

RESOLUTION NO. 2021- 29

**A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AUTHORIZING THE COUNTY ADMINISTRATOR, OR DESIGNEE, TO AWARD BID NO: 21-01; GROUP 3A MARSH CREEK 2, 3, 4 (PS 74, PS 75, PS 76) LIFT STATION IMPROVEMENTS TO PBM CONSTRUCTORS, INC., AND TO EXECUTE AN AGREEMENT FOR COMPLETION OF THE WORK.**

**RECITALS**

**WHEREAS**, the County desires to enter into a contract with PBM Constructors, Inc., to complete the Group 3A Marsh Creek 2, 3, 4 (PS 74, PS 75, PS 76) Lift Station Improvements; and

**WHEREAS**, the construction of the project requires the contractor to furnish all labor, materials, equipment, and incidentals necessary for improvements to the titled lift stations located in St Augustine, FL. Work will generally include bypass pumping, demolition, relining existing wet wells and manhole, cured-in-place pipe lining, new wet well top and hatch, new submersible pumps, new force main piping, valves, and appurtenances and connection to existing force main, electrical and instrumentation, coordination with FPL electrical utility company, fencing, and site work in accordance all applicable St. Johns County Utility Department (SJCUD) standards, plans and specifications and allowances as provided in the Contract documents; and

**WHEREAS**, through the County's formal Bid process PBM Constructors, Inc., was determined to be the lowest, responsive, responsible bidder to enter into a contract with the County to perform the work referenced above; and

**WHEREAS**, the County has reviewed the terms, provisions, conditions and requirements of the proposed contract (attached hereto, an incorporated herein) and finds that entering into contract to complete the work serves a public purpose; and

**WHEREAS**, the project will be funded by the SJC Utility Department.

**NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA**, as follows:

Section 1. The above Recitals are incorporated by reference into the body of this Resolution and such Recitals are adopted as finds of fact.

Section 2. The County Administrator, or designee, is hereby authorized to award Bid 21-01; Group 3A Marsh Creek 2, 3, 4 (PS 74, PS 75, PS 76) Lift Station Improvements to PBM Constructors, Inc.

Section 3. Upon Board approval, the County Administrator, or designee, is authorized to execute an agreement in substantially the same form and format as the attached draft on behalf of the County to complete the project as specifically provided in Bid 21-01.

Section 4. To the extent that there are typographical and/or administrative errors that do not change the tone, tenor, or concept of this Resolution, then this Resolution may be revised without subsequent approval by the Board of County Commissioners.

**PASSED AND ADOPTED** by the Board of County Commissioners of St. Johns County, Florida, this 19 day of January, 2021.

**BOARD OF COUNTY COMMISSIONERS OF  
ST. JOHNS COUNTY, FLORIDA**

By: Henry Dean  
Henry Dean, Vice Chairman

**ATTEST: CLERK OF THE CIRCUIT COURT  
& COMPTROLLER;** Brandon J. Patty, Clerk  
By: Sam Halter  
Deputy Clerk

**RENDITION DATE** 1/21/21



**AGREEMENT  
BETWEEN OWNER AND CONTRACTOR  
FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)**

THIS AGREEMENT is by and between St. Johns County, Florida ("Owner") a political subdivision of the State of Florida, whose principal offices are located at 500 San Sebastian View, St. Augustine, FL 32084 and PBM Constructors, Inc. ("Contractor") authorized to do business in the State of Florida, whose principal offices are located at PO Box 11089, Jacksonville, FL 32239; Phone: (904)-714-6353; Fax: (904)-714-6354 and E-mail: bmoore@pbmconstructors.com. Owner and Contractor hereby agree as follows:

**Article 1. WORK**

- 1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:
- A. The construction of the Group 3A - Marsh Creek 2, 3, 4 (PS 74, PS 75, PS 76) Lift Station Improvements project requires the contractor to furnish all labor, materials, equipment, and incidentals necessary for improvements to the titled lift stations located in St Augustine, FL. Work will generally include bypass pumping, demolition, relining existing wet wells and manhole, cured-in-place pipe lining, new wet well top and hatch, new submersible pumps, new force main piping, valves, and appurtenances and connection to existing force main, electrical and instrumentation, coordination with FPL electrical utility company, fencing, and site work. All work shall be bid and performed specifically in accordance with the plans and specifications.

