

3 **AN ORDINANCE** approving CONSTRUCTION
4 CONTRACTS – 2026 PREQUALIFIED CONSTRUCTION
5 SERVICES AGREEMENT – RES. #113-3-31-26-1 - (not
6 to exceed \$16,000,000.00) – between ALL SEASONS
7 UNDERGROUND, FLEMING EXCAVATING, FOX
8 CONTRACTORS, KLS UNDERGROUND, PINPOINT
9 DIRECTIONAL DRILLING, S&S DIRECTIONAL
BORING, UNDERGROUND CONTRACTORS and the
City of Fort Wayne, Indiana, by and through its Board of
Public Works.

10 **NOW, THEREFORE, BE IT ORDAINED BY THE COMMON**
11 **COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:**

12 **SECTION 1.** That the CONSTRUCTION CONTRACT - 2026
13 PREQUALIFIED CONSTRUCTION SERVICES AGREEMENT – RES. #113-3-31-
14 26-1 - between ALL SEASONS UNDERGROUND, FLEMING EXCAVATING, FOX
15 CONTRACTORS, KLS UNDERGROUND, PINPOINT DIRECTIONAL DRILLING,
16 S&S DIRECTIONAL BORING, UNDERGROUND CONTRACTORS and the City of
17 Fort Wayne, Indiana, by and through its Board of Public Works, is hereby ratified,
18 and affirmed and approved in all respects, respectfully for:

19
20 All labor, insurance, material, equipment, tools, power, transportation,
21 miscellaneous equipment, etc., necessary to PROVIDE THE CITY
22 PREQUALIFIED CONSTRUCTION SERVICES WITH SECURED
23 PRICING FROM MULTIPLE QUALIFIED CONTRACTORS FOR
THE INSTALLATION OF UTILITY MAINS AND SERVICES;

24 involving a not to exceed cost of SIXTEEN MILLION and 00/100 DOLLARS -
25 (\$16,000,000.00). A copy of said Contract is on file with the Office of the City Clerk
26 and made available for public inspection, according to law.
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PROJECT:		2026 WaterWorks On-Call Construction Ser																					
Resolution#:		113-3-31-26-1																					
Work Order#:																							
Project Designer:																							
Construction Manager:																							
Manager:		Austin Smedberg																					
Bid Date: (Quote Date):		April 16, 2026																					
Funding:		Water Utility Revenue																					

Item#	Description	Quantity	Unit	Engineer's Estimate		KLS Underground		All Seasons Underground Construction Inc		Fox Contractors		Fleming Excavating Inc		Underground Contractors Inc		S&S Directional Boring, Ltd.		Pinpoint Directional Drilling Inc
				Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	
1	1/4" HMA Paving (Levee/Retention/Collector)	1	SY	\$21,150.00	\$ 215.00	\$94.00	\$ 76.00	\$105.00	108.00	\$724.00	\$ 324.00	\$182.50	\$ 200.00	\$200.00	\$ 200.00	\$105.00	\$ 104.00	\$ 600.00
2	1/4" HMA Paving (Arterial/Type C)	1	SY	\$275.00	\$ 275.00	\$114.00	\$ 114.00	\$155.00	155.00	\$385.00	\$ 385.00	\$90.00	\$ 240.00	\$200.00	\$ 200.00	\$115.00	\$ 112.00	\$ 900.00
3	Temporary Pavement Repair	1	SY	\$225.00	\$ 225.00	\$20.00	\$ 20.00	\$75.00	75.00	\$254.00	\$ 254.00	\$248.00	\$ 240.00	\$200.00	\$ 200.00	\$120.00	\$ 130.00	\$ 475.00
4	Concrete Roadway Panel - Levee/Retention (1)	1	SY	\$250.00	\$ 250.00	\$100.00	\$ 100.00	\$90.00	90.00	\$354.00	\$ 354.00	\$167.26	\$ 167.26	\$225.00	\$ 225.00	\$275.00	\$ 475.00	\$ 1,340.00
5	Concrete Roadway Panel - Collector (2)	1	SY	\$250.00	\$ 250.00	\$120.00	\$ 120.00	\$105.00	105.00	\$370.00	\$ 370.00	\$311.54	\$ 311.54	\$250.00	\$ 250.00	\$480.00	\$ 480.00	\$ 1,440.00
6	Concrete Roadway Panel - Arterial (12')	1	SY	\$300.00	\$ 300.00	\$150.00	\$ 150.00	\$130.00	130.00	\$380.00	\$ 380.00	\$345.46	\$ 345.46	\$275.00	\$ 275.00	\$500.00	\$ 500.00	\$ 1,500.00
7	Curb and Gutter	1	LP	\$300.00	\$ 300.00	\$35.00	\$ 35.00	\$200.00	200.00	\$316.00	\$ 316.00	\$82.16	\$ 82.16	\$140.00	\$ 140.00	\$450.00	\$ 450.00	\$ 810.00
8	Sidewalks	1	SY	\$200.00	\$ 200.00	\$68.00	\$ 68.00	\$90.00	90.00	\$302.00	\$ 302.00	\$131.61	\$ 131.61	\$120.00	\$ 120.00	\$385.00	\$ 385.00	\$ 870.00
9	ADA Curb Ramps, All Types	1	EA	\$3,000.00	\$ 3,000.00	\$1,150.00	\$ 1,150.00	\$2,500.00	2,500.00	\$1,025.00	\$ 1,025.00	\$2,147.50	\$ 2,147.50	\$3,500.00	\$ 3,500.00	\$6,000.00	\$ 6,000.00	\$ 3,000.00
10	Concrete Driveway Panel	1	SY	\$300.00	\$ 300.00	\$125.00	\$ 125.00	\$95.00	95.00	\$324.00	\$ 324.00	\$151.74	\$ 151.74	\$250.00	\$ 250.00	\$870.00	\$ 870.00	\$ 820.00
11	Test Box (Temporary)	1	EA	\$1,500.00	\$ 1,500.00	\$405.00	\$ 405.00	\$1,000.00	1,000.00	\$750.00	\$ 750.00	\$1,815.00	\$ 1,815.00	\$2,000.00	\$ 2,000.00	\$1,000.00	\$ 1,000.00	\$ 2,100.00
12	Removal of Hydrants	1	EA	\$1,000.00	\$ 1,000.00	\$750.00	\$ 750.00	\$750.00	750.00	\$750.00	\$ 750.00	\$2,000.00	\$ 2,000.00	\$700.00	\$ 700.00	\$1,000.00	\$ 1,000.00	\$ 2,100.00
13	Removal of Valve Boxes	1	EA	\$500.00	\$ 500.00	\$225.00	\$ 225.00	\$425.00	425.00	\$215.00	\$ 215.00	\$2,000.00	\$ 2,000.00	\$3,000.00	\$ 3,000.00	\$1,000.00	\$ 1,000.00	\$ 550.00
14	Temporary Bypass	1	EA	\$1,750.00	\$ 1,750.00	\$650.00	\$ 650.00	\$750.00	750.00	\$1,700.00	\$ 1,700.00	\$2,000.00	\$ 2,000.00	\$1,000.00	\$ 1,000.00	\$800.00	\$ 800.00	\$ 550.00
15	Pre-Assembled Assembly	1	EA	\$3,750.00	\$ 3,750.00	\$3,500.00	\$ 3,500.00	\$4,000.00	4,000.00	\$3,247.00	\$ 3,247.00	\$3,000.00	\$ 3,000.00	\$1,000.00	\$ 1,000.00	\$1,250.00	\$ 1,250.00	\$ 2,500.00
16	Air Release Structure	1	EA	\$10,000.00	\$ 10,000.00	\$1,775.00	\$ 1,775.00	\$1,500.00	1,500.00	\$5,620.00	\$ 5,620.00	\$10,000.00	\$ 10,000.00	\$12,500.00	\$ 12,500.00	\$4,000.00	\$ 4,000.00	\$ 3,500.00
17	Substitutes and Demobilization	1	LS	\$1,000.00	\$ 1,000.00	\$1,000.00	\$ 1,000.00	\$1,000.00	1,000.00	\$1,000.00	\$ 1,000.00	\$1,000.00	\$ 1,000.00	\$1,000.00	\$ 1,000.00	\$10,750.00	\$ 10,750.00	\$ 1,000.00
18	Force Main and Replacement Curb Allowance	1	LS	\$1,000.00	\$ 1,000.00	\$1,000.00	\$ 1,000.00	\$1,000.00	1,000.00	\$1,000.00	\$ 1,000.00	\$1,000.00	\$ 1,000.00	\$1,000.00	\$ 1,000.00	\$1,000.00	\$ 1,000.00	\$ 1,000.00
19	Owner Work Allowance	1	LS	\$1,000.00	\$ 1,000.00	\$1,000.00	\$ 1,000.00	\$1,000.00	1,000.00	\$1,000.00	\$ 1,000.00	\$1,000.00	\$ 1,000.00	\$1,000.00	\$ 1,000.00	\$1,000.00	\$ 1,000.00	\$ 1,000.00
20	Leak Replication Blasted Risk Work Allowance	1	LS	\$1,000.00	\$ 1,000.00	\$1,000.00	\$ 1,000.00	\$1,000.00	1,000.00	\$1,000.00	\$ 1,000.00	\$1,000.00	\$ 1,000.00	\$1,000.00	\$ 1,000.00	\$1,000.00	\$ 1,000.00	\$ 1,000.00
21	Maintenance and Protection of Traffic	1	LS	\$1,000.00	\$ 1,000.00	\$1,000.00	\$ 1,000.00	\$1,000.00	1,000.00	\$1,000.00	\$ 1,000.00	\$1,000.00	\$ 1,000.00	\$1,000.00	\$ 1,000.00	\$1,000.00	\$ 1,000.00	\$ 1,000.00
22	Contractor Furnished Products	1	LS	\$1,000.00	\$ 1,000.00	\$1,000.00	\$ 1,000.00	\$1,000.00	1,000.00	\$1,000.00	\$ 1,000.00	\$1,000.00	\$ 1,000.00	\$1,000.00	\$ 1,000.00	\$1,000.00	\$ 1,000.00	\$ 1,000.00
23	Levee and Ditches	1	LS	\$1,000.00	\$ 1,000.00	\$1,000.00	\$ 1,000.00	\$1,000.00	1,000.00	\$1,000.00	\$ 1,000.00	\$1,000.00	\$ 1,000.00	\$1,000.00	\$ 1,000.00	\$1,000.00	\$ 1,000.00	\$ 1,000.00
24	Utility Pipe Jacking Setup	1	LS	\$1,000.00	\$ 1,000.00	\$1,000.00	\$ 1,000.00	\$1,000.00	1,000.00	\$1,000.00	\$ 1,000.00	\$1,000.00	\$ 1,000.00	\$1,000.00	\$ 1,000.00	\$1,000.00	\$ 1,000.00	\$ 1,000.00
25	TOTAL BASE BID			\$ 31,415.00	\$ 31,415.00	\$19,890.00	\$ 19,890.00	\$26,970.00	26,970.00	\$26,161.00	\$ 26,161.00	\$31,299.77	\$ 31,299.77	\$35,500.00	\$ 35,500.00	\$40,740.00	\$ 40,740.00	\$ 40,330.00

Item#	Description	Quantity	Unit	Engineer's Estimate		KLS Underground		All Seasons Underground Construction Inc		Fox Contractors		Fleming Excavating Inc		Underground Contractors Inc		S&S Directional Boring, Ltd.		Pinpoint Directional Drilling Inc
				Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	
	Bid Alternate Services																	

Item#	Quantity	Description	Unit	Estimate	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension
27	1 EA	Small Service Short Side		\$ 2,700.00	\$ 2,700.00	\$ 2,700.00												
28	1 EA	Small Service Long Side		\$ 1,700.00	\$ 1,700.00	\$ 1,700.00												
29	1 EA	Property Side Service Connection		\$ 500.00	\$ 500.00	\$ 500.00												
30	1 EA	Property Side Service		\$ 4,500.00	\$ 4,500.00	\$ 4,500.00												
31	1 EA	Small Service Short Side Plus Property Side		\$ 6,500.00	\$ 6,500.00	\$ 6,500.00												
32	1 EA	Small Service Long Side Plus Property Side		\$ 7,500.00	\$ 7,500.00	\$ 7,500.00												
33	1 EA	Backyard Service		\$ 5,000.00	\$ 5,000.00	\$ 5,000.00												
34	1 EA	Service Identification		\$ 700.00	\$ 700.00	\$ 700.00												
Engineer's Estimate																		
35	1 EA	Telespacing Setup		\$ 2,000.00	\$ 2,000.00	\$ 2,000.00												
36	1 LP	Telespacing Sewer Pipe		\$ 1.50	\$ 14.50	\$ 14.50												
37	1 EA	Lanes 1 Level		\$ 500.00	\$ 500.00	\$ 500.00												
Engineer's Estimate																		
38	1 LP	2" HDPE HDD - Easement - 100' or Less		\$ 48.00	\$ 48.00	\$ 48.00												
39	1 LP	2" HDPE HDD - Easement - 100' to 500'		\$ 3.00	\$ 22.00	\$ 22.00												
40	1 LP	2" HDPE HDD - Easement - 500' or more		\$ 2.00	\$ 20.00	\$ 20.00												
41	1 LP	2" HDPE HDD - Rural - 100' or Less		\$ 47.00	\$ 40.00	\$ 40.00												
42	1 LP	2" HDPE HDD - Rural - 100' to 500'		\$ 34.00	\$ 23.00	\$ 23.00												
43	1 LP	2" HDPE HDD - Rural - 500' or more		\$ 24.00	\$ 22.00	\$ 22.00												
44	1 LP	2" HDPE HDD - Urban - 100' or Less		\$ 50.00	\$ 50.00	\$ 50.00												
45	1 LP	2" HDPE HDD - Urban - 100' to 500'		\$ 40.00	\$ 40.00	\$ 40.00												
46	1 LP	2" HDPE HDD - Urban - 500' or more		\$ 30.00	\$ 35.00	\$ 35.00												
47	1 LP	2" HDPE HDD - Urban - 500' or more		\$ 40.00	\$ 40.00	\$ 40.00												
48	1 EA	2" Machine Valve and Box		\$ 1,500.00	\$ 1,500.00	\$ 1,500.00												
49	1 EA	2" Rain		\$ 2,000.00	\$ 2,000.00	\$ 2,000.00												
50	1 EA	Note Connection 2"		\$ 1,750.00	\$ 1,750.00	\$ 1,750.00												
51	1 EA	2" Cur and Plug 2" Pipe Abandonment		\$ 2,000.00	\$ 2,000.00	\$ 2,000.00												
Engineer's Estimate																		
52	1 LP	2" HDPE HDD - Easement - 100' or Less		\$ 53.00	\$ 53.00	\$ 53.00												
53	1 LP	2" HDPE HDD - Easement - 100' to 500'		\$ 34.00	\$ 24.00	\$ 24.00												
54	1 LP	2" HDPE HDD - Easement - 500' or more		\$ 28.00	\$ 20.00	\$ 20.00												
55	1 LP	2" HDPE HDD - Rural - 100' or Less		\$ 53.00	\$ 48.00	\$ 48.00												
56	1 LP	2" HDPE HDD - Rural - 100' to 500'		\$ 34.00	\$ 24.00	\$ 24.00												
57	1 LP	2" HDPE HDD - Rural - 500' or more		\$ 29.00	\$ 20.00	\$ 20.00												
58	1 LP	2" HDPE HDD - Urban - 100' or Less		\$ 57.00	\$ 57.00	\$ 57.00												

