentive provisions of General Condition 74 are not in effect for this Contract.

11.0 Liquidated Damages - If the Bid Form indicates that liquidated damages apply to this contract then they will be assessed at the rate(s) set forth in the Bid Form. County and Contractor agree that time is of the essence in the performance of this contract and agree that the damages which County will suffer in the event that Contractor finishes this project after the completion dates set forth in this Contract are certain but will be difficult, if not impossible, to quantify. Therefore, Contractor and County agree that the rate(s) set forth on the bid form are a reasonable estimate of the amount of damages which County will suffer in the event Contractor does not timely complete the Contract. Contractor and

County agree that these liquidated damages shall be assessed as damages, as provided in the Contract Documents, and that they are not, and shall never be considered to be, a penalty.

12.0 Lobbyist Registration Ordinance – Cone of Silence.

12.1 The Palm Beach County Lobbyist Registration Ordinance Palm Beach County Code Section 2-351, et seq, is hereinafter referred to in this Section as the Ordinance. The Ordinance includes a "Cone of Silence" provision that prohibits any communication, except written communication, regarding any Competitive Solicitation between:

1. Any Person or Person's representative seeking an award from such competitive solicitation; and
2. Any County Commissioner or Commissioner's staff, or any Employee authorized to act on behalf of the Commission to award a particular contract.

12.2 For the purposes of this Section, a Person's representative shall include but not be limited to the Person's employee, partner, officer, director, consultant, lobbyist, or any actual or potential subcontractor or consultant of the Person.

12.3 The Cone of Silence shall be in effect as of the deadline to submit the proposal, bid, or other response to a competitive solicitation. Each Request for Proposal, Request for Qualification, bid, or any other competitive solicitation shall provide notice of Cone of Silence requirements and refer to this Ordinance.

12.4 The provisions of this Ordinance shall not apply to oral communications at any public proceeding, including pre-bid conferences, oral presentations before selection committees, contract negotiations during any public meeting, presentations made to the Board, and protest hearings. Further, the Cone of Silence shall not apply to contract negotiations between any Employee and the intended awardee, any dispute resolution process following the filing of a protest between the Person filing the protest and any Employee, or any written correspondence at any time with any Employee, County Commissioner, or Advisory Board Member or selection committee member, unless specifically prohibited by the applicable competitive solicitation process.

12.5 The Cone of Silence shall not apply to any purchases made in an amount less than the competitive bid threshold set forth in the Palm Beach County Purchasing Ordinance (Palm Beach County Code Chapter 2, Article III, Division 2, Part A, Section 2.51, et seq.).

12.6 The Cone of Silence shall terminate at the time the Board, or a County Department authorized to act on behalf of the Board, awards or approves a contract, rejects all bids or responses, or otherwise takes action which ends the solicitation process.

13.0 Living Wage Ordinance

13.1 The Palm Beach County Living Wage Ordinance (Ordinance 2003-004) went into effect for all construction contracts issued on or after October 1, 2003. The ordinance requires the County and its construction contractors and subcontractors to pay a living wage of \$12.62 per hour (effective October 1, 2019 through September 30, 2020).

13.2 This ordinance shall apply to all construction contracts exceeding \$100,000 in value that are not subject to the Davis-Bacon Act or any related act or amendments that require Davis-Bacon wage rates.

13.3 The ordinance shall apply to construction related services meaning any service, other than a professional service as defined by the Palm Beach County Purchasing Ordinance, consisting of work or labor performed directly upon the site of work and directly related to construction.

13.4 Before entering into any construction contract, the General Contractor must provide a certificate to the Water Utilities Department stating that if awarded the contract, they will pay each employee no less than the living wage. Subcontractors must provide the certificate to the General Contractor, who shall forward to the Water Utilities Department.

13.5 The contractor shall post a copy of the following statement at the work site in a prominent place where it can easily be seen by the employees: "NOTICE TO EMPLOYEES: If you are employed to provide certain services to Palm Beach County, your employer may be required by Palm Beach County law to pay you at least \$12.62 per hour as of October 1, 2019. If you are not paid this hourly rate, contact your supervisor or lawyer." The preceding statement shall be printed in English, Spanish, and Creole, and shall be printed with black lettering on letter-size, white paper using Times New Roman 14-point font, Courier new 14-point font, or Arial 14-point font. Posting requirements will not be required if the employer attaches a copy of the preceding statement to the employee's first paycheck, and to subsequent paychecks at least every six (6) months thereafter. General Contractors shall forward a copy of the requirements of this ordinance to any person or business submitting a bid for a subcontract.