**Article 2. PROJECT**

- 2.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows:
- A. Bid No. 21-01; Group 3A - Marsh Creek 2, 3, 4 (PS 74, PS 75, PS 76) Lift Station Improvements, St. Johns County, Florida

**Article 3. ENGINEER**

- 3.01 The Project has been designed by Constantine Engineering, 100 Center Creek Road, Suite 108, Saint Augustine, Florida, 32084.
- 3.02 The Owner has retained Constantine Engineering, 100 Center Creek Road, Suite 108, Saint Augustine, Florida, 32084 ("Engineer") to act as Owner's Representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

**Article 4. CONTRACT TIMES**

- 4.01 Time of the Essence
- A. All time limits for Milestones, if any, Substantial Completion, and completion and

readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

4.02 Contract Times: Days.

- A. The Work will be substantially completed within Two hundred and seventy (270) consecutive days after the date when the Contract Times commence and will run as provided in Paragraph 4.01 of the General Conditions, and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions within Thirty (30) days after Substantial Completion.

4.03 Liquidated Damages

- A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial and other losses if the Work is not completed and Milestones not achieved within the times specified in Paragraph 4.02 above, plus any extensions thereof allowed in accordance with the Contract. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty):

1. Substantial Completion: Contractor shall pay Owner \$1,665.00 for each day that expires after the time (as duly adjusted pursuant to the Contract) specified in Paragraph 4.02.A above for Substantial Completion until the Work is substantially complete.
2. Completion of Remaining Work: After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Time (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner \$1,665.00 for each day that expires after such time until the Work is completed and ready for final payment.
3. Liquidated damages for failing to timely attain Substantial Completion and final completion are not additive and will not be imposed concurrently.

4.04 Special Damages

- A. In addition to the amount provided for liquidated damages, Contractor shall reimburse Owner (1) for any fines or penalties imposed on Owner as a direct result of the Contractor's failure to attain Substantial Completion according to the Contract Times, and (2) for the actual costs reasonably incurred by Owner for engineering, construction observation, inspection, and administrative services needed after the time specified in Paragraph 4.02 for Substantial Completion (as duly adjusted pursuant to the Contract), until the Work is substantially complete
- B. After Contractor achieves Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times, Contractor shall reimburse Owner for the actual costs reasonably incurred by Owner for engineering, construction observation, inspection, and administrative services needed after the time specified in Paragraph 4.02 for Work to be completed and ready for final payment (as duly adjusted pursuant to the Contract), until the Work is completed and ready for final payment.

## **Article 5. CONTRACT PRICE**

5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents the amounts that follow, subject to adjustment under the Contract:

5.02 Total Bid Price: \$ 697,000.00.

5.03 For all Work, at the prices stated in Contractor's Bid, attached hereto as an exhibit.

## **Article 6. PAYMENT PROCEDURES**

6.01 Submittal and Processing of Payments

A. Contractor shall submit Applications for Payment in accordance with Article 15 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

6.02 Progress Payments; Retainage

A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment on or about the day of each month during performance of the Work as provided in Paragraph 15.01 of the General Conditions, provided that such Applications for Payment have been submitted in a timely manner and otherwise meet the requirements of the Contract. All such payments will be measured by the Schedule of Values established as provided in the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no Schedule of Values, as provided elsewhere in the Contract.

6.03 Final Payment

A. Upon final completion and acceptance of the Work in accordance with Paragraph 15.06 of the General Conditions, Owner shall pay the remainder of the Contract Price as recommended by Engineer as provided in said Paragraph 15.06.