Bid Alternate 4" HDD																			
Item#	Description	Quantity	Unit	Engineer's Estimate		KLS Underground		All Seasons Underground Construction Inc.		Fox Contractors		Flaming Excavating Inc		Underground Contractors Inc.		S&S Directional Boring, Ltd.		Pinpoint Directional Drilling Inc.	
				Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension
59	6" HDPE HDD - Urban - 100' to 500'	1	LF	\$45.00	\$ 45.00	\$45.00	\$ 45.00	\$45.00	\$ 45.00	\$42.00	\$ 42.00	\$37.00	\$ 37.00	\$27.00	\$ 27.00	\$36.00	\$ 36.00	\$42.00	\$ 42.00
60	7" HDPE HDD - Urban - 500' or More	1	LF	\$50.00	\$ 50.00	\$50.00	\$ 50.00	\$50.00	\$ 50.00	\$31.00	\$ 31.00	\$30.00	\$ 30.00	\$25.00	\$ 25.00	\$34.00	\$ 34.00	\$38.00	\$ 38.00
61	3" HDPE Open Trench	1	LF	\$30.00	\$ 30.00	\$30.00	\$ 30.00	\$30.00	\$ 30.00	\$28.00	\$ 28.00	\$10.00	\$ 10.00	\$30.00	\$ 30.00	\$7.00	\$ 7.00	\$30.00	\$ 30.00
62	3" Minimum Valve and Box	1	EA	\$1,000.00	\$ 1,000.00	\$1,000.00	\$ 1,000.00	\$1,000.00	\$ 1,000.00	\$3,871.00	\$ 3,871.00	\$1,100.00	\$ 1,100.00	\$1,000.00	\$ 1,000.00	\$1,500.00	\$ 1,500.00	\$5,200.00	\$ 5,200.00
63	3" Risings	1	EA	\$2,500.00	\$ 2,500.00	\$1,600.00	\$ 1,600.00	\$1,600.00	\$ 1,600.00	\$3,891.00	\$ 3,891.00	\$1,650.00	\$ 1,650.00	\$1,000.00	\$ 1,000.00	\$1,700.00	\$ 1,700.00	\$1,800.00	\$ 1,800.00
64	Man Connections 3"	1	EA	\$3,000.00	\$ 3,000.00	\$1,875.00	\$ 1,875.00	\$1,875.00	\$ 1,875.00	\$3,891.00	\$ 3,891.00	\$1,650.00	\$ 1,650.00	\$1,500.00	\$ 1,500.00	\$2,000.00	\$ 2,000.00	\$5,800.00	\$ 5,800.00
65	Curbed Plug 3" Pipe Abandonment	1	EA	\$2,250.00	\$ 2,250.00	\$950.00	\$ 950.00	\$1,200.00	\$ 1,200.00	\$3,891.00	\$ 3,891.00	\$1,650.00	\$ 1,650.00	\$1,500.00	\$ 1,500.00	\$1,200.00	\$ 1,200.00	\$2,400.00	\$ 2,400.00
Bid Alternate 6" HDD																			
Item#	Description	Quantity	Unit	Engineer's Estimate		KLS Underground		All Seasons Underground Construction Inc.		Fox Contractors		Flaming Excavating Inc		Underground Contractors Inc.		S&S Directional Boring, Ltd.		Pinpoint Directional Drilling Inc.	
				Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension
80	6" HDPE HDD - Urban - 100' to 500'	1	LF	\$70.00	\$ 70.00	\$70.00	\$ 70.00	\$70.00	\$ 70.00	\$66.00	\$ 66.00	\$60.00	\$ 60.00	\$50.00	\$ 50.00	\$75.00	\$ 75.00	\$90.00	\$ 90.00
81	7" HDPE HDD - Urban - 500' or More	1	LF	\$50.00	\$ 50.00	\$50.00	\$ 50.00	\$50.00	\$ 50.00	\$30.00	\$ 30.00	\$30.00	\$ 30.00	\$25.00	\$ 25.00	\$40.00	\$ 40.00	\$50.00	\$ 50.00
82	3" HDPE Open Trench	1	LF	\$40.00	\$ 40.00	\$40.00	\$ 40.00	\$40.00	\$ 40.00	\$44.00	\$ 44.00	\$10.00	\$ 10.00	\$35.00	\$ 35.00	\$38.00	\$ 38.00	\$40.00	\$ 40.00
83	3" Minimum Valve and Box	1	EA	\$1,000.00	\$ 1,000.00	\$1,000.00	\$ 1,000.00	\$1,000.00	\$ 1,000.00	\$3,871.00	\$ 3,871.00	\$1,100.00	\$ 1,100.00	\$1,000.00	\$ 1,000.00	\$1,500.00	\$ 1,500.00	\$5,200.00	\$ 5,200.00
84	3" Risings	1	EA	\$2,500.00	\$ 2,500.00	\$1,600.00	\$ 1,600.00	\$1,600.00	\$ 1,600.00	\$3,891.00	\$ 3,891.00	\$1,650.00	\$ 1,650.00	\$1,000.00	\$ 1,000.00	\$1,700.00	\$ 1,700.00	\$1,800.00	\$ 1,800.00
85	Man Connections 3"	1	EA	\$3,000.00	\$ 3,000.00	\$1,875.00	\$ 1,875.00	\$1,875.00	\$ 1,875.00	\$3,891.00	\$ 3,891.00	\$1,650.00	\$ 1,650.00	\$1,500.00	\$ 1,500.00	\$2,000.00	\$ 2,000.00	\$5,800.00	\$ 5,800.00
86	Curbed Plug 3" Pipe Abandonment	1	EA	\$2,250.00	\$ 2,250.00	\$950.00	\$ 950.00	\$1,200.00	\$ 1,200.00	\$3,891.00	\$ 3,891.00	\$1,650.00	\$ 1,650.00	\$1,500.00	\$ 1,500.00	\$1,200.00	\$ 1,200.00	\$2,400.00	\$ 2,400.00
87	6" HDPE HDD - Urban - 100' to 500'	1	LF	\$70.00	\$ 70.00	\$70.00	\$ 70.00	\$70.00	\$ 70.00	\$66.00	\$ 66.00	\$60.00	\$ 60.00	\$50.00	\$ 50.00	\$75.00	\$ 75.00	\$90.00	\$ 90.00
88	7" HDPE HDD - Urban - 500' or More	1	LF	\$50.00	\$ 50.00	\$50.00	\$ 50.00	\$50.00	\$ 50.00	\$30.00	\$ 30.00	\$30.00	\$ 30.00	\$25.00	\$ 25.00	\$40.00	\$ 40.00	\$50.00	\$ 50.00
89	3" HDPE Open Trench	1	LF	\$40.00	\$ 40.00	\$40.00	\$ 40.00	\$40.00	\$ 40.00	\$44.00	\$ 44.00	\$10.00	\$ 10.00	\$35.00	\$ 35.00	\$38.00	\$ 38.00	\$40.00	\$ 40.00
90	3" Minimum Valve and Box	1	EA	\$1,000.00	\$ 1,000.00	\$1,000.00	\$ 1,000.00	\$1,000.00	\$ 1,000.00	\$3,871.00	\$ 3,871.00	\$1,100.00	\$ 1,100.00	\$1,000.00	\$ 1,000.00	\$1,500.00	\$ 1,500.00	\$5,200.00	\$ 5,200.00
91	3" Risings	1	EA	\$2,500.00	\$ 2,500.00	\$1,600.00	\$ 1,600.00	\$1,600.00	\$ 1,600.00	\$3,891.00	\$ 3,891.00	\$1,650.00	\$ 1,650.00	\$1,000.00	\$ 1,000.00	\$1,700.00	\$ 1,700.00	\$1,800.00	\$ 1,800.00
92	Man Connections 3"	1	EA	\$3,000.00	\$ 3,000.00	\$1,875.00	\$ 1,875.00	\$1,875.00	\$ 1,875.00	\$3,891.00	\$ 3,891.00	\$1,650.00	\$ 1,650.00	\$1,500.00	\$ 1,500.00	\$2,000.00	\$ 2,000.00	\$5,800.00	\$ 5,800.00
93	Curbed Plug 3" Pipe Abandonment	1	EA	\$2,250.00	\$ 2,250.00	\$950.00	\$ 950.00	\$1,200.00	\$ 1,200.00	\$3,891.00	\$ 3,891.00	\$1,650.00	\$ 1,650.00	\$1,500.00	\$ 1,500.00	\$1,200.00	\$ 1,200.00	\$2,400.00	\$ 2,400.00

Bid Alternator 14" HDD										Bid Alternator 16" HDD																							
Item#	Description	Quantity	Unit	Engineer's Estimate	Unit Price	Extension	All Seasons Underground Construction Inc	Fox Contractors	Fleming Excavating Inc	SSS Directional Boring Ltd.	Pinpoint Directional Drilling Inc	Item#	Description	Quantity	Unit	Engineer's Estimate	Unit Price	Extension	All Seasons Underground Construction Inc	Fox Contractors	Fleming Excavating Inc	SSS Directional Boring Ltd.	Pinpoint Directional Drilling Inc										
				Unit Price	Extension	Unit Price	Unit Price	Unit Price	Unit Price	Unit Price	Unit Price					Unit Price	Extension	Unit Price	Unit Price	Unit Price	Unit Price	Unit Price	Unit Price	Unit Price									
124	12" HDD/100' - 200' - 300' or more	1	LF	\$75.00	\$75.00	\$75.00	\$	\$	\$	\$	\$	124	12" HDD/100' - 200' - 300' or more	1	LF	\$75.00	\$75.00	\$75.00	\$	\$	\$	\$	\$	124	12" HDD/100' - 200' - 300' or more	1	LF	\$75.00	\$75.00	\$75.00	\$	\$	\$
125	12" HDD/100' - 200' - 300' or more	1	LF	\$125.00	\$125.00	\$125.00	\$	\$	\$	\$	\$	125	12" HDD/100' - 200' - 300' or more	1	LF	\$125.00	\$125.00	\$125.00	\$	\$	\$	\$	\$	125	12" HDD/100' - 200' - 300' or more	1	LF	\$125.00	\$125.00	\$125.00	\$	\$	\$
126	12" HDD/100' - 200' - 300' or more	1	LF	\$100.00	\$100.00	\$100.00	\$	\$	\$	\$	\$	126	12" HDD/100' - 200' - 300' or more	1	LF	\$100.00	\$100.00	\$100.00	\$	\$	\$	\$	\$	126	12" HDD/100' - 200' - 300' or more	1	LF	\$100.00	\$100.00	\$100.00	\$	\$	\$
127	12" HDD/100' - 200' - 300' or more	1	LF	\$75.00	\$75.00	\$75.00	\$	\$	\$	\$	\$	127	12" HDD/100' - 200' - 300' or more	1	LF	\$75.00	\$75.00	\$75.00	\$	\$	\$	\$	\$	127	12" HDD/100' - 200' - 300' or more	1	LF	\$75.00	\$75.00	\$75.00	\$	\$	\$
128	12" HDD/100' - 200' - 300' or more	1	LF	\$100.00	\$100.00	\$100.00	\$	\$	\$	\$	\$	128	12" HDD/100' - 200' - 300' or more	1	LF	\$100.00	\$100.00	\$100.00	\$	\$	\$	\$	\$	128	12" HDD/100' - 200' - 300' or more	1	LF	\$100.00	\$100.00	\$100.00	\$	\$	\$
129	12" HDD/100' - 200' - 300' or more	1	LF	\$125.00	\$125.00	\$125.00	\$	\$	\$	\$	\$	129	12" HDD/100' - 200' - 300' or more	1	LF	\$125.00	\$125.00	\$125.00	\$	\$	\$	\$	\$	129	12" HDD/100' - 200' - 300' or more	1	LF	\$125.00	\$125.00	\$125.00	\$	\$	\$
130	12" HDD/100' - 200' - 300' or more	1	LF	\$100.00	\$100.00	\$100.00	\$	\$	\$	\$	\$	130	12" HDD/100' - 200' - 300' or more	1	LF	\$100.00	\$100.00	\$100.00	\$	\$	\$	\$	\$	130	12" HDD/100' - 200' - 300' or more	1	LF	\$100.00	\$100.00	\$100.00	\$	\$	\$
131	12" HDD/100' - 200' - 300' or more	1	LF	\$125.00	\$125.00	\$125.00	\$	\$	\$	\$	\$	131	12" HDD/100' - 200' - 300' or more	1	LF	\$125.00	\$125.00	\$125.00	\$	\$	\$	\$	\$	131	12" HDD/100' - 200' - 300' or more	1	LF	\$125.00	\$125.00	\$125.00	\$	\$	\$
132	12" HDD/100' - 200' - 300' or more	1	LF	\$100.00	\$100.00	\$100.00	\$	\$	\$	\$	\$	132	12" HDD/100' - 200' - 300' or more	1	LF	\$100.00	\$100.00	\$100.00	\$	\$	\$	\$	\$	132	12" HDD/100' - 200' - 300' or more	1	LF	\$100.00	\$100.00	\$100.00	\$	\$	\$
133	12" HDD/100' - 200' - 300' or more	1	LF	\$125.00	\$125.00	\$125.00	\$	\$	\$	\$	\$	133	12" HDD/100' - 200' - 300' or more	1	LF	\$125.00	\$125.00	\$125.00	\$	\$	\$	\$	\$	133	12" HDD/100' - 200' - 300' or more	1	LF	\$125.00	\$125.00	\$125.00	\$	\$	\$
134	12" HDD/100' - 200' - 300' or more	1	LF	\$100.00	\$100.00	\$100.00	\$	\$	\$	\$	\$	134	12" HDD/100' - 200' - 300' or more	1	LF	\$100.00	\$100.00	\$100.00	\$	\$	\$	\$	\$	134	12" HDD/100' - 200' - 300' or more	1	LF	\$100.00	\$100.00	\$100.00	\$	\$	\$
135	12" HDD/100' - 200' - 300' or more	1	LF	\$125.00	\$125.00	\$125.00	\$	\$	\$	\$	\$	135	12" HDD/100' - 200' - 300' or more	1	LF	\$125.00	\$125.00	\$125.00	\$	\$	\$	\$	\$	135	12" HDD/100' - 200' - 300' or more	1	LF	\$125.00	\$125.00	\$125.00	\$	\$	\$
136	12" HDD/100' - 200' - 300' or more	1	LF	\$100.00	\$100.00	\$100.00	\$	\$	\$	\$	\$	136	12" HDD/100' - 200' - 300' or more	1	LF	\$100.00	\$100.00	\$100.00	\$	\$	\$	\$	\$	136	12" HDD/100' - 200' - 300' or more	1	LF	\$100.00	\$100.00	\$100.00	\$	\$	\$
137	12" HDD/100' - 200' - 300' or more	1	LF	\$125.00	\$125.00	\$125.00	\$	\$	\$	\$	\$	137	12" HDD/100' - 200' - 300' or more	1	LF	\$125.00	\$125.00	\$125.00	\$	\$	\$	\$	\$	137	12" HDD/100' - 200' - 300' or more	1	LF	\$125.00	\$125.00	\$125.00	\$	\$	\$
138	12" HDD/100' - 200' - 300' or more	1	LF	\$100.00	\$100.00	\$100.00	\$	\$	\$	\$	\$	138	12" HDD/100' - 200' - 300' or more	1	LF	\$100.00	\$100.00	\$100.00	\$	\$	\$	\$	\$	138	12" HDD/100' - 200' - 300' or more	1	LF	\$100.00	\$100.00	\$100.00	\$	\$	\$