13.6 Every six (6) months the General Contractor shall certify and file with the Water Utilities Department, certification that all employees who worked on each construction contract during the preceding six (6) month period were paid the living wage in compliance with the ordinance. The Water Utilities Department has the right to request records of living wage pay. Contractors shall maintain records for 3 years.

14.0 Criminal History Records Check Ordinance

14.1 The CONTRACTOR, CONTRACTOR'S employees, or subcontractors of CONTRACTOR and employees of subcontractors shall comply with Palm Beach County Code, Section 2-371 - 2-377, the Palm Beach County Criminal History Records Check Ordinance ("Ordinance"), for unescorted access to critical facilities ("Critical Facilities") or criminal justice information facilities ("CJI Facilities") are required under this contract to enter a "critical facility," as identified in Resolution R-2003-1274, as amended. The CONTRACTOR shall comply with the provisions of Chapter 2, Article IX of the Palm Beach County Code ("Criminal History Records Check" section). The CONTRACTOR acknowledges and agrees that all employees and subcontractors who are to enter a "critical facility" will be subject to a fingerprint based criminal history records check. Although COUNTY agrees to pay for all applicable FDLE/FBI fees required for criminal history record checks, the CONTRACTOR is solely responsible for the financial, schedule, and/or staffing implications associated in complying with this section of the Palm Beach County Code of this Ordinance. Further, the CONTRACTOR acknowledges that its Contract price includes any and all direct or indirect costs associated with compliance with this Ordinance, except for the applicable FDLE/FBI fees that shall be paid by the COUNTY.

14.2 This Contract may include sites and/or buildings which have been designated as either "critical facilities" or "criminal justice information facilities" pursuant to the Ordinance and Resolution R2003-1274, as amended. COUNTY staff representing the COUNTY department will contact the CONTRACTOR(S) and provide specific instructions for meeting the requirements of this Ordinance. Individuals passing the background check will be issued a badge. The CONTRACTOR shall make every effort to collect the badges of its employees and its subcontractors' employees upon conclusion of the contract and return them to the COUNTY. If the CONTRACTOR or its subcontractor(s) terminates an employee who has been issued a badge, the CONTRACTOR must notify the COUNTY within two (2) hours. At the time of termination, the CONTRACTOR shall retrieve the badge and shall return it to the COUNTY in a timely manner.

14.3 The COUNTY reserves the right to suspend the CONTRACTOR if the CONTRACTOR 1) does not comply with the requirements of County Code Section 2-371 - 2-377, as amended; 2) does not

contact the COUNTY regarding a terminated CONTRACTOR employee or subcontractor employee within the stated time; or 3) fails to make a good faith effort in attempting to comply with the badge retrieval policy.

15.0 Department Specific Instructions

15.1 During the course of the Project, Contractor can expect to receive and agrees to execute, when required, certain project related documents in a form substantially similar to those attached as Appendix A to the General Conditions.

15.2 The Department may require the submission of the Post-Bid Information pursuant to section 6.3.1 of these Instructions to Bidders to be submitted in substantially the form attached as Appendix B to the General Conditions. The Department may, in its sole discretion, require more or less information than the information required by Appendix B and Contractor agrees to provide such information as Department may require.

15.3 Bidder acknowledges that Palm Beach County reserves the right to institute, by Work Supplement, a program to take advantage of the sales and use tax exemption for county furnished materials in accordance with the term and conditions of the Special Conditions to the Contract between the parties and agrees to participate in the tax savings program, at no cost to the County, if utilized by the County.

16.0 Palm Beach County Office of the Inspector General

Palm Beach County has established the Office of the Inspector General, Palm Beach County Code, Section 2-421 – 2-440, as may be amended. The Inspector General's authority includes but is not limited to the power to review past, present and proposed County contracts, transactions, accounts and records, to require the production of records, and audit, investigate, monitor, and inspect the activities of the contractor, its officers, agents, employees, and lobbyists in order to ensure compliance with contract specifications and detect corruption and fraud. All contractors and parties doing business with the County and receiving County funds shall fully cooperate with the Inspector General including receiving access to records relating to Bid or any resulting contract.

17.0 Notifications

All bidders are requested to submit a valid email address and fax number for the purposes of receiving notification of bid posting and other pertinent information. The email address and fax number shall be included in the bid form.

END OF SECTION

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