## **Article 7. INTEREST**

7.01 All amounts not paid when due shall bear interest at the rate of Zero (0.00) percent per annum

## **Article 8. CONTRACTOR'S REPRESENTATIONS**

8.01 In order to induce Owner to enter into this Contract, Contractor makes the following representations

A. Contractor has examined and carefully studied the Contract Documents, and any data and reference items identified in the Contract Documents.

B. Contractor has visited the Site, conducted a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and is satisfied as to the

general, local, and Site conditions that may affect cost, progress, and performance of the Work.

- C. Contractor is familiar with and is satisfied as to all Laws and Regulations that may affect cost, progress, and performance of the Work.
- D. Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or adjacent to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings, and (2) reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings.
- E. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings identified in the Contract Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (3) Contractor's safety precautions and programs.
- F. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
- G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
- H. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
- I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
- J. Contractor's entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.

## **Article 9. CONTRACT DOCUMENTS**

### **9.01 Contents:**

- A. The Contract Documents consist of the following:
  - 1. This Agreement (pages 1 to 7, inclusive).
  - 2. Public construction bond (pages 1 to 4, inclusive).

3. General Conditions (pages 1 to 72, inclusive).
  4. Supplementary Conditions (pages 1 to 13, inclusive).
  5. FDEP Supplementary Conditions (Construction) including Wage Decision FL135 (pages 1 to 50, inclusive).
  6. Specifications as listed in the table of contents of the Project Manual.
  7. Drawings (not attached but incorporated by reference) consisting of 20 sheets with each sheet bearing the following general title: Group 3A Lift Station Improvements, St. Johns County, Florida
  8. Addenda (numbers 1 to 4, inclusive)
  9. Exhibits to this Agreement (enumerated as follows):
    - a. Contractor's Bid (pages 1 to 64, inclusive).
  10. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:
    - a. Notice to Proceed.
    - b. Work Change Directives.
    - c. Change Orders.
    - d. Field Orders.
- B. The documents listed in Paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 9.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in the General Conditions.

## **Article 10. MISCELLANEOUS**

### **10.01 Terms**

- A. Terms used in this Agreement will have the meanings stated in the General Conditions and the Supplementary Conditions.

### **10.02 Assignment of Contract**

- A. Unless expressly agreed to elsewhere in the Contract, no assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, money that may become due and money that is due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

### 10.03 Successors and Assigns

- A. Owner and Contractor each binds itself, its successors, assigns, and legal representatives to the other party hereto, its successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

### 10.04 Severability

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

### 10.05 Contractor's Certifications

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 10.05:
  1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process or in the Contract execution;
  2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
  3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
  4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

### 10.06 Other Provisions

- A. Owner stipulates that if the General Conditions that are made a part of this Contract are based on EJCDC® C-700, Standard General Conditions for the Construction Contract, published by the Engineers Joint Contract Documents Committee®, and if Owner is the party that has furnished said General Conditions, then Owner has plainly shown all modifications to the standard wording of such published document to the Contractor, through a process such as highlighting or "track changes" (redline/strikeout), or in the Supplementary Conditions.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement.

This Agreement will be effective \_\_\_\_\_ (which is the Effective Date of the Contract).

**OWNER:**

**St. Johns County, FL**

\_\_\_\_\_

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

Signature of Authorized Representative

\_\_\_\_\_

Print Name

\_\_\_\_\_

Title

\_\_\_\_\_

Date of Execution:

**ATTEST:**

**St. Johns County, FL  
Clerk of Courts**

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

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

**Legally Sufficient:**

\_\_\_\_\_

Deputy County Attorney

\_\_\_\_\_

Date of Execution:

Mailing Address for giving notices:

500 San Sebastian View  
St. Augustine, FL 32084

**CONTRACTOR:**

**PBM Constructors, Inc.**

\_\_\_\_\_

(Typed Name)

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

Signature of Authorized Representative

\_\_\_\_\_

Print Name

\_\_\_\_\_

Title

\_\_\_\_\_

Date of Execution:

Attest: \_\_\_\_\_

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

Mailing Address for giving notices:

\_\_\_\_\_

\_\_\_\_\_

License No.: \_\_\_\_\_