Bid Alternate 24" HDD										Bid Alternate 30" HDD												
Item#	Description	Quantity	Unit	Engineer's Estimate		KLS Underground		All Seasons Underground Construction Inc		Fox Contractors		Fleming Excavating Inc		Underground Contractors Inc		S&S Directional Boring, Ltd.		Unit Price	Extension	Unit Price	Extension	
				Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension					
129	1/2" IDPFC Open Trench	1	LF	175.00	\$	382.00	\$	1,130.00	\$	2,750.00	\$	1,200.00	\$	80.00	\$	210.00	\$	320.00	\$	200.00	\$	400.00
160	1/2" Alternate Valve and Box	1	EA	\$1,250.00	\$	\$1,800.00	\$	\$	\$	\$7,550.00	\$	7,550.00	\$	5,000.00	\$	7,000.00	\$	\$1,200.00	\$	\$1,200.00	\$	4,300.00
161	1/2" Flange	1	EA	\$6,000.00	\$	\$5,000.00	\$	\$	\$	\$7,550.00	\$	7,550.00	\$	7,500.00	\$	2,500.00	\$	\$3,200.00	\$	\$3,200.00	\$	3,200.00
162	Valve Connection 1/2"	1	EA	\$11,000.00	\$	\$2,800.00	\$	\$	\$	\$7,550.00	\$	7,550.00	\$	10,000.00	\$	12,000.00	\$	\$16,000.00	\$	\$16,000.00	\$	16,000.00
163	Cur and Plug 1/2" Pipe Abandonment	1	EA	\$6,000.00	\$	\$1,200.00	\$	\$	\$	\$7,550.00	\$	7,550.00	\$	7,500.00	\$	\$1,000.00	\$	\$3,000.00	\$	\$3,000.00	\$	3,000.00
Bid Alternate 30" HDD																						
178	3/4" IDPFC HDD - Flament - 100' or Less	1	LF	\$1,250.00	\$	\$1,200.00	\$	\$	\$	\$1,200.00	\$	1,200.00	\$	\$	\$	\$	\$	\$1,200.00	\$	\$	\$	\$
179	3/4" IDPFC HDD - Flament - 100' to 500'	1	LF	\$200.00	\$	\$300.00	\$	\$	\$	\$1,200.00	\$	1,200.00	\$	\$	\$	\$	\$	\$1,200.00	\$	\$	\$	\$
180	3/4" IDPFC HDD - Flament - 500' or more	1	LF	\$750.00	\$	\$500.00	\$	\$	\$	\$2,000.00	\$	2,000.00	\$	\$	\$	\$	\$	\$2,000.00	\$	\$	\$	\$
181	3/4" IDPFC HDD - Ram - 100' or Less	1	LF	\$1,250.00	\$	\$1,200.00	\$	\$	\$	\$1,200.00	\$	1,200.00	\$	\$	\$	\$	\$	\$1,200.00	\$	\$	\$	\$
182	3/4" IDPFC HDD - Ram - 100' to 500'	1	LF	\$300.00	\$	\$200.00	\$	\$	\$	\$1,200.00	\$	1,200.00	\$	\$	\$	\$	\$	\$1,200.00	\$	\$	\$	\$
183	3/4" IDPFC HDD - Ram - 500' or more	1	LF	\$750.00	\$	\$500.00	\$	\$	\$	\$2,000.00	\$	2,000.00	\$	\$	\$	\$	\$	\$2,000.00	\$	\$	\$	\$
184	3/4" IDPFC HDD - Urban - 100' or Less	1	LF	\$1,200.00	\$	\$1,000.00	\$	\$	\$	\$1,000.00	\$	1,000.00	\$	\$	\$	\$	\$	\$1,000.00	\$	\$	\$	\$
185	3/4" IDPFC HDD - Urban - 100' to 500'	1	LF	\$1,000.00	\$	\$800.00	\$	\$	\$	\$1,000.00	\$	1,000.00	\$	\$	\$	\$	\$	\$1,000.00	\$	\$	\$	\$
186	3/4" IDPFC HDD - Urban - 500' or more	1	LF	\$500.00	\$	\$300.00	\$	\$	\$	\$1,000.00	\$	1,000.00	\$	\$	\$	\$	\$	\$1,000.00	\$	\$	\$	\$
187	3/4" IDPFC Open Trench	1	LF	\$200.00	\$	\$300.00	\$	\$	\$	\$1,200.00	\$	1,200.00	\$	\$	\$	\$	\$	\$1,200.00	\$	\$	\$	\$
188	3/4" Alternate Valve and Box	1	EA	\$2,000.00	\$	\$2,000.00	\$	\$	\$	\$7,550.00	\$	7,550.00	\$	\$	\$	\$	\$	\$7,550.00	\$	\$	\$	\$
189	3/4" Flange	1	EA	\$1,000.00	\$	\$1,000.00	\$	\$	\$	\$7,550.00	\$	7,550.00	\$	\$	\$	\$	\$	\$7,550.00	\$	\$	\$	\$
190	Valve Connection 3/4"	1	EA	\$48,000.00	\$	\$48,000.00	\$	\$	\$	\$7,550.00	\$	7,550.00	\$	\$	\$	\$	\$	\$7,550.00	\$	\$	\$	\$
191	Cur and Plug 3/4" Pipe Abandonment	1	EA	\$2,500.00	\$	\$2,500.00	\$	\$	\$	\$15,000.00	\$	15,000.00	\$	\$	\$	\$	\$	\$15,000.00	\$	\$	\$	\$

Bid Alternates 1.5" HDD San Services		Engineer's Estimate		KLS Underground		All Seasons Underground Construction Inc		Fox Contractors		Flaming Excavating Inc		Underground Contractors Inc		S&S Directional Boring, Ltd.		Pinpoint Directional Drilling Inc	
Item#	Description	Quantity	Unit	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension
192	1.5" HDPE HDD - Manhole to Sewer Treatment	1	LF	\$21.00	\$ 21.00												
191	1.5" HDPE HDD - Sewer Treatment to Grinder Station	1	LF	\$21.00	\$ 21.00												
194	1.5" HDPE Open Trench	1	LF	\$21.00	\$ 21.00												
195	1.5" HDPE Open Trench	1	LF	\$21.00	\$ 21.00												
196	1.5" Corp Stop and Check Valve Assembly	1	EA	\$2,000.00	\$ 2,000.00												
197	Grinder Pump Station - Low Head	1	EA	\$1,000.00	\$ 1,000.00												
198	Grinder Pump Station - High Head	1	EA	\$14,000.00	\$ 14,000.00												
Bid Alternate Sanitary																	
Item#	Description	Quantity	Unit	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension
27	Trench Chamber Assembly	1	EA	\$2,500.00	\$ 2,500.00												
28	Force Main Connection - Existing Force Main	1	EA	\$3,800.00	\$ 3,800.00												
29	Force Main Connection - Existing Manhole	1	EA	\$4,600.00	\$ 4,600.00												
30	Air Release Valve	1	EA	\$2,872.00	\$ 2,872.00												
Addendum No. 1																	
Form 96																	
Non-Collusion Affidavit																	
Cert. In Lieu/Financial Statement																	
Employee Drug Testing Program (2-8-10K)																	
Reviewed By <i>[Signature]</i> Austin Smedley																	

**AGREEMENT BETWEEN OWNER AND CONTRACTOR
FOR ON-CALL CONSTRUCTION SERVICES**

This Agreement is by and between **Board of Public Works** ("Owner") and All Seasons Underground ("Contractor").

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

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: **This on-call construction services agreement is designed to secure pricing from multiple qualified contractors for the installation of utility mains and services.**

ARTICLE 2—THE PROJECT; TERM

- 2.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows: **Res # 113-3-31-26-1 2026 WaterWorks On-Call Construction Services Agreement**

This is an indefinite-quantity contract for on-call construction work and services. Contractor shall have the opportunity to submit proposals for the completion of Work Orders during the term of this Contract, but Contractor acknowledges and agrees that this Contract does not guarantee that Contractor will receive the opportunity to perform Work Orders during the Contract term. Contractor further acknowledges and agrees that Owner has no obligation to give Contractor the opportunity to perform Work Orders.

- 2.02 The term of this Contract is one (1) year from the date of execution. Said term may be extended upon mutual agreement of Owner and Contractor. Notwithstanding the foregoing, Contractor is responsible for completing Work Orders in process at the time of expiration of this Contract.

ARTICLE 3—ENGINEER

- 3.01 City Utilities ("Engineer"), will act as Owner's representative, assume all duties and responsibilities of Engineer, and have the rights and authority assigned to Engineer in the Contract.

ARTICLE 4—CONTRACT TIMES

- 4.01 Time is 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 ::NOT USED::

- 4.03 Contract Times: Days

A. This on-call contract will establish Substantial Completion dates for each requested project separately in a project-specific Work Order. Contractor, if submitting for a project, shall be required to meet the proposed Substantial Completion as outlined in said Work Order..

- B. This on-call contract will establish Final Completion dates for each requested project separately in a project-specific Work Order. Contractor, if submitting for a project, shall be required to meet the proposed Final Completion as outlined in said Work Order.
- C. Definition of Substantial Completion for this Work shall consist of **all Work excluding restoration is complete.**

4.04 Milestones

- A. Not used.

4.05 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 Contract Times, as duly modified. 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 **\$1,000.00** for each day that expires after the time (as duly adjusted pursuant to the Contract) specified 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 Times (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner **\$1,000.00** 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 Milestones, Substantial Completion, and final completion are not additive, and will not be imposed concurrently.

- B. If Owner recovers liquidated damages for a delay in completion by Contractor, then such liquidated damages are Owner's sole and exclusive remedy for such delay, and Owner is precluded from recovering any other damages, whether actual, direct, excess, or consequential, for such delay, except for special damages (if any) specified in this Agreement.

- C. ::NOT USED::

4.06 ::NOT USED::

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:

- A. :: NOT USED ::

- B. :: NOT USED ::

- C. :: NOT USED ::

- D. For all Work, at the prices stated in Contractor's Bid on the QuestCDN online bid submittal, attached hereto as an exhibit.

TOTAL OF ALL UNIT PRICES not to exceed sixteen million dollars across all 2026 Waterworks On-Call Construction Services Agreements. \$ 16,000,000.00

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 during performance of the Work as provided in Paragraph 6.02.A.1 below, provided that such Applications for Payment have been submitted within 45-days of the portions complete, 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.

- 1. Prior to Final Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Owner may withhold, including but not limited to liquidated damages, in accordance with the Contract.
 - a. 95 percent of the value of the Work completed (with the balance being retainage).
 - b. 95 percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).

- B. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 100 percent of the Work completed, less such amounts set off by Owner pursuant to Paragraph 15.01.E of the General Conditions, and less 200 percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the punch list of items to be completed or corrected prior to final payment. However, payments to the Contractor are not to exceed 95% of the total Contract Price until the Owner has verified that the Contractor has made good faith efforts to attain the EBE goal stipulated in Paragraph 9.03.E. Payment of the final 5% of the total Contract Price will be dependent upon acceptance of the Work, in accordance with Paragraph 15.06 of the General Conditions, and good faith efforts to comply with the EBE participation requirements; subject to reduction in the event of non-compliance as provided in Paragraph 9.03.E.

- C. Escrow Agreement.

- 1. If the assigned on-call project is in excess of \$200,000, the contract will be subject to the standard Board of Public Works escrow agreement; unless written notice is received from Contractor prior to execution of the Agreement stating that an Escrow Account is not desired. If an Escrow Account is not desired, then the Board of Public Works, in accordance with IC 36-1-12-14, shall hold the retainage and will not pay interest on the amounts of retainage that it holds.

6.03 Final Payment

- A. Upon final completion and acceptance of the Work, Owner shall pay the remainder of the Contract Price in accordance with Paragraph 15.06 of the General Conditions.

6.04 Consent of Surety

- A. Owner will not make final payment or return or release retainage at Substantial Completion or any other time, unless Contractor submits written consent of the surety to such payment, return, or release.

ARTICLE 7—CONTRACT DOCUMENTS

7.01 Contents

- A. The Contract Documents consist of the following:
 - 1. This Agreement (00 52 00, inclusive);
 - 2. Escrow Account Agreement (00 54 43, inclusive);
 - 3. Drug Policy Acknowledgment Form (00 54 52, inclusive);
 - 4. E-Verify Affidavit (00 54 53, inclusive);
 - 5. Performance Bond Form (00 61 13.13, inclusive);
 - 6. Payment Bond Form (00 61 13.16, inclusive);
 - 7. General Conditions (00 72 00, inclusive);
 - 8. Supplementary Conditions (00 73 00, inclusive);
 - 9. Specifications as listed in the table of contents of the project manual
 - 10. Drawings consisting of Standard Details, inclusive, with each sheet bearing the following general title: 2026 WaterWorks On-Call Construction Services Agreement;
 - 11. Addenda (numbers 1 to 1, inclusive);
 - 12. Attachments to this Agreement (enumerated as follows);
 - a. Contractor's Bid Worksheet;
 - b. Documentation submitted by Contractor prior to Notice of Award.
 - 13. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:
 - a. Notice to Proceed;
 - b. Written Amendments;
 - c. Work Change Directives;
 - d. Change Orders;
 - e. All Work Orders Contractor is selected to perform.
- B. ::NOT USED::
- C. There are no Contract Documents other than those listed above in this Article 7.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in the Contract.

ARTICLE 8—REPRESENTATIONS, CERTIFICATIONS, AND STIPULATIONS

8.01 Contractor's Representations

- A. In order to induce Owner to enter into this Contract, Contractor makes the following representations:
1. Contractor has examined and carefully studied the Contract Documents, including Addenda.
 2. NOT USED
 3. Contractor is familiar with all Laws and Regulations that may affect cost, progress, and performance of the Work.
 4. NOT USED
 5. NOT USED
 6. Contractor has considered the information known to Contractor itself; the Contract Documents; and the Technical Data identified in the Supplementary Conditions or by definition, with respect to the effect of such information, observations, and Technical Data on (a) the cost, progress, and performance of the Work; (b) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (c) Contractor's safety precautions and programs.
 7. 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.
 8. 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.
 9. 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.
 10. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
 11. 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.
 12. In connection with the performance of Work under this Contract, Contractor agrees to comply with Anti-Discrimination Under Indiana Code Chapter 5-16-6-1 and be bound by Chapter 93.036, of the Code of the City of Fort Wayne, Indiana of 1974, passed by the Common Council of the City of Fort Wayne, Indiana as General Ordinance No. G-34-78 (as amended) on December 12th, 1978. Contractor shall file a Manpower Utilization Report for this project with the Compliance Office within ten (10) days after completion of the construction or upon request of the Office of Compliance.

8.02 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 8.02:
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.

8.03 Standard General Conditions

- A. Owner stipulates that if the General Conditions that are made a part of this Contract are EJCDC® C-700, Standard General Conditions for the Construction Contract (2018), 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.

ARTICLE 9—MISCELLANEOUS

9.01 Terms

Terms used in this Agreement will have the meanings stated in the General Conditions

9.02 Severability

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.

9.03 Emerging Business Enterprise (EBE) Participation

EBE Retainage Requirements – If the Contractor is in compliance with the provisions of the construction Contract the Owner will make payments for such work performed and completed. Pursuant to Executive Order 90-01 (amended 5-8-06); the Owner will retain five percent (5%) of the Contract Price to ensure compliance with the EBE participation requirements. Upon final inspection and acceptance of the Work, and determination by the Fort Wayne Board of Public Works that the Contractor has made a good faith effort to subcontract ten percent (10%) of the Contract Price to emerging business enterprises, the Contractor will be paid in full.

In the event there is a determination that good faith compliance with these EBE participation requirements has not occurred, appropriate reduction in the final payment pursuant to paragraph 9.03.E will be made.

If the Contract Price is in excess of \$200,000, the contract will be subject to the standard Board of Public Works escrow agreement. However, payments to the Contractor are not to exceed 95% of the total Contract Price until the Owner has verified that the Contractor has made good faith efforts to attain the 10% EBE goal stipulated in here within. Payment of the final 5% of the total Contract Price will be dependent upon acceptance of the Work, in accordance with Paragraph 15.06 of the General Conditions, and good faith efforts to comply with these EBE participation requirements; subject to reduction in the event of non-compliance as provided in paragraph 9.03.E.

- A. Request for Waiver – If, at the time final payment application is made, Contractor has not attained the ten percent (10%) EBE goal, Contractor shall file with the final payment application a “Request for Waiver.” Said Request for Waiver shall contain a written description of the efforts taken by Contractor to attain the ten percent (10%) EBE goal.
- B. Determination of Waiver Requests – The Vendor Compliance Department of the City of Fort Wayne shall examine all Requests for Waiver to determine if Contractor’s efforts constitute good faith efforts to attain such goal and shall submit recommendations concerning said requests for Waiver for the final determination of the Board of Public Works of the City of Fort Wayne.
- C. Good Faith Efforts. – In determining whether or not the Contractor used “good faith” efforts, the following shall be considered:
 1. Whether the contract can be subdivided as determined by the Engineer and Administrator of Contract Compliance;
 2. Availability of certified EBE businesses to participate as subcontractors;
 3. Non-competitive price quotes received from EBE firms. The Board of Public Works determination for granting a reduction or waiver of the goal because of higher quotes from EBE firms will be based on factors that include, but are not limited to the following:
 - a. The Engineer’s estimate for the work under a specific contract;
 - b. The Contractor’s own estimate for the work under the subcontract;
 - c. An average of the valid prices quoted for the subcontract;
 - d. Demonstrated increase in other contract costs as a result of sub-contracting to EBE firm(s).
 4. Documented measures taken by the Contractor to comply with the EBE participation goal;
 5. EBE subcontractor failed to fulfill their obligation in regard to the time delivery of goods and/or services. Also in regards to the quality of the goods and/or services set forth in the bid specifications.
 6. Such other matters as the Board of Public Works deems relevant.
- D. Consequences of Noncompliance – In the event the Board of Public Works approves a recommendation that Contractor failed to make good faith efforts at compliance, the Contract Price shall be reduced by the amount calculated as the difference between the EBE

participation goal of 10% and the actual participation level met by the Contractor, but in no case shall it be reduced by more than 5%. Said amount shall be added to the City of Fort Wayne EBE Bond Guarantee Fund and Contractor agrees to accept the reduced amount as full payment under the terms of his/her Contract.

- E. Waiver Approved – In the event the Board of Public Works determines that a good faith effort to comply with these EBE participation requirements has been made, the Contract Price shall not be reduced, and the balance owing to the Contractor shall be paid in full.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement (Contract name 2026 WaterWorks On-Call Construction Services Agreement). One counterpart has been delivered to Owner, and one counterpart delivered to Contractor. All portions of the Contract Documents have been signed or have been identified by Owner and Contractor or on their behalf.

This Agreement will be effective on _____, _____ (which is the Effective Date of the Agreement).

CONTRACTOR:

OWNER:

ALL SEASONS UNDERGROUND

CITY OF FORT WAYNE

BY: _____
(Name)

BY: _____
Sharon Tucker, MAYOR

TITLE: _____

DATE: _____
(Date signed by Contractor)

Address for giving notices:

Board of Public Works

BY: _____
Shan Gunawardena, CHAIR

BY: _____
Kumar Menon, MEMBER

BY: _____
Chris Guerrero, MEMBER

ATTEST: _____
Michelle Fulk-Vondran, CLERK

DATE: _____
(Date signed by Board)

AGREEMENT BETWEEN OWNER AND CONTRACTOR FOR ON-CALL CONSTRUCTION SERVICES

This Agreement is by and between **Board of Public Works** ("Owner") and Fleming Excavating("Contractor").

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

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: **This on-call construction services agreement is designed to secure pricing from multiple qualified contractors for the installation of utility mains and services.**

ARTICLE 2—THE PROJECT; TERM

- 2.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows: **2026 WaterWorks On-Call Construction Services Agreement**

This is an indefinite-quantity contract for on-call construction work and services. Contractor shall have the opportunity to submit proposals for the completion of Work Orders during the term of this Contract, but Contractor acknowledges and agrees that this Contract does not guarantee that Contractor will receive the opportunity to perform Work Orders during the Contract term. Contractor further acknowledges and agrees that Owner has no obligation to give Contractor the opportunity to perform Work Orders.

- 2.02 The term of this Contract is one (1) year from the date of execution. Said term may be extended upon mutual agreement of Owner and Contractor. Notwithstanding the foregoing, Contractor is responsible for completing Work Orders in process at the time of expiration of this Contract.

ARTICLE 3—ENGINEER

- 3.01 City Utilities ("Engineer"), will act as Owner's representative, assume all duties and responsibilities of Engineer, and have the rights and authority assigned to Engineer in the Contract.

ARTICLE 4—CONTRACT TIMES

- 4.01 Time is 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 ::NOT USED::

- 4.03 Contract Times: Days

A. This on-call contract will establish Substantial Completion dates for each requested project separately in a project-specific Work Order. Contractor, if submitting for a project, shall be required to meet the proposed Substantial Completion as outlined in said Work Order..

- B. This on-call contract will establish Final Completion dates for each requested project separately in a project-specific Work Order. Contractor, if submitting for a project, shall be required to meet the proposed Final Completion as outlined in said Work Order.
- C. Definition of Substantial Completion for this Work shall consist of **all Work excluding restoration is complete.**

4.04 Milestones

- A. Not used.

4.05 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 Contract Times, as duly modified. 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 **\$1,000.00** for each day that expires after the time (as duly adjusted pursuant to the Contract) specified 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 Times (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner **\$1,000.00** 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 Milestones, Substantial Completion, and final completion are not additive, and will not be imposed concurrently.

- B. If Owner recovers liquidated damages for a delay in completion by Contractor, then such liquidated damages are Owner's sole and exclusive remedy for such delay, and Owner is precluded from recovering any other damages, whether actual, direct, excess, or consequential, for such delay, except for special damages (if any) specified in this Agreement.

- C. ::NOT USED::

4.06 ::NOT USED::

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:

- A. :: NOT USED ::
- B. :: NOT USED ::
- C. :: NOT USED ::

- D. For all Work, at the prices stated in Contractor's Bid on the QuestCDN online bid submittal, attached hereto as an exhibit.

TOTAL OF ALL UNIT PRICES not to exceed sixteen million dollars across all 2026 Waterworks On-Call Construction Services Agreements. \$ 16,000,000.00

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 during performance of the Work as provided in Paragraph 6.02.A.1 below, provided that such Applications for Payment have been submitted within 45-days of the portions complete, 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.

- 1. Prior to Final Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Owner may withhold, including but not limited to liquidated damages, in accordance with the Contract.
 - a. 95 percent of the value of the Work completed (with the balance being retainage).
 - b. 95 percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).

- B. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 100 percent of the Work completed, less such amounts set off by Owner pursuant to Paragraph 15.01.E of the General Conditions, and less 200 percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the punch list of items to be completed or corrected prior to final payment. However, payments to the Contractor are not to exceed 95% of the total Contract Price until the Owner has verified that the Contractor has made good faith efforts to attain the EBE goal stipulated in Paragraph 9.03.E. Payment of the final 5% of the total Contract Price will be dependent upon acceptance of the Work, in accordance with Paragraph 15.06 of the General Conditions, and good faith efforts to comply with the EBE participation requirements; subject to reduction in the event of non-compliance as provided in Paragraph 9.03.E.

- C. Escrow Agreement.

- 1. If the assigned on-call project is in excess of \$200,000, the contract will be subject to the standard Board of Public Works escrow agreement; unless written notice is received from Contractor prior to execution of the Agreement stating that an Escrow Account is not desired. If an Escrow Account is not desired, then the Board of Public Works, in accordance with IC 36-1-12-14, shall hold the retainage and will not pay interest on the amounts of retainage that it holds.

6.03 Final Payment

- A. Upon final completion and acceptance of the Work, Owner shall pay the remainder of the Contract Price in accordance with Paragraph 15.06 of the General Conditions.

6.04 Consent of Surety

- A. Owner will not make final payment or return or release retainage at Substantial Completion or any other time, unless Contractor submits written consent of the surety to such payment, return, or release.

ARTICLE 7—CONTRACT DOCUMENTS

7.01 Contents

- A. The Contract Documents consist of the following:
 - 1. This Agreement (00 52 00, inclusive);
 - 2. Escrow Account Agreement (00 54 43, inclusive);
 - 3. Drug Policy Acknowledgment Form (00 54 52, inclusive);
 - 4. E-Verify Affidavit (00 54 53, inclusive);
 - 5. Performance Bond Form (00 61 13.13, inclusive);
 - 6. Payment Bond Form (00 61 13.16, inclusive);
 - 7. General Conditions (00 72 00, inclusive);
 - 8. Supplementary Conditions (00 73 00, inclusive);
 - 9. Specifications as listed in the table of contents of the project manual
 - 10. Drawings consisting of Standard Details, inclusive, with each sheet bearing the following general title: 2026 WaterWorks On-Call Construction Services Agreement;
 - 11. Addenda (numbers 1 to 1, inclusive);
 - 12. Attachments to this Agreement (enumerated as follows);
 - a. Contractor’s Bid Worksheet;
 - b. Documentation submitted by Contractor prior to Notice of Award.
 - 13. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:
 - a. Notice to Proceed;
 - b. Written Amendments;
 - c. Work Change Directives;
 - d. Change Orders;
 - e. All Work Orders Contractor is selected to perform.
- B. ::NOT USED::
- C. There are no Contract Documents other than those listed above in this Article 7.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in the Contract.

ARTICLE 8—REPRESENTATIONS, CERTIFICATIONS, AND STIPULATIONS

8.01 Contractor's Representations

- A. In order to induce Owner to enter into this Contract, Contractor makes the following representations:
1. Contractor has examined and carefully studied the Contract Documents, including Addenda.
 2. NOT USED
 3. Contractor is familiar with all Laws and Regulations that may affect cost, progress, and performance of the Work.
 4. NOT USED
 5. NOT USED
 6. Contractor has considered the information known to Contractor itself; the Contract Documents; and the Technical Data identified in the Supplementary Conditions or by definition, with respect to the effect of such information, observations, and Technical Data on (a) the cost, progress, and performance of the Work; (b) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (c) Contractor's safety precautions and programs.
 7. 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.
 8. 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.
 9. 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.
 10. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
 11. 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.
 12. In connection with the performance of Work under this Contract, Contractor agrees to comply with Anti-Discrimination Under Indiana Code Chapter 5-16-6-1 and be bound by Chapter 93.036, of the Code of the City of Fort Wayne, Indiana of 1974, passed by the Common Council of the City of Fort Wayne, Indiana as General Ordinance No. G-34-78 (as amended) on December 12th, 1978. Contractor shall file a Manpower Utilization Report for this project with the Compliance Office within ten (10) days after completion of the construction or upon request of the Office of Compliance.

8.02 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 8.02:
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.

8.03 Standard General Conditions

- A. Owner stipulates that if the General Conditions that are made a part of this Contract are EJCDC® C-700, Standard General Conditions for the Construction Contract (2018), 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.

ARTICLE 9—MISCELLANEOUS

9.01 Terms

Terms used in this Agreement will have the meanings stated in the General Conditions

9.02 Severability

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.

9.03 Emerging Business Enterprise (EBE) Participation

EBE Retainage Requirements – If the Contractor is in compliance with the provisions of the construction Contract the Owner will make payments for such work performed and completed. Pursuant to Executive Order 90-01 (amended 5-8-06); the Owner will retain five percent (5%) of the Contract Price to ensure compliance with the EBE participation requirements. Upon final inspection and acceptance of the Work, and determination by the Fort Wayne Board of Public Works that the Contractor has made a good faith effort to subcontract ten percent (10%) of the Contract Price to emerging business enterprises, the Contractor will be paid in full.

In the event there is a determination that good faith compliance with these EBE participation requirements has not occurred, appropriate reduction in the final payment pursuant to paragraph 9.03.E will be made.

If the Contract Price is in excess of \$200,000, the contract will be subject to the standard Board of Public Works escrow agreement. However, payments to the Contractor are not to exceed 95% of the total Contract Price until the Owner has verified that the Contractor has made good faith efforts to attain the 10% EBE goal stipulated in here within. Payment of the final 5% of the total Contract Price will be dependent upon acceptance of the Work, in accordance with Paragraph 15.06 of the General Conditions, and good faith efforts to comply with these EBE participation requirements; subject to reduction in the event of non-compliance as provided in paragraph 9.03.E.

- A. Request for Waiver – If, at the time final payment application is made, Contractor has not attained the ten percent (10%) EBE goal, Contractor shall file with the final payment application a “Request for Waiver.” Said Request for Waiver shall contain a written description of the efforts taken by Contractor to attain the ten percent (10%) EBE goal.
- B. Determination of Waiver Requests – The Vendor Compliance Department of the City of Fort Wayne shall examine all Requests for Waiver to determine if Contractor’s efforts constitute good faith efforts to attain such goal and shall submit recommendations concerning said requests for Waiver for the final determination of the Board of Public Works of the City of Fort Wayne.
- C. Good Faith Efforts. – In determining whether or not the Contractor used “good faith” efforts, the following shall be considered:
 1. Whether the contract can be subdivided as determined by the Engineer and Administrator of Contract Compliance;
 2. Availability of certified EBE businesses to participate as subcontractors;
 3. Non-competitive price quotes received from EBE firms. The Board of Public Works determination for granting a reduction or waiver of the goal because of higher quotes from EBE firms will be based on factors that include, but are not limited to the following:
 - a. The Engineer’s estimate for the work under a specific contract;
 - b. The Contractor’s own estimate for the work under the subcontract;
 - c. An average of the valid prices quoted for the subcontract;
 - d. Demonstrated increase in other contract costs as a result of sub-contracting to EBE firm(s).
 4. Documented measures taken by the Contractor to comply with the EBE participation goal;
 5. EBE subcontractor failed to fulfill their obligation in regard to the time delivery of goods and/or services. Also in regards to the quality of the goods and/or services set forth in the bid specifications.
 6. Such other matters as the Board of Public Works deems relevant.
- D. Consequences of Noncompliance – In the event the Board of Public Works approves a recommendation that Contractor failed to make good faith efforts at compliance, the Contract Price shall be reduced by the amount calculated as the difference between the EBE

participation goal of 10% and the actual participation level met by the Contractor, but in no case shall it be reduced by more than 5%. Said amount shall be added to the City of Fort Wayne EBE Bond Guarantee Fund and Contractor agrees to accept the reduced amount as full payment under the terms of his/her Contract.

- E. Waiver Approved – In the event the Board of Public Works determines that a good faith effort to comply with these EBE participation requirements has been made, the Contract Price shall not be reduced, and the balance owing to the Contractor shall be paid in full.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement (Contract name 2026 WaterWorks On-Call Construction Services Agreement). One counterpart has been delivered to Owner, and one counterpart delivered to Contractor. All portions of the Contract Documents have been signed or have been identified by Owner and Contractor or on their behalf.

This Agreement will be effective on _____, _____ (which is the Effective Date of the Agreement).

CONTRACTOR:

OWNER:

FLEMING EXCAVATING

CITY OF FORT WAYNE

BY: _____
(Name)

BY: _____
Sharon Tucker, MAYOR

TITLE: _____

DATE: _____
(Date signed by Contractor)

Address for giving notices:

Board of Public Works

BY: _____
Shan Gunawardena, CHAIR

BY: _____
Kumar Menon, MEMBER

BY: _____
Chris Guerrero, MEMBER

ATTEST: _____
Michelle Fulk-Vondran, CLERK

DATE: _____
(Date signed by Board)

AGREEMENT BETWEEN OWNER AND CONTRACTOR FOR ON-CALL CONSTRUCTION SERVICES

This Agreement is by and between **Board of Public Works** (“Owner”) and Fox Contractors (“Contractor”).

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

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: **This on-call construction services agreement is designed to secure pricing from multiple qualified contractors for the installation of utility mains and services.**

ARTICLE 2—THE PROJECT; TERM

- 2.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows: **Res # 113-3-31-26-1 2026 WaterWorks On-Call Construction Services Agreement**

This is an indefinite-quantity contract for on-call construction work and services. Contractor shall have the opportunity to submit proposals for the completion of Work Orders during the term of this Contract, but Contractor acknowledges and agrees that this Contract does not guarantee that Contractor will receive the opportunity to perform Work Orders during the Contract term. Contractor further acknowledges and agrees that Owner has no obligation to give Contractor the opportunity to perform Work Orders.

- 2.02 The term of this Contract is one (1) year from the date of execution. Said term may be extended upon mutual agreement of Owner and Contractor. Notwithstanding the foregoing, Contractor is responsible for completing Work Orders in process at the time of expiration of this Contract.

ARTICLE 3—ENGINEER

- 3.01 City Utilities (“Engineer”), will act as Owner’s representative, assume all duties and responsibilities of Engineer, and have the rights and authority assigned to Engineer in the Contract.

ARTICLE 4—CONTRACT TIMES

- 4.01 Time is 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 ::NOT USED::

- 4.03 Contract Times: Days

A. This on-call contract will establish Substantial Completion dates for each requested project separately in a project-specific Work Order. Contractor, if submitting for a project, shall be required to meet the proposed Substantial Completion as outlined in said Work Order..

- B. This on-call contract will establish Final Completion dates for each requested project separately in a project-specific Work Order. Contractor, if submitting for a project, shall be required to meet the proposed Final Completion as outlined in said Work Order.
- C. Definition of Substantial Completion for this Work shall consist of **all Work excluding restoration is complete.**

4.04 Milestones

- A. Not used.

4.05 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 Contract Times, as duly modified. 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 **\$1,000.00** for each day that expires after the time (as duly adjusted pursuant to the Contract) specified 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 Times (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner **\$1,000.00** 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 Milestones, Substantial Completion, and final completion are not additive, and will not be imposed concurrently.

- B. If Owner recovers liquidated damages for a delay in completion by Contractor, then such liquidated damages are Owner's sole and exclusive remedy for such delay, and Owner is precluded from recovering any other damages, whether actual, direct, excess, or consequential, for such delay, except for special damages (if any) specified in this Agreement.

- C. ::NOT USED::

4.06 ::NOT USED::

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:

- A. :: NOT USED ::
- B. :: NOT USED ::
- C. :: NOT USED ::

- D. For all Work, at the prices stated in Contractor's Bid on the QuestCDN online bid submittal, attached hereto as an exhibit.

TOTAL OF ALL UNIT PRICES not to exceed sixteen million dollars across all 2026 Waterworks On-Call Construction Services Agreements. \$ 16,000,000.00

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 during performance of the Work as provided in Paragraph 6.02.A.1 below, provided that such Applications for Payment have been submitted within 45-days of the portions complete, 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.

- 1. Prior to Final Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Owner may withhold, including but not limited to liquidated damages, in accordance with the Contract.
 - a. 95 percent of the value of the Work completed (with the balance being retainage).
 - b. 95 percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).

- B. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 100 percent of the Work completed, less such amounts set off by Owner pursuant to Paragraph 15.01.E of the General Conditions, and less 200 percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the punch list of items to be completed or corrected prior to final payment. However, payments to the Contractor are not to exceed 95% of the total Contract Price until the Owner has verified that the Contractor has made good faith efforts to attain the EBE goal stipulated in Paragraph 9.03.E. Payment of the final 5% of the total Contract Price will be dependent upon acceptance of the Work, in accordance with Paragraph 15.06 of the General Conditions, and good faith efforts to comply with the EBE participation requirements; subject to reduction in the event of non-compliance as provided in Paragraph 9.03.E.

- C. Escrow Agreement.

- 1. If the assigned on-call project is in excess of \$200,000, the contract will be subject to the standard Board of Public Works escrow agreement; unless written notice is received from Contractor prior to execution of the Agreement stating that an Escrow Account is not desired. If an Escrow Account is not desired, then the Board of Public Works, in accordance with IC 36-1-12-14, shall hold the retainage and will not pay interest on the amounts of retainage that it holds.

6.03 Final Payment

- A. Upon final completion and acceptance of the Work, Owner shall pay the remainder of the Contract Price in accordance with Paragraph 15.06 of the General Conditions.

6.04 Consent of Surety

- A. Owner will not make final payment or return or release retainage at Substantial Completion or any other time, unless Contractor submits written consent of the surety to such payment, return, or release.

ARTICLE 7—CONTRACT DOCUMENTS

7.01 Contents

- A. The Contract Documents consist of the following:
 - 1. This Agreement (00 52 00, inclusive);
 - 2. Escrow Account Agreement (00 54 43, inclusive);
 - 3. Drug Policy Acknowledgment Form (00 54 52, inclusive);
 - 4. E-Verify Affidavit (00 54 53, inclusive);
 - 5. Performance Bond Form (00 61 13.13, inclusive);
 - 6. Payment Bond Form (00 61 13.16, inclusive);
 - 7. General Conditions (00 72 00, inclusive);
 - 8. Supplementary Conditions (00 73 00, inclusive);
 - 9. Specifications as listed in the table of contents of the project manual
 - 10. Drawings consisting of Standard Details, inclusive, with each sheet bearing the following general title: 2026 WaterWorks On-Call Construction Services Agreement;
 - 11. Addenda (numbers 1 to 1, inclusive);
 - 12. Attachments to this Agreement (enumerated as follows);
 - a. Contractor’s Bid Worksheet;
 - b. Documentation submitted by Contractor prior to Notice of Award.
 - 13. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:
 - a. Notice to Proceed;
 - b. Written Amendments;
 - c. Work Change Directives;
 - d. Change Orders;
 - e. All Work Orders Contractor is selected to perform.
- B. ::NOT USED::
- C. There are no Contract Documents other than those listed above in this Article 7.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in the Contract.

ARTICLE 8—REPRESENTATIONS, CERTIFICATIONS, AND STIPULATIONS

8.01 Contractor's Representations

- A. In order to induce Owner to enter into this Contract, Contractor makes the following representations:
1. Contractor has examined and carefully studied the Contract Documents, including Addenda.
 2. NOT USED
 3. Contractor is familiar with all Laws and Regulations that may affect cost, progress, and performance of the Work.
 4. NOT USED
 5. NOT USED
 6. Contractor has considered the information known to Contractor itself; the Contract Documents; and the Technical Data identified in the Supplementary Conditions or by definition, with respect to the effect of such information, observations, and Technical Data on (a) the cost, progress, and performance of the Work; (b) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (c) Contractor's safety precautions and programs.
 7. 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.
 8. 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.
 9. 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.
 10. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
 11. 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.
 12. In connection with the performance of Work under this Contract, Contractor agrees to comply with Anti-Discrimination Under Indiana Code Chapter 5-16-6-1 and be bound by Chapter 93.036, of the Code of the City of Fort Wayne, Indiana of 1974, passed by the Common Council of the City of Fort Wayne, Indiana as General Ordinance No. G-34-78 (as amended) on December 12th, 1978. Contractor shall file a Manpower Utilization Report for this project with the Compliance Office within ten (10) days after completion of the construction or upon request of the Office of Compliance.

8.02 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 8.02:
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.

8.03 Standard General Conditions

- A. Owner stipulates that if the General Conditions that are made a part of this Contract are EJCDC® C-700, Standard General Conditions for the Construction Contract (2018), 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.

ARTICLE 9—MISCELLANEOUS

9.01 Terms

Terms used in this Agreement will have the meanings stated in the General Conditions

9.02 Severability

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.

9.03 Emerging Business Enterprise (EBE) Participation

EBE Retainage Requirements – If the Contractor is in compliance with the provisions of the construction Contract the Owner will make payments for such work performed and completed. Pursuant to Executive Order 90-01 (amended 5-8-06); the Owner will retain five percent (5%) of the Contract Price to ensure compliance with the EBE participation requirements. Upon final inspection and acceptance of the Work, and determination by the Fort Wayne Board of Public Works that the Contractor has made a good faith effort to subcontract ten percent (10%) of the Contract Price to emerging business enterprises, the Contractor will be paid in full.

In the event there is a determination that good faith compliance with these EBE participation requirements has not occurred, appropriate reduction in the final payment pursuant to paragraph 9.03.E will be made.

If the Contract Price is in excess of \$200,000, the contract will be subject to the standard Board of Public Works escrow agreement. However, payments to the Contractor are not to exceed 95% of the total Contract Price until the Owner has verified that the Contractor has made good faith efforts to attain the 10% EBE goal stipulated in here within. Payment of the final 5% of the total Contract Price will be dependent upon acceptance of the Work, in accordance with Paragraph 15.06 of the General Conditions, and good faith efforts to comply with these EBE participation requirements; subject to reduction in the event of non-compliance as provided in paragraph 9.03.E.

- A. Request for Waiver – If, at the time final payment application is made, Contractor has not attained the ten percent (10%) EBE goal, Contractor shall file with the final payment application a “Request for Waiver.” Said Request for Waiver shall contain a written description of the efforts taken by Contractor to attain the ten percent (10%) EBE goal.
- B. Determination of Waiver Requests – The Vendor Compliance Department of the City of Fort Wayne shall examine all Requests for Waiver to determine if Contractor’s efforts constitute good faith efforts to attain such goal and shall submit recommendations concerning said requests for Waiver for the final determination of the Board of Public Works of the City of Fort Wayne.
- C. Good Faith Efforts. – In determining whether or not the Contractor used “good faith” efforts, the following shall be considered:
 1. Whether the contract can be subdivided as determined by the Engineer and Administrator of Contract Compliance;
 2. Availability of certified EBE businesses to participate as subcontractors;
 3. Non-competitive price quotes received from EBE firms. The Board of Public Works determination for granting a reduction or waiver of the goal because of higher quotes from EBE firms will be based on factors that include, but are not limited to the following:
 - a. The Engineer’s estimate for the work under a specific contract;
 - b. The Contractor’s own estimate for the work under the subcontract;
 - c. An average of the valid prices quoted for the subcontract;
 - d. Demonstrated increase in other contract costs as a result of sub-contracting to EBE firm(s).
 4. Documented measures taken by the Contractor to comply with the EBE participation goal;
 5. EBE subcontractor failed to fulfill their obligation in regard to the time delivery of goods and/or services. Also in regards to the quality of the goods and/or services set forth in the bid specifications.
 6. Such other matters as the Board of Public Works deems relevant.
- D. Consequences of Noncompliance – In the event the Board of Public Works approves a recommendation that Contractor failed to make good faith efforts at compliance, the Contract Price shall be reduced by the amount calculated as the difference between the EBE

participation goal of 10% and the actual participation level met by the Contractor, but in no case shall it be reduced by more than 5%. Said amount shall be added to the City of Fort Wayne EBE Bond Guarantee Fund and Contractor agrees to accept the reduced amount as full payment under the terms of his/her Contract.

- E. Waiver Approved – In the event the Board of Public Works determines that a good faith effort to comply with these EBE participation requirements has been made, the Contract Price shall not be reduced, and the balance owing to the Contractor shall be paid in full.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement (Contract name 2026 WaterWorks On-Call Construction Services Agreement). One counterpart has been delivered to Owner, and one counterpart delivered to Contractor. All portions of the Contract Documents have been signed or have been identified by Owner and Contractor or on their behalf.

This Agreement will be effective on _____, _____ (which is the Effective Date of the Agreement).

CONTRACTOR:

OWNER:

FOX CONTRACTORS

CITY OF FORT WAYNE

BY: _____
(Name)

BY: _____
Sharon Tucker, MAYOR

TITLE: _____

DATE: _____
(Date signed by Contractor)

Address for giving notices:

Board of Public Works

BY: _____
Shan Gunawardena, CHAIR

BY: _____
Kumar Menon, MEMBER

BY: _____
Chris Guerrero, MEMBER

ATTEST: _____
Michelle Fulk-Vondran, CLERK

DATE: _____
(Date signed by Board)

AGREEMENT BETWEEN OWNER AND CONTRACTOR FOR ON-CALL CONSTRUCTION SERVICES

This Agreement is by and between **Board of Public Works** ("Owner") and KLS Underground ("Contractor").

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

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: **This on-call construction services agreement is designed to secure pricing from multiple qualified contractors for the installation of utility mains and services.**

ARTICLE 2—THE PROJECT; TERM

- 2.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows: **Res # 113-3-31-26-1 2026 WaterWorks On-Call Construction Services Agreement**

This is an indefinite-quantity contract for on-call construction work and services. Contractor shall have the opportunity to submit proposals for the completion of Work Orders during the term of this Contract, but Contractor acknowledges and agrees that this Contract does not guarantee that Contractor will receive the opportunity to perform Work Orders during the Contract term. Contractor further acknowledges and agrees that Owner has no obligation to give Contractor the opportunity to perform Work Orders.

- 2.02 The term of this Contract is one (1) year from the date of execution. Said term may be extended upon mutual agreement of Owner and Contractor. Notwithstanding the foregoing, Contractor is responsible for completing Work Orders in process at the time of expiration of this Contract.

ARTICLE 3—ENGINEER

- 3.01 City Utilities ("Engineer"), will act as Owner's representative, assume all duties and responsibilities of Engineer, and have the rights and authority assigned to Engineer in the Contract.

ARTICLE 4—CONTRACT TIMES

- 4.01 Time is 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 ::NOT USED::

- 4.03 Contract Times: Days

A. This on-call contract will establish Substantial Completion dates for each requested project separately in a project-specific Work Order. Contractor, if submitting for a project, shall be required to meet the proposed Substantial Completion as outlined in said Work Order..

- B. This on-call contract will establish Final Completion dates for each requested project separately in a project-specific Work Order. Contractor, if submitting for a project, shall be required to meet the proposed Final Completion as outlined in said Work Order.
- C. Definition of Substantial Completion for this Work shall consist of **all Work excluding restoration is complete.**

4.04 Milestones

- A. Not used.

4.05 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 Contract Times, as duly modified. 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 **\$1,000.00** for each day that expires after the time (as duly adjusted pursuant to the Contract) specified 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 Times (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner **\$1,000.00** 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 Milestones, Substantial Completion, and final completion are not additive, and will not be imposed concurrently.

- B. If Owner recovers liquidated damages for a delay in completion by Contractor, then such liquidated damages are Owner's sole and exclusive remedy for such delay, and Owner is precluded from recovering any other damages, whether actual, direct, excess, or consequential, for such delay, except for special damages (if any) specified in this Agreement.

- C. ::NOT USED::

4.06 ::NOT USED::

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:

- A. :: NOT USED ::
- B. :: NOT USED ::
- C. :: NOT USED ::

- D. For all Work, at the prices stated in Contractor's Bid on the QuestCDN online bid submittal, attached hereto as an exhibit.

TOTAL OF ALL UNIT PRICES not to exceed sixteen million dollars across all 2026 Waterworks On-Call Construction Services Agreements. \$ 16,000,000.00

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 during performance of the Work as provided in Paragraph 6.02.A.1 below, provided that such Applications for Payment have been submitted within 45-days of the portions complete, 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.

- 1. Prior to Final Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Owner may withhold, including but not limited to liquidated damages, in accordance with the Contract.
 - a. 95 percent of the value of the Work completed (with the balance being retainage).
 - b. 95 percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).

- B. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 100 percent of the Work completed, less such amounts set off by Owner pursuant to Paragraph 15.01.E of the General Conditions, and less 200 percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the punch list of items to be completed or corrected prior to final payment. However, payments to the Contractor are not to exceed 95% of the total Contract Price until the Owner has verified that the Contractor has made good faith efforts to attain the EBE goal stipulated in Paragraph 9.03.E. Payment of the final 5% of the total Contract Price will be dependent upon acceptance of the Work, in accordance with Paragraph 15.06 of the General Conditions, and good faith efforts to comply with the EBE participation requirements; subject to reduction in the event of non-compliance as provided in Paragraph 9.03.E.

- C. Escrow Agreement.

- 1. If the assigned on-call project is in excess of \$200,000, the contract will be subject to the standard Board of Public Works escrow agreement; unless written notice is received from Contractor prior to execution of the Agreement stating that an Escrow Account is not desired. If an Escrow Account is not desired, then the Board of Public Works, in accordance with IC 36-1-12-14, shall hold the retainage and will not pay interest on the amounts of retainage that it holds.

6.03 Final Payment

- A. Upon final completion and acceptance of the Work, Owner shall pay the remainder of the Contract Price in accordance with Paragraph 15.06 of the General Conditions.

6.04 Consent of Surety

- A. Owner will not make final payment or return or release retainage at Substantial Completion or any other time, unless Contractor submits written consent of the surety to such payment, return, or release.

ARTICLE 7—CONTRACT DOCUMENTS

7.01 Contents

- A. The Contract Documents consist of the following:
 - 1. This Agreement (00 52 00, inclusive);
 - 2. Escrow Account Agreement (00 54 43, inclusive);
 - 3. Drug Policy Acknowledgment Form (00 54 52, inclusive);
 - 4. E-Verify Affidavit (00 54 53, inclusive);
 - 5. Performance Bond Form (00 61 13.13, inclusive);
 - 6. Payment Bond Form (00 61 13.16, inclusive);
 - 7. General Conditions (00 72 00, inclusive);
 - 8. Supplementary Conditions (00 73 00, inclusive);
 - 9. Specifications as listed in the table of contents of the project manual
 - 10. Drawings consisting of Standard Details, inclusive, with each sheet bearing the following general title: 2026 WaterWorks On-Call Construction Services Agreement;
 - 11. Addenda (numbers 1 to 1, inclusive);
 - 12. Attachments to this Agreement (enumerated as follows);
 - a. Contractor's Bid Worksheet;
 - b. Documentation submitted by Contractor prior to Notice of Award.
 - 13. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:
 - a. Notice to Proceed;
 - b. Written Amendments;
 - c. Work Change Directives;
 - d. Change Orders;
 - e. All Work Orders Contractor is selected to perform.
- B. ::NOT USED::
- C. There are no Contract Documents other than those listed above in this Article 7.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in the Contract.

ARTICLE 8—REPRESENTATIONS, CERTIFICATIONS, AND STIPULATIONS

8.01 Contractor's Representations

- A. In order to induce Owner to enter into this Contract, Contractor makes the following representations:
1. Contractor has examined and carefully studied the Contract Documents, including Addenda.
 2. NOT USED
 3. Contractor is familiar with all Laws and Regulations that may affect cost, progress, and performance of the Work.
 4. NOT USED
 5. NOT USED
 6. Contractor has considered the information known to Contractor itself; the Contract Documents; and the Technical Data identified in the Supplementary Conditions or by definition, with respect to the effect of such information, observations, and Technical Data on (a) the cost, progress, and performance of the Work; (b) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (c) Contractor's safety precautions and programs.
 7. 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.
 8. 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.
 9. 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.
 10. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
 11. 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.
 12. In connection with the performance of Work under this Contract, Contractor agrees to comply with Anti-Discrimination Under Indiana Code Chapter 5-16-6-1 and be bound by Chapter 93.036, of the Code of the City of Fort Wayne, Indiana of 1974, passed by the Common Council of the City of Fort Wayne, Indiana as General Ordinance No. G-34-78 (as amended) on December 12th, 1978. Contractor shall file a Manpower Utilization Report for this project with the Compliance Office within ten (10) days after completion of the construction or upon request of the Office of Compliance.

8.02 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 8.02:
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.

8.03 Standard General Conditions

- A. Owner stipulates that if the General Conditions that are made a part of this Contract are EJCDC® C-700, Standard General Conditions for the Construction Contract (2018), 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.

ARTICLE 9—MISCELLANEOUS

9.01 Terms

Terms used in this Agreement will have the meanings stated in the General Conditions

9.02 Severability

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.

9.03 Emerging Business Enterprise (EBE) Participation

EBE Retainage Requirements – If the Contractor is in compliance with the provisions of the construction Contract the Owner will make payments for such work performed and completed. Pursuant to Executive Order 90-01 (amended 5-8-06); the Owner will retain five percent (5%) of the Contract Price to ensure compliance with the EBE participation requirements. Upon final inspection and acceptance of the Work, and determination by the Fort Wayne Board of Public Works that the Contractor has made a good faith effort to subcontract ten percent (10%) of the Contract Price to emerging business enterprises, the Contractor will be paid in full.

In the event there is a determination that good faith compliance with these EBE participation requirements has not occurred, appropriate reduction in the final payment pursuant to paragraph 9.03.E will be made.

If the Contract Price is in excess of \$200,000, the contract will be subject to the standard Board of Public Works escrow agreement. However, payments to the Contractor are not to exceed 95% of the total Contract Price until the Owner has verified that the Contractor has made good faith efforts to attain the 10% EBE goal stipulated in here within. Payment of the final 5% of the total Contract Price will be dependent upon acceptance of the Work, in accordance with Paragraph 15.06 of the General Conditions, and good faith efforts to comply with these EBE participation requirements; subject to reduction in the event of non-compliance as provided in paragraph 9.03.E.

- A. Request for Waiver – If, at the time final payment application is made, Contractor has not attained the ten percent (10%) EBE goal, Contractor shall file with the final payment application a “Request for Waiver.” Said Request for Waiver shall contain a written description of the efforts taken by Contractor to attain the ten percent (10%) EBE goal.
- B. Determination of Waiver Requests – The Vendor Compliance Department of the City of Fort Wayne shall examine all Requests for Waiver to determine if Contractor’s efforts constitute good faith efforts to attain such goal and shall submit recommendations concerning said requests for Waiver for the final determination of the Board of Public Works of the City of Fort Wayne.
- C. Good Faith Efforts. – In determining whether or not the Contractor used “good faith” efforts, the following shall be considered:
 1. Whether the contract can be subdivided as determined by the Engineer and Administrator of Contract Compliance;
 2. Availability of certified EBE businesses to participate as subcontractors;
 3. Non-competitive price quotes received from EBE firms. The Board of Public Works determination for granting a reduction or waiver of the goal because of higher quotes from EBE firms will be based on factors that include, but are not limited to the following:
 - a. The Engineer’s estimate for the work under a specific contract;
 - b. The Contractor’s own estimate for the work under the subcontract;
 - c. An average of the valid prices quoted for the subcontract;
 - d. Demonstrated increase in other contract costs as a result of sub-contracting to EBE firm(s).
 4. Documented measures taken by the Contractor to comply with the EBE participation goal;
 5. EBE subcontractor failed to fulfill their obligation in regard to the time delivery of goods and/or services. Also in regards to the quality of the goods and/or services set forth in the bid specifications.
 6. Such other matters as the Board of Public Works deems relevant.
- D. Consequences of Noncompliance – In the event the Board of Public Works approves a recommendation that Contractor failed to make good faith efforts at compliance, the Contract Price shall be reduced by the amount calculated as the difference between the EBE

participation goal of 10% and the actual participation level met by the Contractor, but in no case shall it be reduced by more than 5%. Said amount shall be added to the City of Fort Wayne EBE Bond Guarantee Fund and Contractor agrees to accept the reduced amount as full payment under the terms of his/her Contract.

- E. Waiver Approved – In the event the Board of Public Works determines that a good faith effort to comply with these EBE participation requirements has been made, the Contract Price shall not be reduced, and the balance owing to the Contractor shall be paid in full.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement (Contract name 2026 WaterWorks On-Call Construction Services Agreement). One counterpart has been delivered to Owner, and one counterpart delivered to Contractor. All portions of the Contract Documents have been signed or have been identified by Owner and Contractor or on their behalf.

This Agreement will be effective on _____, _____ (which is the Effective Date of the Agreement).

CONTRACTOR:

OWNER:

KLS UNDERGROUND

CITY OF FORT WAYNE

BY: _____
(Name)

BY: _____
Sharon Tucker, MAYOR

TITLE: _____

DATE: _____
(Date signed by Contractor)

Address for giving notices:

Board of Public Works

BY: _____
Shan Gunawardena, CHAIR

BY: _____
Kumar Menon, MEMBER

BY: _____
Chris Guerrero, MEMBER

ATTEST: _____
Michelle Fulk-Vondran, CLERK

DATE: _____
(Date signed by Board)

AGREEMENT BETWEEN OWNER AND CONTRACTOR FOR ON-CALL CONSTRUCTION SERVICES

This Agreement is by and between **Board of Public Works** (“Owner”) and Pinpoint Directional Drilling (“Contractor”).

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

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: **This on-call construction services agreement is designed to secure pricing from multiple qualified contractors for the installation of utility mains and services.**

ARTICLE 2—THE PROJECT; TERM

- 2.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows: **2026 WaterWorks On-Call Construction Services Agreement**

This is an indefinite-quantity contract for on-call construction work and services. Contractor shall have the opportunity to submit proposals for the completion of Work Orders during the term of this Contract, but Contractor acknowledges and agrees that this Contract does not guarantee that Contractor will receive the opportunity to perform Work Orders during the Contract term. Contractor further acknowledges and agrees that Owner has no obligation to give Contractor the opportunity to perform Work Orders.

- 2.02 The term of this Contract is one (1) year from the date of execution. Said term may be extended upon mutual agreement of Owner and Contractor. Notwithstanding the foregoing, Contractor is responsible for completing Work Orders in process at the time of expiration of this Contract.

ARTICLE 3—ENGINEER

- 3.01 City Utilities (“Engineer”), will act as Owner’s representative, assume all duties and responsibilities of Engineer, and have the rights and authority assigned to Engineer in the Contract.

ARTICLE 4—CONTRACT TIMES

- 4.01 Time is 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 ::NOT USED::

- 4.03 Contract Times: Days

A. This on-call contract will establish Substantial Completion dates for each requested project separately in a project-specific Work Order. Contractor, if submitting for a project, shall be required to meet the proposed Substantial Completion as outlined in said Work Order..

- B. This on-call contract will establish Final Completion dates for each requested project separately in a project-specific Work Order. Contractor, if submitting for a project, shall be required to meet the proposed Final Completion as outlined in said Work Order.
- C. Definition of Substantial Completion for this Work shall consist of **all Work excluding restoration is complete.**

4.04 Milestones

- A. Not used.

4.05 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 Contract Times, as duly modified. 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 **\$1,000.00** for each day that expires after the time (as duly adjusted pursuant to the Contract) specified 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 Times (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner **\$1,000.00** 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 Milestones, Substantial Completion, and final completion are not additive, and will not be imposed concurrently.

- B. If Owner recovers liquidated damages for a delay in completion by Contractor, then such liquidated damages are Owner's sole and exclusive remedy for such delay, and Owner is precluded from recovering any other damages, whether actual, direct, excess, or consequential, for such delay, except for special damages (if any) specified in this Agreement.

- C. ::NOT USED::

4.06 ::NOT USED::

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:

- A. :: NOT USED ::

- B. :: NOT USED ::

- C. :: NOT USED ::

- D. For all Work, at the prices stated in Contractor's Bid on the QuestCDN online bid submittal, attached hereto as an exhibit.

TOTAL OF ALL UNIT PRICES not to exceed sixteen million dollars across all 2026 Waterworks On-Call Construction Services Agreements. \$ 16,000,000.00

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 during performance of the Work as provided in Paragraph 6.02.A.1 below, provided that such Applications for Payment have been submitted within 45-days of the portions complete, 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.

- 1. Prior to Final Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Owner may withhold, including but not limited to liquidated damages, in accordance with the Contract.

- a. 95 percent of the value of the Work completed (with the balance being retainage).
- b. 95 percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).

- B. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 100 percent of the Work completed, less such amounts set off by Owner pursuant to Paragraph 15.01.E of the General Conditions, and less 200 percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the punch list of items to be completed or corrected prior to final payment. However, payments to the Contractor are not to exceed 95% of the total Contract Price until the Owner has verified that the Contractor has made good faith efforts to attain the EBE goal stipulated in Paragraph 9.03.E. Payment of the final 5% of the total Contract Price will be dependent upon acceptance of the Work, in accordance with Paragraph 15.06 of the General Conditions, and good faith efforts to comply with the EBE participation requirements; subject to reduction in the event of non-compliance as provided in Paragraph 9.03.E.

- C. Escrow Agreement.

- 1. If the assigned on-call project is in excess of \$200,000, the contract will be subject to the standard Board of Public Works escrow agreement; unless written notice is received from Contractor prior to execution of the Agreement stating that an Escrow Account is not desired. If an Escrow Account is not desired, then the Board of Public Works, in accordance with IC 36-1-12-14, shall hold the retainage and will not pay interest on the amounts of retainage that it holds.

6.03 Final Payment

- A. Upon final completion and acceptance of the Work, Owner shall pay the remainder of the Contract Price in accordance with Paragraph 15.06 of the General Conditions.

6.04 Consent of Surety

- A. Owner will not make final payment or return or release retainage at Substantial Completion or any other time, unless Contractor submits written consent of the surety to such payment, return, or release.

ARTICLE 7—CONTRACT DOCUMENTS

7.01 Contents

- A. The Contract Documents consist of the following:
 - 1. This Agreement (00 52 00, inclusive);
 - 2. Escrow Account Agreement (00 54 43, inclusive);
 - 3. Drug Policy Acknowledgment Form (00 54 52, inclusive);
 - 4. E-Verify Affidavit (00 54 53, inclusive);
 - 5. Performance Bond Form (00 61 13.13, inclusive);
 - 6. Payment Bond Form (00 61 13.16, inclusive);
 - 7. General Conditions (00 72 00, inclusive);
 - 8. Supplementary Conditions (00 73 00, inclusive);
 - 9. Specifications as listed in the table of contents of the project manual
 - 10. Drawings consisting of Standard Details, inclusive, with each sheet bearing the following general title: 2026 WaterWorks On-Call Construction Services Agreement;
 - 11. Addenda (numbers 1 to 1, inclusive);
 - 12. Attachments to this Agreement (enumerated as follows);
 - a. Contractor's Bid Worksheet;
 - b. Documentation submitted by Contractor prior to Notice of Award.
 - 13. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:
 - a. Notice to Proceed;
 - b. Written Amendments;
 - c. Work Change Directives;
 - d. Change Orders;
 - e. All Work Orders Contractor is selected to perform.
- B. ::NOT USED::
- C. There are no Contract Documents other than those listed above in this Article 7.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in the Contract.

ARTICLE 8—REPRESENTATIONS, CERTIFICATIONS, AND STIPULATIONS

8.01 Contractor's Representations

- A. In order to induce Owner to enter into this Contract, Contractor makes the following representations:
1. Contractor has examined and carefully studied the Contract Documents, including Addenda.
 2. NOT USED
 3. Contractor is familiar with all Laws and Regulations that may affect cost, progress, and performance of the Work.
 4. NOT USED
 5. NOT USED
 6. Contractor has considered the information known to Contractor itself; the Contract Documents; and the Technical Data identified in the Supplementary Conditions or by definition, with respect to the effect of such information, observations, and Technical Data on (a) the cost, progress, and performance of the Work; (b) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (c) Contractor's safety precautions and programs.
 7. 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.
 8. 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.
 9. 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.
 10. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
 11. 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.
 12. In connection with the performance of Work under this Contract, Contractor agrees to comply with Anti-Discrimination Under Indiana Code Chapter 5-16-6-1 and be bound by Chapter 93.036, of the Code of the City of Fort Wayne, Indiana of 1974, passed by the Common Council of the City of Fort Wayne, Indiana as General Ordinance No. G-34-78 (as amended) on December 12th, 1978. Contractor shall file a Manpower Utilization Report for this project with the Compliance Office within ten (10) days after completion of the construction or upon request of the Office of Compliance.

8.02 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 8.02:
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.

8.03 Standard General Conditions

- A. Owner stipulates that if the General Conditions that are made a part of this Contract are EJCDC® C-700, Standard General Conditions for the Construction Contract (2018), 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.

ARTICLE 9—MISCELLANEOUS

9.01 Terms

Terms used in this Agreement will have the meanings stated in the General Conditions

9.02 Severability

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.

9.03 Emerging Business Enterprise (EBE) Participation

EBE Retainage Requirements – If the Contractor is in compliance with the provisions of the construction Contract the Owner will make payments for such work performed and completed. Pursuant to Executive Order 90-01 (amended 5-8-06); the Owner will retain five percent (5%) of the Contract Price to ensure compliance with the EBE participation requirements. Upon final inspection and acceptance of the Work, and determination by the Fort Wayne Board of Public Works that the Contractor has made a good faith effort to subcontract ten percent (10%) of the Contract Price to emerging business enterprises, the Contractor will be paid in full.

In the event there is a determination that good faith compliance with these EBE participation requirements has not occurred, appropriate reduction in the final payment pursuant to paragraph 9.03.E will be made.

If the Contract Price is in excess of \$200,000, the contract will be subject to the standard Board of Public Works escrow agreement. However, payments to the Contractor are not to exceed 95% of the total Contract Price until the Owner has verified that the Contractor has made good faith efforts to attain the 10% EBE goal stipulated in here within. Payment of the final 5% of the total Contract Price will be dependent upon acceptance of the Work, in accordance with Paragraph 15.06 of the General Conditions, and good faith efforts to comply with these EBE participation requirements; subject to reduction in the event of non-compliance as provided in paragraph 9.03.E.

- A. Request for Waiver – If, at the time final payment application is made, Contractor has not attained the ten percent (10%) EBE goal, Contractor shall file with the final payment application a “Request for Waiver.” Said Request for Waiver shall contain a written description of the efforts taken by Contractor to attain the ten percent (10%) EBE goal.
- B. Determination of Waiver Requests – The Vendor Compliance Department of the City of Fort Wayne shall examine all Requests for Waiver to determine if Contractor’s efforts constitute good faith efforts to attain such goal and shall submit recommendations concerning said requests for Waiver for the final determination of the Board of Public Works of the City of Fort Wayne.
- C. Good Faith Efforts. – In determining whether or not the Contractor used “good faith” efforts, the following shall be considered:
 1. Whether the contract can be subdivided as determined by the Engineer and Administrator of Contract Compliance;
 2. Availability of certified EBE businesses to participate as subcontractors;
 3. Non-competitive price quotes received from EBE firms. The Board of Public Works determination for granting a reduction or waiver of the goal because of higher quotes from EBE firms will be based on factors that include, but are not limited to the following:
 - a. The Engineer’s estimate for the work under a specific contract;
 - b. The Contractor’s own estimate for the work under the subcontract;
 - c. An average of the valid prices quoted for the subcontract;
 - d. Demonstrated increase in other contract costs as a result of sub-contracting to EBE firm(s).
 4. Documented measures taken by the Contractor to comply with the EBE participation goal;
 5. EBE subcontractor failed to fulfill their obligation in regard to the time delivery of goods and/or services. Also in regards to the quality of the goods and/or services set forth in the bid specifications.
 6. Such other matters as the Board of Public Works deems relevant.
- D. Consequences of Noncompliance – In the event the Board of Public Works approves a recommendation that Contractor failed to make good faith efforts at compliance, the Contract Price shall be reduced by the amount calculated as the difference between the EBE

participation goal of 10% and the actual participation level met by the Contractor, but in no case shall it be reduced by more than 5%. Said amount shall be added to the City of Fort Wayne EBE Bond Guarantee Fund and Contractor agrees to accept the reduced amount as full payment under the terms of his/her Contract.

- E. Waiver Approved – In the event the Board of Public Works determines that a good faith effort to comply with these EBE participation requirements has been made, the Contract Price shall not be reduced, and the balance owing to the Contractor shall be paid in full.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement (Contract name 2026 WaterWorks On-Call Construction Services Agreement). One counterpart has been delivered to Owner, and one counterpart delivered to Contractor. All portions of the Contract Documents have been signed or have been identified by Owner and Contractor or on their behalf.

This Agreement will be effective on _____, _____ (which is the Effective Date of the Agreement).

CONTRACTOR:

PINPOINT DIRECTIONAL DRILLING

BY: _____
(Name)

TITLE: _____

DATE: _____
(Date signed by Contractor)

OWNER:

CITY OF FORT WAYNE

BY: _____
Sharon Tucker, MAYOR

Address for giving notices:

Board of Public Works

BY: _____
Shan Gunawardena, CHAIR

BY: _____
Kumar Menon, MEMBER

BY: _____
Chris Guerrero, MEMBER

ATTEST: _____
Michelle Fulk-Vondran, CLERK

DATE: _____
(Date signed by Board)

AGREEMENT BETWEEN OWNER AND CONTRACTOR FOR ON-CALL CONSTRUCTION SERVICES

This Agreement is by and between **Board of Public Works** (“Owner”) and S&S Directional Boring (“Contractor”).

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

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: **This on-call construction services agreement is designed to secure pricing from multiple qualified contractors for the installation of utility mains and services.**

ARTICLE 2—THE PROJECT; TERM

- 2.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows: **2026 WaterWorks On-Call Construction Services Agreement**

This is an indefinite-quantity contract for on-call construction work and services. Contractor shall have the opportunity to submit proposals for the completion of Work Orders during the term of this Contract, but Contractor acknowledges and agrees that this Contract does not guarantee that Contractor will receive the opportunity to perform Work Orders during the Contract term. Contractor further acknowledges and agrees that Owner has no obligation to give Contractor the opportunity to perform Work Orders.

- 2.02 The term of this Contract is one (1) year from the date of execution. Said term may be extended upon mutual agreement of Owner and Contractor. Notwithstanding the foregoing, Contractor is responsible for completing Work Orders in process at the time of expiration of this Contract.

ARTICLE 3—ENGINEER

- 3.01 City Utilities (“Engineer”), will act as Owner’s representative, assume all duties and responsibilities of Engineer, and have the rights and authority assigned to Engineer in the Contract.

ARTICLE 4—CONTRACT TIMES

- 4.01 Time is 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 ::NOT USED::
- 4.03 Contract Times: Days
- A. This on-call contract will establish Substantial Completion dates for each requested project separately in a project-specific Work Order. Contractor, if submitting for a project, shall be required to meet the proposed Substantial Completion as outlined in said Work Order..

- B. This on-call contract will establish Final Completion dates for each requested project separately in a project-specific Work Order. Contractor, if submitting for a project, shall be required to meet the proposed Final Completion as outlined in said Work Order.
- C. Definition of Substantial Completion for this Work shall consist of **all Work excluding restoration is complete.**

4.04 Milestones

- A. Not used.

4.05 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 Contract Times, as duly modified. 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 **\$1,000.00** for each day that expires after the time (as duly adjusted pursuant to the Contract) specified 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 Times (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner **\$1,000.00** 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 Milestones, Substantial Completion, and final completion are not additive, and will not be imposed concurrently.
- B. If Owner recovers liquidated damages for a delay in completion by Contractor, then such liquidated damages are Owner's sole and exclusive remedy for such delay, and Owner is precluded from recovering any other damages, whether actual, direct, excess, or consequential, for such delay, except for special damages (if any) specified in this Agreement.
- C. ::NOT USED::

4.06 ::NOT USED::

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:
 - A. :: NOT USED ::
 - B. :: NOT USED ::
 - C. :: NOT USED ::
 - D. For all Work, at the prices stated in Contractor's Bid on the QuestCDN online bid submittal, attached hereto as an exhibit.

TOTAL OF ALL UNIT PRICES not to exceed sixteen million dollars across all 2026 Waterworks On-Call Construction Services Agreements. \$ 16,000,000.00

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 during performance of the Work as provided in Paragraph 6.02.A.1 below, provided that such Applications for Payment have been submitted within 45-days of the portions complete, 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.

- 1. Prior to Final Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Owner may withhold, including but not limited to liquidated damages, in accordance with the Contract.

- a. 95 percent of the value of the Work completed (with the balance being retainage).
- b. 95 percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).

- B. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 100 percent of the Work completed, less such amounts set off by Owner pursuant to Paragraph 15.01.E of the General Conditions, and less 200 percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the punch list of items to be completed or corrected prior to final payment. However, payments to the Contractor are not to exceed 95% of the total Contract Price until the Owner has verified that the Contractor has made good faith efforts to attain the EBE goal stipulated in Paragraph 9.03.E. Payment of the final 5% of the total Contract Price will be dependent upon acceptance of the Work, in accordance with Paragraph 15.06 of the General Conditions, and good faith efforts to comply with the EBE participation requirements; subject to reduction in the event of non-compliance as provided in Paragraph 9.03.E.

- C. Escrow Agreement.

- 1. If the assigned on-call project is in excess of \$200,000, the contract will be subject to the standard Board of Public Works escrow agreement; unless written notice is received from Contractor prior to execution of the Agreement stating that an Escrow Account is not desired. If an Escrow Account is not desired, then the Board of Public Works, in accordance with IC 36-1-12-14, shall hold the retainage and will not pay interest on the amounts of retainage that it holds.

6.03 Final Payment

- A. Upon final completion and acceptance of the Work, Owner shall pay the remainder of the Contract Price in accordance with Paragraph 15.06 of the General Conditions.

6.04 Consent of Surety

- A. Owner will not make final payment or return or release retainage at Substantial Completion or any other time, unless Contractor submits written consent of the surety to such payment, return, or release.

ARTICLE 7—CONTRACT DOCUMENTS

7.01 Contents

- A. The Contract Documents consist of the following:
 - 1. This Agreement (00 52 00, inclusive);
 - 2. Escrow Account Agreement (00 54 43, inclusive);
 - 3. Drug Policy Acknowledgment Form (00 54 52, inclusive);
 - 4. E-Verify Affidavit (00 54 53, inclusive);
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 - 6. Payment Bond Form (00 61 13.16, inclusive);
 - 7. General Conditions (00 72 00, inclusive);
 - 8. Supplementary Conditions (00 73 00, inclusive);
 - 9. Specifications as listed in the table of contents of the project manual
 - 10. Drawings consisting of Standard Details, inclusive, with each sheet bearing the following general title: 2026 WaterWorks On-Call Construction Services Agreement;
 - 11. Addenda (numbers 1 to 1, inclusive);
 - 12. Attachments to this Agreement (enumerated as follows);
 - a. Contractor's Bid Worksheet;
 - b. Documentation submitted by Contractor prior to Notice of Award.
 - 13. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:
 - a. Notice to Proceed;
 - b. Written Amendments;
 - c. Work Change Directives;
 - d. Change Orders;
 - e. All Work Orders Contractor is selected to perform.
- B. ::NOT USED::
- C. There are no Contract Documents other than those listed above in this Article 7.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in the Contract.

ARTICLE 8—REPRESENTATIONS, CERTIFICATIONS, AND STIPULATIONS

8.01 Contractor's Representations

- A. In order to induce Owner to enter into this Contract, Contractor makes the following representations:
1. Contractor has examined and carefully studied the Contract Documents, including Addenda.
 2. NOT USED
 3. Contractor is familiar with all Laws and Regulations that may affect cost, progress, and performance of the Work.
 4. NOT USED
 5. NOT USED
 6. Contractor has considered the information known to Contractor itself; the Contract Documents; and the Technical Data identified in the Supplementary Conditions or by definition, with respect to the effect of such information, observations, and Technical Data on (a) the cost, progress, and performance of the Work; (b) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (c) Contractor's safety precautions and programs.
 7. 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.
 8. 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.
 9. 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.
 10. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
 11. 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.
 12. In connection with the performance of Work under this Contract, Contractor agrees to comply with Anti-Discrimination Under Indiana Code Chapter 5-16-6-1 and be bound by Chapter 93.036, of the Code of the City of Fort Wayne, Indiana of 1974, passed by the Common Council of the City of Fort Wayne, Indiana as General Ordinance No. G-34-78 (as amended) on December 12th, 1978. Contractor shall file a Manpower Utilization Report for this project with the Compliance Office within ten (10) days after completion of the construction or upon request of the Office of Compliance.

8.02 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 8.02:
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.

8.03 Standard General Conditions

- A. Owner stipulates that if the General Conditions that are made a part of this Contract are EJCDC® C-700, Standard General Conditions for the Construction Contract (2018), 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.

ARTICLE 9—MISCELLANEOUS

9.01 Terms

Terms used in this Agreement will have the meanings stated in the General Conditions

9.02 Severability

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.

9.03 Emerging Business Enterprise (EBE) Participation

EBE Retainage Requirements – If the Contractor is in compliance with the provisions of the construction Contract the Owner will make payments for such work performed and completed. Pursuant to Executive Order 90-01 (amended 5-8-06); the Owner will retain five percent (5%) of the Contract Price to ensure compliance with the EBE participation requirements. Upon final inspection and acceptance of the Work, and determination by the Fort Wayne Board of Public Works that the Contractor has made a good faith effort to subcontract ten percent (10%) of the Contract Price to emerging business enterprises, the Contractor will be paid in full.

In the event there is a determination that good faith compliance with these EBE participation requirements has not occurred, appropriate reduction in the final payment pursuant to paragraph 9.03.E will be made.

If the Contract Price is in excess of \$200,000, the contract will be subject to the standard Board of Public Works escrow agreement. However, payments to the Contractor are not to exceed 95% of the total Contract Price until the Owner has verified that the Contractor has made good faith efforts to attain the 10% EBE goal stipulated in here within. Payment of the final 5% of the total Contract Price will be dependent upon acceptance of the Work, in accordance with Paragraph 15.06 of the General Conditions, and good faith efforts to comply with these EBE participation requirements; subject to reduction in the event of non-compliance as provided in paragraph 9.03.E.

- A. Request for Waiver – If, at the time final payment application is made, Contractor has not attained the ten percent (10%) EBE goal, Contractor shall file with the final payment application a “Request for Waiver.” Said Request for Waiver shall contain a written description of the efforts taken by Contractor to attain the ten percent (10%) EBE goal.
- B. Determination of Waiver Requests – The Vendor Compliance Department of the City of Fort Wayne shall examine all Requests for Waiver to determine if Contractor’s efforts constitute good faith efforts to attain such goal and shall submit recommendations concerning said requests for Waiver for the final determination of the Board of Public Works of the City of Fort Wayne.
- C. Good Faith Efforts. – In determining whether or not the Contractor used “good faith” efforts, the following shall be considered:
 1. Whether the contract can be subdivided as determined by the Engineer and Administrator of Contract Compliance;
 2. Availability of certified EBE businesses to participate as subcontractors;
 3. Non-competitive price quotes received from EBE firms. The Board of Public Works determination for granting a reduction or waiver of the goal because of higher quotes from EBE firms will be based on factors that include, but are not limited to the following:
 - a. The Engineer’s estimate for the work under a specific contract;
 - b. The Contractor’s own estimate for the work under the subcontract;
 - c. An average of the valid prices quoted for the subcontract;
 - d. Demonstrated increase in other contract costs as a result of sub-contracting to EBE firm(s).
 4. Documented measures taken by the Contractor to comply with the EBE participation goal;
 5. EBE subcontractor failed to fulfill their obligation in regard to the time delivery of goods and/or services. Also in regards to the quality of the goods and/or services set forth in the bid specifications.
 6. Such other matters as the Board of Public Works deems relevant.
- D. Consequences of Noncompliance – In the event the Board of Public Works approves a recommendation that Contractor failed to make good faith efforts at compliance, the Contract Price shall be reduced by the amount calculated as the difference between the EBE

participation goal of 10% and the actual participation level met by the Contractor, but in no case shall it be reduced by more than 5%. Said amount shall be added to the City of Fort Wayne EBE Bond Guarantee Fund and Contractor agrees to accept the reduced amount as full payment under the terms of his/her Contract.

- E. Waiver Approved – In the event the Board of Public Works determines that a good faith effort to comply with these EBE participation requirements has been made, the Contract Price shall not be reduced, and the balance owing to the Contractor shall be paid in full.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement (Contract name 2026 WaterWorks On-Call Construction Services Agreement). One counterpart has been delivered to Owner, and one counterpart delivered to Contractor. All portions of the Contract Documents have been signed or have been identified by Owner and Contractor or on their behalf.

This Agreement will be effective on _____, _____ (which is the Effective Date of the Agreement).

CONTRACTOR:

OWNER:

S&S DIRECTIONAL BORING

CITY OF FORT WAYNE

BY: _____
(Name)

BY: _____
Sharon Tucker, MAYOR

TITLE: _____

DATE: _____
(Date signed by Contractor)

Address for giving notices:

Board of Public Works

BY: _____
Shan Gunawardena, CHAIR

BY: _____
Kumar Menon, MEMBER

BY: _____
Chris Guerrero, MEMBER

ATTEST: _____
Michelle Fulk-Vondran, CLERK

DATE: _____
(Date signed by Board)

AGREEMENT BETWEEN OWNER AND CONTRACTOR FOR ON-CALL CONSTRUCTION SERVICES

This Agreement is by and between **Board of Public Works** (“Owner”) and Underground Contractors (“Contractor”).

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

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: **This on-call construction services agreement is designed to secure pricing from multiple qualified contractors for the installation of utility mains and services.**

ARTICLE 2—THE PROJECT; TERM

- 2.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows: **2026 WaterWorks On-Call Construction Services Agreement**

This is an indefinite-quantity contract for on-call construction work and services. Contractor shall have the opportunity to submit proposals for the completion of Work Orders during the term of this Contract, but Contractor acknowledges and agrees that this Contract does not guarantee that Contractor will receive the opportunity to perform Work Orders during the Contract term. Contractor further acknowledges and agrees that Owner has no obligation to give Contractor the opportunity to perform Work Orders.

- 2.02 The term of this Contract is one (1) year from the date of execution. Said term may be extended upon mutual agreement of Owner and Contractor. Notwithstanding the foregoing, Contractor is responsible for completing Work Orders in process at the time of expiration of this Contract.

ARTICLE 3—ENGINEER

- 3.01 City Utilities (“Engineer”), will act as Owner’s representative, assume all duties and responsibilities of Engineer, and have the rights and authority assigned to Engineer in the Contract.

ARTICLE 4—CONTRACT TIMES

- 4.01 Time is 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 ::NOT USED::

- 4.03 Contract Times: Days

A. This on-call contract will establish Substantial Completion dates for each requested project separately in a project-specific Work Order. Contractor, if submitting for a project, shall be required to meet the proposed Substantial Completion as outlined in said Work Order..

- B. This on-call contract will establish Final Completion dates for each requested project separately in a project-specific Work Order. Contractor, if submitting for a project, shall be required to meet the proposed Final Completion as outlined in said Work Order.
- C. Definition of Substantial Completion for this Work shall consist of **all Work excluding restoration is complete.**

4.04 Milestones

- A. Not used.

4.05 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 Contract Times, as duly modified. 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 **\$1,000.00** for each day that expires after the time (as duly adjusted pursuant to the Contract) specified 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 Times (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner **\$1,000.00** 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 Milestones, Substantial Completion, and final completion are not additive, and will not be imposed concurrently.
- B. If Owner recovers liquidated damages for a delay in completion by Contractor, then such liquidated damages are Owner's sole and exclusive remedy for such delay, and Owner is precluded from recovering any other damages, whether actual, direct, excess, or consequential, for such delay, except for special damages (if any) specified in this Agreement.
- C. ::NOT USED::

4.06 ::NOT USED::

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:
 - A. :: NOT USED ::
 - B. :: NOT USED ::
 - C. :: NOT USED ::
 - D. For all Work, at the prices stated in Contractor's Bid on the QuestCDN online bid submittal, attached hereto as an exhibit.

TOTAL OF ALL UNIT PRICES not to exceed sixteen million dollars across all 2026 Waterworks On-Call Construction Services Agreements. \$ 16,000,000.00

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 during performance of the Work as provided in Paragraph 6.02.A.1 below, provided that such Applications for Payment have been submitted within 45-days of the portions complete, 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.

- 1. Prior to Final Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Owner may withhold, including but not limited to liquidated damages, in accordance with the Contract.
 - a. 95 percent of the value of the Work completed (with the balance being retainage).
 - b. 95 percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).

- B. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 100 percent of the Work completed, less such amounts set off by Owner pursuant to Paragraph 15.01.E of the General Conditions, and less 200 percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the punch list of items to be completed or corrected prior to final payment. However, payments to the Contractor are not to exceed 95% of the total Contract Price until the Owner has verified that the Contractor has made good faith efforts to attain the EBE goal stipulated in Paragraph 9.03.E. Payment of the final 5% of the total Contract Price will be dependent upon acceptance of the Work, in accordance with Paragraph 15.06 of the General Conditions, and good faith efforts to comply with the EBE participation requirements; subject to reduction in the event of non-compliance as provided in Paragraph 9.03.E.

C. Escrow Agreement.

- 1. If the assigned on-call project is in excess of \$200,000, the contract will be subject to the standard Board of Public Works escrow agreement; unless written notice is received from Contractor prior to execution of the Agreement stating that an Escrow Account is not desired. If an Escrow Account is not desired, then the Board of Public Works, in accordance with IC 36-1-12-14, shall hold the retainage and will not pay interest on the amounts of retainage that it holds.

6.03 Final Payment

- A. Upon final completion and acceptance of the Work, Owner shall pay the remainder of the Contract Price in accordance with Paragraph 15.06 of the General Conditions.

6.04 Consent of Surety

- A. Owner will not make final payment or return or release retainage at Substantial Completion or any other time, unless Contractor submits written consent of the surety to such payment, return, or release.

ARTICLE 7—CONTRACT DOCUMENTS

7.01 Contents

- A. The Contract Documents consist of the following:
 - 1. This Agreement (00 52 00, inclusive);
 - 2. Escrow Account Agreement (00 54 43, inclusive);
 - 3. Drug Policy Acknowledgment Form (00 54 52, inclusive);
 - 4. E-Verify Affidavit (00 54 53, inclusive);
 - 5. Performance Bond Form (00 61 13.13, inclusive);
 - 6. Payment Bond Form (00 61 13.16, inclusive);
 - 7. General Conditions (00 72 00, inclusive);
 - 8. Supplementary Conditions (00 73 00, inclusive);
 - 9. Specifications as listed in the table of contents of the project manual
 - 10. Drawings consisting of Standard Details, inclusive, with each sheet bearing the following general title: 2026 WaterWorks On-Call Construction Services Agreement;
 - 11. Addenda (numbers 1 to 1, inclusive);
 - 12. Attachments to this Agreement (enumerated as follows);
 - a. Contractor's Bid Worksheet;
 - b. Documentation submitted by Contractor prior to Notice of Award.
 - 13. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:
 - a. Notice to Proceed;
 - b. Written Amendments;
 - c. Work Change Directives;
 - d. Change Orders;
 - e. All Work Orders Contractor is selected to perform.
- B. ::NOT USED::
- C. There are no Contract Documents other than those listed above in this Article 7.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in the Contract.

ARTICLE 8—REPRESENTATIONS, CERTIFICATIONS, AND STIPULATIONS

8.01 Contractor's Representations

- A. In order to induce Owner to enter into this Contract, Contractor makes the following representations:
1. Contractor has examined and carefully studied the Contract Documents, including Addenda.
 2. NOT USED
 3. Contractor is familiar with all Laws and Regulations that may affect cost, progress, and performance of the Work.
 4. NOT USED
 5. NOT USED
 6. Contractor has considered the information known to Contractor itself; the Contract Documents; and the Technical Data identified in the Supplementary Conditions or by definition, with respect to the effect of such information, observations, and Technical Data on (a) the cost, progress, and performance of the Work; (b) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (c) Contractor's safety precautions and programs.
 7. 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.
 8. 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.
 9. 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.
 10. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
 11. 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.
 12. In connection with the performance of Work under this Contract, Contractor agrees to comply with Anti-Discrimination Under Indiana Code Chapter 5-16-6-1 and be bound by Chapter 93.036, of the Code of the City of Fort Wayne, Indiana of 1974, passed by the Common Council of the City of Fort Wayne, Indiana as General Ordinance No. G-34-78 (as amended) on December 12th, 1978. Contractor shall file a Manpower Utilization Report for this project with the Compliance Office within ten (10) days after completion of the construction or upon request of the Office of Compliance.

8.02 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 8.02:
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.

8.03 Standard General Conditions

- A. Owner stipulates that if the General Conditions that are made a part of this Contract are EJCDC® C-700, Standard General Conditions for the Construction Contract (2018), 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.

ARTICLE 9—MISCELLANEOUS

9.01 Terms

Terms used in this Agreement will have the meanings stated in the General Conditions

9.02 Severability

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.

9.03 Emerging Business Enterprise (EBE) Participation

EBE Retainage Requirements – If the Contractor is in compliance with the provisions of the construction Contract the Owner will make payments for such work performed and completed. Pursuant to Executive Order 90-01 (amended 5-8-06); the Owner will retain five percent (5%) of the Contract Price to ensure compliance with the EBE participation requirements. Upon final inspection and acceptance of the Work, and determination by the Fort Wayne Board of Public Works that the Contractor has made a good faith effort to subcontract ten percent (10%) of the Contract Price to emerging business enterprises, the Contractor will be paid in full.

In the event there is a determination that good faith compliance with these EBE participation requirements has not occurred, appropriate reduction in the final payment pursuant to paragraph 9.03.E will be made.

If the Contract Price is in excess of \$200,000, the contract will be subject to the standard Board of Public Works escrow agreement. However, payments to the Contractor are not to exceed 95% of the total Contract Price until the Owner has verified that the Contractor has made good faith efforts to attain the 10% EBE goal stipulated in here within. Payment of the final 5% of the total Contract Price will be dependent upon acceptance of the Work, in accordance with Paragraph 15.06 of the General Conditions, and good faith efforts to comply with these EBE participation requirements; subject to reduction in the event of non-compliance as provided in paragraph 9.03.E.

- A. Request for Waiver – If, at the time final payment application is made, Contractor has not attained the ten percent (10%) EBE goal, Contractor shall file with the final payment application a “Request for Waiver.” Said Request for Waiver shall contain a written description of the efforts taken by Contractor to attain the ten percent (10%) EBE goal.
- B. Determination of Waiver Requests – The Vendor Compliance Department of the City of Fort Wayne shall examine all Requests for Waiver to determine if Contractor’s efforts constitute good faith efforts to attain such goal and shall submit recommendations concerning said requests for Waiver for the final determination of the Board of Public Works of the City of Fort Wayne.
- C. Good Faith Efforts. – In determining whether or not the Contractor used “good faith” efforts, the following shall be considered:
 1. Whether the contract can be subdivided as determined by the Engineer and Administrator of Contract Compliance;
 2. Availability of certified EBE businesses to participate as subcontractors;
 3. Non-competitive price quotes received from EBE firms. The Board of Public Works determination for granting a reduction or waiver of the goal because of higher quotes from EBE firms will be based on factors that include, but are not limited to the following:
 - a. The Engineer’s estimate for the work under a specific contract;
 - b. The Contractor’s own estimate for the work under the subcontract;
 - c. An average of the valid prices quoted for the subcontract;
 - d. Demonstrated increase in other contract costs as a result of sub-contracting to EBE firm(s).
 4. Documented measures taken by the Contractor to comply with the EBE participation goal;
 5. EBE subcontractor failed to fulfill their obligation in regard to the time delivery of goods and/or services. Also in regards to the quality of the goods and/or services set forth in the bid specifications.
 6. Such other matters as the Board of Public Works deems relevant.
- D. Consequences of Noncompliance – In the event the Board of Public Works approves a recommendation that Contractor failed to make good faith efforts at compliance, the Contract Price shall be reduced by the amount calculated as the difference between the EBE

participation goal of 10% and the actual participation level met by the Contractor, but in no case shall it be reduced by more than 5%. Said amount shall be added to the City of Fort Wayne EBE Bond Guarantee Fund and Contractor agrees to accept the reduced amount as full payment under the terms of his/her Contract.

- E. Waiver Approved – In the event the Board of Public Works determines that a good faith effort to comply with these EBE participation requirements has been made, the Contract Price shall not be reduced, and the balance owing to the Contractor shall be paid in full.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement (Contract name 2026 WaterWorks On-Call Construction Services Agreement). One counterpart has been delivered to Owner, and one counterpart delivered to Contractor. All portions of the Contract Documents have been signed or have been identified by Owner and Contractor or on their behalf.

This Agreement will be effective on _____, _____ (which is the Effective Date of the Agreement).

CONTRACTOR:

OWNER:

UNDERGROUND CONTRACTORS

CITY OF FORT WAYNE

BY: _____
(Name)

BY: _____
Sharon Tucker, MAYOR

TITLE: _____

DATE: _____
(Date signed by Contractor)

Address for giving notices:

Board of Public Works

BY: _____
Shan Gunawardena, CHAIR

BY: _____
Kumar Menon, MEMBER

BY: _____
Chris Guerrero, MEMBER

ATTEST: _____
Michelle Fulk-Vondran, CLERK

DATE: _____
(Date signed by Board)

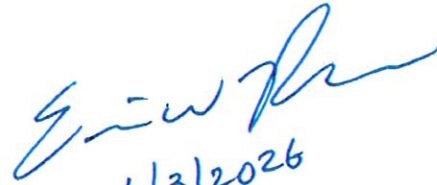
Interoffice Memo

Date: June 3, 2026

To: Common Council Members

From: Eric Ruppert, Manager, City Utilities Engineering

RE: 2026 Prequalified Construction Services Agreement


6/3/2026

Council District# Citywide

The contractor shall furnish all labor, insurance, equipment, materials and power for the completion of the project: This construction services agreement is designed to secure pricing from multiple qualified contractors for the installation of utility mains and services.

Implications of not being approved: The Prequalified agreement gives our utility the flexibility to leverage large quantity pricing and take advantage of each contractor's best unit prices and help the Utility be responsive to address emergencies or accommodate accelerated project delivery timelines.

If Prior Approval is being Requested, Justify: N/A

This project was advertised to contractors on 04/02/2026, and 4/09/2026 in the Journal Gazette.

The contract for Resolution 2026 Prequalified Construction Services Agreement awarded to All Seasons Underground Construction, Fox Contractors, Fleming Excavating, KLS Underground, Pinpoint Directional Drilling, S&S Directional Boring, and Underground Contractors. All contractors were vetted and determined capable of completing work under the agreement. Combined work between all contractors shall not exceed 16 million dollars.

The cost of said project is funded by Water Utility and Sewer Utility Revenue.

Council Introduction Date: 06/09/2026

CC: Matthew Wirtz
Jill Helfrich
File